



September 9, 2016

Jessica McKinney
U.S. Department of Education
400 Maryland Avenue SW., Room 3W107
Washington, DC 20202

Docket ID: ED-2016-OESE-0053

Dear Ms. McKinney,

On behalf of America Forward, thank you for the opportunity to provide comments on the Department of Education's (ED's) Notice of Proposed Rulemaking (NPRM) related to academic assessments in the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA).

America Forward is a coalition of more than 70 impact-oriented organizations nationwide. Collectively, we are working in more than 14,500 communities every day, driving innovative, systemic improvements in teaching and learning. As a coalition, we are committed to advocating for policies that strengthen accountability and transparency, promote investment in what works, create learner-centered systems, support innovation, and expand the role of high-quality partnerships. We believe academic assessments – while not the only valid measure of student achievement – are an important tool not only for objectively assessing academic performance, but for communicating critical information to students, parents, and educators, and for informing efforts to generate improved outcomes for students.

With our priorities in mind, America Forward supports many of the provisions in the proposed regulations that reemphasize and build on important statutory language related to transparency, evidence, innovation and participation. We also believe there are certain areas where ED could do more to ensure assessments are used effectively and to leverage partners to improve the development and delivery of assessments.

State Responsibilities for Assessment

In proposed § 200.2, America Forward specifically supports the following provisions and urges ED to maintain them in any final regulation:

- Proposed § 200.2(b)(2)(i-ii), which requires that all statewide assessments be “valid and accessible for use by all students, including student with disabilities and English learners” and incorporate the principles of universal design for learning, which the regulations describe as a “scientifically valid framework for guiding educational practice that provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged; and reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with disabilities and English learners.”

- Proposed § 200.2(b)(3)(B), which requires that the assessments “provide coherent and timely information about student attainment of [challenging State academic standards] and whether a student is performing at the grade level in which the student is enrolled.”
- Proposed § 200.2(b)(5), which requires that the assessments “be supported by evidence that the assessments are of adequate technical quality for each purpose required under the Act.”

One area where believe the regulations could be further strengthened are the provisions related to data transparency for parents. Proposed § 200.2(b)(12) requires that assessments “produce individual student reports consistent with § 200.8(a).” This requirement mirrors the language in Section 1111(b)(2)(B)(x) of ESSA, which includes more detail, requiring that assessments “produce individual student interpretive, descriptive, and diagnostic reports, consistent with clause (iii), regarding achievement on such assessments that allow parents, teachers, principals, and other school leaders to understand and address the specific academic needs of students, and that are provided to parents, teachers, and school leaders, as soon as is practicable after the assessment is given, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand.” To ensure that the information communicated to parents is both clear and actionable, we would encourage ED to include, either in proposed § 200.2(b)(12) or § 200.8, a non-exhaustive list of examples of specific, high-quality data that should be included in these reports.

In either case, we support the related language, in section § 200.2(e)(1-3) of the proposed regulations, that would require that “information provided to parents under section 1111(b)(2) of [ESSA, including the reports referenced in § 200.2(b)(12)] must be in an understandable and uniform format” and, to the extent practicable, be made available accessible to parents with a disability or those who speak languages other than English.

In addition, we urge ED to explicitly state in proposed § 200.2 that states are free to implement new, innovative assessments – including competency-based assessments or specific elements thereof – either statewide or in select districts, without separate approval from ED, as long as they continue to also administer the statewide annual assessments. This is consistent with the language in ED’s separate NPRM on the new Innovative Assessment and Accountability Demonstration Authority, which notes that “An SEA requires this authority ... only if the SEA is proposing to implement an innovative assessment initially in a subset of its LEAs **without also continuing administration of its current statewide assessment to all students in those LEAs for school accountability and reporting purposes**” [emphasis added]. We believe that drawing states attention to their existing ability to innovate under Title I, Part A is essential to ensuring that states continue to push the envelope and think creatively about ways to accurately assess the academic achievement of students, particularly disadvantaged students, including low-income students, minorities, students with disabilities, English learners, and students in alternative settings.

Inclusion of All Students

Students with Disabilities

Regarding accessibility for assessments among students with disabilities, in proposed § 200.6, America Forward specifically supports the following provisions and urges ED to maintain them in any final regulation:

- Proposed § 200.6(a), which would require that assessments must be inclusive of students with disabilities, and provides parameters for which students fall within that category.
- Proposed § 200.6(b)(1), which would require statewide assessments to provide appropriate accommodations – including assistive technology – for students with disabilities.
- Proposed § 200.6(d)(4-6), which would require states that adopt alternate academic achievement standards for student with the most significant cognitive disabilities and administers an alternate assessment aligned with those standards to (1) not preclude a student with a disability who takes the alternate assessments from pursuing a regular high school diploma, (2) promote the involvement of students with the most significant cognitive disabilities in the general education curriculum, and (3) incorporate the principles of universal design for learning into the alternate assessments.

An area where we believe the proposed regulations can be improved is § 200.6(b)(2)(ii), which would require states to ensure that “general and special education teachers, paraprofessionals, specialized instructional support personnel, and other appropriate staff receive necessary training to administer assessments and know how to administer assessments, including, as necessary, alternate assessments ... and know how to make use of appropriate accommodations during assessment for all students with disabilities.” Given the limited capacity of school districts to provide high-quality training, we believe this would be an appropriate place to leverage high-quality community partners. Many organizations – including several America Forward members – have extensive experience designing and implementing assessment accommodations for students with disabilities, and would be tremendous partners for states as they attempt to fulfill this requirement. As such, we urge ED to revise the proposed language to read: “A state must ... ensure, **including through support provided in partnership with high-quality external partners or intermediary organizations**, that general and special education teachers, paraprofessionals, specialized instructional support personnel...”

English Learners

Regarding accessibility for assessments among English learners, in proposed § 200.6, America Forward specifically supports the following provisions and urges ED to maintain them in any final regulation:

- The requirement that states include English learners in required statewide assessments.
- The proposed requirement, in § 200.6(f)(1)(ii)(A), which would require states to ensure that use of appropriate accommodations for EL students doesn’t deny them the opportunity to participate in the assessment or any of the benefits associated with participation.
- Proposed § 200.6(f)(4)(i)(D), which would reiterate that “nothing in this paragraph relieves an LEA from its responsibility under applicable law to provide recently arrived English learners with appropriate instruction to enable them to attain English language proficiency as well as grade-level content knowledge in reading/language arts, mathematics and science.”

We believe the provisions related to English learners could be strengthened by adding language similar to that suggested above (regarding students with disabilities). Proposed § 200.6(f)(1)(ii)(E)(2) a state must describe “the process the state used to gather meaningful input on assessments in languages other than English, collect and respond to public comment, and consult with educators, parents and families of



English learners and other stakeholders.” To encourage states to leverage the expertise and capacity of community partners, we urge ED to amend the proposed language to read: describe “the process the state used to gather meaningful input on assessments in languages other than English, collect and respond to public comment, and consult with educators, parents and families of English learners, **community organizations with expertise in the development and implementation of assessments for English learners**, and other stakeholders.”

Thank you again for the opportunity to comment on these critically important issues. Please do not hesitate to contact us if we can be of any further assistance during this process.

Sincerely,

Members of the America Forward Coalition