

September 9, 2016

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

Re: Docket ID: ED–2016–OESE–0047
Title of Collection: *Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act–Innovative Assessment Demonstration Authority*

Dear Ms. McKinney:

The National School Boards Association (“NSBA”), with and through our state associations, submits the following comments in response to the U.S. Department of Education’s (“Department”) Notice of Proposed Rulemaking, *Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act–Innovative Assessment Demonstration Authority*, ED–2016–OESE–0047, published by the Department on July 11, 2016.¹

NSBA applauds the historic reauthorization of the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act (“ESSA”), and the law’s clear directive to restore local governance and community ownership of public education. ESSA restructures the role of the federal government in public education and reaffirms the role of State and local education officials, including local school board members, as the leaders best positioned to improve public education. School board members, as elected officials who govern local school districts, are deeply committed to the success of students in their school district, and are directly affected by federal regulations governing assessments. The historic reauthorization of the Elementary and Secondary Education Act (“ESEA”), as amended by the Every Student Succeeds Act (“ESSA”), provides a unique and unprecedented opportunity to restore local governance and community ownership of public

¹ Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act–Innovative Assessment Demonstration Authority, 81 Fed. Reg. 44,958 (proposed July 11, 2016) (to be codified at 34 C.F.R. pt. 200) [hereinafter “Innovative Assessment NPRM”].

education. The inclusion of the Innovative Assessment Demonstration Authority, (“innovative assessment program”) in the law is just one example of Congress’ clear directive to restructure and realign the federal government’s role in public education and restore the authority and flexibility to State and local education officials, including local school board members.

NSBA applauds provisions in the proposed rule that provide a mechanism for and require State education officials to consult and engage with local school board members and local education leaders in the development of assessment systems that meet the criteria of the innovative assessment program. The following provisions in the proposed rule ensure that the perspective of local school board members will be included and represented during the application process and throughout the administration of the innovative assessment program. These provisions will be key to ensuring that local education leaders are able to provide necessary input, feedback and information relating to the State’s statewide implementation of an innovative assessment program.

- Provisions in the rule that require State leaders to provide evidence that they have collaborated with partners, “including. . . affected stakeholders in the State,”² such as “local educational agencies,”³ which ESEA defines as “a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State...”⁴
- Provisions of the proposed rule that requires States to provide an assurance that it will report annually feedback it has obtained from stakeholders, including school leaders and local educational agencies (public boards of education).⁵
- The selection criteria related to the State’s capacity for such an innovative assessment program that focuses on the level of State and local support for the State’s application, including the requirement that the State obtain signatures from Presidents of local school boards within participating school districts will be key to ensure local, community support for participation in the innovative assessment program.⁶
- The evaluation provisions that include “feedback, evaluation results, and other information from participating LEA’s and schools to make changes to improve the quality of the innovative assessment” will help ensure successful implementation of the statewide innovative assessment program.⁷

Additionally, the proposed rule addresses the supports provided to educators and students, including the training provided to the local educational agency, teachers, principals and other school

² Innovative Assessment NPRM, 81 Fed. Reg. at 44,958 (proposed rule 34 C.F.R. § 200.77(a)(2)).

³ Innovative Assessment NPRM, 81 Fed. Reg. at 44,958 (proposed rule 34 C.F.R. § 200.77(a)(2)(iii)).

⁴ Every Student Succeeds Act (ESSA), Pub. L. No. 114-95, sec. 8001, § 8101(30) (amending 20 U.S.C. § 7801).

⁵ Innovative Assessment NPRM, 81 Fed. Reg. at 44,958 (proposed rule 34 C.F.R. § 200.77(d)(3)(iv)).

⁶ Innovative Assessment NPRM, 81 Fed. Reg. at 44,958 (proposed rule 34 C.F.R. § 200.78(b)(3)(ii)).

⁷ Innovative Assessment NPRM, 81 Fed. Reg. at 44,958 (proposed rule 34 C.F.R. § 200.78(e)(2)(i)).

leaders to familiarize them with the requirements of the innovative assessment program.⁸ These provisions will ensure that key stakeholders have an opportunity to engage with State leaders in the implementation of assessments utilized through the innovative assessment program and are vitally important.

The innovative assessment program offers State and local education leaders the opportunity to utilize flexibilities in the law to determine the type, form, and method of assessments that will most benefit students in their State. The innovative assessment program is based on the recognition that State leaders, in consultation with local school board members, are best positioned to make educational decisions effecting students, including the type of assessment system utilized within a local school district, to improve public education.

Finally, *NSBA encourages the Department to take additional steps to ensure that the proposed regulations support local school board members, as locally elected officials responsible for governing local school districts, by ensuring that they are directly involved and engaged in the process utilized by State educational agencies in identifying districts for participation in the innovative assessment program.* It is vitally important that school districts have a voice and the option of participating in the innovative assessment program in those States that initially implement the innovative assessment program in a subset of school districts within the State.

Sincerely,

Thomas J. Gentzel
Executive Director

⁸ Innovative Assessment NPRM, 81 Fed. Reg. at 44,958 (proposed rule 34 C.F.R. § 200.78(d)(1)).