

**Ofc. of Elem. & Secondary Ed., Education****§ 200.32**

under subpart A of this part to determine whether the school is making AYP in accordance with § 200.20.

(b)(1) In reviewing the progress of an elementary or secondary school operating a targeted assistance program, an LEA may choose to review the progress of only the students in the school who are served, or are eligible for services, under subpart A of this part.

(2) The LEA may exercise the option under paragraph (b)(1) of this section so long as the students selected for services under the targeted assistance program are those with the greatest need for special assistance, consistent with the requirements of section 1115 of the ESEA.

(c)(1) To determine whether schools served under subpart A of this part are making AYP, an LEA also may use any additional academic assessments or any other academic indicators described in the LEA's plan.

(2)(i) The LEA may use these assessments and indicators—

(A) To identify additional schools for school improvement or in need of corrective action or restructuring; and

(B) To permit a school to make AYP if, in accordance with § 200.20(b), the school also reduces the percentage of a student group not meeting the State's proficient level of academic achievement by at least 10 percent.

(ii) The LEA may not, with the exception described in paragraph (c)(2)(i)(B) of this section, use these assessments and indicators to reduce the number of, or change the identity of, the schools that would otherwise be identified for school improvement, corrective action, or restructuring if the LEA did not use these additional indicators.

(d) The LEA must publicize and disseminate the results of its annual progress review to parents, teachers, principals, schools, and the community.

(e) The LEA must review the effectiveness of actions and activities that schools are carrying out under subpart A of this part with respect to parental involvement, professional develop-

ment, and other activities assisted under subpart A of this part.

(Approved by the Office of Management and Budget under control number 1810-0581)

(Authority: 20 U.S.C. 6316(a) and (b))

[67 FR 71720, Dec. 2 2002]

**§ 200.31 Opportunity to review school-level data.**

(a) Before identifying a school for school improvement, corrective action, or restructuring, an LEA must provide the school with an opportunity to review the school-level data, including academic assessment data, on which the proposed identification is based.

(b)(1) If the principal of a school that an LEA proposes to identify for school improvement, corrective action, or restructuring believes, or a majority of the parents of the students enrolled in the school believe, that the proposed identification is in error for statistical or other substantive reasons, the principal may provide supporting evidence to the LEA.

(2) The LEA must consider the evidence referred to in paragraph (b)(1) of this section before making a final determination.

(c) The LEA must make public a final determination of the status of the school with respect to identification not later than 30 days after it provides the school with the opportunity to review the data on which the proposed identification is based.

(Approved by the Office of Management and Budget under control number 1810-0581)

(Authority: 20 U.S.C. 6316(b)(2))

[67 FR 71721, Dec. 2, 2002]

**§ 200.32 Identification for school improvement.**

(a)(1)(i) An LEA must identify for school improvement any elementary or secondary school served under subpart A of this part that fails, for two consecutive years, to make AYP as defined under §§ 200.13 through 200.20.

(ii) In identifying schools for improvement, an LEA—

(A) May base identification on whether a school did not make AYP because it did not meet the annual measurable objectives for the same subject

**§ 200.33****34 CFR Ch. II (7-1-10 Edition)**

or meet the same other academic indicator for two consecutive years; but

(B) May not limit identification to those schools that did not make AYP only because they did not meet the annual measurable objectives for the same subject or meet the same other academic indicator for the same subgroup under § 200.13(b)(7)(ii) for two consecutive years.

(2) The LEA must make the identification described in paragraph (a)(1) of this section before the beginning of the school year following the year in which the LEA administered the assessments that resulted in the school's failure to make AYP for a second consecutive year.

(b)(1) An LEA must treat any school that was in the first year of school improvement status on January 7, 2002 as a school that is in the first year of school improvement under § 200.39 for the 2002-2003 school year.

(2) Not later than the first day of the 2002-2003 school year, the LEA must, in accordance with § 200.44, provide public school choice to all students in the school.

(c)(1) An LEA must treat any school that was identified for school improvement for two or more consecutive years on January 7, 2002 as a school that is in its second year of school improvement under § 200.39 for the 2002-2003 school year.

(2) Not later than the first day of the 2002-2003 school year, the LEA must—

(i) In accordance with § 200.44, provide public school choice to all students in the school; and

(ii) In accordance with § 200.45, make available supplemental educational services to eligible students who remain in the school.

(d) An LEA may remove from improvement status a school otherwise subject to the requirements of paragraphs (b) or (c) of this section if, on the basis of assessments the LEA administers during the 2001-2002 school year, the school makes AYP for a second consecutive year.

(e)(1) An LEA may, but is not required to, identify a school for improvement if, on the basis of assessments the LEA administers during the 2001-2002 school year, the school fails

to make AYP for a second consecutive year.

(2) An LEA that does not identify such a school for improvement, however, must count the 2001-2002 school year as the first year of not making AYP for the purpose of subsequent identification decisions under paragraph (a) of this section.

(f) If an LEA identifies a school for improvement after the beginning of the school year following the year in which the LEA administered the assessments that resulted in the school's failure to make AYP for a second consecutive year—

(1) The school is subject to the requirements of school improvement under § 200.39 immediately upon identification, including the provision of public school choice; and

(2) The LEA must count that school year as a full school year for the purposes of subjecting the school to additional improvement measures if the school continues to fail to make AYP.

(Authority: 20 U.S.C. 6316)

[67 FR 71721, Dec. 2, 2002, as amended at 73 FR 64510, Oct. 29, 2008]

**§ 200.33 Identification for corrective action.**

(a) If a school served by an LEA under subpart A of this part fails to make AYP by the end of the second full school year after the LEA has identified the school for improvement under § 200.32(a) or (b), or by the end of the first full school year after the LEA has identified the school for improvement under § 200.32(c), the LEA must identify the school for corrective action under § 200.42.

(b) If a school was subject to corrective action on January 7, 2002, the LEA must—

(1) Treat the school as a school identified for corrective action under § 200.42 for the 2002-2003 school year; and

(2) Not later than the first day of the 2002-2003 school year—

(i) In accordance with § 200.44, provide public school choice to all students in the school;

(ii) In accordance with § 200.45, make available supplemental educational services to eligible students who remain in the school; and