

National Assessment Governing Board Executive Committee

May 15, 2014
4:30-5:30 p.m.

AGENDA

4:30 – 4:40 pm	Welcome, Introductions, Comments, and Agenda Overview <i>David Driscoll, Chair</i> Full Board Agenda Overview – Desired Outcomes <i>Cornelia Orr, Executive Director</i>	
4:40 – 4:50 pm	Board Membership Updates <ul style="list-style-type: none">• Process for Election of Vice Chair for 2014-2015• New Committee Assignments <i>David Driscoll</i>	Attachment A Attachment B
4:50 – 5:10 pm	Committee Topics: Issues and Challenges Assessment Development – <i>Shannon Garrison</i> COSDAM – <i>Lou Fabrizio</i> Reporting and Dissemination – <i>Andrés Alonso</i> Nominations – <i>Tonya Miles</i>	
5:10 – 5:25 pm	Updates: NAEP Budget NAEP Reauthorization <i>Cornelia Orr</i>	Attachment C Attachment D
5:25 – 5:30 pm	Other Discussions and Future Topics <i>Committee Members</i>	
5:30 pm	Adjourn	

Process for Election of Vice Chair for 2014-2015

The Governing Board Chair is appointed by the U.S. Secretary of Education, and the Vice Chair is elected annually by the Governing Board. Current Board members can be nominated to be Vice Chair. A general outline of the process is listed below:

- May 15, 2014 – Chair designates a Board member to collect nominations.
- May-July 2014 – Designee seeks nominations from fellow Board members.
- July 31, 2014 – Designee presents nomination for consideration by the Executive Committee. Executive Committee votes on a member to recommend to the Board for the position of Vice Chair.
- August 2, 2014 – As part of the Executive Committee report on Saturday morning, the Committee recommends a member for a full Board vote on the position of Vice Chair, for a term of October 1, 2014 to September 30, 2015

The Board Bylaws—as last amended on November 20, 2010—detail the duration and duties of the Governing Board Vice Chair:

Bylaws Excerpt: **“Article V - Officers**

1. Each year, the Secretary of Education appoints the Chair of the National Assessment Governing Board for a term beginning on October 1 and ending the following September 30. Each year, the Board selects its Vice Chair for a term beginning on October 1 and ending the following September 30. The Chair and the Vice Chair are chosen from among the appointed members of the Governing Board.
2. The Chair shall preside over meetings of the Board. In the Chair's absence, the Vice Chair shall preside, subject to the provisions of Article VI below

The Chair shall designate, subject to the provisions of Article VII below, the membership and Chair and Vice Chair of the Board's committees.

3. When the Chair is unable to be present at a meeting of the Board, the Vice Chair shall preside over that meeting; however, the agenda of that meeting shall be approved in the manner prescribed below in Article VII (2) (a).
4. The Vice Chair shall perform such duties as may be delegated or prescribed by the Chair and shall work closely with the Chair during his/her term of office.
5. The Vice Chair shall perform the duties of the Chair whenever the Chair is unable to perform them, by reason of illness, absence, or other disability. The Chair and Vice Chair shall be ex-officio members of all committees without vote. Each may also serve as a regular voting member of ad hoc committees and of one Board standing committee (in addition to the Executive Committee and the Nominations Committee).

Article VI – Meetings

1. The Board meets not less than four times each year on a regular schedule as adopted by the Board, or at the call of the Chair. Committees meet as required at the call of their Chair. Meetings are open to the public except as determined in advance by the Executive Director, with the concurrence of the Office of General Counsel. Notice of each Board meeting shall be published in the Federal Register. Meetings are conducted and records of proceedings kept, as required by applicable laws and regulations.
2. A quorum of the Board consists of a majority of its members. Except as provided in Article VIII, voting by proxy shall not be allowed.
3. The Board and its committees will from time-to-time have meetings in various parts of the country to facilitate participation and attendance of the public in Board meetings.
4. Members absent from two consecutive, regularly scheduled meetings of the full Board shall be notified by the Chair that their lack of attendance may lead to their removal from the Board.

The Board will consider the absence of any member from three consecutive, regularly scheduled meetings of the full Board, cause to recommend that the Secretary remove such member.

5. A Board member who is a Governor may, after consultation with the Chair or Vice Chair, send a non-voting representative to attend meetings of the full Board or its committees to provide the views of the Governor and to report to the Governor on the discussions and decisions of the Governing Board. (This does not alter the attendance policy of Section 4 above.) Such non-voting representatives may attend all sessions of the Board, or committee of which the Governor is a member, and sit at the Board or committee table to be recognized and address the Board or committee when appropriate. With the approval of the Executive Director, or in his/her absence, the Deputy Executive Director, the travel expenses of the non-voting representative may be arranged by the Board in accordance with applicable law and regulation for invitational travel.
6. A member wishing an additional individual to attend a Board or committee meeting at Board expense must obtain advance approval from the Executive Director or, in his/her absence, the Deputy Executive Director. As an example, paying such expenses would be appropriate when a Board member is disabled and requires the assistance of a companion as an accommodation to facilitate attendance at Board or committee meetings; the payment of such expenses shall be consistent with federal law and regulation.
7. Committees and the full Board may meet by teleconference or may conduct meetings via the Internet.”

National Assessment Governing Board

Committee Structure

2014-2015

Committee on Standards, Design and Methodology

Chair Lou Fabrizio
 Vice Chair Fielding Rolston
 Lucille Davy
 James Geringer
 Andrew Ho
 Terry Holliday
 James Popham
 Leticia Van de Putte
Sharyn Rosenberg (Staff)

Reporting and Dissemination Committee

Chair Andrés Alonso
 Vice Chair Terry Mazany
 Anitere Flores
 Rebecca Gagnon
 Tom Luna
 Ronnie Musgrove
 Tonya Miles
 Joseph O’Keefe
Stephaan Harris (staff)

Assessment Development Committee

Chair Shannon Garrison
 Vice Chair Cary Sneider
 Doris Hicks
 Brent Houston
 Hector Ibarra
 Dale Nowlin
 Susan Pimentel
Mary Crovo (staff)

Nominations Committee

Chair Tonya Miles
 Lucille Davy
 Shannon Garrison
 Doris Hicks
 Andrew Ho
 Brent Houston
 Hector Ibarra
 Joseph O’Keefe
 Susan Pimentel
 Fielding Rolston
 Cary Sneider
Mary Crovo (staff)

Executive Committee

Chair David Driscoll
 Vice Chair Susan Pimentel
 Andrés Alonso
 Lou Fabrizio
 Shannon Garrison
 Terry Mazany
 Tonya Miles
 Fielding Rolston
 Cary Sneider
Vacancy (staff)

NAEP Budget Requests and Projections

The information provided below is an update to the March 2014 closed session briefing on the NAEP budget provided by Peggy Carr, National Center of Education Statistics (NCES). At the that time, the amount of the President's budget request for FY 2015 was not known, nor were the amounts recommended in the recently passed House Bill (H.R. 4366—*Strengthening Education through Research Act*). See Attachment D of this section. Both are now available and summarized below along with appropriations from the previous three years and projections for the next three years. As the projected 5-year total indicates, differences in the projections are considerable.

NAEP Budget Requests & Projections (in Millions)							
		Current Contract Cycle					Projected
	FY2012	FY2013 ¹	FY2014 ²	FY2015	FY2016	FY2017	5-Yr Total
President's Budget Req.	\$ 129.6	\$ 122.8	\$124.6	\$ 124.6	\$ 124.6	\$ 124.6	\$ 628.6
Appropriations & Projections	\$ 129.6	\$ 122.8	\$ 132.0	\$ 132.0	\$ 132.0	\$ 132.0	\$ 650.8
House Bill 4366 Rec.				\$ 132.0	\$ 132.3	\$ 135.2	\$ 654.3

¹ The FY 2013 amount reflects the impact of sequestration based on the FY2012 appropriation. The President's budget request that year was for \$124.6 million, a \$5 million decrease from FY 2012.

² The President's FY 2014 budget request was \$124.6 million, which would not have restored the NAEP budget to the FY 2012 pre-sequestration level. Congress appropriated \$132 million, a \$2.4 million increase over FY 2012. The amount of \$132 million was recommended for FY 2015, with specific increases recommended in the out-years, in House bill H.R. 4366—Strengthening Education through Research Act.

At the May 2014 Board meeting, there will not be a closed session for additional discussions about NAEP budget constraints. The details above are provided only for informational purposes. Because budgets are appropriated by congress on an annual basis, periodic closed session discussions about the NAEP budget and schedule are expected at future Board meetings.

On May 16 there will be a policy discussion about what is desirable for NAEP in terms of subject area assessments from 2016 to 2024, 10 years beyond the current year. A staff proposed discussion draft of the NAEP Schedule of Assessments was developed in consideration of budget constraints that are likely to impact the 2017, 2018, and 2019 assessments. A separate section of the Board materials addresses the NAEP schedule of assessments and includes the proposed schedule.

NAEP Reauthorization Update

Last month on April 9, 2014, a NAEP/NAGB/IES reauthorization bill (H.R. 4366—*Strengthening Education through Research Act*) passed unanimously in the Education and Workforce Committee of the House of Representatives. Title III of the bill contains amendments to the current *National Assessment of Educational Progress Authorization Act*.

In this attachment are a copy of the current NAEP legislation in track changes (Attachment D1), displaying the amendments under H.R. 4366 with a few explanatory comments, and a copy of a letter from Board Chair David Driscoll to Committee Chairman John Kline with comments on the bill, which had been invited by the Committee (Attachment D2). A summary of the general next steps for reauthorization and of the amendments in the House bill follows below.

Support for the bill by the Members of the Education and the Workforce Committee was clearly bipartisan—as evidenced by the unanimous support by voice vote during the April 9 Full Committee markup. There were no specific references to the NAEP/NAGB provisions during the statements by the bill sponsors (Reps. Kline, Miller, Rokita, and McCarthy) and Members. There was a mention of "letters of support" being entered into the record, which included Chair Driscoll's letter.

The next step is debate and a vote on H.R.4366 on the House floor. As of this writing, a date for a vote in the House has not been announced, nor has the Senate Health, Education, Labor, and Pensions Committee publicly proposed a bill to reauthorize NAEP/NAGB/IES.

The typical process following separate passage of a bill in both Chambers of Congress is a conference between Members of the respective Chambers to resolve differences, passage of a final bill in the respective Chambers, and signing by the President.

Summary of Bill Provisions:

The overriding thrust of the amendments is to clarify the respective roles of the Board and NCES, aligning the bill text with 25 years of actual practice.

For example, the bill clarifies the Board's authority to: release NAEP reports; nominate candidates for Board vacancies; and set the schedule of assessments. It also provides a new authority: providing input to the IES Director on the annual NAEP budget requests for submission to the Secretary.

The House bill changes "[The Assessment Board shall] formulate policy guidelines [for NAEP]" to "[The Assessment Board shall] oversee and set policies [for NAEP]" in the Board's establishment clause in Section 302(a) of the bill.

It changes "The [NCES Commissioner] shall, with the advice of the Assessment Board [carry out...[NAEP]]" in the NCES section of the bill to " The [NCES Commissioner] shall, in a manner consistent with accepted professional standards and the policies set for the by the Assessment Board...[carry out...[NAEP]]". The phrase "in a manner consistent with...accepted professional standards" is also added to the Board's establishment clause in Section 302(a). These changes align the bill text with historical practice.

The bill provides language that gives the Commissioner the final word on the content of NAEP reports, and in doing so, must take into account policy set by the Board.

The bill maintains and, in some ways, strengthens the checks and balances that were a part of the original conception of the NAEP governance structure.

The authorization of appropriations for NAEP is for six years and increases incrementally from \$132 million for FY 2015 to \$144,287,595 for FY 2020. In the past, the authorization of appropriations has been a certain amount in the first year and "such sums as required" after—and for five years rather than six years. This signals congressional policy as an increasing appropriation level for NAEP.

The authorization level for the Board also is on an increasing trajectory over this period—from \$8,235,000 in FY 2015 to \$9,001,578 in FY 2020.

An incremental upward funding trajectory is also included in the bill for the other sections of the law, that is, for Title I which includes IES and its centers and Title II for educational technical assistance.

TITLE III—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS (as would be amended under H.R.4366)

SEC. 301. SHORT TITLE.

This title may be referred to as the “National Assessment of Educational Progress Authorization Act”.

SEC. 302. NATIONAL ASSESSMENT GOVERNING BOARD.

(a) ESTABLISHMENT- There is established the National Assessment Governing Board (hereafter in this title referred to as the ‘Assessment Board’), which shall oversee and set policies, in a manner consistent with subsection (e) and accepted professional standards, for the National Assessment (carried out under section 303).

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(b) MEMBERSHIP-

(1) APPOINTMENT AND COMPOSITION- The Assessment Board shall be appointed by the Secretary and be composed as follows:

- (A) Two Governors, or former Governors, who shall not be members of the same political party.
- (B) Two State legislators, who shall not be members of the same political party.
- (C) Two chief State school officers.
- (D) One superintendent of a local educational agency.
- (E) One member of a State board of education.
- (F) One member of a local board of education.
- (G) Three classroom teachers representing the grade levels at which the National Assessment is conducted.
- (H) One representative of business or industry.
- (I) Two curriculum specialists.
- (J) Three testing and measurement experts, who shall have training and experience in the field of testing and measurement.
- (K) One nonpublic school administrator or policymaker.
- (L) Two school leaders, of whom one shall be an elementary school leader and one shall be a secondary school leader.
- (M) Two parents who are not employed by a local, State or Federal educational agency.
- (N) Two additional members who are representatives of the general public, and who may be parents, but who are not employed by a local, State, or Federal educational agency.

Comment [R1]: See definition of “school leader” on page 11.

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Attachment D1

P.L. 107-279, Signed by President Bush November 5, 2002, amended
P.L. 107-110, Signed by President Bush January 8, 2002

the Assessment Board exercises its independent judgment, free from inappropriate influences and special interests.

(c) TERMS-

(1) IN GENERAL- Terms of service of members of the Assessment Board shall be staggered and may not exceed a period of 4 years, as determined by the Secretary.

(2) SERVICE LIMITATION- Members of the Assessment Board may serve not more than two terms.

(3) CHANGE OF STATUS- A member of the Assessment Board who changes status under subsection (b) during the term of the appointment of the member may continue to serve as a member until the expiration of such term.

(d) VACANCIES-

(1) IN GENERAL-

(A) ORGANIZATIONS- The Secretary shall appoint new members to fill vacancies on the Assessment Board from among individuals who are nominated by the Assessment Board after consultation with organizations representing the type of individuals described in subsection (b)(1) with respect to which the vacancy exists.

(B) NOMINATIONS- With respect to a particular vacancy, the Assessment Board shall nominate for such vacancy six individuals who are qualified by experience or training to fill the particular Assessment Board vacancy.

(C) MAINTENANCE OF ASSESSMENT BOARD- The Secretary's appointments shall maintain the composition, diversity, and balance of the Assessment Board required under subsection (b).

(2) ADDITIONAL NOMINATIONS- The Secretary may request additional nominations from the Assessment Board or each organization described in paragraph (1)(A); if the Secretary determines that none of the individuals nominated by the Assessment Board have appropriate knowledge or expertise.

(e) DUTIES-

(1) IN GENERAL- In carrying out its functions under this section the Assessment Board shall--

(A) in consultation with the Commissioner for Education Statistics, select the subject areas and grades or ages to be assessed and determine the year in which such assessments will be conducted (consistent with section 303(b));

(B) develop appropriate student achievement levels as provided in section 303(e);

(C) develop assessment objectives consistent with the requirements of this section and test specifications that produce an assessment that is valid and reliable, and are based on relevant widely accepted professional standards;

(D) develop a process for review of the assessment which includes the active participation of teachers, school leaders, curriculum

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P.L. 107-279, Signed by President Bush November 5, 2002, amended
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specialists, local school administrators, parents, and concerned members of the public;

(E) provide input on the methodology of the assessment to ensure that assessment items are valid and reliable, in consultation with appropriate technical experts in measurement and assessment, content and subject matter, sampling, and other technical experts who engage in large scale surveys;

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(F) consistent with section 303, measure student academic achievement in grades 4, 8, and 12 in the authorized academic subjects;

(G) develop guidelines for reporting and disseminating results;

(H) develop standards and procedures for regional and national comparisons;

(I) take appropriate actions needed to improve the form, content, use, and reporting of results of any assessment authorized by section 303 consistent with the provisions of this section and section 303;

“(J) provide input to the Director on annual budget requests for the National Assessment of Educational Progress; and;

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(K) release the initial National Assessment of Educational Progress reports.

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The National Assessment of Educational Progress data shall not be released prior to the release of the reports described in subparagraph (K).

(2) DELEGATION- The Assessment Board may delegate any of the Assessment Board's procedural and administrative functions to its staff.

(3) ALL COGNITIVE AND NONCOGNITIVE ASSESSMENT ITEMS- The Assessment Board shall have final authority on the appropriateness of all assessment items.

(4) PROHIBITION AGAINST BIAS- The Assessment Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias and are secular, neutral, and non-ideological.

(5) TECHNICAL- In carrying out the duties required by paragraph (1), the Assessment Board may seek technical advice, as appropriate, from the Commissioner for Education Statistics and other experts.

(6) REPORT- Not later than 90 days after an evaluation of the student achievement levels under section 303(e), the Assessment Board shall make a report to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate describing the steps the Assessment Board is taking to respond to each of the recommendations contained in such evaluation.

(f) PERSONNEL-

(1) IN GENERAL- In the exercise of its responsibilities, the Assessment Board shall be independent of the Secretary and the other offices and officers of the Department.

(2) STAFF-

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- (A) IN GENERAL- The Secretary may appoint, at the request of the Assessment Board, such staff as will enable the Assessment Board to carry out its responsibilities.
- (B) TECHNICAL EMPLOYEES- Such appointments may include, for terms not to exceed 3 years and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than six technical employees who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.
- (g) COORDINATION- The Commissioner for Education Statistics and the Assessment Board shall meet periodically--
- (1) to ensure coordination of their duties and activities relating to the National Assessment; and
 - (2) for the Commissioner for Education Statistics to report to the Assessment Board on the Department's actions to implement the decisions of the Assessment Board.
- (h) ADMINISTRATION- The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Assessment Board, other than sections 10, 11, and 12 of such Act.

SEC. 303. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.

- (a) ESTABLISHMENT- The Commissioner for Education Statistics shall, [in a manner consistent with accepted professional standards and the policies set forth by the Assessment Board under section 302\(a\)](#), carry out, through grants, contracts, or cooperative agreements with one or more qualified organizations, or consortia thereof, a National Assessment of Educational Progress, which collectively refers to a national assessment, State assessments, and a long-term trend assessment in reading and mathematics.
- (b) PURPOSE; STATE ASSESSMENTS-
- (1) PURPOSE- The purpose of this section is to provide, in a timely manner, a fair and accurate measurement of student academic achievement and reporting of trends in such achievement in reading, mathematics, and other subject matter as specified in this section.
 - (2) MEASUREMENT AND REPORTING- The Commissioner for Education Statistics, in carrying out the measurement and reporting described in paragraph (1), shall--
 - (A) use a random sampling process which is consistent with relevant, widely accepted professional assessment standards and that produces data that are representative on a national and regional basis;
 - (B) conduct a national assessment and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in public and private elementary schools and secondary schools at least once every 2 years, in grades 4 and 8 in reading and mathematics;

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(C) conduct a national assessment and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in public and private schools in reading and mathematics in grade 12 in regularly scheduled intervals, but at least as often as such assessments were conducted prior to the date of enactment of the No Child Left Behind Act of 2001;

(D) to the extent time and resources allow and consistent with section 302(e)(1)(A), and after the requirements described in subparagraph (B) are implemented and the requirements described in subparagraph (C) are met, conduct additional national assessments and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in grades 4, 8, and 12 in public and private elementary schools and secondary schools in regularly scheduled intervals in additional subject matter, including writing, science, history, geography, civics, economics, foreign languages, and arts, and the trend assessment described in subparagraph (F);

(E) conduct the reading and mathematics assessments described in subparagraph (B) in the same year, and every other year thereafter, to provide for 1 year in which no such assessments are conducted in between each administration of such assessments;

(F) continue to conduct the trend assessment of academic achievement at ages 9, 13, and 17 for the purpose of maintaining data on long-term trends in reading and mathematics;

(G) include information on special groups, including, whenever feasible, information collected, cross tabulated, compared, and reported by race, ethnicity, socioeconomic status, gender, disability and limited English proficiency;

(H) ensure that achievement data are made available on a timely basis following official reporting, in a manner that facilitates further analysis and that includes trend lines; and

(I) determine, after taking into account section 302(e)(1)(I), the content of initial and subsequent reports of all assessments authorized under this section and ensure that such reports are valid and reliable.

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(3) STATE ASSESSMENTS-

(A) IN GENERAL- The Commissioner for Education Statistics--

(i) shall conduct biennial State academic assessments of student achievement in reading and mathematics in grades 4 and 8 as described in paragraphs (2)(B) and (2)(E);

(ii) may conduct the State academic assessments of student achievement in reading and mathematics in grade 12 as described in paragraph (2)(C);

(iii) may conduct State academic assessments of student achievement in grades 4, 8, and 12 as described in paragraph (2)(D); and

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(iv) shall conduct each such State assessment, in each subject area and at each grade level, on a developmental basis until the Commissioner for Education Statistics determines, as the result of an evaluation required by subsection (f), that such assessment produces high quality data that are valid and reliable.

(B) AGREEMENT-

(i) IN GENERAL- States participating in State assessments shall enter into an agreement with the Secretary pursuant to subsection (d)(3).

(ii) CONTENT- Such agreement shall contain information sufficient to give States full information about the process for decision-making (which shall include the consensus process used), on objectives to be tested, and the standards for random sampling, test administration, test security, data collection, validation, and reporting.

(C) REVIEW AND RELEASE-

(i) IN GENERAL- Except as provided in clause (ii), a participating State shall review and give permission for the release of results from any test of its students administered as a part of a State assessment prior to the release of such data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of such data.

(ii) SPECIAL RULE- A State participating in the biennial academic assessments of student achievement in reading and mathematics in grades 4 and 8 shall be deemed to have given its permission to release its data if the State has an approved plan under section 1111 of the Elementary and Secondary Education Act of 1965.

(4) PROHIBITED ACTIVITIES-

(A) IN GENERAL- The use of assessment items and data on any assessment authorized under this section by an agent or agents of the Federal Government to rank, compare, or otherwise evaluate individual students or teachers, or to provide rewards or sanctions for individual students, teachers, schools or local educational agencies is prohibited.

(B) SPECIAL RULE- Any assessment authorized under this section shall not be used by an agent or agents of the Federal Government to establish, require, or influence the standards, assessments, curriculum, including lesson plans, textbooks, or classroom materials, or instructional practices of States or local educational agencies.

(C) APPLICABILITY TO STUDENT EDUCATIONAL DECISIONS- Nothing in this section shall be construed to prescribe the use of any assessment authorized under this section for student promotion or graduation purposes.

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(D) **APPLICABILITY TO HOME SCHOOLS**- Nothing in this section shall be construed to affect home schools, whether or not a home school is treated as a home school or a private school under State law, nor shall any home schooled student be required to participate in any assessment referenced or authorized under this section.

(5) **REQUIREMENT**- In carrying out any assessment authorized under this section, the Commissioner for Education Statistics, in a manner consistent with subsection (c)(3), shall--

(A) use widely accepted professional testing standards, objectively measure academic achievement, knowledge, and skills, and ensure that any academic assessment authorized under this section be tests that do not evaluate or assess personal or family beliefs and attitudes or publicly disclose personally identifiable information;

(B) only collect information that is directly related to the appraisal of academic achievement, and to the fair and accurate presentation of such information; and

(C) collect information on race, ethnicity, socioeconomic status, disability, limited English proficiency, and gender.

(6) **TECHNICAL ASSISTANCE**- In carrying out any assessment authorized under this section, the Commissioner for Education Statistics may provide technical assistance to States, localities, and other parties.

(c) **ACCESS**-

(1) **PUBLIC ACCESS**-

(A) **IN GENERAL**- Except as provided in paragraph (3), parents and members of the public shall have access to all assessment data, questions, and complete and current assessment instruments of any assessment authorized under this section. The local educational agency shall make reasonable efforts to inform parents and members of the public about the access required under this paragraph.

(B) **TIMELINE**- The access described in this paragraph shall be provided within 45 days of the date the request was made, in writing, and be made available in a secure setting that is convenient to both parties.

(C) **PROHIBITION**- To protect the integrity of the assessment, no copy of the assessment items or assessment instruments shall be duplicated or taken from the secure setting.

(2) **COMPLAINTS**-

(A) **IN GENERAL**- Parents and members of the public may submit written complaints to the National Assessment Governing Board.

(B) **FORWARDING OF COMPLAINTS**- The National Assessment Governing Board shall forward such complaints to the Commissioner for Education Statistics, the Secretary, and the State and local educational agency from within which the complaint originated within 30 days of receipt of such complaint.

(C) **REVIEW**- The National Assessment Governing Board, in consultation with the Commissioner for Education Statistics, shall

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review such complaint and determine whether revisions are necessary and appropriate. As determined by such review, the Assessment Board shall revise, as necessary and appropriate, the procedures or assessment items that have generated the complaint and respond to the individual submitting the complaint, with a copy of such response provided to the Secretary, describing any action taken, not later than 30 days after so acting.

(D) REPORT- The Secretary shall submit a summary report of all complaints received pursuant to subparagraph (A) and responses by the National Assessment Governing Board pursuant to subparagraph (C) to the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate.

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(E) COGNITIVE QUESTIONS-

(i) IN GENERAL- The Commissioner for Education Statistics may decline to make available through public means, such as posting on the Internet, distribution to the media, distribution through public agencies, or in response to a request under section 552 of title 5, United States Code, for a period, not to exceed 10 years after initial use, cognitive questions that the Commissioner for Education Statistics intends to reuse in the future.

(ii) EXTENSION- Notwithstanding clause (i), the Commissioner for Education Statistics may decline to make cognitive questions available as described in clause (i) for a period longer than 10 years if the Commissioner for Education Statistics determines such additional period is necessary to protect the security and integrity of long-term trend data.

(3) PERSONALLY IDENTIFIABLE INFORMATION-

(A) IN GENERAL- The Commissioner for Education Statistics shall ensure that all personally identifiable information about students, their academic achievement, and their families, and that information with respect to individual schools, remains confidential, in accordance with section 552a of title 5, United States Code.

(B) PROHIBITION- The Assessment Board, the Commissioner for Education Statistics, and any contractor or subcontractor shall not maintain any system of records containing a student's name, birth information, Social Security number, or parents' name or names, or any other personally identifiable information.

(4) PENALTIES- Any unauthorized person who knowingly discloses, publishes, or uses assessment questions, or complete and current assessment instruments of any assessment authorized under this section may be fined as specified in section 3571 of title 18, United States Code or charged with a class E felony.

(d) PARTICIPATION-

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(1) VOLUNTARY PARTICIPATION- Participation in any assessment authorized under this section shall be voluntary for students, schools, and local educational agencies, except as required under section 1112(b)(1)(F) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6312(b)(1)(F)).

Comment [R2]: The reference is to Title I/NCLB, specifically, the provision that requires states that receive Title I funds to assure they will participate in NAEP state-level reading and mathematics assessments in grades 4 and 8.

(2) STUDENT PARTICIPATION- Parents of children selected to participate in any assessment authorized under this section shall be informed before the administration of any authorized assessment, that their child may be excused from participation for any reason, is not required to finish any authorized assessment, and is not required to answer any test question.

(3) STATE PARTICIPATION-

(A) VOLUNTARY- Participation in assessments authorized under this section, other than reading and mathematics in grades 4 and 8, shall be voluntary.

(B) AGREEMENT- For reading and mathematics assessments in grades 4 and 8, the Secretary shall enter into an agreement with any State carrying out an assessment for the State under this section. Each such agreement shall contain provisions designed to ensure that the State will participate in the assessment.

(4) REVIEW- Representatives of State educational agencies and local educational agencies or the chief State school officer shall have the right to review any assessment item or procedure of any authorized assessment upon request in a manner consistent with subsection (c), except the review described in subparagraph (2)(C) of subsection (c) shall take place in consultation with the representatives described in this paragraph.

(e) STUDENT ACHIEVEMENT LEVELS-

(1) ACHIEVEMENT LEVELS- The National Assessment Governing Board shall develop appropriate student achievement levels for each grade in each subject area to be tested under assessments authorized under this section, except the trend assessment described in subsection (b)(2)(F).

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(2) DETERMINATION OF LEVELS-

(A) IN GENERAL- Such levels shall be determined by--

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(i) be

(i) identifying the knowledge that can be measured and verified objectively using widely accepted professional assessment standards; and

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(ii) developing achievement levels that are consistent with relevant widely accepted professional assessment standards and based on the appropriate level of subject matter knowledge for grade levels to be assessed.

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(B) NATIONAL CONSENSUS APPROACH- The Assessment Board shall, in making the determination described in subparagraph (A), use a national consensus approach, providing for the active participation of teachers, school leaders, curriculum specialists, local school administrators, parents, and concerned members of the general public.

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(C) TRIAL BASIS- The achievement levels shall be used on a trial basis until the Commissioner for Education Statistics determines, as a

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result of an evaluation under subsection (f), that such levels are reasonable, valid, and informative to the public.

(D) STATUS- The Commissioner for Education Statistics and the Assessment Board shall ensure that reports using such levels on a trial basis do so in a manner that makes clear the status of such levels.

(E) UPDATES- Such levels shall be updated as appropriate by the National Assessment Governing Board in consultation with the Commissioner for Education Statistics.

(3) REPORTING- After determining that such levels are reasonable, valid, and informative to the public, as the result of an evaluation under subsection (f), the Commissioner for Education Statistics shall use such levels or other methods or indicators for reporting results of the National Assessment and State assessments.

(4) REVIEW- The National Assessment Governing Board shall provide for a review of any trial student achievement levels under development by representatives of State educational agencies or the chief State school officer in a manner consistent with subsection (c), except the review described in paragraph (2)(C) of such subsection shall take place in consultation with the representatives described in this paragraph.

(f) REVIEW OF NATIONAL AND STATE ASSESSMENTS-

(1) REVIEW-

(A) IN GENERAL- The Secretary shall provide for continuing review of any assessment authorized under this section, and student achievement levels, by one or more professional assessment evaluation organizations.

(B) ISSUES ADDRESSED- Such continuing review shall address--

- (i) whether any authorized assessment is properly administered, produces high quality data that are valid and reliable, is consistent with relevant widely accepted professional assessment standards, and produces data on student achievement that are not otherwise available to the State (other than data comparing participating States to each other and the Nation);
- (ii) whether student achievement levels are reasonable, valid, reliable, and informative to the public;-
- (iii) whether any authorized assessment is being administered as a random sample and is reporting the trends in academic achievement in a valid and reliable manner in the subject areas being assessed;
- (iv) whether any of the test questions are biased, as described in section 302(e)(4); and
- (v) whether the appropriate authorized assessments are measuring, consistent with this section, reading ability and mathematical knowledge.

(2) REPORT- The Secretary shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on

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Health, Education, Labor, and Pensions of the Senate, the President, and the Nation on the findings and recommendations of such reviews.

(3) **USE OF FINDINGS AND RECOMMENDATIONS-** The Commissioner for Education Statistics and the National Assessment Governing Board shall consider the findings and recommendations of such reviews in designing the competition to select the organization, or organizations, through which the Commissioner for Education Statistics carries out the National Assessment.

(g) **COVERAGE AGREEMENTS-**

(1) **DEPARTMENT OF DEFENSE SCHOOLS-** The Secretary and the Secretary of Defense may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment elementary schools and secondary schools operated by the Department of Defense.

(2) **BUREAU OF INDIAN EDUCATION SCHOOLS-** The Secretary and the Secretary of the Interior may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment schools for Indian children operated or supported by the Bureau of Indian Education.

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SEC. 304. DEFINITIONS.

In this title:

(1) **IN GENERAL.**—The terms ‘elementary school’, ‘local educational agency’, and ‘secondary school’ have the meanings given those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) **DIRECTOR.**—The term ‘Director’ means the Director of the Institute of Education Sciences.

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(3) **SCHOOL LEADER.**—The term ‘school leader’ has the meaning given the term in section 102.

(4) **SECRETARY.**—The term ‘Secretary’ means the Secretary of Education.”

(5) **STATE.**—The term ‘State’ means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

Comment [R3]: Definition in section 102:
SCHOOL LEADER.—The term ‘school leader’ means a principal, assistant principal, or other individual who is—
(A) an employee or officer of—
(i) an elementary school or secondary school;
(ii) a local educational agency serving an elementary school or secondary school; or
(iii) another entity operating the elementary school or secondary school; and
(B) responsible for the daily instructional leadership and managerial operations of the elementary school or secondary school.

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SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated—

(1) for fiscal year 2015—

(A) \$8,235,000 to carry out section 302 (relating to the National Assessment Governing Board); and

(B) \$132,000,000 to carry out section 303 (relating to the National Assessment of Educational Progress);

(2) for fiscal year 2016—

(A) \$8,251,470 to carry out section 302 (relating to the National Assessment Governing Board); and

(B) \$132,264,000 to carry out section 303 (relating to the National Assessment of Educational Progress);

(3) for fiscal year 2017—

(A) \$8,433,002 to carry out section 302 (relating to the National Assessment Governing Board); and

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(B) \$135,173,808 to carry out section 303 (relating to the National Assessment of Educational Progress);
(4) for fiscal year 2018—
(A) \$8,635,395 to carry out section 302 (relating to the National Assessment Governing Board); and
(B) \$138,417,979 to carry out section 303 (relating to the National Assessment of Educational Progress);
(5) for fiscal year 2019—
(A) \$8,868,550 to carry out section 302 (relating to the National Assessment Governing Board); and
(B) \$142,155,266 to carry out section 303 (relating to the National Assessment of Educational Progress); and
(6) for fiscal year 2020—
(A) \$9,001,578 to carry out section 302 (relating to the National Assessment Governing Board); and
(B) \$144,287,595 to carry out section 303 (relating to the National Assessment of Educational Progress).
(b) AVAILABILITY.—Amounts made available under this section shall remain available until expended.

Deleted: (a) IN GENERAL.—There are authorized to be appropriated—¶
(1) for fiscal year 2003—¶
(A) \$4,600,000 to carry out section 302, as amended by section 401 of this Act (relating to the National Assessment Governing Board); and ¶
(B) \$107,500,000 to carry out section 303, as amended by section 401 of this Act (relating to the National Assessment of Educational Progress); and ¶
(2) such sums as may be necessary for each of the 5 succeeding fiscal years to carry out sections 302 and 303, as amended by section 401 of this Act. ¶



April 3, 2014

The Honorable John Kline
Chairman
Committee on Education and the Workforce
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Kline,

Thank you for the invitation from the Committee on Education and the Workforce to provide technical assistance in the form of comments on provisions of H.R. 4366, *the Strengthening Education through Research Act*, related to the National Assessment of Educational Progress (NAEP) and the National Assessment Governing Board.

We wish to begin by noting the bi-partisan support of the bill, evidenced by its being introduced by yourself, Full Committee Ranking Member George Miller, Subcommittee on Early Childhood, Elementary, and Secondary Education Chairman Todd Rokita, and Subcommittee Ranking Member Carolyn McCarthy. The bill's goal of shielding NAEP from political influence and bias is advanced by this bi-partisan consensus of the Committee leadership.

The Governing Board views protecting the credibility and integrity of NAEP as a solemn duty. The NAEP-related provisions of H.R. 4366 maintain and strengthen the Board's authority to carry out this duty.

The bill includes amendments to current law that more accurately and clearly describe the respective roles and responsibilities of the Governing Board and the Commissioner of Education Statistics. These amendments should have the effect of strengthening the checks and balances that were a part of the original conception of the current governance structure for NAEP.

As does current law under the *Education Sciences Reform Act*, the provisions in H.R. 4366 under Section 113(a) continue to recognize and support the NAEP governance structure as a special case within the Institute of Education Sciences. H.R. 4366 is a complex bill, establishing a number of entities with authorities potentially overlapping those of the Governing Board and NAEP. Therefore, we respectfully suggest that attention continue to be directed at ensuring that provisions in other sections of the bill cannot be construed as conflicting with those related to NAEP and the Governing Board, as the bill moves from introduction to enactment.

Again, thank you for the invitation to comment on H.R. 4366. If you have any questions, please contact our Executive Director, Cornelia Orr (202-357-6943, Cornelia.Orr@ed.gov).

Sincerely,

David P. Driscoll

A handwritten signature in black ink, appearing to read "David P. Driscoll".

Chair

Similar Letters sent to Representatives Miller, Rokita, and McCarthy