

Congressional Budget Office, and the Librarian of Congress, to gain access to any reports or other records, including information identifying individuals, in the Center's possession, except that the same restrictions on disclosure that apply under paragraphs (1) and (6) shall apply to such individuals.

(Pub. L. 103-382, title IV, § 408, Oct. 20, 1994, 108 Stat. 4034.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9008 of this title.

§ 9008. Dissemination

(a) General requests

(1) In general

The Center may furnish transcripts or copies of tables and other statistical records and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals.

(2) Compilations

The Center shall provide State and local educational agencies opportunities to suggest the development of particular compilations of statistics, surveys, and analyses that would assist those educational agencies.

(b) Congressional requests

The Center shall furnish such special statistical compilations and surveys as the Congress may request.

(c) Joint statistical projects

The Secretary may engage in joint statistical projects related to the purposes of this chapter, or other statistical purposes authorized by law, with nonprofit organizations or agencies, and the cost of such projects shall be shared equitably as determined by the Secretary.

(d) Fees

(1) In general

Statistical compilations and surveys under this section, other than those carried out pursuant to subsections (b) and (c) of this section, may be made subject to the payment of the actual or estimated cost of such work.

(2) Funds received

All funds received in payment for work or services described in this subsection may be used to pay directly the costs of such work or services, to repay appropriations that initially bore all or part of such costs, or to refund excess sums when necessary.

(e) Access

(1) Other agencies

The Center shall, consistent with section 9007 of this title, cooperate with other Federal agencies having a need for educational data in providing access to educational data received by the Center.

(2) Interested parties

The Center shall, in accordance with such terms and conditions as the Secretary may prescribe, provide all interested parties, including public and private agencies and indi-

viduals, direct access to data collected by the Center for the purposes of research and acquiring statistical information.

(Pub. L. 103-382, title IV, § 409, Oct. 20, 1994, 108 Stat. 4035.)

§ 9009. Cooperative education statistics systems

(a) In general

The Commissioner may establish one or more national cooperative education statistics systems for the purpose of producing and maintaining, with the cooperation of the States, comparable and uniform information and data on elementary and secondary education, post-secondary education, and libraries, that are useful for policymaking at the Federal, State, and local levels. In carrying out this section, the Commissioner may provide technical assistance, and make grants and enter into contracts and cooperative agreements.

(b) Model data system

The Commissioner, working through the cooperative education statistics system, shall study, design, and pilot a model data system that will yield information about spending for administration at the school and local education agency levels.

(Pub. L. 103-382, title IV, § 410, Oct. 20, 1994, 108 Stat. 4036.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8824 of this title.

§ 9010. National Assessment of Educational Progress

(a) Establishment

The Commissioner shall, with the advice of the National Assessment Governing Board established under section 9011 of this title, and with the technical assistance of the Advisory Council established under section 9006 of this title, carry out, through grants, contracts, or cooperative agreements with one or more qualified organizations, or consortia thereof, a National Assessment of Educational Progress (hereafter in this chapter referred to as the "National Assessment").

(b) Purpose; State assessments

(1) Purpose

The purpose of the National Assessment is to provide a fair and accurate presentation of educational achievement in reading, writing, and the other subjects included in the third National Education Goal, regarding student achievement and citizenship. The Commissioner, in carrying out the National Assessment, shall use sampling techniques that produce data that are representative on a national and regional basis, and on a State basis pursuant to paragraph (2). In addition, the Commissioner shall—

(A) collect and report data on a periodic basis, but at least once every two years, on students at ages 9, 13, and 17 and in grades 4, 8, and 12 in public and private schools;

(B) report achievement data on a basis that ensures valid and reliable trend reporting;

(C) include information on special groups, including, whenever feasible, information collected, cross-tabulated, analyzed, and reported by sex, race or ethnicity and socioeconomic status; and

(D) ensure that achievement data are made available on a timely basis following official reporting, in a manner that facilitates further analysis.

(2) State assessments

(A)(i) The Commissioner, in carrying out the National Assessment, may conduct State assessments of student achievement in grades 4, 8, and 12.

(ii) Each such State assessment, in each subject area and at each grade level, shall be conducted on a developmental basis until the Commissioner determines, as the result of an evaluation required by subsection (f) of this section, that such assessment produces high quality data that are valid and reliable.

(B)(i) States wishing to participate in State assessments shall enter into an agreement with the Secretary pursuant to subsection (d)(2) of this section.

(ii) Such agreement shall contain information sufficient to give States full information about the process for consensus decision-making on objectives to be tested, and the standards for sampling, test administration, test security, data collection, validation, and reporting.

(C) A participating State shall review and give permission for the release of results from any test of its students administered as a part of a State assessment prior to the release of such data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of such data.

(3) Prohibited data

In carrying out the National Assessment, the Commissioner shall not collect any data that are not directly related to the appraisal of educational performance, achievement, and traditional demographic reporting variables, or to the fair and accurate presentation of such information.

(4) Technical assistance

In carrying out the National Assessment, the Commissioner may provide technical assistance to States, localities, and other parties.

(c) Access

(1) Public access

Except as provided in paragraph (2), the public shall have access to all data, questions, and test instruments of the National Assessment.

(2) Personally identifiable information

(A) The Commissioner shall ensure that all personally identifiable information about students, their educational performance, and their families, and that information with respect to individual schools, remains confidential, in accordance with section 552a of title 5.

(B) Notwithstanding any other provision of law, the Commissioner may decline to make

available to the public for a period, not to exceed ten years after initial use, cognitive questions that the Commissioner intends to reuse in the future.

(d) Participation

(1) National and regional

Participation in the national and regional assessments by State and local educational agencies shall be voluntary.

(2) State

Participation in assessments made on a State basis shall be voluntary. The Commissioner shall enter into an agreement with any State that desires to carry out an assessment for the State under this subsection. Each such agreement shall contain provisions designed to ensure that the State will—

(A) participate in the assessment; and

(B) pay from non-Federal sources the non-Federal share of such participation.

(3) Non-Federal share

(A) For each fiscal year, the non-Federal share for the purpose of paragraph (2)(B) shall be—

(i) the cost of conducting the assessment at the school level for all public schools in the State sample;

(ii) the cost of coordination within the State; and

(iii) other reasonable costs specified by the Secretary in the agreement described in paragraph (2), such as the cost of analyzing and reporting the data.

(B) The non-Federal share of payments under this paragraph may be in cash or in kind, fairly valued.

(C) The agreement described in paragraph (2) shall describe the manner in which the costs of administering the assessment to private nonprofit schools included in the State sample will be met.

(e) Student performance levels

(1) Performance levels

The National Assessment Governing Board, established under section 9011 of this title, shall develop appropriate student performance levels for each age and grade in each subject area to be tested under the National Assessment.

(2) Development of levels

(A) Such levels shall be—

(i) devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the general public;

(ii) used on a developmental basis until the Commissioner determines, as the result of an evaluation under subsection (f) of this section, that such levels are reasonable, valid, and informative to the public; and

(iii) updated as appropriate.

(B) In using such levels on a developmental basis, the Commissioner and the Board shall ensure that reports that use such levels do so in a manner that makes clear the developmental status of such levels.

(3) Reporting

After determining that such levels are reasonable, valid, and informative to the public, as the result of an evaluation under subsection (f) of this section, the Commissioner shall use such levels or other methods or indicators for reporting results of the National Assessment and State assessments.

(f) Review of National and State assessments**(1) In general**

(A) The Secretary shall provide for continuing review of the National Assessment, State assessments, and student performance levels, by one or more nationally recognized evaluation organizations, such as the National Academy of Education and the National Academy of Sciences.

(B) Such continuing review shall address—

(i) whether each developmental State assessment is properly administered, produces high quality data that are valid and reliable, and produces data on student achievement that are not otherwise available to the State (other than data comparing participating States to each other and the Nation); and

(ii) whether developmental student performance levels are reasonable, valid, and informative to the public.

(2) Report

The Secretary shall report to the Congress, the President, and the Nation on the findings and recommendations of such reviews.

(3) Use of findings and recommendations

The Commissioner shall consider the findings and recommendations of such reviews in designing the competition to select the organization, or organizations, through which the Commissioner carries out the National Assessment.

(g) Coverage agreements**(1) Department of Defense schools**

The Secretary and the Secretary of Defense may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment elementary and secondary schools operated by the Department of Defense.

(2) Bureau of Indian Affairs schools

The Secretary and the Secretary of the Interior may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment schools for Indian children operated or supported by the Bureau of Indian Affairs.

(Pub. L. 103-382, title IV, §411, Oct. 20, 1994, 108 Stat. 4036.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9001, 9011, 9012 of this title.

§ 9011. National Assessment Governing Board**(a) Establishment**

There is established the National Assessment Governing Board (hereafter in this chapter referred to as the “Board”), which shall formulate policy guidelines for the National Assessment.

(b) Membership**(1) Appointment and composition**

The Board shall be appointed by the Secretary and be composed of—

(A) two Governors, or former Governors, who shall not be members of the same political party;

(B) two State legislators, who shall not be members of the same political party;

(C) two chief State school officers;

(D) one superintendent of a local educational agency;

(E) one member of a State board of education;

(F) one member of a local board of education;

(G) three classroom teachers representing the grade levels at which the National Assessment is conducted;

(H) one representative of business or industry;

(I) two curriculum specialists;

(J) three testing and measurement experts, who shall have training and experience in the field of testing and measurement;

(K) one nonpublic school administrator or policymaker;

(L) two school principals, of whom one shall be an elementary school principal and one shall be a secondary school principal; and

(M) four additional members who are representatives of the general public, including parents.

(2) Assistant Secretary for Educational Research

The Assistant Secretary for Educational Research and Improvement shall serve as an ex officio, nonvoting member of the Board.

(3) Special rule

The Secretary and the Board shall ensure at all times that the membership of the Board reflects regional, racial, gender, and cultural balance and diversity and that the Board exercises its independent judgment, free from inappropriate influences and special interests.

(c) Terms**(1) In general**

Terms of service of members of the Board shall be staggered and may not exceed a period of 4 years, as determined by the Secretary.

(2) Service limitation

Members of the Board may serve not more than two terms.

(3) Change of status

A member of the Board who changes status under subsection (b) of this section during the term of the appointment of the member may continue to serve as a member until the expiration of such term.

(4) Conforming provision

Members of the Board previously granted 3 year terms, whose terms are in effect on December 21, 2000, shall have their terms extended by 1 year.