



OVERVIEW OF PROPOSED REGULATIONS: ASSESSMENT

JULY 2016

UPCOMING WEBINARS

- **Overview of proposed assessment regulations:**

Thursday, July 14, 2:00 pm to 3:30 pm ET and

Tuesday, July 19 2:30 pm to 4:00 pm ET

- Statewide assessment system requirements under Title I, Part A
- Innovative assessment demonstration authority under Title I, Part B

- **Materials will be posted online after the webinars.**



EVERY STUDENT SUCCEEDS ACT

TRANSITION AND IMPLEMENTATION

- ESSA provides time and authority for ED to work with our State and local partners to ensure an **orderly transition** from NCLB and ESEA flexibility.
- ED is in the process of issuing regulations, guidance, and technical assistance to support States and districts in high-quality implementation of the law by 2017-2018.
- ED will continue to provide guidance to **States and districts** over the coming weeks and months to support the transition.



EVERY STUDENT SUCCEEDS ACT

TRANSITION AND IMPLEMENTATION, CONTINUED

- Funds awarded under State formula grant programs in 2016-2017 school year will be administered in accordance with NCLB.
- Many assessment provisions remain unchanged, and States must continue annual statewide tests in reading/language arts and mathematics to all students in grades 3-8 and once in high school as well as in science at least once in each of grades 3-5, 6-9, & 10-12.
- ED is receiving input from a variety of stakeholders to help support high-quality transition to, and implementation of, the new law.
- Transition FAQ's and additional resources are available on our ESSA webpage at www.ed.gov/ESSA.



STAKEHOLDER INPUT

ASSESSMENT UNDER TITLE I, PART A AND TITLE I, PART B

■ **Extensive Stakeholder Input:**

- Request for information and two public meetings (DC & CA)
- Over 200 meetings held across the country and hundreds of public comments considered

■ **Two Separate Notices of Proposed Rulemaking:**

- Title I, Part A: Statewide assessment systems
 - The Negotiated Rulemaking Committee, including representatives of Federal, State and local administrators, Tribal leaders, parents and students, teachers, principals, other school leaders, paraprofessionals, and the civil rights and business communities, **came to consensus**. The proposed regulatory language is that to which they agreed.
- Title I, Part B: Innovative Assessment Demonstration Authority

■ **Comment period closes on September 9, 2016**



NOTICE OF PROPOSED RULEMAKING

- Preamble
 - Executive Summary, including purpose of the regulatory action
 - Summary of the Major Provisions of the Regulatory Action
 - Costs and Benefits
 - Particular Issues for Comment
 - Background, including description of public participation
 - Significant Proposed Regulations
 - Statute
 - Current Regulations
 - Proposed Regulations
 - Reasons for Regulating
 - Regulatory Impact Analysis
- Proposed Regulations
- NPRM available at: <http://www.ed.gov/essa>



TITLE I, PART A

STATE ASSESSMENTS

REQUIREMENTS IN SECTION
1111(b)(2) of the ESSA

TITLE I, PART A STATE ASSESSMENTS

- Many assessment provisions remain unchanged by ESSA.
- States must still provide for all students to be assessed in valid, reliable, and fair ways using high-quality assessments annually in reading/language arts and mathematics in grades 3-8 and once in high school and at least once in each of grades 3-5, 6-9 and 10-12 in science.
- The regulatory language we are proposing under Title I, part A is **identical** to what the **Negotiating Committee agreed upon** in April through **consensus**.
- Most of the issues we're going to discuss come from section 1111(b)(2) of the ESEA.



STRUCTURE OF THE PROPOSED CHANGES TO TITLE I, PART A ASSESSMENT REGULATIONS

- § 200.2: State responsibilities for assessment, General assessment requirements: ED began with the existing regulations, slightly reorganized them, and added new clarifications based on amendments in the ESSA.
- § 200.3: New section on locally selected, nationally recognized high school academic assessments
- § 200.5: Assessment administration, including a new subsection on the exception for advanced eighth-grade mathematics in States that give end-of-course high school mathematics tests
- § 200.6: Inclusion of all students, specifically students with disabilities and English learners
- Other sections (§§ 200.4, 200.8, 200.9) amended to update terminology or citations in keeping with the ESSA, but were not substantially changed.



§ 200.2: STATE RESPONSIBILITIES FOR ASSESSMENT: GENERAL ASSESSMENT REQUIREMENTS

- Requires that each State implement high-quality, valid, reliable, and fair annual assessments that are the same for all students in the State (exceptions: §§ 200.3, 200.5(b), 200.6(c), innovative assessment demonstration authority under Title I, part B)
- Requires that States apply universal design for learning in assessment development, to the extent practicable
- Requires that assessments be aligned with the full breadth and depth of State academic content standards
- Requires that assessments measure student achievement based on challenging college- and career-ready State academic achievement standards or based on alternate academic achievement standards aligned with the purposes of the Rehabilitation Act, as amended by WIOA



§ 200.2: STATE RESPONSIBILITIES FOR ASSESSMENT: GENERAL ASSESSMENT REQUIREMENTS, CONTINUED

- States have flexibility in the format of assessment, which can include a single summative assessment or multiple interim assessments, administered statewide, through the course of the academic year.
- Assessments should involve multiple up-to-date measures and may include portfolios, projects, or extended performance tasks.
- States must be able to disaggregate assessment data and produce individual score reports.
- States can use computer-adaptive assessments as long as the tests measure a student's academic proficiency based on challenging State academic standards for the grade in which the student is enrolled.
- States must provide understandable information to parents, including those with disabilities or limited English proficiency.



§ 200.3: DEFINITION OF A NATIONALLY RECOGNIZED HIGH SCHOOL ACADEMIC ASSESSMENT

- “Nationally recognized high school academic assessment” means an assessment of high school students’ knowledge and skills that is administered in multiple States and is recognized by institutions of higher education in those or other States for the purposes of entrance or placement into courses in postsecondary education or training programs.



§ 200.3: LOCALLY SELECTED, NATIONALLY RECOGNIZED HIGH SCHOOL ACADEMIC ASSESSMENTS

- Each State has the discretion to allow an LEA to administer one nationally recognized high school assessment in lieu of the statewide assessment in high school.
- States must review such assessments for technical quality, alignment with the challenging State academic achievement standards and equivalent or greater rigor compared with the statewide tests; the Department then peer reviews.
- The use of appropriate accommodations must not deny English learners or students with disabilities any benefits of the assessment, such as valid college-reportable scores.
- Requests require notification of all parents and meaningful consultation, including with public charter schools.
- Notifications are required annually.



§ 200.5: ADVANCED EIGHTH GRADE MATHEMATICS IN STATES THAT GIVE END-OF-COURSE TESTS

- ESSA provides a specific exception for students who take advanced mathematics coursework in eighth grade in a State that offers end-of-course high school mathematics tests.
- Such a student may take the end-of-course test a State usually uses for high school mathematics if the student takes another more advanced mathematics assessment in high school for purposes of accountability and reporting for which the State receives approval through assessment peer review.
- Accommodations and peer review requirements apply to the more advanced mathematics assessment.
- A State taking advantage of this flexibility must describe in its State plan the State's strategies to provide all students in the State the opportunity to be prepared for and to take advanced mathematics coursework in middle school.



§ 200.6: INCLUSION OF ALL STUDENTS – GENERAL REQUIREMENTS

- States must provide for the participation in the State's academic assessment system of all students.
- As always, this includes students with disabilities, English learners, and highly mobile students.



§ 200.6: INCLUSION OF ALL STUDENTS – STUDENTS WITH DISABILITIES IN GENERAL

- The proposed regulations identify acts under which a student may be identified as a student with a disability and thus be eligible for testing accommodations: section 602(3) of the IDEA, section 504 of the Rehabilitation Act of 1973, Title II of the ADA, and any other relevant Act.
- Any such student may receive accommodations in keeping with State guidelines and appropriate school-based teams' decisions, such as interoperability with and ability to use assistive technology devices.
- States must disseminate information to parents and schools about appropriate use of such accommodations.
- The use of appropriate accommodations may not deny a student the opportunity to participate in an assessment or any of the benefits afforded to students without disabilities.



§ 200.6: INCLUSION OF ALL STUDENTS – STUDENTS WITH DISABILITIES: 1% STATE CAP ON AA-AAAS

- An alternate assessment aligned with alternate academic achievement standards (AA-AAAS) may only be given to a student with the most significant cognitive disabilities.
- Identifying a student as having a particular disability under the IDEA, a student's previous low academic achievement, status as an English learner, or prior need for accommodations may not determine that a student will take an AA-AAAS.
- An AA-AAAS must be aligned with the challenging State content standards for the grade in which a student is enrolled.
- IEP teams & parents must be clearly informed, including about any impact on students attaining a regular high school diploma.
- Taking an AA-AAAS may not prevent a student from attempting to complete the requirements for a regular high school diploma.



§ 200.6: INCLUSION OF ALL STUDENTS – STUDENTS WITH DISABILITIES: 1% STATE CAP ON AA-AAAS

- ESSA includes a State-level 1% cap on participation in AA-AAAS, not an LEA-level cap for accountability purposes as under previous regulations, but LEA justifications are still needed.
- If a State exceeds this cap, it may request a waiver which must:
 - Be submitted 90 days before the State’s 1st testing window.
 - Provide State-level disaggregated data on who takes the AA-AAAS.
 - Provide evidence the State assessed 95% of students the prior year.
 - Include assurances from the State regarding its work with LEAs.
 - Include a plan and timeline from the State for:
 - Improved implementation of State guidelines, including revision of its definition of “students with the most significant cognitive disabilities” if necessary.
 - Additional steps the State will take to support LEAs.
 - Ways the State will address any disproportionality in assessment by subgroup that shows up in the State data required for such a waiver request.



§ 200.6: INCLUSION OF ALL STUDENTS – ENGLISH LEARNERS IN GENERAL

- The regulations address several topics regarding English learners, including:
 - Accommodations appropriate to a student’s status as an English learner, and if applicable, as a student with a disability.
 - Annual statewide English language proficiency assessments.
 - Assessments in a student’s native language.
 - Recently arrived English learners.
 - New flexibility for students in Native American language schools or programs.
- States must ensure that use of accommodations deemed appropriate for English learners on any State assessment does not deny an English learner the opportunity to participate in the assessment and any of the benefits from participation that students who are not English learners receive.



§ 200.6: INCLUSION OF ALL STUDENTS – ENGLISH LEARNERS: NATIVE LANGUAGE ASSESSMENTS

- States must define “languages other than English that are present to a significant extent in the participating student population”:
 - Including the most populous such language.
 - Considering languages spoken by distinct populations of English learners, including those who are migratory, not born in the U.S., or Native American.
 - Considering languages spoken by a significant portion of the population in one or more LEA or grade level.



§ 200.6: INCLUSION OF ALL STUDENTS – ENGLISH LEARNERS: NATIVE LANGUAGE ASSESSMENTS

- States identify native language assessments and those that are needed and make every effort to develop such assessments.
- States may request assistance from the Secretary in identifying appropriate assessments in the needed languages.
- Native language assessments are subject to assessment peer review.
- English learners may be assessed in reading/language arts in a native language for no more than 3 years (although the timeline may be extended by 2 years, as determined by the LEA).



§ 200.6: INCLUSION OF ALL STUDENTS – ENGLISH LEARNERS: NATIVE AMERICAN LANGUAGE SCHOOLS AND PROGRAMS

- For students enrolled in a school or program that provides instruction primarily in a Native American language:
 - At a State’s discretion, students may be assessed in reading/language arts in the Native American language used for instruction if the State provides an assessment in such language and submits it to the Department for assessment peer review.
 - By the end of 8th grade, such students must be assessed in reading/language arts in English.
 - The English language proficiency of English learners in such schools and programs must still be assessed annually, and such students must continue to receive services for which they are eligible to help them attain English proficiency.



**TITLE I, PART B
INNOVATIVE ASSESSMENT
DEMONSTRATION
AUTHORITY**

REQUIREMENTS IN SECTION
1204 of the ESSA

INNOVATIVE ASSESSMENT DEMONSTRATION AUTHORITY

TITLE I, PART B

- New flexibility for States or consortia of States to pilot innovative approaches to assessments
- Gives States time and space to try out, and learn from the implementation of, novel testing approaches as they scale the innovative assessment system statewide
- With evaluation and continuous improvement, these pilots can help States develop new models that:
 - Ensure State assessments continue to be high-quality, fair, and worth-taking.
 - Provide more useful and timely feedback to educators, parents, and students themselves.
 - Serve as proof points for models that could be adopted by other States.



INNOVATIVE ASSESSMENT DEMONSTRATION AUTHORITY

TITLE I, PART B

- Innovative Assessment Demonstration Authority provides flexibility for States or consortia to:
 1. Develop a new approach for assessing students against its challenging State academic standards **AND**
 2. Start small, piloting in a limited number of districts and schools before implementing statewide **AND**
 3. Use the innovative approach for accountability and reporting instead of the current statewide test in pilot participating schools during the pilot phase.
- Innovative assessment demonstration authority is only needed if a State is seeking to do all of the above.
- **Initial demonstration period:** During the first three years the Department awards authority, up to 7 States can participate and consortia are limited to 4 States.



STATE CONTEXT AND FLEXIBILITY

- States may propose a variety of new models, including:
 - Performance tasks and simulations.
 - Competency-based assessments.
 - Multiple assessments (e.g., curriculum-embedded, interim, or through-course tests) given throughout the year.
 - All models must produce an annual summative determination of grade-level achievement aligned to State standards.
- An innovative assessment system may include:
 - All required grades and subjects **OR**
 - A subset of required grades and subjects (e.g., an innovative science assessment in each grade span, an innovative reading assessment only in elementary schools).
- A State must continue administering its statewide assessments in all schools in any grade/subject in which it is not developing an innovative test.



TIME TO THOUGHTFULLY SCALE

- A State may apply for demonstration authority to scale its innovative assessment over a period of 5 years.
 - If the innovative assessment has not been implemented statewide at the end of the five-year period, a State may request a 2 year extension, if it meets certain requirements.
 - After the extension, the proposed rule clarifies a State may request a 1 year waiver for purposes of giving the State time to submit evidence for Federal peer review of State assessments.



TIME TO THOUGHTFULLY SCALE

- Because a State does not need authority until its innovative assessment is ready to be used in some districts instead of the statewide test for accountability, **planning years** are not part of the demonstration authority timeline.



TIME TO THOUGHTFULLY SCALE

State plans its
innovative
assessment

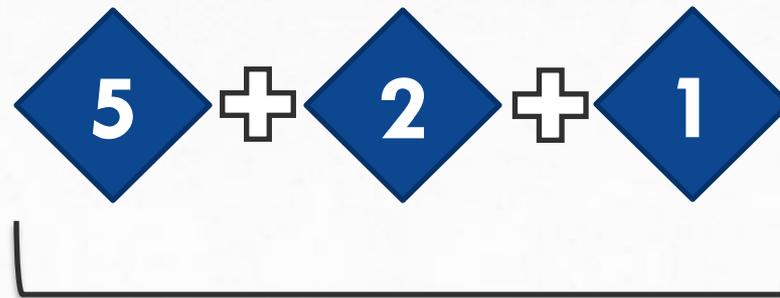
PRE-APPLICATION
PLANNING
ACTIVITIES

- ED is currently considering **technical assistance opportunities** for States that are interested in learning more about the demonstration authority and engaging with the Department, outside experts, and other States as they determine whether they would like to pursue demonstration authority and begin to design their innovative assessment system.



TIME TO THOUGHTFULLY SCALE

- States may roll out an innovative assessment **within a district** over multiple years during the five-year authority period and two-year extension period, if applicable.
 - To support efforts to scale, States create annual benchmarks for implementation in demographically representative LEAs.
- States must implement the innovative assessment in all schools and districts by the end of the demonstration authority period.



**DEMONSTRATION AUTHORITY
PERIOD**
(including **EXTENSION + WAIVER**)



TIME TO THOUGHTFULLY SCALE

- At the end of the pilot stage, when the innovative assessment is in use in all schools and districts, a State must officially transition out of the authority by submitting their innovative assessments systems for **peer review**, similar to other statewide assessments under Title I, Part A.
 - This peer review will help determine whether the innovative assessment may be used to meet Title I, Part A requirements for statewide assessments and accountability.

Up to 8 years to
implement statewide

EXIT AUTHORITY:
STATEWIDE
IMPLEMENTATION



APPLICATION PROCESS

- The proposed regulations clarify the **application components** for innovative assessment demonstration authority, including:
 - Application requirements that States must meet in order to receive authority.
 - Selection criteria against which State plans will be evaluated for quality.
- All applications will be **peer reviewed** by panels of assessment experts and practitioners with experience developing and implementing innovative assessments.



APPLICATION REQUIREMENTS

1. Evidence of **consultation** with experts and stakeholders
 - Those representing the interests of children with disabilities, English learners, and other historically underserved students
 - Teachers, principals, and other school leaders;
 - School districts
 - Students and parents
 - Civil rights organizations
2. A demonstration that the innovative assessment system does, or will meet, **statutory requirements for assessments**, including alignment, quality, fairness, comparability between the innovative and statewide assessment to maintain consistent and unbiased annual accountability and reporting



ASSESSMENT REQUIREMENTS: COMPARABILITY

- ESSA requires that the innovative and statewide assessments generate results during the authority that are valid, reliable, and comparable for all students and subgroups of students.
- The proposed regulations include options for States regarding how they can annually demonstrate comparability:
 1. Assessing all students using the statewide tests at least once in each grade span for which there is an innovative assessment.
 2. Assessing a representative sample of students in the same school year on both the innovative and corresponding statewide test at least once in each span.
 3. Incorporating, as a significant portion of the assessment, common items across both statewide and innovative tests.
 4. Another State-determined method that will provide an equally rigorous, statistically valid comparison for all students and subgroups.



APPLICATION REQUIREMENTS

3. Addressing all **selection criteria**
4. Providing **assurances** for continued use of State standards and assessments and communication with parents and ED, including providing the following annually:
 - An update on implementation, including evaluation results and progress in scaling the innovative assessment
 - Student performance data on the innovative assessment
 - Demographic information about districts that are joining the authority in the coming year
 - Feedback from key stakeholders
5. Demographic and achievement information on **participating districts**, with assurances
6. Considerations for **consortia**, including State roles and responsibilities, intellectual property, and membership



SELECTION CRITERIA

- Assist peer reviewers in determining the strongest proposals and help the Department select participating States in a situation where more than 7 States submit high-quality plans

1. Project narrative

- Rationale for developing the particular innovative assessment approach and how it will advance the design and delivery of state assessment systems and promote high-quality instruction toward college- and career-ready standards
- Plans to ensure standardized, comparable scoring of innovative assessments and provide training on scoring
- Strategies to scale the innovative assessment statewide, including criteria for selecting districts to participate and annual benchmarks for achieving implementation in demographically diverse districts



SELECTION CRITERIA

2. Prior experience, capacity, and stakeholder support

- Track record of past experiences at the State or local level
- Analysis of technological infrastructure; State and local laws; dedicated and sufficient staff, expertise, and resources; and other relevant factors, and how State plans to build capacity
- May also describe the role of external partners
- Signatures from key local stakeholders: superintendents, school boards presidents, teacher organizations (including labor organizations, where applicable), and others (for example, parent, civil rights, or business organizations)

3. Timeline and budget

- Key activities as the systems scales, and who is responsible
- Federal, State, local, and non-public sources of funds



SELECTION CRITERIA

4. Supports for educators and students

- Training for educators and other school staff
- Strategies to help familiarize students with the new assessments
- Participation of all students, including appropriate accommodations
- Strategies to ensure quality and to validly and reliably score assessment items that are developed or scored by teachers

5. Evaluation and continuous improvement

- Strength of evaluation plan to ensure the innovative assessment is valid, reliable, and comparable to the statewide assessment
- How the State will use feedback, data, and other information to make needed changes and plans for ongoing monitoring



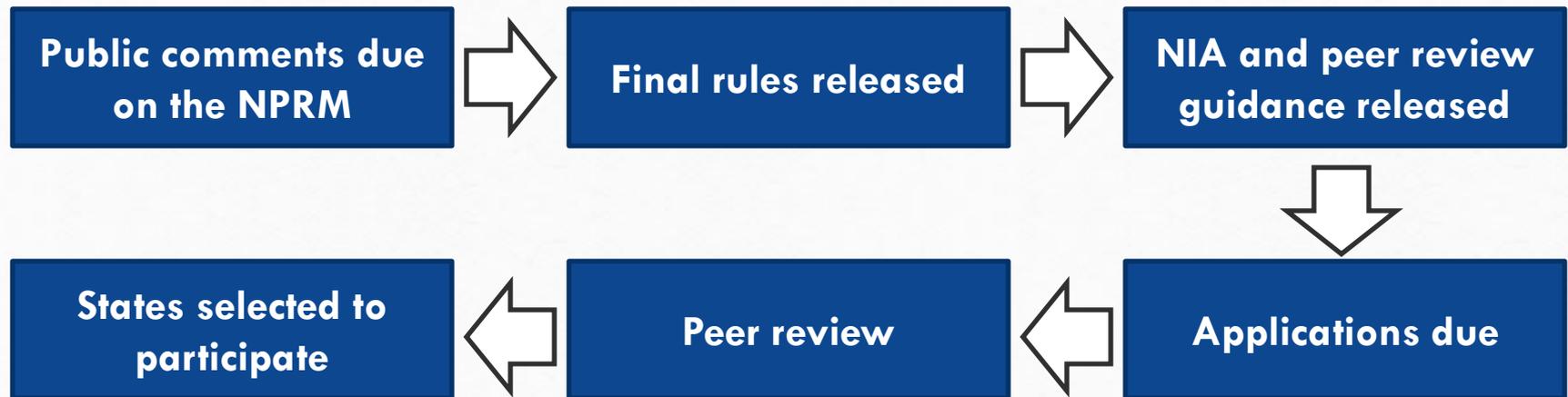
SUPPORTING STATE IMPLEMENTATION

- Once a State has been granted demonstration authority, the Department may request and review information from each participating State to determine whether the State is meeting the application requirements and continuing to implement the plans described in its application.
- This will inform ongoing monitoring efforts and could trigger:
 - Additional support and technical assistance from ED.
 - Enforcement actions, which could include withdrawal of authority.
- IES will also publish a progress report after the initial demonstration period to inform ongoing TA and the application peer review process and continue to disseminate best practices regularly after the progress report.



SUPPORTING STATE IMPLEMENTATION

- NPRM on the innovative assessment demonstration authority open for public comment until September 9



- Regulations finalized by the end of the year
- **Stay tuned for:** technical assistance opportunities to support planning and publication of NIA and peer review guidance

NEXT STEPS

- Submit official comments and questions through the Federal Register Notice available at the following links:
 - Title I, Part A:
http://www.federalregister.gov/articles/2016/07/11/2016-16124/title-i-improving-the-academic-achievement-of-the-disadvantaged-academic-assessments?utm_content=header&utm_medium=slideshow&utm_source=homepage
 - Title I, Part B:
http://www.federalregister.gov/articles/2016/07/11/2016-16125/elementary-and-secondary-education-act-of-1965-as-amended-by-the-every-student-succeeds?utm_content=header&utm_medium=slideshow&utm_source=homepage



NEXT STEPS, CONTINUED

- Main ESSA Web Page: www.ED.gov/ESSA
- ESSA Resources, including link to the Notice, Fact Sheet, and other ESSA resources:
<http://www2.ed.gov/policy/elsec/leg/essa/index.html>
- Email Inbox: ESSA.Questions@ed.gov

