

**Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, Negotiated Rulemaking Committee**

**Assessment Overview and Framework**

**Statutory Cite(s): 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA)**

**Regulatory Cite(s): Proposed draft updates to 34 C.F.R. §§ 200.2, 200.5, and 200.6**

**Background:**

The purpose of Title I of the ESEA is to “provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.” To realize this purpose, States and districts must maintain high academic expectations for all students regardless of their race, socio-economic status, or residence. They must also measure whether students are making progress towards those expectations by administering high-quality, annual assessments that provide critical information about student achievement and, at the State’s discretion, growth to students, parents, teachers, principals, and administrators.

The ESSA maintains most of the same requirements regarding annual statewide assessments as the No Child Left Behind Act of 2001, with a few key exceptions. This committee will help update regulations to reflect the changes in ESSA, and to resolve questions raised by the new law.

To help the negotiated rulemaking committee discuss and resolve these questions, attached are issue papers across six key areas, as identified by the U.S. Department of Education (ED) in its notice announcing the formation of this negotiated rulemaking committee. Those areas are:

- (1) Computer adaptive testing.
- (2) The exception for advanced mathematics assessments in 8th grade
- (3) Locally selected nationally recognized high school assessments
- (4a) Inclusion of students with disabilities in academic assessments
- (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 an academic subject
- (5a) Inclusion of English learners in academic assessments
- (5b) Inclusion of English learners in English language proficiency assessments
- (6) Updating existing regulations to reflect statutory changes (with draft amendments to 34 C.F.R. §§ 200.2, 200.5, and 200.6)

Each of these issue papers includes the specific statutory requirements on the topic, relevant background information, and some suggested questions that the new statutory text might raise. In some cases, ED has also included some draft regulatory text to provide the negotiated rulemaking committee with one possible option to resolve questions and to support discussion on the issue among the committee members.

In addition to the issue papers, ED has provided a discussion document that includes suggested revisions to existing regulations. The revisions aim to reinforce the new statutory requirements around annual statewide assessments and provide greater clarity around how States and districts can

best exercise some of the new flexibilities in the law. The draft revised regulations are meant to generate discussion among committee members, and ED welcomes feedback and additional thinking from the committee members on each of the areas where revisions are suggested.