

**Testimony of the
Council for Exceptional Children
to the
Technical Advisory Panel on Uniform National Rules for NAEP
Testing for Students with Disabilities
November 9, 2009**

Good morning. I am Kim Hymes, Director of Policy and Advocacy at the Council for Exceptional Children. On behalf of CEC's 40,000 professional members who work on behalf of children and youth with disabilities and/or gifts and talents, I am pleased to have the opportunity to provide comments on the *Technical Advisory Panel on Uniform National Rules for NAEP Testing of Students with Disabilities*. CEC's comments were developed with the input of its members, including the Council of Educational Diagnostic Services, a division of CEC.

CEC commends the thoughtful consideration the Panel has given to address the inconsistencies that currently exist in the inclusion and exclusion rates of students with disabilities on the National Assessment of Educational Progress (NAEP), better known as the 'Nation's Report Card'.

As you know, NAEP is intended to provide the public with an overview of students' progress over time by measuring them against a common yardstick. CEC values the collection and dissemination of this vital information but believes that ultimate the goal - an accurate picture of student progress - cannot be achieved if the inclusion of certain student populations - such as students with disabilities - is masked by inconsistent policies and procedures at the federal, state and local levels.

As such, CEC's comments share a common theme of increasing transparency, ensuring access, and supporting meaningful participation. Additionally, CEC urges the Panel to use this report as an opportunity to both address current issues and share a vision with the National Assessment Governing Board (NAGB) of how NAEP could ensure a truly representative sample of all students from across the country.

The impetus for the creation of this Advisory Panel was the recognition that the participation of students with disabilities on NAEP varies widely between and within states. In fact, as you are aware, the recently released 2009 NAEP math findings exposed extreme inconsistencies. For example, in 4th grade math the exclusion rate for students with disabilities ranged from 6 percent in New York

to 32 percent in Maryland¹. Furthermore, the 8th grade math exclusion rate ranged from 9 percent in Arkansas to 56 percent in Maryland². As the preface to the Panel's report indicates, this wide range is not as a result of an increased incidence of severe disabilities in certain locations, but rather inconsistent policies implemented at the state and local levels. CEC strongly believes that NAGB must correct this inconsistency if our nation is to have a transparent, accurate understanding of how its students are performing.

CEC also commends the Panel for considering the unique needs of high achieving students. As you know, addressing the needs of these students is often overshadowed by the needs of their lower achieving peers; though their needs are no less urgent. According to recent research, in elementary and high school, lower-income students neither maintain their status as high achievers nor rise into the ranks of high achievers as frequently as their higher-income peers³. Indeed, research indicates that when high achieving students from lower income backgrounds are compared to their high achieving peers from upper income backgrounds,⁴ over time, gifted disadvantaged students:

- ◆ Fall out of the top academic tier at greater rates as they continue on with their schooling
- ◆ Drop out from high school at twice the rate
- ◆ Are less likely to graduate from college, and
- ◆ Are less likely to receive a graduate degree.

Too often, assessments do not allow high achieving students to truly demonstrate their knowledge and skill. CEC supports the Panel's consideration of meaningfully including all students on NAEP.

In sum, CEC is very encouraged by NAGB's recognition of this issue, and the work of this Panel. CEC also appreciates the numerous opportunities to provide feedback to both NAGB and the Panel during important steps of the process. It is with this in mind, CEC offers the following comments today.

¹ http://nationsreportcard.gov/math_2009/inclusion.asp?subtab_id=Tab_2&tab_id=tab2#chart

² http://nationsreportcard.gov/math_2009/inclusion.asp?tab_id=tab5&subtab_id=Tab_2#chart

³ Wyner, J., Bridgeland, J.M., & Diulio, J.J. (2008). *The Achievement Trap: How America is Failing Millions of High-Achieving Students from Lower Income Families*. Lansdowne, VA: Jack Kent Cooke Foundation

⁴ Ibid.

CEC's Response to the Technical Advisory Panel on Uniform National Rules for NAEP Testing of Students with Disabilities

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.

CEC Comments: CEC strongly supports the goal of encouraging as many students as possible to participate in NAEP, but has concerns regarding the Panel's strategies for achieving this goal as outlined in this recommendation.

As stated earlier, there is a vast discrepancy between state exclusion rates for students with disabilities. Therefore, CEC supports the Panel's affirmation that as many students as possible should be encouraged to participate in NAEP. Additionally, CEC supports the Panel's 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 CEC is pleased that the Panel has taken this opportunity to clearly articulate the differences between the two.

CEC is concerned, however, that preventing an accommodation which is approved by a student's IEP team may produce NAEP test results which don't reflect that student's knowledge and skills. This may also confuse parents, who will wonder why a student is allowed to use an accommodation some times and not others. Confusion and lack of transparency may hurt participation rates in NAEP and increase friction between schools and parents.

For example, currently, a student is not permitted to take the NAEP exam over a period of days. But an IEP Team may have decided that this accommodation is necessary to ensure that the student can effectively demonstrate his/her knowledge and skills. Due to the NAEP rule therefore, this student may be inappropriately excluded from the exam and NAEP's goal of increasing participation foiled. CEC encourages NAEP to examine its policies about allowable accommodations and examine whether an accommodation is excluded to ensure valid test results or for another purpose. Thus CEC urges the Panel to review its decisions to allow accommodations with the guiding purpose of including all students.

One way to accomplish this goal, is to include the principles of Universal Design for Learning. Thus, CEC also recommends that the Panel provide pro-active, future-oriented recommendations such as the need to create universally designed assessments that consider all learning styles, rather than attempting to retrofit current assessments.

Panel Recommendation 2: Clarify and Expand NAEP's Guidance to Schools, Encouraging Maximum Participation of Students with Disabilities.

CEC Response: Again, CEC supports the Panel's emphasis on including the maximum number of students in NAEP and supports the shift towards the expectation that nearly all students will participate in NAEP.

Furthermore, CEC believes that the proposed changes to the decision tree are a positive step toward achieving this goal. Specifically, CEC supports the Panel's affirmative statements in numbers 3.a and 3.b regarding the use of accommodations, and it also supports the differentiation between students with IEPs and those with 504 plans.

However, CEC is concerned that section 3.c of the decision tree will prevent students from using the accommodations identified by their IEP teams on NAEP, if their IEP accommodations are deemed impermissible. Here, the problem again is inconsistency. Students regularly and lawfully use the accommodations identified on their IEP's to access the curriculum and demonstrate their knowledge and skills. CEC is concerned that prohibiting the use of these accommodations will skew performance results for this group of students.

Additionally, CEC is concerned that the Panel seems to issue a blanket exclusion for students with the most significant cognitive disabilities to participate in NAEP. CEC does not support blanket exclusions for any group of students. Instead, CEC believes that the Panel should be emphasizing inclusion and participation in NAEP, rather than focusing on exclusion. However, if the Panel should move in this direction, CEC encourages the panel to rephrase its current language to read:

Only students with the most significant cognitive disabilities should be considered for exclusion from participating in NAEP.

By including the word 'considered' it prevents the blanket exclusion of students with the most significant cognitive disabilities and instead leaves the decision regarding participation to educators who know the student. Principally, a decision of who can participate in NAEP should be made on the local level by decision makers who know the student, not by policymakers in Washington, DC.

Again, CEC believes that the Panel's emphasis should be on maximum inclusion, rather than exclusion. The Panel has this opportunity to model for States how it should view policies and procedures relating to NAEP.

Additional concerns CEC has regarding this issue include:

- ◆ The Panel omits the word ‘most’ from its reference to students with significant cognitive disabilities. CEC urges the Panel to use the phrase ‘students with the most significant cognitive disabilities’ to ensure alignment with other federal laws.
- ◆ CEC is concerned that the Panel seems to overlook the fact that the 1% category means students who have the most significant cognitive disabilities and who have taken the alternate assessment based on alternate achievement standards (AA-AAS) for accountability purposes. The 1% cap is not a cap on the percentage of students that can actually participate in the AA-AAS, rather it is a cap on counting those students as proficient in the adequate yearly progress/accountability system. Theoretically, the number of students who take the AA-AAS may be larger than 1%, even though only 1% can count for ESEA accountability purposes. Therefore, CEC does not support the Panel’s recommendation that students who take the AA-AAS should automatically be excluded from taking NAEP.
- ◆ CEC supports the Panel’s recommendation that NAGB must provide guidance to school decision-makers regarding the inclusion of students with disabilities. CEC 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.

Panel Recommendation #3: Report Separately on NAEP Results for IEP and 504 students.

CEC Response: CEC strongly supports the Panel’s recommendation to distinguish between students with IEPs and students with 504 plans.

Panel Recommendation #4: Provide Incentives for Schools to Include Students with Disabilities.

CEC Response: Fundamentally, CEC disagrees with the notion that schools should be given incentives to simply meet their moral, ethical, and legal obligations. Therefore, CEC believes that the Panel should change the title of this recommendation to more accurately reflect the recommendation itself. CEC suggests the recommendation title be changed to:

Increasing Transparency of the Participation of Students with Disabilities on NAEP

CEC supports the Panel’s recommendations to prominently display the participation rate of students with disabilities with all other information

released to the public. CEC specifically urges NAGB to include this information on state snapshots, which list other subgroups of students, but not students with disabilities. CEC also encourages the Panel to include exclusion rate information so that there will be a continuation of trend data in this area.

CEC supports the Panel's recommendation to have NCES study outlier states with unusually high or low exclusion rates.

CEC is pleased that the Panel has outlined two options for a suggested participation rate for students with disabilities, the first option which would encourage a participation rate of 95% within the students with disabilities subgroup; and the second which would be a certain percentage of the total student population.

First, CEC believes that this issue warrants further consideration among the Panel, stakeholders and other entities (such as NCES, research organizations doing work in this area such as National Center for Educational Outcomes, etc.). CEC agrees with the Panel that NAEP should study the possibility of developing a uniform guideline based on a percentage of the total student population. Future work in this area should be focused on the merits of the two options, intended and unintended consequences, and on a specific exclusion percentage.

Next, while CEC believes that more work must be done to answer these issues, CEC's initial response is that a combination of the two options would provide the public with a more complete picture of how students with disabilities are being included and excluded in NAEP. As you are well aware, the rate at which states identify students as having a disability varies dramatically between states. Thus, if the 95% participation option were to be used exclusively, this variance between states may potentially exclude too many students with disabilities. Alternatively, if the Panel recommended a certain exclusion percentage based on the total student population that percentage may be a too large portion of the state's students with disabilities if a state had a low percentage identified as having a disability. Either way, the results will be inaccurate.

Therefore, CEC supports further study of the following:

- ◆ Use of a combination of the 95% participation rate and a uniform exclusion percentage
- ◆ Including exclusion percentages, as compared to the state with the lowest exclusion percentage, to place this information into context for the public
- ◆ States with the highest and lowest exclusion/inclusion rates
- ◆ Intended and unintended consequences of creating such recommendations

Panel Recommendation #5: Support Research Efforts to Develop Targeted Testing for All 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.

CEC Response: CEC believes that one of NAEP's best qualities is that it provides a national look at how students perform on a common assessment over time. Therefore, CEC urges the Panel not to support recommendations that would compromise the comparability of state performance on NAEP. Continuing to collect and compare national trend data is a critical element of NAEP and provides valuable information to our country.

CEC has concerns regarding the use of targeted testing, however. First, CEC does not support the creation of an assessment that would focus only on content that is at a below basic level. CEC 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, CEC supports an assessment that mixes below basic, basic, and advanced questions; as well as an assessment that contains a concentration of difficult items.

Second, CEC is very concerned with the concept of a 'locator test' as this test would likely be administered with only the NAEP approved list of accommodations. As stated earlier, CEC believes that an assessment given without an accommodation that an IEP Team deems necessary for a student may produce results that do not reflect the ability of the student. Therefore, it is possible that a student- without the necessary accommodations - may perform at a level which would prompt the below basic assessment, even though that student may be able to perform well on either the assessment with the full range of items or the assessment with a concentration of difficult items, if properly accommodated.

Third, CEC only supports the use of a state assessment to determine which students receive the NAEP assessment that contains a concentration of difficult items. While the state assessment should not be the only measure of which students should receive the advanced NAEP test, CEC believes it can be used for select students who score in the top percentiles on their state assessment. However, CEC encourages the Panel not to support policies that result in high stakes decisions based on only one assessment.

Lastly, CEC strongly supports the Panel's recommendation to pursue further study and research on targeted testing prior to implementing such policies. CEC again encourages the Panel to use this opportunity to recommend future-focused ideas, such as supporting the creation of universally designed assessments that take all learning styles into account.

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.

CEC Response: CEC supports the Panel's recommendation to create a panel of experts and stakeholders to review research and current practices to determine how best to include students with the most significant cognitive disabilities in NAEP. CEC encourages the Panel to support consideration of an alternate-NAEP and other ways to meaningfully include students with the most significant cognitive disabilities. CEC urges the Panel to move forward on this initiative in a swift manner.

CEC believes that the decision of which students should and should not be tested in NAEP should be made by local school personnel, rather than the Panel's recommendations. Furthermore, as stated earlier, CEC encourages the Panel to reconsider how it categorizes students with the most significant cognitive disabilities. Currently, the Panel seems to be using the terms '1%' and 'students with the most significant cognitive disabilities' interchangeably. As stated earlier, it is important to note that the figure 1 percent refers to the 1 percent of student's scores on the alternate assessment based on alternate achievement standards which can be counted as proficient or advanced for purposes of adequate yearly progress. It is not a cap on the number of students who may take the alternate assessment based on alternate achievement standards.

The Panel's report states that students who are excluded 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. Therefore, CEC recommends that these students 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 students with the most significant cognitive disabilities and provide data about what the participation rate would have been if they were considered.

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.

CEC Response: CEC supports the Panel's recommendation.

Conclusion

CEC appreciates the opportunity to provide input and feedback on the Panel's report and the consideration of how to best include students with disabilities on NAEP. If our country is to truly have a national and state gauge as to how students are performing over time, NAGB must embrace policies that encourage maximum participation of all students.