Transcript of U.S. DEPARTMENT OF EDUCATION NEGOTIATED RULEMAKING

Date: March 22, 2016

Case: U.S. DEPARTMENT OF EDUCATION IN RE: NEGOTIATED RULEMAKING

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1 ESSA negotiated rule-making
2 session.
3
4 March 22, 2015
5
6 Ms. Podziba: Good morning
7 everyone. Welcome back today to day two.
8 The third question we had not gotten to
9 yet yesterday afternoon. I wanted to pick
10 out the third question. Can you open that
11 back up? There should be one.
12 Mr. Payment: I would like to
13 request that we in our native language it
14 is custom when we come to meetings we do a
15 blessing it's not a prayer of any kind
16 would it be acceptable for me to do a
17 blessing?
18 Mr. Rooney: That would be fine.
19 Mr. Payment: Just the way we do
20 is we usually stand because we are closer
21 to our creation. I ask that we stand.

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1 (In Ojibwe) I gave thanks to each of our
2 directions and for our mother earth and
3 water and all that we take advantage of
4 from this earth and then I also used the
5 very ancient blessing which are you my
6 relatives. When we use that blessing it
7 acknowledges our connection to each other
8 and our responsibility to each other. I
9 wanted to start off today with that
10 blessing so that we recognize that we are
11 responsible for each other and brother's
12 keeper and the work that we do is for all
13 of the benefit of our children that are
14 coming after us. Thank you.
15 Mr. Rooney: Thank you Aaron. So
16 now the third question on the computer
17 testing, a state chooses to use a computer
18 adaptive test, alternate achievement
19 standards for students with the most
20 cognitive disability it is one percent
21 test for those of you who are familiar

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1 with this in your states how wowed the
2 computer adapted test the student
3 achieving with the while measure students
4 achievement against alternate achievement
5 standards. That's a mouthful of the
6 question for you.
7 Ms. Podziba: If you could turn
8 your cards toward me that could help. The
9 room is a bit bigger.
10 Mr. Hager: The question is
11 confusing because the statute is
12 confusing. In a definitely going to ask
13 Martha to clarify as I go because I am not
14 probably going to get it technically. I
15 think I can get the legal piece but
16 probably not the way the assessments are
17 done fully well. So we have grade level
18 content standards and then you also have
19 alternate academic achievement standards
20 that are kind of in line to those grade
21 level standards. When you are doing and

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1 assessment getting the computer adaptive
2 testing when you are doing and is the
3 student achieving for the one percent what
4 is the measure that we are using. The
5 regular grade content we are using the
6 alternate academic achievement standard.
7 That's the measure for the general rule of
8 assessing student for proficiency is
9 proficiency based on that alterative
10 academic standard that is what the intent
11 of the statute was or the computer adapted
12 testing. They didn't say it very
13 eloquently. There's wiggle room if you
14 will in the way that the statute is
15 written that would allow the department to
16 do what I am proposing and so your
17 consistent with legislative intent. This
18 is if you want to look at one place where
19 regulations could be very helpful in
20 clarifying the intent for everybody this
21 would be a perfect example of how the

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1 regulation could clarify a legislative
2 attack. If you look at the statutory
3 requirement for a computer adaptive
4 assessments JiAA. This is not for the,
5 this is the regular one okay. It says
6 that it shall measure at a minimum each
7 student's academic proficiency based on
8 the challenging state academic standard
9 that's the general rule for all students
10 then when you look at the language for the
11 most significant cognitive disabilities
12 which is the little 2 then you go down to
13 little two --
14 Ms. Briggs: Can I ask if we can
15 take a break? I know we are trying to get
16 in another colleague up to the table I am
17 having a hard time focusing on you. I
18 want to hear what you are saying sorry.
19 Mr. Hager: Is there a page for
20 the statutory?
21 Ms. Briggs: Thirty-two of the

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1 statute, the ESSA statute you can find
2 under tab B after six. Then on page 32 to
3 where this section is about adaptive
4 testing. What I will do when we get
5 situated is I will start over.
6 Mr. Rooney: The adaptive starts
7 under page 31.
8 Mr. Hager: I should have waited
9 to let everyone get where they needed to
10 sorry about that. The general rule is the
11 assessments in the specific one that I
12 wanted to focus on was comparison purposes
13 is that J the little i, and then a capitol
14 double W little a you got to love it
15 right? What were they thinking where are
16 those congressional people? Anyway, so
17 the general assessment the general
18 definition of a computer adapted
19 assessment that it shall measure at a
20 minimum each student's academic
21 proficiency based on the challenging state

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1 academic standard's which I think we would
2 say is by the general standard for that
3 grade level. When you look at the
4 definition for the students with most
5 significant cognizant disability it is
6 little I then you look at little I capitol
7 one the AA so that this is assessment
8 shall meet the requirements of this
9 paragraph including, except such
10 assessment shall not be required to meet
11 the requirements of clause I double, you
12 know, capitol 22 which is the challenging
13 academic standard, so I think the intent
14 by using that again it's not clear it's
15 not using the right terminology because we
16 are talking about one thing one place and
17 another thing at another place. By terms
18 of attempt by exempting the challenging
19 academic standard that means I will use
20 the general full academic requirements, so
21 we are looking at proficiency for a

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1 regular assessment for align to the
2 alternate academic achievement standard.
3 We are looking for proficiency on that
4 standard. The intent of Congress is we do
5 the same thing for the computer adaptive
6 test by exempting that Roman numeral two
7 language again, I know it's not clear but
8 I think it's a very critical. We don't
9 want to be having a student that has
10 academic achievement standards to which
11 they are being taught and for which they
12 would be assessed by for the fact that
13 it's computer adapted test to be having a
14 whole different standard and a whole
15 different rule and procedure for taking
16 the computer adapted test. Martha sounds
17 like I got it.
18 Ms. Thurlow: I think you got it
19 exactly that distinction and the content
20 we are working toward and how well the
21 student is performing the alternate

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1 achievement standards. You did a great
2 job explaining.
3 Mr. Hager: Only because I asked
4 you before we started if I got it right?
5 Ms. Podziba: Are there other
6 comments on question three?
7 Ms. Briggs: I think this is a
8 relevant place for this question. In
9 thinking about the cat would it be allowed
10 in this regulatory structure for a state
11 to develop a cat for everyone for students
12 with the most significant, it seems like
13 you could or when I read the statute I'm
14 not sure the regulations allow for that?
15 Mr. Rooney: I think the reading
16 of the statute and Kay could jump in. Is
17 that the state that option not required
18 adaptive test? It requires to have and
19 assessment and an alternate assessment for
20 all students that describe how that
21 assessment is designed. I don't know if

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1 we were required of the state.
2 Ms. Briggs: They could do
3 adaptive for the general population or a
4 non-adaptive or unique situated test. I
5 want to make sure that's how I understood
6 it. Then my other question was under in
7 the reg tech C three the very final rays
8 references of other final reports and
9 reports to the secretary. I was curious
10 what those were? There's a reference to
11 section 200.8 under C3 which is clear that
12 the other reports just weren't sure what
13 that means.
14 Ms. Podziba: We are going to go
15 through the reg techs line by line is it
16 all right if we set that aside for now?
17 Are there other questions about number
18 three? Okay then Patrick it looks like we
19 are at the regular techs so Ron do you
20 have another comment?
21 Mr. Hager: I had other questions

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1 or comments about this provision that
2 aren't the question wasn't asked so I'm
3 not sure if now is the time to get into
4 that or if you wanted to go through the
5 regulatory test first.
6 Ms. Podziba: I would rather have
7 a broader discussion now.
8 Mr. Hager: Some of these, a
9 couple may fit somewhere else so we can
10 wait until we get to that other point we
11 can. I wanted to comment on we were
12 talking yesterday about students that were
13 performing below grade level that were
14 testing but we never did talk about the
15 potential for assessing above grade level
16 and you talked about the beauty of having
17 that grow and a student seeing them grow.
18 I think the regs you got it in the doors
19 there I think you should play with it a
20 little bit in the regulations. The
21 potential to assess above grade level, and

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1 it does carry over into the mathematics
2 and other higher you know advanced
3 placement classes. We don't want to
4 assume for any student that they are
5 limited to grade level and we might in
6 typical assessments we would stop okay
7 here's our grade level assessment. The
8 beauty of the computer adaptive assessment
9 okay here's my range, but I could
10 potentially have skills that are way over
11 here and make sure that we do encourage
12 the states to develop these assessments in
13 such a way that we can capture that to
14 ensure students that do have a disability
15 or English learners or whoever that have
16 the potential for more challenging
17 academic content that they do it. The way
18 the general assessment requirements are
19 written we are supposed to be looking at
20 assessing higher order thinking skills.
21 This is connecting the dots between the

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1 pre-requirement to assess higher order
2 thinking skills as well as the beauty of
3 the computer assistive testing. My
4 daughter Tammy is a classic example. At
5 third grade she could do Rubik's cubes she
6 was gifted visual spatially, not simple
7 math but higher order conceptual math, but
8 she never did pass regents math because
9 she couldn't do the simpler math, but she
10 never got a chance to experience higher
11 math. It's a way to connect the high end
12 potential, the good as opposed to bad I
13 shouldn't use the phrase. The high-end
14 computer system testing with the
15 obligations to consider higher order
16 thinking schools with the goal of seeing
17 students in advance placement classes this
18 is a tool used for that.
19 Ms. James: Just to follow up
20 with your statements Mr. Hager I
21 absolutely the computer adaptive test

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1 certainly go beyond a student's grade
2 level and it really does allow you to
3 access what students know. Part of what I
4 enjoy is really looking at the data in a
5 way you can look at the itemized analysis
6 and begin to understand what concepts and
7 or sub skills the students have grasped.
8 So for example when I think about my
9 middle grade students previously I think
10 about a sixth grader particularly and his
11 academic level in math alone was that of a
12 12th grade plus, so just to share with you
13 and just to I guess add to what you were
14 saying is certainly it does allow students
15 the ability to begin to see what concepts
16 they understand and interestingly enough
17 the certain domains he was not at a 12 so
18 it really informs the educators as to how
19 or where the student is thinking and just
20 for me as a school leader what it does is
21 it makes me even more eager and excited to

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1 empower teachers to dig deeper and think
2 about the concepts that we put in front of
3 children.
4 Ms. Podziba: Ron, you have a
5 couple of issues?
6 Mr. Hager: There's two more and
7 I will say where they are. The second one
8 is the specific issues. Any computer
9 based assessment including a computer
10 adaptive testing is going to have issues
11 for accommodations and accessibility for
12 students with disabilities. That's the
13 first one. The second one is the question
14 again for any type of a computer based
15 assessment familiarity with the platform
16 upon which it's based and how that affects
17 both students with disabilities and
18 particular English learners. Again, that
19 one is applicable at any computer based
20 platform there is so there's two basic
21 points for the first one the accessibility

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1 issues there is at least a couple and I
2 know I will have to defer to mar that on
3 this because she's the expert. There's
4 some that are unique to computer adaptive
5 testing problems for accommodating
6 students with a disability. Even if we
7 defer the rest of the conversation until
8 later when we talk about the inclusion of
9 students with disabilities in assessments
10 we could do it then, but unique ones to
11 the computer adaptive testing might be
12 appropriate to discuss now I am throwing
13 it out there. Sometime during the course
14 of our time together I definitely want to
15 focus those questions and issues.
16 Ms. Podziba: Other comments?
17 Aaron, do you have something?
18 Mr. Payment: Just a little snip
19 it on learning, so Kurt Lewin talks about
20 experiential learning. When we understand
21 knowledge in a contextual sense and this

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1 is applicable to American Indian learning
2 then we have a reference to which to
3 understand the knowledge and so when we
4 teach in a discombobulated way or measure
5 in a discombobulated way it doesn't have
6 the measure to stick to something, to the
7 benefit of being able to evaluate learning
8 or assess learning that is beyond just the
9 minimum of the required to understand does
10 help you to find out what they do
11 understand in order to house information
12 for learning purposes. The one thing that
13 I will also have learned over the years
14 that I am concerned about is and this is a
15 bigger discussion as I supposed than what
16 we are able to take care of. When we
17 evaluate learning and it's if it's limited
18 in sculpt to the standards then there's a
19 lot of knowledge beyond that that we take
20 for grant that had we understand in
21 foundational learning. I will give you

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1 and example I am a high school drop out.
2 I have an iodic memory. I failed out of
3 high school. The environment wasn't
4 correct for me to learn and I recognized
5 later that there's all kinds of stuff that
6 I don't know. The concern is that with
7 testing that gets you off and what these
8 algorithms moves on beyond the base
9 learning is what sacrificed with
10 foundational learning in that and I don't
11 know the answer to that.
12 Ms. Podziba: Patrick, I am going
13 to turn to you to take us to the
14 regulatory language, but also to say a
15 little bit about what will fit into this
16 reg and what maybe beyond either this
17 section or regulatory possibilities in
18 general. I'm sorry Aqueelha?
19 Ms. James: If we look at the
20 language here specifically this part with
21 the most significant cognitive

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1 disabilities. What that word does or what
2 those word DOS it makes me think about
3 idea. What I would like for us to do as a
4 group is consider how does this
5 recommendation align to IDEA?
6 Mr. Rooney: That's a good
7 question and it looks like Ron wants to
8 jump in. A couple of the comments here
9 are great comments that we may want to
10 hold until we get into issue paper where
11 we are going to talk about including
12 students with disabilities. I am
13 happy -- Martha and Kay can jump in and
14 talk about some of the legal cases between
15 IDEA. The term most significant cognitive
16 disabilities is a technical term that
17 states and U.S. Department of education
18 has been using as a subset of all students
19 for disability who is alternate
20 assessments maybe appropriate but the
21 general assessment may not be appropriate.

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1 Ms. James: Have we defined what
2 that means explicitly?
3 Mr. Rooney: No, we have not.
4 It's been in regulation since 2002 when we
5 get to issue 4 B that's one of the
6 questions we have for this negotiating
7 committee. It's something we want to
8 consider trying to define what that
9 definition might be. Foreshadowing what
10 you are commenting.
11 Ms. James: I don't want to touch
12 it. (laughter).
13 Ms. Rigling: Each state has
14 defined it not perhaps real precisely but
15 they have defined it. They have issued
16 guidelines for their IEPT's to use in
17 identifying which students with
18 disabilities have the most significant
19 cognitive disabilities for which it would
20 be appropriate to measure their
21 achievement against alternate academic

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1 achievement standard. Those are currently
2 defined in regulations that have now been
3 implemented in the new ESSA. There is a
4 part of the standards part of the statute
5 that we could look at if that would be
6 helpful just to get a sense of what
7 alternate academic achievement standards
8 are but again that might be something that
9 we want to wait on until we talk about the
10 issue paper four.
11 Mr. Rooney: Martha is there
12 anything you want to add to that?
13 Ms. Thurlow: I would say
14 something similar to Kay. In the past
15 five years or so it comes to quite a bit
16 of agreement on how or what their
17 guidelines are like. We can get into that
18 in four.
19 Mr. Rooney: Okay Ryan?
20 Mr. Ruelas: Thank you. I am glad
21 that you brought up the whole point of the

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1 IEPT team reviews of various states. It's
2 the IEPT teams themselves which out line
3 the goals and services that show how a
4 student with the significant cognitive
5 disabilities actually making progress
6 toward the general education curriculum
7 itself. So with that said measuring how
8 the student with a most significant
9 cognitive disabilities is achieving at the
10 students enrolled grade level itself is
11 inappropriate. It's basically a more
12 suitable model would be to measure the
13 growth in the assessed alternative
14 academic achievement standards year to
15 year.
16 Ms. Jackson: This is still a
17 work in progress. I just wanted to know I
18 was doing some late reading last night on
19 EL linguist and some of the limitations of
20 testing which I know you guys are probably
21 more familiar with than I am. I just

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1 wanted to make sure, I am trying to flip
2 through this book to make sure that there
3 is a requirement that the computer
4 adaptive tests that are used follow the
5 same guidelines for all the things Peggy
6 spoke about yesterday in terms of validity
7 and reliability without bias. I am
8 wondering if there's any description of
9 what is required in order to demonstrate
10 that as technology and the implications of
11 assessments using technology are
12 continuing to be learned about. If it's
13 like a certain extent to which things have
14 to be proven not just like we went through
15 and initial claim. I am guessing it's
16 there but I haven't seen specific
17 reference yet.
18 Mr. Pohlman: I am also curious
19 about the relationship between this and
20 IDEA. I am curious a as we talk about
21 students who are listed as ungraded within

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1 their IEP's who may not have a formal
2 grade level for which there is a grade
3 level comparison? Is that of specific
4 concern here as well. I am thinking of
5 the number of students I see that what
6 grade level standards to which it would be
7 comparing, so that's one question I have
8 continued to have as I read these issue
9 papers. The second issue I want to
10 address is that accountability on the
11 alternate standards is also extremely
12 important for authorizers. This is and
13 area where we see a lot of charter schools
14 that have mission specific serving schools
15 with disabilities and specifically those
16 students with the most significant
17 cognitive disabilities. I think it's
18 important for those to have transporting
19 in reporting which this regulation
20 codifies so that they can seek to hold
21 those schools to a high level achievement

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1 as well for a significantly cognitively
2 compared students so I just want to stress
3 the importance of that.
4 Ms. King: I just had a question
5 for Martha so I understand there's sort of
6 two big assessment consortium who's been
7 working on the alternate assessment. I am
8 wondering if you can talk about the work
9 they have done about breaking down
10 standards so we can measure what children
11 with the most significant disabilities to
12 do?
13 Ms. Podziba: Is that best when
14 we get to issue four or does it need to
15 happen when we are talking about computer
16 adaptive testing?
17 There's computer adaptive testing
18 because of this idea above or below the
19 child's grade level?
20 Ms. Podziba: I am wondering if
21 we will have a more informed discussion?

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1 We don't have to finalize anything so we
2 can come back to this. I think we are
3 going to get a presentation on issue four
4 that may shed some slight for all the
5 negotiators on the questions that are
6 being raised, but I will leave it to
7 Martha and Patrick.
8 Mr. Rooney: I think it might be
9 better to bucket that question and wait
10 until we get to issue four. I know
11 there's a lot of questions about the
12 alternate achievement standards. I think
13 it's hard for the conversation to go
14 without knowing some of that other
15 context. One of the challenges with all
16 of these issue papers they are all
17 interrelated when you are developing your
18 assessment system. We tried to chunk them
19 into the pieces of statute that we thought
20 made sense. Obviously there's and impact
21 with each of these pieces with the other

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1 pieces which I certainly appreciate. For
2 the purpose of this discussion it maybe
3 better to go into the text. There's a
4 couple comments made by Ron and Kerri and
5 others maybe things that we want to
6 clarify in the proposed language that we
7 provided that maybe helpful to go through
8 and there maybe other places where some of
9 you may say you want to flag it as we will
10 come back after we know a little bit more
11 in issue paper four is if that's and okay
12 way to proceed.
13 Ms. Podziba: Great.
14 Mr. Rooney: With that I was
15 going to read through the regulation and
16 describe it a little bit and then we can
17 stop and ask questions. It's a proposed
18 draft for your conversation to help start
19 the conversation it's successful at the
20 least. I mentioned one of the things hard
21 with these regulations looking at this

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1 small piece is that you don't see thousand
2 pieces interact with the other components.
3 I described this a little bit yesterday
4 that there are existing regulations that
5 we were proposing to try to build off at
6 the starting point so in this components
7 here you see lots of cross references to
8 other parts of regulations and I will
9 describe what those pieces are when we
10 talk through them. Please ask questions
11 but for your reference I think if you look
12 at the issue paper six just to give you a
13 sense of how the pieces fit together we
14 are not going to go through issue six to
15 give you a sense of how they go together.
16 The existing regulations with some of the
17 red line text for the simple updates with
18 the E SSA language. When I reference
19 2000.2 if you look at issue paper six you
20 can see what's in 200.2. We are not going
21 to go into detail right now because I want

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1 us to focus on the language here in front
2 of us. I did want to set that up for you.
3 Okay. So this would fit into 200.2 at a
4 discretion the state may administer the
5 assessments required under the session in
6 the form of computer adapted session if
7 they meet our requirements of and 11-point
8 B2 J is the term I use. The term Ron
9 pointed to earlier pages 31 and 32 of the
10 actual statute itself. Then number two
11 computer adapted assessments if the state
12 child abuses the computer adapted
13 assessment must one or I measure must
14 measure a students academic proficiency
15 based on the challenging state academic
16 standards for the grade the students are
17 enrolled and two, maybe measure the
18 students academic proficiency in growth
19 using items above or below the student's
20 grade level providing they maintain fro
21 efficient to make a determination of grade

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1 level proficiency and meets our
2 requirements of subsection 200.2, 2000.6
3 and 200.8. This item is trying to say
4 that if you have and adapted test you must
5 measure the states grade level achievement
6 standards and growth toward those
7 standards is one and two that the state
8 may also include items that are above or
9 below the student's grade level and the
10 piece in red is the piece that we added
11 from the statute that student, the test
12 when includes above and below grade level
13 content must make sure it's providing a
14 valid measure the point Audrey is making
15 earlier about having a valid grade level
16 if it's providing above or below level
17 content. By representing 200.2 it's where
18 we talked about the valid reliable
19 assessment 200.2 and also that it's
20 accessible. In 200.6 is where we talk
21 about accessibility and accommodations for

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1 English learners and students with
2 disabilities then 200.8 is the section
3 about student reports and itemized
4 students.
5 Mr. Chau: I am just wondering
6 based on what Dr. Carr mentioned yesterday
7 regarding educational and psychological
8 testing whether the language we include,
9 it includes valid and reliable and not the
10 fairness piece. I am wondering if the
11 fairness piece might be added to this
12 language also just so that it matches. So
13 I am wondering if we should add that third
14 element around fairness to this language
15 because we have the valid and reliable
16 piece but not the fair piece of which I
17 think would address some of what Ron
18 mentioned earlier about needing to be
19 accessible. I understand that it's
20 connected to the 200.2 and 200.6 but I am
21 wondering since we have that sufficient

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1 valid and reliable information I am
2 wondering how we might include fairness as
3 part of this language also? Just to keep
4 it aligned with some of the expectations?
5 Mr. Rooney: I think that seems
6 like a reasonable addition.
7 Ms. Jackson: So this build as
8 little on what I said earlier and what
9 Derrick just said which not only so it
10 sounds like it is written that these tests
11 have to be like adequately screened and
12 monitored. I also wonder about the
13 fairness and this is hard to measure if
14 the same way if you even if you are a
15 native Spanish speaker if you are not
16 being instructed in Spanish and give a
17 test in Spanish even though you are not
18 proficient in English. It won't help you
19 to prove anything more than you learned
20 same thing in my classroom. I have
21 students who haven't had much access to

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1 technology or adequate exposure to
2 technology in school. If you give your
3 entire assessment on a computer without
4 ever having written and essay on a
5 computer or practice moving items on a
6 computer some ways being, the assessment
7 being delivered in a format which you have
8 adequately been exposed to can manipulate
9 the results. I am not sure how you can
10 exactly put it in there? It's something
11 that the group can consider. Then a
12 second point under C3 I am wondering is
13 it's important to note that those reports
14 are then used for accountability purposes
15 because the grade level proficiency scores
16 have to be included in accountability. I
17 don't know if that's excessive to include
18 it.
19 Mr. Rooney: I hadn't gotten to C
20 3 yet maybe we can hold that question for
21 a bit I appreciate your point.

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1 Ms. James: Just referencing the
2 document 200.22 I the question I have is
3 how are we defining accessible? What I am
4 thinking about is specifically are certain
5 schools where I believe I am looking for
6 our name Mary mentioned yesterday in
7 regards to band width and I'm thinking in
8 regards to resources, technology resources
9 building upon a statement that Audrey
10 mentioned which is are we, how often are
11 we preparing students to engage using
12 technology so that they are properly
13 prepared to demonstrate mastery of a
14 content versus demonstrate can I actually
15 highlight and or click the right button.
16 How are we defining accessible here?
17 Ms. Podziba: Patrick, do you
18 have an answer?
19 Mr. Rooney: I don't think we
20 defined accessible. I would like to hear
21 more conversation from the group about

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1 that?

2 Mr. Evers: I am not going to do

3 the accessible definition. I want to go

4 back to the fairness piece. I love

5 fairness. I think fairness is very cool.

6 Is it authorized under the law A and b if

7 it is or isn't what are the implications

8 in including fairness? This is a huge

9 shift in maybe it's a great shift. It

10 would be great to know what the

11 implications are for states and local

12 districts if we have fairness to the

13 definition or the criteria.

14 Ms. Podziba: Patrick, do you

15 want to respond?

16 Mr. Rooney: I am speaking

17 quickly on that question because the

18 language that we are proposing that we

19 propose for this conversation is say that

20 the assessments, if the state chooses to

21 do and adaptive test it must mean all the

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1 requirements in 200.2 and 200.6. It means
2 that the states have to demonstrate from
3 thing experts the same degree of technical
4 quality as they would for their fix or any
5 other test they administer. I don't know
6 that fairness would change anything about
7 their requirements for what the state
8 assessment will have to demonstrate. They
9 have to demonstrate it's accessible to all
10 students which is what is in 200.2? I
11 think I will also say the new APA
12 standards do have a section that talk
13 about validity, reliability and fairness
14 as a key components of the assessment and
15 the development of assessment and Peggy
16 could probably speak to that if you
17 warranted more information?
18 Ms. Podziba: Would you like more
19 information Tony or are you satisfied with
20 your response?
21 Mr. Evers: I would like more

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1 information and I think my partner over
2 here would like more, too.
3 Ms. Thurlow: As I said yesterday
4 when they rewrote the standards for
5 educational and psychological testing they
6 completely revamped all fairness in as a
7 third foundational piece, validity,
8 reliability and fairness. You can't make
9 valid interpretations from an assessment
10 if it is not fair for the student in terms
11 of accessibility, accommodations and
12 cultural aspects, et cetera.
13 Ms. Carr: That comment was
14 exactly what I was going to say, validity
15 cannot be achieved without fairness, so it
16 is a necessary but not sufficient
17 conditions but you absolutely need it to
18 obtain a valid and reliability assessment.
19 Ms. Rigling: My question is that
20 I am wondering whether Martha or Peggy can
21 address the psychometric definition of

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1 fairness. I am worried that maybe we are
2 thinking of fairness in a more colloquial
3 way and whether there is in fact a
4 psychometric definition and then
5 characteristics of and assessment system
6 that would demonstrate whether fairness
7 has been achieved. I just wanted to point
8 out that the statute I was looking for it
9 but it does require assessment systems to
10 be to incorporate national technically
11 recognized standards. What we interpret
12 that to mean are these standards by
13 American psychological association and
14 ADRA and -- Peggy and Martha have been
15 talking about.
16 Ms. Carr: I think it would be
17 important for us to look at the exact
18 language in the joint standard so that we
19 are informed by the good thinking of many
20 many experts about how the phrase this.
21 Can I say that fairness in a psychometrics

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1 sense means that the person is not
2 inhibited in accessing the questions or
3 admitting their responses by some -- that
4 are not relevant to the domain of
5 interest, so it is, it would be unfair if
6 the student would be given a technology or
7 a device that they were not familiar with
8 or did not have as much familiarity with
9 the infrastructure they were being asked
10 to admit their response on? That would be
11 a concern that I think the developers
12 should take into consideration. There's
13 lots of research now that shows that there
14 is a sort of a mode effect for paper,
15 pencil and computer adaptive testing such
16 that you people would not have familiarity
17 with devices with answer lower. I think
18 it would be a fairness issue that the
19 developer would need to address.
20 Ms. Podziba: Okay. Tony, do you
21 feel like you got your question answered?

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1 Mr. Evers: Thank you.
2 Ms. Podziba: I am sure we will
3 come back to that.
4 Mr. Hager: Now the cat is really
5 out of the bag. That requirement has
6 existed already in ESSA. That has not
7 been happening. It's one of the biggest
8 problems with any of the computer based
9 platforms that students both English
10 learners and students with disabilities
11 are taking these tests on platforms for
12 which they are not familiar. They are
13 being tested not on what they know, but
14 based on their familiarity with the
15 platform. You got huge problems just
16 generally you can computer facility for
17 some people than awareness of what the
18 features are on the assessment. You have
19 got students with disabilities that have
20 their own assistive technology they use
21 day-to-day in the classroom, and they are

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1 using a whole new platform to try to
2 figure out what those rules are and what
3 those reel problems are. Think about
4 moving from windows 7 to windows 8 with
5 those tests and then think about a student
6 that uses certain software, it could be
7 other text of the speech platforms after
8 other things and they got all of that
9 familiarity, and now they are going to be
10 using a platform whatever you will use
11 that has its own system that has all
12 different rules and different procedures.
13 It's like moving from windows 7 to windows
14 8 on a test. That is it's definitely a
15 fairness issue and it's supposedly already
16 included in the peer review process for
17 the test developers. What I am saying is
18 it's not really happening. That's a huge
19 concern that we have and I will let the
20 people from the other communities speak
21 too. This is one of the biggest problems

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1 for getting just generic accessibility but
2 platform issues itself. One other one is
3 the inoperability if I have my assistive
4 technology that I am used to and now this
5 statute requires inoperability section 508
6 which applied to all the test developers
7 had acquired inoperability since the year
8 2000 when the first regulations came out.
9 Interoperability is a new concept to ESSA,
10 but it's not a new concept to text
11 development any federally funded test
12 development. Those are some of the issues
13 that I plan on talking about a little
14 later. Since we started I figured we
15 raise some of these now. These are huge
16 barriers to allowing students with
17 disabilities to demonstrate what they know
18 as opposed to what their knowledge of
19 platform use is?
20 Mr. Rooney: I am hearing a range
21 of questions that are concerns that are

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1 about not necessarily computer adapted
2 tests but actually computer based tests
3 that are about the accessibility of the
4 tests and the ability of kids to use the
5 technology and engage with the whatever
6 the test platform or the test is taken. I
7 wonder if I could ask a clarifying
8 question about whether there's particular
9 concerns you have around the accessibility
10 and technology and an adaptive test or
11 this is something that maybe we could put
12 a pin in when we get accessibility about
13 all tests if they are computer based that
14 it's something that should be addressed
15 and we should make sure we are attentive
16 too in our conversation about it. It's
17 not necessarily about the adaptive test
18 unless there's something in particular
19 around the adaptive test and it's
20 technology that people are concerned
21 about.

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1 Mr. Hager: That was my earlier
2 question and I did ask if Martha could
3 explain what those issues are at least
4 let's deal with the specific issues
5 regarding computer adaptive test. It
6 flows into this fairness issue. I don't
7 mind deferring on the other points if we
8 could address some of the specific
9 problems for computer-adapted tests. I
10 think Martha is the probably the best
11 person to talk to that.
12 Ms. Thurlow: I will be quick.
13 There's technology issues and I can
14 separate those. Some I heard about the
15 computer adaptive test. They relate to
16 student's technology platforms are
17 whatever issue there is are with the
18 vendors developing them they are not able
19 to provide the accommodation for example a
20 student who is deaf or hard of hearing who
21 needs to have a human signer to administer

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1 the test. Typically to get the good
2 signing of the test you want the person
3 who's signing interpreter to be able to
4 look at the items before they sign them to
5 the student to make sure they don't sign
6 something they shouldn't be signing and to
7 make sure they are hearing it as close as
8 possible to the language of the item and
9 getting the intent of the item. It's very
10 difficult to provide that opportunity on a
11 computer adaptive. It's more on the fly
12 signing of the test so then what the test
13 administrators decide to do is we will
14 develop a form they do this for Braille as
15 well. We will develop a separate form
16 that's not computer adaptive so it makes
17 it a different testing experience and
18 probably not giving the same opportunities
19 for the student who has a non-computer
20 adaptive versus computer adapted. It's
21 related to the limitations in the

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1 technology, related to the computer
2 adaptivity.
3 Okay, so I am hoping that we can
4 have a really full blown discussion when
5 we get to a needs issue four so I am going
6 to see if there's new issues related to
7 computer adaptive testing. I think Ms.
8 Briggs you are up next?
9 Ms. Briggs: I was jumping in on
10 a topic on the issue of incorporating
11 fairness as a specific new concept here in
12 this reg. In general I think that one of
13 the things that Peggy mentioned yesterday
14 is that the APA updated it's standards to
15 include a number of things and those
16 standards are specifically referenced both
17 in statute and regs at large, so I think
18 if we want to try to be clear and
19 regulations introduce A new concept that
20 is clearly causing some confusion but that
21 the fully explained, and I imagine in a

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1 full book it might not be the
2 clarification we want here. So my
3 recommendation would be not to include
4 that specific phrase that's incorporated
5 in the standards that are referenced in
6 the number of places in statutes and regs
7 throughout.
8 Mr. Payment: So in statistics
9 there is a word superfluous. Let's look
10 at the construction of the question first.
11 If there's anything in the question that
12 isn't related to what you are asking it's
13 superfluous, and it could be bias and lead
14 to a different outcome when you are
15 evaluating or assessing. Extend that to
16 your modality for how you are evaluating
17 and if there's something in the method
18 that you are collecting a response to the
19 km pewter assisted technology or through
20 oral technology or and oral version of
21 word or whatever it's just as, it's just

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1 as intentionally detrimental as having a
2 poorly constructed question. So the
3 question should get to per similar any
4 means evaluating what only what it's
5 intended to so it doesn't have that other
6 fluff in it. When we talk about fairness
7 it disagree a little bit. I think there's
8 guidance needed in the language because we
9 want to get to the concept of fairness
10 which is beyond biased, and the question
11 is evaluated. It's correct and can't be
12 valid if it has this other stuff that
13 doesn't lead to and outcome. I think the
14 regulation should be sufficiently clear
15 that there's this additional concept that
16 needs to be included and I don't think
17 that it should be left out because I think
18 using the term fairness is invite ago
19 whole bunch of problems with states
20 because of the concept of fairness as
21 something as a liberal concept as opposed

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1 to a validity concept. So somehow we have
2 the find the right terminology to use that
3 promotes the validity but doesn't confuse
4 it with this liberal concept of fairness.
5 Too easily states right that off. What's
6 lost in it is the concept of validity.
7 Ms. Podziba: I would also say
8 it's too early for us to get to that
9 point, but sometimes negotiator rule
10 making groups ask for certain language in
11 the preamble to explain something in the
12 regulations, if it doesn't make sense to
13 put it in the regulatory language what's
14 in the regulatory language can be further
15 explained with preamble language. We will
16 keep that as and option for the kind of
17 thing that you were just referring to.
18 Ms. James: Yes so I am looking
19 at section C 2II and the first portion of
20 the red print provide that had the
21 assessment obtain sufficient valid and

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1 reliable information. I just want to go
2 back to that point and say that when I
3 read that I immediately think about two
4 words, process versus product. And what
5 this sentence does for me or this
6 statement does for me is immediately think
7 about the product. The process is what I
8 am concerned about. The process includes
9 me thinking about students have and I know
10 that this is another section so if it's
11 not appropriate I am happy to wait. I am
12 thinking about the process in which it may
13 take a teacher to teach a nonverbal
14 student and or a student with I will use
15 this coin term significant cognitive
16 disabilities. How to access that, I mean
17 how do you get to a point where you can,
18 states receive data that is aligned to
19 valid and or reliable. How do we get
20 there? This statement nails on what we
21 want the product and I think as just a

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1 principle I am often finding myself doing
2 what sue says she loves best which is
3 absorbing and enjoying the process, not
4 absorbing the process. I think it's the
5 education period well, that's the
6 education term that a lot of us don't
7 think about which is that variable called
8 time, and so I am not sure if this is and
9 appropriate statement but I thought it was
10 important for me to share my thoughts.
11 Ms. King: Yeah, this may just go
12 in the larger accessibility conversation
13 too. I wanted to flag thinking about
14 universal design for learning principles
15 if there's any place that fits in and
16 makes sure that was part of the fairness
17 conversation as well. If you think that
18 if there's nothing cat specific that we
19 should be addressing there then I'm fine
20 to move this to a later piece.
21 Mr. Rooney: I will point out

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1 universal design for learning is
2 specifically one of the questions around
3 issue paper 4A that if others think that
4 there's something about universal design
5 for learning which is just broadly
6 speaking for those of you that aren't as
7 familiar with as some of your colleagues
8 on the panel. It's about the process by
9 which the test is designed in order to
10 think about the needs of the students when
11 you are designing the items and what is
12 the content you are trying to test.
13 Martha I don't know if you can add
14 anything more eloquent?
15 Ms. Thurlow: Multiple means of
16 access. I won't say all the words but yes
17 during design, during administration
18 it's -- Inaudible.
19 Ms. Podziba: I am going to take
20 this last two comments on this issue, and
21 Patrick I think you have a lot of feedback

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1 and we will see this again, and perhaps
2 there will be more discussion of this when
3 we get to the issue four.
4 Mr. Rooney: We didn't get down
5 to all of the reg. I feel like Ron had a
6 suggestion under C 4 around and adaptive
7 test for and alternate assessment for
8 students with the most significant
9 cognitive disabilities. I would love to
10 hear if he has a particular suggestion for
11 that? I don't want to cut off the other
12 two comments first.
13 Ms. Podziba: We will take these
14 two comments and see if there's a
15 regulatory suggestion on that; is that
16 your question?
17 Mr. Rooney: Yes.
18 Ms. Goings: Regarding
19 accessibility we can talk about that in
20 section four, but I just want to put the
21 thought in your minds right now that there

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1 is resources there are resources available
2 through the assist and instructional
3 support personal and para-professionals.
4 Those systems are built in and of course
5 they are included as part of the
6 accommodations for IEP. We can talk about
7 that later when we get to that section.
8 Know there's assistance available to help
9 in that process.
10 Ms. Podziba: Thank you.
11 Ms. Jackson: This might be a
12 little nitpicky but we have been referring
13 to 200.2 and universal design for learning
14 on the second page. I was curious it says
15 under this section it refers to UDL and
16 then it say it is term universal design.
17 It could be the people that I work with
18 but those are in some ways different
19 phrases universal design for learning. I
20 am wondering if the term in quotes is one
21 or the other? That's somewhat related to

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1 our content. We have been referring to it
2 and I wanted to note that question. I
3 don't know Patrick if you are going to go
4 back to part three or move all the way to
5 four?
6 Mr. Rooney: I am happy because I
7 think both you and Ms. Briggs had a
8 question about the reports in 3 so I can
9 try to address that briefly and see if
10 that is helpful and then move onto Mr.
11 Hager. The termination under section 11
12 needs to be II of the act and of a
13 student's academic proficiency. I said
14 for the grade that the student is enrolled
15 and must be reported in all reports
16 required in any other reports to the
17 secretary. I think our intent for that
18 our assessments are providing data that
19 can be used a number of days. The
20 assessments we don't try to we are not
21 prescriptive on what that means. We don't

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1 get into the use of the data specified
2 here and the accountability system. There
3 were regs under the no child left behind
4 account and ESSA has it's own kind of
5 theory of actually give states expression
6 to develop their accountability systems.
7 Our intent here is to make sure that where
8 the state is providing reports to parents,
9 teachers and the public that they then
10 would be reporting the grade level
11 achievement in addition to any other
12 scores that may include either your growth
13 toward the standards or above or below all
14 item ins which may provide different kind
15 of information that they can report to
16 parents in the public that would be they
17 would have to include grade level
18 achievement score ins addition to any
19 other information that the state chose to
20 report as part of the assessment results
21 that addresses both you have questions I

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1 believe?

2 Ms. Podziba: Audrey or Kerri any

3 follow up on that?

4 Ms. Jackson: That answers that

5 question but not the UDL universal design.

6 Mr. Rooney: I would like to

7 hold. One of the questions we have is

8 about universal design. I am happy to

9 figure out what the right term should be

10 when we get to that. We think we may want

11 to change it for universal design for

12 learning but whether he discussed that

13 later.

14 Mr. Hager: I did have a comment

15 or question about the C 3 language to make

16 it very clear that in the reg itself that

17 it does include as you and add the phrase

18 as used for accountability purposes which

19 is what your point was. I think we want

20 to make it clear in the regulation

21 specifically. Part of the problem with I

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1 wasn't anticipating that we be looking at
2 the language of the regulations now
3 because I have been getting all sorts of
4 texts and e-mails and notes about the
5 language so I don't really want to go too
6 much detail on this now because it is a
7 little bit hard to do.
8 Ms. Podziba: Is it worth taking
9 a minute conceptually giving your opinion
10 about it and maybe we will move on. I
11 understand it's early to see reg language.
12 Mr. Hager: We would like to see
13 that phrase accountability purposes the
14 reports specifically referring to that
15 language. I think that's what Audrey was
16 saying and that's what other people are
17 telling me conceptually. The other
18 question that's more general is that we
19 talked yesterday about how can we provide
20 guidance about how we would use growth and
21 we want to make sure that the

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1 accountability purpose does cover the
2 grade level standard of reporting and
3 accountability but also how do we or can
4 we give credit for growth in this proposed
5 regulation doesn't do that. I don't know
6 if you are going to try and do that later.
7 I want to make that comment as we are
8 looking at the lens we got, again
9 conceptual. The last one which is the one
10 you asked me about where did this blue
11 language come from again?
12 Mr. Rooney: That's the statute.
13 It's word for word from the statute.
14 Mr. Hager: When I read this I
15 put a note to myself does this do it? The
16 last phrase regarding for students with
17 the most significant cognitive
18 disabilities either English language or
19 either the AAS people regarding the
20 student proficiency must be reported in
21 the same manner that such data otherwise

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1 would be reported for assessments that are
2 not computer adapted. I think if you get
3 at a phrase something like that the
4 assessment should be based on the same
5 standard as if it was not computer
6 adapted. The proficiency standard if you
7 have something like that in there because
8 you already got the exception, if you add
9 that qualifier into this exception I think
10 you will do it without giving you specific
11 language does that make sense Patrick and
12 Kay?
13 Mr. Rooney: Can you repeat the
14 suggestion?
15 Mr. Hager: Basically in the
16 language you talk about must be reported
17 in the same manner that would otherwise be
18 reported for assessments that are not
19 computer adaptive. That's the language we
20 are trying to look at in measuring the
21 proficiency standard not the reporting of

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1 it but the assessing of the proficiency on
2 the standard would be the same as if it
3 was not computer adapted I think that does
4 it without doing a lot of language and
5 qualifying I think that does it.
6 Mr. Rooney: Okay. We are happy
7 to keep this language clearly and we have
8 a lot of feedback with you and we clearly
9 are going to have to go and consider how
10 we might revise that language for that
11 line and provide it back to you if that's
12 okay?
13 Ms. Podziba: Thank you. I think
14 then we are ready to move to issue paper
15 two. The exception for advanced
16 mathematic assessment in eighth grade.
17 Mr. Rooney: I appreciate
18 everyone's thoughts on the first issues.
19 Second one is exceptions for eighth
20 graders taking advanced mathematics. A
21 number of states requested -- students

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1 that take advanced math associated with of
2 course and advanced math class they are
3 taking in eighth grade in addition
4 to -- backing up one step for most states
5 when they develop their assessment system
6 they have general content they define what
7 each student should learn in grades 3-8 or
8 actually K-12 they design their
9 assessments to align for the standards.
10 There's and eighth grades assessment and
11 it's aligned to the content that the
12 states adopted for eighth graders to know.
13 Some students they know it's and
14 increasing percentage. It's about 41%
15 based on the latest data based -- 41%
16 students are taking algebra one or more
17 advanced math by eighth grade. If the
18 state has and end of course test that
19 measures the algebra content it makes more
20 sense for those students to take the
21 algebra one assessment in place of the

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1 grading test. Typically what happens in
2 the past is and eighth grader who is
3 taking an advanced math course they have
4 two options they could either at the end
5 of eighth grade take the eighth grade test
6 based on the eighth grade content and also
7 take the algebra one test and they would
8 use the results from the eighth grade test
9 in the states accountability system and
10 they would essentially bank or hold the
11 results in the algebra test until the
12 student was in high school and use that
13 algebra one result in the states
14 accountability system or the students
15 could take the eighth grade test in eighth
16 grade even though they in algebra one and
17 then later once they get the high school
18 they would take the algebra one test,
19 content test and use that for
20 accountability a couple years after they
21 taken the algebra content. None of those

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1 are optimal because the students are
2 taking a test they are taking two test in
3 eighth grade or they were taking a test
4 couple years after they had the content.
5 It was a misalignment to where the student
6 was using and how that was factoring into
7 the accountability system. It could also
8 serve as a disincentive to have more kids
9 take out for one earlier. The system they
10 wanted them as many kids as possible in
11 eighth grade to do well on the test which
12 may discourage some kids from taking
13 algebra one from other kids from taking
14 it. In order to address these under
15 lining incentives many states asked for
16 and Department granted as part of the
17 states ESSA the opportunity for states to
18 have those eighth graders taking advanced
19 math take the higher level math course
20 associated with the course they are higher
21 level test associated with the course they

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1 are enrolled in provided they take a
2 higher level math course and higher level
3 math assessment once they get to high
4 school there's about 20 states I think
5 that's right that took advantage of this
6 through the ESEA flexibility plan that I
7 have been doing currently. I think one of
8 the concerns we have with this approach is
9 and so obviously with this is now
10 something that's been written into the SSA
11 to let 89 graders take advanced math
12 courses in place of the eighth grade test
13 in the state. One of the implications
14 where some students are provided to take
15 the higher level advanced math course in
16 middle school but gives them a
17 disadvantage and creates perhaps a
18 bifurcated system where some kids are
19 given the opportunity to get advanced math
20 courses but some students are not but you
21 are holding kids to different standards.

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1 One of the thing that is the ESEA
2 flexibility plan -- they have the
3 opportunity to right -- particularly for
4 rural urban areas or manage students who
5 have lower rates of taking advanced
6 courses in middle school. I think the
7 other thing that we wanted to raise as a
8 question before we start into the
9 questions in the paper is how we ensure in
10 the cases where this states are doing this
11 and they are taking different math tests
12 in high school that they are using in
13 their accountability system and how do we
14 make sure the tests are high quality and
15 they are valid and reliable measures of
16 what students know and do for whatever it
17 is that the test state is use anything
18 place of the end of course test that the
19 kids are taking now in middle school.
20 With that context I wanted to jump right
21 into the questions this is another one

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1 where we proposed individual language for
2 the groups considering. I would like to
3 start with the questions. I think
4 instruction the conversation and
5 understand where people have about the
6 topic before we get into the proposed
7 language that we have if your
8 consideration. The first question is how
9 I might ensure limitation of provision
10 ensures all students including those from
11 under served populations have the
12 opportunity to access more challenging
13 course work in middle school and high
14 school in order to take advantage of this
15 exemption.
16 Ms. Pompa: Let me applaud you
17 for thinking about these conditions that
18 need to be in place if kids are going to
19 be tested. You said you weren't ready to
20 jump into the language, but the language
21 which I think is part of the solution. In

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1 the language you talk about providing the
2 opportune I. I think that needs to be
3 strengthened with some detail. Providing
4 the opportunity is pretty generic and it
5 can be construed in many many different
6 ways. The kinds of things we need are
7 parent education programs for parents
8 who's kids historically in community
9 groups haven't taken advanced level
10 courses creating the academic conditions
11 such that kids are prepared by the time
12 they get to eighth grade to take advanced
13 courses. Things such as this that expand
14 provide the term opportunity. I do think
15 that's too general and doesn't give you
16 much information about what needs to be
17 done.
18 Ms. Ricker: Thank you. I
19 actually think just very quickly about the
20 language providing opportunity is
21 incredibly passive. It could be we

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1 through it in a course catalog that we
2 only wrote in English. That's not I do
3 think it needs to be strengthened. My
4 question I will start with the like
5 recognizing the misalignment in eighth
6 grade potentially for students taking
7 algebra one. It means there's a
8 misalignment in earlier grades as well.
9 So I feel like it is actually a more
10 complex it's more complex situation than
11 just like an eighth grade cut off. And so
12 I am wondering how we address you know the
13 students who obviously didn't sort of just
14 get to eighth grade and suddenly start
15 taking advanced math courses and perhaps
16 started in third grade, fourth grade or
17 fifth grade, et cetera where they are also
18 taking their while they had the
19 opportunity to stake standardized math
20 tests. And I am wondering how you think
21 this would actually increase opportunities

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1 for students in rural and disadvantaged
2 areas if they have traditionally have not
3 had the same access to advanced math
4 courses how you would think this would
5 improve that access?
6 Mr. Parker: Yes and in building
7 upon this and in the conversation we had
8 yesterday from and equity and access
9 standpoint. I think to the question as
10 the states that far as under served
11 populations in schools in demographically
12 diverse areas. I think we mentioned
13 yesterday as far as these opportunities.
14 Teacher turn over is a realistic issue
15 when we talk about courses, course
16 offerings and certifications and that
17 limits some student's opportunities in
18 such schools and in these populations. I
19 think that it's critical to readdress that
20 teacher turn over issue and in un-served
21 schools and populations because of the

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1 lack of opportunity that can exist in
2 these higher-level math courses. I also
3 had a question about the regulatory
4 language so I could like to hold off on
5 that though.
6 Ms. George: Sure. So I just
7 want to echo a lot of concerns that have
8 been raised about the resource equity and
9 issues particularly what Audrey said about
10 the foundation leading up to eighth grade
11 math and the access to and opportunity to
12 take the course work in preparation to
13 take that advanced eighth grade course if
14 that's even available particularly in the
15 districts serving high proportions of
16 African-American, Latino, low income or
17 rural students. My question is for the
18 states that were granted this waiver
19 earlier was there any review of the
20 demographic information about who was able
21 to exercise that exception?

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1 Mr. Rooney: I would like to hold
2 on answering that. I need to check with
3 colleagues about what kind of information
4 states give us. Some states give us data
5 on course taking by different demographics
6 in the state. I think others talked about
7 policies they had in place or on-line or
8 distance learning courses that they made
9 available for rural areas. I don't know
10 if there's more information I can get from
11 you but that's a general sense.
12 Mr. Wilbanks: Thank you. I am
13 certainly appreciative of the concerns
14 that have been expressed. This is an area
15 where at a practical level where we
16 educate kids. I think in do for all
17 students. We are not going to be able to
18 solve all the issues that we sometimes
19 talk about but I don't believe we ought to
20 limit those districts or schools that
21 really can make this thing work. I think

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1 it can work and what I see us doing as a
2 matter of fact in my district we have a
3 number of students in eighth grade that
4 take algebra. Now under the present law
5 that I have to take the regular eighth
6 grade exam plus the end of course algebra.
7 So this the language in this law does
8 allow for that to be eliminated which I
9 think is good. So given the cautions that
10 have been expressed in certainly I don't
11 know how we would eliminate all of those.
12 I do think this has a tremendous
13 opportunity to really allow us to get
14 students and taking more math in high
15 school. They take more math in eighth
16 grade and they can take and extra math
17 course. As we push the stem and the
18 global competitiveness it's things like
19 this that I think we have to look at as
20 overall positive and I applaud this
21 regulation being in there and what it will

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1 ask to do. Sure we will have to make sure
2 that students have access and I don't know
3 how we could in good faith limit or not
4 allow this to happen.
5 Mr. Evers: I want to address
6 this issue I think we are on question one,
7 but I'm not sure this issue from a local
8 point of view and then at the state level.
9 I just think frankly the language in the
10 regulations around what defining what
11 advanced is kind of old school. We as a
12 state and as a nation we looked in that in
13 different ways and integrated math is and
14 option that some local districts choose to
15 use and then that definitions describing
16 what advanced is not consistent with that.
17 I think frankly we are doing great
18 disservice to local control with what's
19 proposed. Second of all from and I have
20 heard all the issues I heard with everyone
21 one of them I guess I will be by the end

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1 of the third day I will be Mr. Negative
2 Evers. (laughter). I find it difficult
3 that we will add conditions that are not
4 explicitly called for in the statute and
5 if that's the way we are going to go we
6 will spend a lot of time doing things that
7 may not work. I just use that as a plea
8 through you know keep that in mind that
9 our job is around dealing with conditions
10 that are explicitly in the statute those
11 two things. The local control thing is
12 huge. I just think its old school the way
13 we described advanced mathematics. I
14 don't think we can do it as a group of 20.
15 Mr. Hager: I just had a comment
16 about the question how do we encourage
17 it's kind of indirectly I guess and it may
18 not be appropriate for the actual
19 regulation but maybe in the preamble the
20 Department of education did come up with a
21 policy guidance about students with

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1 disabilities and access to the advanced
2 placement classes. In terms of
3 encouraging it in a minimum you want to
4 make it clear that school districts should
5 be complying with that policy guidance
6 about not limiting students with
7 disabilities to take these classes
8 including if they require related aids or
9 services to benefit from the class. I
10 don't think it's appropriate for the
11 actual regulation. We definitely will be
12 appropriate in the preamble. It's kind of
13 connecting the dots.
14 Mr. Cheeks: So if we are
15 addressing the question that's at hand in
16 terms of how might we provide support and
17 information to help implement this
18 particular portion of the law. I think
19 there has to be from philosophical
20 standpoint a shift in thinking that lower
21 under represented low performing students

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1 cannot succeed or be successful in taking
2 advanced courses. We have force that had
3 issue and I know a number of my colleagues
4 have stepped outside of the norm and in
5 low performing schools and encouraged and
6 in some superintendents have forced the
7 issue of requiring AP courses that
8 ultimately challenge the lower not so
9 successful children to take courses that
10 are more challenging and ultimately ended
11 up with a better outcome. The shift had
12 to take place with the leadership and
13 understanding that children can learn
14 regardless of their current situation. In
15 implementing this particularly when we
16 talk about the issue of equity there's a
17 knee jerk reaction to think that low
18 performing kids aren't going to be
19 successful in things along these lines but
20 somehow we have to and I don't know if
21 it's in the preamble or if it's in

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1 necessary guidance that goes forward but
2 somehow encourage the shift and encourage
3 the thinking around states as well as
4 school districts beginning to force the
5 issue of AP courses. I applaud the aspect
6 of the law and not penalizing the child
7 that does a step forward to take those
8 courses in an earlier grade by having to
9 take a secondary test for exciting high
10 school. Particularly when you look at it
11 and I think it was Alvin when mentioned
12 stem and esteemed programs. In the short
13 future we will find children well into
14 their associate degrees and haven't
15 finished college. Somehow we have to
16 continue the conversation to challenge
17 people to think differently about our
18 normal mode of pushing advanced placement
19 courses and assessing kids on those lines
20 of earlier in the school year.
21 Mr. Pohlman: Great, so I have

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1 got a couple of questions that actually
2 are not out lined as discussion questions
3 but as I read the regulations some things
4 popped up for me. At the school level, as
5 a high school administrator I have
6 questions about it. The Department's
7 intent to state that the eighth grade
8 student may only take the statewide, the
9 assessment in high school used for
10 statewide accountability. For instance
11 because you are only required to test once
12 in high school many jurisdictions have
13 narrowed that to have only algebra one or
14 only gee I don't mean met try. If eighth
15 grader takes that preclude and eighth
16 grader in the district from taking the
17 algebra one assessment in eighth grade for
18 some sort of accountability because like I
19 don't think that's clear yet in the
20 regulations and it could have two perverse
21 impacts. One being that students may not

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1 be able to take advantage of this because
2 of the high school assessment that it's
3 chosen and two I actually have more
4 concern in the secondary and personally it
5 can encourage over testing. It can
6 encourage states to have moved to all
7 three assessments be used for
8 accountability for high school in some way
9 or another. I realize that's probably
10 protected in other parts of the act. This
11 is how it exists and if the regulations
12 are trying to spur an innovation. It
13 should be clear about that that's the
14 state level accountability assessment.
15 The other issue that is not discussed and
16 again gets real practicalities is that
17 there are jurisdictions that experience a
18 lot of mobility in the way that students
19 move between LEA's. So when I read these
20 regulations with sort of a hat on thinking
21 about large districts it just makes total

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1 sense right? The student moves from
2 middle school to high school in the same
3 jurisdiction and same LEA. That's the way
4 that millions and millions of students
5 move in our school systems. There's also
6 millions of students that don't move in
7 that district. It's one example. There's
8 other jurisdictions that have those high
9 levels of mobility. Those LEA's if their
10 assistant delivery systems are not aligned
11 receiving students from another LEA grade
12 from high school we may not be able to
13 administer the next assessment that's in
14 line for that student to take place. So
15 we could miss those students from and
16 accountability perspective and we may not
17 know what to do with them come testing
18 day. There's a lot of mechanics to this
19 that need to be further defined and what
20 we are really trying to do.
21 Ms. Evangelista: So New York

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1 currently has this in place and to Janel's
2 point I have zero of my students have ever
3 come in and taking having the eighth grade
4 opportunity to take advance courses all of
5 my students are EL's. I am not a New York
6 City principal. I am a New York City
7 public school parent. My son is currently
8 looking at middle schools, and in the
9 schools we are looking at there are
10 opportunities of course to take those
11 courses, my son has those opportunities to
12 take those courses in order to take those
13 courses they are often based to Mary
14 Cathryn's point on how students are
15 scoring on those yearly tests previously
16 for EL's where those assessments are not
17 always in their native language or new
18 arrivals. They are often completely
19 unable to take those courses because of
20 how they scored previously.
21 Ms. Mack: Being one of the

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1 parent representatives. It's -- is
2 something that you can regulate. A lot of
3 times if you include the PARENTS to kind
4 of piggy back on what Mary said just get
5 to eighth grade and start taking tests. A
6 lot of times if you inform the families
7 prior to that and have them involved in
8 the process that can bring them up to the
9 part of that point. I wanted to give the
10 example I got a ten-year gap between my
11 oldest and youngest. I had already been
12 through the process of forecasting but
13 when my youngest came to the point of just
14 wanting to take junior high science the
15 recommendation was that she would take
16 physical science and at that point she was
17 already in an advanced science course in
18 sixth grade, so I questioned the teacher
19 as to why that decision was being
20 recommended, and he said something like
21 well she tends to daydream or something

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1 like that even though she had an A in the
2 class. Had it not been for me being a
3 helicopter parent, and I will admit it, if
4 she took that physical science class in
5 eighth grade that would effect what she
6 would take in high school. If she wanted
7 to be the genetic counselor, she would
8 want to be that would prohibit the AP
9 classes that were necessary way making
10 that decision in elementary school could
11 impact that. A lot of times if you
12 include the parents and educate them and
13 make them part of the process we could see
14 some of the eighth grade students being
15 able to take that course at that time
16 placing that expectation on them. The
17 second point I wanted to make is that we
18 can also explore some programs that are in
19 place and in other districts for instance
20 the avid program advancement via
21 individual determination that takes some

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1 of those middle role students and you give
2 them special tutoring and teach them how
3 to take notes and move on and take courses
4 they wouldn't be expected to make based on
5 their current scores and you find that a
6 lot of times they do score higher. I just
7 wanted to put those two points in.
8 Ms. Podziba: Thank you.
9 Ms. King: So I just wanted to
10 sort of support something that Alvin had
11 said and also Mary and Marcus and lots of
12 other folks. It's great we are getting a
13 consensus. This is a good example of why
14 we don't see equity and excellence in
15 conflict but we see them as complimentary.
16 We think we can encourage all students to
17 take more rigorous courses aligned to
18 rigorous courses we don't think we need to
19 limit some children in order to expand the
20 opportunity for other children to be able
21 to do that. I just wanted to reinforce

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1 the point about having more specific
2 language about what it would mean to make
3 this accessible and this opportunity
4 accessible to more people and to highlight
5 that I think sort of consistent with
6 Marcus' point and others that this idea of
7 expanding access to rigorous courses and
8 rigorous assessment is consistent with the
9 direction that Congress was taking title
10 one moving and this is sort of along the
11 history of the trajectory of title one
12 moving away from basic educational
13 programs and moving away from remediation
14 and pull out and towards thinking about
15 rigorous preparation for what comes next
16 in the child's life. I didn't want us to
17 fall into the false choice of whether some
18 children have access or no children have
19 access, but in instead think about
20 creatively how do we ensure more children
21 have access. We do know through the civil

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1 rights data collection that there's
2 currently inequitable access. I am sure
3 that the Department of Ed has data about
4 who did already participate. I think that
5 it would be really ashamed to miss the
6 opportunity to really make greater
7 progress and great opportunity that some
8 children have to make more opportunity for
9 other children.
10 Mr. Chau: I would like to go
11 back to something Tony mentioned before
12 and I agree with them that there's a
13 danger here that some of the additional
14 language is maybe over reaching some of
15 what the expectations are and I can
16 understand the intent to provide more
17 equitable access. I think that the fact
18 that the current regulation is providing
19 states with the option of not being
20 penalized for providing students with
21 appropriate test and not over testing

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1 students is in of itself for states to
2 continue to do the work they are already
3 doing. I would like to emphasize to know
4 that I know that with the regulations the
5 way they are that there's only one
6 assessment required at the high school
7 level. I know that not all states have
8 any course assessments any more. I know
9 our state in California had moved away
10 from the end of course assessments and
11 moved to the course at the end of the 11th
12 grade. I want to come back to the idea of
13 the math standards as well. We haven't
14 really talked very much about them. They
15 have changed significantly over the past
16 few years. Our states have adopted
17 significantly more rigorous standards for
18 all of our students. I would like to
19 emphasize the fact that at least in
20 California and in those states that have
21 adopted the course standards, the current

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1 and the new math in our grade 8 math
2 standards are actually more rigorous than
3 the old algebra one standards. Let me say
4 that again. The new math grade 8
5 standards that are required for grade 8
6 math are more rigorous than the old
7 algebra one standards especially in those
8 states that adopted common course
9 standards. Our states are already making
10 efforts that students are receiving a more
11 rigorous math instruction. I would like
12 to emphasize that the authors of common
13 core math have actively discouraged
14 acceleration of students too early in the
15 middle grades because it can be
16 detrimental to success later on in more
17 advance math courses as well. I would
18 like to put those two points out there to
19 emphasize that our states are making
20 efforts around preparing all the students
21 for more rigorous success in math and then

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1 I would like to emphasize that some of our
2 states have already made efforts to
3 legislation late some of what the intent
4 is behind this additional regulation and I
5 know in California there's a senate bill
6 359 within California the California math
7 placement act that actually requires every
8 district to define ninth grade math
9 determination with clear transparent
10 policies for all parents and students. So
11 I think our states are making efforts
12 around this. I am not sure if it's
13 necessary to actually maybe add some of
14 this language that maybe is beyond what
15 the intent was behind this legislation.
16 Ms. George: I think I have a
17 little bit more of a question than a
18 comment. In a long the line that is the
19 concern Derrick raised about by adding
20 language and similar concerns raised by
21 Tony and Alvin. We want to ensure that

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1 this is a meaningful expression that
2 states can exercise in given the
3 information. I do have some real sources
4 in the availability to meaningful exercise
5 this option. I am wondering if this is
6 something that the peer review individuals
7 team could take a look at in terms of
8 considering what Lisa mentioned about avid
9 taking a look at states that are seeking
10 to exercise this option what other
11 interventions they have available or
12 support for students. I am wondering if
13 during that review process they can take a
14 look at factors like those interventions
15 and availability of these courses
16 including foundational courses?
17 Ms. Podziba: Let's get all the
18 comments and then I will bring it back to
19 you Patrick.
20 Ms. Pin Ahrens: I wanted to
21 expand a bit on having the states

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1 demonstrate they are providing the
2 opportunity to access more challenging
3 course work. I do agree with a lot of
4 comments my colleagues said. I want to be
5 more specific in a few areas. Because I
6 do recommend that we change the language
7 in five to talk about the demonstration of
8 parental and student education programs
9 specifically in colluding language on how
10 the information will be shared to both
11 parents and students. In terms of
12 parental information I think you know
13 counseling of parents especially for
14 parents who are refugees and immigrant who
15 is are not familiar with our public
16 education system. I think it is very
17 important that there's counseling for them
18 in their native language or through
19 interpreters or however we think we have
20 access for them. We understand what it
21 means for student educational

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1 opportunities further down the line
2 including the trajectory of malt courses
3 they will have access to and the
4 opportunity for them to earn college
5 credit if they take AP and participate in
6 other advanced programs and let's see
7 whether there will be support services and
8 programs provided at the state because
9 their students have not had access to
10 rigorous and challenging course work
11 before the eighth grade. I think also for
12 students because you know there are a lot
13 of students out there especially for
14 students from that speak in uncommon
15 language they act as their own student
16 advocates. I will say personally I was
17 one of those students. My parents had no
18 clue how the public education system
19 worked. I was the one that made decisions
20 on my behalf. Some of them were not the
21 best decisions. I was telling Mr. Hager

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1 earlier how I declined to participate in
2 gift and I thought that would label me as
3 a geek and I didn't want to be slapped
4 with an additional label. I think it's
5 important for students acting as their own
6 student advocate. They understand the
7 implication what happens if they choose to
8 decline take ago advanced math course or
9 what support they receive if they do
10 accept taking advanced math course. So
11 it's really important to remember those
12 children and you know assist them in
13 making these decisions. I would like the
14 demonstration, the state demonstration
15 that we are providing equal opportunity to
16 have that provision of what does that
17 information and counseling look like?
18 Ms. Briggs: Wow it's good to
19 tell about your story it puts a lot of
20 this in context. I think one of the
21 things I read in this regulation and

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1 statute that this was intended to address
2 a unique situation of students
3 accelerating in math beyond sort of what's
4 the generally accepted time line or you
5 know like eighth grade math or algebra
6 one. This statute was intended to make
7 sense for kids and parents so you don't
8 have to take double tests like you have
9 done in the long history of this issue and
10 the background. I am curious about how
11 this because this was in the waiver
12 process how this was demonstrated in the
13 waivers whether or not that was meaningful
14 and because I think the hope here is that
15 we got more kids to accelerate math
16 quicker and my daily work I spend a lot of
17 time thinking about this issue how to get
18 more children into advanced placement
19 issue and advanced placement classes all
20 over the country. I am not sure the
21 language is the right way to do it. I am

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1 just curious on how this operated in the
2 waiver process.
3 Ms. Podziba: I have three more
4 comments and then I will give it back to
5 Patrick and then we will take a break.
6 Ms. Jackson: While we are
7 sitting here talking about this I am
8 getting text from a mother I had a few
9 years ago who is in middle school now. I
10 am going to tell a quick story about her
11 bringing a kid to the table. I am
12 thinking about adult motivations and best
13 outcome for kids for me I go back and
14 forth I love data and picking apart
15 details that's what I am thinking about
16 most of the time, but education is a
17 personal and relationship based process
18 most of the time. This girl who I have
19 been messaging with her mom she recently
20 did not get into one of the exam schools
21 it had to do with grades at her newer

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1 school where she hasn't had the same
2 relationship with teachers and the same
3 opportunities to necessarily thrive. I am
4 just reflecting on what people have been
5 saying is that kids are every person is
6 different and there's no way to regulate
7 that every child will be given every
8 relationship they need to thrive. It's
9 not possible. And the relief I have been
10 messaging with her mom about here is that
11 actually there's a great arts school in
12 Boston where this child is now so excited
13 to apply. She has to audition. She grew
14 to love debate through what we called
15 fraction court in fifth grade. Even
16 though she didn't get into these exam
17 schools she has found a school where she's
18 really excited. She decided fraction
19 court with who's guilty and not guilty and
20 it was her day of shining. The reason I
21 am bringing about my kids. Even though we

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1 cannot be prescriptive in all the elements
2 we cannot bring up enough safeguards to
3 the intention of this components. I think
4 it's important to protect that there's no
5 negative consequence or overt pressure for
6 children to take or not take an advanced
7 assessment in the way the language
8 addresses whether there is scores will be
9 could wanted or not counted. I know that
10 gets into specific details, but as Ms.
11 Briggs was just saying the idea is that
12 more is better, advanced is better and
13 it's not necessarily better for every
14 child. I really want to clarify that. It
15 doesn't mean that I think all kids can
16 thrive. Sometime it is idea that we want
17 all kids to be equally successful in every
18 single detail in front of them. It's not
19 nurturing. Their innate talents are their
20 innate passions. As they get older
21 helping them thrive with their interests

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1 actually allows them to have more choices
2 of what they will do in their future
3 instead of saying you have to be equally
4 good with each thing we put in front of
5 you have. There's not a specific
6 recommendation I want to reflect on that.
7 Mr. Ahart: Yeah. I would like to
8 echo a comment that Derrick made about the
9 standards with those state that adopted
10 the common core. I think what this
11 language addresses specifically is it has
12 a different content than states that are a
13 common core. The level of rigor is much
14 higher. More importantly I guess what I
15 am looking at what we are trying to do is
16 I serve a district that has a 75% poverty
17 rate and 20% EL rate and we dramatically
18 increased enrollment in AP courses by over
19 400% in the last three years. That's been
20 done by a whole host of things not the
21 least by building relationships. We have

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1 students that they are surprised to see in
2 those courses and we have students
3 surprised they are not in those AP
4 courses. It's always applying and trying
5 to apply a level of rigor that's
6 appropriate for every individual student.
7 As I look at the language and look at
8 what's been added. It seems like a huge
9 over reach and in something that's going
10 to help districts not over burden students
11 with unneeded assessments. It is quickly
12 turning into something from my perspective
13 that looks like something that's going to
14 overcomplicate and make it difficult to do
15 with best work with our students at the
16 district level.
17 Ms. Podziba: Eric I know you had
18 a comment on language as well?
19 Mr. Parker: I am piggy backing
20 on a lot of previous points on the
21 language and as previously identified and

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1 from myself as well. I am all for the reg
2 and having a lot of success of having the
3 flexibility locally as well as the
4 opportunity for the students to experience
5 more rigorous levels. As I look at this I
6 want to ensure that there's still
7 flexibility and that flexibility remains
8 being that for example looking at number
9 three when it mentioned under middle
10 school mathematic exception it says in
11 high school. but yet we have I know that
12 there are middle schools and we have
13 middle schools that recognize high school
14 assessments in middle school. I want to
15 ensure that number three is not an and/or
16 limited or overly descriptive there, and
17 the rational behind that and if some of
18 this is if I am reading more into it or if
19 that is inclusive and some of this is
20 inclusive of we could have it in both
21 levels? I know it's been noted about not

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1 over testing. In both levels I see a
2 distinction in middle and high school I
3 want to ask for clarification as far as
4 what is the intent I guess behind number
5 three and or middle school as well
6 particularly for middle school and
7 nationally recognized high school
8 assessments.
9 Mr. Rooney: Thank you all for
10 that. I think we got a lot of good
11 feedback on that question. We are going
12 to have to think about it for a bit. A
13 couple of things to react to some of the
14 comments made. To remind you I know we
15 didn't go into the text. The blue text on
16 the page is actually again directly from
17 the statute and the red text is where we
18 proposed for your consideration things
19 that we may try to clarify or may need
20 Clarification. I appreciate some of the
21 comments made. To Rich's question about

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1 the end of school test in middle school.
2 This is for eighth graders taking advanced
3 math course who then take the advanced
4 math tests that given in high school so
5 it's very clear that this is for those
6 tests that in your case geometry in DC is
7 taken in eighth grade. That's the way the
8 statute is taken. There's one
9 clarification. If you look down on number
10 three in high school, A little underneath
11 that where it says the student takes a
12 statewide assessment or national
13 recognized academic assessment. The word
14 statewide should have been in red that was
15 a mistake on our part. I want to point
16 that out to you that's something that we
17 proposed adding for your consideration to
18 think about for your discussion. To kind
19 of a larger point that I think you are
20 making which you know the statute is very
21 much focused on eighth graders taking

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1 advanced math course this gets to Janel's
2 point and others were making this point.
3 This is focused on student's eighth
4 graders taking advanced math. The
5 secretary does have the waiver authority
6 and this is how states were doing this
7 under the ESSA -- all kids take the same
8 grade math test to provide flexibility.
9 The secretary would have the authority if
10 he or she so chose to provide waivers to
11 state that requested for kids in other
12 grades who wanted to take advanced math
13 tests. The regulation is trying to follow
14 the statute is specifically eighth grade.
15 I think to Janel's and Kerri's point and
16 others about peer review and the
17 flexibility context under ESEA flexibility
18 when states requested as part of their
19 plans we asked for a description of how
20 the state was going to make sure they are
21 making advanced math course available to

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1 kids in the state and some kids, most
2 states talked about the policies they have
3 in place or how they ensured that advanced
4 math course were available in middle
5 school either from -- you know they one or
6 a few middle schools may have offered that
7 advanced math course and other kids could
8 take the course there. There's different
9 ways that they could try to describe their
10 process for making sure that kids had and
11 opportunity for advanced math. That maybe
12 something that's a good avenue for us to
13 explore in guidance that would accompany
14 the regulations and Ms. George and Ron you
15 were making the point about we haven't
16 talked about this much. Generally when
17 they are regulations they put out guidance
18 and we try to clarify it doesn't have the
19 same law as a regulation. It generally
20 provides more information about what's in
21 the regulation that we can provide in the

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1 text that's on the page, so that maybe one
2 way to do it. I think that answers your
3 question Ms. Briggs. I want to make those
4 thoughts broadly. I think there's a lot
5 for us to go back and think about on this
6 topic.
7 Ms. Podziba: Let's take a 15-
8 minute break come back at 11:10 and we
9 will move to issue 3.
10 Break.
11 Mr. Rooney: Thank you. So in
12 chronological order we would move to issue
13 three which is the locally selected
14 nationally recognized high school
15 assessments however, in light of the
16 conversation we had yesterday this morning
17 around accessibility and assessments which
18 I think will come up a lot in issue paper
19 three I think it makes sense to jump to
20 four A and b, and come back to issue paper
21 three after that if that's okay?

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1 Mr. Hager: My thoughts, I mean
2 there's like five pages of notes that are
3 not organized because I was planning on
4 organizing them during lunch. We can
5 start to talk about four A, but you know
6 it may not be put together as it otherwise
7 would be. I have plenty of thoughts I can
8 make and I am sure other people will as
9 well.
10 Mr. Rooney: Based on the
11 information we had so far I think there's
12 a lot of comments. I don't expect we will
13 get through it before lunch.
14 Ms. Podziba: It's okay. I think
15 it's best to get started on four A and
16 assess when it's time for lunch.
17 Mr. Rooney: There's two pieces
18 there's four A and four B. They are
19 interrelated but different. I want to for
20 now I want to make sure we are talking
21 about the issue paper four A and not four

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1 B. Just to remind you issue paper four A
2 is how we include students with
3 disabilities in the assessment systems and
4 states. Four A is just general policies
5 about how we make sure we are providing
6 for students with disabilities in state
7 assessment systems broadly and by that we
8 mean all students with disabilities. Four
9 B specific components or a subset and
10 those are the students with the most
11 significant cognitive disabilities. The
12 law lays out permission for states to have
13 alternate and we can describe what that is
14 and talk through the issue separately.
15 For now I would like to put -- for
16 cognitive disabilities aside and try to
17 focus the mission on the broad statement
18 of being for all students with
19 disabilities. I am going to ask Martha to
20 start off and some context and history
21 about how states are been assessing

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1 students with disabilities.
2 Ms. Thurlow: I have been working
3 in this area for a long time. It's hard
4 to condense it into a few bullets. I
5 thought I would identify some of the
6 things we learned in the past 10 to 15
7 years related to assessments and students
8 with disabilities. So historically you
9 know when I started in this area with
10 there were no there were very few states
11 that had accommodation policies for their
12 assessments. This has changed
13 dramatically now if all states having
14 accommodations policies still that doesn't
15 mean we like fixed all the issued around
16 the accommodations there's traditional
17 practices that sometimes still prevent
18 students from using appropriate
19 accommodations to demonstrate their
20 learning even though the content being
21 assessed is not effected. These are often

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1 things that are going to come out. Things
2 like combinations that successful adults
3 use in college and careers to effectively
4 go around the barriers of their
5 disabilities to be able to succeed and
6 function in life such as reading, read a
7 lot of technologies to text. Another
8 important point we need to let the IEP
9 teams know these are teams that know the
10 student. These teams identify the support
11 or accommodations that a student needs to
12 show what he or she knows and is able to
13 do and what the student needs to be for
14 instruction and thus for assessment. We
15 have also come a long way since student
16 with disabilities who were first required
17 to be included in straight assessments and
18 that was before IDEA required it. It was
19 actually in 1994 IDEA admitted very clear.
20 Both general assessments and alternate
21 assessments are more likely to be designed

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1 with all students in mind you start with
2 and assessment development to the
3 implementation of the assessments and the
4 provision of accommodations it doesn't
5 mean it's perfect but we have come a long
6 way. We have a ways to go. Students with
7 disabilities often need accommodation even
8 when the most successful assessment has
9 been developed. We can’t forget that
10 there's always going to be some students
11 who do need accommodations. Universally
12 designed assessments and accommodation
13 policies are more likely to be developed
14 based on the content intended to be
15 assessed rather than preconceptions of
16 what should or should not be allowed and
17 this is a point you will hear again and
18 what is the, what are we exactly intending
19 to measure and that effects lots of other
20 things. Again, the accessibility and
21 accommodations and the intent is to remove

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1 those artificial barriers that prevent
2 students with disabilities from showing
3 what they know and can do. We have looked
4 at documentation or we have looked at data
5 on the percentage of students with
6 disabilities who receive special Ed
7 services using accommodations during the
8 assessment and it's still shows dramatic
9 differences across states. And so you
10 know keeping track of the use of
11 accommodations is around important piece
12 of informing not only policy, but decision
13 making in accommodations. We are going to
14 talk more about alternative assessments.
15 There's a question here I think we should
16 just defer it. Alternate assessments have
17 huge changes I prefer that that question
18 go to four B.
19 Ms. Podziba: So now I think we
20 wanted to give many a chance to ask
21 questions of Martha if there's anything

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1 they want to clarify in four A.
2 Ms. Podziba: Any questions for
3 Martha?
4 Ms. Pompa: Would you speak to
5 some of the recommendations that have been
6 developed by different organizations do
7 they exist and do they improve the access
8 to assessment?
9 Ms. Thurlow: There's been
10 several organizations have sought to help
11 clarify how to make accessible assessments
12 and universally designed assessments. I
13 think the standards for educational,
14 psychological testing have attempted to
15 clarify what makes good assessments for
16 all students including those with
17 disabilities and those who are English
18 learners. The standards have identified
19 past organization has developed lots of
20 materials around the learning and my
21 center has identified principals for

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1 inclusive assessments so I think those are
2 principles to look at.
3 Ms. Briggs: You mention that
4 there's a percent of kids and kids that
5 get accommodations dramatically differs
6 across the state let's know the range
7 maybe and you sort of implied some
8 speculation as to why but maybe tell me
9 exactly why?
10 Ms. Thurlow: Okay one of the
11 last times I looked at these numbers and
12 we can get more recent number it is range
13 was from 8% to a 100%.
14 Ms. Carr: That's about right.
15 Ms. Thurlow: There's a lot of
16 factors that come into play there. Some
17 of it is the policy themselves some of
18 them might be the nature of the assessment
19 and how accessible it is, some of it might
20 be decision making about accommodations
21 and concerns about logistics and some

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1 other practical things. There's a whole
2 host of things that can go into those
3 kinds of numbers. It doesn't mean that
4 low is necessarily I almost hesitate to
5 say this. It doesn't mean low is
6 necessarily bad? Is it low in terms of
7 right reasons in terms of accessibility.
8 Ms. King: I was just wondering
9 if you could talk about why it's important
10 to provide accommodations so that a
11 student can demonstrate their performance
12 on their grade level assessment versus
13 just giving a student out of grade
14 assessment?
15 Ms. Thurlow: The principle that
16 we want all students to be able to work
17 toward their grade level academic contents
18 standards is really really important if we
19 lose sight of that we lose sight of
20 students moving toward college and career
21 readiness. We do a huge disservice to

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1 students if we start to give them a lower
2 grade level and think that represents what
3 they need to know and be able to do.
4 Also, it's often misrepresentation and
5 often we say a student, a sixth grade
6 student is at the fourth grade level
7 because of their reading skills when their
8 thinking skills are not at the fourth
9 grade level they are at the sixth grade
10 level. There's a whole host of reasons
11 why it's critical that we don't lose track
12 of that enrolled grade level content step
13 for all students.
14 Ms. Goss: As we perform as para-
15 educators and we are working with kids in
16 the classroom and our small groups and
17 giving the test. We have seen sometimes
18 where you have some conflict or some
19 confusion as to you know does this really
20 follow ESEA or is it IDEA? Where do you
21 draw the line in the regulations between

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1 ESSA and IDEA?
2 Mr. Rooney: Can you clarify that
3 question? What interaction are you
4 looking for between idea and ESSA?
5 Ms. Goss: So if you have certain
6 accommodations in ESSA or ESEA as far as
7 idea. As far as who can perform them and
8 who can't perform them sometimes in that
9 manner.
10 Mr. Rooney: So I can start to
11 andswer this and maybe Kay can jump in and
12 try to have a better legal interpretation.
13 From and assessment standpoint the
14 Department's expectation has been that
15 states identify the accommodations that
16 can be permitted on the assessment system
17 that do not lead to an invalid result
18 that somehow you are changing the
19 construct of what you are trying to
20 measure. I often use if it's an addition
21 question if you give the student a

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1 calculator it's no longer and addition
2 question or not. Using a calculator would
3 change what you are measuring in a way to
4 make it no longer a valid result of what
5 that student can do around addition. So
6 states are required to identify their
7 accommodation and make sure that
8 accommodations are not selected by teams
9 that could lead to an invalid result and
10 that you know this is about the
11 accommodations that permitted on the
12 assessment which should match what
13 accommodations a student is receiving in
14 the classroom with their instruction. I
15 know in practice that doesn't always work.
16 I don't know if we want to go into that
17 more? Kay would you add anything to that?
18 Ms. Rigling: No, I think that's
19 pretty accurate. I mean we have to be
20 clear that what we are here today to do is
21 to work on regulation that implement the

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1 ESSA. I think at the same time we want
2 those regulations to also be regulations
3 that fully includes students with
4 disabilities in accordance with the IDEA.
5 We have to be mindful of both statutes. I
6 think that we are trying as hard as we can
7 to make sure that both IDEA and the ESSA
8 are implemented so that they are not
9 inconsistencies between the two and that
10 IPE teams are recommending accommodations
11 for instruction that are also
12 accommodations that can be used for
13 assessment so that they don't invalidate
14 the score. I don't know that we are
15 completely there yet. I think that's the
16 goal. I think the more accessible the
17 assessments can become the easier it will
18 be for the accommodations that the student
19 uses in the classroom to also be
20 accommodations that they can use on the
21 assessments. So I think it would be

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1 helpful for you to continue to point out
2 to us that areas where that may not be
3 true or areas that we need to clarify
4 because I think we will talk a little bit
5 later about some instructions for IEP
6 teams that the state needs to develop in
7 order to ensure that the assessment that
8 they select for the students and the
9 accommodations are all aligned. I think
10 that it's very very hard to separate out
11 the two statutes even though what we are
12 here today to do is to implement the ESSA
13 not the IDEA.
14 Ms. James: I think that this
15 question should the regulations, should
16 the regulations define students with
17 disabilities I am wondering if the right
18 people are at the table to answer that
19 question specifically. I think in terms
20 of if everyone here has one this is a
21 question that I intended to get more

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1 information about with some of my one with
2 my coordinator and additional forms of
3 resource if you will. What I am wondering
4 is to ask if regulations should define
5 students with disabilities if we are or
6 should even be put in that position. I
7 just wonder if the right people, I just
8 wonder if we have the level of expertise
9 to adequately maybe define what that
10 means.
11 Mr. Rooney: I don't think we are
12 getting into the issue paper yet. I
13 appreciate your point I am happy to take
14 that into account once we get into that
15 issue paper. If there's other general
16 questions.
17 Ms. King: I wanted to make the
18 ESEA and IDEA interaction. Students with
19 disabilities are general education
20 students for IDEA provides a certain set
21 of protections for a certain group for

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1 general education students if we are all
2 walking in with that understanding and
3 framework. ESEA is meant to serve all
4 students which includes students with
5 disabilities.
6 Ms. Podziba: Are there any other
7 general questions for Martha?
8 Ms. Pin Ahrens: Can you talk
9 about the subset of students who are
10 disabilities with English language
11 learners after how the accommodations with
12 them maybe covered under IDEA and whether
13 there are differences in the
14 accommodations that are needed for that
15 subset?
16 Ms. Thurlow: So we have growing
17 number of students who are English
18 learners who also have disabilities. This
19 is a group that's been ignored for quite
20 some time I say or if not ignored treated
21 like they were two things one I will treat

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1 your disability, and then I will treat
2 your language needs or this is not what it
3 should be but it's what I heard a lot of
4 having and IEP or being special Ed trumps
5 having a language need. I think we are
6 just beginning to get the word out that
7 that's a really inappropriate approach for
8 EL's with disabilities and that they have
9 both language development needs and they
10 have disabilities needs and that it's
11 critical that those be addressed by
12 collaborative teams so that the IEP team
13 must have a person on the team not just
14 could or may but must have a person on the
15 team who knows language development
16 processes and needs for those students.
17 There's been a lot of trying to figure out
18 what to do and some practices that
19 probably are not the most appropriate. I
20 am not sure did I answer all of those
21 questions.

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1 Ms. Pin Ahrens: Do you know what
2 the percentage of students who are
3 students with disabilities who are also
4 EL's?
5 Ms. Thurlow: I can look it up.
6 Again, it varies tremendously across our
7 states right now from about well close to
8 zero percent like .1 to about 24-25-26% of
9 students with disabilities are English
10 learners.
11 Mr. Hakuta: If I could add to
12 that there are over and under
13 identification issues that interact with
14 the grade level of the students so they
15 tend to be generally I think the trend is
16 they are under identified in elementary
17 and over identified in or at least over
18 represented in the higher grades. Then
19 the other issue I would just raise is and
20 assessment related issue to this
21 overlapping student has to do with

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1 procedures that are in place and we will
2 get to this later for all English
3 learners, but that are in place for
4 identification of English language learner
5 status as well as reclassification or
6 exiting status. Some of those interact
7 with disability issues such as the
8 requirement to assess students in the four
9 domains of reading, listening, speaking
10 and writing which become complicated if
11 you are hard of hearing et cetera.
12 Ms. Ricker: I want to ask if you
13 could just expound on accommodation
14 through other act if you could give a
15 couple examples besides IDEA what else are
16 you thinking of. Help me wrap my head
17 around it?
18 Ms. Thurlow: Accommodations are
19 mentioned in section 504 of the
20 rehabilitation act and students who
21 receive accommodations through that act

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1 are on accommodations plans are often
2 referred to as 504 students. Those are
3 students with disabilities. IDEA those
4 are students that receive special
5 education services and get accommodations
6 and then as students move up there's ADA
7 American with disabilities act that
8 provides for accommodations.
9 Ms. Ricker: Those are the two.
10 Ms. Thurlow: ADA is getting
11 increasingly important as we get toward
12 the end of school don't forget that.
13 Mr. Rooney: IDEA and you are
14 predicting the first question then which
15 is?
16 Ms. James: Whether to define and
17 the statute that use it is phrase and
18 other acts?
19 Ms. Jackson: So I apologize if
20 you have a list already and I'm missing
21 it. In most of our other discussions I

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1 have a general on what the scope on what
2 we can comment on and what the scope may
3 not be. If you can frame this a little
4 bit for us. I think we are referring to
5 multiple components and how we might
6 create regulatory text or non-regulatory
7 guidelines perhaps in the future to help
8 frame everything. There's a lot of
9 overlap and questions that I think also
10 that may question parts of IDEA. So I am
11 wondering if you could frame sort of this
12 does that make sense what I am asking
13 because I think we could go into a lot of
14 conversations that may not be appropriate
15 given the scope of the statute. My other
16 question is just in this case UDL is
17 referred to very much even though it says
18 for all the students it seems to be
19 labeled and grouped as a special Ed thing.
20 So I just wanted to touch upon that as we
21 frame this discussion.

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1 Ms. Podziba: Aqueelha is that
2 okay you move into the -- do you have a
3 question to ask Martha?
4 Yes. Is there guidance for
5 accommodations for newcomer EL's?
6 Ms. Thurlow: That's and
7 excellent question I do not know the
8 answer to that. I don't know?
9 Mr. Hakuta: Is this newcomer
10 EL's that have been identified for
11 disability?
12 Ms. James: This is newcomers in
13 general we have not had the opportunity to
14 assess them just yet. In addition to a
15 host of things there is a guidance.
16 specifically for newcomers.
17 Mr. Rooney: Can we table that
18 question? Five A and B is going to talk
19 about how we include that's a great
20 question and that will give Kenji a little
21 bit of time to think about how he wants to

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1 answer it, so on that note I will jump
2 in. I want to say a few words about four
3 A. This probably answers your question
4 Audrey and please flag me if I didn't do
5 that. NCLB provided that states had to
6 give assessments to all students. States
7 needed to ensure that the reasonable
8 adaptations and accommodations for
9 students with disabilities, students with
10 disabilities is necessary to measure the
11 academic achievement of such students
12 relative to the state content and
13 achievement standards. I was reading from
14 NCLB. It's really important that actually
15 it elevated the importance of including
16 these students in a grade level
17 instruction and assessments, and you know
18 one of the phrases that always stuck with
19 me when we are thinking about what gets
20 measured against what gets taught. We see
21 a lot of advancements in the 15 years

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1 improving instruction and improving
2 assessment to make sure they are measuring
3 students with disabilities. I agree with
4 some of the comments I made earlier.
5 There's much further and much more the
6 states can do to help support the
7 districts and schools and these kids
8 particularly. There has been a tremendous
9 improvement over the last 15 years on that
10 front. Today for this conversation there
11 are existing regulations which are taken
12 from NCLB and a largely included again in
13 the ESSA that making sure the assessments
14 are accessible and accommodations are
15 provided or accommodations or adaptations
16 determine the statutes for students with
17 disabilities. I think our question is how
18 we make sure that we are creating rules
19 that help support states that maintain
20 accessible to the broadest variety of
21 people and what kind of supports they need

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1 to have in place to ensure that happens.
2 We already talked about a bunch of topics
3 that hit on this if a state is using
4 computer based testing or IEP guidance
5 around accommodations. What level of
6 rules are needed in order for states to
7 know how to write reports to districts
8 versus other ways we can provide
9 information through the field through
10 guidance or best practices or things
11 that don't have the same course of law. I
12 think that's part of the conversation we
13 want to have on how we provide rules for
14 states that for then set the expectations
15 for districts and schools and for these
16 students. So there are I think two things
17 that particularly you want to spend time
18 on and based on the conversation so far.
19 The last day and a half there's a bunch of
20 other things that people want to discuss
21 and put on the table and that's why we are

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1 here which is great. The first is to Mary
2 Cathryn's question whether we wanted to
3 combine students with disabilities in the
4 law itself, and this is a change from the
5 previous statute. Students covered under
6 IDEA and other such acts whether it's
7 helpful to provide clarifications. Our
8 current regulations that are in place
9 define that as a student who received who
10 has and under IDEA and also student under
11 504 plan. The second piece we spent time
12 on universal design for learning and
13 whether it's helpful to clarify that in
14 some way in the regulations we are
15 crafting in order to ensure that universal
16 design for learning is informing
17 everything that's happening. Again, to
18 repeat what Martha said earlier the
19 context per universal design for learning
20 is that you consider the needs of the
21 students on the front end as you are

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1 designing your assessment system. You are
2 thinking about what supports you need to
3 answer the questions you are asking. It
4 reduces the accommodations you need on the
5 back end of the test so it make it is test
6 easier for kids to understand and to show
7 what they know and can do. I think to mar
8 that's point that you know some students
9 will always need accommodations. We
10 understand that. The more you are
11 thinking about the needs of those kids on
12 the front end the less you need to worry
13 about creating accommodations which often
14 times can be not be easy to make sure
15 what's happening in the instruction. With
16 that overview I want to jump into the
17 first question whether we should define
18 students with disabilities in a way to
19 students to receive accommodations under
20 IDEA as well as accommodations through
21 other acts and whether it's helpful to

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1 provide clarification on what that
2 language means?
3 Ms. Jackson: This is clarifying
4 what you just said about -- I don't mean
5 to be nitpicky. It's not making the test
6 easier. It's removing barriers based on
7 their specific diagnosed disabilities.
8 Mr. Rooney: That's a great
9 clarification.
10 Mr. Hager: Specifically to
11 answer the first question is should you
12 define students with disabilities in a way
13 that students receive -- as well as those
14 are receiving through other acts because
15 the statute itself this is not used for
16 accountability in terms of like subgroups
17 and all of that stuff. This is just for
18 including my understanding for including
19 students with disabilities under the
20 assessment provisions and other acts, and
21 I think the reason why this statute put in

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1 the phrase other acts is we know there's
2 IDEA and we know there's 504, and the ADA
3 but what if another law comes in down the
4 road we don't want to have to amend the
5 ESSA as well of the regulations because
6 some other act might come in at some
7 point. I think that's why the statute
8 uses that phrase instead of 504 and ADA.
9 I think the regulations can be specific
10 and say you know such as the ADA and 504.
11 In other words I would suggest IDEA, other
12 acts that protect students with
13 disabilities such as the 504 and the ADA
14 and whatever else that could come down the
15 road in the future, but for right now we
16 know it's 504 and ADA. And to clarify
17 Martha's point about the ADA there is
18 going to be a lot of overlap. The section
19 504 regulations are very specific, very
20 specific regulations dealing with students
21 with disabilities, and the ADA regulations

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1 are more general about all people with
2 disabilities but there is regulatory
3 language that applies to that that can
4 apply to students with disabilities and
5 the courts have begun to make distinctions
6 between the three statutes, but for our
7 purposes I think terms of access to
8 accommodations in terms of 504. It's a
9 group of students. Idea protects a
10 specific group of students that meet the
11 idea definition and the 504 slash ADA
12 group of students are students that do
13 have a disabilities that are entitled to
14 legal protections but do not meet the idea
15 definitions. So I think it's why it's
16 important that we include both groups in
17 terms of access to assessments and access
18 to accommodations. They are already
19 independent of what the ESSA says. They
20 are entitled to these accommodations
21 anyway so that's a way to align ESSA, ESSA

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1 with those other laws.
2 Mr. Pohlman: This may go to what
3 Audrey is asking earlier but what is the
4 proposed scope of the impact of the change
5 to this bullet. For instance would it
6 then extend the definitions of students
7 with disabilities to a subgroup for
8 purposes of accountability. I don't know
9 but I am wondering about the scope of this
10 regulatory change. It's stemming from the
11 part of the acts that specifically
12 including students with accommodations
13 under acts not the IDEA. I'm not sure
14 that intent would carry it into
15 accountability framework. I am wondering
16 the scope of the proposed regulation here.
17 Can you comment on that so we can narrow
18 our comments to one or the other?
19 Ms. Rigling: I think you raised
20 a very concern. I think we were
21 recommending confining it just to

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1 assessments, and really to do I think what
2 Ron was suggesting about just having one
3 term that includes all of the students
4 with disabilities that are protected by
5 IDEA and other acts with respect to
6 assessments. You raised a very good point
7 that perhaps the same doesn't carry over
8 into other areas like accountability. I
9 think that's really something that we
10 should take that back and think about.
11 That has to be very clear for our
12 state offices as they move into their
13 promulgation of framework. I think that
14 there may be unintended consequences for
15 purposes of and accommodation and growing
16 the category of a subgroup and I want to
17 explore and discuss differently if we are
18 talking about accommodations. I think
19 from a practical standpoint I experienced
20 a number of occasions probably approaching
21 the hundreds where schools I have been in

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1 will definitely love to offer assessment
2 accommodations for students with 504
3 plans. I think that also there's a not
4 having the opportunity to offer the same
5 accommodations on assessments for students
6 with 504's and students with IEP's. I
7 have seen at some levels a causes a unique
8 tension within the IEP team of whether or
9 not a student should be transitioned out
10 of having an IEP. I think that we should
11 if there's other protections where a
12 student may uniquely qualify for an IEP
13 but also qualify for protections under 504
14 in making that decision as and IEP team
15 can oftentimes rest in this area of wealth
16 and how can we provide support for testing
17 or testing in general can be quite
18 Frankly. I encouraged our staff to look
19 at it. I think this would open up and
20 opportunity for us to provide
21 accommodations for students but not and to

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1 make more holistic decisions about
2 students and IEP's. I am being very
3 supportive. I think it's being clarified
4 for not purposes but on accountability.
5 Ms. Rigling: I think for
6 purposes of this group discussion we
7 should assume that it's just for purposes
8 of accommodations with respect to
9 assessments. I know in the current law we
10 made quite clear in reporting requirements
11 and subgroup account ability it's
12 literally students identified under
13 section 602.3 of the idea. We have made
14 that very clear and so I think we are just
15 for our purposes we should assume that we
16 are really only talking about
17 accommodations because with respect to
18 assessments. We will make sure that
19 whatever the group decides that definition
20 doesn't expand beyond assessments if it's
21 not appropriate to do so.

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1 Ms. King: Sorry. I just wanted
2 to reinforce a thousand times this point.
3 I think assume is not, I mean we are
4 talking about the rights provided to
5 children under specific laws assume is not
6 a word I like very much. I would like to
7 be abundantly we are talking about
8 specifically in this section. I would
9 identify in the accountability section it
10 says children with disabilities, but I
11 think the regulatory language needs to be
12 explicit. I am actually Frankly wouldn't
13 define the students with disabilities or
14 the phrase I would define who is eligible
15 for accommodations as those made eligible
16 for accommodations and I hear Ron's
17 pointed about providing and exhaustive
18 list doesn't provide for later laws. I
19 think it is a little bit terrifying in the
20 context that we could be having effect on
21 the rights of children with disabilities

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1 for children with disabilities. I think
2 it needs to be abundantly the children
3 should be receiving accommodations
4 providing the accommodations in the things
5 like assessment not at all having any
6 effect both in terms of definition of a
7 subgroup or who has a disability for the
8 purpose of subgroups or who has a
9 disability for other purposes there's
10 other times where we use the language or
11 the word disability when we are talking
12 about different people and different
13 contexts. My preference would not to
14 phrase it as definition of students with
15 disabilities but as students who need
16 accommodations.
17 Ms. Podziba: It seems like a lot
18 of heads are shaking on this.
19 Ms. Goings: A couple of things I
20 wanted to speak too students who need
21 accommodations. With that there is a plan

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1 that needs sometimes -- sometimes it takes
2 one of my concerns in respect to your
3 question is that's an IEP that can lead to
4 that. There's separate. A perfect
5 example if I can give and example where my
6 nephew was identified as a student with
7 autism. With that he had an IEP and he
8 went through high school I believe his
9 freshman year of high school with an IEP.
10 I had to turn on a button with my sister
11 to let her know that it was time to
12 transition my nephew and so we adjusted
13 the accommodations of his IEP and we
14 systematically moved him to a 504 by the
15 time he was graduated with honors by the
16 way from high school he was under section
17 504 now in college just to balance he is
18 going to become an attorney and how has
19 with accommodations he is now under ADA.
20 There's a systematic approach to exiting.
21 We need to keep that in mind. Then also

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1 when it comes to accommodations just
2 remember and I can't say this enough is
3 that there are systems in place to
4 accommodate children with disabilities.
5 That includes as I said earlier para-
6 professionals and also utilize the
7 services with that IEP team can help in
8 making those accommodations. I sat at IEP
9 meetings where there's, they have a
10 checklist and the team will check what's
11 appropriate that's inappropriate. You
12 need to individualize those accommodations
13 for students. If a child needs a second
14 voice or assistive device then that's what
15 you check and make sure that's what you
16 implement and put it as part of a plan to
17 assist that child during and assessment.
18 If there's an accommodation for a para-
19 professional to assist in assessments in
20 providing support and instructions you
21 write those systems into the IEP as part

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1 of the accommodations so that those needs
2 can be met. I can't stress that enough.
3 I have seen too often where children fail
4 because there is just a generic plan for
5 them in terms of accommodation. So
6 including assessment. I wanted to include
7 that point.
8 Mr. Hager: I am probably beating
9 whatever I want to say here to be very
10 very very clear about the inclusion of
11 students other than IDEA students here and
12 also to meet Tony's and others points
13 about the statute. The statute
14 specifically refers to assessment with
15 students the appropriate accommodations
16 such as interoperability and ability to
17 use assistive technology for children with
18 disability and that's where it goes onto
19 idea and other acts. This is only for
20 other purposes. In terms of regulation
21 you're implementing what's the statutory

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1 authority. You are implementing this
2 statutory authority in this provision. I
3 think we need to be clear because there's
4 so many other places that you don't really
5 want to mix and match. You just want to
6 be really clear in where you are coming
7 from.
8 Ms. Goings: One more point to
9 make regarding the UDL's. There's systems
10 in place even for that one being response
11 to instruction or intervention which is a
12 general initiative but certainly can
13 include students because we have students
14 with disabilities in gen-ed classrooms
15 there's multi-tier processes that you can
16 use to assist these children so they are
17 ready for instance. One being I know in
18 my district I require all of my SOP's to
19 work in the classroom with teachers to
20 help with response to interventions so
21 that they can do those UDL's and assist

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1 the teacher and also identifies to
2 students who are struggling. It's an
3 ideal place to look and say you know a
4 child who may have been over looked
5 through RTI that can identify the
6 struggle. I think it's a good concept and
7 also a good way and I would like to
8 propose that we find some way with UDL's
9 to utilize, assist paraprofessionals in
10 that process.
11 Ms. Jackson: Thanks for bearing
12 with me. I wanted to mention, I
13 appreciate what Liz brought up about
14 referring to the general topic being
15 students with disabilities, but those who
16 meet criteria for or eligible for
17 accommodations. There's just a place
18 where I would like to note 504's are for
19 all kinds of things as many of you know,
20 and I am hoping we all agree understand
21 the difference between IEP or 504. You

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1 can break your arm in a ski accident and
2 need and accommodation for a brief time.
3 I would hope the availability, and as
4 Regina was talking about that having 504's
5 be directly included also would facilitate
6 moving children from and IEP and receiving
7 specialized services to being eligible for
8 accommodations without feeling like it's
9 either or. I want to bring up not
10 federally recognized group of students,
11 but one's growing in awareness kids
12 affected by trauma. This is a great
13 opportunity I know beyond the scope of it
14 in the statute of this section. Many
15 children are deeply affected by traumatic
16 events and need to be given and IEP and
17 diagnosed or labeled as having and
18 emotional impairment or a disability as a
19 result of their experiences that do or can
20 translate into real neurological or
21 physiological presentations, but also do

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1 not necessarily represent permanent state
2 of disability and there's great factors
3 for resilience. I want to stress that
4 really this including 504 explicitly would
5 allow for students with needs like that to
6 receive supports as needed without being
7 unnecessarily diagnosed as having a
8 disability.
9 Ms. James: Great point I would
10 like to bring up the newcomers again
11 specifically with that little caveat in
12 defining students with disabilities and
13 how newcomers would be identified as that
14 if we define it. So if you are asking us
15 should regulations define students with
16 disabilities I think that there should be
17 some conversation about it. I sincerely
18 echo Liz's statement maybe thinking about
19 accommodations versus the question of
20 should we define students with
21 disabilities so that we are more inclusive

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1 of our thinking of all students
2 particularly me advocating for newcomers.
3 How do we ensure newcomers would be a part
4 of this recommendation or explicit out
5 line regarding accommodations for
6 assessments? Does that help?
7 Mr. Rooney: Yes. We will talk
8 about all when we get to five. There's a
9 separate section of the statute that's
10 right after the assessment section that
11 does deal with recently arrived English
12 learners and how they are included in the
13 assessment and accountability system, so
14 that is a piece that's already captured.
15 I think question you are asking is more
16 about the accommodation for those kids and
17 how we are making sure that's explicitly
18 part of the state system. I think we want
19 to table that for issue five.
20 May I give additional clarity?
21 Some of the students that are newcomers

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1 experience significant trauma and so that
2 directly aligns to how do you incorporate
3 trauma with 504 and or IEP so that is
4 specific to a disabilities?
5 Mr. Rooney: Thanks for that
6 clarification that helps a lot. Are we
7 ready for question two? How should the
8 department generally ensure that states
9 promote meaningful access to the general
10 curriculum and assessments for all
11 students with disabilities including the
12 use of accommodations and principals of
13 UDL's which is universal design for
14 learning? Just to point you back up top
15 to the middle of the page. The ESSA
16 actually in the back of the ESSA where
17 they have a definition for a lot of terms
18 they did define UDL and they referenced
19 the higher education act which is a
20 different act that I am not that familiar
21 with. It incorporated that definition

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1 here for our purposes for the ESSA so we
2 wanted to put that on the page in front of
3 you just doing the gymnastics to get where
4 that definition shows up in the higher
5 education act is a little bit difficult.
6 We wanted to have that in front of you for
7 that knowledge. I think the question is
8 what should the regulations do to ensure
9 they are meaningful access for curriculum
10 assessments. Try to separate IDEA and
11 ESSA this is about the assessments and
12 what are the regulations or what should we
13 say about making sure students have equal
14 access in our assessment regulations?
15 Mr. Evers: This may be too
16 simple of an answer but I will give it a
17 shot. I think this is an area that's not
18 compliance related, frankly. I think it's
19 a perfect opportunity for us to invite
20 schools and state and local districts to
21 do this better. It's more of a quality of

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1 implementation in which I think does not
2 connect to regulations. In turn you know
3 we already have regulations around what
4 peer reviewers do or don't do. I think
5 this particular issue could be expressed
6 in current guidance and by expanding it to
7 include UDL and under the section called
8 critical elements for policies for
9 including all of the students and
10 assessment and that could be aligned or
11 changed to reflect this question. I just
12 don't believe this is a regulatory thing.
13 I think this is something that we could
14 all pull together on. The federal
15 government, state and local government's
16 through a peer review process.
17 Mr. Hager: Picking up on Tony's
18 point definitely regulation needs to say
19 that you know that they have to consider
20 universal design for learning. We
21 definitely have to say we have to consider

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1 it. I like what you are saying there is
2 the guidance for the peer reviews.
3 There's guidance for the state plans.
4 There's a lot of different places and I
5 think the Department should look at all of
6 those terms of implementing the UDL
7 principles. Any place that would be
8 appropriate to consider you looking at did
9 they, did the state or did the district or
10 does the assessment fill in the blank, the
11 state plans or local school district every
12 place you need to be put in UDL making
13 sure that all the places where someone is
14 reviewing the requirements for approval
15 under the ESSA that UDL is being
16 considered. I think that would go a long
17 way to effectuating that without being
18 overly prescriptive at the and regulations
19 themselves that would make sure that it's
20 implemented and I may have some other
21 comments. I think that at a minimum we

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1 need to be doing that.
2 Mr. Ruelas: I agree with what
3 both of you are saying. You know how
4 should the ED generally ensure that states
5 promote meaningful access to the general
6 curriculum itself. You know they should
7 definitely provide guidelines or policies
8 suggestions for states under UDL
9 integration. More importantly we should
10 also make sure that we provide
11 professional development for the educators
12 themselves in regards to this issue.
13 Educators cannot be expected to implement
14 the principles of UDL correctly without
15 support or professional learning
16 opportunities, so I think that's very
17 important.
18 Ms. King: Sort of to Tony's
19 point I would kind of like to take credit
20 for the work we are going to do and remind
21 everybody when we have regulation that

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1 provides for accommodations, and when we
2 have regulation that ensures students with
3 disabilities or included in the general
4 assessment that has the effect of
5 increasing access to the general
6 curriculum. So I think it may be there's
7 good preamble language to talk about that
8 being why these things are so important.
9 I don't know if it requires additional
10 regulation. I think you know just
11 reminding all of us that the role of
12 accommodations for example is to level the
13 playing field so that we have value and
14 reliable measurements. When we are
15 including students with disabilities in
16 the general assessment what we are doing
17 is helping to ensure we are including them
18 in the general curriculum and instruction.
19 To that one let's take credit for
20 something we had already planned to do.
21 Ms. James: Yes, so I wanted to

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1 know does if you could Kay speak to
2 section 300.160 B in idea that speaks
3 specifically to assessments? No? So
4 there's a reason to be helpful to
5 understand what that means in relation to
6 this particular question.
7 Ms. Rigling: We will have to get
8 back to you on that. One thing I did want
9 to do is just refer you to the statutory
10 language about UDL. Basically the lead in
11 is that each -- I'm on page 27 I might be
12 working from a different number document.
13 It's the very top it's the one
14 handed out yesterday it's the one in there
15 missing.
16 So the lead in is that such state
17 assessment systems shall and then the
18 requirement is you developed to the extent
19 practicable using the principles of the
20 universal design per learning. I wanted
21 to make you aware that's the statutory

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1 language so the fact that it says to the
2 extent practicable is I think to Tony's
3 point gives some degree of flexibility to
4 a state in designing assessment system but
5 that the point is that in developing the
6 assessment system to the extent
7 practicable it should be based on
8 universal design for learning and there's
9 a definition in the ESSA for universal
10 design for learning, but what it does is
11 it cross references the higher education
12 act. So one of our questions is would it
13 be helpful in order for states to
14 implement that provision of the statute
15 for the regs to include the definition of
16 universal design for learning from the LEA
17 so that it's all there in one place?
18 Mr. Hager: Yes. It's always
19 good in regulations to not have people
20 flipping from 75 pages all in different
21 statutes and all of that stuff. It's a

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1 good thing you can do in a regulation. I
2 did have my thing up already for another
3 comment if you don't mind? Was she ahead
4 of me?
5 Ms. Podziba: I think Richard
6 wanted to respond to that if I am correct?
7 Mr. Pohlman: I may be in
8 disagreement. I think this has a
9 potential for being very impactful
10 guidance looking at the peer review
11 process and other elements of how the
12 Department -- states to implement the act.
13 I am concerned that through regulation we
14 are going to create requirements that may
15 or may not have unintended consequences to
16 the level of specificity. If you question
17 is narrowly defined to whether or not we
18 need to better define universal design for
19 learning in a regulation I think that can
20 be one area for exploration. I think this
21 question gets to how can through the

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1 regulatory process we ensure that the
2 states promote meaningful access to
3 general, I think when you get into
4 ensuring the way that a state is doing
5 those you can become overly prescriptive
6 in regulation and to have unintended
7 consequences would be over regulation. I
8 don't want to be sensitive to that as we
9 move on with the conversations.
10 Mr. Hager: My thing was about
11 including the definition in the
12 regulation. I did say about in terms of
13 the general concept. I think there is
14 something that could be in the regulations
15 regarding UDL which would be you know that
16 the state would have assurances of how
17 they have incorporated principles of UDL.
18 It's not, it's not Leslie saying exactly
19 but making sure that in a state plan they
20 have identified how they are considering
21 this that it is, you know not exactly what

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1 the rules are about it but they have
2 considered it and in the documenting.
3 This was yours you had yesterday this Mic
4 here. The other thing I wanted to point
5 out again and I think this is not for
6 regulation but probably in the guidance or
7 preamble there's some very I think helpful
8 language that is in the committee report
9 for this provision that you know describes
10 some of the general principles involved
11 and also talks about the professional
12 development as part of the intent here and
13 a comment that you had made Martha about
14 that it's not intended to minimize the
15 need or use of assistive technology that
16 good universal design will hopefully
17 reduce the need by not eliminate the need.
18 Some of that report language again having
19 everything in one place. A lot of people
20 don't look at the report language it might
21 be helpful to give broader guidance about

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1 what we are talking about when we talk
2 about universal design.
3 Ms. Podziba: I think we are
4 ready to go to question three.
5 Mr. Hager: There's two parts to
6 that question. One is the UDL and the
7 other is other assessment and
8 accommodation. We didn't talk about the
9 other accommodations. I think that's the
10 biggest part for me.
11 Ms. Podziba: I supposed you have
12 a comment on that?
13 Mr. Hager: I eluded to this so I
14 am going to fill it based on the order you
15 were talking earlier in the day and it
16 also some of these questions were asked
17 for the question about the locally
18 selected national whatever it's called.
19 So first of all looking at computer based
20 assessments whatever type a computer based
21 assessment it is. What are some of the

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1 specific concerns about its assuring
2 access for students with disabilities to
3 those assessments, and one is there have
4 been instances where the developer are
5 blocking accessibility features because of
6 security concerns? This is a significant
7 problem. Let me start with the beginning.
8 In terms of test development when these
9 tests were developed if the test was
10 developed by under a federal grant section
11 508 requires that what's called electronic
12 and information technology be compliant
13 with section 508. It applies specifically
14 to the federal government not to others
15 like 504 does. When the Department is
16 issuing contracts or grants to develop
17 computer based tests, a computer based
18 test is electronic and information based
19 technology. They should be required that
20 the Department should be requiring of the
21 test developers that they comply with 508

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1 and clearly the blocking accessibilities
2 feature z because -- basically what 508
3 does you have section 50 IV which provides
4 general anti-discrimination protections
5 508 goes into what does it really look
6 like? What does an accessible website
7 look like what does and accessible they go
8 into computers and all sorts of details
9 criteria. In my mind one of the ways that
10 you can ensure compliance with 504 is if
11 you comply with 508, so that's there's a
12 legal basis for what I am saying and
13 trying to tell you and going forward. I
14 don't know exactly how we do this? We
15 want to make sure that these problems with
16 students with disabilities are
17 encountering don't continue, so we don't
18 want the tail to wave the dog. We don't
19 the security to limit. Everyone agrees
20 this student needs this accommodation to
21 demonstrate their knowledge because we

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1 can't use it because of test security.
2 Another thing that would be the
3 implementation of computer based
4 assessments is you have for some of these
5 protocols tough 504 team or the IEP team
6 developing recommendations for
7 accommodations but then there's a person
8 at the test sight if you will that is kind
9 of taking a second look at this. The
10 intent was that they some accommodations
11 that are built into these tests apply to
12 other people besides students with
13 disabilities. You can turn features on
14 and turn features off and what's happening
15 is whoever that person is vetoing the
16 decisions of 504 or IEP team, it should
17 not have that authority. They should only
18 be here's the 504 IEP team accommodations,
19 and then if there's additional things or
20 ways to implement it that's okay because I
21 can't veto what's developed by the IEP

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1 team. Now, new requirements of this
2 interoperability like I said that really
3 should have been already there, but the
4 best way to think of interoperability is
5 to think of plug and play. It's really
6 designed for plug and play. It's and
7 equity issue and fairness issue that when
8 you look at some of the assistive
9 technology that people are using. You
10 have people that have very limited
11 mobility. They may be using a puffer
12 straw to access their computer. They may
13 be using eye gates to access their
14 computer. If there's no developing use of
15 brain scans and brain waves to access the
16 computer. Plug and play would say
17 whatever it is that I am using to access
18 the computer I have to be able to access
19 whatever these assessments are you know
20 with however they have been developed
21 without having to -- we talked earlier

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1 about having to relearn the test protocol.
2 This is whole other issue which is just
3 accessing it at all. If you don't have
4 that interoperability you cannot access
5 it. The other concept of
6 interoperability, which we talked about a
7 little bit, is we talked about putting it
8 in one place using the same ATE they are
9 using every day. You are not being tested
10 on the test platform you are being tested
11 on what you know. The idea of
12 interoperability includes this physical
13 connection if you will but the idea of
14 using the ATE that the students are using
15 every day. Maybe I have three categories
16 so maybe let me stop there and maybe have
17 feedback from the rest of the group before
18 I move on. I am open to whatever people
19 prefer?
20 Ms. Podziba: Just go through all
21 of them.

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1 Mr. Hager: I am on a roll.
2 That's the issues with any type of
3 computer based assessment. Then we move
4 onto nationally selected assessment which
5 is the topic that we have been skipping
6 over but there was questions about this I
7 think it's good to put it in one place
8 which is a decision made about going to 4
9 A. The IEP team or the 504 team that have
10 driven the accommodations not the SAT
11 people or ACT people or whoever it is.
12 Second, when students with disabilities
13 are applying for the ACT or the SAT they
14 often have to fight with the test
15 developer, the people that administer the
16 test to get those accommodations they have
17 to go through appeal processes all sorts
18 of things. If it's being used for
19 accountability purposes not as opposed to
20 just let them. They have been sued many
21 many times. In terms of if we are going

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1 to use it for accountability purposes to
2 implement the ESSA those families should
3 not be having to fight the ACT and SAT
4 people. It should be built in. They
5 should not have to be fighting that fight.
6 It's kind of connects to the 504 IEP team
7 should be making these determinations.
8 The other thing is if there is and
9 accommodation that's given that's and
10 approved accommodations by the 504 team
11 the SAT or ACT or whoever it is those are
12 the two players now should not be flagging
13 the score or otherwise limiting the
14 purposes for which that score can be
15 given. They are taking it. They have
16 taken it so it should be able to use it
17 and not because that's another problem
18 with the ACT, SAT's they can no longer
19 flag it. They would literally have a red
20 flag on this score that goes out to the
21 colleges that this was not whatever.

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1 There should be no limitations given on
2 that kind of assessment. The full range
3 of accommodations need to be available
4 including Braille and other kinds of
5 things so students that may have more
6 significant needs. Now, the third this is
7 a specific problems for the computer
8 based, specific problems for the national
9 selected now for more general issues. The
10 best way to phrase this is as Mr.
11 Payment's phrase is it parsimony?
12 Whatever it is. Parsimonious? -- I never
13 took Latin or whatever it is. That
14 concept that you referred to is a critical
15 issue for students with disabilities and
16 accommodations. It's something that
17 Martha eluded to as well. When a test is
18 developed what is the test measuring?
19 Because IDEA prohibits IEP team from the
20 selecting and accommodation that quote
21 unquote invalidates the test okay. What

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1 is the test actually measuring and our
2 desire is to see the test develop, design
3 and administer in such a way that you
4 minimize the times that that happens? So
5 for example if I am doing a eighth grade
6 reading test am I really at eighth grade
7 measuring decoding or and I measuring the
8 ability what does it mean to understand
9 the text? What does it really mean to
10 understand the text? Well, what we want
11 to say is when what does it mean to
12 understand the reading passage it means
13 understand if that's what you are really
14 measuring. For all of these types of
15 tests and as you move specifically for
16 ESSA the requirements are four, eight and
17 high school, right? 3-8 right? When you
18 are moving forward in your progression
19 what are you measuring at each grade
20 level? What is our general content
21 standard requirement and developing and

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1 analysis that would minimize the impact of
2 invalidating the test. Certainly when you
3 get to high school are we ever really
4 assessing the ability to decode a test or
5 basic arithmetic skills? Is that what we
6 really want to be demonstrating at the
7 high school level or are we looking at
8 higher order skills, so I hope I am being
9 clear here? The more and this is also I
10 think a little bit of a universal design
11 for learning type of approach as well.
12 The more we carefully, even if we are
13 looking at a third way what we do want to
14 assess their reading decoding ability
15 let's just assess the reading decoding
16 ability where you don't get your read
17 allowed accommodation. Let's look at how
18 do they interpret and applies text which
19 an important skill without having to worry
20 about whether you are measuring their
21 ability to read without a read allowed or

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1 you are measuring the ability to
2 understand the text so that's really the
3 most important point for general
4 accessibility.
5 Ms. Podziba: Thank you.
6 Ms. Jackson: Now I forgotten
7 everything I was going to say Ron.
8 Mr. Hager: Sorry.
9 Ms. Jackson: I am going to try
10 to remember. I want to be really clear I
11 am not against accommodations in anyway
12 but in a state I think I talked I am not
13 and expert on state plans in anyway.
14 Theoretically there's state plans that get
15 approved and in those as appropriate with
16 the state with regard to current progress
17 toward understanding and embracing UDL at
18 all levels not just all of a sudden
19 tomorrow we are writing a report and
20 saying we do UDL. I think it would be
21 important to note that and we can fine

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1 tune or decide if this is appropriate
2 later, but how states are making sure that
3 they are instructional delivery and
4 hopefully standards aligned IEP's are
5 ensuring that students are not receiving
6 accommodations that somehow make it so
7 that the district or the school does not
8 have to provide intense instruction where
9 the child needs it most. For example I
10 have had children with severe dyslexia in
11 my classroom. As much as I know I am not
12 able to be three people at the same time
13 and give them adequate rules based reading
14 or and appropriate interpretation for that
15 child based on their individual
16 neurological presentation and profile. I
17 could have a child with adaptive resources
18 in my room and say well this child can
19 have the test read to them and there are
20 plenty intelligence and there for can
21 perform fine. It would be in general to

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1 let the child stay with that accommodation
2 as almost a scapegoat to providing and
3 intervention that child needs to read
4 independently. I am naming this in
5 general but not to be really prescriptive.
6 I think these two things providing more
7 broad inclusive frame-working for children
8 to receive appropriate accommodations
9 coupled with increasing UDL should have
10 some focus on the balance between while
11 you were providing appropriate you must
12 also prove that you are providing adequate
13 and thorough interventions as appropriate
14 to address the child situation.
15 Ms. Podziba: Anything else on
16 the second question I think it's time for
17 lunch. I am getting that sense in the
18 room. Even though there's a third
19 question why don't we take and hour for
20 lunch and come back and start with the
21 third question on issue four A. Let's

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1 reconvene at 1: 35.
2 Lunch break.
3 Ms. Podziba: Thank you where we
4 left off. I want to announce that there's
5 a public sign in sheet just on the table
6 to my right. If anyone in the audience
7 wants to address the public it's on my
8 right. Did I do that again? You know
9 what I meant. (laughter) Patrick, I will
10 turn it back to you to help to conclude
11 with 4 A.
12 Mr. Rooney: I think Martha made
13 an introduction. A nice suggestion of
14 tabling the third question under four A
15 and adding it to the list of questions in
16 four B. Unless anyone has and objection
17 to that I would like to propose that we do
18 that so I will make sure we discuss it
19 within the context of four B since it is
20 very much related to that topic. Okay.
21 Seeing no objections thank you everyone.

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1 We are going to move onto issue paper four
2 B. I do want to highlight that there were
3 supplemental materials that we want to
4 reference as we are talking about this
5 topic. One is your back packet behind
6 issue paper four B. There's two others
7 that are actually behind issue paper four
8 A that are relevant for issue paper four B
9 sorry they are in this later on spot.
10 Just plug that as we start off. This is
11 alternate assessment based on alternate
12 academic achievement answers. I think we
13 could start with Martha providing a short
14 overview in history.
15 Martha: Now, okay I would do the
16 same thing again I want to give you a few
17 bullets and base it a little bit on what
18 we learned since IDEA first required
19 alternate assessments in 1997 so that was
20 first required in 1997. So these
21 assessments based on alternate

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1 achievements for students with significant
2 cognitive disabilities. These assessments
3 have changed dramatically since they were
4 first required in 1997 or to be
5 implemented by 2000 and we have now have
6 alternate assessments that are computer
7 based with most of the students with
8 significant cognitive disabilities
9 interacting in some way with computer
10 based assessment either directly or
11 through the technology. Students who
12 appropriately take the alternate
13 assessment based on alternate achievement
14 standards are capable of learning great
15 base content. If they are provided good
16 instruction based on high and reasonable
17 expectations for their learning with good
18 instruction with appropriate assessments
19 and accommodations. We have seen
20 tremendous academic outcomes for these
21 students. They have different achievement

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1 standards it doesn't mean they are the
2 same grade level based achievement as
3 other students. Rigorously defined
4 students are meeting these standards and
5 showing that they can learn as expected.
6 We have also learned that the alternate
7 achievement standards can be rigorous even
8 though they are different from the
9 achievement standards. These standards
10 can be aligned I am using that word
11 knowing that they can be tweaked it can be
12 aligned with the academic content that
13 promotes the expectation with the students
14 with the cognitive disabilities are
15 included in their enrolled grade
16 curriculum, so it's one of those intended
17 consequences that we will get them into
18 their the same curriculum as their peers.
19 So they are learning the same things as
20 their peers may be not to the same breadth
21 or depth as their peers. I can give you

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1 examples if that would be helpful. States
2 over the past several years have really
3 been refining their participation criteria
4 so they more clearly define which students
5 should appropriately participate in the
6 alternate assessment. We know that when
7 too many kids are included in the
8 alternate assessment based on alternate
9 achievement standards there's a concern
10 that we have students inappropriately
11 taking that assessment and maybe students
12 with learning disabilities and other
13 health impairments and we can't tell
14 exactly by category and you can raise
15 questions when you see students with
16 certain characteristics by participate
17 anything and alternate assessment designed
18 for students with significant cognitive
19 disabilities. Let's see we have seen that
20 strong if you got the strong criteria for
21 participation and you have got continued

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1 professional development and guidance
2 materials you can ensure that the
3 appropriate students do participate in the
4 alternate assessment and that they are
5 those students with the most significant
6 cognitive disabilities. When we have this
7 discussion the only other thing I want to
8 say is it's really important to keep
9 separating that enrolled grade and content
10 standards. What that means from the
11 alternate achievement standards, so
12 alternate achievement standards versus
13 grade level standards so making that
14 distinction is really clear the content is
15 about what we want students to learn and
16 we have to do and the achievement
17 standards about how well how much do we
18 want this to learn and be able to do it.
19 I guess the last thing I will say is about
20 the alignment procedures because that the
21 assessments have changed so dramatically

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1 over time. Some of you may remember we
2 have a lot of portfolios in the beginning.
3 We now have more computer based item based
4 test. The alignment procedures for these
5 assessments also have improved
6 dramatically over the past few years.
7 Particularly with recognition that the
8 alignment just isn't a check at the end
9 it's something you do throughout the
10 development process. It's kind of that
11 universal design. You are aligning
12 everything throughout the process and
13 having really strong standard setting
14 process that's documented and validated
15 and that reflected professional judgment
16 about the highest learning standards for
17 these students with that I will end.
18 Ms. Podziba: Questions for
19 Martha?
20 Ms. George: I have a couple of
21 questions. The first is their demographic

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1 information available current demographic
2 information about and I do see the chart
3 with the state break down but do you have
4 by race or ethnicity or demographic
5 information in those states that went over
6 the one percent?
7 Mr. Rooney: I am not sure we
8 have that data we can look to see if we
9 can get that data.
10 Ms. George: Okay.
11 Each of the two alternate
12 consortia have attempted to gather
13 information on the students who are
14 participating in the alternate assessments
15 for one they captured the inventory or the
16 other is called first context survey. I
17 don't know the data off the top of my
18 head. My recollection is that there were
19 nothing seemed out of place in terms of
20 representation by different ethnic groups
21 et cetera. I could find that data.

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1 Ms. George: I think I need
2 additional clarification between the
3 enrolled and the alternate achievement
4 standards. The alternate achievement
5 standards are how much we want the
6 students to be able to do, how much to
7 learn and in the content standards is that
8 more about proficiency? Can you clarify?
9 Mr. Rooney: This may be a better
10 question for us to clarify. The
11 requirement and I will talk about this a
12 little bit more before we get into the
13 issue paper. All states have and
14 alternate assessment and in regulations in
15 2002 the Department allowed states to have
16 alternate tests with alternate achievement
17 standards. What was in regulations into
18 statute which gives definition for states
19 to develop alternate achievement standards
20 with the group of students with the most
21 significant cognitive abilities. What are

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1 the highest standards that this group of
2 students can attain for that grade and
3 then those become the alternate standards
4 that you put those kids to, and you assess
5 them and based on that assessment based on
6 whether that met that proficient alternate
7 and based on that it can be reported back
8 to participants and teachers.
9 Ms. George: The alternate
10 assessments are informed by previous data
11 or information regarding alternate
12 achievement standards.
13 Mr. Rooney: So in order to the
14 general process states use when they
15 establish their assessments for general
16 assessments and alternate assessments is
17 they develop their assessments and they
18 administer the students, and they get the
19 data back from the first administration,
20 and they bring together people in the
21 state who have a broad range of diverse

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1 backgrounds and content expertise within
2 look at that data and help identify what
3 is the appropriate achievement standards?
4 The set in this case the ultimate
5 achievement standard that's set for the
6 alternate achievement standard.
7 Mr. Hager: I just want to make
8 sure I got it right? It's hard to grasp
9 it maybe I am trying to do it more
10 graphically I guess. We have a fifth
11 grade content standard then the alternate
12 achievement standard should be based on
13 that fifth grade content standard but it's
14 going to be what is the highest level of
15 expectation for what could they learn at
16 that fifth grade level so it's not going
17 to be the same as the fifth grade level
18 but it's going to be based on the fifth
19 grade level general content is that?
20 Ms. Thurlow: Generally, yes it's
21 a hard concept. Okay. I think there's a

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1 great paper that came out of one of the
2 consortium called standards that are the
3 same but different. It really defines
4 what the content standard is and what
5 would an alternate achievement standard
6 look like? It gives concrete examples
7 which I can't easily do off the top of my
8 head, but I can read the things they have.
9 This really looked at how do you set a
10 high expectation so the achievements
11 standard is about the expectation for the
12 student and you can set expectations that
13 are high, lower, very low, and so what we
14 are talking about is what is that
15 expectation? What is that alternate
16 achievement standard appropriate for this
17 group of students still linked or aligned
18 to that grade level content. You don't
19 want to lose track of that content. The
20 students may interact with their peers.
21 Mr. Hager: So really the goal is

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1 I think you did elude to this I want to
2 make sure in terms of including students
3 with significant disabilities in a grade
4 level class like inclusion class this
5 would be a way to align the contents to
6 make it easier for that student to be
7 included in a regular grade level class is
8 that the intent?
9 Well, I do think that's part of
10 the intent and even if these students are
11 and I don't, well even if the student is
12 in a separate class as they go through
13 school they will have the content so that
14 they can talk to peers out when they
15 finish their K 12 system. Its ideally
16 there would be their same grade peers all
17 through school.
18 Mr. Hager: So really the goal
19 maybe and older view would be if you are a
20 student with significant disability you
21 are going to learn this first and you

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1 don't go onto the next thing until you
2 learn that now we are not using that model
3 as the student is aging chronologically
4 the expectations for each class are going
5 to go up like the other students would do?
6 Ms. Thurlow: Yes. I would say
7 this is a group of students who have
8 particularly suffered from a desire to get
9 them to learn all the very basic skills
10 first and never being ready to get into
11 the grade level which is critical.
12 Ms. Podziba: Are there any other
13 questions from Martha? Patrick, I think
14 we are ready to go into the issue paper.
15 Mr. Rooney: Okay. I think we
16 talked a little bit about all the
17 assessments I want to give you some of the
18 broad context and overview in order to
19 fully engage in the issue paper. We know
20 some of the history. I mention add second
21 ago that a little bit is a mix between

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1 IDEA and the ESEA that idea requires
2 states to have an alternate assessment for
3 their assessments. Under the regulations
4 for NCLB the Department permitted states
5 to develop and alternate assessment based
6 on alternate achievement standards with
7 the students for the most significant
8 disabilities. A lot of what's
9 in -- there's some differences that we can
10 spend time on during the sessions to try
11 to flush out. Based on the available
12 research student’s with disabilities make
13 up about ten percent of all students in
14 the schools that vary slightly from state
15 to state but that's the general census
16 it's about ten percent of students with
17 the most significant cognizant
18 disabilities. I think Tony's question
19 might have been that you know the
20 Department has not defined the most
21 significant cognitive disabilities but

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1 states have operationalized definition of
2 what constitutes the most significant
3 cognitive disabilities generally speaking
4 and it's about ten percent of students
5 with disabilities, so that would be about
6 one percent of all tested kids would fit
7 into this category, students with the most
8 significant cognitive disabilities. So
9 generally speaking this is alternate
10 assessments based on alternate achievement
11 standards for the purpose of this
12 discussion just refer it to alternate
13 assessments and it avoids acronyms. Just
14 know when I say alternate assessments that
15 we mean the test for one percent of the
16 population possibly that is based on
17 alternate statements. A little more
18 context that's helpful when we establish
19 the rules for the alternate assessments we
20 put a cap on there's no cap on how many
21 kids can take the test, but there was a

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1 cap on how many kids could score
2 proficient on the alternate assessment and
3 be included in the states accountability
4 system. If more than one percent of kids
5 passed the alternate assessment the state
6 would have to re-designated some kids not
7 proficient for the purposes of
8 accountability because the cap was at one
9 percent of all tested kids could pass the
10 alternate assessment. Do you have a
11 question Audrey? I want to make sure you
12 understand that.
13 Ms. Jackson: I may have been
14 fluctuating my full attention so please
15 tell me. You are talking about previously
16 how one percent worked. Not my
17 interpretation. My interpretation at the
18 most you could count one percent of kids
19 tested proficient towards your proficient
20 status what I thought you heard if it's
21 over one percent tested proficient they

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1 would have to be reclassified as not
2 proficient which sounds wrong?
3 For the purposes of
4 accountability systems they couldn't
5 exceed one percent. If a state were to
6 exceed one percent of kids had pass it had
7 alternate assessment they would re-
8 designated some of these kids non-
9 proficient. In terms of information that
10 goes back to parents they would get the
11 score on how their student performed. The
12 Department was not very prescriptive on
13 how that was done because stated couldn't
14 exceed one percent. If they did they had
15 to have a process by which they got under
16 that one percent cap?
17 Ms. Jackson: They were deemed
18 non-proficient but they were simply not
19 included?
20 Mr. Rooney: They had to be non-
21 proficient.

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1 Ms. Jackson: Am I wrong Martha?
2 Ms. King: I think you are saying
3 the same thing in different ways. For the
4 individual child who was proficient would
5 get a score of proficient back to the
6 home, et cetera, and this is state level
7 right? For state level and accountability
8 if you had more than one percent you could
9 only count one percent.
10 Mr. Rooney: State and district
11 level. Neither states or district could
12 exceed one percent. The theory was to be
13 sure they were being properly assessed to
14 make sure they were not being put into it
15 inappropriately. They put the cap at one
16 percent. Under the ESSA there's a
17 significant change in that there is a cap
18 now of the percentage of kids at the state
19 level who can take an alternate assessment
20 so the cap is now at the state level the
21 cap is one percent of all tested students

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1 can take an alternate assessment. There
2 is no cap -- it's explicitly said in the
3 statute there's no cap at the district
4 level and there may be reasons for that.
5 One of our questions is to get at that
6 question. There's now a cap on how many
7 kids can take the alternate assessment.
8 There's a couple of things in your binder
9 of additional pieces in your binder. I
10 mentioned already that there were two
11 pages from there should be four A that
12 were appropriate for four B. There's also
13 another one that shows participation
14 alternate assessments based on the
15 alternate standards. Janel said with her
16 question, the 13-14 school year is the
17 last date the percentage of kids who took
18 an alternate assessment. We want to get
19 that background information as information
20 reference for you just thinking about this
21 discussion. Some states were under one

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1 percent of kids assessed on all three
2 assessments some states were over one
3 percent including some states were up
4 to -- in 2013-2014.
5 Ms. Rigling: Can I point out
6 don't assume those states were out of
7 compliance because as Patrick said, the
8 cap, the one percent cap was on the number
9 of proficient scores that could be
10 included in accountability. There was no
11 cap on the number of students who could
12 take the assessment. This is just sort of
13 helpful background information because now
14 the cap is on at the state level and the
15 number of students who can take the
16 assessment, so obviously the states that
17 are assessing more students than one
18 percent are going to have to have
19 procedures that probably redefine or
20 provide more monitoring of who's being
21 identified for this assessment in order to

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1 not proceed the one percent cap on
2 participation. The other thing is there's
3 a footnote in 13 or 14 there's several
4 states implementing something the rights
5 committed called modify. Those are no
6 longer permitted and so it's we don't know
7 in 14 or 15 for example if some of those
8 students were pushed into the one percent
9 alternate assessment or whether there's
10 students like they should have been were
11 assessed with the general assessment, so
12 is this sort of a, the information we are
13 providing is meant to be background
14 information, but and not necessarily an
15 indication of what states were doing in
16 14-15-15-16 and what we will be doing in
17 16-17.
18 Ms. Podziba. I see name tents
19 going up. Does it make sense to work your
20 way through the issue paper do you want to
21 take clarifying questions first.

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1 Mr. Rooney: I might want to go
2 through one or two more points. I want to
3 make sure I layout as much as I can. We
4 can take questions and go to questions and
5 issues. Even though the law says states
6 may not assess more than one percent of
7 the students with disabilities. The law
8 is explicit in the section of the statute
9 actually that states may request a waiver
10 of this requirement, and if we in our
11 public comment period and in our
12 conversations with the public have heard a
13 lot that this could use clarification in
14 terms of what would be required the state
15 were to ask for a waiver of the statewide
16 cap and how many kids can take and
17 alternate assessment. How we balance the
18 need to make sure kids are getting the
19 appropriate assessment with any concerns
20 that kids would be inappropriately
21 assessed on alternate assessment which we

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1 will have implications for students in
2 their sometimes alternate assessments
3 aren't forgetting a regular diploma they
4 may have other indications that have not
5 because the federal purpose is to have
6 them just for state and local reasons and
7 how it's added into the system. I think
8 that's enough for us to get started. I
9 think that was partly where the question
10 came from. I think we can take the
11 questions before we start into the
12 questions for discussion.
13 Ms. Podziba: Committee
14 clarifying questions Thomas you are up.
15 Mr. Ahart: Out of curiosity
16 knowing the circumstances of my district
17 has there been a persistent issue of those
18 folks exceeding the one percent or folks
19 altering to -- the one percent?
20 Mr. Rooney: Prior to ESSA
21 passing states and districts could assess

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1 more than one percent in alternate
2 assessment. The most recent data we have
3 in how many kids are taking alternate
4 assessment. If it exceeded one percent
5 then the compliance issue or put the state
6 or district out of compliance with law.
7 Under ESSA there's still no requirement
8 that a district assess fewer than one
9 percent. The cap is at the state level
10 not district. The district level
11 exceeding one percent is in compliance of
12 the law.
13 Mr. Ahart: What we are trying to
14 solve here that we feel there's too many
15 students being assessed inappropriately?
16 Mr. Rooney: We want to make sure
17 all students are being assessed
18 appropriately. I don't know if the
19 Department can say they are
20 inappropriately being assessed. I think
21 that's a student-by-student basis. I

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1 think our best data is that student's with
2 the most significant cognizant
3 disabilities is about one percent of the
4 population. We would assume balancing out
5 the states one percent would be the right
6 amount of kids taking that. There's
7 probably more in some areas but that's
8 just speaking.
9 Mr. Ahart: Thanks.
10 Ms. King: I wanted to get some
11 of the history. The intent has been that
12 one percent was sort of a high ceiling
13 right? It was never meant to be a goal
14 and so like to Thomas point the objective
15 here is not that there would need to be
16 enforcement right if everyone is being
17 appropriately assess that had the
18 expectation is everyone is appropriately
19 assessed then that would come under one
20 percent of all students giving the
21 alternate assessment wasn't that the

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1 foundation for the one-percent in the reg?
2 Ms. Rigling: I think that the
3 figures that we had at the time indicated
4 that there was about .5% of students with
5 the most significant cognitive
6 disabilities, to Liz's point the one
7 percent we felt was generous.
8 Ms. King: Generous is a little
9 bit of a unnerving word I would say larger
10 is a better adjective that one percent was
11 higher than what we would expect because
12 right the goal here is not about punishing
13 anybody it's only ever about making sure
14 children are receiving assessment that's
15 appropriate given the situation they are
16 in.
17 Ms. Rigling: Again, under the
18 old reg the limitations wasn't on the
19 number of student who is could be assessed
20 which is why you see in the chart a number
21 of states exceeding the one percent. That

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1 wasn't our restriction on them provided
2 like Liz says that their IEPT's were
3 identifying the appropriate students.
4 Mr. Wilbanks: For the sake of
5 saying why we are here. I am wondering if
6 we are not exceeding to be the rule making
7 process here this one percent is pretty
8 much accurately stated one percent is one
9 percent. However, it does say that
10 there's no limit to those and whatever
11 that number is whether it's .01 or 3% is
12 determined by IDEA there's some very
13 strict rules in the regulations there. I
14 just want to throw the question out there
15 is there something that we as a committee
16 can do. I personally think it may exceed
17 what the rule making process is. I will
18 leave that for discussion.
19 Ms. Pompa: This gets close to
20 your first question but I don't know if I
21 heard you mention it? It's a point of

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1 information what is, how do the, how is
2 significantly cognitive -- pardon me?
3 Most significant cognitive disabilities
4 defined currently? If it's defined in a
5 way other than through the federal
6 government what's the level of variation
7 in that definition?
8 Mr. Rooney: I would like to
9 respond to that if that's okay. If
10 there's no clarifying of that that segways
11 into the first question if that's okay?
12 The first question is should the
13 regulations define students with the most
14 cognitive disabilities? It is not defined
15 in the ESSA and its not been defined by
16 the Department previously. We identified
17 that student, that states needed to define
18 that term themselves or who's eligible for
19 the alternate assessment but we left
20 discretion to the state to determine that.
21 I will say and this is that I want to

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1 point us to the two documents that were,
2 the supplemental information in your
3 binder and the tab for four A. I
4 mentioned that the outset that I think are
5 relevant to this particular topic Delia
6 there's two consortium of states that are
7 designing new alternate assessments.
8 Their definition last year in 2014-15 in
9 29 states in the first two dynamic
10 learning maps, and the second is national
11 center and state collaborative. They over
12 the past four years were defining new
13 alternate assessments for the students
14 with the most significant cognitive
15 disabilities. Because they were working
16 together to design the assessments they
17 worked together what are eligibility
18 criteria. As they were designing what the
19 assessment should look like they were
20 looking at the same group of kids. It
21 made sense for them operationally to do

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1 that. On these two pages we shared the
2 participation guidelines that dynamic
3 learning maps and the national center
4 collaborative and NCSC came up with. If
5 you look they are very similar they worked
6 together across the two consortia to
7 design common criteria how a state,
8 district IPT team to go through with a
9 student should take and alternate
10 assessment or not. They are good starting
11 points or discussion points to consider if
12 you are thinking about the regulation or
13 Department should in some way define the
14 most significant cognitive disabilities
15 that the helpful to the field to write
16 that clarity. That's the question I have
17 for you is whether that's appropriate. At
18 that point I would love to hear the
19 committees thoughts.
20 Technical difficulties. Missed 4
21 comments. (Leslie, Audrey, Tony, Lisa)

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1 Ms. King: -- I just we see this as
2 a core civil rights issue and a disability
3 rights issues that about including all of
4 our children and including our children
5 with disabilities I think to your point I
6 am so glad in your district this is not a
7 problem. The challenge that we have is
8 that we do know there are places with
9 children with disabilities is being
10 excluded this cap is to prevent that.
11 Mr. Hager: In response to Tony I
12 also would agree with Liz. There's
13 disagreement within our disability
14 community. That we would prefer there's a
15 federal definition and we do have these
16 basically consistent provisions that are
17 being used and a number of states that are
18 helpful and kind of really I don't want to
19 use it. They are helpful in what does
20 this word mean what does the most
21 significant cognitive disability mean? We

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1 do think that these do provide a good
2 working definition. However, short of a
3 full federal definition we definitely want
4 what it isn't and we want to very clearly
5 delineated we want to give guidance to the
6 states. It's not just about federal heavy
7 handedness. It's helping to make sure
8 that the states have information they need
9 to help make good decisions our goal would
10 be a definition, but an alternative would
11 be looking at these exclusionary criteria
12 in building that into a definition. We
13 are not going to tell you exactly what it
14 is and we will say what it isn't. It's
15 based on each of those words most
16 significant cognitive disability. These
17 exclusions are really trying to say how do
18 we make that real by this is what it
19 shouldn't be so that's my thought.
20 Ms. Briggs: Reading through the
21 statute I am trying to wrestle with how

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1 this is different from the original
2 writing having to spend a little bit of
3 time with that. I am going to echo Liz's
4 sentiments on the importance of the cap
5 and using those scores for accountability
6 purposes. I am less convinced that
7 definition to be included in the
8 regulation I feel like this is such a
9 student by student IEP team decision is
10 encourage bid this guidance. This is
11 fantastic information by these two
12 consortia. Even in March that was
13 explaining how much this has moved since
14 2002. I am thinking about how this work
15 will unfold over the next few years is the
16 introduction of the cats and how those
17 assessments are going to be assessing the
18 kids not only above grade level, but below
19 grade level my assumption is that maybe
20 one reason why the modified assessment was
21 taken out because these cats can grab kids

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1 at lower grade levels than where they are
2 enrolled. So it almost is like to see how
3 are these things going to play out before
4 we start adding in you know definitions
5 that are hard to work around or to adapt
6 to a particular child. That's kind of how
7 I was thinking about this.
8 Mr. Wilbanks: You had requested
9 at the beginning if we had serious
10 concerns about an issue. We need to
11 notify you early on, and I am doing so
12 now. I just don't believe that this is
13 something that we need to write a
14 definition for. It's already in IDEA.
15 It's very clear and I know the definition
16 and unless we just like IDEA it would be
17 confusing both with its state SEA and the
18 local so that's my thought.
19 Ms. Podziba: Thanks for flagging
20 that.
21 Mr. Rooney: I did want to -- it

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1 is not defined IDEA that term is not
2 defined in federal law. The question is
3 whether we should define it here in ESSA.
4 I want to make sure that term isn't
5 defined here.
6 Mr. Wilbanks: And I agree in
7 that should tell us something too because
8 they are guidelines and procedures and
9 process, due process that people can
10 follow.
11 Ms. Podziba: Thank you.
12 Mr. Cheeks: I think in an effort
13 to reach some point of consensus for this
14 particular group this is about title one
15 part A. Someone mentioned it earlier it
16 may have that I'm not sure if this body
17 has the inner working for the IDEA world
18 to each make the recommendation to have
19 codified definition or not. With that
20 being said I think also probably can send
21 a clear message that there is a need for

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1 greater guidance and greater information
2 to be shared with states around this
3 particular definition. It also appears
4 that some states have I thought I heard
5 someone mention earlier that some states
6 are already defining this term another
7 factor that we may want to consider is
8 with a definition even though we may not
9 have the capacity to generate the
10 definition we will possibly put ourselves
11 in a position of automatically causing
12 states not to meet the already statutory
13 requirement of the one percent. So that's
14 another factor that may need to be
15 considered in terms of the conversation
16 about having or not necessarily having a
17 definition. I think the IEP itself the
18 factors that are tied into the IEP would
19 accommodate some of the factors that were
20 raised particularly from
21 the -- components. It would engage the

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1 parent so they would know the rational or
2 background behind that particular child
3 being designated in that criteria or not.
4 I think we should keep our lens around
5 title one part A and its ability to
6 augment and support in addition to the
7 IDEA world.
8 Ms. Podziba: I am going to take
9 four more comments on this question and I
10 think we will move to the next one.
11 Janel?
12 Ms. George: I hear the concerns
13 and share the concerns especially Kerri's
14 point about this is really a student-by-
15 student determination. I am wondering
16 just based on the research and the data
17 conducted by both DLM and NCSC which
18 layout their criteria in the supplemental
19 material and which 28 states and the
20 District of Columbia, Alvin including your
21 state of Mississippi are following.

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1 Currently if that's your guide would the
2 definition could be understanding that all
3 states are not following that? But I am
4 wondering if some of the variation we saw
5 earlier above one percent is probably
6 attributable to the fact that we have so
7 many varying definitions. It's providing
8 not only clarity through regulation but
9 also through guidance in addition non-
10 technical assistance to states can help
11 implement this change.
12 Ms. Goings: States clearly have
13 a developed a system or process for
14 identifying students with disabilities
15 that is included in that IEP process.
16 That process when they go through and they
17 hold the IEP meeting it's during that time
18 and it's based on a preponderance of
19 information provided by the school
20 psychologist and the speech pathologist
21 and patient interview and teacher

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1 interviews there's a preponderance of
2 information that help guide them to
3 identifying whether the child is
4 significantly cognitively impaired that's
5 not the word I wanted to use. If you go
6 through that process and it's called the
7 eligibility process once that's done and
8 the students identify then services can
9 then ensue based on students' needs whether
10 it's significant cognitively adult delay
11 or minimally. Know that process is
12 already in place and it's placed at the
13 state level, and they help guide school
14 districts in identifying students with
15 disabilities. There is a prone I believe
16 a three prong if the child eligible and if
17 I can't think of the other prongs I will
18 get it. There's three prongs to identify
19 students with disabilities. You need to
20 rely on your state if your state does not
21 have and eligibility criteria shame on

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1 them. Because that's what that process is
2 for.
3 Ms. Pompa: One of the beauties
4 of the ESSA is that it was built on the
5 strong parts of NCLB and hopefully the
6 part that is weak or problematic limiting.
7 This work by the two consortia builds on
8 something that was set up. We talk often
9 throughout the day today and yesterday
10 about how important it is to provide
11 technical assistance to see what arises
12 from the field. This is a great example
13 of something that has arisen from the
14 field and you have consensus among 29
15 almost 30 states. It would be ashamed to
16 let that research and experience go out
17 the window. When we talk about a
18 definition perhaps we shouldn't be so hung
19 up on the definition of definitions. I
20 think we can have a definition that was a
21 framework more than a specific word for

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1 word here's how exactly you do it that
2 would build on what we have learned
3 through work of the two consortia and from
4 the experience of those 30 states and have
5 some guidance or regulation that would
6 layout that material that would be
7 appropriate?
8 Ms. Pin Ahrens: I am very
9 concerned about the last of definitions
10 and that there's variation at the state
11 level. I appreciate that state haves a
12 process. It means that there's tremendous
13 variation in the services and
14 accommodations that are given to students
15 and their families. I wonder because we
16 have this protocol in place where we can
17 form a subcommittee to look into the issue
18 and I don't know if it's appropriate to
19 suggest that maybe we form a subcommittee
20 to look at the current state level
21 definitions to find out what the best

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1 practices for the accommodations that are
2 given to students and families who are
3 identified. I would also like to you know
4 ask the subcommittee if they can look into
5 the demographics of the students that are
6 identified to see if there are issues with
7 certain definitions of misidentifying or
8 over identifying certain demographics.
9 Also, I would like to know the information
10 sharing practices with the family in terms
11 of after their children have been
12 identified what kind of information is
13 shared with them as to the you know what
14 impacts their child will have as a result
15 of taking these altering definitions.
16 Ms. Podziba: I thought you were
17 suggesting that you wanted to create a
18 subcommittee but I heard you saying that
19 you would ask a subcommittee certain
20 things I don't know if you are hoping
21 other people the committee will create of

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1 themselves a subcommittee or if you are
2 volunteering to create that subcommittee?
3 I don't think I'm the best expert
4 for this so it would be someone else.
5 Ms. Podziba: If there's people
6 that want to consider that we will see if
7 people come forward. I did say last three
8 comments on this question. I don't want
9 to shut the conversation down. I will
10 take those comments but I want to be aware
11 that we want to move through the issue, so
12 Tony you are up.
13 Mr. Evers: I will speak quickly
14 first of all I have a question and is
15 including a definition explicitly called
16 for in the statute that's always one of
17 the things I ask. I am asking it again.
18 Second of all I am very concerned that a
19 federal definition in this category or any
20 categories frankly I would be in direct
21 conflict with IDEA and our long time

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1 connection that the IEP team is a place
2 where decisions are made that's a concern
3 of mine. Apparently, if we want to put
4 together criteria apparently we believe
5 that IEP teams aren't necessarily doing
6 their job which is a different thing, the
7 other thing and people have brought it up
8 caps are in place. This deals squarely in
9 states prerogative. There's no one
10 percent on local district there's one
11 percent on state. Clearly states are
12 going to have to figure out methodologies
13 and systems to ensure compliance here. So
14 we have adding the federal definition to
15 this I think will make that possibility
16 each more complex.
17 Mr. Ahart: I want to make sure
18 that I echo what Tony just said. There
19 are requirements already in both under
20 IDEA for the state and or district to have
21 established guidelines for this process as

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1 Regina referred to it it's a three-prong
2 test. It feels like IDEA is the best
3 place to address this level of
4 specificity. It feels like a definition
5 is outside the scope of what we were
6 asking for ESSA.
7 Ms. King: Yeah a couple of
8 things toward speaking to this
9 intersection of the ESSA and IDEA. The
10 way IDEA works is identifying children
11 eligible for special education service
12 which is a different process which this is
13 narrow to the scope of assessment and
14 accountability provision. What we are
15 trying to identify is who are the purposes
16 of assessment as required under federal
17 law and which then lead into state
18 accountability systems design consistent
19 with federal law. What is the appropriate
20 way in which to assess children? So I
21 think that I am not sure I totally

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1 understand that IDEA conflict concern
2 right this language around most
3 significant cognitive disability is
4 specific to this moment because the
5 specific function of this law work very
6 differently than the way IDEA works. I am
7 not at all worried that there would be
8 having a definition here would be
9 inconsistent with IDEA, and it wouldn't
10 interfere with the way a child is
11 classified for IDEA services or anything
12 like that. The other thing I want to say
13 is IDEA doesn't sort of just sort of give
14 anybody free will to go forth and come up
15 with a category of children with a
16 disability and then provide them some kind
17 of services right like there is definitely
18 discretion needed within the IEP team
19 that's fully appropriate. There's also
20 strong federal guidelines in IDEA as well
21 as regulation to guide IEP teams what the

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1 appropriate things are in identifying
2 children eligible for different services.
3 To the earlier point I agree with
4 everybody that there is we could come up
5 with a very bad definition that's
6 certainly possible. If we had a
7 definition that for example made reference
8 to individual disability categories as
9 identified in idea that would be a bad
10 definition. If we had a definition that
11 wasn't based on the pervasive nature of a
12 disability that it you know it included
13 students based on only one domain or
14 things like that. We could come up with a
15 bad definition which is bad children and
16 bad for schools and bad for everyone, so I
17 think there's a way to come up with you
18 know and maybe a definition is not the
19 word we should be using. Maybe criteria
20 is a better word perimeters or guidelines
21 or something like that within the reg's so

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1 that we can continue to make what is a
2 very clear statutory cap of one percent of
3 all children continue to make that
4 meaningful in a way that you know is
5 helpful in a way that is ensuring some
6 consistency in identification for the
7 alternate assessment. That was my
8 recommendation on that is that you know
9 yeah I wonder is definition is where we
10 are getting tripped up is the use of the
11 word definition.
12 Ms. Podziba: I have a hunch that
13 Patrick and the Department have enough
14 input in this Department. I think you
15 will have a chance to persuade each other
16 in various ways when this issue comes back
17 up. Patrick, can you take us to the next
18 question?
19 Mr. Rooney: You are correct on
20 that assumption. (laughter). The second
21 question: How is state able to ensure that

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1 it does not assess more than one percent
2 of children with and alternate assessment
3 that's not able to limit the number of
4 students at the district or school level?
5 I think we can anticipate there's many
6 reasons districts may need to go over one
7 percent that multiple districts send kids
8 from one district that is the kind of
9 receiving school for kids with the most
10 significant cognitive disabilities or if
11 the school is located near a rehab
12 hospital if there's other things that we
13 need to have more than one percent.
14 That's why there is not a cap at the
15 district level. Presume by that would cap
16 out at one percent. This question is how
17 will ensure that it does not assess more
18 than one percent when it can't, it cannot
19 limit that percentage at the district
20 level and kind of in a pragmatic practical
21 terms you know whether our regulation

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1 should do anything to help support or
2 guide states to trying to figure out how
3 to implement this new cap within the ESSA.
4 Mr. Hager: I will jump in. The
5 first thing is the way you have the
6 question phrased in terms is not able to
7 limit its a little bit narrower than that
8 when you look at the statutory term. You
9 want to make sure that you are using the
10 actual term you know the provision for the
11 prohibition on the local cap it says that
12 neither the secretary or a state so either
13 the Education Department or state
14 education can oppose on an LEA a cap on
15 the percentage, so it would allow for
16 targets or ranges. It can't be an
17 absolute cap. So what are the ways in
18 which a state could help ensure you know
19 it's basically going to be a monitoring
20 the state is going to have some kind of
21 monitoring process of what's going on in

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1 the school districts for its purposes so
2 that if you got one district over here
3 that's higher or one over here that maybe
4 lower they have to be keeping an eye on
5 where the school districts across the
6 state are, and where there might be a
7 school that's going over they need to have
8 some process of reacting to that or
9 getting information from the school
10 district why are you? Are you where you
11 are at? Are you using the wrong criteria
12 or are you do you have the exception that
13 Patrick said, where you have a hospital or
14 some other thing there that you have more
15 incidents across the state. The state
16 could have some guidelines about where
17 they may look at a school district. Is if
18 you are in this range we will look at you
19 why you are in this range which is
20 different than having and absolute gap.
21 And so first of all is there can be

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1 targets or ranges that a state could use
2 is they are looking at what's happening
3 across their state they definitely need to
4 have some kind of monitoring process and
5 some kind of I will use an intervention in
6 a general way first of all finding out why
7 they are there, and if there needs to be
8 some support to this school to ensure
9 compliance with this provision. The
10 school, the state has the cap but the
11 school districts are required to provide
12 only this eligibility, only students that
13 qualify are supposed to be in this
14 category. Even the school district
15 doesn't have a cap they do have criteria
16 they have to follow to who they provide it
17 to. The third thing is creating and
18 promoting a culture of best practices and
19 why are we worried about that and ensuring
20 that the school districts have the
21 resources to fully provide the services

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1 that students with disabilities need so
2 that only the students that really do fit
3 into this category are in the category.
4 Mr. Rooney: I think it would be
5 helpful to follow some of your comments if
6 you look on the statute under tab B after
7 this on page 28 of the statute that last
8 paragraph is the prohibition on the local
9 cap. If you wanted to look at the
10 language that would be exactly where the
11 prohibition is in the statute.
12 Mr. Evers: I will argue again
13 for this question for not regulating.
14 There's nothing -- for using the
15 accountability to incentivize one percent.
16 There's nothing in the statute that would
17 prevent us as states to have districts
18 that anticipate exceeding the one percent
19 to consult with us and hopefully in a
20 collaborative way to look to reduce that.
21 There's nothing to prevent us from those

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1 that exceed the cap to subsequent to that
2 to having a plan in place requiring a plan
3 in place to reduce it. There's all sorts
4 of things states can do and will do
5 obviously because we are the ones that are
6 responsible for making this happen. So I
7 don't think there's really a way to craft
8 regulations that would identify all the
9 different things that we could do and
10 every possible change that or individual
11 child situation it just means regulate to
12 me. I would encourage the lack of the
13 word regulation here.
14 Ms. Jackson: I was going to say
15 that I think in some ways how the state is
16 responsible for justifying anything over
17 requesting waivers to explain why they
18 would go over one percent in a similar way
19 that LEA's can be required to justify to
20 ESEA's as we said for specialized program
21 and high prevalence in many ways that

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1 would facilitate the sharing of
2 information on any issues that ESEA would
3 want to be informed and get involved more
4 formally. That justification mirroring
5 between LEA and SEA could be useful
6 without being specific or descriptive.
7 Ms. Ricker: Thank you. I am
8 trying to be mindful with a lot of things
9 in wrestling with this question, so
10 ultimately the state has to have the cap
11 and so where does the accountability then
12 go besides obviously besides the state?
13 What is the sanction or incentive, what is
14 the -- you know there is a state that ends
15 up assigning a ratio or something and
16 feels that's their way of getting around
17 to assigning a cap to a district? I think
18 of essentially where does the
19 accountability get driven. My question is
20 how can we be mindful that we aren't
21 putting unintended pressure on teachers in

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1 IEP teams and there is and there's and
2 honorable pressure right that teachers in
3 IEP teams not only feel themselves to
4 their students or school communities, et
5 cetera. And unintended pressure that
6 would end up having negative consequences
7 is like that what I am trying to wrestle
8 with right now with what feels like a very
9 incongruent note. This idea that there is
10 a cap at the state and yet you know so the
11 state is responsible for what districts
12 are deciding to do. Districts end up
13 putting pressure on teachers and IEP
14 teams. I can hear the calls right now. I
15 am trying to be mindful of how you do this
16 with some integrity without that
17 unintended negative pressure at the
18 decision point that we might all say is
19 actually the most impactful and the most
20 important.
21 Mr. Pohlman: I just want to echo

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1 that I think it's very important that to
2 be viewed through the lens of
3 collaborating with LEA's and I think this
4 is hits on the theme from a couple of
5 comments. Schools have lived through with
6 their states and implementation of the
7 caps already. I think a number of schools
8 through that process realized that they
9 had some work to do, the state realized
10 they had work to do. These were highly
11 localized issues and the issues that
12 Washington DC experienced for different
13 than those in New Hampshire or Texas or
14 California. I think that for that reason
15 I am having a hard time conceptualizing of
16 a federal regulations that are specific
17 enough to be warranted and yet doesn't
18 infringe on or not even infringe or
19 truncate states abilities to work
20 collaboratively with their LEA's that
21 solve those problems in that instance, you

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1 know as charters we are often times given
2 that flexibility to innovate from the
3 space of having more accountability. I
4 think that those accountability metrics
5 are something that we are going to get to
6 that third question. I think that
7 interplay is certainly there and necessary
8 as I have read them of a way to make sure
9 that when a state is applying for a waiver
10 or that as districts that see that one
11 percent cap that there would be
12 accountability. That really needs to
13 transpire between the state and LEA and
14 not between the federal and the federal
15 rule of that relationship.
16 Ms. King: Thanks. I have a
17 couple of different things I wanted to
18 flag. I think it's important here to
19 remember that this is one area and I don't
20 know if this is sort of to my earlier
21 point about taking credit for the things

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1 we were going to do anyway where this
2 access to accommodations piece comes in.
3 We wanted want to be in a situation where
4 what's happening students are being over
5 included in the alternative assessment
6 they do not have accommodations they need
7 on the general assessment. As well as
8 universal design for learning is another
9 way that children are meaningful able to
10 access the general assessment. Also, to
11 refer that the Department is given other
12 guidance on standards based IEP's as
13 another way you know and just what I keep
14 thinking about with all of this is the
15 goal here I really do promise we in the
16 civil rights community do like to sigh a
17 lot of you that is true. Our goal is
18 children be well served at the first
19 place. If we all have to come back and do
20 enforcement actions what that means is a
21 child is not well served. Our goal is to

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1 come up with a system that will ensure the
2 greatest likelihood that children getting
3 what they receive. Technical assistance
4 Tony this one is on you. The states are
5 going to be providing technical
6 assistance. Partnership is a great way to
7 do that. We want technical assistance to
8 ensure that children are getting the -- in
9 the classroom. We do think there should
10 be rules for when people are not going the
11 right thing and not getting better. The
12 transparency around this is going to be
13 really important. States are going to
14 need to be transparency about when
15 districts are exceeding the one percent
16 cap, and what the justification is being
17 provided the public has access to that
18 justification I will agree maybe a totally
19 valid justification. If it's not the
20 public is going to need to know that a
21 district most likely not serving it's

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1 children with disabilities well. I think
2 the transparency is going to be really
3 important as well as sort of generally
4 throughout the regulations making sure
5 this is a meaningful cap. I do think
6 where ever we can direct states to provide
7 the support to districts and to provide
8 support to schools and classroom teaches
9 so we can get to the actual goal of all
10 children being served.
11 Mr. Ahart: I would like to note
12 that we have the ESEA's already have to
13 work with LEA'S and we have to plan who is
14 appropriate to be served with an
15 alternative assessment. It seems this
16 would be another exercise in redundancy to
17 expand. I am not saying it works
18 perfectly certainly. I will also say I
19 speak for all my district colleagues that
20 we share the same goal.
21 Mr. Hager: I think if both

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1 Richard and Thomas you have to be able to
2 come up at the federal level to come up
3 with a system that allows for flexibility
4 at the state level. I think there should
5 be or can be some federal guidelines for
6 the states that how the perimeters in
7 which they provide guidance what are the
8 flags they should consider. Whatever I
9 said earlier and I think there should be
10 federal guidance but definitely the
11 federal guidance needs to allow for state
12 flexible the statistics that we got from
13 that one tab. Even though there's no
14 state way over the one percent a
15 significant number of the states more than
16 half the states are over. There's a need
17 and it's partly because they didn't have
18 to do it. The states are going to be and
19 the districts are going to be moving 38
20 states for the reading and 37 in math.
21 They are going to have to be moving down

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1 to that one percent and so you know the
2 Department I think has some expertise
3 should be giving some guides on how can we
4 get there. Not that you can say you have
5 to do this or you can only do this. These
6 are things that you have to consider as
7 you are moving to get into the compliance
8 with that requirement.
9 Ms. Podziba: Just for
10 clarification sake when you say guidance
11 do you mean not regulatory?
12 I meant in the regulations
13 provide guidance through regulations.
14 Ms. Podziba: You are talking
15 about regulation because guidance is a
16 different set of things.
17 Ms. Briggs: I just thought I
18 would point out that a number of people
19 have raised questions about things that I
20 actually think are in the statute in the
21 way this issue paper is presented without

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1 having the -- we are not seeing some of
2 the protections information that's
3 required so there's you know a whole
4 clause on ensuring parents of students are
5 informed and what that means for how they
6 are being assessed, and what it means for
7 their high school diploma? And requiring
8 the state plan to incorporate EDL and so a
9 lot of these things sort of in statute
10 already that we are not seeing in this
11 issue paper because of the way it's
12 presented. I just want to point out there
13 is a lot here actually. I mean like way
14 more on this one percent reg than other
15 things that you know would think would be
16 more text on.
17 Ms. Briggs: Are you suggesting
18 that even in the part where in the
19 Department just repeats the statute that
20 many of the issues people are raising may
21 be accounted for?

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1 Yes, like the prohibition on the
2 local cap is sort of what a state can do
3 if that doesn't work and all of those
4 things there's a lot here about in the
5 statute that can be repeated.
6 Ms. Podziba: If it's all right
7 everyone --
8 Mr. Pohlman: I am curious if
9 there's a response to or how it can be
10 addressed that there's a negative here as
11 rules tighten and states are forced to
12 work with districts, we as districts can
13 often times feel prohibited from assigning
14 and alternative assessment or making that
15 decision when it is in the best interest
16 of the student. I think so there's this
17 flip side where I hear a concern coming
18 out of districts who may be over using the
19 assessment, but we also have districts
20 that are you know like my own who are made
21 up of entirely urban areas where the

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1 percentage of students with disabilities
2 is higher in that the percent of students
3 with significant cognitive disabilities
4 some data also suggests they are higher
5 and how we address that with schools and
6 IEP teams. I am back in the space of
7 collaboration that as we move to more
8 restrictive regulations that can cost us
9 in schools I realize it's tough from some
10 seats you can't assume the best actors are
11 in the seat, and we assume the best actors
12 in the seat, too. There's a negative
13 impact when you assume the worst actors in
14 the seat as well. If we were to go down
15 the line of regulations need to
16 accommodate for both of those because I as
17 a school administrator would never want to
18 make a bad actor decision, but I may be
19 forced to do so if there's pressure from
20 the state or an artificial cap put on me
21 as a district from my state level. I want

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1 to put that into the conversation as a
2 point of consideration.
3 Ms. Pompa: Maybe this is stating
4 the obvious but it doesn't say anything
5 here about the federal government
6 requiring a description of how states will
7 do this in the plan which to me you could
8 put together with what Kerri said was
9 already in statute referring to and Kerri
10 I haven't seen it. If you say there's
11 language that describes what states should
12 do if they are going over the one percent
13 cap. If there could be a connection
14 asking for a description for that in the
15 state plan or how the state is responding
16 that might be one way to take care of it.
17 Ms. Goss: We talk a lot about
18 the one percent cap as far as being you
19 know protecting the student. I think that
20 we also have to recognize that it's an IEP
21 decision and that we have to put the

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1 student first. Sometimes I have seen
2 where if we have this cap and this cap is
3 daunting on a district or state then
4 people tend to make a decision that isn't
5 in the student's best interest and they're
6 forced to take the non-alternate test and
7 so they are set up to fail from the very
8 get go. I think we have to be careful
9 both ways.
10 Mr. Evers: The last time I said
11 these conditions that are not explicitly
12 called for in the statute are these
13 regulations that people are suggesting are
14 they explicitly called statutes because
15 that's why we are here.
16 Ms. Podziba: Okay. Patrick, I
17 think we can go to the next question.
18 Mr. Rooney: Question three: Are
19 there instances in which the state could
20 justify testing more than one percent of
21 student with and alternate assessment. If

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1 you look at the statute let's see if I can
2 read to it you quickly. It is on page 29
3 of the statute where at the very top.
4 Roman number four on top of page 29. It
5 calls out the waiver program, they shall
6 be subject to the waiver program.
7 Identifying that the waiver 30 exists for
8 states, exist if there's this one percent
9 cap that they can request a waiver of the
10 cap. The question then is are there
11 instances in which a state could justify
12 more than one percent of students with an
13 assessment? -- when deciding whether to
14 grant a waiver of the one percent state
15 level cap?
16 Ms. Jackson: So this level is
17 definitely above my expertise, but I am
18 curious if there's any possibility or what
19 the precedent is if for to have sort of a
20 panel of experts either civil rights or
21 people who are advocates for students with

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1 disabilities to assist with reviewing
2 waivers. I am just thinking. I don't
3 know I am curious is all.
4 Ms. Briggs: A couple thoughts on
5 this so you have data that show you have
6 more states using this than one percent
7 now. They didn't have to have the
8 justification for it that's all I am
9 trying to get at. So you know you are
10 going to be faced with this. I would
11 think one thing that I keep coming back to
12 is what is the assessment system as a
13 whole design to capture and whether or not
14 a state has a cat and whether or not a
15 state has locally selected tests coming
16 into play and how are those things come to
17 mesh together and might effect this issue
18 of a cap of one percent?
19 Mr. Hager: I am trying to let
20 other people start, but I will thank Kerri
21 for starting out. We definitely think the

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1 waiver should not be freely granted.
2 There should be the expectation that they
3 will be meeting the one percent at the
4 state level meeting the one percent cap.
5 The procedure ties into the other
6 question. How can a state ensure that the
7 school districts are not exceeding
8 because if you have a bunch of school
9 districts exceeding your state is going to
10 exceed. The first piece is to make
11 looking to grant a waiver the state needs
12 to document the efforts that it took to
13 provide support and services to the school
14 districts to you know get you know get
15 within the one percent, A. B is there a
16 reason why the incidents this is across
17 the whole state exceeds one percent. For
18 example you have a school district that
19 may have a hospital or something where
20 students go and there's a lot of students
21 with more significant or most significant

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1 disabilities than normal that
2 statistically would expect. Now for the
3 state to justify go going over there.
4 What circumstances in the state would
5 justify going over the one percent. If
6 off small state population wise we would
7 like to the Mayo Clinic which could end up
8 having a lot of people. I am going to Mayo
9 back and forth. My parents said we are
10 going to move to Minnesota or the
11 Cleveland clinic if there's that much of
12 an impact at the state level to justify
13 exceeding the cap. The other kind of
14 documentation is that the state is
15 compliant otherwise compliant with the
16 IDEA in ESSA requirements in terms of the
17 SPP, the APR and SPP that the state can
18 document the training that the school
19 districts have had in this kind of what
20 the requirements are with the criteria
21 are, and yet those criteria are being

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1 appropriately considered then also whether
2 they are disproportionally for students of
3 color is another factor to consider yet in
4 granting the waiver. I am listing some
5 potential factors that could be
6 considered. At the basic principal is it
7 should not be freely grant that had the
8 state should have a high bar to justify
9 why it is as a whole state they exceeded
10 the state. When the state exceeded when
11 it presents to the Department to get a
12 waiver.
13 Mr. Ahart: I would suggest that
14 the state has followed the expressed
15 requirements for part of the assessment
16 under ESSA and has implemented and
17 monitored the IDEA requirements that can
18 be documented then a waiver should be
19 granted. I don't think there would be any
20 further regulations needed.
21 Ms. James: I think we heard it

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1 before but I would like to say it as well.
2 I think that we have really pay close
3 attention to the member of our IEP team.
4 When we are asking what should -- take
5 into consideration when deciding to grant
6 a waiver of the 1.0% cap it makes me
7 wonder how we value the IEP's team input?
8 If we believe that the people that have
9 made recommendations are doing it correct?
10 It just makes me wonder where's the value
11 in our IEP team if you know, if we are
12 asking Ed to take into consideration if
13 there is a case in which a state exceeded
14 1% it just makes me wonder where our value
15 is with regard to our IEP team.
16 Ms. George: Just to add to that
17 I definitely think we should value the IEP
18 team, and the part of the way we can do
19 that is providing IEP team with supports
20 and services and any technical services
21 they might need. We have to get back to

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1 evaluating the children who are subject to
2 these alternate assessments and look at
3 the consequences the very real
4 consequences of taking alternate
5 assessments. These are certainly
6 necessary at the students disability is so
7 pervasive. Do we have to recognize a very
8 narrow purpose of these assessments and
9 the reality that taking these means it
10 often means a student doesn't lead up to a
11 regular high school diploma? What does
12 that mean for that child in terms of
13 access whether it's employment or higher
14 education? We have to recognize again
15 that the purpose is a very limited purpose
16 and the consequences for students are very
17 real and as much as we want to applaud and
18 support all the great actors we still have
19 some very pervasive disparities
20 particularly along racial lines and
21 particularly for African-American males

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1 that we do have to recognize that we have
2 to look at our nations history and racial
3 discrimination and desegregation has
4 been -- it's not to say everyone is doing
5 it or every thing is happening but the
6 disparities are real these assessments
7 have very limited purposes. We have a
8 small cap to recognize that very limited
9 purpose and there's some real consequences
10 for students who do these ultimate
11 assessments.
12 Ms. Mack: Just to address the
13 question. What are some instances that
14 could justify, certainly population has to
15 do those if you deal with small states in
16 a one percent in a small state can be a
17 very minimal number. That justifies some
18 of that or if you have a state like
19 Montana that boasts more cattle than
20 humans or something like that you know
21 those kinds of factors can effect and

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1 justify that.
2 Mr. Ruelas: Time for a break.
3 (laughter).
4 Ms. Podziba: We are close to a
5 break so you know.
6 Mr. Ruelas: You know it's really
7 great to hear the reason the justification
8 for actually having a cap, and you know
9 this is a really tricky situation because
10 of the fact that I get it. Personally
11 when we talk about the whole issue of why
12 we even have the whole IEP process itself.
13 I think we should definitely make sure we
14 respect that. I do understand the reason
15 why we need to proceed with caution as
16 such. It's really. It is a really tough
17 situation the purpose of the whole IEP
18 process itself is to determine you know
19 which assessments and accommodations
20 students need appropriately. To just kind
21 of echo my colleague Lynn here we don't

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1 want to fall in that situation where we
2 are you know placing the students in
3 unnecessary or inappropriate assessments
4 just because of this one percent cap
5 itself, so that's kind of what I have been
6 thinking the entire time of listening to
7 everything and the reasons for not having
8 the cap versus the reasons for having the
9 cap and stuff this is really this is
10 tough.
11 Ms. Podziba: I am going to take
12 three more comments and then we will take
13 a break. Ms. Ricker?
14 Ms. Ricker: Thank you. So yes
15 there's instances I believe where a state
16 could justify this I think we have seen
17 because we have had states get waivers
18 granted that is true and suggestions for
19 what to take into consideration at first
20 very practically something that the
21 Department of Ed already does, and it's

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1 going to continue to do to take into
2 consideration catastrophic events that
3 occur and foremost on my mind is the sort
4 of special needs are children in flint
5 Michigan are going to need for the next
6 however many years and decades. Again, I
7 think the Department of Education is
8 already on that and you would continue to
9 do that but that pops into my head. I do
10 think the quality of the main or
11 alternative assessments impacting each
12 other so greatly is also something too
13 keep in mind because as you know as the
14 rich discussion we just had about high
15 quality computer adaptive tests
16 illustrates that with better access to
17 accommodations we may reduce the pressure
18 on alternative assessments and so I so I
19 would say as a suggestion in when you
20 would consider a waiver is asking or just
21 saying that we should take into

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1 consideration access to these sort of next
2 generation exams specifically to our
3 special needs community if you are asking
4 them to address that in a waiver what sort
5 of access specifically did a special needs
6 community have to increase the
7 accommodations and increase the
8 appropriate accommodations and things. I
9 think it's something that's entirely
10 appropriate.
11 Mr. Pohlman: Sure I think the
12 answer to the first question is yes. I
13 believe there are instances where this
14 state can justify succeeding the one
15 percent cap. What I think they should do
16 is a few things the first is that if value
17 weight based upon local license and yet
18 data driven requirements these are not
19 politically motivated by any sense. They
20 are rooted in data preferably years long
21 data and not just a single instance of a

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1 single year cap. The second that waivers
2 be time bound to further and incentivize
3 state to work well with their local
4 municipalities on that cap not that
5 multiple waivers of time bound instances
6 are not given. There's opportunities to
7 reevaluate the data periodically. In the
8 third piece which I think is important for
9 a number of constituencies is that the
10 data supporting the waiver be transparent.
11 This is important not just for those who
12 are at the table who may use the data for
13 as was so gently mentioned before lawsuits
14 but also for authorizers and they use this
15 did that to inform their decisions how
16 they look at authorizing schools and look
17 at authorizing more schools. I would again
18 stress that this is a big area for where
19 charter schools are serving a lot of
20 students that are most diverse and most at
21 risk students and this many of us have

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1 missions aligned to that. I would
2 encourage that to the extent practicable
3 that the Department think about how can we
4 encourage partnership with state
5 authorizers and the conversations about
6 this to the extent it's practicable.
7 Ms. King: One overarching point
8 I want to make I think we all have and
9 interest in a predictable waiver process.
10 I think we would all want a process that
11 anybody can look at and say I understand
12 why that waiver is grant add state could
13 reasonably expect that they could get the
14 waiver you know that everybody that's
15 predictability and granting waivers I
16 think is really helpful when the
17 Department is granting waivers. What
18 other possible criteria I wanted to add.
19 The overarching point I want to make is a
20 reminder to everybody this one percent
21 number is explicitly higher than we

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1 believe the incidence to be. There's a
2 distinction of the sort of children who
3 would be identified as being the most
4 significantly cognitively having the most
5 significant cognitive disability would be
6 different than thinking about special
7 education categories which do vary widely
8 from state to state which due more likely
9 to other factors than children. A couple
10 other things whether there's been a change
11 in the percent of the state population,
12 sort of thinking about other state
13 dynamics that would result in the need for
14 a waiver if there were a change in people
15 with the most significant cognitive
16 disabilities maybe that would be take into
17 consideration. I think also having a
18 clear definition of eligible children of
19 the most significant, children with the
20 most significant cognitive disabilities
21 would be helpful here is that really is a

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1 thorough guidance and I think there's a
2 reasonable defense that if request you are
3 consistently following that definition I
4 think you are exceeding the one percent
5 cap than if there's not a clear definition
6 to begin with. The racial
7 disproportionately the over representation
8 of categories of students of color with
9 disabilities in the alternate assessment I
10 think would be a flag and sort of get to a
11 larger point here which Aqueelha raised
12 with overall compliance with IDEA if the
13 state is exceeding the one percent cap
14 that may flag broader noncompliance I know
15 that's a need for additional technical
16 assistance by the Department to me that I
17 wonder if that is an indication that
18 children are broadly not being well
19 served. Children with disabilities are
20 not being well served broadly. I think
21 that because you know there really is just

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1 not when if we were being really strict
2 and thorough there is not and expectation
3 that a state would ever exceed a one
4 percent cap. I think we want to be very
5 careful if that happens. We need to look
6 a lot more within the practice within that
7 state that the children are getting access
8 to the services and supports they need.
9 Ms. Podziba: Why don't we take a
10 15-minute break and let's return at 3:40.
11 I just want to remind the public that
12 there is a sign in sheet for those who
13 want to address the committee at the end
14 of the day. Thank you.
15 Ms. Podziba: As soon as you are
16 ready.
17 Mr. Rooney: I think we heard a
18 lot of thought on this to remaining two
19 questions and to answer, Rita, I think
20 your question is there is a bunch in the
21 statute. That last question that talks

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1 about the IEP guidelines that regulate the
2 statutory language about what the IEP
3 guidelines need to include I think may
4 help as a starting point may help us think
5 about how to I think corporate that into
6 regulations. Between those two things I
7 think we have enough to go on. I want to
8 make sure there wasn't anything else
9 people wanted to say about this last
10 question on the page here about actions
11 that states should take to ensure all
12 students are properly included in the
13 assessment system and safeguards and also
14 the other question which you remember is
15 from the previous paper around how the
16 regulation should address alignment of
17 alternate achievement standards and
18 content standards. I want to give people
19 that haven't been said before we move onto
20 issue paper three.
21 Ms. Goings: I had a -- when I

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1 couldn't think of the three prongs. I
2 found them in terms of eligibility. One,
3 there needs to be a disability based on
4 the assessments and then the needs to be
5 an adverse impact on education, and then
6 thirdly there needs to be there is a need
7 for a specialized instruction especially
8 specialized design instruction.
9 Ms. Jackson: I will try to keep
10 it brief. I loved teaching math and I
11 work with fifth grade math, but I may be
12 over simplifying things. It matters what
13 the whole is that you are considering.
14 State variations in your percentage levels
15 of things receiving alternative
16 assessments vary greatly in what we have
17 seen and clearly that's unnecessary
18 referrals that do a disservice to
19 children. I also keep coming back to the
20 basic principle of a percentage and what
21 the whole is and when states have this

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1 may be pretty equitable across states. The
2 number of students in non-publicly funded
3 schools or who attend private schools
4 without assistance affects what the whole
5 and total number of schools are in school
6 age in that state. The one percent is out
7 of the whole subtracted from those that
8 have been removed through private schools
9 does that make sense? For example if
10 Massachusetts I am making this up totally
11 has a hundred thousand kids and entirely
12 private schools and a few of them receive
13 public fund dollars then we are finding
14 one percent of students out of minus those
15 one thousand where if Nevada has two
16 thousand kids that go to private school
17 the one percent is calculated out of those
18 attending public school for me in my fifth
19 grade focus math brain. I want to know
20 what are the variations so I would be
21 curious if there's any major variations

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1 across states in the percentage of student
2 who is are not included in the whole
3 reference for reliability and accuracy of
4 one percent does that make sense? Okay.
5 Mr. Rooney: I think fraction
6 court will be after. (laughter)
7 Ms. King: To make sure all
8 students are being included would be the
9 flag the requirement that 95% of all
10 students be assessed that's the history of
11 that requirement is about making sure that
12 students with disabilities especially were
13 included in the assessment as well as
14 English student and just flagging that
15 maybe this if you have in a reference to
16 it in the reg or something but yeah just
17 that.
18 Mr. Hager: Related to the last
19 question from 4 A there is already a fair
20 amount of guidance out there on this the
21 NCSC brief and the 2003 guidance from the

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1 federal, from the Department of Education.
2 You don't necessarily have to re-regulate
3 that but to use that or to you know refer
4 to that or reference that as helpful
5 information. There's a lot of history of
6 this. Let's not forget what we already
7 know as we move forward.
8 Ms. Pin Ahrens: I think the
9 intent of the transparency for ensuring
10 that kids are being properly included is
11 to do a demographic break down by the
12 categories that states already have to re-
13 point by in their report card so that we
14 make sure there's not certain demographics
15 that are being overly identified.
16 Ms. Podziba: Okay thank you.
17 Patrick with that I think we can move to
18 issue three.
19 Mr. Rooney: Let's going
20 backwards in our binder, which I imagine
21 will have lots of comments on hopefully.

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1 So this is the new requirement in ESEA or
2 new aspect of the ESSA that commits states
3 to allow districts to use a locally
4 selected nationally recognized high school
5 assessment in place of the states high
6 school assessment. I think we should
7 start by thinking about a state
8 assessments in the context of what's often
9 happening in states and what's happening
10 in when students are going through which
11 is a large part of where this came from.
12 The NCLB and now ESSA that require they
13 have an assessment in reading math and
14 science. In each grades one through three
15 and at one point in high school and does
16 not define when that should be
17 administered in high school. I think
18 operationally many states have selected
19 grade 11 as the test it's a very common
20 grade that the statewide assessment has
21 administered. As you all know many 11th

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1 graders are also taking their college
2 admission test at that point. A lot of
3 students are enrolled in AP courses and
4 they have AP tests at the same time and
5 there's a lot of exams that come around
6 the same time in the school year for this
7 same group of kids. So I think that's
8 partly where this new aspect of the E SSA
9 is coming from. So the law requires
10 states to establish technical criteria by
11 which you review and nationally recognized
12 assessment if they decide to allow
13 districts to take this option and if you
14 look on the issue paper the middle
15 paragraph the first page lays out those
16 criteria. The state needs to review that
17 the nationally recognized test aligns
18 after measure it is breath and -- state
19 standards it needs to measure all the
20 content the student has been taught.
21 Equivalent to the state test difficulty

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1 and quality and these are all pulling
2 language from the statute which means that
3 the nationally recognized test was
4 significantly harder or easier in the
5 state tests some states will be setting
6 different expectations which is why this
7 isn't about the content coverage
8 difficulty and quality that nationally
9 recognized provides comparable and
10 reliable data that it meets the same level
11 as the statewide system that is unbiased
12 differentiation on the accountability
13 system. Since the results will be used in
14 the accountability determinations and you
15 know again kind of trying to separate this
16 is ability making sure the state system
17 has guide high quality tests that can
18 provide data in the accountability system
19 not that we want to then spend time
20 talking about what's in the states
21 accountability system it's critical by the

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1 test provide transparent clear information
2 to help states and districts evaluate
3 their progress. The statute does not
4 define what it means to be a nationally
5 recognized test. I think one of the
6 questions we have for our discussion today
7 is whether it's useful to define that in
8 regulations. I will point out that along
9 with the bill that was reported out of the
10 education committee and Congress as when
11 they reported out they report out of
12 report without the bill and in that report
13 language around the ESSA they specifically
14 mention it had SAT test they were thinking
15 would be what they would constitute a
16 nationally recognized high school
17 assessment. It doesn't intend Congress
18 when they were drafting the bill? The
19 statute requires districts choosing a
20 state approves nationally recognized must
21 notify parents. We are spending time to

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1 make sure community perspectives are heard
2 an understanding of instructional impacts
3 of the change from the state test to the
4 nationally recognized assessment and they
5 are well communicated to those that are
6 mostly effected by this change. As a
7 final point I think it's helpful to remind
8 you the key aspect of the assessments in
9 requirement that the requirement that each
10 state -- all students are held the same
11 high standards and that the state is
12 developing assessments that are aligned to
13 those standards, so sorry that's slightly
14 more easily more clear in a way. Each
15 state has to identify what they expect
16 kids the to learn then they design their
17 assessment and then measure their
18 standards. This provides the common set
19 of expectations it's common measure that's
20 used across all schools and districts in
21 the states so that way they can compare

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1 students and get and understanding of what
2 students are doing, and they can use that
3 in the accountability of how schools and
4 districts are making it. It helps provide
5 transparency and equity of information
6 which then can help inform things that are
7 decisions that are being made at the local
8 and state level. At the state was using
9 it at different test then the national
10 recognized assessment that's being used in
11 district B students in district A may be
12 held to different standards or may be hard
13 to compare across those two different
14 tests and the lack of comparable data may
15 cause some -- the state and district are
16 trying to figure out what resources and
17 support schools need. With that overview
18 I would like to jump into the questions if
19 possible. We have got six questions laid
20 out here and the first one is what does it
21 mean for and assessment team to be

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1 nationally recognized?
2 Ms. Jackson: I have a clarifying
3 question first. The local assessment
4 would be more of a supplemental assessment
5 or an SAT or ACT more predictive.
6 Mr. Rooney: Can you repeat?
7 Ms. Jackson: A local assessment
8 is summative and the one referred to as
9 examples ACT and SAT for example are
10 predictive assessments, so I am just
11 clarifying if that's actually accurate and
12 two then if they are proper examples for
13 the criteria listed in paragraph two?
14 Mr. Rooney: I don't know that
15 the Department wants to answer that
16 question. I would say that the state
17 assessment is a summative assessment.
18 It's designed to say here's the content
19 that kids should learn in this course or
20 grade and here's the test whether the test
21 is mastered that content or not? I think

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1 the nationally recognized assessments I
2 don't know that I am the best position to
3 say whether those are predictive or what
4 the right purpose is for them?
5 That's fine if you don't want to
6 answer it.
7 Mr. Rooney: I am worried about
8 that this is something that none of you
9 work on this. I don't want to make the
10 statement on the test.
11 I can make a statement just about
12 the even within the range of the two
13 assessments that were mentioned there is
14 you know a lot of discussion as well as
15 branding of them around whether their
16 achievement tests or the kind of
17 predictive test there's a range is all I
18 am going to say.
19 Ms. Pompa: When defining the
20 national test that it responds to all the
21 nation's children. As we look at some of

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1 the tests that are labeled as nationally
2 recognized here we know that there are not
3 just desperate outcomes for kids, there's
4 desperate outcomes on a lot of
5 assessments. There's not and ability to
6 account for those differences for groups
7 like English learners, so for example the
8 two consortia who developed the state high
9 school, the national recognized high
10 school tests that the state tests over
11 sampled for English learners. They over
12 sampled for kids with disabilities.
13 Picking on just the ACT and the sat they
14 do not over sample. There's no intention
15 in developing those tests to make sure
16 they are valid for English learners. I
17 have the same concern if we are going to
18 be looking at locally developed tests that
19 they be responsive to the needs of all the
20 nations children because we have a highly
21 mobile society. Who know what is kind of

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1 children will be in that district however
2 appropriate they are for the local
3 population today. So that is to me the
4 biggest driver as I said of deciding
5 whether a test is nationally recognized.
6 I do want to say that the criteria that
7 are listed in paragraph two are very
8 important. I would hope they are built in
9 very carefully into the review process
10 especially the first looking at the
11 standards that are covered in the
12 assessment, and then finally it takes us
13 back to where we were either this morning
14 or yesterday I was losing track of time
15 about the criteria that are somewhere in
16 the legislation that speak to the test
17 standards and it to me this just
18 emphasizes even more that those test
19 standards, test development standards are
20 psychometric standards that are been in
21 ESEA for a long long time, but we don't

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1 usually look at them. They are just I
2 don't want to say rubber stamp we almost
3 do yeah, yeah we meet those. I think it's
4 very important that we pay attention to
5 those standards.
6 Ms. Goings: I guess I want to
7 clarification. Are we saying that the ACT
8 tests are used as statewide assessments?
9 If so are accommodations made prior to the
10 administering of the tests? Maybe I
11 didn't misunderstand?
12 Mr. Rooney: I haven't clarified
13 that point. This is -- there are two
14 different pieces. I understand that
15 confusion. States have discretions to
16 develop their assessments, and they have
17 to have one test in high school that they
18 give to all students. Some states have
19 selected the ACT or SAT as the test they
20 give as their test for all students in
21 high school. That is not what we are

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1 talking about here. What we are talking
2 at here is the situation where a state has
3 developed it's own test so you know test A
4 is the test we give to all kids for
5 reading and math. However, this part of
6 the statute would provide the option of
7 states chose to say while all kids have to
8 take test A district could come in and
9 select this nationally recognized test
10 that meets these criteria that are laid
11 out in the statute and are approved by the
12 state through the criteria that are laid
13 out. In which case the district fits
14 either state the test A or the national
15 recognized test whether it's SAT or ACT or
16 something else.
17 Ms. Goings: Thank you for
18 clarification.
19 Ms. Evangelista: In terms of
20 criteria for the nationally -- I can use
21 my teacher voice. (laughter). In terms

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1 of the criteria for the nationally
2 recognized test I would think an important
3 part of that would be an accommodation for
4 the students that it does allow
5 accommodations for students which the ACT
6 and SAT are not tested actually provide
7 accommodations for English language
8 learners and are not accurate predictors
9 or measures of where those students are in
10 terms of English and math. That also that
11 they can that we can look at comparability
12 across groups for with those assessments.
13 Mr. Evers: Well, to try not to
14 get into the ACT or SAT is a good test
15 let's try this too we can say nationally
16 recognized assessment would be one that is
17 used by students and other staff. The
18 fact of the other matter whether we like
19 the ACT or SAT that's what the expectation
20 was in the passing this piece of
21 legislation. We can gyrate around that if

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1 we want to. I will just throw it out
2 there that's something that's used in
3 multiple states and that would be the
4 current one of the criteria. In turn I
5 have another question that's actually this
6 but a procedure question. Is it street
7 couldn't state just say we are never going
8 to accept a national recognized test is
9 that under the authority of the state or
10 under the law?
11 Mr. Rooney: I can answer this
12 question. We think the state has the
13 discretion to do this or not do this.
14 Mr. Evers: Thank you.
15 Mr. Hager: Just a quick comment
16 on your comment Patrick I know that this
17 specific provision does not apply to a
18 state that's selected this but I think in
19 terms of compliance with the ESSA the
20 states selection of that test should fully
21 comply with the E SSA it's not our

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1 discussion for today but you know these
2 all the discussion applies whether or not
3 it's been selected by a local school
4 district or selected by the state. It
5 doesn't matter who selected it it's got to
6 comply with the ESSA. That's the general
7 comment to that point to the specific
8 definition. I think the definition could
9 be very simple like Tony's suggestion. I
10 would add a qualifier, a general qualifier
11 that's used in the variety of states
12 that's in compliance with the ESSA. In
13 terms of what is a appropriate nationally
14 recognized test you have the definition of
15 national but also that it is compliant
16 with the ESSA. When we will flush out
17 more as we get some of these questions.
18 As a general broad definition I think that
19 will be important.
20 Ms. Briggs: One possible answer
21 is that the states use its own common

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1 sense in defining what national
2 recognition is. This doesn't strike me as
3 something to hard to look at and say
4 that's nationally recognized and that's
5 not. I think some of the other comments
6 that folks are making now are perhaps
7 better reflected in later bullets or on
8 safeguards or combinations or the
9 processions that states would review but
10 on national recognition piece that seems
11 like not too hard to answer. I just
12 wouldn't make that part too complicated.
13 There's a lot that needs to be complicated
14 about that. This one doesn't seem to be
15 that complicated.
16 Ms. Pompa: It's not germane to
17 this bullet. What I am going to say is
18 not germane to this bullet, but it's been
19 mentioned a couple of times and that is by
20 what some people said it sounds like the
21 interpretation was ACT or SAT are a given

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1 you have to approve them. It says here
2 that subject to approval described in this
3 sub-paragraph reflected and use. It's not
4 a given that they have to be used or they
5 must be used or people have blanket
6 permission to use them.
7 Ms. Podziba: Patrick, I feel
8 like we are being pulled to the next
9 bullet.
10 Patrick: Do you want to go to
11 the next bullet?
12 Mr. Ruelas: I actually have a
13 comment on the first bullet itself but
14 also to piggy back off of something Ms.
15 Briggs said and reading through the other
16 bullets themselves. This itself is these
17 are they seem like state decisions in
18 regards to you know what we are going to
19 come up with here not really, you know,
20 federal government kind of regulations
21 more at the state level in regards to what

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1 they are recognizing.
2 Ms. Pin Ahrens: I do think we
3 should define this because when we are
4 talking about a nationally recognized you
5 shouldn't just be up to the state to
6 decide whether a different state, local
7 assessment was nationally recognized.
8 They have to use specific criteria. I
9 really support what Mr. Hager says in
10 terms of the test complying with ESSA and
11 the requirements of it but also having and
12 aligning with the accommodations that are
13 in line with state policies for
14 accommodating folks and students with
15 disabilities in the English language
16 learner. I think it's really important to
17 have that somewhere in the criteria for
18 approval of this assessment.
19 Ms. King: I was looking at the
20 issue brief, so in this paragraph two this
21 language is straight from the statute.

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1 This isn't sort of being proposed for our
2 consideration. Those are the existing
3 requirements of law governing the
4 assessment. I like the idea of saying
5 that national means national in terms of
6 like all of the different children in
7 America. Yeah I just wanted to flag that
8 this is in the law.
9 Ms. Podziba: Thank you.
10 Mr. Rooney: Question two what
11 safeguards could regulations include or
12 should regulations include to ensure that
13 all students within the district will have
14 equal access to and seek equal education
15 benefit the district selected assessment?
16 Ms. Podziba: Eric?
17 Mr. Parker: Speaking from a
18 state in a district that uses ACT as an
19 assessment for the second year going into
20 the second year I think that some of the
21 safeguards you know living through it I

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1 think that we definitely have all the five
2 E SSA components for the most part in
3 meeting that requirement and I think we
4 will continue to. Some of the safeguards
5 we continue to see its college degree and
6 experience which is the rational and
7 justification for moving toward the ACT
8 two years ago. The accommodations, and we
9 are looking at all students that the
10 rigorous components is ongoing and the
11 technical assistance and support that's
12 provided from the state level is ongoing
13 with our district meaning that we are
14 still in year two with that assessment
15 process. That's just from my vantage
16 pointed of actually living through this
17 process and assessment.
18 Mr. Evers: I actually have a
19 regulation to propose. Anyway, first of
20 all I think there's strong statutory
21 language repeated here several times. If

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1 the district has and approved test under
2 all the different criteria that are under
3 federal laws I think one addition would be
4 that all schools in that district must
5 give that test to all children in that
6 grade level right? I think it's similar
7 to what our expectations are with the
8 state that all kids take the same test. I
9 think that provision should regulatory
10 position of this group should be that all
11 students in schools of that district take
12 that test. A regulation from me.
13 (laughter)
14 Mr. Hager: Tony except for the
15 students that are under the ADAAS I love
16 that. The questions overlap a lot here so
17 I am going to try and answer what this one
18 I think is most getting at which is the
19 access to and benefit from, and so
20 accommodations obviously is benefit in
21 excess. A couple of the other ones are

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1 the cost of the test when it's
2 administered and you know that it be
3 administered the parents not pay for it
4 that it is administered during the school
5 day. The other in terms of benefit is
6 student’s from low income families,
7 English learners and students with
8 disabilities need to be provided equitable
9 access to the preparatory materials and
10 supports and here they may need more than
11 a student that doesn't have a disability
12 or that is not an English learner. Its
13 not just equal access but ensuring they
14 are properly prepared for these
15 assessments. You know if you have like a
16 vendor based training that's available you
17 know even in some families you know
18 typically these can be done at home both
19 does the home have a computer or high
20 broad band access? The students may need
21 remediation and support for the families,

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1 so in terms of access to in benefiting
2 from all the preparatory work that would
3 go in typical you know college preparing
4 family that what would they do if it was
5 their student that was going to take this
6 test in terms of paying for supports and
7 all of that stuff for the full range of
8 students to benefit those kinds of
9 services and supports need to be available
10 to all the students.
11 Mr. Pohlman: I'm sorry some of
12 my questions don't fit neatly in your
13 bullets. I am trying to aim where they
14 fit best. I think one issue is that has
15 come up in talking to charter authorizers
16 is the ability for them to participate in
17 some level of safeguards or decision
18 making as authorizers can often tend to
19 have the accountability system can go
20 under and what the state accountability
21 looks like under ESSA and depending on who

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1 holds the charter available and who holds
2 that chartering authority and schools
3 accountable there's a relationship there
4 to the extent practicable that the state
5 can have guidance that can at least
6 conferring with authorizer bodies prior to
7 allowing districts to use alternate
8 assessments that may interfere with
9 previously established accountability
10 systems from the authorizers can be
11 detrimental to the authorizers impacting
12 and in closing low performing schools but
13 also in monitoring schools in providing
14 transparent monitoring system for
15 families.
16 Ms. Pin Ahrens: I would like to
17 propose in the regulation that we include
18 that public stakeholders which include
19 parents, families and other members of the
20 community are meaningful engaged in the
21 approval process from start to finish

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1 because they need to understand why is the
2 district choosing to go with and exception
3 from the state standards? What is the
4 advantage and disadvantage to students
5 within the district who are taking a
6 different assessment from other districts
7 within the state? I think there are also
8 needs to be you know explanation of what
9 potential implications are if the also if
10 the district decides to switch back that
11 needs to be very clear to the public
12 stakeholders as well.
13 Ms. King: It's hard to fit in
14 the bullets cleanly here. I would just
15 say on my assumption here is that any
16 assessment so may be this is honestly more
17 of a question. I second Tony's idea about
18 regulation. I think definitely just makes
19 clarifying it's meant to be a district
20 wide assessment used to assess all high
21 school students under ESEA, but then my

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1 understanding here my assumption is we are
2 precluding any assessment that does not
3 allow for appropriate accommodation for
4 student's with disabilities and English
5 learners, and maybe we put this in a later
6 bullet. Also, I want the make sure when
7 it says valid and reliable that means
8 valid and reliable for all students. It
9 has to be also valid for students with
10 disabilities and English learners right?
11 Is that what that means?
12 Ms. George: I want to add to
13 Rita's comment about public input and
14 permit a comment period allowing for
15 public input a written notice to parents
16 and stakeholders in the native language.
17 Counseling sessions for students after
18 decision has been made about the
19 assessment so they understand what that
20 decision entails and how that might impact
21 the post-secondary education if they want

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1 to use that same assessment for entrance
2 purposes.
3 Mr. Pohlman: I have a question
4 or clarifying question about Tony's offer
5 or regulation. That's the interplay
6 between when we talked about earlier in
7 issue number two and that if one of the
8 Department's additions for that national
9 recognized high school assessment in high
10 school be an option for that assessment
11 which takes place has been more advanced
12 assessment from that eighth grade. I
13 think that those two working in common
14 what you are proffering working
15 accommodation would almost require that
16 the national recognized assessment option
17 would only be available if all the
18 students in that high school were taking
19 it, and then students couldn't there for
20 take an advanced eighth grade assessment
21 and then some students taking algebra one

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1 and others taking the nationally
2 recognized. It would interrupt options if
3 you put those together. It would
4 interrupt that option. There's an area of
5 conflict that you should potentially feel
6 out that you are discussing.
7 Mr. Rooney: I appreciate Rich's
8 point and Tony's point earlier. This is
9 something that we may want to deliberate
10 internally and come back as a proposal. I
11 appreciate both your points. I don't know
12 if we want those two to interact and
13 hinder the other. We are happy to take
14 that idea and kind of consider what we can
15 do with it.
16 Ms. Evangelista: I have some
17 concerns about saying that all the
18 students in the given district have to
19 have the exact same assessment. When I
20 think about assessment I think about how
21 it is driving instruction and I know that

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1 there are consortia of schools that have
2 developed performance tasks that are
3 aligned to the same standards that are
4 meeting the needs of the students better
5 than a lot of these pencil and paper
6 tests. Multiple choice answer tests that
7 actually the performance tests are asking
8 students to think at a higher level and so
9 not all schools yet are design ed in a way
10 where they are able to administer those
11 tests or have implemented them yet. I am
12 concerned about a lot of innovation that
13 has happened around that and a lot of
14 deeper learning communities that are
15 working with those schools and supporting
16 the students in those schools many of them
17 serving underserved students. So I have
18 concerns about that regulation putting
19 that in.
20 Ms. Briggs: So the thing I am
21 trying to think through in this provision

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1 which I think is tricky is the context in
2 which this issue emerges so you are going
3 to have a district that's actively seeking
4 to do something different than the state
5 is offering. And the question to me is
6 why because there's dealing with high
7 school kids and trying to get to college
8 and maybe they are frustrated, they don't
9 want to take the star test for whatever
10 reason they want to take something else.
11 So there's some on the ground pressures in
12 the local district that I think are going
13 to force this issue and so we kind of want
14 to state a position when they can be
15 thoughtful about responding to that to
16 address what was is likely as political
17 situation and not just kind of have so
18 many hurdles that you end up in a
19 situation where it instead of being able
20 to come to a resolution you get a huge
21 amount of kids do test refusal. I think

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1 that's kind of the intention when I see in
2 this provision. Then just the other
3 question I think I have been thinking
4 about the examples you give here are APIV
5 again I spend a lot of time on AP issue
6 trying to get kids in AP kids that don't
7 typically take them. What I like about
8 that assessment I know less about IV.
9 They only take that test if they have take
10 Tennessee class and there's something kind
11 of special about that so they have been
12 given almost a year of instruction and
13 then the teacher has been supported and
14 the kids have been supported to do well in
15 that and there's something sort of nice
16 about that process.
17 Ms. Mack: I would like to kind of
18 echo Kerri's concern looking at this it
19 does concern me. I hope that exemptions
20 would be granted on you know specific
21 needs but just a thought of a local

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1 district or a local school being able to
2 do something different. When we look at
3 trying to be competitive between states,
4 and again we are losing our places as far
5 as an educated nation as we talk about
6 being educated in and international sense.
7 Setting different standards is concerning.
8 Mr. Cheeks: My concern here is
9 if we maybe change the lense in terms of
10 where we are looking at this approach. If
11 there's a way to provide an incentive to
12 schools, and instead of I think the
13 language that we use here is a safeguard.
14 You will see a way for the schools were
15 given an incentive to provide more high
16 level courses and to seek after exams that
17 would challenge children on a broader
18 level then that would I think bring this
19 criteria or bring this focus into
20 different perspective. In our state and I
21 know some of the other states that are

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1 part of our association districts are
2 given an option to choose whether or not
3 they will use a nationally recognized exit
4 exam, but those districts are given and
5 option in order to advance their work and
6 what we found at that many of the
7 districts choosing the nationally
8 recognized exams they are finding their
9 children are being more successful. I am
10 wondering if there's a way for us to not
11 look at it from a punitive standpoint, but
12 a way of providing and incentive for
13 schools to raise the bar, raise it to a
14 level of expectation where the children
15 are concerned.
16 Ms. Evangelista: I want to
17 clarify it because I heard it used
18 interchangeably. If a different
19 assessment is used it doesn't mean it's
20 different standards. Is it standards can
21 mean the same and through peer review

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1 process and you know ongoing and ongoing
2 and inter-reliability and all of the
3 processes that we have in place you can
4 still be holding kids to the exact same
5 standards.
6 Ms. King: I am a little bit
7 worried we are trying to answer the
8 question of all of the assessments that
9 one might ever give in a school in the
10 context of what is actually a really
11 narrow provision of the lay. This is not
12 nothing in here limits the ability of a
13 state or a district or a school to have
14 whatever assessments they have for
15 whatever purpose they won't to have them.
16 I certainly wouldn't think the idea of
17 improving the quality of assessment is
18 great and improving access to rigorous
19 exercise is great. I want to bring us
20 back on the intent of the underlying
21 provision which is all students must take

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1 the same statewide assessment in 3-8 and
2 once in high school in order for exchange
3 for the title one funds that the state has
4 received. With the exception of and then
5 there is this high school assessment
6 opportunity there is some other language
7 elsewhere in the law not outside of the
8 scope of this process, but elsewhere in
9 the law there's different language about
10 you know sort of piloting other different
11 kinds of assessments. I think it's
12 important to sort of note that this is a
13 very narrow exception to what is the
14 underlying requirement which is the same
15 assessment statewide for the purposes of
16 accountability.
17 Ms. Podziba: Alvin, do you have
18 a comment on this?
19 Mr. Wilbanks: I do support this
20 regulation. I think there comes a point
21 in time when we do need the public

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1 education and to have some areas where we
2 indicate how well we are doing not that
3 the single test does that but I think at
4 the high school level and even I like the
5 idea of a national test or state approved
6 these, but all students in the grade level
7 will take it, and I would suggest it be
8 may be different or something like that.
9 If they don't do well we have two more
10 years to work with them to get them up to
11 speed. I certainly concur with this.
12 Ms. Ricker: Thank you. I would
13 say that for the intent of this narrow
14 very narrow provision was the address the
15 was to offer some flexibility in response
16 to the growing evidence of people's
17 reactions to the misuse and misuse of
18 standardized testing data and standardized
19 calendars it's a small but important
20 provision that needs to be absolutely
21 needs to be balanced that intent with the

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1 real safeguards to ensure students have
2 that equitable access and equitable
3 benefit from this flexibility with
4 ultimately I think the real sort of
5 exciting provision will be the 7 states
6 that are allowed to experiment with
7 performance assessments and that will be
8 the real future of measuring appropriately
9 and equitably the real talents the
10 students are bringing not only to the
11 standards, the standards they are being
12 held to, and I appreciate Lara bringing us
13 back to that a couple different times.
14 The standards remain constant. It is the
15 test flexibility that is the variable
16 here, and I do think ultimately it's the 7
17 performance assessment opportunities where
18 we are going to learn a lot about really
19 assessing meaningfully.
20 Mr. Chau: I would like to also
21 say that to support this regulation as

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1 well, and I would like to emphasize and
2 put on the table that although we have
3 been focusing on ACT and SAT alone when
4 speaking with assessment experts in the
5 field and getting feedback from them about
6 this nothing in here prevents the state or
7 local district from adopting the SAT along
8 with another performance task as part of
9 this process either. I think we all
10 recognize that there's some limitations to
11 the way those assessments are designed and
12 that this certainly opens the door for
13 districts to experiment with other ways to
14 assess students as well as long as it also
15 is inclusive and meets all the technical
16 requirements in here and also aligns with
17 the state standards as well. I think
18 there's a lot of room here for
19 experimentation as long as I think I feel
20 that the requirements here that we are
21 including the parental notification pieces

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1 that are very clear and provide the
2 guidance that local districts can have.
3 Ms. Podziba: Patrick I think we
4 are ready to move forward?
5 Mr. Rooney: Maybe in the
6 interest of time it may be best to group
7 the next two questions together which are
8 related questions. The third bullet is a
9 point that several of you already made so
10 far around accommodations on the
11 nationally recognized tests and how should
12 the regulations ensure that accommodations
13 provided that students on the locally
14 selected, nationally recognized
15 assessments reflects the needs of the
16 students under IDEA and section 504 and
17 the second related question is what parts
18 can help all students including students
19 with disabilities who use accommodations
20 are able to use their test results the
21 same as their non-disabled peers. I think

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1 we heard it already today and yesterday.
2 If people have any other thoughts on
3 accommodations for tests that would be
4 helpful us when we are thinking about what
5 to do with this?
6 Mr. Evers: I think the federal
7 statutes are really clear on this and if
8 need be within it can be regurgitated in
9 the regulation.
10 Ms. Jackson: So this maybe the
11 exact same thing that Tony said. I am not
12 as familiar I think the accommodations
13 need to be decided by the IPE team and
14 decided upon by the test creator. We
15 cannot regulate what a private business
16 would deem an acceptable practice we can
17 create a regulation they may adapt to
18 should they want to be considered for use.
19 Ms. King: Yeah, I am trying to
20 remember if someone articulate it had
21 issue about usable for the same purposes

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1 as everybody else issue. So this is just
2 an issue of making sewer that like if you
3 have let's say ACT or SAT or one of those
4 and the test manufacture company the
5 company that writes the test that
6 accommodates you provided invalidates your
7 score and you cannot submit it for a
8 college for admissions that's not fair.
9 If everybody else can use that score to
10 submit to colleges for the purpose of
11 college admissions but students with
12 disabilities receiving and accommodation
13 they are eligible for they can't do that
14 that's inequitable access and violates the
15 law. I can't remember if anybody else
16 articulated that but that's what that
17 issue is.
18 Ms. Podziba: Any other comments
19 on questions three or four? Patrick, I
20 think we can keep going.
21 Mr. Rooney: Question five is how

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1 can a state ensure that locally selected
2 national recognized assessments are
3 aligned with content standard and provide
4 comparable results against the states
5 academic records so that they are not
6 being held different standards and the
7 states maintain same expectations for all
8 students?
9 Mr. Pohlman: So I have struggled
10 and in the conversation of a speaking in a
11 couple of specific assessments to
12 understand the dynamic between those
13 assessments that may have some criterion
14 reference, but also have some norm
15 reference as well. In how they could, how
16 this question could be answered if it
17 does. I think what that's drawing me to
18 this place where states have to ensure
19 that the test manufacturing are
20 demonstrating that the assessment is
21 appropriately to an appropriate degree

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1 criteria reference in the criteria being
2 the state standards and not norm reference
3 or compared to amongst the test takers,
4 and they should have to demonstrate that
5 prior to it allowing it use for a district
6 wide assessment. This has been a sticking
7 point to me as I have been thinking about
8 it within the context of the two put
9 together that have been mentioned not to
10 say either of them are not in the
11 assessment and validate and reliable and
12 usable for all of the reasons they have
13 been created. Think it's incumbent upon
14 us to outline that the criteria we are
15 talking about are state standards so that
16 comparability can take place between the
17 assessments?
18 Mr. Hager: Again, I am trying to
19 figure out where to put the answers I want
20 to give this is my catch all some of this
21 I touched on and recaptured it. These

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1 assessments must be fully aligned with all
2 the ESSA requirements including the peer
3 review process. They must be fully
4 aligned with the state standards. They
5 must ensure and this is part of the bullet
6 points here they must be able to
7 differentiate among a districts full all
8 full range of students in all subgroups
9 including the lowest performing students
10 in either a class or subgroup and also
11 they must be able to differentiate among
12 the lowest performing schools. One of the
13 purposes of these assessments is which are
14 the five percent lowest performing
15 schools. The assessments you have to
16 differentiate among the students and
17 subgroups including lower performing
18 students and also allow for
19 differentiation for the five percent
20 schools to be targeted for support so
21 that's a big question whether or not the

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1 ACT and or the SAT would be able to meet
2 that criteria for the purpose of
3 regulations. I think that regulations
4 have to be very clear that this is the
5 criteria that will be used to determine
6 any test whatever it is would be able to
7 be made available.
8 Ms. Briggs: So within the last
9 couple of months there was a study done I
10 think completed in Florida and some other
11 people where they were looking at
12 alignment that a common core assessments
13 and a couple other assessments. I think
14 that this is more of a point of
15 information instead of an exact answer.
16 Alignment is typically yes or no. It's
17 sort of like a continuum of you know great
18 alignment to horrible alignment and it's
19 like it's not typically just yes or no. I
20 don't know I might be thinking about that
21 if I was in Tony's role how do I address

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1 that? Likelihood is that any test is a
2 local district would want to select is not
3 going to be completely unaligned to the
4 state standards. I don't know if that's a
5 federal regulation issue, but it's just
6 something I was thinking about looking at
7 this question.
8 Ms. Pin Ahrens: I wanted to
9 thank Ron for going into the issue that I
10 wanted to address which is you know making
11 sure that those that the locally selected
12 national assessments can really capture
13 the information that we need for the
14 states accountability system. Somewhere
15 in the approval process the state should
16 ask for evidence from the districts that
17 it can provide information that is needed
18 for the accountability systems. And you
19 know I want to point out a great paper
20 that just came out from the American
21 institutes for research called College

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1 Entrance Exams a Statewide Accountability
2 Systems why not here's a reason. John
3 Cohen goes into how the ACT and the SAT
4 don't necessarily capture the lowest
5 performing students at a level that would
6 be useful for an accountability system. I
7 am looking at this table here that says
8 they don't capture information for 87% of
9 English language learners that's a
10 problem. So unless the district can
11 improve that whatever assessment they want
12 to use can capture information for I would
13 say 95% of every single student subgroup
14 because we need a 95% participation rate
15 for the accountability system if they
16 can't approve that it can capture
17 information for 95% of students in each
18 subgroup they should not be approved.
19 Ms. King: Can you talk about
20 how the sort of alignment process works in
21 peer review for the regular statewide

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1 assessment and what it seems to me that it
2 just made the most sense to have the same
3 peer review process for the locally chosen
4 assessment as we have for the regular
5 statewide?
6 Mr. Rooney: This may be a
7 question for Peggy to answer how states
8 demonstrate alignment in general if I can
9 tag on about that about peer review
10 process?
11 Ms. Carr: Well, the alignment
12 across content is done with panels of
13 experts who know the content very well and
14 they are usually are asked to align the
15 items with the standards and most cases if
16 it's done in a scientific way it's done
17 with blind alignment they don't know
18 exactly which ones they are aligning them
19 with that's the process that's done a lot.
20 That's on the content side. As I read
21 this bullet from the bottom the issues

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1 about aligning academic standards or the
2 standards the performance standards across
3 the districts so that they are comparable
4 to what the state has identified.
5 Mr. Rooney: I want you to
6 clarify by --
7 Ms. Carr: If they are looking at
8 multiple assessments they don't know what
9 items, what items belong to what
10 assessment in reference to assigning it to
11 the content standards.
12 Mr. Rooney: If they are trying
13 to compare multiple tests to the same
14 standards?
15 Yes.
16 Mr. Rooney: I will speak to the
17 peer review a little bit. So I think
18 Peggy was describing this process states
19 generally go through to evaluate the
20 alignment of their test standards. One of
21 the things that apartment requirements

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1 independent alignment study they contract
2 with the third party not the party that
3 developed the assessments and that third
4 party is responsible for taking the
5 content that the state has identified for
6 that test and the test itself and
7 evaluating how well the test is measuring
8 that content and to Kerri's point which is
9 right it's not a yes no answer it's a
10 range of how aligned it is, and how
11 aligned it is not. Usually it's strong in
12 some areas and weak in others and the
13 state comes up with a plan on how to
14 improve that plan over time. We expect
15 there not to be weak alignments and
16 moderate to strong alignments everywhere
17 to make sure they are covering the range
18 of the content standards, and then our
19 peer review, the Department's peer review
20 up state assessment systems we have
21 external peers who look at the

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1 documentations, state submit and one of
2 the pieces of documentation about their
3 assessments is this independent alignment
4 study. So our peers are looking to see
5 both how well the state is evaluating it's
6 alignment and how strong alignment they
7 have and often times it is state because
8 alignment is never perfect and never done
9 and it's continuing to prove their
10 alignment. Often times they will talk
11 about the plan they keep continuing to
12 change to improve their assessment system
13 over time. It's all part of the artifacts
14 that our external peer reviewers are
15 reviewing and then making recommendations
16 for the Department when we are evaluating
17 assessments.
18 Ms. Carr: What you are saying
19 is exactly right. Often what is done if
20 you want to improve the scientific rigor
21 you might have multiple panels to conduct

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1 the alignment, and then you would compare
2 across the panel. That's a resource
3 issue.
4 Mr. Rooney: When you say you the
5 state would have. Not the U.S. Department
6 of Education. We are not looking at the
7 states.
8 Ms. Carr: I am thinking about
9 the PI who would be conducting such and
10 activity. Yes, if there are multiple
11 assessments involved then such panels
12 might not know where the items came from
13 to align them. That would be a blind
14 approach to well scientifically but a
15 blind approach with the same basic
16 protocol that you described. I think the
17 real issue here has to do with the
18 psychometric alignment of the assessments
19 with regard to their standards. The
20 standards are usually they are going to be
21 different for different tests but it is

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1 possible to align them through equal
2 percentile equating or more advanced
3 equating where you actually are looking at
4 the items or the students in these more
5 sophisticated approaches. It can be done
6 but it is technically sophisticated
7 approach that would have to be ensued.
8 Ms. King: The other part of my
9 question couldn't you just use the same
10 process for the high school assessment to
11 make sure that it's aligned both in terms
12 of content and this terms of achievement.
13 I am talking about high school.
14 Mr. Ahart: I think I will
15 decline.
16 Ms. Pompa: Isn't it an obvious
17 answer to your question? The legislation
18 lays out the criteria and it says its
19 state must establish technical criteria
20 and then lays it out. So wouldn't a
21 simple regulation just ask the state to

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1 give you evidence of that? That's what I
2 would recommend?
3 Mr. Hager: I appreciate Delia's
4 referring to that ARI study the comparison
5 between the specific ACT an identified
6 that 87% did not measure the well the 87%
7 of the English language learners also
8 people that were around below the 25th
9 percentile in general, also about 71% of
10 the students with disabilities and 31% of
11 the people that were economically
12 disadvantaged in these one, two, three,
13 four categories. There's not a very good
14 match between the ACT and these students
15 performances. You know it's one study but
16 certainly in terms of you know the
17 criteria that the Department puts together
18 they have to make sure it does align and
19 whether this will or will not meet you
20 will ultimately meet the scrutiny that the
21 Department would require remains to be

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1 seen. As a certain logic in terms of what
2 is the ACT or the SAT designed to do and
3 how it almost by definition you can see
4 how it's likely they would not do well in
5 measuring the performance of lower
6 performing students, they are looking for
7 college prep there's a logic for the
8 results they saw in that study.
9 Mr. Evers: I may have said this
10 already and I apologize. I think it's
11 important that we understand all the
12 things in the statute that will prevent
13 bad testing from happening. It might be
14 some things that we have to apply. The
15 fact of the matter this is a congressional
16 tent versus, I mean clearly the Congress
17 asked this and presidential cycle felt
18 that there might be national test that
19 meet this criteria. I am a little
20 concerned about sitting here prejudging
21 any test whether ACT or SAT. We just have

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1 to recognize that there's pieces of
2 statutes that provide very specific
3 reasons for accepting or not accepting it
4 that's fine. That's my last comment for
5 me today.
6 Ms. Podziba: That's because you
7 think we are ending soon.
8 Mr. Evers: I am ending soon.
9 Ms. Podziba: I don't have anyone
10 signed up for public comment. Is there
11 anyone in the public that tends to address
12 the committee? So we will keep going.
13 Give me a second. Patrick, I am going to
14 move you with the last question so we can
15 start with a fresh issue. I may hold you
16 for few minutes extra.
17 Mr. Hager: I think comment that
18 Derrick made assuming that there is the
19 ones that we know of the ACT and SAT those
20 two that there is a shortfall assuming
21 that there is there a way I think this is

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1 your comment there is a supplemental
2 assessments to go along with that that
3 would fill in those gaps. I don't know if
4 that's possible even in terms of the
5 statutory requirements, but certainly you
6 know that might be some wiggle room there
7 or something that would help out on this.
8 I don't know that. I just wanted to throw
9 those two and connect the dots.
10 Mr. Ahart: I know we have been
11 talking about ACT and SAT there's other
12 national recognized tests that are
13 designed for different purposes that I
14 know my district the considering. Even
15 though all the rules the states have to
16 follow to have their current state
17 test -- there's really bad state tests
18 that are not giving us the data we need
19 with students across the spectrum. I
20 welcome an opportunity to at least at the
21 high school level do a better job with

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1 assessing how our system is working in the
2 service of our students and have better
3 information to help ensure they are ready
4 to graduate.
5 Mr. Rooney: So now I appreciate
6 everyone's patience it's been a long
7 afternoon our last question which actually
8 we started to answer both Rita and Janel
9 addressed this earlier with their
10 comments, and people have things they
11 would like to add onto it if there's other
12 things for us to consider. How can
13 regulations ensure that parents and
14 educators have the same information for
15 each student compared to other students
16 and that district administrators have
17 comparable data to inform district
18 decision making?
19 Ms. Podziba: Any additional
20 comments on that last question?
21 Leslie Harper: I would like to

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1 request that the tribunal consultation be
2 followed, and I recommend that you know
3 that we hold onto meaningful tribal
4 consultation and putting forth any of
5 these pieces because state plans are
6 supposed to be submitted and there's
7 supposed to be done in concert with the
8 local districts. And the tribal education
9 agency and the LEA's we would like to
10 remind folks that tribal consultation
11 should be timely and meaningful. I can
12 give you a list of really specific timely
13 and meaningful indicators because they are
14 not defined right now.
15 Ms. Briggs: So there's some
16 really interesting work going on right now
17 in trying to present back to parents based
18 on these assessments. I have seen some
19 interesting mockups after focus group on
20 data and all of these different things
21 that just might be one place of helping

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1 parents have the same information. Some
2 of these report cards are great and they
3 are really informative and they provide
4 parents all kinds of cool stuff its parent
5 friendly. It's a place to report back to
6 parents. They will have to create some
7 report that's based on this test.
8 Ms. Pin Ahrens: I want to
9 encourage that the regulation include that
10 this information is shared in a variety of
11 modes of communication that it's not just
12 through report cards or information posted
13 on a website. Recognizing that you know
14 where our families and students may or may
15 not be. I want to really encourage
16 linguistically and culturally relevant
17 modes of information that fit the context
18 of the district more practical to look at
19 the top five or so languages at a minimum
20 of the district and how they are
21 translated into those languages.

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1 Ms. Evangelista: I also wanted
2 to bring up the issue when you are sharing
3 this data of overlapping subgroups. I
4 think that you know you have schools where
5 schools like my own where all of my
6 students are EL's. They are all
7 economically disadvantaged, and then I
8 have a large subgroup of Hispanic students
9 and a large group of Asian students, but
10 my entire Asian group is EL's and economic
11 disadvantaged. When you compare my Asian
12 subgroup to the Asian subgroup in the
13 district it's not a good comparison. It's
14 often very confusing for families because
15 you may have a school that's very
16 successful but you can't always decipher
17 that. I think as Rita said there has to
18 be communication and meetings where this
19 kind of information can be shared with
20 families.
21 Mr. Pohlman: I think one issue

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1 that to the question of how can they have
2 regulations ensure there's comparable
3 information by continuity and assessment
4 and that there's not constant flux of
5 assessments coming in and out of
6 accountability systems and that's somehow
7 safeguards around that. I think that's
8 important for accountability systems
9 outside the state and local accountability
10 systems. Authorizers who are publishing
11 data and other mechanisms utilized in
12 jurisdictions that have a high level of
13 school choice so whether that be New
14 Orleans or whether that be DC or other
15 charter or magnet rich environments that
16 those entities provide the information
17 about which they are also consulted as
18 these decisions are being made so that
19 continuity information can be rich.
20 Mr. Hager: In terms of Rita's
21 comment about informing parents obviously

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1 parents with disabilities need to be
2 considering their mode of communication at
3 that meeting as well.
4 Ms. Pin Ahrens: I just wanted to
5 address something Lara said about
6 inter-specialties between the different
7 subgroups. There is new reporting that
8 cross-tabulated data. I think because
9 this is new it might be helpful to have in
10 the regulation some sort of TA or
11 technical assistance to district on how to
12 communicate the use and access to that
13 cross tabulated data so that we can see
14 the intersections between race and
15 language, between poverty and race and
16 disability and other combinations.
17 Ms. Podziba: All right it's 2
18 minutes to five so we actually got through
19 the whole issue that's great. We will
20 reconvene tomorrow at nine and we will
21 just hang on just a second. We will start

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1 with issue five A and five B. Patrick do
2 you have any comments before we adjourn.
3 Mr. Rooney: I want to thank
4 everyone for your very thoughtful
5 conversation and comments. I think we
6 have done a lot of things to work on and I
7 need to go back and figure out how to
8 neatly figure.
9 Ms. Ricker: I heard Rita ask for
10 a subcommittee to be pulled together
11 around defining students with the most
12 significant cognitive disabilities or
13 again playing with that word define which
14 was intriguing so I certainly volunteer to
15 be on that subcommittee. I am happy to
16 take the names of any negotiator who would
17 like to be on that committee.
18 Mr. Rooney: Thank you. All
19 right so we will reconvene in the morning.
20
21 [END OF TRANSCRIPTION]

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