**U.S. Department of Education**

**Negotiated Rulemaking**

**Title I, Part A of the ESEA  
as Amended by the Every Student Succeeds Act**

**Meeting Summary**

**March 21-23, 2016**

**Welcome**

Secretary John King welcomed the members of the Committee and thanked them for agreeing to assist the Department in developing proposed regulations to implement the Every Student Succeeds Act.

**Introductions**

All members who were present introduced themselves.

**Overview of the Rulemaking Process**

Kay Rigling, Deputy Assistant General Counsel, U.S. Department of Education, provided an overview of the rulemaking process. She explained that the eventual Notice of Proposed Rulemaking for ESSA will include all consensus regulatory text agreed to by the Committee, will be subject to the usual notice and comment period for proposed rules, and the Department will provide responses to comments prior to making the rule final.

**Overview of the Negotiated Rulemaking Process**

Susan Podziba, the facilitator, described the negotiated rulemaking process and explained that the goal of Committee’s discussions is to develop consensus regulatory text that will form the basis of the regulations proposed by the Department of Education.

**Review and Adopt Protocols**

Committee members discussed, revised, and adopted the draft organizational protocols, which will govern the Committee’s activities throughout the negotiated rulemaking process. The final version was distributed to all Committee members and the public.

**Petitions for Membership**

There were no requests for membership to the Committee.

**Overview and Review Scope of Issues to be Negotiated**

Patrick Rooney, the federal negotiator, presented the scope of issues to be negotiated. The Committee approved the scope of issues as follows:

* Supplement, Not Supplant -- Section 1118(b) of the ESEA
* Assessment -- Section 1111(b)(2) of the ESEA

1. Computer-adaptive assessments

2. Exception for advanced mathematics assessments in 8th grade

3. Locally selected nationally recognized high school assessments

4. Inclusion of students with disabilities in academic assessments, including alternate assessments based on alternate academic achievement standards for students with the most significant cognitive disabilities, subject to a cap of 1.0% of students assessed for a subject

5. Inclusion of English learners in academic assessments and English language proficiency assessments

6. Updating existing regulations to reflect statutory changes

**Discussion of Issues**

*Supplement Not Supplant:* Ary Amerikaner, the alternate federal negotiator, provided an overview of the issue paper that had been prepared and distributed by the Department prior to the meeting. Karen Hawley Miles, the Committee supplement not supplant expert, provided a presentation and answered clarifying questions posed by Committee members. Committee members discussed in detail the issue paper questions, posed additional questions, and offered their interests, concerns, and preferences relative to the issue of supplement not supplant.

*Assessment:* Patrick Rooney provided an overview of the assessment issue generally and for each of its six component issues. Peggy Carr, Martha Thurlow, and Kenji Hakuta, the Committee assessment experts, provided presentations and answered clarifying questions posed by Committee members. The discussion of each of the six assessment issues began with a review of the issue paper prepared and distributed by the Department and included the questions posed. Committee members posed additional questions and offered their interests, concerns, and preferences relative to elements of each issue.

# Public Comment

# Opportunities were provided at the end of each meeting day for members of the public in attendance to provide comments.  One public comment was made on the last day of the meeting.

# Next Meeting

# The next Committee session will be held on April 6-8, 2016 at the U.S. Department of Education, 400 Maryland Ave. SW, LBJ Auditorium, in Washington, D.C. Sessions will begin at 9:00 a.m. and conclude at 5:00 p.m. each day.

**Next Steps**

The facilitator will distribute a draft summary of the meeting and a draft agenda for the second meeting.

The Department will distribute draft regulatory text for the issues discussed.

A subcommittee will hold a conference call on March 30, 2:30 – 4:00 pm EDT to discuss the need for a definition of “students with the most significant cognitive disabilities” and what such a definition might include if one is deemed to be necessary. The facilitator will distribute the call-in number, and the Department will provide resource people to support the subcommittee discussions.

**Members Present**

**Non-Federal Negotiators**

Thomas Ahart

Rita Pin Ahrens

Kerri Briggs

Derrick Chau

Marcus Cheeks

Lara Evangelista

Tony Evers

Janel George

Regina Goings

Lynn Goss

Ron Hager

Leslie Harper

Audrey Jackson

Aqueelha James

Liz King

Lisa Mack

Eric Parker

Aaron Payment

Richard Pohlman

Delia Pompa

Mary Cathryn Ricker

Ryan Ruelas

Alvin Wilbanks

**Federal Negotiators**

Patrick Rooney

Ary Amerikaner

Kay Rigling, Counsel

**Facilitator**

Susan Podziba

**Experts**

*Supplement Not Supplant*

Karen Hawley Miles

*Assessments*

Martha Thurlow

Kenji Hakuta

Peggy Carr