

# GOVERNING BOARD AND NAEP RESOURCES

## TABLE OF RESOURCES AND LINKS

Attached documents are listed with page numbers. Click underlined links to access unattached documents online.

	Page No.
<b>National Assessment Governing Board: Authority and Organization</b>	
• <a href="#">NAEP Law</a>	
• <a href="#">Board By-laws</a>	
• Board Composition and Responsibilities.....	3
• Board Members and Categories.....	4
• Ethics Primer for the National Assessment Governing Board.....	5
• Board Current Contracts .....	20
• <a href="#">Board Strategic Vision</a> .....	21
<b>NAEP Schedule of Assessments</b>	
• <a href="#">NAEP Schedule of Assessments</a> .....	23
• History of Changes to the NAEP Schedule of Assessments.....	24
• <a href="#">News Releases</a>	
<b>General Web-based Resources</b>	
• <a href="#">Home page of Governing Board web site</a>	
• <a href="#">Home page of the Nation's Report Card web site</a>	
• <a href="#">Materials for previous Board meetings</a>	
<b>Board Policies for NAEP</b>	
• <a href="#">General Policy: Conducting and Reporting NAEP</a>	
• <a href="#">Framework Development</a>	
• <a href="#">Item Development and Review</a>	
• <a href="#">Developing Student Performance Levels for NAEP</a>	
• <a href="#">Reporting, Release, and Dissemination of NAEP Results</a>	
○ <a href="#">Guidelines for the Initial Release of <i>The Nation's Report Card</i></a>	
○ <a href="#">Resolution on Reporting 12th Grade Academic Preparedness for College</a>	
○ <a href="#">Resolution on Reporting on Preparedness of 12th Grade Students</a>	
• <a href="#">Background Questions and the Use of Contextual Data in NAEP</a>	
• <a href="#">NAEP Testing and Reporting on Students with Disabilities and English Language Learners</a>	
• <a href="#">Trial Urban District Assessment: Eligibility Criteria and Selection Procedures</a>	
○ <a href="#">List of Eligible TUDA Districts</a>	

- [Resolution on Linking NAEP and International Assessments](#)

**NAEP Assessment Design**

- Overview of NAEP Assessment Design.....25
- NAEP Alliance Contractors .....28

**Selected Board Documents and Board-commissioned Research Reports** (from most to least recent)

- Board Response to the National Academies of Sciences, Engineering, and Medicine 2016 Evaluation of NAEP Achievement Levels .....29
- [Technical Report: NAEP 12th Grade Preparedness Research](#)
- [Technical Panel on 12th Grade Preparedness Research – Final Report](#)
- [The Future of 12th Grade NAEP: Report of the Ad Hoc Committee on Planning for NAEP 12th Grade Assessments in 2009](#)
- [Redesigning the National Assessment of Educational Progress](#)

**Previous “Inside NAEP” presentations**

- [Developing NAEP Frameworks: A Look Inside the Process](#)
- [Developing NAEP Test Questions](#)
- [Introduction to Validity](#)
- [NAEP Achievement Levels](#)
- [Sampling Concepts](#)

**Glossary of Acronyms and Other Terms.....35**

## 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 26<sup>th</sup> 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

## Members and Categories by Term Expiration Date

<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
<p><b>Alberto Carvalho</b> <i>Local School Superintendent</i></p> <p><b>Carol Jago</b> <i>Curriculum Specialist</i></p> <p><b>Dale Nowlin*</b> <i>Twelfth Grade Teacher</i></p> <p><b>Fielding Rolston*</b> <i>State School Board Member</i></p> <p><b>Linda Rosen</b> <i>Business Representative</i></p> <p><b>Cary Sneider*</b> <i>Curriculum Specialist</i></p> <p><b>Ken Wagner</b> <i>Chief State School Officer</i></p> <p><b>Joe Willhoft</b> <i>Testing &amp; Measurement Expert</i></p>	<p><b>Rebecca Gagnon*</b> <i>Local School Board Member</i></p> <p><b>Andrew Ho*</b> <i>Testing &amp; Measurement Expert</i></p> <p><b>Terry Mazany*</b> <i>General Public Representative</i></p> <p><b>Jeanette Nuñez</b> <i>State Legislator (Republican)</i></p> <p><b>Joseph O’Keefe*</b> <i>Non-public School Administrator or Policymaker</i></p> <p><b>Alice Peisch</b> <i>State Legislator (Democrat)</i></p>	<p><b>Dana Boyd</b> <i>Elementary School Principal</i></p> <p><b>Gregory Cizek*</b> <i>Testing &amp; Measurement Expert</i></p> <p><b>Tyler Cramer</b> <i>General Public Representative</i></p> <p><b>James Geringer*</b> <i>Governor (Republican)</i></p> <p><b>Beverly Perdue</b> <i>Governor (Democrat)</i></p> <p><b>Vacancy</b> <i>General Public Representative</i></p>	<p><b>Paul Gasparini</b> <i>Secondary School Principal</i></p> <p><b>Julia Keleher</b> <i>Chief State School Officer</i></p> <p><b>Tonya Matthews*</b> <i>General Public Representative</i></p> <p><b>Mark Miller</b> <i>Eighth Grade Teacher</i></p> <p><b>Nardi Routten</b> <i>Fourth Grade Teacher</i></p>

\* Member currently serving 2<sup>nd</sup> term and/or 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

## Contents

EXECUTIVE SUMMARY .....	3
ETHICS LAWS AND RULES APPLICABLE TO SGES.....	6
I. INTRODUCTION.....	6
II. YOUR STATUS AS A SPECIAL GOVERNMENT EMPLOYEE .....	6
A. What is a “special Government employee”?.....	6
B. Do the ethics restrictions apply when I am not working for NAGB? .....	6
III. CONFLICTS OF INTEREST.....	6
A. What criminal conflict of interest statutes apply to SGEs?.....	6
B. What financial conflicts of interest may arise for SGEs under section 208? .....	7
C. How do I resolve a conflict of interest? .....	9
D. What restrictions apply to my representation of third parties under sections 203 and 205? .....	10
IV. POST-EMPLOYMENT .....	10
V. STANDARDS OF ETHICAL CONDUCT AND OTHER ETHICS RULES .....	10
A. What restrictions apply if I want to engage in fundraising? .....	11
B. What restrictions are there on my acceptance of gifts?.....	11
C. What restrictions apply if I want to “lobby” Congress?.....	12
D. What does “misuse of position” mean? .....	12
E. May I keep my day job and still serve on NAGB?.....	12
F. Are there any restrictions on my political activities? .....	12
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?.....	13
H. What restrictions apply if my government duties involve the awarding of contracts? .....	13
I. What restrictions apply to my interaction with foreign entities?.....	14
J. What do I do if I am called to be an expert witness?.....	14
K. May I keep and use frequent flyer miles that I earn when I am on official NAGB travel?.....	15
VI. CONCLUSION .....	15

## 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.<sup>1</sup>
- 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.

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<sup>1</sup> 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](mailto: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

<b>Contract</b>	<b>Period of Performance</b>	<b>Contractor</b>	<b>Contractor Project Director</b>	<b>Staff Member</b>	<b><u>Strategic Vision (SV)</u></b>
Technical Support in Psychometrics, Assessment Development, and Preparedness for Postsecondary Endeavors	8/21/17 - 8/21/20	Human Resources Research Organization	Thanos Patelis	Sharyn Rosenberg	SV #2-10
Communications, Outreach, and Dissemination	9/29/17- 9/28/20	The Hatcher Group	Robert Johnson	Stephaan Harris	SV #1, 3, 4, & 6
World Wide Web Services – <a href="http://www.nagb.gov">www.nagb.gov</a>	6/1/15 - 3/30/19	Quotient, Inc.	Dan DeArmas	Stephaan Harris	SV #1, 3, 4, & 6
Update of National Assessment of Educational Progress Frameworks for Mathematics, Reading, and Other Subjects	9/6/2018 – 9/16/2020	WestEd	Steven Schneider	Michelle Blair	SV #5
Joint Task Force with the Council of the Great City Schools for the Trial Urban District Assessment	1/08/18 - 1/25/20	Council of the Great City Schools	Raymond Hart	Lily Clark	SV #1, 3, 4, & 6
Joint Task Force with the Council of Chief State School Officers	1/26/17 - 1/25/20	Council of Chief State School Officers	Scott Norton	Lily Clark	SV #1, 3, 4, & 6
Statistical Linking Studies and Related Data Sharing Agreements with Select Participating States and ACT	Ongoing, expected completion FY2019	NAEP Alliance contractors: ETS and Westat	NCES Liaison: Pat Etienne	Sharyn Rosenberg	SV #2



## National Assessment Governing Board's **Strategic Vision**

**The Nation's Report Card, also known as the National Assessment of Educational Progress (NAEP), was developed in 1969 to answer the important question: "How are our nation's students doing?" The National Assessment Governing Board established this Strategic Vision to not only answer the first question, but also to expand NAEP's impact by addressing a second question: "How can NAEP provide information about how our students are doing in the most innovative, informative, and impactful ways?"**

Congress created the independent, bipartisan Governing Board in 1988 to set policy guidelines for The Nation's Report Card, which is the largest nationally representative, continuing evaluation of the condition of education in the United States. In statute Congress charged the Governing Board to identify NAEP subjects to be tested, determine the content and achievement levels for each assessment, approve all test questions, and take steps to improve the form, reporting, and use of results.

The Governing Board partners with the National Center for Education Statistics, which administers the NAEP program, to inform a wide range of stakeholders—including policymakers, educators, researchers, business leaders, the media, and the general public—about what America's students know and can do in various subject areas, and compare achievement data over time and among student demographic groups. This allows the nation to understand where more work must be done to improve learning among all students.

The Governing Board fulfills its statutory mission by continuously reviewing and revising its policies and practices to ensure The Nation's Report Card measures and reports meaningful information to the public.

The educational landscape of the 21<sup>st</sup> century demands increased academic ambition, greater technological sophistication, improved civic participation, and expanded global perspectives for all students. In this time of rapid and accelerating change, it is essential for The Nation's Report Card to support innovation and address the need to improve student achievement, while maintaining its timeless promise to serve as the constant and unassailable measure of student achievement for our nation. To increase the value of The Nation's Report Card as a resource to impact student achievement, the Governing Board adopted this Strategic Vision with a dual focus on innovating to enhance NAEP's form and content and informing stakeholders to expand NAEP's dissemination and use.



## Inform

The National Assessment Governing Board will promote The Nation's Report Card's wealth of information to facilitate the awareness and uses of NAEP in appropriate, timely, new, and meaningful ways. Examples of NAEP resources include: results; trends; test questions and tasks; studies; measurement innovations; frameworks that specify the content and design of NAEP assessments; and contextual variables about student demographics and educational experiences collected from students, teachers, and schools. The Governing Board will:

- Strengthen and expand partnerships by broadening stakeholders' awareness of NAEP and facilitating their use of NAEP resources.
- Increase opportunities to connect NAEP to administrative data and state, national, and international student assessments.
- Expand the availability, utility, and use of NAEP resources, in part by creating new resources to inform education policy and practice.
- Promote sustained dissemination and use of NAEP information beyond Report Card releases with consideration for multiple audiences and ever-changing multi-media technologies.



## Innovate

The National Assessment Governing Board will revise the design, form, and content of The Nation's Report Card using advances in technology to keep NAEP at the forefront of measuring and reporting student achievement. The Governing Board will:

- Develop new approaches to update NAEP subject area frameworks to support the Board's responsibility to measure evolving expectations for students, while maintaining rigorous methods that support reporting student achievement trends.
- Continue improving the content, analysis, and reporting of NAEP contextual variables by considering the questions' relevance, sensitivity, and potential to provide meaningful context and insights for policy and practice.
- Research policy and technical implications related to the future of NAEP Long-Term Trend assessments in reading and mathematics.
- Research assessments used in other countries to identify new possibilities to innovate the content, design, and reporting of NAEP.
- Develop policy approaches to revise the NAEP assessment subjects and schedule based on the nation's evolving needs, the Board's priorities, and NAEP funding.
- Develop new approaches to measure the complex skills required for transition to postsecondary education and career.

***This Strategic Vision will focus the work of the Governing Board through the year 2020. By pursuing these priorities, the Governing Board will ensure that The Nation's Report Card provides the country with valuable data that measure and contribute to the improvement of student progress in achieving important knowledge and skills necessary for success as citizens in our democratic society.***

*Unanimously approved November 18, 2016*



# National Assessment of Educational Progress

## Schedule of Assessments

Approved November 21, 2015

The *National Assessment of Educational Progress (NAEP) Authorization Act* established the National Assessment Governing Board to set policy for NAEP, including determining the schedule of assessments. (P.L. 107-279)

Year	Subject	National Grades Assessed	State Grades Assessed	TUDA Grades Assessed
2014	U.S. History* Civics* Geography* <b>TECHNOLOGY AND ENGINEERING LITERACY</b>	8 8 8 8		
2015	Reading* Mathematics* Science**	4, 8, 12 4, 8, 12 4, 8, 12	4, 8 4, 8 4, 8	4, 8 4, 8 4, 8
2016	Arts*	8		
2017	Reading Mathematics Writing	4, 8 4, 8 4, 8	4, 8 4, 8	4, 8 4, 8
2018	U.S. History Civics Geography Technology and Engineering Literacy	8 8 8 8		
2019	Reading Mathematics Science High School Transcript Study	4, 8, 12 4, 8, 12 4, 8, 12	4, 8 4, 8	4, 8 4, 8
2020				
2021	Reading Mathematics Writing	4, 8 4, 8 4, 8, 12	4, 8 4, 8 8	4, 8 4, 8
2022	<b>U.S. HISTORY</b> <b>CIVICS</b> <b>GEOGRAPHY</b> Economics Technology and Engineering Literacy	8, 12 8, 12 8, 12 12 8, 12		
2023	Reading Mathematics Science High School Transcript Study	4, 8, 12 4, 8, 12 4, 8, 12	4, 8 4, 8 4, 8	4, 8 4, 8 4, 8
2024	<b>ARTS</b> <b>FOREIGN LANGUAGE</b> Long-term Trend	8 12 ~		

**NOTES:**

\*Assessments not administered by computer. Beginning in 2017 all operational assessments will be digitally based.

\*\*Science in 2015 consisted of paper-and-pencil and digital-based components.

~Long-term Trend (LTT) assessments sample students at ages 9, 13, and 17 and are conducted in reading and mathematics. Subjects in **BOLD ALL CAPS** indicate the year in which a new framework is implemented or assessment year for which the Governing Board will decide whether a new or updated framework is needed.



## History of Changes to the NAEP Schedule of Assessments

### Historical Schedule Changes

The major schedule changes adopted by the Board since 2000 are listed below:

1. Added grade 4 and 8 state-level Reading and Mathematics every two years. (2002) [Prior to the 2002 ESEA reauthorization (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, i.e., these subjects and grade 12 subjects 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 and 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 to conduct international benchmarking studies in 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 from 2000 through 2015 have been due primarily to budget constraints and/or technical challenges, considering options such as:

- Assessing fewer grade levels in non-required subject areas (e.g., U.S. History, Civics, and Geography; Writing; TEL).
- Postponing a state-level assessment.
- Postponing a full assessment/study (e.g., World History, Foreign Language, HSTS).

### Guiding Principles for Schedule Changes

The Governing Board's guiding principles and priorities for schedule changes are to:

- follow the requirements in the [National Assessment of Educational Progress Authorization Act](#), which includes the mandate to assess reading and math at the state level every two years and additional subjects as time and resources allow;
- adhere to the Governing Board's *General Policy: Conducting and Reporting the National Assessment of Educational Progress*; and
- reflect the current priorities of the Governing Board to:
  - Administer all assessments using technology beginning in 2017,
  - Continue to assess broad-based curricular areas with a priority for science, technology, engineering, and mathematics (STEM); and
  - Provide state-level data in curricular areas beyond reading and mathematics.

Guidance for the schedule is found in NAEP Authorization Act 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 [long term] trend assessment described in subparagraph (F)."



## 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](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**

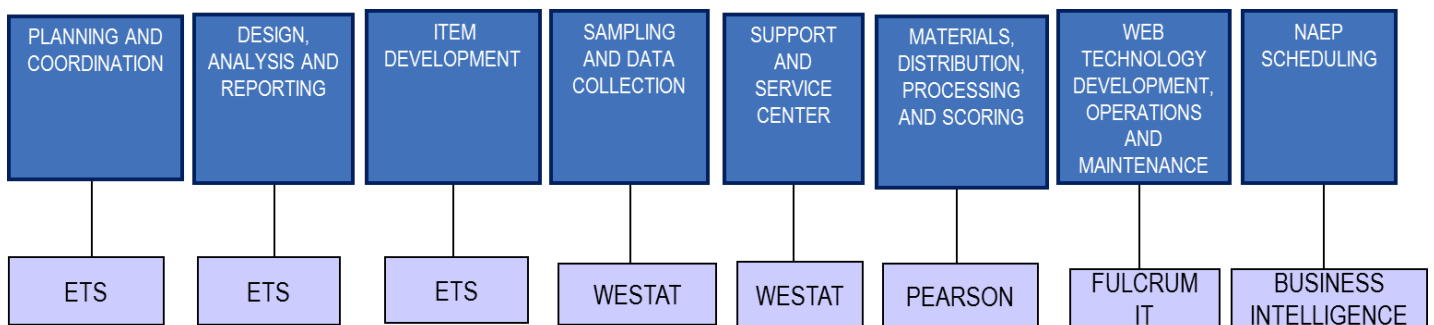
In years when the NAEP samples are intended only to provide representation at the national level and not for each individual state, the public and private school selection process is somewhat different. Rather than selecting schools directly from lists of schools, the first stage of sampling involves 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](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>

# **National Assessment Governing Board’s Response to the National Academies of Sciences, Engineering, and Medicine 2016 Evaluation of NAEP Achievement Levels**

## *Legislative Authority*

Pursuant to the National Assessment of Educational Progress (NAEP) legislation (Public Law 107-279), the National Assessment Governing Board (hereafter the Governing Board) is pleased to have this opportunity to apprise the Secretary of Education and the Congress of the Governing Board response to the recommendations of the National Academies of Sciences, Engineering, and Medicine evaluation of the NAEP achievement levels for mathematics and reading (Edley & Koenig, 2016).

The cited legislation charges the Governing Board with the authority and responsibility to “develop appropriate student achievement levels for each grade or age in each subject area to be tested.” The legislation also states that “such levels shall be determined by... a national consensus approach; used on a trial basis until the Commissioner for Education Statistics determines, as a result of an evaluation under subsection (f), that such levels are reasonable, valid, and informative to the public; ... [and] shall be updated as appropriate by the National Assessment Governing Board in consultation with the Commissioner for Education Statistics” (Public Law 107-279).

## *Background*

NAEP is the largest nationally representative and continuing assessment of what our nation’s elementary and secondary students know and can do. Since 1969, NAEP has been the country’s foremost resource for measuring student progress and identifying differences in student achievement across student subgroups. In a time of changing state standards and assessments, NAEP serves as a trusted resource for parents, teachers, principals, policymakers, and researchers to compare student achievement across states and select large urban districts. NAEP results allow the nation to understand where more work must be done to improve learning among all students.

For 25 years, the NAEP achievement levels (*Basic*, *Proficient*, and *Advanced*) have been a signature feature of NAEP results. While scale scores provide information about student achievement over time and across student groups, achievement levels reflect the extent to which student performance is “good enough,” in each subject and grade, relative to aspirational goals.

Since the Governing Board began setting standards in the early 1990s, achievement levels have become a standard part of score reporting for many other assessment programs in the US and abroad.

## Governing Board Response

### *Overview*

The Governing Board appreciates the thorough, deliberative process undertaken over the past two years by the National Academies of Science, Engineering, and Medicine and the expert members of the Committee on the Evaluation of NAEP Achievement Levels for Mathematics and Reading. The Governing Board is pleased that the report concludes that the achievement levels are a meaningful and important part of NAEP reporting. The report states that, “during their 24 years [the achievement levels] have acquired meaning for NAEP’s various audiences and stakeholders; they serve as stable benchmarks for monitoring achievement trends, and they are widely used to inform public discourse and policy decisions. Users regard them as a regular, permanent feature of the NAEP reports” (Edley & Koenig, 2016; page Sum-8). The Governing Board has reviewed the seven recommendations presented in the report and finds them reasonable and thoughtful. The report will inform the Board’s future efforts to set achievement levels and communicate the meaning of NAEP *Basic*, *Proficient*, and *Advanced*. The recommendations intersect with two Governing Board documents, the Strategic Vision and the achievement levels policy, described here.

On November 18, 2016, the Governing Board adopted a Strategic Vision (<https://www.nagb.org/content/nagb/assets/documents/newsroom/press-releases/2016/nagb-strategic-vision.pdf>) to guide the work of the Board through 2020, with an emphasis on innovating to enhance NAEP’s form and content and expanding NAEP’s dissemination and use. The Strategic Vision answers the question, “How can NAEP provide information about how our students are doing in the most innovative, informative, and impactful ways?” The Governing Board is pleased that several of the report recommendations are consistent with the Board’s own vision. The Governing Board is committed to measuring the progress of our nation’s students toward their acquisition of academic knowledge, skills, and abilities relevant to this contemporary era.

The Governing Board’s approach to setting achievement levels is articulated in a policy statement, “Developing Student Performance Levels for the National Assessment of Educational Progress” (<https://www.nagb.org/content/nagb/assets/documents/policies/developing-student-performance.pdf>). The policy was first adopted in 1990 and was subsequently revised in 1995,

with minor wording changes made in 2007. The report motivates the revision of this policy, to add clarity and intentionality to the setting and communication of NAEP achievement levels.

The seven recommendations and the Governing Board response comprise a significant research and outreach trajectory that the Governing Board can pursue over several years in conjunction with key partners. The Governing Board will implement these responses within resource constraints and in conjunction with the priorities of the Strategic Vision.

### *Evaluating the Alignment of NAEP Achievement Level Descriptors*

*Recommendation #1: Alignment among the frameworks, the item pools, the achievement-level descriptors, and the cut scores is fundamental to the validity of inferences about student achievement. In 2009, alignment was evaluated for all grades in reading and for grade 12 in mathematics, and changes were made to the achievement-level descriptors, as needed. Similar research is needed to evaluate alignment for the grade 4 and grade 8 mathematics assessments and to revise them as needed to ensure that they represent the knowledge and skills of students at each achievement level. Moreover, additional work to verify alignment for grade 4 reading and grade 12 mathematics is needed.*

The report's primary recommendation is to evaluate the alignment, and revise if needed, the achievement level descriptors for NAEP mathematics and reading assessments in grades 4, 8, and 12. The Governing Board intends to issue a procurement for conducting studies to achieve this goal. The Governing Board has periodically conducted studies to evaluate whether the achievement level descriptors in a given subject should be revised, based on their alignment with the NAEP framework, item pool, and cut scores. The Governing Board agrees that this is a good time to ensure that current NAEP mathematics and reading achievement level descriptors align with the knowledge and skills of students in each achievement level category. In conjunction with the response to Recommendation #3, the updated Board policy on NAEP achievement levels will address the larger issue of specifying a process and timeline for conducting regular recurring reviews of the achievement level descriptions in all subjects and grades.

The Governing Board agrees strongly with the recommendation that, while evaluating alignment of achievement level descriptors is timely, it is not necessary to consider changing the cut scores or beginning a new trend line at this time. The NAEP assessments are transitioning from paper-based to digital assessments in 2017, and current efforts are focused on ensuring comparability between 2015 and 2017 scores. The Governing Board articulated this in the 2015 Resolution on Maintaining NAEP Trends with the Transition to Digital-Based Assessments (<https://www.nagb.org/content/nagb/assets/documents/policies/resolution-on-trend-and-dba.pdf>).

*Recommendation #2: Once satisfactory alignment among the frameworks, the item pools, the achievement-level descriptors, and the cut scores in NAEP mathematics and reading has been*

*demonstrated, their designation as trial should be discontinued. This work should be completed and the results evaluated as stipulated by law: (20 U.S. Code 9622: National Assessment of Educational Progress: <https://www.law.cornell.edu/uscode/text/20/9622> [September 2016]).*

Ultimately, the Commissioner of Education Statistics is responsible for determining whether the “trial” designation is removed. The Governing Board is committed to providing the Commissioner with the information needed to make this determination in an expedient manner.

### *Regular Recurring Reviews of the Achievement Level Descriptors*

*Recommendation #3: To maintain the validity and usefulness of achievement levels, there should be regular recurring reviews of the achievement-level descriptors, with updates as needed, to ensure they reflect both the frameworks and the incorporation of those frameworks in NAEP assessments.*

The Board’s current policy on NAEP achievement levels contains several principles and guidelines for *setting* achievement levels but does not address issues related to the continued use or reporting of achievement levels many years after they were established. The revised policy will seek to address this gap by including a statement of periodicity for conducting regular recurring reviews of the achievement level descriptors, with updates as needed, as called for in this recommendation. The Governing Board agrees that it is important to articulate a process and timeline for conducting regular reviews of the achievement level descriptors rather than performing such reviews on an ad hoc basis.

### *Relationships Between NAEP Achievement Levels and External Measures*

*Recommendation #4: Research is needed on the relationships between the NAEP achievement levels and concurrent or future performance on measures external to NAEP. Like the research that led to setting scale scores that represent academic preparedness for college, new research should focus on other measures of future performance, such as being on track for a college-ready high school diploma for 8th-grade students and readiness for middle school for 4th-grade students.*

In addition to the extensive work that the Governing Board has conducted at grade 12 to relate NAEP mathematics and reading results to academic preparedness for college, the Governing Board has begun research at grade 8 with statistical linking studies of NAEP mathematics and reading and the ACT Explore assessments in those subjects. This work was published while the evaluation was in process and was not included in the Committee’s deliberations. Additional studies in NAEP mathematics and reading at grades 4 and 8 are beginning under contract to the National Center for Education Statistics (NCES). The Governing Board’s Strategic Vision includes an explicit goal to increase opportunities for connecting NAEP to other national and



international assessments and data. Just as the Board's previous research related grade 12 NAEP results in mathematics and reading to students' academic preparedness for college, the Governing Board anticipates that additional linkages with external measures will help connect the NAEP achievement levels and scale scores to other meaningful real-world indicators of current and future performance.

### *Interpretations and Uses of NAEP Achievement Levels*

*Recommendation #5: Research is needed to articulate the intended interpretations and uses of the achievement levels and collect validity evidence to support these interpretations and uses. In addition, research to identify the actual interpretations and uses commonly made by NAEP's various audiences and evaluate the validity of each of them. This information should be communicated to users with clear guidance on substantiated and unsubstantiated interpretations.*

The Governing Board's Strategic Vision emphasizes improving the use and dissemination of NAEP results, and the Board's work in this area will include achievement levels. The Governing Board recognizes that clarity and meaning of NAEP achievement levels (and scale scores) are of utmost importance. The Governing Board will issue a procurement to conduct research to better understand how various audiences have used and interpreted NAEP results (including achievement levels). The Governing Board will work collaboratively with NCES to provide further guidance and outreach about appropriate and inappropriate uses of NAEP achievement levels.

### *Guidance for Inferences Made with Achievement Levels versus Scale Scores*

*Recommendation #6: Guidance is needed to help users determine inferences that are best made with achievement levels and those best made with scale score statistics. Such guidance should be incorporated in every report that includes achievement levels.*

The Governing Board understands that improper uses of achievement level statistics are widespread in the public domain and extend far beyond the use of NAEP data. Reports by the Governing Board and NCES have modeled appropriate use of NAEP data and will continue to do so. This recommendation is also consistent with the goal of the Strategic Vision to improve the dissemination and use of NAEP results. The Governing Board will continue to work with NCES and follow current research to provide guidance about inferences that are best made with achievement levels and those best made with scale score statistics.

## *Regular Cycle for Considering Desirability of Conducting a New Standard Setting*

*Recommendation #7: NAEP should implement a regular cycle for considering the desirability of conducting a new standard setting. Factors to consider include, but are not limited to: substantive changes in the constructs, item types, or frameworks; innovations in the modality for administering assessments; advances in standard setting methodologies; and changes in the policy environment for using NAEP results. These factors should be weighed against the downsides of interrupting the trend data and information.*

When the Board’s achievement levels policy was first created and revised in the 1990s, the Board was setting standards in each subject and grade for the first time and had not yet considered the need or timeline for re-setting standards. To address this recommendation, the Governing Board will update the policy to be more explicit about conditions that require a new standard setting.

### *Board’s Commitment*

The Governing Board remains committed to its congressional mandate to set “appropriate student achievement levels” for the National Assessment of Educational Progress. The Board appreciates the report’s affirmation that NAEP achievement levels have been set thoughtfully and carefully, consistent with professional guidelines for standard setting, and based on extensive technical advice from respected psychometricians and measurement specialists. The Board also takes seriously the charge to develop the current achievement levels through a national consensus approach, involving large numbers of knowledgeable teachers, curriculum specialists, business leaders, and members of the general public throughout the process. This is only fitting given the Governing Board’s own congressionally mandated membership that explicitly includes representatives from these stakeholder groups.

The Governing Board remains committed to improving the process of setting and communicating achievement levels. The Governing Board is grateful for the report recommendations that will advance these aims.

### *Reference*

Edley, C. & Koenig, J. A. (Ed.). (2016). *Evaluation of the Achievement Levels for Mathematics and Reading on the National Assessment of Educational Progress*. Washington, DC: The National Academies Press.

## 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>