

Statutory Notes and Related Subsidiaries**TERMINATION OF ADVISORY COMMITTEES**

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 1013 of Title 5, Government Organization and Employees.

§ 9606. Priorities

The Secretary shall establish priorities for the regional educational laboratories (established under section 9564 of this title) and comprehensive centers (established under section 9602 of this title) to address, taking into account the regional assessments conducted under section 9605 of this title and other relevant regional surveys of educational needs, to the extent the Secretary deems appropriate.

(Pub. L. 107-279, title II, §207, Nov. 5, 2002, 116 Stat. 1981.)

§ 9607. Grant program for statewide, longitudinal data systems**(a) Grants authorized**

The Secretary is authorized to award grants, on a competitive basis, to State educational agencies to enable such agencies to design, develop, and implement statewide, longitudinal data systems to efficiently and accurately manage, analyze, disaggregate, and use individual student data, consistent with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(b) Applications

Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(c) Awarding of grants

In awarding grants under this section, the Secretary shall use a peer review process that—

(1) ensures technical quality (including validity and reliability), promotes linkages across States, and protects student privacy consistent with section 9573 of this title;

(2) promotes the generation and accurate and timely use of data that is needed—

(A) for States and local educational agencies to comply with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and other reporting requirements and close achievement gaps; and

(B) to facilitate research to improve student academic achievement and close achievement gaps; and

(3) gives priority to applications that meet the voluntary standards and guidelines described in section 9543(a)(5) of this title.

(d) Supplement not supplant

Funds made available under this section shall be used to supplement, and not supplant, other

State or local funds used for developing State data systems.

(e) Report

Not later than 1 year after November 5, 2002, and again 3 years after such date, the Secretary, in consultation with the National Academies Committee on National Statistics, shall make publicly available a report on the implementation and effectiveness of Federal, State, and local efforts related to the goals of this section, including—

(1) identifying and analyzing State practices regarding the development and use of statewide, longitudinal data systems;

(2) evaluating the ability of such systems to manage individual student data consistent with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), promote linkages across States, and protect student privacy consistent with section 9573 of this title; and

(3) identifying best practices and areas for improvement.

(Pub. L. 107-279, title II, §208, Nov. 5, 2002, 116 Stat. 1981.)

Editorial Notes

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (a), (c)(2)(A), and (e)(2), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

§ 9608. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter \$80,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(Pub. L. 107-279, title II, §209, Nov. 5, 2002, 116 Stat. 1982.)

SUBCHAPTER III—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS**§ 9621. National Assessment Governing Board****(a) Establishment**

There is established the National Assessment Governing Board (hereafter in this subchapter referred to as the “Assessment Board”), which shall formulate policy guidelines for the National Assessment (carried out under section 9622 of this title).

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

The Assessment Board shall be appointed by the Secretary and be composed as follows:

(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.

(M) Two parents who are not employed by a local, State or Federal educational agency.

(N) Two additional members who are representatives of the general public, and who may be parents, but who are not employed by a local, State, or Federal educational agency.

(2) Director of the Institute of Education Sciences

The Director of the Institute of Education Sciences shall serve as an ex officio, nonvoting member of the Assessment Board.

(3) Balance and diversity

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

(c) Terms

(1) In general

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

(2) Service limitation

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

(3) Change of status

A member of the Assessment Board who changes status under subsection (b) 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 Assessment 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) Organizations

The Secretary shall appoint new members to fill vacancies on the Assessment Board from among individuals who are nominated

by organizations representing the type of individuals described in subsection (b)(1) with respect to which the vacancy exists.

(B) Nominations

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 Assessment Board vacancy.

(C) Maintenance of Assessment Board

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

(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 Assessment Board shall—

(A) select the subject areas to be assessed (consistent with section 9622(b) of this title);

(B) develop appropriate student achievement levels as provided in section 9622(e) of this title;

(C) develop assessment objectives consistent with the requirements of this section and test specifications that produce an assessment that is valid and reliable, and are based on relevant widely accepted professional standards;

(D) develop a process for review of the assessment which includes the active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the public;

(E) design the methodology of the assessment to ensure that assessment items are valid and reliable, in consultation with appropriate technical experts in measurement and assessment, content and subject matter, sampling, and other technical experts who engage in large scale surveys;

(F) consistent with section 9622 of this title, measure student academic achievement in grades 4, 8, and 12 in the authorized academic subjects;

(G) develop guidelines for reporting and disseminating results;

(H) develop standards and procedures for regional and national comparisons;

(I) take appropriate actions needed to improve the form, content, use, and reporting of results of any assessment authorized by section 9622 of this title consistent with the provisions of this section and section 9622 of this title; and

(J) plan and execute the initial public release of National Assessment of Educational Progress reports.

The National Assessment of Educational Progress data shall not be released prior to the

release of the reports described in subparagraph (J).

(2) Delegation

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

(3) All cognitive and noncognitive assessment items

The Assessment Board shall have final authority on the appropriateness of all assessment items.

(4) Prohibition against bias

The Assessment 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 and are secular, neutral, and non-ideological.

(5) Technical

In carrying out the duties required by paragraph (1), the Assessment Board may seek technical advice, as appropriate, from the Commissioner for Education Statistics and other experts.

(6) Report

Not later than 90 days after an evaluation of the student achievement levels under section 9622(e) of this title, the Assessment Board shall make a report to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate describing the steps the Assessment 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 Assessment Board shall be independent of the Secretary and the other offices and officers of the Department.

(2) Staff

(A) In general

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

(B) Technical employees

Such appointments may include, for terms not to exceed 3 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 for Education Statistics and the Assessment Board shall meet periodically—

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

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

(h) Administration

Chapter 10 of title 5 shall not apply with respect to the Assessment Board, other than sections 1009, 1010, and 1011 of title 5.

(Pub. L. 107-279, title III, § 302, formerly 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; Pub. L. 107-110, title VI, § 602(b), Jan. 8, 2002, 115 Stat. 1904; renumbered Pub. L. 107-279, title III, § 302, and amended Pub. L. 107-279, title IV, § 401(c), Nov. 5, 2002, 116 Stat. 1983; Pub. L. 117-286, § 4(a)(154), Dec. 27, 2022, 136 Stat. 4322.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 9011 of this title prior to renumbering by Pub. L. 107-279.

PRIOR PROVISIONS

A prior section 302 of Pub. L. 107-279 was renumbered section 304 and is classified to section 9623 of this title.

AMENDMENTS

2022—Subsec. (h). Pub. L. 117-286 substituted “Chapter 10 of title 5 shall not apply with respect to the Assessment Board, other than sections 1009, 1010, and 1011 of title 5.” for “The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Assessment Board, other than sections 10, 11, and 12 of such Act.”

2002—Pub. L. 107-110 amended section generally, restating and expanding provisions and inserting headings.

Subsec. (a). Pub. L. 107-279, § 401(c)(1), substituted “referred to as the ‘Assessment Board’” for “referred to as the ‘Board’” and inserted “(carried out under section 9622 of this title)” after “for the National Assessment”.

Subsec. (b)(1). Pub. L. 107-279, § 401(c)(2), substituted “Assessment Board” for “Board” in introductory provisions.

Subsec. (b)(2). Pub. L. 107-279, § 401(c)(4), substituted “Director of the Institute of Education Sciences” for “Assistant Secretary for Educational Research” in heading and “Assistant Secretary for Educational Research and Improvement” in text.

Pub. L. 107-279, § 401(c)(2), substituted “Assessment Board” for “Board”.

Subsecs. (b)(3) to (d)(1). Pub. L. 107-279, § 401(c)(2), substituted “Assessment Board” for “Board” wherever appearing.

Subsec. (e)(1). Pub. L. 107-279, § 401(c)(2), (5)(A)(vii), substituted “Assessment Board” for “Board” in introductory provisions and inserted concluding provisions.

Subsec. (e)(1)(A). Pub. L. 107-279, § 401(c)(5)(A)(i), substituted “section 9622(b)” for “section 9010(b)”.

Subsec. (e)(1)(B). Pub. L. 107-279, § 401(c)(5)(A)(ii), substituted “section 9622(e)” for “section 9010(e)”.

Subsec. (e)(1)(E). Pub. L. 107-279, § 401(c)(5)(A)(iii), struck out “, including the Advisory Council established under section 9006 of this title” before semicolon at end.

Subsec. (e)(1)(F), (I). Pub. L. 107-279, § 401(c)(5)(A)(iv), substituted “section 9622” for “section 9010” wherever appearing.

Subsec. (e)(1)(J). Pub. L. 107-279, § 401(c)(5)(A)(v)-(vii), added subpar. (J).

Subsec. (e)(2) to (4). Pub. L. 107-279, § 401(c)(2), substituted “Assessment Board” for “Board”.

Subsec. (e)(5). Pub. L. 107-279, §401(c)(5)(B), struck out “and the Advisory Council on Education Statistics” before “and other experts.”

Pub. L. 107-279, §401(c)(3), substituted “Commissioner for Education Statistics” for “Commissioner”.

Pub. L. 107-279, §401(c)(2), substituted “Assessment Board” for “Board”.

Subsec. (e)(6). Pub. L. 107-279, §401(c)(5)(C), substituted “section 9622(e)” for “section 9010(e)”.

Pub. L. 107-279, §401(c)(2), substituted “Assessment Board” for “Board” in two places.

Subsec. (f). Pub. L. 107-279, §401(c)(2), substituted “Assessment Board” for “Board” wherever appearing.

Subsec. (g). Pub. L. 107-279, §401(c)(3), substituted “Commissioner for Education Statistics” for “Commissioner” in two places.

Pub. L. 107-279, §401(c)(2), substituted “Assessment Board” for “Board” wherever appearing.

Subsec. (h). Pub. L. 107-279, §401(c)(2), substituted “Assessment Board” for “Board”.

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).

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EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as an Effective Date note under section 6301 of this title.

SHORT TITLE

This subchapter is known as the “National Assessment of Educational Progress Authorization Act”, see Short Title note set out under section 9501 of this title.

§ 9622. National Assessment of Educational Progress

(a) Establishment

The Commissioner for Education Statistics shall, with the advice of the Assessment Board established under section 9621 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, which collectively refers to a national assessment, State assessments, and a long-term trend assessment in reading and mathematics.

(b) Purpose; State assessments

(1) Purpose

The purpose of this section is to provide, in a timely manner, a fair and accurate measurement of student academic achievement and reporting of trends in such achievement in reading, mathematics, and other subject matter as specified in this section.

(2) Measurement and reporting

The Commissioner for Education Statistics, in carrying out the measurement and reporting described in paragraph (1), shall—

(A) use a random sampling process which is consistent with relevant, widely accepted professional assessment standards and that produces data that are representative on a national and regional basis;

(B) conduct a national assessment and collect and report assessment data, including achievement data trends, in a valid and reli-

able manner on student academic achievement in public and private elementary schools and secondary schools at least once every 2 years, in grades 4 and 8 in reading and mathematics;

(C) conduct a national assessment and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in public and private schools in reading and mathematics in grade 12 in regularly scheduled intervals, but at least as often as such assessments were conducted prior to January 8, 2002;

(D) to the extent time and resources allow, and after the requirements described in subparagraph (B) are implemented and the requirements described in subparagraph (C) are met, conduct additional national assessments and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in grades 4, 8, and 12 in public and private elementary schools and secondary schools in regularly scheduled intervals in additional subject matter, including writing, science, history, geography, civics, economics, foreign languages, and arts, and the trend assessment described in subparagraph (F);

(E) conduct the reading and mathematics assessments described in subparagraph (B) in the same year, and every other year thereafter, to provide for 1 year in which no such assessments are conducted in between each administration of such assessments;

(F) continue to conduct the trend assessment of academic achievement at ages 9, 13, and 17 for the purpose of maintaining data on long-term trends in reading and mathematics;

(G) include information on special groups, including, whenever feasible, information collected, cross tabulated, compared, and reported by race, ethnicity, socioeconomic status, gender, disability and limited English proficiency; and

(H) ensure that achievement data are made available on a timely basis following official reporting, in a manner that facilitates further analysis and that includes trend lines.

(3) State assessments

(A) In general

The Commissioner for Education Statistics—

(i) shall conduct biennial State academic assessments of student achievement in reading and mathematics in grades 4 and 8 as described in paragraphs (2)(B) and (2)(E);

(ii) may conduct the State academic assessments of student achievement in reading and mathematics in grade 12 as described in paragraph (2)(C);

(iii) may conduct State academic assessments of student achievement in grades 4, 8, and 12 as described in paragraph (2)(D); and

(iv) shall conduct each such State assessment, in each subject area and at each