

GOVERNING BOARD AND NAEP RESOURCES

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National Assessment Governing Board

Composition

The Board is non-partisan, with 26 members representing gender, geographic, and racial-ethnic diversity. Specific categories of members specified in the NAEP law:

- **Policymakers:** governors or former governors (2), state legislators (2), chief state school officers (2), local school district superintendent (1), state (1) and local (1) school board members, nonpublic school administrator or policymaker (1)
- **Educators:** classroom teachers (3), principals (2), curriculum specialists (2)
- **Public:** general public representatives (2), parents (2), business representative (1)
- **Technical experts:** testing and measurement experts (3)

The director of the Institute of Education Sciences serves as an ex-officio 26th member.

Responsibilities

The responsibilities of the Board are mandated by Congress, and include:

- Test Development
 - Select subject areas to assess
 - Develop assessment objectives and test specifications
 - Ensure all items are free from bias
 - Have final authority on appropriateness of all items
- Technical Methodology
 - Develop appropriate student achievement levels
 - Design the methodology of the assessment to ensure that assessment items are valid and reliable
- Reporting and Dissemination
 - Develop guidelines for reporting and disseminating results
 - Plan and execute the initial public release of NAEP reports
 - Take appropriate actions needed to improve the form, content, use, and reporting of results

National Assessment Governing Board Nominations

Annual Nominations Timeline

Early August – Annual call for Board nominations for terms beginning October 1 of the following year.
 Late October – Nominations due.
 November to February – Board reviews nominees.
 March – Board action on finalists.
 Late Spring to late Summer – Secretary reviews finalists.
 Early Fall – Secretary announces Board member appointments for terms beginning October 1.
 October 1 – Newly appointed Board members begin their terms.

Members and Categories by Term Expiration Date

2015	2016	2017	2018
Andres Alonso** <i>Local School Superintendent</i>	Anitere Flores* <i>State Legislator (Republican)</i>	Lucille Davy <i>General Public (Incl. Parents)</i>	Mitchell Chester <i>Chief State School Officer</i>
Louis Fabrizio* <i>Testing & Measurement Expert</i>	Rebecca Gagnon <i>Local School Board Member</i>	James Geringer <i>Governor (Republican)</i>	Shannon Garrison* <i>Fourth Grade Teacher</i>
Terry Holliday <i>Chief State School Officer</i>	Andrew Ho <i>Testing & Measurement Expert</i>	Doris Hicks* <i>Elementary School Principal</i>	Frank Fernandes <i>Secondary School Principal</i>
Dale Nowlin <i>Twelfth Grade Teacher</i>	Terry Mazany <i>General Public Representative</i>	Tonya Miles* <i>General Public (Incl. Parents)</i>	Tonya Matthews <i>General Public (Incl. Parents)</i>
Fielding Rolston <i>State School Board Member</i>	Joseph O’Keefe <i>Non-public School Administrator or Policymaker</i>	Ronnie Musgrove* <i>Governor (Democrat)</i>	Chasidy White <i>Eighth Grade Teacher</i>
Susan Pimentel* <i>Curriculum Specialist</i>	(Vacancy) <i>State Legislator (Democrat)</i>	W. James Popham* <i>Testing & Measurement Expert</i>	
Cary Sneider <i>Curriculum Specialist</i>			
(Vacancy) <i>Business Representative</i>			

* Member currently serving 2nd term; not eligible for reappointment
 ** Member has taken a new position; not eligible for reappointment

ETHICS PRIMER

FOR

**THE NATIONAL ASSESSMENT
GOVERNING BOARD**

November 2009
Ethics Division
Office of the General Counsel
U.S. Department of Education

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EXECUTIVE SUMMARY

Now that you are a member of the National Assessment Governing Board (“NAGB”) you need to know what ethics laws and rules apply to you. The following is a very brief summary of these rules. For a more detailed discussion of how these rules apply to you, please refer to the attached summary entitled “Ethics Laws and Rules Applicable to SGEs.”

Your Status as a Special Government Employee

You are considered an SGE and not a regular federal employee because NAGB anticipates that you will be serving the federal government through your position for only 130 days or less during any period of 365 consecutive days. Whether or not you are paid by the Board for your service is irrelevant. This summary discusses how the ethics rules apply to SGEs.

Criminal Statutes Apply to Your Activities

Some of the ethics laws that apply to you carry criminal penalties. Below is a brief summary of the most important of these laws.

- The chief conflict of interest law bars you from participating personally and substantially in your capacity as a member of NAGB in any particular matter before the federal government that has a direct and predictable effect on your own financial interests or the financial interests of others with whom you have certain relationships. See 18 U.S.C. Section 208.
- If you find yourself with a financial conflict of interest, you have four options: (1) disqualify yourself (you don’t participate in any way in the matter); (2) resign from the outside entity that is the basis for the conflict; (3) sell or divest the stock or other financial interest that is the basis for the conflict; or (4) request and obtain a statutory waiver.¹
- Two other laws prohibit you from representing a third party, *with or without compensation*, before any court or agency in connection with any particular matter involving specific parties in which the United States is a party or has a direct and substantial interest and in which you have participated personally and substantially as an SGE. In addition, if you serve the federal government for more than 60 days during the immediately preceding period of 365 consecutive days, these restrictions apply to any matter that is pending with NAGB. But remember that these restrictions do not apply to particular matters of general applicability, such as broadly applicable policies, rulemaking proceedings or legislation, that do not involve specific parties. See 18 U.S.C. Sections 203 and 205.

¹ In rare circumstances, with the concurrence of the U.S. Office of Government Ethics, you may obtain a waiver of the conflict of interest.

- Another criminal law limits some of your activities after your service on NAGB ends. This law prohibits you from representing others in connection with the same particular matter involving specific parties in which you participated personally and substantially during your service to NAGB. This prohibition lasts for your lifetime. See 18 U.S.C. Section 207.

Standards of Ethical Conduct for Employees of the Executive Branch

The Standards of Ethical Conduct for Employees of the Executive Branch (Standards), 5 C.F.R. Part 2635, are regulations that apply both to regular federal government employees and to SGEs. However, a few exceptions exist in the Standards in recognition of the fact that SGEs are working for the government only in a very limited way. A brief synopsis of some these rules and their exceptions follow.

- **Fundraising:** You may not use your official title, position and authority to engage in fundraising.
- **Gifts:** You may not accept gifts from a “prohibited source” or offered to you because of your official position on NAGB. A prohibited source includes any person: seeking official action from NAGB; doing or seeking to do business with NAGB; conducting activities regulated by NAGB; or having interests that may be substantially affected by your official duties. There are many exceptions to this rule that are discussed in more detail in the accompanying memorandum.
- **Lobbying:** In your role as a member of NAGB, you may not urge others to contact Congress or a state legislature to urge the passage or defeat of legislation. Additional restrictions exist regarding lobbying. You should contact Department of Education’s Ethics Division before engaging in any type of lobbying.
- **Misuse of Position:** You may not use your position on NAGB or nonpublic information gained through your service on NAGB to seek advantage for yourself or others. In addition, you may not use your NAGB title in a manner that makes it appear that NAGB is sanctioning your views, products, services or personal enterprises.
- **Political Activities:** You may not engage in political activity when you are on duty or in a federal government building or car, and you may never use your official title as a member of NAGB in connection with political activities.
- **Teaching, Speaking and Writing:** You may not receive compensation for teaching, speaking or writing if: (1) the invitation was offered to you because of your position on NAGB; (2) the information conveyed by you draws substantially on nonpublic information that you obtained by working on NAGB; (3) the invitation was extended to you by an organization or person who has interests that may be substantially affected by your performance on NAGB; or (4) the subject of your work deals in a significant way

with a matter involving specific parties that you worked on while on NAGB. Again, there are some exceptions to this rule that are outlined in more detail in the accompanying memorandum.

Required Filing of a Financial Disclosure Report By SGEs

As a member of the NAGB, you are required to file a confidential financial disclosure report (also referred to as a “450” Report) when you are first appointed, and annually thereafter if you are reappointed. The purpose of the financial disclosure form is to protect you from inadvertently violating any of the criminal conflict of interest statutes and so that NAGB can know that your advice is free from any real or perceived conflicts of interest.

Please do not rely solely on this “Executive Summary” before undertaking your duties. There are many subtle nuances that are not discussed in this summary that may apply to your specific situation. The attached expanded summary provides additional detail that will help you better understand the ethics rules. Please feel free to call or e-mail Marcella Goodridge in the Ethics Division of the Office of the General Counsel at the U.S. Department of Education at (202) 401-8309, or Marcella.Keiller@ed.gov, for answers to any specific ethics questions that may arise in the course of your service on NAGB.

ETHICS LAWS AND RULES APPLICABLE TO SGEs

I. INTRODUCTION

Although the ethics rules are numerous and detailed, a single, simple principle underlies these rules: *You should never use your public office for private gain, either for yourself, or for any third party.* In addition, you must refrain not only from engaging in any activity that violates the ethics rules, but you must also refrain from any activity that creates the appearance of a violation of any of these rules. The summary below is designed to help you avoid violating any ethics rules covering your activities as a member of NAGB.

II. YOUR STATUS AS A SPECIAL GOVERNMENT EMPLOYEE

A. What is a “special Government employee”?

Because you have been appointed to be a member of the NAGB and you are expected to perform your duties for not more than 130 days during the 365 days subsequent to the date of your appointment, you are, by law, a “special Government employee” (SGE). As an SGE, you *are* a federal government employee. This means that upon appointment, you assume the responsibilities, obligations, and restrictions that are part of public service. Because SGEs are not full-time employees, several of these restrictions apply only in limited circumstances.

B. Do the ethics restrictions apply when I am not working for NAGB?

Yes, any restrictions concerning your private activities (representational services, expert witness activities, etc.) apply equally on days when you serve the federal government through your position on NAGB and on days when you do not, except with respect to political activity. If you have not provided any services for the federal government for some time, but have not received a termination date for your appointment, you must seek a formal resolution of the matter before engaging in conduct prohibited by the ethics rules.

III. CONFLICTS OF INTEREST

A. What criminal conflict of interest statutes apply to SGEs?

While you are employed as an SGE, you need to pay particular attention to four criminal conflict of interest laws found in Chapter 11, Title 18 of the United States Code: 18 U.S.C. Sections 203, 205, 207 and 208. These criminal laws include some special provisions for the treatment of SGEs. A discussion of these laws and certain related requirements found in other laws and regulations follows.

B. What financial conflicts of interest may arise for SGEs under section 208?

Section 208 prohibits you from participating personally and substantially in any particular matter that has a direct and predictable effect on your financial interests, including certain interests of others that are imputed to you under the statute. This means that you may not work on NAGB matters if you have certain connections – through the ownership of stock, through employment, or by virtue of other circumstances – with an organization that has a financial interest in the matter. For example, you may not work at all on a contract competition if you own stock valued at a certain amount in a company competing for the contract. You may not participate in a discussion of whether to modify an existing contract with a company if you work for that company. And, you may not assist in the development of a scope of work for a contract competition if you know that an organization on which you serve on the Board of Directors plans to compete for that contract.

Keep in mind that when you are disqualified from a matter such as a contract competition, the particular matter that you must recuse yourself from is the entire competition for this contract. You are prohibited from doing anything at all with respect to this competition. This means, for example, that you may not review other proposals that are in competition with that of the organization in which you have a direct or imputed financial interest.

In addition to your own personal financial interests, the financial interests of the following persons or organizations are imputed to you and also disqualify you from participating in a particular matter:

- (1) your spouse;
- (2) your minor child;
- (3) your general partner;
- (4) an organization for which you serve as an officer, director, trustee, general partner or employee; and
- (5) any prospective employer.

Example 1 You are on the governing board of ABC, a nonprofit organization. ABC's financial interests are imputed to you under the statute. This means that for the purpose of determining whether you have a conflict of interest, ABC's financial interests are treated as if they were your own. Accordingly, you may not participate in any NAGB matter in which ABC has a financial interest. Similarly, if you were in the process of discussing employment with ABC, you would be barred from participating in any NAGB matter affecting the financial interests of ABC.

Example 2 You are on the governing board of ABC (or employed by ABC, own stock in ABC, seeking employment with ABC, etc). You are asked to participate in the process of reviewing and scoring contract proposals for a contract competition for a NAGB project. Fifteen organizations have submitted a bid. When you open the proposal from one organization, you note that ABC's name is one of the organizations that has submitted a bid. Or, perhaps ABC is listed as a subcontractor in one of the proposals. This contract competition is a "particular

matter” that will have a “direct and predictable effect” upon the financial interests of ABC. In other words, as a result of the contract competition, ABC will either gain business or not, and this decision will affect ABC financially – either negatively or positively. The amount of financial interest is not relevant – as long as ABC’s finances will be affected, unless a regulatory exemption or waiver permits you to do so, you may not work on this competition. And, because each proposal is competing against all of the others, your evaluation of competing proposals will affect the chances ABC has of winning the contract. Accordingly, you may not review any of the proposals.

You must recuse yourself from a matter as soon as you realize that you have a conflict. If, for example, you notice that you have a conflict when you are in the middle of reviewing contract proposals, you put the proposal back in its envelope and call up an NAGB staff member and let that person know that you think that you are disqualified from working on the competition. If there is any question, you should contact the U.S. Department of Education Office of the General Counsel’s Ethics Division for guidance. Once you have determined that you may not work on this matter, send the proposal back to NAGB staff.

You are permitted to participate in a particular matter affecting one campus of a multi-campus institution of higher education, where the disqualifying interest arises from your employment with a separate campus of the same institution, provided that you have no multi-campus responsibilities at the institution. If you are employed with a large university with multiple campuses and you do not have any multi-campus responsibilities, you may participate in official matters--such as grants, contracts, applications, and other particular matters--that affect the financial interests of another campus in the same university system where you are employed. Below are some examples of how section 208 may apply to your activities.

NOTE: Apart from the criminal conflicts of interest statutes discussed above, a regulation also exists that prohibits you from participating in a matter involving specific parties if a reasonable person would question your impartiality.

Example 3 You are employed as a professor at the University of California-Berkeley. NAGB is planning to evaluate the impact of computer-based testing on students with disabilities and English language learners. UC-Berkeley’s science and technology department has submitted a bid. NAGB’s actions will have a direct and predictable effect on the university’s financial interest. Therefore, you may not participate in any way on this matter.

Example 4 You are employed as a researcher at the University of California-Berkeley. NAGB is planning to evaluate the impact of computer-based testing on students with disabilities and English language learners. The University of California-Los Angeles (UCLA) has submitted a bid to be the contractor for NAGB’s evaluation. You may participate in this matter because it will not have a direct and predictable effect on either your financial interests or UC-Berkeley’s.

C. How do I resolve a conflict of interest?

1. Disqualification

A common method of resolving a conflict of interest is to disqualify yourself from participating in the matter.

Example 5 You are serving on NAGB’s Ad Hoc Committee that will examine issues related to computer-based testing for students with disabilities and English language learners, including developing a study of computer-based testing methodologies. The Request for Proposals has been disseminated. One of the bids submitted is from ABC Corporation (ABC). You own \$20,000 worth of stock in ABC. You must advise the U.S. Department of Education Office of the General Counsel’s Ethics Division that you own stock in ABC and you will not be able to participate in any way in the entire contract competition. If ABC is awarded the contract, you will also need to disqualify yourself from the entire matter.

2. Divestiture

Divestiture of a disqualifying interest (usually through the sale of stock) is another remedy available to avoid a potential violation of section 208. SGEs are not eligible for a Certificate of Divestiture (CD). A CD is a tax benefit that allows the deferral or nonrecognition of capital gain where an employee divests a financial interest in order to comply with conflict of interest requirements. Unfortunately, Congress specifically excluded SGEs from eligibility to receive CDs. 26 U.S.C. § 1043(b)(1)(A).

3. Resignation

On some very rare occasions when none of the aforementioned options are available or feasible, an SGE may need to resign from participating in an outside activity with an entity if his or her official activities as an SGE have a direct and predictable effect on the financial interest of that entity creating an irreconcilable conflict.

4. Waiver or Authorization

Another remedy to avoid a conflicting financial interest is to request and obtain a statutory waiver by contacting the Department of Education’s Ethics Division (an authorization is similar to a waiver, but only applies to non-statutory conflicts of interest - what are often referred to as “appearances of a conflict”). You may be granted a waiver only if your financial interest is not so substantial as to be deemed to be likely to affect the integrity of your services.

Any waiver or authorizations that you receive will be limited. It is very important that you read it carefully, as it will often contain detailed information about the types of matters from which you remain disqualified, despite the waiver or authorization.

Example 6 In the scenario described in Examples 1 and 2 above, you are granted a waiver permitting you to participate in a general policy matter that affects ABC’s financial interests as long as the matter affects all similarly situated entities in the same manner. But you would remain disqualified from participating in a matter that specifically involves ABC, which in this case means the entire contract competition.

D. What restrictions apply to my representation of third parties under sections 203 and 205?

With regard to particular matters in which you have participated personally and substantially while serving NAGB, you are prohibited from representing a third party on those particular matters, **with or without compensation**, before any court or agency, when the United States is a party or has a direct and substantial interest in the matter. See 18 U.S.C. Sections 203 and 205.

In addition, if you serve the federal government for more than 60 days during the immediately preceding period of 365 consecutive days, you are prohibited from representing a third party on any matter involving specific parties pending before NAGB, even if your work at NAGB did not involve these matters. These restrictions do not apply to particular matters of general applicability, such as broadly applicable policies, rulemaking procedures or legislation that does not involve specific parties.

IV. POST-EMPLOYMENT

After your appointment terminates at NAGB, you need to pay particular attention to one more criminal statute that subjects you to restrictions regarding certain matters that you may have worked on as a member of NAGB. Pursuant to 18 U.S.C. Section 207, you may never represent any third party, other than in the performance of your official government duties, in connection with the same particular matter involving specific parties in which you participated personally and substantially as a member of NAGB. This is a lifetime prohibition. For example, if you participated in a NAGB discussion concerning a contract to State University, you may never represent State University with respect to that same contract before any official of the Executive Branch of the federal government and you may never represent State University with respect to that contract in any federal court.

Further, if you serve on NAGB more than sixty days and are compensated above a certain level, you may be subject to a one-year “cooling-off” period during which you would be barred from representing before NAGB certain third parties in connection with any matter. There are some exceptions to this law as well, and you should contact the Department of Education’s Ethics Division for guidance.

V. STANDARDS OF ETHICAL CONDUCT AND OTHER ETHICS RULES

The Standards of Ethical Conduct for Employees of the Executive Branch (Standards), 5 C.F.R. Part 2635, are regulations that apply both to regular federal government employees and to SGEs. Although you are treated generally the same as regular employees under the Standards, a few exceptions do exist for SGEs in recognition of the fact that SGEs are working for the government only in a very limited way. In addition, there are other rules that govern your conduct as an SGE, including the Hatch Act, anti-lobbying rules, the Federal Acquisition Regulation, and rules

about accepting gifts and compensation from foreign governments. A brief synopsis of some of these rules follows.

A. What restrictions apply if I want to engage in fundraising?

You may not use your NAGB title, position or authority to solicit funds for any organization. In addition, you may not personally solicit funds or other support from persons whose interests may be affected substantially by the performance or nonperformance of your official duties.

B. What restrictions are there on my acceptance of gifts?

You are prohibited from accepting gifts (almost anything of monetary value) from a “prohibited source” or gifts given because of your official position as a member of NAGB, unless a specific exception applies. The definition of “prohibited source” includes any person:

- seeking official action from NAGB;
- doing or seeking to do business with NAGB; or
- having interests that may be substantially affected by your official duties at NAGB.

The definition also includes organizations the majority of whose members fall within any of these categories. You may accept various benefits resulting from your outside business or employment activities, if a reasonable person would conclude that such benefits are not offered or enhanced because of your official position. The most commonly applicable exceptions to the gift rule allow you to accept:

- Modest items of food other than a meal, such as coffee, soft drinks, or donuts;
- Most plaques, certificates and trophies;
- Discounts available to all Government employees;
- Anything for which you pay market value;
- Gifts valued at \$20 or less per occasion, totaling no more than \$50 in a calendar year from any one source;
- Gifts clearly motivated by friendship or family relationship;
- Gifts resulting from your outside business activities, including those of your spouse; and
- Free attendance or meal which is provided by:
 1. the sponsor of the event for the day on which you are speaking at the event, or for a widely-attended gathering of mutual interest to a number of parties when the necessary determination of agency interest has been made; or
 2. someone other than the sponsor of a widely-attended gathering of mutual interest to a number of parties when more than 100 people are expected to attend, the aggregate value of the gift is under \$335, and the necessary determination of agency interest has been made.

C. What restrictions apply if I want to “lobby” Congress?

NAGB and its members are permitted to communicate directly with Congress in their official capacity on matters that are related to legislation or appropriations deemed necessary to conduct NAGB’s “public business” (i.e., the NAGB’s statutory functions and responsibilities). However, the Anti-Lobbying Act, 18 U.S.C. Section 1913, prohibits you, in your official capacity at NAGB, from engaging in “grass-roots lobbying” (i.e., directly or indirectly suggesting or requesting that others contact Congress or a state legislature to urge the passage or defeat of proposed or pending legislation), even if it is related to the NAGB’s public business. The Anti-Lobbying Act also requires that any permissible direct communications with Congress in your official capacity at NAGB be made only through official channels.

None of these restrictions prohibit you from lobbying members of Congress or state legislatures, or urging others to do so, on your own time in your personal capacity. If you lobby Congress or state legislatures in your personal capacity, and the issue is related to NAGB’s business, you should make it clear that you are not representing NAGB and not acting in your official capacity as a member. Also, please note that when you are lobbying as a private citizen, you are not permitted to use government resources or equipment (including, but not limited to, computers, telephones, fax machines, copy machines, stationery), or seek assistance from NAGB staff.

D. What does “misuse of position” mean?

You may not use your position on NAGB to seek advantage for yourself or others. You also may not use nonpublic information gained through your service at NAGB to seek advantage for yourself or others. Finally, you may not use your NAGB title in a manner that makes it appear that the NAGB is sanctioning your views, products, services or personal enterprises. Of course, you may list your membership on NAGB on your curriculum vitae, but you may never use your status as an NAGB member to advertise or promote your personal activities. Please seek advice from the Department of Education Office of the General Counsel’s Ethics Division if you have any questions in this area.

E. May I keep my day job and still serve on NAGB?

Yes, you may continue to collect your regular salary from an outside employer for days on which you are providing services to the federal government (whether your federal government service is paid or unpaid). However, if you have another consultant or advisory position with NAGB or any other federal department or agency, you may not receive per diem or salary from NAGB for the same day for services performed for the two positions.

F. Are there any restrictions on my political activities?

You may not engage in any political activities while you are on duty (i.e., performing government services) or when you are in a government building or vehicle. Although you are not subject to any restrictions on your political activities when you are not performing government services, you may never use your official title as a member of NAGB in connection

with any political activities.

G. What restrictions do I face if I want to teach, speak, or write on matters that are related to the duties I perform for NAGB?

You may not receive compensation for teaching, speaking, or writing if:

- the activity is performed as part of your official duties (e.g., a speech on behalf of NAGB);
- **the invitation to engage in the activity was extended primarily because of your official position at NAGB, rather than expertise in the subject matter;**
- the invitation or offer of compensation was extended to you by someone with interests that may be affected substantially by your duties;
- the information conveyed through the activity draws substantially on nonpublic information obtained through your service at NAGB; or
- **the activity deals, in significant part, with a matter involving specific parties to which you are currently assigned or had been assigned during your current NAGB appointment.**

Notwithstanding the restrictions in bold **type** you may accept compensation for teaching a course requiring multiple presentations offered as part of: (a) the regularly established curriculum of various specified types of educational institutions; or (b) educational or training programs sponsored and funded by federal, State, or local government. However, if you teach at an educational institution, you must not participate in any NAGB matters that involve that institution.

H. What restrictions apply if my government duties involve the awarding of contracts?

If you are involved in the awarding of any contracts, please seek advice from the Ethics Division. There are special provisions that cover your involvement in the awarding of contracts. For example, you may not accept compensation as an employee, officer, director, or consultant of a contractor within the one-year period after leaving Government service where you participated in certain procurement matters pertaining to that contractor. In addition, if you disclose certain information pertaining to Federal procurements that you obtained during your service on a committee, you may face sanctions, including criminal penalties.

I. What restrictions apply to my interaction with foreign entities?

The emoluments clause of the U.S. Constitution prohibits you from receiving any emolument, office or title of any kind from a foreign government, including political subdivisions of a

foreign government. An emolument is compensation received by virtue of holding an office or having employment with a foreign government and includes, for example, salary, honoraria, transportation, per diem allowances, household goods, shipment costs, and housing allowances. This clause has been interpreted to be broader than the traditional notion of employment and includes, for example, income received through a partnership when an identifiable portion of the partnership draw can be attributed to the partnership's fees from such foreign government. This provision has particular relevance to positions with foreign universities that are government-operated, as opposed to private institutions. United States Constitution, art. I § 9, cl. 8. There are also statutory provisions restricting acceptance of gifts from foreign governments. 5 U.S.C. § 7342. You should seek advice from the Ethics Division regarding the details about these restrictions. Additionally, a criminal statute bars employment or consultation with a foreign entity for the purpose of providing foreign agent representation or lobbying. 18 U.S.C. § 219.

The ban on participating in foreign agent activities covered by the Foreign Agents Registration Act (FARA) prohibits representation of foreign governments or foreign political parties before the United States Government, as well as a number of other activities conducted within the United States on behalf of such entities. There are certain FARA exceptions related to trade or commerce, legal representation, humanitarian fundraising, and religious, scholastic, or scientific pursuits. The Lobbying Disclosure Act of 1995 requires certain covered Federal officials who serve as agents of foreign principals (other than foreign governments or foreign political parties) to register if they work on behalf of foreign corporations, associations, or other organizations.

Finally, certain restrictions apply after your position with NAGB terminates. Specifically, 18 U.S.C. § 207 includes restrictions on former employees who participated in trade or treaty negotiations on behalf of the United States (18 U.S.C. § 207(b)) and on former senior employees who wish to represent, or aid or advise in the representation of, a foreign entity with the intent to influence a decision of a Federal employee or agency (18 U.S.C. § 207(f)).

J. What do I do if I am called to be an expert witness?

Government employees generally may not participate as an expert witness, with or without compensation, other than on behalf of the United States, in any proceeding before a federal court or agency in which the United States is a party or has a direct and substantial interest. This restriction applies to most SGEs only if the SGE actually participated officially in the same proceeding or in the particular matter that is the subject of the proceeding. If you are appointed by the President, serve on a commission established by statute, or serve (or are expected to serve) for more than 60 days in a period of 365 days, the restriction on expert service also applies to any proceeding in which NAGB is a party or has a direct and substantial interest.

K. May I keep and use frequent flyer miles that I earn when I am on official NAGB travel?

Yes, you may use frequent flyer miles or other airline awards or promotions accumulated on official NAGB travel for your own personal use.

VI. CONCLUSION

We understand that these laws are complex and may not be intuitive. Again, we caution you that this summary is merely an introduction to the ethics laws and rules that apply to you. You should always feel free to contact the Department of Education Office of the General Counsel's Ethics Division with any questions or concerns.

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**NATIONAL ASSESSMENT GOVERNING BOARD
CURRENT CONTRACTS**

Board Committee & Activity	Area of Work	Contractor	Staff Member(s)
Committee on Standards, Design and Methodology (COSDAM)	Evaluating Reading and Math Frameworks – 12 th grade preparedness research	Human Resources Research Organization (HumRRO) (Year 2 of 2 Years)	Mary Crovo
	Content Alignment Studies: ACT Explore	NORC at University of Chicago (Year 1 of 1 Year)	Michelle Blair
	Achievement Levels Setting (TEL)	NCS Pearson Inc. (Year 1 of 15 months)	Sharyn Rosenberg
	Statistical Linking Studies and Related Data Sharing Agreements	Via states and NAEP Alliance contractors ETS and Westat	Sharyn Rosenberg
Reporting and Dissemination Committee	Outreach and Dissemination	Reingold (Year 2 of 2 Years)	Stephaan Harris
	World Wide Web Services	Quotient (Year 2 of 2 Years)	Stephaan Harris Mary Crovo
	12 th Grade Preparedness Reports	Widmeyer Communications (Year 4 of 5 Years)	Mary Crovo Michelle Blair
Executive Committee	Business Policy Task Force: Business Outreach	Noral Group	Lily Clark
	NAGB/Council of Chief State School Officers: State Outreach	Council of Chief State School Officers	Mary Crovo Michelle Blair
NAGB Operations (not assigned to a Committee)	Support services	AFYA	Mary Crovo

Updated October 28, 2014

NAEP Schedule of Assessments – Approved August 3, 2013		
Year	National	State
2005	Reading MATHEMATICS Science High School Transcript Study	Reading (4, 8) MATH (4, 8) Science (4, 8)
2006	U.S. History Civics ECONOMICS (12)	
2007	Reading (4, 8) Mathematics (4, 8) Writing (8, 12)	Reading (4, 8) Math (4, 8) Writing (8)
2008	Arts (8) Long-term trend	
2009	READING Mathematics* SCIENCE** High School Transcript Study	READING (4, 8, 12) Math (4, 8, 12) SCIENCE (4, 8)
2010	U.S. History Civics Geography	
2011	Reading (4, 8) Mathematics (4, 8) Science (8)** WRITING (8, 12)**	Reading (4, 8) Math (4, 8) Science (8)
2012	Economics (12) Long-term trend	
2013	Reading Mathematics	Reading (4, 8, 12) Math (4, 8, 12)
2014	U.S. History (8) Civics (8) Geography (8) TECHNOLOGY AND ENGINEERING LITERACY (8) **	
2015	Reading Mathematics Science**	Reading (4, 8) Math (4, 8) Science (4, 8)
2016	Arts (8)	
2017	Reading Mathematics Writing**	Reading (4, 8, 12) Math (4, 8, 12) Writing (4, 8, 12)

*New framework for grade 12 only.

**Assessments involving test administration by computer.

NOTES:

- (1) Grades tested are 4, 8, and 12 unless otherwise indicated, except that long-term trend assessments sample students at ages 9, 13, and 17 and are conducted in reading and mathematics.
- (2) Subjects in **BOLD ALL CAPS** indicate the year in which a new framework is implemented or assessment year for which the Board will decide whether a new or updated framework is needed.
- (3) In 2009, 12th grade assessments in reading and mathematics at the state level were conducted as a pilot in 11 volunteering states (AR, CT, FL, IA, ID, IL, MA, NH, NJ, SD, WV). For 2013, 13 states agreed to participate (with MI and TN added).
- (4) The Governing Board intends to conduct assessments at the 12th grade in World History and Foreign Language during the assessment period 2018-2022.

History of Changes to the NAEP Schedule of Assessments

Historical Schedule Changes

The major schedule changes adopted by the Board over the last 10 years are listed below:

1. Added grade 4 and 8 state-level reading and mathematics every two years. (No Child Left Behind; 2002) [Prior to NCLB state assessments at grades 4 and 8 were given every two years with reading and writing in one biennium and mathematics and science in the next. Therefore, these subjects and grade 12 in reading and mathematics were tested once every four years.]
2. Added the High School Transcript Study (HSTS) as a regularly scheduled study. (2005)
3. Scheduled U.S. history, civics and geography on a once every four years cycle. (2005)
4. Added Technology & Engineering Literacy (TEL) to the NAEP subjects assessed. (2005)
5. Added grade 12 state-level reading and mathematics for volunteer states with a periodicity of every four years. (2008)
6. Adjusted the periodicity of science to correspond to the periodicity of TIMSS for the purpose conducting international benchmarking studies in both mathematics and science. (2010)
7. Scheduled Writing as a technology based assessment, beginning with national data collections only and delaying fourth grade in order to complete a special study. (2010)

Other schedule changes and program adjustments due primarily to budget constraints and/or technical challenges have been considered in the development of the draft schedule:

- Postponing the state-level writing assessment.
- Postponing various other assessments/studies (World History, Foreign Language, HSTS, Long-Term Trend).
- Assessing fewer grade levels in non-required subject areas (U.S. history, civics, and geography; writing; TEL).
- Changing the sample size and reporting depth for states in reading and writing, referred to as focal and non-focal subject reporting.

Guiding Principles for Schedule Changes

Guiding principles that have been used to guide planned updates to the NAEP schedule of assessments include:

1. Follow the guidance in the NAEP Act (303(b)(2)),
2. Continue to cover a broad range of subject areas, and
3. Administer all assessments using technology beginning in 2017.

Guidance for the schedule is found in Title 303 Sec. 303(b)(2) which addresses the use of random sampling (A), testing in reading and mathematics at grades 4 and 8 once every two years (B), and testing in reading and mathematics at grade 12 at regularly scheduled intervals (at least as often as prior to NCLB (C).

After this initial guidance, Sec. 303(b)(2)(D) provides guidance for including other subjects in grades 4, 8, and 12 to the extent time and resources allow. It says, including assessments "... 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)."

Summary last updated: May 2014

Overview of NAEP Assessment Design

The content and format for each NAEP subject-area assessment is determined by a [NAEP assessment framework](#), developed under the Governing Board's direction. General details about the structure of NAEP assessments include:

Long Test, Short Student Test Booklet

- Each student gets a small part of the test
- No individual student scores

Common Block Structures Across Subjects

- Items are within blocks, blocks are within booklets
Example:
At grade 4: Reading has 10 blocks and Math has 10 blocks

Test Question Types

- Multiple-choice
- Open-ended
- Computer-based tasks (Writing, Science, TEL)

Contextual Questions

- Student, teacher, administrator questionnaires

Student Booklet Block Design

While some NAEP assessments are conducted on a technology-based platform (TEL, Writing), for paper-based assessments NAEP uses a focused balanced incomplete block (BIB) or partially balanced incomplete block (pBIB) design to assign blocks or groups of cognitive items to student booklets. Because of the BIB and pBIB booklet designs and the way NAEP assigns booklets to students, NAEP can sample enough students to obtain precise results for each test question while generally consuming an average of about an hour and a half of each student's time.

The "focused" aspect of NAEP's booklet design requires that each student answer questions from only one subject area. The "BIB" or "pBIB" design ensures that students receive different interlocking sections of the assessment forms, enabling NAEP to check for any unusual interactions that may occur between different samples of students and different sets of assessment questions.

In a BIB design, the cognitive blocks are balanced; each cognitive block appears an equal number of times in every possible position. Each cognitive block is also paired with every other cognitive block in a test booklet exactly the same number of times. In a pBIB design, cognitive blocks may not appear an equal number of times in each position, or may not be paired with every other cognitive block an equal number of times. NAEP booklet design varies according to subject area (e.g., geography, mathematics, reading, science, U.S. history, writing).

Once the instrument developer has laid out the configuration of all blocks for each booklet in a *booklet map* shown here with the following column headings,

Booklet number	Cognitive block 1	Cognitive block 2	Contextual question directions	General student contextual questions	Subject-specific contextual questions
1					
2					
3					

the number of rows (booklet numbers) provides the booklet spiral design information needed for the bundling of the student booklets.

Source: http://nces.ed.gov/nationsreportcard/tdw/instruments/cog_blockdesign.aspx

NAEP Assessment Sample Design

Each assessment cycle, a sample of students in designated grades within both public and private schools throughout the United States (and sometimes specified territories and possessions) is selected for assessment. In addition, in state assessment years, of which 2007 is an example, the samples of public schools and their students in each state are large enough to support state-level estimates. In all cases, the selection process utilizes a probability sample design in which every school and student has a chance to be selected, and standard errors can be calculated for the derived estimates.

Public School Selection in State Assessment Years

The selection of a sample of public school students for state assessment involves a complex multistage sampling design with the following stages:

- Select public schools within the designated areas,
- Select students in the relevant grades within the designated schools, and
- Allocate selected students to assessment subjects.

The Common Core of Data (CCD) file, a comprehensive list of operating public schools in each jurisdiction that is compiled each school year by the National Center for Education Statistics (NCES), is used as the sampling frame for the selection of sample schools. The CCD also contains information about grades served, enrollment, and location of each school. In addition to the CCD list, a set of specially sampled jurisdictions is contacted to determine if there are any newly formed public schools that were not included in the lists used as sampling frames. Considerable effort is expended to increase the survey coverage by locating public schools not included in the most recent CCD file.

As part of the selection process, public schools are combined into groups known as strata on the basis of various school characteristics related to achievement. These characteristics include the physical location of the school, extent of minority enrollment, state-based achievement scores, and median income of the area in which the school is located. Stratification of public schools

occurs within each state. Grouping schools within strata by such selected characteristics provides a more ordered selection process with improved reliability of the assessment results.

On average, a sample of approximately 100 grade-eligible public schools is selected within each jurisdiction; within each school, about 60 students are selected for assessment. Both of these numbers may vary somewhat, depending on the number and enrollment size of the schools in a jurisdiction, and the scope of the assessment in the particular year. Students are sampled from a roster of individual names, not by whole classrooms. The total number of schools selected is a function of the number of grades to be assessed, the number of subjects to be assessed, and the number of states participating.

Private School Selection in State Assessment Years

In years in which state-level samples are drawn for public schools, private schools are classified by type (e.g., Roman Catholic, Lutheran, etc.), and are grouped for sampling by geography (Census region), degree of urbanization of location, and minority enrollment. About 700 private schools, on average, are included, with up to 60 students per school selected for assessment. These samples are not large enough to support state-level estimates for private schools. Thus, inferences for private schools are limited to the national level, even in years when public school assessments are state-specific.

A national sample of private schools in all grades is then drawn from a list compiled through the Private School Universe Survey (PSS), which is a mail survey of all U.S. private schools carried out biennially by the U.S. Census Bureau under contract to NCES. The PSS list is updated for new schools only for a sample of Roman Catholic dioceses.

National-Only Assessment Years

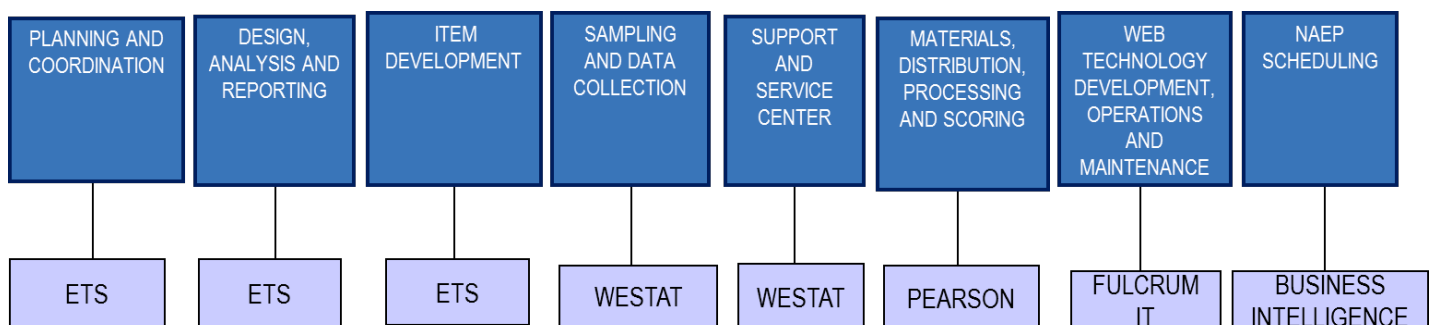
In years when the NAEP samples are intended only to provide representation at the national level and not for each individual state, the public and private school selection process is somewhat different. Rather than selecting schools directly from lists of schools, the first stage of sampling involves selecting a sample of some 50 to 100 geographic primary sampling units (PSUs). Each PSU is composed of one or more counties. They vary in size considerably, and generally about 1,000 PSUs are created in total, from which a sample is selected. Within the set of selected PSUs, public and private school samples are selected using similar procedures to those described above for the direct sampling of schools from lists. The samples are clustered geographically, which results in a more efficient data collection process. The selection of PSUs is not necessary when the sample sizes are large in each state, as in state assessment years.

Source: http://nces.ed.gov/nationsreportcard/tdw/sample_design/default.aspx

NAEP Alliance Contractors

NAEP is conducted by the Assessment Division of NCES, which also works with a series of contractors. The following chart presents the structure of the collaboration between these contractors.

NAEP Alliance Contractors



To learn more about NAEP contractors in addition to the NAEP Alliance contractors, visit: <http://nces.ed.gov/nationsreportcard/contracts/history.aspx>

Glossary of Acronyms and Other Terms

The following acronyms and terms are commonly used in the work of the National Assessment Governing Board.

AASA	American Association of School Administrators
ACT	Formerly American College Testing
ADC	Assessment Development Committee <i>(Board Committee responsible for test development on all NAEP subjects)</i>
AERA	American Educational Research Association
AFT	American Federation of Teachers
AIR	American Institutes for Research
ALDs	Achievement Level Descriptions
ALS	Achievement Levels Setting
ARRA	American Recovery and Reinvestment Act of 2009
AYP	Adequate Yearly Progress <i>(From the No Child Left Behind Act)</i>
BOTA	Board on Testing and Assessment, National Academy of Sciences
CCSS	Common Core State Standards
CCSSO	Council of Chief State School Officers
CGCS	Council of the Great City Schools
COSDAM	Committee on Standards, Design and Methodology <i>(Board committee responsible for technical issues)</i>
CRESST	Center for Research on Evaluation, Standards, and Student Testing <i>(Research Center at UCLA)</i>
DAC	Design and Analysis Committee <i>(Advisory panel to ETS on technical issues in NAEP operations)</i>

ECS	Education Commission of the States <i>(First NAEP contractor and organization supporting state policy leaders)</i>
EIMAC	Education Information Management Advisory Consortium <i>(Advisory committee to CCSSO, mostly state testing directors)</i>
ELs or ELLs	English Learners or English Language Learner <i>(Pronounced "Ls"; formerly called Limited English Proficient or LEP)</i>
ELPA	English Language Proficiency Assessment <i>(Also ELPA21)</i>
EPIC	Education Policy Improvement Center
ESEA	Elementary and Secondary Education Act
ETS	Educational Testing Service
FAR	Federal Acquisition Regulations
GAO	Government Accountability Office
GPO	Government Printing Office
GSA	General Services Administration
HSTS	High School Transcript Study <i>(A special NAEP data collection)</i>
IEP	Individualized Education Plan <i>(A required document under the Individuals with Disabilities Education Act, which specifies learning objectives for an individual student found with a disability)</i>
IES	Institute of Education Sciences <i>(The Department of Education office in which NCES is located. The Director of IES is an ex-officio member of the Governing Board.)</i>

IRA	International Reading Association
IRT	Item Response Theory <i>(A theory for design, analysis, and scoring of tests)</i>
KaSA	Knowledge and Skills Appropriate <i>(A series of NAEP research studies to improve measurement precision)</i>
KSA	Knowledge, Skill, and/or Ability <i>(A statement describing a subset of academic content)</i>
LEP	Limited English Proficient <i>(Term formerly used for an English Language Learner)</i>
LTT	Long Term Trend Assessment <i>(Series of NAEP tests that began in the early 1970's)</i>
MST	Multi-stage Testing <i>(A testing format where subsets of test items are presented to students based on item difficulty and student performance)</i>
NAE	National Academy of Education
NAEP	National Assessment of Educational Progress <i>(Pronounced "nape")</i>
NAESP	National Association of Elementary School Principals
NAGB	National Assessment Governing Board <i>(Pronounced "nag bee")</i>
NAS	National Academy of Sciences
NASBE	National Association of State Boards of Education
NASSP	National Association of Secondary School Principals
The Nation's Report Card	Alternate reference for NAEP assessments

NCES	National Center for Education Statistics <i>(Project office for NAEP in the U.S. Department of Education and IES)</i>
NCLB	No Child Left Behind Act of 2001
NCME	National Council on Measurement in Education
NCTE	National Council of Teachers of English
NCTM	National Council of Teachers of Mathematics
NEA	National Education Association
NEA	National Endowment for the Arts
NEH	National Endowment for the Humanities
NGSS	Next Generation Science Standards
NRC	National Research Council
NSBA	National School Boards Association
NSLP	National School Lunch Program
NVS	NAEP Validity Studies Panel
OGC	Office of the General Counsel <i>(in the U.S. Department of Education)</i>
OMB	Office of Management and Budget
PARCC	Partnership for Assessment of Readiness for College and Careers
PIRLS	Progress in International Reading Literacy Study
PISA	Program for International Student Assessment
POC	Principal Operating Components <i>(Divisions of the U.S. Department of Education)</i>
PTA	Parent Teacher Association

R&D	Reporting and Dissemination Committee <i>(Board Committee responsible for NAEP reporting issues)</i>
RFP	Request for Proposals
RP	Response probability <i>(probability of correct response on a test question)</i>
RTT	Race to the Top <i>(also referred to as RTTT)</i>
SBAC	SMARTER Balanced Assessment Consortium
SD	Students with Disabilities
SES	Socio-economic Status
TBA	Technology-based Assessment
TEL	Technology and Engineering Literacy <i>(A content area assessed by NAEP)</i>
The Department	United States Department of Education
The Secretary	Secretary of Education <i>(Honorable Arne Duncan during the Obama administration)</i>
TIMSS	Trends in International Mathematics and Science Study
TUDA	Trial Urban District Assessment <i>(NAEP component that measures students in large urban districts)</i>