

**4000-01**

**DEPARTMENT OF EDUCATION**

**AGENCY:** U.S. Department of Education, National Assessment Governing Board

**ACTION:** Notice of Public Hearing

**SUMMARY:** The National Assessment Governing Board is announcing a public hearing on November 9, 2009 to obtain comment on expert panel recommendations on uniform national rules for testing of Students with Disabilities (SD) and English Language Learners (ELL) on the National Assessment of Educational Progress (NAEP).

Public and private parties and organizations are invited to present written and/or oral testimony. The hearing will be held in the Phoenix Park Hotel, 520 North Capitol Street, NW, Washington, DC 20001 from 9:30 a.m. to 3:00 p.m. EST.

This notice sets forth the schedule and proposed agenda of a forthcoming public hearing of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10 (a) (2) of the Federal Advisory Committee Act. This document is intended to notify members of the general public of their opportunity to provide comment. Individuals who will need special accommodations in order to attend the hearing (such as interpreting services, assistive listening devices, materials in alternative format) should notify Munira Mwalimu at 202-357-6938 or at [Munira.Mwalimu@ed.gov](mailto:Munira.Mwalimu@ed.gov) no later than November 4, 2009. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

**DATE:** November 9, 2009

**LOCATION:** Phoenix Park Hotel, 520 North Capitol Street, NW, Washington, DC 20001. The

hotel may be reached via the Union Station Metro.

**TIME:** 9:30 a.m. to 3:00 p.m. EST

**BACKGROUND:**

Under P.L. 107-279, the National Assessment Governing Board (NAGB) is responsible for determining the content and methodology of the National Assessment of Educational Progress (NAEP). The assessment is required to provide a fair and accurate measurement of student academic achievement through a random sampling process that produces representative data for the nation, the states, and other participating jurisdictions.

Despite changes in policy during the past decade, variations in inclusion and accommodation rates continue for students with disabilities and English language learners among states and urban districts participating in the National Assessment. These differences—both between jurisdictions and over time—continue to prompt concern about the fairness and comparability of NAEP results.

The Governing Board has established an Ad Hoc Committee of Board members to conduct a comprehensive examination of NAEP testing and reporting of these two student groups. The Committee appointed two technical advisory panels to recommend uniform national rules for NAEP testing of SD and ELL students to better assure that NAEP samples are fully representative and produce comparable results. These panels reported to the Board at its meeting on August 6 and 7, 2009. The Board plans to consult widely before deciding whether or not to adopt the expert panel recommendations.

The reports and recommendations being considered are available under supplementary information in this notice and on the website of the Governing Board at [www.nagb.org](http://www.nagb.org). Other related material on the Governing Board and NAEP may be found at this website and at

[www.nces.ed.gov/nationsreportcard](http://www.nces.ed.gov/nationsreportcard).

The Board is seeking comment from policymakers, teachers, researchers, state and local school administrators, specialists in SD and ELL students, parents of children in elementary and secondary schools, representatives of interested organizations, and members of the public. Representatives of the Governing Board will conduct the hearing to receive testimony, and may ask clarifying questions or respond to presentations. Oral presentations should not exceed ten minutes. Testimony will become part of the public record.

All views will be considered by the Ad Hoc Committee and the full Board. It is anticipated that the Committee will make recommendations to the Governing Board at the Governing Board meetings on November 19-21, 2009 and March 4-6, 2010.

To register to present oral testimony on November 9, 2009 at the Phoenix Park Hotel in Washington, DC, please call Tessa Regis, of the National Assessment Governing Board staff, at 202-357-7500 or send an email to [tessa.regis@ed.gov](mailto:tessa.regis@ed.gov) by 4:00 p.m. (Eastern Time) on Friday, November 6, 2009. Written testimony should be sent by mail, fax or e-mail for receipt in the Board office by November 10, 2009.

The Board will make an effort to hear testimony from all persons who wish to address it at the hearing without prior registration. Speakers are encouraged to bring written statements for distribution at the hearing.

Testimony should be sent to:

National Assessment Governing Board

800 North Capitol Street, NW — Suite 825

Washington, DC 20002

Attention: Tessa Regis

FAX: (202) 357-6945

E-mail: [tessa.regis@ed.gov](mailto:tessa.regis@ed.gov)

**FOR FURTHER INFORMATION CONTACT:** Tessa Regis or Lawrence Feinberg, National Assessment Governing Board, 800 North Capitol Street, NW, Suite 825, Washington, D.C., 20002-4233, Telephone: (202) 357-6938.

**SUPPLEMENTARY INFORMATION:** The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994, as amended. The Board formulates policy guidelines for the National Assessment of Educational Progress (NAEP). The Board's responsibilities include selecting subject areas to be assessed, developing assessment specifications and frameworks, designing the methodology of the assessment, developing appropriate student achievement levels for each grade and subject tested, developing standards and procedures for interstate and national comparisons, developing guidelines for reporting and disseminating results, and releasing initial NAEP results to the public.

The expert panel recommendations being considered by the Governing Board are summarized below. They are not mutually exclusive. Some could go into effect quickly while others would be for medium-term or long-range implementation. NAEP is a representative-sample survey, designed to produce valid, comparable data on the academic achievement of

large groups of students. It is prohibited by law from providing results for individual children or schools. The recommendations are being considered because of concern that variations in exclusion and accommodation practices may jeopardize the fairness and comparability of NAEP results.

The recommendations on which public comment is sought are summarized as follows:

**BY EXPERT PANEL ON UNIFORM NATIONAL RULES FOR NAEP TESTING OF STUDENTS WITH DISABILITIES**

- (1) Encourage as many students as possible to participate in NAEP, and provide for the use of allowable accommodations that are necessary to enable students with disabilities to participate.
- (2) Clarify and expand NAEP's guidance to schools, encouraging maximum participation of students with disabilities so at least 95 percent of those drawn for the NAEP sample participate.
- (3) Report separately on students who have individualized education programs (IEPs) and those with Section 504 plans, but (except to maintain trend) only count the students with IEPs as students with disabilities.
- (4) Provide incentives for schools to include students with disabilities, including additional outreach and public reporting of participation rates below 95 percent of students with disabilities.
- (5) Support research efforts to develop targeted testing for students at both the top and bottom levels of achievement, with sound procedures to identify students to receive targeted test booklets on the basis of their performance on some standard indicator of achievement.

- (6) Encourage and review research on the identification and progress of students who have a significant cognitive disability but in the short term do not test this 1% of students on NAEP.
- (7) Assess the English language proficiency of students with disabilities who are English language learners and are drawn for the NAEP sample and provide linguistically appropriate accommodations for those who need them before determining whether additional accommodations may be needed to address any disabilities those students may have.

**BY EXPERT PANEL ON UNIFORM NATIONAL RULES FOR NAEP TESTING OF ENGLISH LANGUAGE LEARNERS**

- (1) ELLs in all states and districts selected for the NAEP sample who have been in United States schools for one year or more should be included in the National Assessment. This policy should be implemented with the disaggregated reporting of ELL test results by detailed information on students' English language proficiency and the availability of accommodations that maximize meaningful participation.
- (2) Students should be offered ELL-responsive accommodations that maintain the constructs in the NAEP framework, including items and directions in plain language, side-by-side bilingual Spanish-English test booklets, word-to-word bilingual glossaries without definitions, as well as other accommodations currently allowed by NAEP. The accommodations for each student should be selected at the local level by school personnel who are qualified to make judgments regarding the inclusion of the ELL in NAEP, including knowledge of his or her level of English language proficiency.

- (3) NAEP results for ELL students should be disaggregated and reported by the best available standardized assessment data on the level of English language proficiency.
- (4) To attain comparable participation rates across states and districts, special efforts should be made to inform and solicit the cooperation of state and local officials who decide upon the participation of individual students, including joint planning sessions and targeted information sharing. A high common goal for 95 percent or more of ELL students sampled to participate should be established.
- (5) NAEP should adopt an aggressive timeline for innovation and research, including (a) the development of test items written in plain language; (b) a short test of English language proficiency; (c) targeted testing with blocks of items at low and high levels of difficulty; and (d) computerized administration of the assessment when feasible.

The full reports and recommendations of the technical advisory panels are available at <http://nagb.org/newsroom/PressReleasePDFs/SD-Panel-Report.pdf> and <http://nagb.org/newsroom/PressReleasePDFs/ELL-Panel-Report.pdf>. PowerPoint summaries are available at <http://nagb.org/newsroom/PressReleasePDFs/Ppt-SD-Panel-Report.pdf> and <http://nagb.org/newsroom/PressReleasePDFs/Ppt-ELL-Panel-Report.pdf> .

A detailed summary of the hearing that is informative to the public and consistent with the policy of section 5 U.S.C. 552b(c) will be available to the public within 14 days of the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite #825, 800 North Capitol Street, NW, Washington, DC, from 9:00 a.m. to 5:00 p.m. Eastern Time, Monday

through Friday.

**Electronic Access to This Document:** You may view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe Portable Document Format (PDF) on the Internet at the following site:

<http://www.ed.gov/news/fedregister/index.html>. To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available on GPO Access at: [www.gpoaccess.gov/nara/index.html](http://www.gpoaccess.gov/nara/index.html).

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Cornelia S. Orr  
Executive Director  
National Assessment Governing Board  
U. S. Department of Education

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Date