

DEPARTMENT OF EDUCATION

Expanded Approval of "Ability-to-Benefit" Tests and Passing Scores

AGENCY: Department of Education.

ACTION: Notice of the expanded approval of "ability-to-benefit" tests and passing scores for students with disabilities.

SUMMARY: The Secretary adopts, for students with disabilities, the list of "ability-to-benefit" tests and passing scores on those tests approved under section 484(d) of the Higher Education Act of 1965, as amended (HEA), and 34 CFR Part 668, Subpart J.

FOR FURTHER INFORMATION CONTACT: Lorraine Kennedy, U.S. Department of Education, 400 Maryland Avenue, S.W., Regional Office Building 3, Room 3045, Washington, D.C. 20202-5451. Telephone: (202) 708-8242. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotope, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: On October 25, 1996, the Secretary published a notice in the **Federal Register** (61 FR 55542-55543) that provided a list of eight "ability-to-benefit" tests that the Secretary approved under section 484(d) of the HEA and the regulations that the Secretary promulgated to implement that section, 34 CFR Part 668, Subpart J. The notice also included approved passing scores for the approved tests.

In a notice published in the **Federal Register** of October 27, 1998, 63 FR 57539-57541, the Department added the American College Testing Service (ACT) test to the list of approved ability-to-benefit tests. The notice further provided that the nine listed tests were not yet approved for students with disabilities. As a result, for these students, an institution could continue to use ability-to-benefit tests that were approved as of June 30, 1996. However, if a student with disabilities, nevertheless, took and passed one of those nine tests, the Secretary would consider that the student had demonstrated the requisite ability-to-benefit for purposes of section 484(d) of the HEA.

The Secretary is now expanding the approval of those nine tests for use with students with disabilities provided that

those tests are given in a manner that is consistent with the applicable requirements of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act. This would include offering and administering the test in a time, place and manner that is accessible, including the provision of appropriate modifications and auxiliary aids and services. Examples of appropriate modifications and auxiliary aids and services include a change in the length of time of examination for individuals with learning disabilities and Brailled or large print examinations and answer sheets or qualified readers for individuals with visual impairments. In addition, because the regulations at 34 CFR Part 668, Subpart J, contain a special provision for the assessment of students with disabilities for whom no tests are reasonably available, if none of the nine approved tests can be given in a manner that is accessible to a person with disabilities, an institution must utilize the procedures under 34 CFR 668.149 which allow for testing under this alternative provision.

As stated in § 668.149, such a test is a modified test or testing procedure or instrument that has been scientifically developed specifically for the purpose of evaluating the ability to benefit from postsecondary training or education of students with a disability. It measures both basic verbal and quantitative skills at the secondary school level and reflects the student's skills and general learned abilities rather than the student's impairment.

As a result of the Secretary's expanded approval of the use of these tests for students with disabilities, as of the date of this notice, an institution may use one of the approved nine tests for these students provided that the test is administered in a manner that accommodates the students' disabilities. In addition, for sixty days after the date of this notice, an institution may also use any ability-to-benefit test that was approved as of June 30, 1996. However, after that sixtieth day, an institution must no longer use one of the latter type tests.

Note. Please note that the exception provided in the October 27, 1998 **Federal Register** notice remains in effect for students whose native language is not English and who are not fluent in English. That is, the tests that the Secretary has approved in this notice and the October 27, 1998 notice are not approved for those students, and institutions may continue to use ESL ability-to-benefit tests that were approved as of June 30, 1996 for those students. Nevertheless, if a student takes and passes one of the tests approved in this notice or the October 27, 1998 notice, the Secretary will consider that

the student demonstrated the requisite ability-to-benefit for purposes of section 484(d) of the HEA.

List of Approved "Ability-to-Benefit" Tests and Passing Scores

1. *American College Testing (ACT): (English and Math) Passing Scores:* The approved passing scores on this test are as follows: English (14) and Math (15).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are: American College Testing (ACT), Placement Assessment Programs, 2201 North Dodge Street, P.O. Box 168, Iowa City, Iowa 52243, Contact: Dr. James Maxey, Telephone: (319) 337-1100, Fax: (319) 337-1790.

2. *ASSET Program: Basic Skills Tests (Reading, Writing, and Numerical)—Forms B2 and C2.*

Passing Scores: The approved passing scores on this test are as follows: Reading (34), Writing (34), and Numerical (33).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are: American College Testing (ACT), Placement Assessment Programs, 2201 North Dodge Street, P.O. Box 168, Iowa City, Iowa 52243, Contact: Dr. John D. Roth, Telephone: (319) 337-1030, Fax: (319) 337-1790.

3. *Career Programs Assessment (CPAT) Basic Skills Subtests Language Usage, Reading and Numerical)—Forms A, B, and C.*

Passing Scores: The approved passing scores on this test are as follows: Language Usage (43), Reading (44), and Numerical (42).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are: American College Testing (ACT), Placement Assessment Programs, 2201 North Dodge Street, P.O. Box 168, Iowa City, Iowa 52243, Contact: Dr. John D. Roth, Telephone: (319) 337-1030, Fax: (319) 337-1790.

4. *COMPASS Subtests: Prealgebra/Numerical Skills Placement, Reading Placement, and Writing Placement.*

Passing Scores: The approved passing scores on this test are as follows: Prealgebra/Numerical (21), Reading (60), and Writing (31).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are: American College Testing (ACT), Placement Assessment Programs, 2201 North Dodge Street, P.O. Box 168, Iowa City, Iowa 52243, Contact: Dr. John D. Roth, Telephone: (319) 337-1030, Fax: (319) 337-1790.

5. *Computerized Placement Tests (CPTs)/Accuplacer (Reading*

Comprehension, Sentence Skills, and Arithmetic).

Passing Scores: The approved passing scores on this test are as follows:

Reading Comprehension (52), Sentence Skills (60), and Arithmetic (36).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are: The College Board, 45 Columbus Avenue, New York, New York 10023-6992, Contact: Ms. Loretta M. Church, Telephone: (212) 713-8000, Fax: (212) 713-8063.

6. *Descriptive Tests: Descriptive Tests of Language Skills (DTLS) (Reading Comprehension, Sentence Structure and Conventions of Written English)—Forms M-K-3KDT and M-K-3LDT; and Descriptive Tests of Mathematical Skills (DTMS) (Arithmetic)—Forms M-K-3KDT and M-K-3LDT.*

Passing Scores: The approved passing scores on this test are as follows: Reading Comprehension (108), Sentence Structure (9), Conventions of Written English (309), and Arithmetic (506).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are: The College Board, 45 Columbus Avenue, New York, New York 10023-6992, Contact: Ms. Loretta M. Church, Telephone: (212) 713-8000, Fax: (212) 713-8063.

7. *Test of Adult Basic Education (TABE): (Reading Total, Total Mathematics, Total Language)—Forms 5 and 6, Level A, Complete Battery and Survey Versions.*

Passing Scores: The approved passing scores on this test are as follows: Reading Total (768), Total Mathematics (783), Total Language (714).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are:

CTB/McGraw-Hill 20 Ryan Ranch Road, Monterey, California 93940-5703; Contact: Ms. Tina Gwaltney, Telephone: (831) 393-7749, Fax: (831) 393-7142.

8. *Test of Adult Basic Education (TABE): (Reading, Total Mathematics, Language)—Forms 7 and 8, Level A, Complete Battery and Survey Versions.*

Passing Scores: The approved passing scores on this test are as follows: Reading (559), Total Mathematics (562), Language (545).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are:

CTB/McGraw-Hill 20 Ryan Ranch Road, Monterey, California 93940-5703; Contact: Ms. Tina Gwaltney, Telephone: (831) 393-7749, Fax: (831) 393-7142.

9. *Wonderlic Basic Skills Test (WBST)—Verbal Forms VS-1 & VS-2, Quantitative Forms QS-1 & QS-2.*

Passing scores: The approved passing scores on this test are as follows: Verbal (200) and Quantitative (210).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are: Wonderlic Personnel Test, Inc., 1509 N. Milwaukee Ave., Libertyville, IL 60048-1380; Contact: Mr. Victor S. Artese, Telephone: (800) 323-374, Fax: (847) 680-9492.

Duration of Approval

The Secretary approves each of these tests for five years from the date of the Secretary's written notice to the test publisher, unless the Secretary withdraws this approval or the publisher requests that approval of a test

be withdrawn. In either case, the Secretary will publish a notice in the **Federal Register** indicating this change. Users are referred to the test publisher's technical manual for computing these scores.

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Note. The official version of this document is the document published in the **Federal Register**.

Dated: April 29, 1999.

Greg Woods,

Chief Operating Officer, Office of Student Financial Assistance.

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