

(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.

(d) Vacancies**(1) In general**

(A) The Secretary shall appoint new members to fill vacancies on the Board from among individuals who are nominated by organizations representing the type of individuals described in subsection (b)(1) of this section with respect to which the vacancy exists.

(B) Each organization submitting nominations to the Secretary with respect to a particular vacancy shall nominate for such vacancy six individuals who are qualified by experience or training to fill the particular Board vacancy.

(C) The Secretary's appointments shall maintain the composition, diversity, and balance of the Board required under subsection (b) of this section.

(2) Additional nominations

The Secretary may request that each organization described in paragraph (1)(A) submit additional nominations if the Secretary determines that none of the individuals nominated by such organization have appropriate knowledge or expertise.

(e) Duties**(1) In general**

In carrying out its functions under this section the Board shall—

(A) select subject areas to be assessed (consistent with section 9010(b)(1) of this title);

(B) develop appropriate student performance levels as provided in section 9010(e) of this title;

(C) develop assessment objectives and test specifications through a national consensus approach which includes the active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the public;

(D) design the methodology of the assessment, in consultation with appropriate technical experts, including the Advisory Council established under section 9006 of this title;

(E) develop guidelines for reporting and disseminating results;

(F) develop standards and procedures for interstate, regional, and national comparisons; and

(G) take appropriate actions needed to improve the form and use of the National Assessment.

(2) Delegation

The Board may delegate any of the Board's procedural and administrative functions to its staff.

(3) Cognitive items

The Board shall have final authority on the appropriateness of cognitive items.

(4) Prohibition against bias

The Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias.

(5) Technical

In carrying out the duties required by paragraph (1), the Board may seek technical ad-

vice, as appropriate, from the Commissioner and the Advisory Council on Education Statistics and other experts.

(6) Report

Not later than 90 days after an evaluation of the student performance levels under section 9010(e) of this title, the Board shall make a report to the Secretary, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate describing the steps the Board is taking to respond to each of the recommendations contained in such evaluation.

(f) Personnel**(1) In general**

In the exercise of its responsibilities, the Board shall be independent of the Secretary and the other offices and officers of the Department.

(2) Staff

(A) The Secretary may appoint, at the request of the Board, such staff as will enable the Board to carry out its responsibilities.

(B) Such appointments may include, for terms not to exceed three years and without regard to the provisions of title 5 governing appointments in the competitive service, not more than six technical employees who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) Coordination

The Commissioner and the Board shall meet periodically—

(1) to ensure coordination of their duties and activities relating to the National Assessment; and

(2) for the Commissioner to report to the Board on the Department's actions to implement the decisions of the Board.

(h) Administration

Only sections 10, 11, and 12 of the Federal Advisory Committee Act shall apply with respect to the Board.

(Pub. L. 103-382, title IV, § 412, Oct. 20, 1994, 108 Stat. 4039; Pub. L. 106-554, § 1(a)(1) [title III, § 307], Dec. 21, 2000, 114 Stat. 2763, 2763A-44.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (f)(2)(B), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

Sections 10, 11, and 12 of the Federal Advisory Committee Act, referred to in subsec. (h), are sections 10, 11, and 12 of Pub. L. 92-463, as amended, which are set out in the Appendix to Title 5.

AMENDMENTS

2000—Subsec. (c)(1). Pub. L. 106-554, § 1(a)(1) [title III, § 307(1)], substituted “4 years” for “3 years”.

Subsec. (c)(4). Pub. L. 106-554, § 1(a)(1) [title III, § 307(2)], added par. (4).

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Eco-

nomic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9010, 9012 of this title.

§ 9012. Authorization of appropriations

(a) In general

There are authorized to be appropriated \$65,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out this chapter (other than sections 9010 and 9011 of this title).

(b) National Assessment

There are authorized to be appropriated \$35,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996 and 1997 to carry out section 9010 of this title.

(c) Governing Board

There are authorized to be appropriated \$3,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996 and 1997 to carry out section 9011 of this title.

(Pub. L. 103-382, title IV, § 413, Oct. 20, 1994, 108 Stat. 4041.)

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CODIFICATION

Title II of Pub. L. 94-462, comprising this chapter, was originally enacted as Pub. L. 94-462, title II, Oct. 8, 1976, 90 Stat. 1975; Pub. L. 96-496, title II, § 201, Dec. 4, 1980, 94 Stat. 2591; Pub. L. 98-306, §§ 8-11, May 31, 1984, 98 Stat. 225; Pub. L. 99-194, title II, Dec. 20, 1985, 99 Stat. 1344; Pub. L. 101-512, title III, § 318 [title II, §§ 201, 202(a)(1), (b), 203-205], Nov. 5, 1990, 104 Stat. 1960, 1974, 1975, known as the Museum Services Act, and classified to section 961 et seq. of this title. Title II is shown, herein, however, as having been added by Pub. L. 104-208 without reference to such intervening amendments because of the extensive amendments to the provisions of title II by Pub. L. 104-208.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1504 of this title.

SUBCHAPTER I—GENERAL PROVISIONS

§ 9101. General definitions

As used in this chapter: