



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

November 9, 2009

National Assessment Governing Board
800 N. Capitol St. NW
Suite 825
Washington, DC 20002

Subject: Comments to Recommendations of the Technical Advisory Panel on Uniform National Rules for NAEP Testing of Students with Disabilities

The Consortium for Citizens with Disabilities is a coalition of nearly 100 national consumer, advocacy, provider and professional organizations headquartered in Washington, D.C. Since 1973, CCD has advocated on behalf of people of all ages with physical and mental disabilities and their families. CCD has worked to achieve federal legislation and regulations that assure that the 54 million children and adults with disabilities are fully integrated into the mainstream of society. Approximately 50 national organizations participate in the Education Task Force.

CCD appreciates the opportunity to comment on the recommendations and offers the following for your consideration:

Technical Advisory Panel Recommendation #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.*

Comments:

CCD supports the work to define the terms 'accommodation' and 'modification'. Previous reports issued by the NAEP Ad Hoc Committee on Students with Disabilities seemed to use these terms interchangeably, and so we are pleased NAGB has taken this opportunity to clearly articulate the differences between the two.

Recommendations

1. CCD recommends that NAGB conduct research on the validity of test accommodations most widely used on state assessments to inform current NAEP accommodations policy and ensure that students are not being assessed in a way that produces results that are not useful. NAGB should review the independent reports on the variance of state assessment accommodation policies including (*State Testing Accommodations: A Look at Their Value and Validity* available at www.LD.org) that noted concerns about the variability of accommodations, the research supporting state policies, as well as both selection and implementation of test accommodation by school staff.
2. NAGB should apply the principles of Universal Design for Learning in the development of their assessments. See more discussion of Universal Design for Learning in our response to the Technical Advisory Panel Recommendation #5

Technical Advisory Panel Recommendation #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.*

Comment: The following sentence is an inaccurate description of the students who are permitted to be assessed on an alternate assessment based on alternate achievement standards (A-AAS). These students are those with the most significant cognitive disability (the word "most" was omitted from the report).

Students should be excluded from participating in NAEP **only** if they have previously been identified in an IEP as having a significant cognitive disability, and are assessed by the state on an alternate assessment based on alternate achievement standards (AA-AAS).

In addition, CCD does not agree that the IEP team determination for state assessments should control NAEP decisions and even if they do, every student who takes a AA-AAS should not be excluded from the NAEP without providing a cap on the number of students that may be excluded.

Recommendation: Any reference to students who take the AA-AAS should refer to 'students with the most significant cognitive disabilities'. Also, please see the recommendations we make in response to the Technical Advisory Panel Recommendation #6 with regard to how any exclusion of these students should be handled.

Technical Advisory Panel Recommendation #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.*

Comment: CCD strongly supports this recommendation to distinguish between students with IEPs and students with 504 plans.

Technical Advisory Panel Recommendation #4 : *Provide incentives for schools to include students with disabilities, including additional outreach and public reporting of participation rates below 95% of students with disabilities.*

Comment: NAGB must be very careful about what they use as “incentives.” Fundamentally, CCD disagrees with the notion that schools should be given incentives to simply meet their moral, ethical, and legal obligations.

Recommendation: CCD urges the Panel to change the title of this recommendation to more accurately reflect the recommendation itself. CCD suggests the recommendation title be changed to: *Increasing Transparency of the Participation of Students with Disabilities on NAEP*

However, we support the following recommendations provided by the Panel:

- provide notation of states and districts with more or less than 95% participation rates as part of NAEP results;
- undertake special studies to look at any outlier states with unusually high or low exclusion rates;
- prominently display the participation rate of students with disabilities with all other information released to the public.

Recommendations

1. CCD supports the recommendation that NAGB must provide guidance to school decision-makers regarding the inclusion of students with disabilities. CCD encourages the Panel to consider adding a third statement to emphasize that student results from NAEP are not used for accountability purposes, are not disaggregated to the individual student level and are intended to provide trend data to determine how students are progressing over time.
2. CCD specifically urges NAGB to include this information on state snapshots, which list other subgroups of students, but not students with disabilities. We also encourage the Panel to include exclusion rate information so that there will be a continuation of trend data in this area.

Technical Advisory Panel Recommendation #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.*

Comment: CCD believes that assessments should be not be designed to impose an arbitrary achievement cap (i.e. a student taking a below basic exam would only be able to demonstrate mastery of below basic material). Instead, CCD supports an assessment that mixes below basic, basic, and advanced questions; as well as an assessment that contains a concentration of difficult items.

There is no need for targeted testing at ability level except for the alternate NAEP that we discuss under the Technical Advisory Panel recommendation #6, below. The regular NAEP should be appropriate for the other students with disabilities if it is designed to be more accessible.

Recommendation: True accessibility, combined with high expectations for achievement, cannot be achieved by offering certain students assessment booklets at different levels of difficulty. Instead the principles of Universal Design for Learning should be used in the development of test items and the implementation of the assessment (including the use of computerized assessments and the supports that can be incorporated in these assessments). Accessibility can also be improved by looking more closely, as the assessment is being designed, at which accommodations can be included. Additionally, newly designed assessments should consider all learning styles, rather than attempt to retrofit current assessments.

It is clear from recent publications on the NAGB website that efforts have begun to universally design the assessment by looking at item design. This is wonderful. However, we encourage greater emphasis on cognitive access by building in supports that a student can use to answer the questions, as long as they don't affect the construct. See www.cast.org and www.udlcenter.org for more on Universal Design for Learning. See www.udl4allstudents.com, for a list of over 38 national disability and general education organizations working together in a Task Force to promote Universal Design for Learning in Federal policy and legislation.

Technical Advisory Panel Recommendation #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.

Comment: We appreciate the following recommendation that work must begin on finding a way to include ALL students, including those currently excluded because there is no alternate-NAEP and the statement later in recommendation #6 that these students be excluded for the near future. We are hoping that the Technical Advisory Panel meant to express a sense of urgency about finding a solution so these students will be excluded for as short a time as possible.

The Panel recommends that NAGB form a panel of experts and stakeholders to review research and best current practices for identifying, measuring and reporting the progress of students who have a significant cognitive disability, and to make recommendations to NAGB for how emerging findings can and should be applied to NAEP in the future so such students could be included in NAEP.

Recommendation: The panel of experts and stakeholders recommended in the report should be part of a NAGB 5 year strategic plan

Comment: In the meantime, it is important to be clear about which students can be excluded in the near future and this group should be as small as possible. The students that are the subject of recommendation #6, are referred to in the report as students with “significant cognitive disabilities” and also referred to as those with a “severe cognitive disability.” The 1% rule under ESEA is also referred to, which uses yet a third term; “students with the most significant cognitive disabilities.”

In addition, the 1% rule is a misnomer because there is no limit on the percentage of students who can be labeled a student with the most significant cognitive disabilities for purposes of taking the AA-AAS. The 1% cap only applies to the number of advanced and proficient scores that can be used to calculate AYP. The percent of students being administered the AA-AAS varies substantially across states, based on available data. According to data compiled by the NCEO, Michigan assessed 20% of students with disabilities on the AA-AAS in SY 07-08. Therefore, if participation in the state AA-AAS was used to determine NAEP participation, this state would exclude double the number that the panel recommends.

Recommendation: Several disability advocacy organizations, including this coalition recommended, in comments submitted in February 2009, that NAEP should not rely on decisions under the 1% rule for the statewide assessments to determine who can take the NAEP. The identification criteria for these assessments are not well defined and IEP teams do not have the proper training to make the assessment decisions. We recommended that NAGB use a separate screening test to identify these students and that an alternate NAEP should be developed for their use. The screening test should be developed as soon as possible to determine which students will not take the NAEP, while work is being done to develop an alternate NAEP.

Until the screening test is developed we are recommending that the term students with the most significant disabilities be used (in lieu of severe or significant cognitive disabilities) to determine which students will be excluded from NAEP and that a cap is placed on the number of students who can be excluded based on their participation in an AA-AAS. This cap should be equal to 1% of the number of students drawn for the NAEP sample.

Comment: The Technical Advisory Panel's report states that students who are excluded for this reason should not be considered in determining whether the participation rate guidelines are met. This recommendation from the Panel will provide the public with inaccurate information with respect to the true participation rate for students with disabilities.

Recommendation: These students should be considered in determining the participation rate. If NAGB disagrees with this recommendation, then at the very least, there should be an asterisk on the participation rate data informing the public that the participation rate does not reflect these students and provide data about what the participation rate would have been if they were considered.

Technical Advisory Panel Recommendation #7 Assess the English language proficiency of students with disabilities drawn for the NAEP sample and provide NAEP-approved, linguistically appropriate accommodations for them before determining whether additional accommodations may be needed to address any disabilities these students may have.

Comment: CCD supports this recommendation.

Recommendation: While clearly some students drawn for the NAEP sample will be both ELL and IEP students, too little is still known about this group of students. Data on the percentage of student with disabilities who are also ELLs and their exclusion rate would be helpful.

Thank you for the opportunity to comment.

Sincerely,

Association of University Centers on Disabilities
Council of Parent Attorneys and Advocates
Council for Exceptional Children
Council for Learning Disabilities
Easter Seals
Epilepsy Foundation
Learning Disabilities Association of America
National Disability Rights Network
National Down Syndrome Society
School Social Work Association of America
The Advocacy Institute
The Arc of the United States
The National Center for Learning Disabilities
Tourette Syndrome Association
United Cerebral Palsy

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