

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

Updated for Session Three, April 18-19, 2016

Issue Paper #6

**Issue:** Revised Assessment Regulations: Overview and Updated Draft Regulation

**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 through 200.10

**Background:**

The ESSA maintains most of the requirements regarding annual statewide assessments from the No Child Left Behind Act of 2001, with a few key exceptions. The purpose of convening this committee is to update existing regulations to incorporate new statutory requirements and to resolve questions raised by these new requirements.

**Issue(s):**

Previous regulations restated numerous statutory provisions to provide a clear and comprehensive explanation of assessment requirements for States and school districts. The ESSA updated a number of these provisions, and ED is proposing to make necessary conforming edits to the relevant regulatory sections (34 C.F.R. §§ 200.2 through 200.10) to reflect those statutory updates. The draft language attached shows changes proposed by ED for the purpose of ensuring that the regulations reflect the new statutory language. For example, the proposed language would remove obsolete timelines, revise terms such as “limited English proficient students” to “English learners,” and add new language taken directly from the statute. ED believes that this combination of technical updates and statutorily required changes provides an appropriate baseline regulation as the committee conducts its negotiations over further changes.

Is the committee comfortable with this baseline document? Are there other conforming edits that should be included?

**Session 3 Update**

In addition to proposing to make necessary conforming edits to the relevant statutory sections (34 C.F.R. §§ 200.2 through 200.10) to reflect statutory updates, the attached draft language now also incorporates changes to include text reflecting the Department’s understanding of the committee’s feedback on issue papers one through five. In reviewing this redline, please refer to the following key:

Black text: Language directly from the existing regulations

Blue text, non-bolded: Language directly incorporating statutory requirements

Blue text, bolded: Language directly incorporating statutory requirements, corrected

Red text: Additional language based on the committee’s feedback on issue papers one through five

Underlined text: Language that has been added between session #2 and #3

Unshaded text denotes areas of primary consideration for session 3. These sections were identified as outstanding items during session 2.

Gray shaded areas are not expected to require substantial additional conversation.