**U.S. Department of Education**

**Negotiated Rulemaking**

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

**Meeting Summary**

**April 6-8, 2016**

**Welcome**

Patrick Rooney, the federal negotiator, welcomed the members of the Committee to the second negotiated rulemaking session and expressed hope in the Committee’s ability to reach consensus on proposed regulations to implement the Every Student Succeeds Act.

**Review Agenda**

Susan Podziba, the facilitator, reviewed the agenda. It was adopted with no changes.

**Review and Approve Summary of Session One**

The Committee members approved the meeting summary with no changes.

**Discussion of Issues and Draft Regulatory Language**

The Committee discussed and reviewed draft regulatory language for each issue within its scope in great detail. Multiple alternative proposals were offered, considered, and refined as negotiators worked to reach tentative agreements on each issue subject to negotiations.

Prior to the discussion of Issue 4a, the Subcommittee reported on its discussions on 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.

Tentative agreement was reached on Issue #1: Computer adaptive testing. Through its discussions, the Committee identified the key outstanding components of each issue that will require additional attention and negotiations to achieve resolution, although concern about overregulating was also an overall concern for some Committee members. The identified outstanding components are as follows:

* **Assessment**

Issue #2: the exception for advanced mathematics assessments in 8th grade

**§200.5(b)(4)**

Issue #3: locally selected, nationally recognized high school assessments

**§200.3(a)(2) and (d)**

Issue #4a: inclusion of students with disabilities in academic assessments

**§200.6(a)(3), (b)(1), (b)(2)(ii), (e)**

Issue #4b: State administration of 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

**§200.6(c)(1)(iii), (c)(3)(iii), and (c)(4)**

Issue #5a: inclusion of English Learners in academic assessments

**§200.6 (f)(1)(iv)(D) and an exemption for Native American language medium schools, which was not in the distributed drafts**

Issue #5b: inclusion of English learners in English language proficiency assessments:

**Consistency with description accommodations and parental reporting, which were not in the distributed drafts**

Issue #6: updating existing regulations

**§200.2(b)(10)(ix), consistency with definitions of migratory students, students experiencing homelessness, and reference to nationally recognized accessibility standards**

* **Supplement not supplant***:* **200.XX(b)(1), (2), and (3)**

# Public Comment

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

# Optional Third Meeting

# The Committee agreed to hold a third meeting, which is scheduled for April 18-19, 2016. On Monday, April 18, the Committee will meet in the auditorium of the Potomac Center Plaza, which is located at 550 12th Street, SW, Washington, D.C. The second day of the meeting will be held at the site of the earlier sessions, the U.S. Department of Education, 400 Maryland Ave. SW, Barnard Auditorium, in Washington, D.C. Sessions are expected to begin at 9:00 a.m. and conclude at 5:00 p.m. each day.

**Next Steps**

The facilitator will distribute the final summary of meeting one, a draft summary of meeting two, and a draft agenda for the third meeting.

The Department will distribute revised draft regulatory language for all the issues.

**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**

Martha Thurlow

Kenji Hakuta

Peggy Carr