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National Assessment Governing Board

Prohibition on Using NAEP to Influence State and Local Standards, Tests, and Curricula

Policy Statement

Introduction

Under the National Assessment of Educational Progress Authorization Act (P.L. 107-110, as amended by P.L. 107-279), there is a shift from completely voluntary participation in the National Assessment of Educational Progress (NAEP) to mandatory state participation in biennial reading and mathematics assessments in grade 4 and grade 8. Apparently, several new provisions are intended to counterbalance potential effects that some worry might arise from the mandatory aspect given NAEP under the law.

One of the new provisions in the NAEP legislation is aimed at preventing agents of the federal government from using NAEP as a means to affect state and local decisions about standards, assessments, curricula, and instruction. This new provision is framed as a prohibition, found at section 303(b)(4)(B):

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.

Although the intent of this provision is clear, two elements that would benefit from definition and elaboration—who is covered by the term “agent of the Federal Government” and what the term “influence” includes—will be discussed in this paper. In addition, this paper will provide examples of activities that are permissible and that are not permissible to illustrate boundaries for the term “influence” in the context of the legislation.

Who is an agent of the federal government?

Employees of the Executive Branch, in particular the National Center for Education Statistics (NCES), the Department of Education, and the National Assessment Governing Board are agents of the federal government. Members of the Governing Board are agents of the federal government only when acting in their official capacity as Governing Board members.

Individuals employed under contracts awarded by NCES or the Governing Board to carry out NAEP are not agents of the federal government; neither are the NAEP state coordinators funded to assist with in-state coordination of NAEP. However, contractor employees and NAEP state coordinators may be perceived by others as agents of the federal government due to the nature of their work. It is important for NCES to provide guidance to contractors on what is permissible and what is not permissible with respect to their communications to NAEP participants and the public about the NAEP.

What is intended by the term “influence”?

The prohibition against using NAEP to establish or require standards, assessments, curricula, and instructional practices is straightforward and comprehensible. The behavior that is not allowed is generally clear and in most cases it will be obvious when the prohibition has been violated.

The challenge is in setting boundaries related to the term “influence.” NAEP, by its high quality, standards-based reporting, and cutting edge use of test technology, has been an “influence” on testing for decades. Influence by good example should not stop and is not prohibited. Therefore, it is important not to overreact to the prohibition by curtailing activities that are appropriate and useful.

States often look to NAEP when contemplating changes in their own assessment programs. They do this with no urging and may even seek technical help from the federal government. Teachers may decide to download test questions and data from the NAEP website for use with their students. Curriculum planners may choose to examine NAEP frameworks when updating internal documents about subject area content coverage. Others who are involved in or concerned about education may look to NAEP for useful information. As a public resource, the NAEP program should be responsive in helping those who, by their own choice, want to make use of NAEP.

The line should be drawn at active attempts by individuals directly connected with NAEP, or “agents of the Federal Government,” to persuade others to adopt NAEP policies, procedures, or content in developing curricula, setting standards, designing tests, and preparing textbooks, lesson plans, and instructional materials.

Influence: Examples of what is permissible and what is not

The following examples are offered as a way to help discern the location of the line between permissible and impermissible activities.

Agents of the federal government may disseminate (in print form, via the Internet, and orally) objective, descriptive information and materials about NAEP, including: reports of test results, technical documentation, research studies, policy statements, released test questions, background questions, data, achievement levels, and test frameworks. They may not disseminate such information and materials in a manner that advocates their adoption by states, school districts, and schools.

Agents of the federal government may explain the mandatory aspect of state participation in biennial assessments in reading and mathematics in grades 4 and 8 beginning in 2003. While they may encourage participation in NAEP generally, they may not suggest that participation in other subjects and grades is other than voluntary.

In setting invitational (i.e., noncompulsory) priorities for NAEP secondary analysis grants, agents of the federal government may include projects to evaluate the extent of alignment of a state assessment to NAEP. They may not urge states to align their assessments with NAEP frameworks and test specifications.

Agents of the federal government may provide data on the association or correlation between achievement on NAEP and instructional variables. They may not disseminate reports about how to teach a particular subject, basing the report on the association between achievement on NAEP and instructional variables.

Agents of the federal government may prepare descriptive informational material about NAEP's inclusion/exclusion policies. They may not actively attempt to persuade states or others to adopt NAEP's inclusion/exclusion policies.