

# The Negotiated Rulemaking Committee Selection Process for the Every Student Succeeds Act –Frequently Asked Questions

## 1. How does someone submit a nomination for the negotiated rulemaking committee? What is the deadline for submitting a nomination?

All required information should be submitted to [OESE.ESSA.nominations@ed.gov](mailto:OESE.ESSA.nominations@ed.gov). All nominations must be submitted by 11:59 P.M., Eastern time, February 25, 2016.

## 2. What information must be submitted with a nomination?

Each nomination of a potential negotiator must include **all** of the following 6 pieces of information:

- The name of the nominee;
- The constituency the nominee represents;
  - Note: as indicated in the Notice, the Department intends to seat as negotiators individuals representing the following constituencies:
    - State administrators and State boards of education;
    - Local administrators and local boards of education;
    - Tribal leadership;
    - Parents and students, including historically underserved students;
    - Teachers;
    - Principals;
    - Other school leaders, including charter school leaders;
    - Paraprofessionals;
    - The civil rights community, including representatives of students with disabilities, English learners, and other historically underserved students;
    - The business community; and
    - Federal administrators.
- Evidence of the nominee's expertise or experience in the topics proposed for negotiations;
- Evidence of support from individuals or groups within the constituency that the nominee will represent;
- The nominee's commitment that he or she is available to attend all negotiation sessions and will actively participate in good faith in the development of the proposed regulations; and
- The nominee's contact information, including address, phone number, and email address.

Failure to provide all of the required information could prevent the Department from selecting the nominee as a negotiator.

**3. Does a nominated negotiator have to identify one specific constituency of the ones listed in the February 4, 2016 Intent to Establish a Rule Making Committee in order to be a negotiator?**

Yes, nominated negotiators must represent at least one of the constituencies identified in the February 4, 2016 Federal Register notice. You may propose a negotiator who represents one or more of those constituencies but the individual will likely be selected to represent only one of the constituencies.

**4. What would be evidence of a nominee's expertise or experience in the topics proposed for negotiations?**

Evidence could include, among other things, a resume or written summary of a "nominee's expertise or experience in the topics proposed for negotiations." Expertise or experience could include, among other things: the nominee held a position responsible for administering or developing State or local assessments; the nominee was responsible for administering a program with a supplement not supplant requirement; or research conducted in at least one of the topic areas.

**5. What would be evidence of support from individuals or groups within the constituency that the nominee will represent?**

An individual could demonstrate evidence of support by providing, among other things: a nominating letter on official organizational stationery signed by the president or other official of the organization; letters of support from individuals that are members of the same organization or constituency (e.g., letters of support from parents who are members of the same organization to which the nominee belongs); and evidence that a local school board voted to support the submission.

**6. How is "member" defined as the term relates to members of a constituency?**

As described in our Request for Information that was published in the Federal Register on December 22, 2015, the statute requires that negotiators be chosen "from among individuals or groups that provided advice and recommendations" regarding regulations under Title I. This could include both individuals who provided advice and recommendations themselves, as well as individuals who are part of an organization that provided advice and recommendations. There is not a specific definition of the term "member".

**7. Could an organization nominate an individual who has significantly contributed to the work of the organization but isn't necessarily a member of that organization**

Nominations should be consistent with an organization's existing policies regarding membership. Contributing to the work of an organization would not necessarily make someone a member.

**8. Can an individual qualify to represent a constituency if he or she is a former member of the constituency?**

The Department is seeking negotiators who represent the constituencies named in the Notice published in the Federal Register on February 4, 2016. The nomination must include evidence of support from groups or individuals that the person would represent. A person could be a former member of a constituency if their experience would enable them to currently represent the needs and interests of that constituency.

**9. Can someone who has only testified at one of the two listening sessions in response to the Request for Information qualify to be nominated for the Negotiated Rulemaking Committee?**

Yes, individuals who testified at either of the two public meetings are considered to have provided advice and recommendations and can be nominated for the negotiated rulemaking process.

**10. Can an organization nominate a non-member of that organization who responded to the Request for Information?**

An organization can nominate anyone provided that the person meets the qualifications set out in the Notice, such as representing a designated constituency group.

**11. Can an individual or entity that did not submit written feedback or testify at one of the two meetings serve as a negotiator?**

By statute, negotiators can be selected from among individuals or groups that provided advice and recommendations in response to the RFI published on December 22, 2015. However, if a member of an organization provided a response to the RFI or testified at one of the regional meetings, then another member of that organization can be nominated and selected for the negotiating committee.

**12. Why isn't the Department of Education seeking representatives of "specialized instructional support personnel" for the Negotiated Rulemaking Committee?**

In identifying constituencies to be represented on the negotiating committee, the Department wanted to ensure that the committee was of a size that was small enough to allow meaningful participation by all members of the committee. While not a distinct constituency, the Department believes that specialized instructional support personnel could potentially be selected to represent constituencies such as teachers, other school leaders, or paraprofessionals.

**13. Will the Department pay for the travel expenses for the negotiators?**

Yes, the Department will pay for the travel and lodging expenses of the negotiators and provide a per diem.

**14. Will agendas and materials for each of the Negotiated Rulemaking Committee Meetings be publicly available? If so, when will they be available?**

The issues to be discussed by the committee were described in the February 4, 2016 notice announcing our intent to establish a negotiated rulemaking committee. The committee will consider and adopt an agenda at its first negotiation session and that agenda as well as other materials from the negotiations will be published on ED's website.

**15. Are federal staff able to serve as a negotiator on the Negotiated Rulemaking Committee?**

Yes, Federal staff are eligible to apply to serve as a negotiator but the individual must provide evidence that his or her employing agency, including the agency's ethics official, has approved the individual's participation as a negotiator.