Transcript of U.S. DEPARTMENT OF EDUCATION NEGOTIATED RULEMAKING

Date: March 21, 2016

Case: U.S. DEPARTMENT OF EDUCATION IN RE: NEGOTIATED RULEMAKING

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Mr. Rooney: Good morning everyone. I think we are ready to begin. Welcome to the first session of the negotiated rule-making panel for every student succeeds act. My name is Patrick Rooney. I am the acting director at the U.S. Department of Education. I am the federal negotiator for this committee. I want to thank everyone for joining us this morning. I want to particularly thank you around the table for taking the time over the past week to prepare for this meeting and over the next few weeks to help us support implementations of the ESEA. We are excited to be here today which is a
1 strong bipartisan bill by still including
2 the nations most vulnerable students. It's
3 built efforts underway in states districts
4 and schools across the country and building
5 on key process over the past few years
6 including a record high of graduation of
7 82% significant expansion of high quality
8 preschool and a million more
9 African-American and Hispanics in college
10 since 2008. We spent the last few months
11 taking public comment. We also met with
12 groups around the country. Based on that
13 we heard there's a need for regulations
14 which support states, districts and schools
15 as they are implementing the new aspects of
16 ESSA. Two topics how they ensure federal
17 funds supplement and state and local funds
18 and their requirements around state. These
19 are two significant areas to the groups
20 consideration that will take that
21 considered bit of time for all of that to

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1 grapple with. We worked hard to develop a committee that we believe captures the diversity of the committee that's effected by these direct experiences across the country. The diverse perspectives that all of you are going to bring to the discussion. I want you to know that our new secretary John King is going to join us later this morning and welcome all of you.

We will pause in the agenda when he comes out early this morning. I want to introduce Susan Podziba who is going to be our facilitator for this committee.

Ms. Podziba: Thank you, Patrick.

Most of you know I got a chance to speak with most of you before we met. I'm Susan Podziba. I'm a public facilitator and have been negotiating rule makings for about 20 years for various federal agencies across the policy spectrum. I hope as I have had with most of the groups I worked with a
real good ride and success in developing a good regulation for the public. I would like to ask each of you to introduce yourselves and when you do so I would like you to say your name and affiliation the constituency you are representing and a few sentences about your goals for the negotiated rule making.

Mr. Payment: My name is Aaron Payment. I'm the chair -- from the Sault Ste. Marie Tribe, Michigan. I carry my map with me. We are in the upper peninsula of Michigan. My tribe is the largest tribe east of the Mississippi. I am here as an executive officer with the national congress of American Indian who has nominated me. I am a high school drop out. I am one of those acceptable losses and among those others category's that usually you don't hear statistics about. I am finishing my doctorate degree in
1 educational leadership, and I have three
2 master’s degree and public administration
3 education administration and education
4 specialist. I have a very keen interest in
5 making sure that American Indians are not
6 left behind which we generally are. I am
7 working with two tribal schools and also
8 the intermediate school district back home
9 92% of our kids go to public schools. They
10 are not covered under -- education they are
11 under the governance of department of
12 education. My constituency is my American
13 Indian students to make sure we succeed as
14 well. Thank you.
15 Ms. Briggs with Exxon mobile
16 foundation. Here representing business as
17 a member of the committee. Glad to be here
18 today. I think for the business community
19 we have a couple of goals. One that we
20 help ensure the equity agenda that's
21 involved in this piece of legislation.
Also, ensure that the regulation supports efficiency and innovation and simplification.

Good morning my name is Lara Evangelista. I am representing the principle constituency from New York City public schools. I'm the principal of the Flushing International High School. I worked at the New York City public schools for 20 years. Our school is a title one school that serves English language learners. Mostly recently arrive values. I am here to represent the interest of urban schools and EL's and historically under serves students.

Good morning. Eric Parker executive director of leadership in school improvement in Montgomery Public schools. I represent the leaders of the school leader’s category. The committee and I are very interested in having a conversation.

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1 around equity and what's necessary for
2 school improvement as I work to support
3 title one schools and students and
4 principals not only in Alabama but the
5 southeast. Thank you and I look forward to
6 it.
7 Good morning. My name is Audrey
8 Jackson. I'm a fifth grade teacher in
9 Boston public schools and taught there
10 since 2007. I'm also the current teacher
11 of the year. I represent the teacher
12 constituency. I have lot of interest in
13 this, but mainly areas around equity but
14 making sure we consider research and best
15 practices after that regulations really
16 inform what's best for students in the
17 classroom. Thank you.
18 Good morning everyone my name is
19 Ryan Ruelas I'm a teacher in Anaheim High
20 School. I'm a school board member for the
21 Anaheim city school board district. I'm
here representing NEA as well as CTA. My main focus is advocate for an asset that's equity focused resources themselves are appropriately provided for teacher, students and districts to ensure learning is taking place, but all of our students that we serve and not just by some.

Good morning. My name is Lynn Goss. I’m from the -- school district in Wisconsin. I am a para-educator title one previous to that I was a Special Ed para-educator for ten years. We are looking for or answer she's that, we are a para-educator at the table it's very exciting. We want to look at school equity and making sure that our student needs are met.

My name is Kay Rigling. I am a lawyer in the Office of the General Counsel here at the Department. I worked on title one issues here for 35 years. My goal is to provide you hopefully clear legal advice
1 if you have any questions about the title
2 one statute.
3 Good morning. I'm Alvin Wilbanks
4 Superintendent of Gwinnett County Public
5 Schools. I am here representing the local
6 administrators and school boards. More
7 importantly representing some 50 million
8 students that go to public school across
9 the state. I am here this morning to
10 really try to make sure that we contribute
11 to the rule making process that really does
12 benefit students that attend our schools.
13 Good morning. I am Derrick Chau
14 director of secondary instruction in the
15 Los Angeles Unified School District. We
16 received 600 students. We oversee
17 curriculum for approximately two hundred
18 middle and high schools in the district. I
19 am looking forward to this process because
20 so much effects our students and
21 classrooms. I am really coming at this
from the perspective of how we improve
2 instruction and will the decision that is
3 we make improve instructions in a way
4 that's positive for our students, and of
5 course has an equity agenda as well.
6 Good morning everyone. I am Mr.
7 Cheeks from the Mississippi. I serve as
8 the executive director for federal program
9 there is and have been in that role for a
10 couple of years now. I have worked with
11 title programs for an excess of about 13
12 years as a state administrator.
13 Mississippi has roughly 90% of it's schools
14 that operate as school wide schools we have
15 a very large investment in terms of this
16 new law and how it impacts our low
17 performing students as well as our
18 economically disadvantaged children across
19 our state. I am here representing the
20 national associate of state title one NASTO
21 for short. I serve as the President of

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that association and currently the past
President for that group. We are here
representing the policy aspect of the title
programs. I am ensuring that some of the
nuances of the law where we end up having
to make it I guess the rubber meet the
highway and make it realistic. Those
aspects we want to bring to the table and
tease out the actual actions of carrying
out the --

Good morning. I'm Tony Evers
superintendent in Wisconsin. I'm a 40-year
educator. For the last 7 years I have been
elected state superintendent of Wisconsin.
I'm representing the state chiefs and
addition the state school cohort group.
Hopefully, I am representing the kids of
the state and the nation in that we need to
make our decisions based on increasing
equity in this country and serving in our
state of Wisconsin. It's great to be here.
1 Thanks.
2 I am Delia Pompa. I'm a senior
3 fellow at the senior migration Policy
4 institute. I represent the civil rights
5 community in English learners. I am here
6 to protect the civil rights of children. I
7 am so pleased that my colleagues mentioned
8 equity. I think it drives us as educators
9 who want the best for children. I believe
10 my background as a teacher ESEA of federal
11 government employee and advocate gives me a
12 perspective that is understanding of all
13 constituencies. I am hoping that we can
14 take this legislation which is a big
15 compromise and make sure we balance the
16 rights of children against the needs of
17 adults thank you.
18 Good morning my name is Ron Hager
19 senior staff attorney at the national
20 disability rights network. I am here
21 representing the civil rights community and
in general students with disabilities in
general. I like how Alvin characterized I
like to see the regulations benefit all of
our students. I think that's the best way
to put it.

I'm Rita Pin Ahrens. I'm
representing the patient and student
constituency. I'm a resident of DC with two
small children. I want to know that I was
a former educator as well and also a
refugee from Cambodia, so I think that's
when I think about representing parents and
students. It's going to come from the
perspective of families and students who
often feel invisible or unwelcome in our
system who don't necessarily know how to
engage in the public education system or
don't have the time, so that is a
perspective that I will bring.

My name is Lisa Mack. I'm also
representing the parent and student
constituency. I am an immediate past President of Ohio PTA. I started out as a strong advocate for my own children and it grew to be an advocate for the state and nationally as well. I worked on several local and state committees to discuss curriculum and those kinds of things. My goal is just to make sure that parents are engaged in involved in education and every child has the right to high quality education and graduates career and college ready.

Ms. Podziba: I would like to have the alternates introduce themselves as well. Is there a hand held near by?

Good morning my name is Regina Goings. I represent the Clark County School District in Nevada. I also was a language pathologist. I'm from the therapist services in southern Nevada which includes Las Vegas and surrounding areas.
1 I believe that all children should succeed
2 that's why I am her in hopes to contribute
3 and my role as a director of speech
4 language therapy services, SOP's and there
5 are four hundred of them in Clark County
6 school district. Many of them work in the
7 general classroom with the teachers. I
8 would like to see that continue and we can
9 be supportive of all students not just
10 those with disabilities although that is my
11 area of specialty. I do believe that all
12 children can succeed and will succeed with
13 the support and not just general Ed
14 teachers but general professionals or
15 really the services of the staff as well.
16 Thank you. Good morning. My
17 name is Mary Cathryn Ricker. I'm a
18 national board certified English board
19 teacher currently serving as the vice
20 president of the American federation of
21 teachers. I am looking forward to the rule
making process and putting the final put in
the schools all students deserve.

I'm Richard Pohlman. I'm the
effective director of Thurgood Marshall in
the District of Columbia. Go warriors. I
am serving as an alternate today
representing the charter school
constituencies both the association of
9 charter school authorizers as well as the
association of charter schools.

Good morning my name is Aqueelha
James. I'm the principal of Roosevelt High
School in the wonderful District of
Columbia school district. I want to fine
point what equality means for all children.

Ms. Podziba: Excuse me there
have been multiple lists and I believe that
you are actually a negotiator and that
empty seat is waiting for you if you will
grab that and we will get your name. Sorry
for that over sighting.
I'm Leslie Harper. I'm from the Leech Lake Band of Ojibwe in Minnesota. I'm an alternate under the tribal leadership category. I have background in public policy and in education specifically as our student’s are effected as our Native American students and our students of Minnesota effected by formerly NCLB and now as we go into ESEA how that will effect our students. I am a former principal and executive director of native language immersion school’s which are highly under represented. Ojibwe rights are highly under represented as Native American's in all of the education laws. My history with that is my parents and my aunties and uncles helped write the original Indian act law that got put into our education bill. My uncles and aunties wrote the native American languages act that was inserted in there that ensured our native American
languages would be recognized in all of our educational areas. I had came of age and I had the great opportunity to help work on the Martinez initiative to help write and testify and to get that to the native American languages act that is now carried forward in the ESEA so great history with it. I am here to ensure that our Native American students are adequately represented. Thank you.

Good morning thank you so much my name is Janel George. I am an alternate representing civil rights community. I'm with the NAACP Legal Defense and Educational Fund -- late Supreme Court justice Thurgood Marshall as an organization the litigated versus board of education. We have the strong commitment to equal opportunity for all children. We do have to be mindful for our own countries legacy of segregation in our public schools.
and the purpose of ESSA to address that legacy of segregation into provide all students with an equal access to quality education opportunities so I look forward to doing that and ensuring that states and district have the clarity and needed to implement title one and to address the real goal of title one to mitigate the effects of concentrated poverty, and the marginalized students need supplement services and supports in order to succeed thank you. Hi I'm Liz King at the leadership conference on civil and human rights representing the civil rights constituency which includes English learners and other marginalized children. My priority is to make sure the law perceives it's civil rights intent and that we do the right thing for all children.

Good morning Tom Ahart,
Superintendent of Des Moines, Iowa. In addition to what several others have said I really have an eye on ensuring that there's enough flexibility for local districts while having an accountability for state agencies so that we can really follow the spirit of what's intended for ESSA for all populations.

Ms. Podziba: Is that everyone?

Thank you very much. I am quite humbled by the level of expertise and passion that you all are bringing to the table, and I am very much looking forward to our work together. I am going to take just a minute to go over the agenda for our three days together. We will dive in, so in just a minute Kay Rigling will give us an overview of the rule making process that's not on your written agenda, but we thought that would be helpful so that we could then seat the negotiated rule making in the broader

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process and I will provide a brief overview
of the negotiated rule making process.

Then we will go to preliminary activities
which we are to review and adopt
organizational protocols that will govern
our time together and affirm the scope of
issues that will be negotiating. Once we
complete those preliminary activities we
will dive into the discussion of issues,
the supplement and the assessment issues,
finally we will go to next steps at the
very end of our three days together. At
the end of each day we will set aside some
time for public comment. There is a public
comment sign up sheet somewhere in that
back corner and I would ask people in the
audience if you would like to address the
committee at the end of the day to please
sign up so that we have a sense of how many
people will be wanting to do so. Are there
any questions about the agenda? I promise
that there will be breaks and time for
lunch over the three days at least a couple
of times. Okay then. Kay I am going to
ask you to give us an overview of the rule
making process.

Ms. Rigling: Thank you Susan.

As you know we are here today because
Congress recently reauthorized the
elementary and secondary education act
through the every student succeeds act or
ESSA. This is a federal law that spun to
be distributed to specific purposes of
eligible including state educational
agencies and local school districts
provided they spend the money in accordance
with the applicable provisions in the law.
The part of the elementary and secondary
education act that we are discussing at
this meeting is title one. Under title one
the Department provides funds through state
education agencies to local school
1 districts to raise the achievement of low
2 achieving children who attend high poverty
3 schools. The central purpose of title one
4 is to provide all children a significant
5 opportunity to receive a fair equitable and
6 high quality education and a close
7 achievement gaps. A law often does not
8 contain all of the details needed to
9 implement the law properly. So one of the
10 ways that is used to clarify a new law is
11 to issue regulations. A regulation is a
12 rule that's issued by a governmental agency
13 in this case the U.S. Department of
14 Education. It is not a law but once it's
15 finalized it has the force and effect of
16 law on the regulated entities which in the
17 case of title one are generally state
18 educational agencies and local school
19 districts and schools. And they must
20 follow the regulation after it's finalized.
21 A regulation functions to perform uniform
application of the law. A regulation
cannot be inconsistent with the law or
outside the scope of the law. It must
derive from the statutory requirements but
it may help clarify the law. On December
22, 2015 we published a notice in the
federal register requesting advice and
recommendations as to whether we should
regulate under title one and if so on what
topics. We also announced two regional
meetings at which stakeholders could
provide such advice and recommendations.
Those meetings were held on January 11th in
Washington DC and on January 19 in Los
Angeles, California. In addition, the
Department received written advice and
recommendations and altogether we received
nearly 400 comments. Rule making is the
process that the Department develops
regulations through in order to implement
substantive policies or requirements. This

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is our general process. We determine what
issues regulations are necessary in order
to ensure compliance with the law. We
draft proposed regulatory text and we
explain the reasons for that text in what's
called a preamble. We published the
proposed regulations in the federal
register. We take public comment for a
specific period of time usually 45 or 60
days. Then we revise the proposed
regulations based on the public comment
that we received, and we published final
regulations again in the federal register
including a summary of the public comments
and the Departments response. After the
final regulations take effect they have the
force and the effect of law. They will be
published in a book called the code of
federal regulations. If the Department
decides to regulate on standards, state
assessment systems or supplement not

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supplant. The ESSA requires us to engage in negotiated rule making, so based on the advice and recommendation that is we received based on our federal register notice in December we announced on February 4th that we intended to conduct this negotiated rule making session. We also identified that areas on which we thought negotiated rule making would focus. Several specific areas of state assessment systems and the new supplement not sup plant requirement. Negotiated rule making occurs before the Department publishes a proposed regulation in the federal register. At the conclusion of this negotiated session the Department will publish proposed regs will take public comment, and then will issue final regulations. Are there any general questions about rule makes? I would like to turn it over to Susan to talk
Ms. Podziba: I think what's happening with the feedback is there are speakers in the ceilings. If we pull these lowers if we may not get as much feedback let's give it a try otherwise there's hand holds floating around. Could I get my slides? Thank you Kay for that description. I have a hunch we will be coming back to you for some advice about that. Could I get my slides please? Thank you. All right, so I am going to give a brief overview of the negotiated rule making? Thank you. So I would like to take a minute to talk about the goal, the approach and the outcome of negotiated rule making. So the goal as Kay mentioned is to develop regulations that achieve the intended public policy goals while limiting unintended negative consequences and costs. The idea is that by bringing together a
1 balanced group of representatives that we
2 can tap into your expertise and your wisdom
3 and your passion to develop rules that make
4 sense on the ground. By bringing together
5 people who are out in the field in addition
6 to people who govern and people who make
7 policy we can get the benefits of your
8 discussions at every level of the
9 policymaking and rule making level. So if
10 we are successful we will develop consensus
11 on actual regulatory text that will form
12 the basis of the notice of proposed rule
13 making that the Department within published
14 within the federal register for public
15 comment. So the negotiated rule making
16 process is divided into some parts. In
17 just a moment we will do the preliminary
18 issues that are acquired. We will develop
19 organizational protocols and as I hope that
20 you had a chance to look at those they were
21 sent out earlier. That really governs how
1 we will spend our time together. They are
2 meant to be conflict prevention process
3 mechanisms. A lot of times people are say
4 can't we do this and a problem arises and I
5 am usually the only person at the table who
6 really loves process. What we find is if
7 we have to deal with process questions in
8 the middle of our deliberations they become
9 politicized. People want the rules to fit
10 the outcome you want. By taking care of
11 them up front. We all know what the
12 playing field looks like and we all have
13 the same understanding of the rules and it
14 creates a possibility for our productive
15 deliberations. Then we will just affirm
16 again the scope of issues. Those will be
17 our preliminary items. From there we will
18 engage in a series of substantive meetings
19 that's where we will spend our time
20 actually discussing, learning about,
21 becoming curious about and developing

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solutions that will meet the interests and concerns that all of you raise. I would like to think of the beginning as work-shopping issues so we don't dive right into negotiating detail. We will have a broad discussion of each issue. I hope that each of you will contribute your concerns and ideas. If you do jigsaw puzzles it's like when you turn over all the pieces and identify all of the framework so you know what you are working with and then you can start putting it together. That's what we will do in our first pass through the issues. Between meetings we will be asking that you check in with your constituents and other negotiators and with me as well. There will be a fair amount of discussions that takes place between meetings in order to set up for the next productive meetings.

So it's typical in negotiated rule making
1 to use a consensus decision rule. If we
2 define consensus as unanimity it requires
3 that you listen intently to each other and
4 understand each others interest and work
5 together to create a product, a draft
6 regulation that actually integrates all of
7 the concerns and interests at the table, so
8 if somebody says they can't live with
9 something I am likely to turn to you and
10 say can you generate a new idea that
11 actually satisfies not only with a you want
12 but what everyone else around the table
13 wants. If we were to operate by majority
14 rules than some people would very quickly
15 be left out of the discussion because
16 people would very quickly count the votes
17 they needed to get something through. By
18 working through a consensus decision rule
19 we all are committed then. We all have to
20 in order to achieve success and listen to
21 each other and work in support of each
other. So consensus is a general accord or agreement. Every decision point is something that you want to go out and demonstrate. At some point you have to identify the things you live with. You would have gotten as much as you can on the issues that are most important to you and there for you might be more flexible on the issue that is are that you value less. I like to think of it as in enlighten self-interest because you are here to negotiate on behalf of the constituency that you are representing. In order for you to succeed and getting as much as possible for them everyone else around the table has to get as much as possible for their constituents as well. You are working from the self-interest but the enlightened part is that we are all in the same boat and we have all go a row in the same direction. If we don't get consensus then the Department has
1 the opportunity to develop the regulations
2 as it sees fit, so this is the really the
3 opportunity for all of you to influence
4 what that outcome is. Working by consensus
5 maybe different from the way that is you
6 are used to operating although many of you
7 I spoke with you do work by consensus in
8 some of your organizations. It requires
9 certain things. It absolutely requires
10 that you participate in the discussions and
11 voice your opinions and concerns. It would
12 be harmful if somebody didn't speak until
13 the last meeting and then when I am seeing
14 if there's final consensus someone raises
15 an issue that they didn't raise earlier on.
16 It really is your responsibility to raise
17 the issues throughout the discussions.
18 Again, it's also your responsibility to try
19 and develop solution that is satisfy all
20 the interests that people are raising. You
21 will get in the hang of it and I expect

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1 that there will be some suggestion that is
2 will trigger some other people around the
3 table, but once we hear the constraints and
4 the limitations that everyone is bringing
5 we will try to work to satisfy everyone's
6 objectives. And again, I hope that you
7 will consent to livable proposals but also
8 it's your responsibility to block proposals
9 that you can't live with and the reason for
10 that is we want this product that we are
11 developing to live outside the room, so
12 it's not enough that it works for everyone
13 around the table or somebody goes home or
14 goes to their constituents and say you
15 can't agree to that we need to know that so
16 because once someone is blocking consensus
17 it means we need to work a little bit
18 harder to figure out a solution that will I
19 object great that concern and interest as
20 well. What we will do during our
21 negotiations is we will talk and there will
1 be some agreements in concept that will
2 start to emerge. Some ideas will start to
3 emerge and there will be a sense of the
4 group on a particular direction. The
5 Department of education will then draft
6 language that will be reflective of the
7 discussion that we had and I will warn you
8 now and I will warn you again the first
9 draft won't exactly be what you are
10 expecting it to be because what comes up in
11 discussion looks very different on paper.
12 So we will get drafts and from that point
13 we will then be revising and changing and
14 modifying and refining the draft text in
15 order that it point to the kinds of
16 decisions that you can all agree to. So it
17 will be an iterative process. We will have
18 an open workshop discussion, then we will
19 have some draft text, we will revise the
20 text and get another version, have another
21 conversation and revise that and we may

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have six or 7, eight drafts on some points in order to get it to where we want. Between meetings there might be work groups or subcommittees which would be a small group of people who has expertise on a particular item may choose to hold a conference call to develop a proposal that would come forward to the full committee. There won't be, any work groups or subgroup committees won't have authority to make decisions. It's a process efficiency between meetings we would expect ongoing communications among negotiators. I may call people or you may call me if someone seems upset about something I may call to just check in and find out how we can improve that. We would also expect there to be two way feedback between you and your constituents and that would be when I say two way it would be one to learn their responses to new proposal that is may
1 develop and also to educate them about the
2 limitations that you are hearing at the
3 table. It's a full negotiation. There
4 will also be federal internal decision
5 making, so what we come up with at the
6 table we will need to be run through the
7 Department's usual process for affirming
8 whether it can live with something or not?
9 I am flagging that now for you there maybe
10 times during our discussions where Patrick
11 has to ask for a couple of minutes to check
12 in with people sitting behind him to see if
13 he can move in a certain direction. That
14 will be when we get revised text. It will
15 take some time because it will have to be
16 reviewed through multiple levels of the
17 agency. Okay. Finally this is just what I
18 call a process map really just a one page
19 graphic summary of all that I just said so
20 you can see that we have got a preliminary
21 activities now, we will do ground rules and
1 our agenda issues. We will sit through an
2 iterative process negotiate over time until
3 reach or tentative agreements and then
4 consensus I hope on all the issues.
5 Mr. Rooney: I think there's a
6 stopping point. I would like to introduce
7 Secretary John King.
8 Mr. King: I guess I am on. Good
9 morning everybody. Thank you for
10 gathering. I wanted to come down and
11 express my appreciations to all the members
12 of the committee for taking time away from
13 work and family to join us for this
14 process. I certainly appreciate all the
15 folks in the room who are participating in
16 this process. There is important work
17 ahead of us. There's folks that know me
18 know I began my career as a high school
19 social studies teacher. I think this
20 negotiating committee cares. It has
21 historic responsibilities to make sure that

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1 our every student succeeds act lives up to
2 that legacy of the law. The law was first
3 adopted in the elementary and secondary
4 education act in 1965 and important element
5 because it has to be viewed in the context
6 of a civil rights act of 1964 and the
7 voting rights with 1965 has to be viewed as
8 a civil rights law. Johnson and -- former
9 teacher when he signed the -- act.
10 Understanding that education was the best
11 pathway for the country to fulfill the
12 promise of equality of opportunities. As
13 we begin these discussions about
14 implementation of the law we need to do it
15 in that spirit. Indeed the President
16 talked when he signed the law about his
17 belief that the law will build on the civil
18 rights legacy of the original elementary
19 and secondary education act. These
20 conversations will be complicated and they
21 will be technical in nature at times, but
our north star in those conversations has to be a quality of opportunity and the civil rights legacy of the law. We are very pleased that the law maintains the national committee to directing targeted resources to the needs of students who are most at risk maintains that the attention of the original elementary and secondary education act on the needs of low-income students. Invest in the education of English learners and students with disabilities. It requires that we pay attention to our homeless students or our students in foster care. The law is designed and we think this is hugely important to focus our attention on the students who are most at risk. The law requires that states and districts intervene to address gaps in achievement that when schools are among the lowest performing and when schools have low

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1 graduation rates and when schools are
2 serving subgroups inadequately. They are
3 not performing at the level they should.
4 There's a requirement for action. The
5 President signed the law because he
6 believes that intervention is a critical
7 component of the fulfilling the civil
8 rights legacy of the law. The law also
9 importantly maintains the notion that we
10 need transparent indicators of progress for
11 families, for educators and for
12 communities. Those are important elements
13 and that is the foundation on which these
14 conversations built. The regulations that
15 come out of these conversations will define
16 how we implement the law for years to come
17 and so it is a weighty responsibility that
18 you all have. I am appreciative that you
19 are taking that on. In terms of the
20 particular topics around assessment and
21 again, one of the important elements of the
law from our perspective that it maintains
the requirement for good information for
families and educators each year about
student progresses. Certainly as a
teacher, principal and education policy
maker I personally deeply appreciate how
good assessments can inform good
instruction. I also appreciate the ways in
which low quality assessments can distract.
I hope that this committee will try to
strike the right balance and how we think
about an assessment and how we ensure
assessments give us good information in the
progress of all students and the subgroups
an particularly -- and students with
disabilities. Again, the North Star has to
be equity and asking how do we ensure that
the federal resources aren't additive.
They are expanding opportunities and that
states and districts are not using federal
resources to substitute for their own
responsibility to ensure their students are well served. I hope in both conversations on assessment and on supplement not supplant you will ask yourselves, how do our decisions honor an reflect the civil rights legacy of the law if you were sitting -- high school students if you were sitting with Lyndon Johnson explaining the decision of this committee in the context of the civil rights part of this law. I hope that this is the spirit in which these conversations will be carried out. Certainly I hope they will be constructive and thoughtful and ensure that not everyone will agree on every point. I think there's an opportunity to reach consensus through thoughtful discussion. That's the spirit for which our team approaches this is work. I am grateful to the experts and facilitators who are joining us for this work and I look forward to hearing about...
the consensus reached and the agreements reached and the ways in which, the ways in which these regulations will advance our national committee to equity and excellence for all of our children. Thank you very much for being here.

Ms. Podziba: Great. Are there any questions about the negotiated rule making process? All right. Then I would ask you to take the draft ground rules that are in your binder this is a draft it's developed from past processes. You can change these. Okay. If IDEA is for you to make these work for this committee I am going to go through each paragraph and I will pause after each and see if there's questions about it. The mission statement does everyone have it in front of them?

There's a tab.

Is this the same one you e-mailed earlier?

Okay. The mission statement the U.S. Department of Education has established this negotiated rule making committee to develop proposed regulations on certain topics under title one part A of the elementary and secondary education act of 1965 ESEA as amended by the every student succeeds act. Everyone okay with that? If you are boarding a different plane now is time to get on. If you want to speak just put your tent up like that and that signals me that you want to talk, and I will keep a running list and as close to the order of how they go up. Also, can I ask you for now to turn them towards me because then I will learn your names for quickly and the transcriber will have a better chance of knowing who's speaking. Thank you.

Ms. Jackson: I am just wondering for alternates where it says they can speak.
1 as well is there something they should do to indicate they want to speak.

Ms. King: They should switch seats with the person at the table and then I will -- so they should have do the 6 alternates have name tents? So the best thing to do is keep them underneath of the 8 name tent of the person you are alternate for so when they come to the table it's already there. Thank you.

In regards to the bathroom when should we excuse ourselves?

Ms. Podziba: When biology calls.

I will try to have breaks every hour and a half so everyone gets to take care of nature as they need to. All right. Where are the bathrooms just so everybody knows?

Mr. Rooney: If you go out either of the doors the women's room is out that door and go straight down the hall way it will be down the hall on your left. The

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women’s is out the door and straight down
the hall. It will be on your right.

Ms. Podziba: Thank you. Okay

purpose. The negotiated rule making

5 process brings together federal state and
local administrators, tribal leaders,
participants after students, teachers,
principals, other school leaders para-
professionals and the civil rights an
business communities to discussion and
negotiate draft regulations. The purpose
of the negotiated rule making is to improve
the substance of regulations and increase
understanding of it and support for those
regulations and encourage effected parties
to communicate with each other and share
information, knowledge and expertise.

Sound good? Participation I am not going
to read out although there is the error, so
if we can just all cross out the star next
to Aqueelha James name. Please cross out
that asterisk. All right then I am going to move to be in addition to members of the negotiating committee the following individuals will support the work of the committee in reaching consensus and that's facilitator and Department of education counsel and experts. Are there any questions about those? Okay. Now we are going to get into process substance. All members I am reading paragraph C. All members of the committee may speak during the negotiations. Each member not designated as an alternate will participate for the purpose of determining consensus. A member Designated as an alternate will participate from the purpose of determining consensus in the absence of a member of his or her designated constituency.

Mr. Hager: For our group for one of the topics in particular one of the alternates is the real primary expert for
1 us. Would we allow her if I absent myself
2 to be able the person to be a consensus on
3 that topic is that something that's
4 recognized within the policies?
5 Ms. Podziba: It's easier. It
6 sounds like the best thing to do would be
7 for her to sit at the table during the
8 discussion and then when it's time for
9 dissent, what will happen at some point I
10 will say and you will see when we get to
11 the ground rules is there any dissent from
12 adopting an agreement on this section or
13 this item, and at that point if you have
14 dissent you can indicate that just because
15 it will keep things a little less messy.
16 Thank you. I want to be sure that people
17 understand this paragraph okay so we
18 essentially if you are sitting at the table
19 now you are designated as negotiators and
20 not alternates, and so you are the people
21 that will be responsible for dissenting.

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1 If you are not here for a meeting because
2 you are ill and get called away and then
3 you are alternate will sit in your place
4 for that purpose?
5 Ms. Ricker: Good morning so is
6 this what the federal registry says or is
7 this our interpretation of the federal
8 registry?
9 Ms. Podziba: I am going to turn
10 to Kay for that question?
11 Ms. Rigling: I am not
12 understanding the question?
13 Ms. Ricker: I thought the
14 federal registry said that all negotiators
15 were speaking members they were nonvoting
16 members. I was cure use if there was a
17 part of the registry that alternates were
18 also non-speaking members or if it
19 clarified nonvoting.
20 Alternates can speak? Did I
21 misspeak?

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1 Ms. Ricker: You added a clause
2 at the end of the second sentence that said
3 the purpose of the determining after the
4 end of the first sentence may speak during
5 negotiations if a primary member is absent
6 from the table. It doesn't say that here.
7 Ms. Podziba: I apologize if I
8 misspoke. The alternates are invited to
9 participate fully in the discussion. The
10 alternates are not or do not have the
11 authority to dissent. That's the
12 difference.
13 Mr. Payment: So maybe this will
14 help, so several advisory committees that I
15 am on use FOCA regulations and so basically
16 the person who's sitting as the
17 representative steps out it doesn't have to
18 physically step out and then you hand the
19 floor to the alternate. The alternate can
20 speak as if they were the actual person.
21 They are in no way limited you are taking
1 turns with the seat.
2 Ms. Podziba: I am glad that you
3 raised it. It's very important for
4 everyone to understand is that clear to
5 you? Is that more aligned with what your
6 thoughts were?
7 Ms. Ricker. It seems like it was
8 an interpretation because the language
9 seemed very simple that everyone would
10 speak and didn't speak to changing places.
11 So if my understanding is that's an
12 interpretation that will be adopted at this
13 table I think that's clear enough yeah.
14 Ms. Podziba: Thank you. Is
15 there any questions or comments or proposed
16 changes to item C?
17 Ms. Jackson: If it would make
18 sense for the hand held available for
19 discussion purposes. I don't know how
20 others this example here illustrates how it
21 could be inefficient?

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Ms. Podziba: Let's think about that. It just the idea is really that's there's one seat for that constituency and so it's I understand that it's a bit cumbersome. It actually makes for more productive discussions because otherwise we have people that I can't recognize from behind the table, so I apologize for that but hope that we can live with that rule.

Mr. Hager: If it really gets silly in terms of getting up and moving can we come back to that? We can still raise the flag for the person they don't have to physically change chair that is' a thought.

Mr. Rooney: I think that's fair. It doesn't change anything in the protocols. It's more operations as we say thank you. All right I am going to move to paragraph D. The committee may add members. Requests for membership must be made at the beginning of the first session.
1 on March 21, 2016 and must be approved by
2 consensus of the committee members as
3 defined in these protocols. To be
4 considered by the committee, the individual
5 must be among the individuals or group that
6 is provided advice and recommendations in
7 response to the Department's request for
8 information published on December 22, 2015.
9 New members may begin to participate
10 immediately upon admission to membership.
11 I just want to call your attention to a
12 footnote any new member must not have a
13 conflict of interest that would prevent the
14 individual from engaging in the
15 negotiations of good faith. Are there
16 questions about this section? Okay so if
17 we adopt it “as is” when we complete our
18 discussion of the protocols I will call for
19 petitions for membership and we will
20 entertain any petition that is come to us.
21 All right. Paragraph E subcommittees maybe
1 formed by the committee at the request of
2 any member to address specified issues and
3 to make recommendations to the committee.
4 Subcommittees are not authorized to make
5 decisions for the committee. Subcommittee
6 meetings are open to any member of the
7 committee and maybe held between meetings
8 two between the committee. All committee
9 members will be notified of all
10 subcommittee members. Are there any
11 questions or comments? Audrey?
12 Ms. Jackson: I'm wondering if
13 there's any detail for the time line of
14 being notified? I don't know if it's
15 totally matters is it a day before or an
16 hour before?
17 Ms. Podziba: Do you have a
18 proposal? What would you like to add?
19 Ms. Jackson: I don't know what
20 other people think I would say two to three
21 days before just if people were interest ed
1 in attending I don't know if it comes up.
2 Some level of notice if some people wanted
3 to be part of this?
4 Ms. Podziba: So all committee
5 members will be notified of all
6 subcommittees meetings two to three days
7 prior to the meetings and can we add the
8 catch all if practicable if there's a
9 necessity to call one quickly. Thank you.
10 Okay.
11 Mr. Wilbanks: Just for
12 clarification when you refer to a meeting I
13 assume these three days are referred to as
14 the meeting here and is the meeting any
15 meeting between today and tomorrow is that
16 such a meeting do you understand my
17 question?
18 Ms. Podziba: Subcommittee
19 meetings between days of our negotiating
20 sessions? I think the subcommittee
21 meetings are that's a good question.
Obviously we can want --

Mr. Wilbanks: I am not hung up with it I am just trying to get clarification.

Ms. Podziba: There's a possibility that a small group of negotiators would want to get together in the evening to develop a proposal. In that case if we do say two to three days prior to the meeting if practicable then that would not be practicable right? Okay. So there's a proposal to revise the protocols that reads two to three days prior to the meeting if practicable is there any dissent from adding that language? Okay. I am going to move onto paragraph F. Upon the initiation of any member and after consultation with the facilitator, the secretary may remove a member he determines is not act anything good faith in accordance with nine B of this protocol.

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In such a case, the secretary will provide an explanation in writing to the member and the committee. We can talk about good faith when we get to nine B. Okay. G. The secretary may remove any member who ceases to be employed by or associated with the constituencies the individual was chosen to represent. If any of you change jobs and move to another sector. You would be asked to leave. All right. Any questions on section 3?

Mr. Payment: I have a protocol question for E should we make an effort to announce the subcommittee at the break of the day each day because then it does say that all committee members have to be notified of a subcommittee. Let's say there's a group that happens to be hanging out together and they call a subcommittee and they send out a communication and that's not practicable, so should we make

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an effort to make the announcement of
subcommittees at the end of each day so
that we can try to coordinate our ability.
Also, there might be competing subcommittee
that is way we at least have time to
coordinate our efforts and availabilities.

Ms. Podziba: A subcommittee
usually emerges from a discussion at the
table. It's not a subcommittee if five of
you go out for dinner and some ideas
emerge. So I think yes, if people know
they want to have a subcommittee that we
should be sure to let everybody know at the
end of the day.

Mr. Hager: I guess connected to
that would be a difference between a
subcommittee and a caucus. A subcommittee
would be a designated meeting for a
specific purpose. A caucus is an informal
discussion of a group of like-minded people
about a topic is that clear?
So a subcommittee let's say we are having a discussion and there's a technically complex question and five people have expertise in budgeting for example. Let's say so someone might say how about if we have a subcommittee to go through the details of this issue and come back to you with a proposal. What often happens is people make sure that generally the constituents are represented on that subcommittee so that the proposal that comes through has been developed with multiple perspectives that's where a subcommittee comes in. A caucus is during the meeting and will get to this in just a minute. Caucuses are during the meeting when a subgroup of people wants to meet to discuss usually an alignment of their interests on a particular proposal. Then they might say to me Ms. Podziba we would like 15 minutes or half an hour for a
1 caucus and we will make room for that to happen during the eight hours of negotiations day caucus that happens offline can just happen, okay. Great questions. Anything else on section three? All right I am going to move to section four participant rules. Committee members are responsible one, for participate anything committee meetings to ensure that the interests the member represents are considered. The working to reach consensus on the issues before the committee and 3 participate anything subcommittees and or caucuses as needed, to develop options to bring before the entire committee questions or comments on that? The facilitator that's me will be responsible for chairing the meetings in an impartial manner, two assisting committee members in conducting the discussions and negotiations to ensure that the meeting proceedings in an orderly
manner. Three developing the meeting
tagenda in consolidation with members of the
committee and four helping the parties to
resolve their differences and achieve the
5 consensus on the issues addressed by the
committee five, facilitating all committee
meetings and subcommittee meetings and
8 caucuses to the extent possible, and six
9 maintaining records of agreements and
10 disagreements, any questions or comments
11 about that? I will say that I serve my
12 perspective is that the committee is my
13 client. I serve as your behest. If I do
14 something that feels wrong to you I would
15 ask you to just come and let me know and
16 give me an opportunity to make an
17 adjustment. I am not intending to do
18 something that would upset somebody. If I
19 do I apologize in advance. Please come up
20 to me and let me know so I can make the
21 appropriate adjustment, five, decision

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making. The committee will operate by consensus, meaning that there must be no dissent by any member in order for the committee to be considered to have reached agreement. Thus, no member can be out voted. Members should not be block or with hold consensus unless they have serious reservations about the approach or solution that is proposed for consensus. Absence or abstention will be equivalent to not dissenting. All consensus agreements reached during the negotiations will be considered tentative until all members of the committee reach final agreement on regulatory language. Once final consensus is achieved committee members may not withdraw their consensus. So what that means as we are working through a document I will ask for, I will ask the question is there any dissent from reaching a tentative agreement on this section. Tentative means
1 that we can reopen it it's not final. We
2 may need to reopen it because something we
3 work on later in the document is
4 inconsistent with an earlier decision.
5 It's also because we are going to reach
6 final consensus on the package of
7 agreements, so it's helpful to get
8 tentative agreements to narrow our
9 discussion to the outstanding issues for
10 which there are not yet tentative
11 agreement. Are there questions about that?
12 This is a really important section.
13 Ms. Briggs: The goal is that
14 there's a consent are the entire list of
15 issues or success making this up everything
16 works great for assessments and supplements
17 does that work?
18 Ms. Podziba: The way these are
19 written as proposed is there can be final
20 consensus on supplements not supplant final
21 consensus on assessment or both. The
1 proposal is you can choose to keep it this
2 way if there's agreement on assessment but
3 not supplement or supplant. The assessment
4 will still be used in the notice of the
5 proposal making. That's the proposal and
6 you can change that.
7 Mr. Hager: I mean when we get
8 down to regulatory language within the
9 category which is a broad one we might have
10 an agreement on three quarters of the
11 regulation one quarter we don't. I would
12 like to make sure whatever consensus we
13 reach and we reach then if there's sub part
14 it would be okay. Is that a little bit
15 different than you are suggesting.
16 Ms. Podziba: If we wait just a
17 minute we can get to the section where we
18 can have that discussion.
19 Mr. Rooney: I just want to you
20 skipped the expert section on four C.
21 Ms. Podziba: Sorry. Apologies.
I was so excited to get to the decision making section. Okay so section C experts are responsible for one answering questions posed by committee members and two providing information to clarify and ensure accurate understanding of issues within the scope of the negotiations, any questions on the rule of the expert?

Mr. Payment: I like that section. I need that section back home.

So does that mean as we are going through this if we come across something we don't fully appreciate we can ask the expert what if they don't have the answer, do they have to have the answer or do they make it up?

Ms. Podziba: Well, that's a good question. I think that they will probably give you the best answers they have.

Perhaps at times we may say can you go and research that a bit for us and come back tomorrow. I think it might be hard to
1 demand if they have the right answer.
2
3 Mr. Payment: One other thing was
4 so we operate we try to operate by
5 consensus but we are pretty westernized
6 sometimes. This suggests that we are going
7 to work until we get to consensus. I think
8 that is in the principle of a consensus is
9 that you may have disagreements, but you
10 have the responsibility to find the
11 solution and not hold back your consensus.
12 The one provision is a little bit and I
13 don't mean to be offensive. It's a little
14 bit of a cop out because that doesn't count
15 toward the opposition of a consensus. Our
16 duty really is to work through the issues
17 until we get to the point where we have the
18 consensus that we can live with. Those are
19 the kinds of terms.
20
21 Ms. Podziba: Thank you. Are
22 there any other comments or questions on
23 section five?
Mr. Rooney: We would like to propose is a I think it says by notice and by any member that means any member that is not an alternate. I think that was a clarification you meant to make?

Ms. Podziba: Members -- so members should not block or with hold consensus that paragraph?

Mr. Rooney: The first sentence meaning there's no dissent by any member that should be by any member who is not an alternate? Is that the right language to use?

Ms. James: That also speaks to new members and that's going back to section four, section three excuse me adding membership to the table?

Ms. Podziba: If we add members we should define if they are alternates or full members and if they are members then they will fall under all of the ground
rules that refer to members. So we would, so if we add members we add them to the section that list it is members and then they would be as everybody else around the table. All right.

Mr. Payment: I have a proposed language that is a little more collegial rather than say except the alternates that would say seated member. You are a seated member if you are an alternate. I can see the seat if it's a particular issue then I am giving the expertise to the alternate than that person is the seated member for that point. I would say seated member rather than the distinguished alternate.

Ms. Podziba: That gets to the issue that Ron raised earlier. Is everybody okay with that language? The proposal is that the committee will operate by consensus meaning that there's no dissent by any seated member. We will
understand seated to mean those of you
seated at the table. Okay. Thank you. All
right.
Ms. Rigling: Do we need to make
that same change in C 3C the definition of
consensus?
Ms. Podziba: Yes. Do you have a
proposal on how to take that? We can just
change it to each seated member we will
participate for the purpose of determining
consensus so that's
Ms. Mack: I need clarification
if we are going back to that 3 C it was my
understanding that only the actual members
had voting privilege. Now it seems as
though if an alternate is sitting that
alternate has I just need clarification on
that thank you.
Mr. Rooney: Yes, I think that
the primary negotiator has the seat. In
this proposal could defer its seat to an
alternate. Is that acceptable to you?

Ms. Mack: I just needed clarification.

Mr. Rooney: I like the idea but I wonder if it causes some confusion for taking multiple votes I don't know votes is the right word and making multiple decisions in order to then identify if the person at the table should switch with the alternate each time if that's going to cause confusion versus just having the person at the table be the or the person who's the member the non-alternate be the person that votes and they should be consulting with other people. That would be a cleaner way to do it?

Ms. Podziba: Richard?

Mr. Pohlman: Yes, I also have a question this is sort of proof of the awkwardness I think. Is there a way to codify or within this obligation or through
reaching consensus for negotiators at the table to confer with alternates within the category because I think that as these amendments come up what I hear is more of a separation from the alternates from speaking at the table given that my status I am the only charter representative. Why we share a category there's not another charter school representative. I think many of our category haves different perspectives and how can we codify an obligation at least confer during that consensus process?

Mr. Rooney: Do you have a proposal?

Mr. Pohlman: If there's a modification I think that what maybe Mr. Rooney is suggesting could some ways address that by affirming through reaching consensus the negotiator should confer with alternates in the same category prior to
1 reaching consensus or prior to expressing consensus.

3 Ms. Podziba: Except could you further define what you mean by confer?

5 Because do you mean consult with or are you suggesting that the primary negotiator can't consent if his or her alternate is not willing to do so?

9 Mr. Pohlman: I suggest that conference is necessary or speaking to but not to provide some sort of a veto or the voice be unanimous between those alternates within the category but rather there be a duty to speak to confer with prior to expressing consensus.

16 Mr. Wilbanks: It seems to me that the rules imply that whoever is representing the group whether it be the negotiated at the table or the alternate that you discuss with them you try to get consensus there. I think we are in deep
1 trouble if we can't get consensus within
2 our group that we are representing. I
3 think when you open it up to changing
4 alternates with the negotiator that's could
5 be problematic. I mean if they can't reach
6 consensus why did we group them that way in
7 my view?
8 Ms. Podziba: Do I understand
9 your view then is that there's no need to
10 change to add any additional language
11 because that's implied.
12 Mr. Wilbanks: Yes.
13 Ms. Podziba: Okay.
14 Ms. Pompa: I am wondering if we
15 are using consensus in the same way as
16 voting because if we are giving the, if we
17 are giving the authority for permission for
18 an alternate member to block consensus then
19 is that equivalent to a vote changing the
20 voting status?
21 Mr. Rooney: Could be seen that
Ms. Pompa: The statement that only seated members can vote or non-
4 alternative members can vote. Where does that derive from? Is that part of our agreement to a protocol is that stated elsewhere when you talk about negotiated rule making?
Ms. Podziba: These are your protocols to develop?
Ms. Pompa: when you sent out the list the people with an asterisk are not voting members. Is this also part of our protocol or is that outlined in the process for negotiated rule making?
Ms. Podziba: I am going to turn to the Department for that
Ms. Rigling: I don't think its part of the negotiated rule-making act. I think that it was our process to enable as many voices to be heard just like Richard
said that he perhaps has the only voice for charter schools but yet he is a member of the school leader’s group. I think we also have an intent to keep the group manageable so that when we did try to reach consensus it was not the more quote voting members the more one single person can achieve the group from not reaching consensus and so we were trying to keep a manageable size of the group in terms of those members reaching consensus, but enabling a wide variety of interests to be able to speak and to inform the decisions of the group.

Mr. Ahart: Thank you. I guess I am getting back a little bit to what I believe Audrey brought up earlier to participate in this process as an alternate it feels like it's going to be exceedingly clumsy. If this is the meeting site for the remainder of the meetings or if we could have a way for all alternates to be
at the table and have some way to designate which is alternates and which are nonvoting and which are voting when the consensus process comes around?

Mr. Hager: That was from mine before or either that having the mic’s back in freely. I think there's a difference with discussion where it should be more free and consensus where it does help to have someone physically at the table who has the authority that has more style than anything else. I did want to comment on Kay's point. It is in the language of the notice of proposed rule making specifically say that is in the case of constituencies for which an alternate is selected the primary negotiator will participate for the purpose of determining consensus. That's in the that answers your question that's in the notice of proposed rule making can we as a part of the process modify the

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language in the notice of proposed rule
making which I am going to deter to you on
that Kay. Do you understand what I am
saying if it's not notice of proposed rule
making do we have the authority to amend it
through our own process?

Ms. Podziba: Let's ask Kay about
that?

Ms. Rigling: It's my
understanding that the notice of proposed
rule making set out what the Department how
we view it had process, but in fact the
protocol that is you are looking at right
now are in fact, run what will govern the
operations of the committee.

Mr. Payment: I am on a couple
committees. One is the secretary for the
HHS and we have our primary delegate and
alternates. It isn't clumsy it works
pretty smoothly even when you get into the
thick of very technical questions. I think
1 it really depends on if we have a collegial
2 approach to what we are doing. We are
3 educators in one-way or another. I think
4 that as long as we respect the alternate it
5 is to see the person it sounds like it's in
6 congruent and it might be setting and over
7 riding the language if we are saying that
8 the seated person is the one that makes a
9 decision even if it's the alternate that
10 happens to be seated, but remember we are
11 the people that are sitting here now are
12 the pointed persons. We have the authority
13 to choose to defer and let an alternate sit
14 in our stead, and then they become the
15 seated person for the purpose of a
16 consensus. The other thing is we are not
17 taking votes. It's a very different
18 consensus is to get us to what we can agree
19 to. If we don't agree to something it's
20 our responsibility to find a way to get to
21 the proposal so that it's something we can
agree on. We are not voting on anything or Vetoing on anything. We have the responsibility to change our proposal substantively so it's something we can live with. Those are keywords to getting us to the end point. So I think there's a little bit of a concern about how this is going to work and whether it will be smooth enough. You will find it will be as good as the people sitting at the table. I intend to be fluid with the way I do it. I know we have only met today too by the way. So also some of us have experience beyond what you might think. I am a former charter school President so some of us are multi. We are all multi dimensional. I think the voices and caucus and ability to bring those issues I think we are going to be able to do if we have a collegial approach. The one specific question for legal throw and it was my proposal. If the regulations
restrict it to the appointed person maybe
we can't do that and I would concede that
if that’s the case.

Ms. Podziba: Okay let's hear
from some more people.

Ms. Pin Ahrens: I appreciate the
desire to be more inclusive of other
perspectives. I would like to make the
recommendation that we within our category
of caucus either before we get into the
meat of the discussion at least before we
get to the point of deciding whether we
come to a consensus because I mean even
though we don't have alternates I do
appreciate other category does. We want to
make sure that everybody has a chance you
know to share their expertise and
perspective. Given it's really the primary
negotiator that has to give up their
alternate to speak. I am seeing it's
awkward to do this and the primary
1 alternate doesn't have do that if an
2 alternate wants to speak. I would like to
3 see some recommendations for caucuses
4 occurring before we come to consensus.
5 Ms. Podziba: Would you like to
6 see that in the protocols or just
7 operationally?
8 Ms. Pin Ahrens: I wouldn't mind
9 seeing it in the protocol to make sure that
10 it does happen.
11 Mr. Evers: This is complex. I
12 don't have an alternate so I will say this
13 with bias. My concern about the decision
14 making and the numbers of people making
15 decisions escalating from 18-20 to 25-30 I
16 just think it's to be more difficult to if
17 we are switching seats for making
18 decisions. It doesn't sit well with me
19 personally. I think the idea of making
20 sure that the primary negotiators are
21 interacting with lots of other people
including alternates. I don't have any but
I am sure I will be interacting with all
sorts of people who want to influence how I
take stands on things. It concerns me that
the number of people voting is going to
shift with the issue and it will make it
more difficult to reach a consensus.

Mr. Ahart: Just I appreciate the
9 comments about reaching consensus and that
we are not voting although in the document
it does say there's voting and nonvoting
members. If the intent is for what we are
now being called alternates to fully
participate in the discussion it seems like
this exchanging seat process would have a
somewhat would have a chilling effect over
the course of the negotiations span.

Ms. Podziba: I want to say
something operationally we could make the
table less tight so that it would be easier
to get up and back. Just a point.
Ms. Jackson: I feel like this is a real world problem for my fifth graders to solve. We can send it to them. The -- when I checked it's 16 voting members and eight nonvoting members, so if you are adding four more tables if they were to have a seat it sounds to me it's okay without having a voting status. I am not sure if we would do that so two more tables. Again fifth graders would have solved this faster than me. The issue is do we make a bigger group and everyone sitting and we leave it as is and the last thing I will say is I move if there's a reach tentative consensus on this issue and then move forward?

Ms. Podziba: I am going to take two more comments. Do you have a proposal?

Ms. Jackson: My proposal is to reach tentative consensus on agreement of language around voting just to confirm. It
1 sounds like we are on the same page.
2 Second would be the agreed upon approach
3 for physical arrangement.
4 Ms. Podziba: I am not sure when
5 you say voting and we all agree I am not
6 sure what you are referring to
7 Ms. Jackson: My interpretation
8 is it sounds like people are fine with
9 people who do not have an asterisk next to
10 their name or whoever is seated being
11 responsible as appropriate for each
12 consensus and conferring as appropriate.
13 Ms. Podziba: I am looking at
14 paragraph five. I think the changes are we
15 will go back to three after words. The
16 committee will operate by consensus,
17 meaning that there must be no dissent by
18 any seated member in order for the
19 committee to be considered to have reached
20 agreement. A proposal to add of last
21 sentence an additional sentence at the end
1 something like primary negotiators will
2 consult with their alternates prior to
3 achieving final consensus and I just think
4 if it's every minute, every single item it
5 would get very cumbersome. That's my
6 proposal for the comments that were raised.
7 Ms. Briggs: I think the final
8 sentence is what I am hearing people are
9 agreeing on, but I'm not certain the seated
10 part I want to echo what Tony said. It
11 gets super complicated. I too don't have
12 an alternate but lots of people to talk to.
13 I don't think we need that clarification.
14 Ms. Podziba: You would just
15 leave it no dissent by any member who is
16 but we still have to distinguish by the
17 alternates.
18 Ms. Briggs: I think they are
19 distinguished. I think we are saying what
20 Tony said and Audrey said. People aren't
21 going to be switching out or delegating
their consensus authority to an alternate.

They will be conferring that's the last sentence you added that's absolutely appropriate. I don't think they are --

Ms. Podziba: That would mean no change in C.

No the last sentence.

Yes, in five, yes they change in five.

Ms. Podziba: I am going to take these comments and I am going to give what is the proposal and then we will take a break if we don't get into it.

Mr. Rooney: I think we would like to make an amendment we still need to say there's no dissent by any member that is not designated an alternate.

So no change to C? That was part of Kerri's proposal.

Mr. Rooney: We would keep C the same and conforming change to five so I
1 think less no notice by any member that is
2 not designated by an alternate.
3 Ms. Podziba: All right. I'm
4 sorry.
5 Ms. James: Can we go back to the
6 statement that Tony spoke to earlier which
7 was the table the actual logistics
8 regarding the number of persons at the
9 table is there anyway that we can enlarge
10 the setting so that the alternates can sit
11 at the table? Continue with the language
12 that's outlined that speaks specifically to
13 the members continue with the language out
14 lined in C that each member all members of
15 the committee may speak during the
16 negotiation and each member not designated
17 will participate with the determining of
18 consensus that way all members voices are
19 heard. When we talk about voices I think
20 it's important to note that we are talking
21 about physical bodies as well. I think
1 that really weighs heavily in just the idea
2 of feeling or being equitable.
3 Ms. Podziba: Patrick, do you
4 need a little time to consult with --
5 Mr. Rooney: I might need a
6 minute.
7 Ms. Podziba: Why don't we take a
8 15 minute break and come back to this when
9 done. Let's reconvene at 11.
10 Ms. Podziba: Can I ask everyone
11 in the audience to take their seats? Thank
12 you. We had multiple proposals having
13 spoken to some people during the break. I
14 think the proposal that might satisfy
15 everyone is that the table would be
16 expanded so that the alternates would sit
17 at the table but they would continue not to
18 have the right to dissent. Is that
19 acceptable to everybody? Is there anyone
20 who would dissent from that? Okay.
21 Logistically that's going to have to wait
1 until tomorrow because physical plant won't
2 be able to break this down and figure out
3 how to pick it up. I hope the alternates
4 are waiting a day to be seated at the
5 table. I am going to make the observation
6 it's going to make our time a bit more
7 complex. I am going to ask everybody to be
8 clear in their comments an straightforward
9 because they are just going to be more
10 people at the table which mean there is'
11 going to be more said on every issue.
12 Let's be cognizant of that. Okay.
13 Mr. Rooney: Thank you, Susan.
14 Since we are unable to expand the table on
15 short notice today. I think we would like
16 to propose you use hand held mics so you
17 don't have to physically switch seats to
18 make the flow a little bit easier for this
19 afternoon or the rest of the day we will
20 try to operate with that? I think Susan
21 and I defer to you on the logistics you
1 would want the person at the table to put
2 the tent card up so that way we can get
3 them in the cue and acknowledge them that
4 would be most helpful. Maybe we can have
5 one hand held on each side of the room.
6 Ms. Pin Ahrens: I don't know if
7 this is the right time to ask about this?
8 In our conversations we were told we would
9 be able to have staff or advisor that we
10 could consult with. Is it possible to have
11 those seated closer to us whether they are
12 directly behind us or the first row of the
13 audience, so we can save time when we need
14 to consult with them?
15 Ms. Podziba: In as much as there
16 are empty seats behind you that your
17 advisors should move to that space and when
18 the alternates at the table that the seats
19 behind the negotiators should be available
20 for advisors. So I would like to just get
21 back to the protocols and if I understand
1 where we are right now there is no change
to paragraph three but there are two
3 changes to paragraph seven such that the
4 first sentence paragraph five, I'm sorry,
paragraph five on page four. The first
sentence would read the committee would
7 operate by consensus meaning there is no
dissent by any member who is not designated
as an alternate in order for the committee
to be considered to have reached consensus
and then there would be another sentence
added --
Ms. Jackson: You may not need to
add a sentence under member
responsibilities it says you need to confer
and take work to reach consensus on issues
so by default it says that you need to
check in with your constituents or other
parties.
Okay.
Ms. Jackson: Thank you. So then
only change to that section would be
addition to the phrase who is not designated as an alternate.

Mr. Rooney: I think one change to be consistent with that would be in the start of the next sense tense where it says thus no member can be out voted would be thus no such member can be out voted.

Ms. Podziba: Does that work for everyone? All right are there any other changes for paragraph five and operationally we will increase the size of the table and the alternates will be seated at the table. Okay. Yes?

Ms. Goss: For logistical purposes if the alternates color coded they could be a different colored tent so that we know who is the actual voting member and who is the alternate so that if somebody were to be dissenting that it's noted that that person was so and it would be
Ms. Podziba: I think operationally we will come up with a way of doing that perhaps putting dot in one of the corners so that's it's clear and just in point I would ask that the alternates be aware of who they are not and not dissent when I call for dissent. Thank you. Let's move onto section six. Agreement, the goal of the committee is to develop written, proposed regulation that is reflect as final consensus of the committee. If the committee reach as final consensus on the issue of supplement not supplant or the issue of assessments or on both issues will use the consensus based language in the notice of proposed rule making and the committee members will refrain from submitting any negative comments through the public comment process on the consensus based language of proposed rule. If a
member never the less submit as negative
comment on the consenscus based language,
Ed is under no obligation to respond to the
comment on the final rule.

Mr. Hager: I think this is where
it is. I forgot about this being here when
I asked my question before. If like I said
we had like you know three quarter
consensus on the assessment regs but
there's one quarter we didn't does that
mean there's no consensus based on this
language it would seem to mean that it is.

Ms. Podziba: The committee can
decide how we can do it the theory of
negotiated rule making is that we are
developing a package of agreements. By
holding it together people become more
willing to live with items that they love a
bit less because they can get something on
an issue they value highly and so by
decoupling them you made getting consensus
a bit more difficult because people can
then just reach agreement on the items that
are most important to them and not on item
that is maybe more important to others,
that's the theory of negotiated rule
making. That’s why we developed consensus
on the packages. If you would like to make
that proposal to separate them out we can
entertain that proposal.

Mr. Hager: We are okay.

Ms. Podziba: Any other comments
on that section 6 A or B? Okay. I am
going to move to C but thank you for
raising that because in these discussions
we clarify what it is that we are working
towards. So paragraph C if the committee
reach as final consensus on the issue of
supplement not supplant that's not a repeat
is it? Or the issue of assessments or on
both issues all published propose posed
regulations to which consensus was reached
shall conform with a consensus based language unless Ed reopens the negotiated rule making process. The Department will absolutely use the consensus language that you developed or will reconvene to further discuss that. Any questions about that or any comments or do you not want to have to come back? Okay. Let's move to section eight committee meetings. The facilitator will maintain a clear and reliable record of tentative and final agreements reached during the negotiation process. The draft meeting summaries will be provided to members who may share them within others within their constituencies after reviewing an approval by the committee this record will be made available to the public. B. The committee meetings will be transcribed. A transcript of the committee meetings will be made available to the public at the end of the negotiating process. Subcommittee
1 meetings and caucuses will not be
2 transcribed. Everyone okay with that?
3 Richard?
4 Mr. Pohlman: I think it's 7 and
5 not 8. It says 8 it should be 7.
6 Mr. Rooney: Good find.
7 Ms. Podziba: Thank you. I
8 looked at every detail except the ones that
9 are easy. We will make that change thank
10 you. Paragraph C, Ed will make every
11 effort to distribute materials to committee
12 members in a timely fashion in advance of
13 committee meetings. D: A cause for the
14 purpose of consultation maybe requested of
15 the facilitator at any time by any member.
16 Mr. Hager: The caucuses can we
17 include others within our constituency
18 groups beyond the alternate and committee
19 there was like people that are here from
20 constituent agency that is are included in
21 our caucus.
Whoever gets the caucus gets to decide who's in it. Not everyone has to agree to be in it but you decide who's in your caucus. Just on that so all you have to do is ask me for time for a caucus and I may say can we wait until lunch or may just for efficiency reason not do it right away.

If you need it to happen right away let me know that. Okay. E. All committee meetings, but not subcommittee meetings are caucuses are open to the public. If you want private time with other negotiators that how you do it. Otherwise the meetings are all open. Okay. Paragraph eight, safe guards for members. Any member may withdraw from the negotiations at any time by notifying the facilitator in writing. B all members and organizations they represent shall act in good faith in all aspects of these negotiations. Good faith in my business tends to be defined as
1 you're here to reach an agreement. You are
2 not negotiating to pocket concessions and
3 then see where you can do better somewhere
4 else. If you are sitting here your intent
5 is to work hard to reach an agreement and
6 that's how we define good faith
7 negotiations. Paragraph C in the interests
8 of promoting free and open conversations as
9 well as collegial decision making contact
10 with the media and other organizations
11 outside the community of interest
12 represented by the member will generally be
13 limited to discussion of the over
14 objectives and progress of the
15 negotiations. Members should refrain from
16 characterizing the views, motives an
17 interest during other members during
18 contact with the media other interest
19 represented by the member and to the
20 general public through social media this is
21 not an attempt to shut out the media. It's

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1 just to say that you are free to speak to
2 the media about your perspectives and your
3 interests but not to suppose the interests
4 or motives of other people around the
5 table. It's just that old thing we used to
6 call stability, any questions about that?
7 In looking at the draft we have one change
8 on page two which is to remove the asterisk
9 from Aqueelha’s name. Ultimately no
10 changes on paragraph C. We have a change
11 on paragraph 3 E so that at the very end of
12 that paragraph it will say committee
13 members will be notified of all
14 subcommittee meetings two to three days
15 prior to the meeting if practicable, and
16 then on paragraph five decision making the
17 first sentence and second sentence read as
18 follows. The committee will operate by
19 consensus meaning that there must be no
20 dissent by any member who is not designated
21 as an alternate in order for the committee
to be considered to have reached an agreement. Thus no such member can be out voted. And then we are changing the numbering so paragraph eight is now paragraph 7 and paragraph nine is now paragraph eight.

Mr. Chau: I think there needs to be a change in paragraph F. We changed the numbers of the paragraph eight B not nine B now.

Ms. Podziba: Thank you.

Is there any dissent from adopting these protocols as revised for the committee's use? Okay then we have consensus on the protocols.

Congratulations you just developed your first consensus document. That is considered that a dry run for when we get to the substance. All right what I am going to do now is take a deep breath, we did it. For those of you who thought we
might get stuck for the whole day on where
the alternates would sit. I am going to
open the floor for petitions for
membership. Is there anyone in the
audience who intends to petition the
committee for membership at this time if
you do please come forward. It looks like
you are who is here so we are good. All
right. The next thing we are going to do
if you move into your packet there is a one
pager that's titled scope of issues to be
negotiated. Section 1118 B and assessment
section 111-B 2—there's six items under
that. Are there any questions or comments
about the scope of our negotiations? Yes.
Just a clarifying question if the
supplement not supplant is applicable to
all titles or only title one? --
Ms. Rigling: It will be
applicable to only title one because that's
the section of the statute that the new
1 language is included in. Each other title that is subject to a supplement not supplant requirement has its own specific language and that language is not always the same.

6 Ms. Podziba: Any other questions or comments on the scope? Is there any dissent from adopting this formerly as the extent of our negotiations? Okay so I like to say that this is our list and when we finish we all get to go home. All right.

12 That's your second consensus document.
13 That's all about preliminary activities.
14 It's 11:30 I suggest we begin supplement not supplant. I believe we are going to begin with a presentation from Ary.

17 Mr. Amerikaner: Let's see if this makes horrible noises. Hi everybody my name is Ary I'm a deputy assistant secretary here at the office of secondary education. I appreciate you letting me be
here for this conversation. I want to
start us off by rounding us I want to go
back to the secretaries remarks that we
focus on the purpose of title one and I
thought the easiest way to do that is to
quote very briefly from the every students
succeeds acts title one statement of
8 purpose. Which says that the purpose of
this title is to provide all children
significant opportunity to receive a fair,
equitable and high quality education and to
close educational achievement gaps. Every
year through title one we spend nearly 15
billion-dollars toward that goal of closing
educational achievement gaps providing a
fair, equitable and high quality education.
All of you know it's worth saying out loud
that 15 billion-dollars comes from the U.S.
Department of Education to our state and to
our district counter parts and to our high
poverty schools. In title one there's a
1 provision that's intended to give those 15 billion-dollar as fighting chance that actually achieving that stated purpose that provisions says that those 15 billion-dollars are to be used to supplement state and local educational funding and not to supplant state and local funding. And in layman's terms I think we all know that the funds are to come on top of the state and local funds and not replace state and local funds. I think a little brief bit of history is helpful here as we start to open this conversation. I think one thing that is a requirement about supplement is not new to every student succeeds act. It didn't just showed up in December. It's been here since at least 1970 it was introduced after some very very early years of the elementary and secondary education act. We saw some abuses of some of the new federal funds where local
leaders were using the new federal dollars
to simply pay for the activity that is they
used to be paying for with their state and
local dollars. And at the time Congress
was concerned because the intent of the law
was as we know to counter act the challenge
that is come with high concentrations of
poverty in particular schools. We know
research says that it takes more money to
provide equitable opportunities for schools
during high concentrations of student’s
living in poverty. When those decisions
were made at the local level to spend the
federal dollars to simply buy the same
things they had been buying with state and
local dollars the intended beneficiary it
is low achieving students in high
concentration of high poverty schools were
denied the benefits they were entitled.
The Congress added the supplement not
supplant provisions. Today title one
1 schools in many places across the country face a similar challenge to one another. In many places title one school’s.

The schools serving on the highest poverty schools are receiving fewer state and local dollars than their non-title one-counter parts schools within the same district.

Now, for now we are not talking about inequities in funding across districts right? We know comes from a lot of other complicated things like differences in property wealth and tax space between districts. We are talking right now about title one schools who receive fewer dollars per student within their district than their non-title school counter part that is generally less poverty stricken. When that happens title one dollars as you can all imagine come on and instead of being able to provide an additional supplement support that we know are very vulnerable.
1 students succeed to graduate from high
2 school and to pursue whatever path they
3 choose in life successfully. The title one
4 dollars making up trying to make up the
difference and trying to even up in title
5 one school that is have fewer state and
6 local dollars to start with. So before we
7 dive into the specifics of the new
8 9 supplement not supplant provision in the
9 law. Kay has agreed to give us a very
10 short overview how supplement not supplant
11 has been operationalized in the past.
13 Ms. Rigling: There's two types
14 of title one schools and there's a
15 different such me innocent not supplant
16 requirement for each of those types of
17 schools prior to the ESSA. So the first
18 type of title one school is what we call
19 targeted assistance schools. These are the
20 schools in which title one funds may only
21 be used to provide services to the lowest

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1 achieving students. Those services were usually provided in a particular subject, often reading. In those schools the supplement not supplant requirement required a school district to demonstrate that any specific service or activity that it was providing to low achieving title one students had to be something that the district was not providing to either non-title one schools or non-title one students with state and local funds. So it was an activity-by-activity test. And this was often kind of a murky determination for a school district to make to think about every time it was going to use title one funds to make the determination as to whether the use of those funds was supplemental. So as a result many states and districts developed sometimes rigid rules that their schools had to follow in using their title one funds to ensure that
1 they wouldn't be violating the supplement
2 not supplant requirement. Perhaps one of
3 the most common of those rules was that the
4 school had to pull out the title one
5 students from their regular classroom and
6 to provide title one services in a separate
7 setting. You know those small closets that
8 the title one teacher would work with an
9 individual student or a few students. This
10 was a practice that was very very common
11 maybe still is in some title one schools in
12 order to avoid violating the supplement not
13 supplant requirement. So I think it's fair
14 to say that some of those decisions were
15 not always in the best interest of the
16 children but they happened legitimately
17 because districts and states were trying to
18 stay compliance with the law. The other
19 type of title one school is what we call is
20 school wide program school. In this is a
21 school that has at least 40% poverty or

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more. Because the theory here is that there are so many needy students in the school with high poverty where the poverty tends to drag down the achievement of many children in the school not even just those that are poor that you can use your title one funds to upgrade the entire educational program in the school, so you no longer require or to focus on specific services or activities for specific identified children but you can use your title one funds more flexibly more broadly. The supplement not supplant requirement for school wide programs was different from targeted assistance programs. Rather than focusing on specific activities it simply said that a title one school that was operating a school wide program had to receive all of the state and local funds it would have received if title one funds did not exist in that school.

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Mr. Amerikaner: Can we get the
slide up? Okay. No one can read -- I know
there's a lot of text. This is a text of
statute it's in your binders I believe its
tab B under supplement not supplant. I
will give you a second to get to that. It
looks like it's a different format. I had
to get it on the power point slide it is
just the text of B. Okay. So the new law
changes the supplement not supplant
requirement. Provision in a couple of
important way that is I want to point it
out here before we open it up for
discussion. This is it. This is a single
supplement not supplant requirement.
There's no longer two different
requirements for the two types of title one
schools. In the prior law there's a
different supplement and supplant. That's
no longer the case there's just one
supplement not supplant requirement. The
1 law now makes clear that a district may not
2 be required to demonstrate that it's use of
3 title one funds for each specific activity
4 this supplemental. You can see that in a
5 special rule 3A where no LEA shall be
6 required to identify an individual cost or
7 service supported under this part is
8 supplemental. That essentially out law it
9 is types of tests that Kay was just
10 describing that often happen in targeted
11 assistance schools. And that would lead to
12 the pull out type activities and then third
13 it add as new compliance paragraph, so
14 that's a paragraph B two which specifies
15 how school districts must meet the
16 supplement not supplant requirement. That
17 compliance paragraph required that a
18 district demonstrate that it has a
19 methodology to allocate state and local
20 funds to it's school that is ensures that
21 each title one school receives all of the
1 state and local funds it would receive if 2 it were not receiving funds under this part 3 if it was a non-title one school in that 4 district. So our job together here today 5 starting today and over the next couple of 6 weeks is to figure out how to 7 operationalize this compliance requirement 8 for our districts and one final thing 9 before we jump into hearing from all of you 10 and that is we know that everyone has 11 different levels of experience and 12 expertise and familiarity with this and it 13 can be in some cases a daunting, people 14 sort of cringe at budget conversations and 15 at money conversations and we really really 16 want everyone at the table to feel 17 comfortable to have a meaningful voice in 18 this and being able to represent your 19 constituencies. We thought we would start 20 to have a nationally recognized outside 21 expert to type about the types of
methodologies that they are using to allocate state and local funds. Karen, can you come up and join us. I guess here is the best spot for you. Okay, so Patrick is telling me there maybe confusion on tab B. Are you all seeing on page 74 tab B. Karen 7 Miles is our expert for this topic. She's the President and executive director of education resource strategies for ERS and for more than a decade she and ERS has been working in a wide variety of school districts. She works districts that have challenging work of analyzing and improving their funding systems, and so she is uniquely positioned we hope to give us the lay of the land. I do want to say before Karen starts a role of her role. She's not a member of a committee. She's not here to provide us with policy advice. She's here to give us answers about technical questions you have and to provide a lay of
1. the land and so that I will
2. Mr. Hager: This power point
3. would it be available to us at some point
4. is it in here?
5. Ms. Podziba: It's not in there.
6. We will make sure we get it to you I
7. apologize for that.
8. Ms. Hawley Miles: Okay. So I am
9. glad to be here to try to help. One thing
10. I do want to say although that we have been
11. an organization a nonprofit organization.
12. I have been a nonprofit individual for 25
13. working on these kinds of things and spent
14. a lot of time our goal is to help schools
15. an districts to help allocate resources
16. equitably and strategically to -- I don't
17. understand legislation and know all the
18. rules and all of that like Kay. My goal is
19. to say let's start what we need to do and
20. figure out how to do it. That's sort of
21. where my expertise comes from. I looked at
1 hundreds and hundreds and millions of rows
2 of budget data, something that I don't wish
3 on any of you. I am just going to take a
4 few minutes to go through this. My
5 guidance was to go quickly and not stop the
6 questions and then I don't know if we will
7 have do -- we will do questions immediately
8 following. You will know some of you know
9 this all of this like the back of your
10 hands. Others it's to create a little bit
11 of a level playing field here. The first
12 thing that just is said here is that
13 spending varies hugely across states right?
14 In fact it varies by about 3 times from you
15 know this is just a sample of district that
16 is we looked at just that per people
17 spending on K-12 all funds. It varies
18 hugely across states with the lowest being
19 about 8, 000 and the highest at 21. I
20 would call your attention it varies within
21 states. You can see Prince George's county
Maryland and Baltimore city with different per people spending levels. That's because of their all of these different sources of funding that come to do this and these are just national average numbers so on average about ten percent of the dollars come from the federal sources and the rest is split on average between state and local funds. You know from the state that is you come from this can also vary hugely, so for example Massachusetts and Connecticut have a lot more that comes from the local sources and less from state sources and the state like New Mexico is almost like all state with the federal piece. The second thing I would call your attention to is a typical urban district because it has higher concentrations of poverty realize more on the federal sources of funds and often has less property tax to draw on in terms of it's local fund so you can see the
1 split there and they are also drawing on
2 state funds as well. How do districts
3 allocate resources to schools. Most
4 districts allocate staff positions to
5 schools based on district level guidelines
6 or ratios. Some are you know allocated
7 just one per school or two per school so an
8 example is if you go to the second piece an
9 example is you get one principle and one
10 secretary and one AP if you are above a
11 certain size you might get two AP's
12 assistant principle. This comes from
13 looking at so many budget that is would be
14 obvious to me. One teacher and this is
15 just an example you might get one teacher
16 for each 18 students in grades K-3. One
17 teacher for each 22 and grades through four
18 through five and one special Ed teacher for
19 24 students designated as receiving special
20 Ed resource rooms sorts of resource related
21 services. That's just an example an the
1 ratios would go on down and you would get
2 line items often allocated on a per person
3 basis for things like instructional
4 materials and that sort of thing. There
5 are some districts in the use of this is
6 growing that use a weighted student funding
7 which is student based budgeting and in
8 that method schools get a set dollar amount
9 per pupil so that is the base amount, and
10 then they get additional dollars for each
11 student who is participating in a certain
12 program or had certain characteristics
13 that's lots of variations on how that's
14 developed. You would get five thousand
15 dollars for each. That would be the base
16 amount for each student. You might get I
17 am making this up 600-dollars for each low
18 income student and maybe a thousand for
19 each English language learner in your
20 school. There's lots of variations and
21 things on this that things we can talk

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1 about. That's to give you a sense of the
two ways the staffing method is by far the
most used in districts. It's important to
note that not all positions are spending in
schools go through these formulas. There
are a lot of positions that might be
allocated using different rules. For
example instructional coach that is are
designed to help in schools where there's
lots of new teachers or low performing
schools or additional staff or resources
for magnet programs or staff positions
often called to positions that serve more
than one school like a nurse or art teacher
that might have assignments to work in
different schools in different days those
might be on the central budget. Things
like utilities and maintenance not always
on the school budget because all sorts of
reasons. So it's also, so it's important
to note that everything goes down to
schools. Districts really vary on how much
they put down to the school level in these
formulas and how much they talk about as a
school level expenditure. So another
important thing to realize is that most if
you do a per pupil spend most districts
experience significant variation across
their schools. This chart might look
confusing. Each is a school inside each
district. Not including title one dollars
and or any federal dollars on students, so
it would be state an local funds and what
it shows you is that first districts spend
different amounts on elementary and middle
and high schools based on their staffing
allocation guidelines and the staffing
policies they set, and there's wide
variation between the low and high spending
in districts when you do it on a per pupil
basis. Secondary schools tend to be funded
higher depending on what your guidelines
are for teacher-student ratios at the elementary school level and that can vary and it often does by state. And so there are some very common reasons why this spending differs and across the schools and even though you know they are using you know pretty similar kinds of staffing ratios. The first is school size if you are allocating one principle for the same size school you are going to get differences in spending because you are dividing that cost of a principle for example over different numbers of students. The second is that not all districts follow their staffing rules every year exactly. They make exceptions for certain programs and special programs and things like that. So not all districts actually exam what the spending is at each school in really rigorous ways. And then the third very important reason is teaches salaries
1 differ. In schools salaries are a big big deal right? This chart shows you the percent of a school budget a typical school budget that's spent on people. All the blue shaded parts are staff positions. Naturally the largest one 65% is teachers. And so you know the other light blues are things like instructional aids and students and support staff and so on. When you are talking about school budgets salaries are super important. Salaries of most of these positions grow over time based on the number of years folks have worked in schools, so if you have a school that has high concentration of very experienced folks they are going to have higher salaries than a school that let's say pretend have all brand new folks. On average salaries, teacher salaries grow from start to end of career by about twice so just as an example right if you had all
new students, all new teachers an everybody
else was brand new first job it would cost
about half as much in terms of salary to
staff that school and so as you can imagine
this is really challenging to manage across
the system, so what most districts do is
they use average salaries as a way to
budget and I'm saying most. I am saying
the vast majority of districts in the
country you budget using average salaries.
So actually I think it's easier to look at
the bottom to make sure we are all on the
same page with this. If you use actual
salaries and pretend the school has ten
teachers to keep it easy. School A just
say the novice teacher earns 30, 000 each.
The mid level teacher earns 60, 000 each
this would include compensation because you
know -- include benefits because you know
these salaries are higher and so on. The
actual salary cost for school A more junior
1 staff is 450, 000 where in school B if you
2 move those teachers are more experienced
3 it's a significantly greater amount. We
4 can get into more questions on this is
5 something that I have studied a lot. If
6 you use an average thing then you are
7 taking you are just saying let's say the
8 average actually is 60, 000 so we are going
9 to budget and report that spending of the
10 school level using average salaries. In
11 this case it would show up on the budgets
12 as having the same spending because they
13 have the same numbers of teachers but it's
14 not actually what the district is spending
15 in those two schools. When you are looking
16 at most district budget this is the number
17 the stop one that you will see. That's
18 important because for our purposes because
19 novice teachers tend to be distributed
20 unevenly across schools, not always and you
21 know they are important exceptions to this.
1 It tends to be true so this is just an
2 example in a district we do this in every
3 district we ever work with and it's usually
4 something like this that the highest need
5 quartile of schools has twice the percent
6 of novice teachers as the lowest need
7 quartile of schools, so I rushed through
8 this very quickly, but the summary there
9 then of what I have gone through is total
10 spending varies hugely and you are still
11 looking at that. It's total spending
12 varies hugely and districts allocate staff
13 positions down to the school level by and
14 large. They allocate different portions
15 through the very publicized formula's and
16 they budget using actual, average salaries
17 and not actual. All right. That was a
18 world wind tour. I give tour that is last
19 many semesters that cover this topic. Many
20 weeks I should say not many semesters.
21 Ms. Podziba: We will open the
1 floor for questions. All right, so are
2 there questions about budgeting?
3 I don't think about budgeting on
4 the supplement not supplant issue paper we
5 are given it references in the third
6 paragraph section 1, 111 where is that?
7 Mr. Amerikaner: We can certainly
8 hand that out to you. It is the section of
9 the report card requirements in title one.
10 It is requirement that every state and
11 district report the per people expenditures
12 of federal, state and local funds at the
13 school level. I apologize we didn't put
14 that in. There was only so much paper that
15 we felt like was reasonable to ask you to
16 internalize at once. We did think it's an
17 important context for the committee to know
18 that the Congress added that relevant
19 provision as well. If people are likely to
20 see it we are happy to pass around copies.
21 We will get that.
Thank you.

Ms. Briggs: Question about how these methodologies play out with rural schools that are you know, small school LEA they are pretty different than a few --

Ms. Hawley Miles: It's a good question. Well for one school LEA's those 8 dollars flow straight to the school with the piece taken out for the, for the admin and those percentages would vary by the cost of the however the district had organized. Smaller districts same thing goes, so you know it's the pieces that the central functions are taken out of the budget and then the staff get allocated in title one dollars would go straight to the schools that had title one schools in them and the district would have some discretion to make sense out of it. It's usually staff.

Ms. Goss: I guess my question
1 goes backwards a little bit. I wanted to
2 clarify is there still targeted titles so
3 that is gone or is that or is there still
4 targeted title here and what is the, if
5 there is what is the threshold?
6 Ms. Rigling: There is still a
7 section in the title one law about targeted
8 assistance schools. There is a new
9 provision in that allows the district to
10 request the state to wave the 40% poverty
11 threshold. In essence any title one school
12 could be a school wide program with the
13 permission of the state, but if a school
14 wants to remain targeted assistance it can
15 still do that and there are specific
16 requirements that apply to that school.
17 The supplement not supplant requirement is
18 now the one that was the one on the screen
19 earlier that Ary talked about. There's a
20 single sup me innocent not supplant
21 requirement that applies to all title one
Ms. Goss: Thank you.

Ms. Podziba: Are there any other questions?

Mr. Payment: This is a lot to digest. I'm thinking about the implications for, so the average salary obviously school districts are going to vary in distribution based on entry level versus experience and then the additional content of how they qualified that's not someone that's generally entry level. I wonder with implications that has for funding for so you are reporting on what we see what's actually out there. So you know the modeling for staffing over a period of time to the average is kind of an arbitrary sort of thing. I don't know I think I think maybe this is a practical question I guess at the ground level is what is your distribution look like over time, what is
your planning over time so that you know
what your available funding is over time?
I can see some districts because it's very
complex with different districts, different
states and what funding you have for
equitable and funding at different states
and then trying to plan all of that for
your funding and why some districts end up
trying to supplement or supplant rather
than supplement. I see the few tilt of it.
It brings many more questions for me. It's
an observation.

Ms. Goings: I'm good.
-- were they targeted, did you
see trends of hiring practices with related
services to add staff?

Ms. Hawley Miles: We see related
services staff allocated in much of the
same way that I described in terms of staff
that you are doing the count of what the
student needs are in allocating based on
that. And yes and or counting up their
related services and allocated to that.
Most often districts don't put those
dollars down at the school level. They are
at the reported at the district level so
part of the -- yes so most often specialist
staff are reported at the central level.

Mr. Amerikaner: I am going to
pass around the reporting language. It's
paper clipped together so be gentle. It's
not stapled. You will find on the front
page is the lead in language so you can see
the beginning of the first half of the
sentence and the third page there's a star
next to the provision that we are talking
about.

Mr. Pohlman: I have two
questions the first is can you talk about
the source of the data used in the
presentation from where that comes and any
comments or limitations with that data.
1 The second question and this is a little
2 more complicated is to talk about the
3 relationship between the 3 fiscal tests
4 within title one both MOE and comparability
5 in relationship to supplements not
6 supplant.
7 Ms. Hawley Miles: In terms of
8 source some of the broad data comes from
9 NCS database. Most of the more detailed
10 data about what gets to schools an how it
11 gets to schools an how staff and folks are
12 distributed comes from the deep part we do
13 with school districts. We go in and do
14 deep analysis of encodings and we can do
15 apples to apples comparisons with districts
16 spending across districts and states and we
17 have a whole process and coding system that
18 we need to do that so that's the --
19 Mr. Pohlman: When you mention
20 the database it's the civil rights data
21 collection the source of it?
That's the national center for educational statistics that reports annual reports on spending and staffing. It's different from the civil rights data. On the second question I don't think I'm on the expert to comment on that one.

Ms. Rigling: I am going to try.

Richard is right there are three different fiscal equity requirements in title one. The first one is maintenance of effort and that is a requirement that applies at the school district level and it basically requires in district to spend out of state and local funds at least 90% of the amount that it spent in the prior year for free public education. Basically, it's just saying to a district keep your expenditures at least 90% of what you spent last year and you will be able to maintain effort.

There's an ability to request a waiver if
you fall below the 90% in a given year.

The second equity provisions that was put in around the same time as supplement not supplant is the comparability of services provision. This provision say that is district must use it's state and local funds to provide services in it's title one schools that are at least comparable to the service that is it applies in it's non-title one schools. So it's really kind of focused on what is the school providing with state and local funds? Probably the most common way that this provision has been implemented over the years is to look at student’s staff ratios. We don't define what those ratios have to be or we don't define what staff are included in those ratios districts have quite a bit of flexibility and often times an instructionally is counted as equivalent to a teacher in order to determine
comparability. Then we have the supplement not supplant requirement which prior to the E SSA has been really almost looked at on a student level activity by activity basis now as we talked about just a few minutes ago it's more of an allocation of dollars requirement of state and local dollars to title one schools compared to the non-title one schools in the district. So there are all district level requirements.

Ms. Podziba: Is that card up for Mary Cathryn?

Ms. Ricker: Thanks. Thank you very much for the budgeting examples I have a couple different questions first do you also have the place, the percentage of placement for early career administrators?

Ms. Hawley Miles: That I could use that as a an example as well that also happens you can take these same charts and do it for novice principles that the
turning over is in the highest need schools
is by far in the principals and principals
salaries rise in the same way.
It's also 16 and 30?
Ms. Hawley Miles: I don't have
those specifics, the phenomenon is the
same.
Ms. Ricker: In early career
education support professionals
Ms. Hawley Miles: The same.
Ms. Ricker: You don't have that?
Ms. Hawley Miles: In terms of
overall budget implications it's the reason
I chose the teachers is because teachers
represent 65% of the budget. Principals
are the same phenomenon holds true and
support professionals are also on a same
kind of longevity base pay the same thing
will be true. We can look into those
numbers.
In districts that are almost wall

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1 to wall title school do you see the trend
2 for early school in attendance?
3 Ms. Hawley Miles: I don't have
4 those numbers I could guess.
5 Ms. Ricker: Last is on your
6 actual example if you can give me a little
7 more background does it account for
8 additional funds kept at the district level
9 than are actually sent out to schools under
10 separate cover for English language
11 learners an special programs an other
12 programming at the school?
13 Ms. Hawley Miles: Yes our
14 numbers would look at the dollars spent at
15 the school level for special programs.
16 What I was saying before is one of the
17 thing that is we have to think about is how
18 do we talk about what's required to be
19 reported down at that school level and
20 districts have different practices about
21 how they report those positions at the

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1 school level or at the district level for
2 various reasons Mary. I think that will
3 answer the question there was a second
4 part.
5 The actual example? You can't
6 tell me an actual example?
7 Ms. Hawley Miles: What I can
8 tell you it's very different in different
9 districts I couldn't tell you on one that
10 was a hypothetical example. In the numbers
11 that I showed you one of the things we do
12 is we look at and say what is really spent
13 at the school numbers those are the numbers
14 that I am showing you that's what we do.
15 That's what showed what is really a wide
16 variation of what is really spent at the
17 school level at each school level as it
18 being different that's -- no that chart is
19 not a hypothetical. It's just an example
20 from statistics. She's pointing to the
21 chart that has all of the schools it's
looking at --

I can show you the chart, sorry.

She's pointing to this chart and asking me if it's hypothetical. This is the chart that we do in every district we are in. It looks roughly similar in every district we are in. Every district we are calculating what percent of schools is within ten percent of the line because you know you are never going to get every school at exactly the same line. What percent of schools are within ten percent of that amount for your particular grade level? We find that some districts get 85% of their schools up to there and we find some have less than half of their schools within that median.

Ms. Pompa: Can you characterize the school that is get less for people when you look at those bars is there a defining element shared among them?
Ms. Hawley Miles: It's a good question. We do this everywhere we are. The answer is that it's sometimes the highest need schools but not always at all. It's sort of a very specific thing it's because there are multiple factor that is contribute to that. You know it's school size and it's did they get the number of students they thought they would get. You know when they did the ratios. It's what the combination of special programs that they have. Yes, in general it's the highest needs school tend to get the least but it's not universal. Yes.

Ms. Pompa: Yeah, so when you are talking about the weighted student funding examples what's a motivation within the district to decide to make the transition from a staffing model to a weighted student funding model why is that?

Ms. Hawley Miles: There's three
big reasons that districts choose to do it. The first they perceive it as a way of ensuring equity so that they are using it as a yardstick to make sure they are really looking closely at what gets down to the school level and they perceive looking at spending data as the way to do that. The second is that they are pushing toward greater flexibility at the school level and so they view one of the enabling conditions is that if you are having schools trade out all sorts of positions and think differently about how they spend dollars then it's a lot easier to maintain equity and to facilitate that to move to a kind of a student based budgeting way of accounting. I can go into that more if that's interesting. And then the third reason flexibility moving a student based budget by itself does not create flexibility. You have to do all sorts of
other things to enable flexible use of resources you can have such a low spend that you don't have money to do anything but what you required to do. Even though you are doing student based budgeting you don't have flexibility at all. It's a way to enable flexibility and the key condition. The key reason is it's related to the equity. One is that many districts that have quite a large charter populations want to move toward much more equity across both types of schools and they want to use this as a way to be able to be trance patient and be able to talk about that at that spending level. It's equity transparency and flexibility.

Ms. Pompa: Okay.

Ms. Jackson: I teach in a school that has weighted school funding. I am curious to be very clear I absolutely know that greater amounts of funding is
generally a good thing so I am not advocating for that. I am wondering if there's any analysis or districts or states where there's a correlation between increased funding and actual outcomes so where it's leveraged for positive changes in comparison to school that is may have had increased funding or districts that may have had increased funding and not achieved those positive outcomes.

I think you are asking is there a consistent relationship between spending and results?

No, sorry. I am curious if there's any other behaviors or models related to increasing spending. I won't say cause or correlated to increased positive outcome. For example if it's tied to lowering the student to teacher ratio or if it's tied to wrap around service program integration. Is there any analysis to
1 that?
2 Ms. Hawley Miles: I feel like I
3 have spent my life trying to look at this
4 question and my answer is of course it
5 matters how those dollars are used, but
6 there isn't one way to use those dollars
7 it's about how you, so I can't say it's
8 about lowering because the data quite
9 clearly doesn't do it. The one thing we
10 can say that if you have more effective
11 instruction that is, you know for the same
12 dollar amount that's going to get you
13 better results. The question of how you
14 organized to create more effective
15 instruction and all of that is the opening
16 question. What's the combination of
17 strategies you invest in a lined coherent
18 way to get there.
19 Ms. Jackson: I would be curious
20 about like where the decisions are made so
21 that when it has the greatest efficacy not
that there's one magic solution but if the
decision is being made or more effective if
decisions are made at a certain level?
Ms. King: So sort of the
opposite of that question when there's a
difference in spending What are those
children losing out on. When a school has
less resource what is does it mean for the
children in that school what are districts
or in a world of fine identity resources
what are they -- does that make sense?
What's the opposite if you have less money
what are you taking away from the children?
Ms. Hawley Miles: I am not quite
sure to answer that. I think when it's a
combination of where the school level of
overall spending is relative to the
mandated required staff in schools and so
what the answer is you know when you are at
the very basic level all you are getting
the things that are required by contract
1 and by states so you are getting the set
2 number of hours that are required. You are
3 getting the basic staffing you know basic
4 staffing guidelines and the basic course
5 offered by statute and by contract. When
6 there are extra dollars available there's a
7 variety of ways being used to target
8 special assistance. I am not sure I can
9 answer that specifically. There's not just
10 one way.

   Ms. Pompa: Is there a whether he
12 says variation across schools and funding
13 depending on whether it's a weighted
14 student formula or a different allocation
15 or different kind of allocation?
16
   Ms. Hawley Miles: It depends on
17 how much is put through the formula. And
18 you know so that goes through staffing
19 formula's and that goes through weighted
20 student funding formula's too, so we have
21 worked in districts that have a weighted

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student funding formula and they are putting 20% of their dollars through it.  
You are going to have all the same issue that is way. But assuming large portions of the dollars are put through the funding formula we generally see a greater equity, great every equity across the schools. Getting to greater equity requires a flexibility that not all districts have. Some districts don't get enough funding to fund the basic things so then they are in this role of having to put extra dollars in to fund the basic stuff and all of a sudden they are on the way to student funding any more. They can be the staff the art, the music, the P E because they didn't have enough weighted student amount so they get more it's gone. In general if the funding level is high enough then we tend to see more equity. Getting to more equity in dollars is not necessarily the same thing.
1 is getting to equitable potential because of the teacher effectiveness issues which I know you know will.

Mr. Ahart: I feel like we are missing a pretty important element here in terms of equity because there's a teacher effectiveness issues that don't weight Linear in fashion with teacher quality.

There are also you could have two identical teachers and depending on the way your contract or benefits are set up one teacher in my district is identical experience and identical effectiveness could cost 15-20, 000 more. You are talking about equity for results and quality and the amount of services providing, the district the providing for students you can't do comparable accurately by just doing a apples to apples an dollars spent comparison because more dollars spent could actually equate to fewer services an less.
Ms. Hawley Miles: I don't need to add to that except to say that's why I had that chart. Exactly you can have two teachers making the same salary with different levels of effectiveness. One the research is still pretty clear that novice teachers need a little while to learn what they have, so that's one very objective measure you can look at that around which there are striking differences that's a really important thing. I will reiterate that we have done a lot of analysis looking at teacher effectiveness data across the spread across schools and we do also tend to find that the most highly effective teachers are concentrated in the least needy schools as rated by their principles as evident in value added scores and in student education sorts of surveys.

Ms. Podziba: Any other questions
or comments? Okay. It's 12:20 it's a good time to break for lunch. When we come back at 1:20 we will look at the questions on the issue paper for supplement not supplant.

Mr. Amerikaner: I am apparently supposed to tell you information which is that negotiators can use room 1W 117 for lunch if they want a place to eat and talk amongst themselves.

Ms. Podziba: Welcome back. I hope you enjoyed your lunch and found your way back. I would like to remind the people in the audience that there is a public comment sign in sheet. It's back on the table behind me so if you do intend to make a public comment please sign in so that we have got so that we know how many people are planned to do that. When we broke we had heard from Karen, and I think we are ready to go into the questions that
are listed in the issue papers so I am
going to turn over to Ary to get us started
on that. Can we get the slide with the
text? We can get started. The first
question in the back this is in the sup me
meant not supplant tab. The first one is
what does it mean to ensure that a title
one school receives all of the state and
local fund that is would otherwise receive
if it was not receiving this assistance
under this part. We are now hoping that we
will hear from the committee and we hear
ideas from you.
Ms. Podziba: The floor is open
for that question.
Mr. Payment: My answer to that
question was more simple before I had the
presentation this morning. Theoretically
there is a test or a number out there that
other schools that are not receiving or
being supported by title funds, title one
funds are spending at, so there has to be a point of comparison, so theoretically if we can agree to that concept we have to then figure out how to get to that and figure out what that point of comparison is. The question that's now risen in my mind is so in my research unit of measurement is key. So what is the unit of measurement. This seems to be leaning more toward district level rather than individual student level or using a proxy which is the teacher to student ratio, but I am still concerned now about individual schools within the district. So how do we get at like let's say a district the providing a service and it appears district wide that that service is being fulfilled but there are schools within that district that are historically disadvantaged that are further disadvantaged because we created the unit of measurement to be the district. More
questions?

Ms. Pompa: Given that it's got
to be relative to schools within the
district. Couldn't you talk about any time
one school is not spending less than state
6 and local dollars than you would spend in
other schools than that wouldn't bring that
up to some sort of equity in title one fund
ins this case.

Mr. Amerikaner: Do you want me
to answer?

I guess it was rhetorical.

Mr. Wilbanks: There's a lot of
different ways in the district and schools
within that district how their needs
challenges and as well as the thing that is
the district may see needs to be done. I
think that we all probably agree whole-
heartedly that title one is supposed to add
additional funding to schools that meet the
criteria. And I think that's fairly easy
1 to come up with but I do think you got to
2 be very careful when you start include
3 salaries that kind of thing because of the
4 varying things that goes with that. Are
5 you going to be changing teachers every
6 year in a title one school just because
7 somebody leaves or retires or whatever or
8 are you going to be limited by for example
9 we allow our schools so many points which
10 is an average teachers salary? However, we
11 do not limit them on hiring whoever is the
12 best person that they have that applies for
13 the position. So they may hire someone
14 that's a new teacher or they may hire
15 someone with three years experience or 20
16 years experience. They do that. So if
17 that's one element that goes into really
18 past the test of comparability you won't
19 have to get into moving staff every year
20 and particularly in the high need schools
21 one of the big things that contributes to
1 the social competency of that school is
2 stability. I think once you disrupt that
3 you better have everybody there as a great
4 teacher because that's one of the negatives
5 that I think exacerbates challenges that
6 you have at high need schools. For that
7 reason I think it would be an over reach if
8 we look at the comparability based on
9 salary of what's spent. I think it's very
10 fair and should be applied. Does that
11 school, the title one school get the same
12 amount of state and local dollars as any
13 other school in the district, if not they
14 should?
15 Mr. Cheeks: So this is what I
16 wanted to weigh in on earlier when we were
17 given the overview of subsidizing the plan
18 and how districts are using funds from
19 various I guess funding mechanisms. It's
20 easy to slip over to the conversation I
21 think to deal with effectiveness. I think
the bottom line of my question is what is the starting point? Where is the threshold? Where is the point where the basic educational program begins and ends.

I think that's going to vary depending on the level of schooling or the level of success of that particular school. You could find in some school that is are in need of a great deal of support because of the fact that school is not being very successful which would mean from the state side that floor of support is much higher financially, and just as on the other end of the spectrum school district that is are being successful that have a much higher tax base that floor of basic educational program from the state side could be weighted differently. I think the difficulty in trying to implement this law is finding that threshold, finding that point of ending and beginning for the state.
dollar versus the federal dollar. With keeping in mind the need of the actual school because we are still and I was really glad I was pointed out this morning we are still having to address this issue of poverty and the disparity it's created because of poverty. Somehow this insuring all title dollars are getting to the particular school it has to be addressed from the standpoint of the basic educational program where does that end and begin before we begin to add the federal dollar?

Ms. Podziba: Thank you.

Ms. King: I wanted to sort of build on a couple of things Mr. Wilbanks’ thing about teacher variability was an important one and recognizing that different schools have different needing.

I think we would also all agree it's not healthy for any school to have a high
1 concentration of novice teacher. This is
2 not about teacher policy. I want to back
3 up after think again about what does it
4 mean for funds to be supplemental. It's
5 extra. If it's not even to start with I
6 don't think you can argue with what you are
7 getting is extra. If there's an equity if
8 you are starting with an inequity the money
9 you are getting is bringing you up to where
10 other people are is straight up with
11 supplanting will be. The comparability
12 requirement is a different requirement and
13 a different that's not under the scope of
14 networks reg. In terms of making sure that
15 funds are supplemental it seems pretty
16 straightforward for me in order for dollars
17 to be supplemental they have to be adding
18 on and if they are filling in they are not
19 adding on. I think Marcus added another
20 really good point, which is this question
21 of the basic educational program. I think
1 we would all agree that there are thing
2 that is all children and all schools need
3 to be successful. The challenge would be
4 you know we could come up with a
5 requirement that a district you know in
6 order to be compliant with the supplement
7 not supplant provision had to demonstrate
8 that they were providing from state an
9 local funds education to all children in
10 all school. What makes me nervous about
11 there's 24 of us and I think we would come
12 up with 30 different definitions of what a
13 basic education includes does it include
14 foreign language and how much physical
15 education does that include? What is the
16 appropriate class size for every school in
17 the country? I think what we need to find
18 is a test that is really come clear and
19 transparent that can be understandable by
20 the educators in the building and by the
21 administrators in the district, by the

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1 community stakeholders and by policy
2 maker’s right? We need a standard that
3 everybody can look at and say yes that is
4 fair and that is equal there for the
5 federal dollars are extra or nope that’s
6 not equal what you are doing is filling in
7 you are not adding onto. I think that was
8 sort of the parts that I wanted to build
9 on. You know it’s hard I mean especially
10 thinking about the charts and thinking
11 about the variability between states is a
12 good point but it’s just hard to come up
13 with one federal standard to make sure that
14 the federal law meets the federal intend of
15 the federal dollars. I think that’s what
16 we should be looking at is the most
17 objective test we can come up with that is
18 based on the actual dollars being equitable
19 in the title one schools.
20            Mr. Cheeks: So I think the law
21 is getting the room for states to use a

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number of different formula processes this
basic educational program. What I think is void of is the conversation around the basic program where the general interest and needs for children in Mississippi or in Ohio or any other state where that starts based on that states current educational system, so I am not suggesting that we codify a definition for that beyond where we have already gone but I think we do need to point states into a mind set of determining whatever that is and whatever that basic program is for your particular state. That may still give you a range of looking at teacher salaries or equipment materials or instructional supports. It will still give you a general area to begin that conversation.

Thank you.
Mr. Payment: Again, the outcome unit of measurement is always going to be
1 the student, but the funding the unit of
2 measurement is the district, so what is the
3 base performance outcome and so when we are
4 talking about you know I used during our
5 lunch the example of the affordable care
6 act. Even with this hugely lucrative plan
7 in front of states, some states have not
8 done it and some kicked and screamed for
9 two years and I think we have two-thirds of
10 the state that is are on board for Medicaid
11 expansion, education if there's one issue
12 that's strongly brings to bear local
13 control at the state level. What is the
14 base performance for equity purposes and I
15 will be careful not to use equal because
16 equal funding doesn't equal equity? So
17 maybe what we need and this is an idealist
18 talking. Maybe we need the states to
19 define what equity is and their respective
20 realms at the state level and district
21 level at the local level how are we going
to know what's supplemental if they don't do that? How are we going to know what that is? So what is their plan to access these funds first of all what is their plan for equitability and outcomes and how are they achieving that in order to tap into something that's supplemental to what they are doing already? So I know that's really naive and it's huge but how otherwise are we going to know what is supplemental?

Mr. Chau: Just to piggy back off of what Aaron just mentioned. Some of our states have started making efforts to provide supplemental funds for some of our students. In California we already have a state funding formula that was generated that was a proposed recently and accepted that provides additional funds for some of our low income as well as some of our high need students, so some states are already making an effort to provide additional
1 funds. I know that California is an
2 exception to that rule. I want to
3 emphasize that any efforts to try to
4 federally regulate or add language around
5 equalizing funding might actually not be
6 equal across all of the states so the less
7 we are strict in terms of the defining that
8 methodology but as Mr. Wilbanks mentioned
9 before allowing our districts to share what
10 those methodologies are I think is
11 definitely in our interest.
12 Ms. Jackson: I wanted to in case
13 you didn't look at it before bring
14 attention to this copy that was submitted
15 to us because I want to highlight what
16 already exists in the statute so we are not
17 discussing ways that would be reinventing
18 the wheel for that. What has the star next
19 to it. I think this is in a separate
20 section but it is related. The per people
21 expenditures of federal, state and local
1 fund which is are the Lee levels we talked
2 about including actual personal
3 non-personnel and federal state and local
4 funds disaggregated by source -- I think
5 that's already there so to consider the way
6 in which we can use that or refer to that
7 and I don't know I hear people talking
8 about the need for that it's already here.
9 The only thing that I would add to that is
10 there may be a need for defining each of
11 those terms which I am sure it will take us
12 days or that states define them. I guess
13 that would be the most useful the state
14 defined how determining it. The
15 expenditures are just salary and benefits.
16 This to me looks like something states are
17 already being asked to do this then they
18 have to justify how they are supplementing
19 or giving extra funds for the kids in need
20 but those would be tied in together.
21 Ms. Pompa: May I ask Karen a
1 question. I guess I was suggesting in my
2 rhetorical question earlier that you use
3 some sort of fiscal measure to make sure
4 one's in place. In your work have you seen
5 other approach that is get you to where we
6 want to go? How effective are they?
7 Ms. Hawley Miles: What I can say
8 is there's a couple different methods one
9 could use the reporting of actual
10 expenditures by per student by school is
11 one. Then there's the decision about
12 whether to use the actual or average
13 salaries and that's up to your discussion
14 we can share data about it what that ends
15 up meaning. Then there's the other method
16 that is have been used which are to look at
17 what is the formula that you are planning,
18 what is your staffing formula that you are
19 using and is it the same for you know for
20 all of your schools before you are adding
21 on the title one? I think if you were to
1 go that second way then you would want to
2 think about the presentation that I gave
3 earlier about the fact that the formula's
4 include a wide variation of the percent of
5 dollar that is actually get down to the
6 school and are very different across
7 districts and also in their state context.
8 So it's one thing to do that within a state
9 and a district then look at the practices
10 it's harder to think about that at a
11 national level.
12 Mr. Wilbanks: I really
13 appreciate the need to understand what some
14 of the terms or whatever means. However, I
15 think they are clearly defined in the act.
16 I think our challenge is how do we
17 implement that to not violate those
18 statements and if you are supplementing
19 that's a process you could figure out by
20 looking at what the methodology is for that
21 district. If you are planning that can be
1 figured out by the same process. I would caution as to really get too deep in defining what's already I think is very clear in the act. It's been around for a long time since 1970. It's been a few changes like most of us. I may be the only one in the room that remembers 1970?

Mr. Evers: I remember.

(laughter) these comments might bleed a little bit into the second question. It seems to me that over time Congress and the reiterated it at this time has focused on defining school wide programming in a ways that seemingly borders on best practices if there is such a thing here, and in July of 15 of this last year the Department of Ed promulgated rules around school wide and what kind of methodology and what kind of processes would be used. I think that's a good place to start. I don't think our work here is going to solve all the equity
issues because they are too complex for us to cram into an administrative rule, but I sure it's clear that this is a what's being expected of us is to use the methodology that is presently used in school wide programming. If we are going to build upon that if we can that's good. I am a little fearful of become too nuance within our conversations that will cause havoc on a local level making decisions and that we didn't anticipate.

Ms. King: Building on different things the methodology the district used to allocate their own resources is interesting. I think the textbook law is pretty clear that the Department cannot describe a specific methodology in allocating. In some world someone has to use a weighted system. The law doesn't allow us to do that so we will have to do that another time. The question really
then is you know if building a sort of Ms. Jackson's point about the per people expenditure. If you have a test that is
based on the data you already have to report that shows you are compliant you very well might not have to do anything
right you send to your state the report card you send to parents with the reported data that says see look here we spend in all of our title one's at least as much as we spend in our the average of our non-title ones and we are compliant and we are moving on with our lives. So I think there's a real value in focusing on the outcome which is what are the dollars available to serve children rather than these sort of you know my understanding is that the district finance is as much sausage making as law making is. Rather than the district saying here are the many ingredients in our sausage and the

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1 different ways to combine them. Here are
2 the dollars that we use in this school to
3 serve the children in this school. So I
4 think that you know just getting away from
5 what is the methodology being used to
6 allocate state and local funds to each
7 school and toward what is the outcome of
8 the available dollars. There's a concern
9 about equalizing or lowering those
10 districts who are really leaders. Those
11 district leaders who said our -- children
12 who need more get more. In our district we
13 are going to spend more money to educate
14 children facing greater challenges. We of
15 course not want to penalize them. You need
16 to build into the rule, into the test that
17 they are getting at you know when they get
18 at least much we are very excited they are
19 getting more. We are very excited these
20 are educator who is have said we are going
21 to do the right thing for our kids in the
1 district. I think that should not be the
goal. You know to that end we can't I
would love if this neg reg I could solve
all the problems then we should have
5 started this a long time ago. I think we
should not make things worse that's my fear
7 here. The supplement not supplant test I
8 think there's challenges with it. It's
9 been an important part of making sure these
10 special federal funds, which are meant to
11 serve children in poverty are actually
12 reaching those children. If we are going
13 to change that test and change the way it
14 works we need to be very careful that the
15 way we are changing it is going to make
16 sure that those children that are meant to
17 benefit from federal dollars. I think
18 that's really important to keep in mind.
19 Just as there are examples of those
20 districts where the district leaders have
21 taken on the charge and provided additional

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fundings and support and they have done
that work there's district that haven't.
There are districts where they are spending
less money in their higher need schools and
they are sending more resources to the kid
that is need more. They are taking those
federal dollars that are using them to make
up the gap that is shouldn't be in the
first place. I never want to make it
harder for someone to do the right thing
but I do want to make it harder to do the
wrong thing. I think there's a way to
provide the flexibility and educators need
to make educated decisions there's a way to
provide the strong transparency guardrails
that we all know that children need to get
the resources they need.

Ms. Briggs: Really complicated
issue. I think about my home state of 1400
plus different school districts who use at
least these methodologies probably some of
1 the examples were one that is Karen let on
2 because she's active in Texas. The equity
3 challenge whether or not that's a federal
4 problem that can be solved through this
5 provision or this statute I'm not certain
6 about because the other thing you want to
7 see protected is the ability for districts
8 to innovate and use their friends from any
9 given year which do change from year to
10 year given taxes that come in and property
11 that come in and kids that move in and out
12 and all of those dynamics change very very
13 often, and so we want to give the local
14 district it is ability to be innovative and
15 flexible and efficient and so I think
16 trying to regulate every scenario of every
17 district is just not possible, so I think
18 kind of reflecting on guidance and that
19 might be a better position.
20 Ms. Pin Ahrens: I wanted to
21 follow up on not being a goal. I know
1 Aaron said it as well we have to be very
2 careful about looking at are we spending
3 the same amount before title one dollars
4 for schools within the same districts
5 because we know it costs more to educate
6 students in certain demographics. It costs
7 more for the parent support services
8 especially for limited English proficient
9 parents. We have to take that into account
10 when we are looking at are the schools
11 receiving enough funds from the district
12 and the state itself for the students they
13 have before we you know look at the
14 supplemental federal dollars. I would
15 argue that if a high need school is
16 spending the same level as a non high need
17 school the district and state are not doing
18 their job in providing them with adequate
19 funds, so not only should the district and
20 state be allocating more funds to those
21 high need schools but then you know when we
1 are using that metric we should then look
2 also at the federal funds. I also want to
3 add in a different point is that we have to
4 also take care of how we look at single
5 school districts you know and think about
6 the metric that we are using in terms of
7 comparing those single school districts to
8 other districts within the state.
9 Thank you.
10 Mr. Payment: I think I'm not
11 sure what I am hearing but I also just want
12 to under score so obviously we don't have
13 the authority because the local control and
14 states to demand anything or control
15 anything and in a perfect world school
16 systems would be providing equity as a
17 natural course. However, this law came
18 into being because they weren't. It wasn't
19 a natural thing. So certain populations
20 didn't have the kind of political clout.
21 That will probably change in about 20 years

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1 and there's still kind of a blind spot to
2 that if that is going to change? So equity
3 funding is going above and beyond. If you
4 are providing the same amount for all
5 students it's inequitable. It's inherently
6 inequitable. We have to remember the
7 spirit of this law initially was to erase
8 and correct for the inequity that is
9 existed in the first place. It's an
10 opportunity for school districts to go
11 above and beyond and look at it as an
12 opportunity and I know in our school
13 district back home we have a charter
14 school. We have 75% free and reduced
15 lunch. And we have standardized test
16 scores double digits higher than the public
17 schools partly because we qualify for
18 funding because of the equity issues. That
19 really is an opportunity because all
20 students can succeed. In our experience we
21 demonstrated that they excelled. We have

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1 to not lose sight and it might be
2 idealistic so what do we have as a body to
3 recognize the current conditions at the
4 state level to provide for the equity that
5 needs to happen and recognizing that equity
6 and equal is not the same. What can we do
7 in supplement that the schools are already
8 doing to assist them in a meaningful way
9 and targeted way in complex as these issue
10 what is it that we can do as a body as a
11 challenge to draft up the regulations that
12 then have to go through several other steps
13 after us. What is it that we can do to
14 ensure that? I wanted to make sure we are
15 all on the same page when we are talking
16 about equity.
17 Mr. Amerikaner: I was looking
18 around and not seeing additional name
19 plates up which I thought we should move to
20 question 2. We may not have a lot of new
21 thoughts here but I wanted to make sure we

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ask the question separately because there's a nuance here about what does it mean to have a methodology for allocating state and local funds which is the wording from the law when in many districts they as Ms. Hawley Miles explained to us at the beginning allocate staff positions and other sorts of resources. Whether this committee has ideas about how that should be operationalized this requirement that they have, the district demonstrate that is the methodology uses to allocate state and local funds to each school in part that ensures that each school receives all and state and local fund that is are not receiving assistance in this parted. What should that mean in a district where they have a system that they allocate resources such as staff positions as opposed to dollars directly.

Ms. Podziba: I think we heard
1 some of that. Are there additional
2 questions on that comments?
3       Ms. King: I wasn't clear on the
4 distinction so I'm fine moving on.
5       Ms. Jackson: I would stress that
6 like what it would mean would hopefully
7 depend on what the need is in that place.
8 It shouldn't be descriptive in every one
9 needs extra reading source teacher no
10 matter what maybe that's not the need in
11 that school or area. I would imagine that
12 extra allocations of funds through the
13 school based budgeting should be based on
14 what the biggest deficit or biggest area
15 where you need support is in that entity
16 whether it's a school or district if that
17 makes sense?
18       Mr. Wilbanks: One of the things
19 we do for example a couple years we have
20 been looking what is our area of great
21 itself need curriculum? Math is for us

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1 throughout, so we have chosen to look at
2 the lowest performing schools in math and
3 provide them a math, not a coach but we
4 call a math specialist that really works
5 with the teachers to finally build the
6 capacity in those students. Why this
7 doesn't come up in staffing another thing
8 we do is provide each school per people
9 money based on enrollment. For the low or
10 high free and reduced lunch those students
11 get additional dollars that's local
12 dollars.
13 Ms. Podziba: Thank you. Mr.
14 Amerikaner?
15 Ms. Evangelista: Any school is a
16 title one school program in New York City.
17 I do feel lucky we have a weighted school
18 formula so all the school ins our area
19 receive more or less the same amount then
20 you are given additional weights and given
21 the grade, scoring. We have the student’s
scoring on assessments, EL's and special
needs and so we are giving additional
funding for all the students and we at the
school level to make the choices about the
staff members that we think we need to hire
that are going to serve the best needs of
our population. One of the things we all
need to do is set goals at the staff level
and submit those level to the state and
district and talk about how the title one
funds are serving the needs of the students
supplementally to the additional to the
fair student funding that we received in
the district and state.

Ms. Podziba: Any other comments
on question 2? Okay.

Mr. Ruelas: To just kind of
support what my colleague Liz said earlier
you know about the whole issue of
the -- prohibits them from prescribing what
methodology the districts use. I think the
1 major thing we need to focus on is to make
2 sure we have a consistency on how we are
3 going to be transparent with our spending
4 itself. That transparency itself in the
5 way we report it needs to be consistent
6 throughout all the states because as long
7 as we are basically able to be transparent
8 with everything that itself lends the
9 accountability and provides all the
10 information for the citizens about the
11 decisions being made by their government
12 itself. I think the transparency and
13 consistency itself is going to be basic
14 with us.

15 Mr. Amerikaner: Let's go to the
16 third question whether regulations should
17 create certain allowances an flexibility
18 such as when a district has a particular
19 small school or allow different allocations
20 among grade spans?

21 Mr. Pohlman: I think it's been
said a few different times, but I think from the perspective of that I have is a single school LEA I think this becomes very important that it be clear either through guidance or regulation like, I am still waiting to see if regulation is necessary here. That guidance or needs to be clear to our auditors and to others that application of any test for us is I don't know of one. So that has been unclear for a number of years and that I think that we have I know myself I have had several conversations with auditors over the years to explain how this really we don't have a test to demonstrate this. I think it would do a great service to rural schools or any school or single school LEA in allowing that flexibility. I am not sure if that's the right place to comment on it. I think the guidance or regulation has to be clear on that point. The other thing I would say

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is that it's important that we recognize
that charter school LEA's are oftentimes
included in the funding allocations for
districts. It would be explicit within the
guidance or regulation that is those
schools must be considered at the same rate
of funding as any other school in the
district so that there's not some level of
inequity simply by virtue since it's a
charter school or district school or
district authorized charter in the
allocation.

Mr. Amerikaner: Can I ask a
follow up clarification? You said it's
important that we be as clear as possible
about what the requirement is for single
school LEA's. Do you have any suggestions
of what that requirement should be?

Mr. Pohlman: I think something
to the effect of where an LEA receives it's
allocations of state and federal funding
from the SEA and does not further
distribute that funding to schools through
any other mechanism or because it has a
single school as an LEA. That the
supplements is there for rendered
inapplicable or something to that effect.

Ms. Briggs: The question here is
for flexibility for certain types of
school. I can come up with certain
situations. I think trying to regulate
every unique school situations is going to
be tough here. To the extent possible to
be simple and straightforward and the I
allow for innovation and flexibility and as
different school get created as stem
schools an newcomer schools an schools for
kid that is are dropped out and all sorts
of different types of thing that is will
effect an outcome that could be treated
equally in methodology.

Ms. James: My question is
flexibility is great. I wonder if we already account for different methodology that is are required already if there are methodology that is are already outlined for specific small schools or small grades or what have you that this in so many different ways almost makes me wonder if we are thinking about a one size fits all or if we are considering the idea of we already have methodologies in place that might speak to this point here. If I need to make myself clear that's okay I can do that.

Mr. Amerikaner: Are you asking a question it would be great if you can clarify. I think I did practice by saying a question but it's really a statement. If we already have methodology that is speak to variances allowed do we need to offer, do we need to offer additional for small
1 schools. If we are already given charge to
2 districts and or states the abilities to
3 out line how they will spend their monies
4 do we need additional flexibilities?
5 Mr. Amerikaner: Okay.
6 Ms. Podziba: Other thoughts on
7 this question or support or affirmations or
8 any idea for support that has already been
9 said.
10 Mr. Wilbanks: I would amen her
11 statement I think there's already the
12 flexibilities allowed for it.
13 Mr. Cheeks: So the fact that
14 comes to concern to me is auditors. You
15 know I think educator wills see this very
16 cut and dry and clear. From an audit stand
17 point where would that direction come from?
18 So if and I know it remains to be seen in
19 terms of what the compliance supplements
20 will look like but that maybe another area
21 where it will get to really spelling out

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how this new test will ensure the equity that's really needed. I think the audit question is something that has to be somewhere about because states will ultimately be held accountable for the resources and the misuse of it.

Ms. Pin Ahrens: I just wanted to comment on something that Richard said, and please correct me if I mischaracterize this. You had thought that a single school LEA's or single school charter or single charter districts should be exempt from the supplements not supplant rule. I would caution against that. I think that for a single school LEA's especially charter schools is that we really need to use the statewide average and I say this bringing up an example from New Orleans where it's a hundred percent charter. And in some of the charter school that is we have seen it's really English language learners after
1 students with disabilities who suffer
2 because they are not receiving the
3 appropriate services. So I really want to
4 just be careful about exempting schools
5 from these supplement not supplant rule.
6 Mr. Pohlman: As a single school
7 LEA I have no ability to impact the
8 allocations that come to me from the state
9 or from the SEA and the impact how the
10 federal or local dollars come to my school
11 slash LEA it is one in the same. My school
12 budget and LEA school budgets are the same
13 thing because there's no difference. How
14 do I demonstrate or what test I would use
15 to then demonstrate to an auditor that I
16 have allocated those proportionately
17 correctly escapes me. I think it's escaped
18 auditors throughout of what test is
19 appropriate where I don't control the
20 allocation amounts.
21 Ms. Pin Ahren: I think my issue
is how the state is allocating money to the single school LEA.

As we heard before from Ms. Rigling this is a district level test not a state level test.

People in the audience are having a hard time hearing. If you are getting feedback try lowering your Mic a little bit. If some people are seated right under speakers we will make sure that you have a hand held. Thanks.

Ms. King: I just wanted to reinforce what Marcus had said on the auditing point. I think some of us like there are times when we are going to think auditing is too aggressive or not aggressive enough. I think one of the experiences of the specifically S and S auditing has been inconsistent and there's not a lot of faith in the way that works that point to the use of a expenditure test.

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that's based on the people per expenditure.

There's not room for interpretation it's a math question. You publicly report it had data the parents has it and the SEA has it and the feds can look at it on the website and anybody can look at it and see compliance or non-compliance. That's the most reliable way of knowing that there is compliance because it just it seems like anything else is a level of auditing discretion which you know I think would be the one thing we are almost certainly all agree on is the auditing is inconsistent and does not served school system well and serve children well. I want something that's easier to oversee in a process and then demonstrated equity in that seems like the most way to get a overcome that problem.

Mr. Amerikaner: I just wanted to ask a follow up question for Alvin. I am
1 still thinking about it. I wanted to ask
2 and Marcus made me think of it. You said
3 you thought the law was pretty clear the
4 way it was written that the terms had all
5 been pretty well defined. I wondered if
6 you could help me understand how you think,
7 how if its clear how an auditor would come
8 in and check to see if your district had
9 complied with the requirement? I won't
10 read it but number two up here on the
11 screen. That is relatively clear. I just
12 don't understand that. Maybe there's
13 another I don't know how that's not clear.
14 So if you can do your methodology you can
15 indicate that the title one school is
16 getting the same amount or comparable
17 amount of state and local funds and none
18 title one schools get it. If the title one
19 money is going to the its never been
20 accused of being a geek or a brain but I
21 understand it. (laughter).
Mr. Amerikaner: I appreciate that that's very helpful.

Mr. Ahart: I want to go off what Alvin said if you can demonstrate internally in a transparent way to auditors or whoever else then you have a system then you follow that system consistently then the supplemental versus supplant is straightforward. When we look at the reporting requirements if we go down that road for auditors then we are going to lose from my view potentially we are going to be doing a lot disrupting the staffing and schools and cutting staff in places we don't want to cut staff so we can demonstrate we are spending the exact same amount. There’s so many factors that don't equate to the same level of service but I think that's completely in the wrong direction. I would agree with Alvin nobody ever accused me of being a brain surgeon.
1 either. I can demonstrate on how I staff
2 my schools in an equitable fashion and
3 apply title one to the supplement not
4 supplant I don't have an issue with that.
5 To me it seems like we might be over
6 thinking this thing a bit much.
7 Mr. Cheeks: So I think Alvin may
8 have mentioned in some of his earlier
9 comments part of his formula process in his
10 particular district involves providing
11 points to schools that have a very high
12 poverty percentage. It still gets away
13 from this view of giving an equal level of
14 funding or receiving an equal level of
15 funding from the state. I think the piece
16 that still has to be spelled out to
17 entities is that your demonstration yes, if
18 that definition is very clear but I think
19 the demonstration still has to not lean
20 itself toward something that's necessarily
21 equal which will come out I think from the
1 standpoint of testing from an auditing
   2 standpoint, but one that does show how you
3 are showing the general principles and
   4 tenants of this program which are designed
  5 to provide the extra support, the extra
  6 incentive and layer of resources that in
  7 the and sense of the federal resource it is
   8 district would not normally receive. So a
     9 weighted system if I am on the other side
  10 of auditing and if I am looking at this
  11 from a weighted system that now shows that
  12 you are providing the extra support to
  13 those lower performing high poverty areas
  14 then you are now demonstration makes sense.
  15 If you are demonstration is to simply show
  16 you gave everyone the same thing. Then
  17 your demonstrations loses the components it
  18 ensure that is the schools are receiving
  19 all state and local resources. That's
  20 where I would guess agree with Mr. Wilbanks
  21 in his simplicity of what's defined there

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already.

Ms. James: I would like to build on something Lara stated and I think everyone around the table has stated in one way or another is accountable. I really believe as a school principal that we are required to outline what our comprehensive plan is and what our budget plan is and provide that information to the powers that be and then along the way go through a series of checks and balances to ensure that we are on track with that plan. Let's use that model all the way up. If we are really saying hey let's make a difference let's really make a difference and be thoughtful and pay particular attention about the accountability associated with submission of the methodologies. Perhaps that's the question I'm not sure but that's just one that I like us if possible to begin to take a stab at.
Mr. Amerikaner: Thank you that actually I have been sitting here thinking about the follow up question that you nicely transitioned us to about the accountability of methodology. I think if Liz wants in her heart to make every 7 district related to a funding system. We know that we can't and that prohibition wouldn't let us and I think we at the Department of Ed wouldn't want to do that anyway. What sort of accountability or perimeters if any should we be thinking about putting around what ever methodologies the districts choose here is that a better way to think about this is instead of trying to describe a specific methodology what safeguards or methodology or accountability provisions should we be putting in and any sort of characteristics or end results that whatever methodology a district chooses should lead to.
Ms. King: I want to go back a couple of points. I did want to write the methodology the use of the word methodology in the statute is referring to how state and local funds go to schools. It's not referring to how the federal government chose compliance as just a reminder. The question I am wondering is what the scenario is in which so, let's say that you have a school district that is allocating resources and funds and which ever way they are doing it and I don't know as much as about budgets as Karen does. This is not as clear-cut as we are making it sound. I feel like there's one big check that gets cut like there's a hodgepodge of things going on. The bigger question I am wondering sort of backing up a little bit and thinking about the intent of this provision is what is the scenario in which there is an equity in which a district is
1 spending less money in their hiring in 
2 schools in which title one schools are 
3 being used to compensate for inadequate 
4 funding in which scenario is that in fact 
5 supplementing. My thought on this one is 
6 that by definition supplanting. I don't 
7 know if this is the argument that there's a 
8 teacher in the world that is so excellent 
9 that her excellence, supersedes the fact 
10 that all of the children in her school are 
11 under resourced. I mean that's sort of the 
12 scenario I am wondering. It feels like to 
13 me if you are using federal dollars to fill 
14 gaps can someone sort of share with me 
15 their thinking about why that's not 
16 supplanting and that why that is in fact 
17 supplemental even though you have less 
18 money you have extra stuff. 
19 Ms. Jackson: This isn't directly 
20 responding to Liz, but I am just grappling 
21 with the idea of that there's an easy
1 answer between what supplement or
2 supplanted or there's an easy answer
3 between local and to those provided some
   4 max amount that we agree upon and federal
   5 dollars come in. I say that right now in
6 Boston we are dealing with a budget deficit
7 and one of the challenges is that
8 everything that's been cut in many ways is
9 justified as something that is needed and
10 yet there's only well, there's disagreement
11 on this but you know if the community would
12 say or the mayor and other politicians will
13 say there's only so much that the city
14 could continue to give. It's not
15 sustainable. We have a structural
16 definition. There's this reliance on that
17 we will have some support for federal funds
18 coming in. A need to acknowledge what
19 limits there are and what's possible and
20 how long it can be sustained as I am
21 sitting here thinking about Boston. You
can't just say the max amount that a community can give has been given and that it's equitable and now it's acceptable to put in federal dollars. It's not just a simple question and so the thing that I am grappling with is more about not necessarily having the justification come only a certain levels but that it has to be a whole comprehensive analysis of where investments need to be made and that there has to be justification behind it and I will leave it there.

Thank you.

Mr. Wilbanks: To follow up on what Audrey has said when you have budget cuts to be made and every district at some point in time has to do that you just can't cut your title one schools you cut everybody. And if you again, are using your state and federal dollars to fund comparable programs and activities or
whatever staffing, and all the schools including the title one schools, everybody's probably going to be cut but then the federal dollars again is applied to the title one schools and I think that's how I mean that's something that happens every day an every budget year in this country. You can't just cut your title one school and you can't cut your programs out of that. I was in the meeting every day where your supervisors said they are going to continue to do art in all the schools and I think that's great.

Ms. Podziba: I am wondering if people are going to entertain the question that Ary put on the table about perimeters or safeguards any thoughts on that.

Mr. Amerikaner: I realize I may have framed it clumsily to start with. I think the question I was trying to ask was should we put perimeters around the
methodologies given Karen’s data she presented to us at the beginning of us around the document to some of the current inequities. We know that districts are using it a wide variety or at least two methodologies and we seen some of the equities come from that in short of -- methodology. Should we be putting perimeters whether that I think we heard here at least equal spending in title one school as a non-title one schools or there might be others that folks could come up with. I am wondering if people have specific thoughts about that given the data that we got from Karen?

Mr. Ahart: Well I don't know the inequities from Karen’s work was purely dollars right?

Mr. Amerikaner: Correct.

Mr. Ahart: I would say no.

Ms. Podziba: Other thoughts on
Ms. Pompa: I would make a strong statement that dollars matter. I think what Karen said to us that all the research shows that they matter when you look at the bars up there on the chart that Karen had there's schools that get fewer resources and every district and we can't take care of all the schools but we certainly have responsibility at this table through title one schools. If we can have the perimeters that safeguard they are not getting less money than other schools. It's as much as this committee can do without taking care of the whole world unfortunately.

Ms. Briggs: I think the answer to the question is if the statutes right the parameter is supplemental funds they would receive in absence of federal funds being available. That's the framing. I don't think you can direct with much
precision exactly how many state and local
dollars any district is getting from the
federal point of view.

Mr. Hager: In terms of this
particular test it is about dollars. It is
the legal test is about dollars so you have
to demonstrate how you are using your funds
in such a way that you are not supplanting.
So whatever you have to have a method, a
test that looks at money in terms of the
ultimate goal of the law to show a better
outcome that is' a whole other part of the
law which is the assessments and the
accountability system. This particular
part of the law is looking at money.

Mr. Ahart: I don't disagree that
money is very important, but I don't think
this is just looking at money. It's
looking at equity. What title brings to
the table is additional to what otherwise
would have got and if you can do that on a
1 dollar to dollar it hurts kids by doing
dollar by dollar. I can have fewer
teachers serving in title one school. I
can have my test keepers on title one
school. If we do it purely dollar to
doollar I think that causes more problems
than it fixes.

Mr. Evers: I have a question and
I think it was addressed before if I am
forgetting -- that's typical. Isn't there
like three measures here maintenance and
comparability and supplant or supplement
not supplant. At times during the
conversation it seems like we are talking
about all three at the same time. Is there
a way to focus the discussion on the
supplement or supplant or supplement versus
supplant?

Mr. Amerikaner: We are attending
for the supplant -- Kay did answer the
question about how the three interacted. I
am happy to have Kay repeat it if she
doesn't mind.

Ms. Rigling: We should take
maintenance of effort off the table.

Maintenance of effort is about expenditures
about the district level. It doesn't look
at what happens within the district to
individual schools. So that leaves us with
comparability and supplement not supplant.

I think in the past those two requirements
have been perhaps more different than maybe
they are under the new law. Again, I think
we would like to keep comparability focused
on services and that the services that the
state and local funds provide in title one
schools compared to non-title one schools
as like I said are most commonly measured
by students staff ratios. Look at the new
language in B two as to how can the
regulations if they should ensure that in
fact when a district distributes funds,
state and local funds to it's schools that
it's title one schools are getting at least
as much as they would be getting if they
were not title one schools.

Ms. King: So I think it's
important to remember that all three fiscal
requirements are meant to reinforce sort of
the two big things about title one right?
One of them is that the dollars are
supposed to matter. The fact that is
child's school is receiving title one funds
is supposed to make the educational
experience better for them. The other
point is that it is supposed to be
supplemental. It's supposed to be an
addition. All three fiscal requirements
are serve differences in different ways.
The way that MOE fits in here if the
district was not getting any title one
money and then they get a million dollars
and then they cut their expenditures then
there's no more money that's why the
supplemental intent as well as the dollars
actually matter. Comparability is meant to
achieve some level of parity among schools
within the district whether it's an all
title one with one title one and all title
one. As Kay pointed out on a services
standard not on a dollars standard neither
of those are under the scope of negotiation
right now. They are relevant right now.
Now the supplement not supplant standard is
where this gets tricky, the Department has
been prohibited by Congress from using a
services test. Now, you know whether they
could use that as one of the tests they
certainly can't use it as the only test.
If they can't use the services test then it
seems like the most logical way to go is to
use an actual expenditures test. I think I
am still missing you know I mean Frankly if
there's some schools that have found ways
1 of achieving much higher outcomes for
2 children using less money or no money at
3 all that would be a great scenario. That's
4 not my understanding of most of our system.
5 Most of the time in most of our schools we
6 are not providing enough funding to serve
7 the children we need the serve and there's
8 educators -- working their butts off in
9 terms of those situations. Certainly the
10 dollars matter and the quality of service
11 matter not all services are equal and not
12 all expenditures in that way are equal if
13 we want a test or a requirement that would
14 allow everybody to see the playing field at
15 least level preferably better than level.
16 Preferably your state and your LEA have
17 decided they are going to invest more to
18 serve higher need children. If it's at
19 least a level playing field and we have an
20 assurance and understanding and we know and
21 we have a confidence that those federal

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1 dollars are both meaningful and extra and so that's the question is what is the scenario in which federal dollars are not extra that is justifiable and is meeting the requirement of supplement not supplant? That's the piece I still am not seeing. Nobody, it's a crude test, this is not the only thing we need to know about how districts are managing their money. I think local state holders have a lot of interest in what happens to money and they should continue to have all of these interests. For the purpose of this requirement and the purpose of federal government ability to monitor federal funds in the way they are meant to be used that's what we need to figure out is that test.

Mr. Amerikaner: I was going to ask if -- I was thinking we might move to the next question on the page unless anyone disagrees. I just want to say up front
1 until we go into the last three questions
2 some of these are hard to respond to
3 without having a specific proposal and I
4 understand that is challenging and we
5 wanted to make sure that we were hearing
6 from all of you first before we try to put
7 pen to paper. We fully expect to come back
8 and take all of your thoughts and try to
9 craft it into something and give you
10 something to respond to as soon as we
11 possibly can. I just want us to
12 acknowledge that as we go through these
13 questions if there's not a ton to say today
14 until you have more to respond to that's
15 okay. That being said the next question is
16 how should the new emphasis on allocation
17 of funds in the supplement supplant test
18 retained at the district level. This is a
19 follow up to Ms. Hawley Miles spoke about a
20 bit which is not all funds go through a
21 districts formula whether that's resources,
1 staffing based formula or a weighted
2 student formula that some funds are
3 retained at the district level and spent on
4 district wide activities. We wanted to
5 hear from the committee about whether
6 anyone had ideas about specific ways that
7 this compliance paragraph should or should
8 not or how should it apply to that category
9 of funds.
10 Any thoughts on that? You warned
11 us.
12 Mr. Ruelas: Nothing specific but
13 once again you know the whole issue of the
14 federal government and how it should
15 enforce uniform measures of spending clear
16 and transparent methods of reporting
17 expenditures itself. I think it's so, so
18 important if the federal government is
19 providing the money they should require
20 strict reporting in regards to the district
21 that is are receiving money in regards to

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1 how they are spending it. I think that
transparency itself is just so important.

3 Ms. Briggs: I think it's part of
the methodology and that fund that is are
kept at the district level are district
level funds and not distributed out to
schools.

8 Mr. Cheeks: The one thing I
wanted to bring to light is particularly on
this point Ryan pointed out and I think we
heard it's said a couple of times the key
pieces of accountability and whether it
shows up in a public reporting of district
level expenditures prior to the addition of
the title dollar or something that shows
some type of break down where there is a
range of resources that are being funneled
into high poverty areas and something that
has to ultimately hold the school district
accountable for ensuring that this portion
of the law is actually being carried out.
The one thing from my constituents perspective we were concerned about there's a number of state initiatives that provide funding for if we are looking at a cost scenarios such as teaching units that require districts to have in place for that particular program. When you start looking at off the top reservation or district reservation that provides title resources that is reserved for the district level for initiative that is may or may not be required at the state level somehow it has to be tied into this that will ensure in instances of that nature the title dollar isn't then being used to supplant requirement that is are district focused requirements just by virtue of the initiative they are bringing forward. So here again I think the key piece is and I wish I had the answer I don't necessarily have the answer, but I think that those
1 factors are thing that is have to be 
2 considered when we are doing the 
3 accountability piece there. 
4 Mr. Payment: So I am I think I 
5 am stuck with the concept of being a 
6 supplement and school districts, local, 
7 state should be providing a baseline and 
8 whether we can get to what that baseline 
9 looks like we will articulate that I know 
10 we can't mandate it. I am interested in 
11 the accountability of the supplemental 
12 funds. What are the supplemental funds 
13 being used for and is it meaningful? How 
14 is it going to know if it's not supplanting 
15 if it isn't doing something above and 
16 beyond what we meaningful should be doing. 
17 Is there an intervention fashioned that can 
18 be demonstrated that had actually has the 
19 value of spending those tax dollars? So 
20 when we look at the allocation per district 
21 or for pupil even that doesn't get to
whether or not this is a meaningful intervention whether the dollars are being spent in any meaningful way to change the equity issue that's in front of us for certain populations, so some schools have meaningful improvement plans that maintain students through graduation. Some have different measures of what graduation level is. We are finally getting across states an agreement on how to calculate the graduation rate is. I want to make sure we don't lose and I am trying not to default to what tribes have to do which is to demonstrate per compact funding how you get the funding in the first place and then how you are measured against the use of those funds in order to get the funds again because I don't education should be a right. It's a federal right for equality of education and equity funds are designed to supplement to get to that point. I just
want to make sure that we don't gloss over
this to the point where we are not giving
some expectations to the state that they
developed some kind of meaningful
intervention for the use of those dollars.
I know we can't stipulate it or regulate it
but we might be able to expect it and have
states then articulate what that looks
like.

Ms. King: Sort of. First an
answer to this question, I think it's a
great one about how to handle district
funds. I think the general principle is we
don't want people gaining the system but we
want to be responsive and provide for a
bunch of different models. I think it
would be easier for all of us to read
existing guidance. I don't know Karen that
if you have things that we can all look
about at this. The per people expenditure
included in civil rights data collection or
1 guidance that goes to LEA about how to
2 report maybe that's a good place to report.
3 I think I certainly do want more
4 information about what the options are
5 because I totally could make something up.
6 I would rather its grounded in practice and
7 to Mr. Payment's point I think it's also
8 important to remember what the fiscal
9 requirement about supplemental that the
10 funds be supplemental does not touch the
11 allowable use requirements there’s other
12 requirements in the law and regulation and
13 guidance about how title one funds can be
14 spent. So it's just because when I was
15 thinking about this before I think that's
16 an important thing for a member. It's not
17 supplemental for any old thing right? We
18 do want them to spend on high impact and
19 instructional expenditures. There's a lot
20 of flexibility within existing federal
21 rules on how to spend title one funds.
There are rules but I think that provides some protection and thinking also about the, I think one of our colleagues had in the para-educator section had asked about or mentioned the difference between targeted assistance and school wide program those rules still apply in a targeted school you have to serve the intended 9 children in the school wide school you are allowed to use title one funds into school wide reform and school wide reform there's other requirements. This is thankfully not the only rule governing the way that title one funds can or must be spent.

Ms. Hawley Miles: I want to respond to Liz’s question. It's building on your point about transparency. I do think it's possible to clearly define what you mean by school level resources in a common way you could do that at the state level or and we do it to look nationally.
That one is not that tricky. Because it's about having a common definition there's thing that is you might define as a central or could get murky. I do think it's possible to have a common description of what you mean by school level resource that is will include things like teachers that work in the school. Whether it's reported at the district level or bottom level you would have a common way of reporting that. Those kinds of things that are sometimes reported at the district school level. You can lay that out whether that happened at the state or federal level as a key test for -- are we comparing apples to apples?

Mr. Chau: I want to echo that emphasis on transparency I think when we are asking for this methodology we are asking for schools and districts to share how they are spending their funds. I do think some of our states have requirements
around that transparency especially how funds are spent at the district level. I know our district is being held account for that as well in terms of how many out of classroom staff there are in the district level compared to the school level. I know states already have some of those rules in place as well. I want to go back something mentioned that I have been processing about the small schools issue and how a lot of our discussion is focused on inequities and that sometimes there's an assumption that we are spending less for the student that is need more. That might not actually always be the case. There's certainly instances like ours where we have some very small school that is are under enrolled high school that is are title one schools and in those instances they might not have based on the school based budgeting formula. They may not receive enough
1 staffing to offer the full courses that
2 students need to graduate from high school.
3 In those instances our district is having
4 to provide extra funds to those schools in
5 order for those students to have minimum
6 program that we expect for them to have.
7 In those instances those are title one
8 students who are actually receiving above
9 and beyond what they would normally receive
10 from state and local funds right now. I
11 don't think there's any intention in this
12 law to say that they can use title one
13 funds for that. I wanted to put that out
14 there since it was one of the questions but
15 there's instances where we have some small
16 school that is are under enrolled and that
17 might be happening in other districts as
18 well. Where they might run into instances
19 where they don't have enough funding at the
20 school level to fund the educational
21 program that students need. I just want to
put that out there.

Thank you.

Mr. Evers: I just want to make sure we are on question four and it deals with the issue of emphasis on state and local funds. Just my reading of it the Congress has changed it from saying nonfederal funds to state and local funds that's a major difference between the two laws. I would argue that a change is not a huge one and basically it deals with Congresses interest in school wide programming. The difference between nonfederal and in the past and there's no child left behind and state and local and under ESSA seems to be a difference. Am I wrong with that in my analysis.

Mr. Amerikaner: I certainly don't want to say you are wrong in that analysis. I want to reiterate a couple changes that I said at the beginning. At
this point feels like many moons ago.

Other changes include the use of only one test for all schools right, school wide program and targeted assistant schools as well as this new compliance paragraph that will provide some additional specificity around how districts are expected to meet the requirement including that they demonstrate compliance by demonstrating that the methodology used to allocate their statement will fund each school receiving assistance under this part ensures that such a school receives all of the state and local funds that would otherwise receive. Actually a fair bit of that language is new. So while I don't mean to say that there's you know huge worlds of difference between it I just wanted to reiterate the parts that were new.

Ms. King: I just wanted to add that I think there's an impact aid is meant

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to supplant and meant to replace state and local revenue. You would want to consider impact aid on the state and local side of the ledger. They are not meant to be supplement they are meant to supplant.

Mr. Amerikaner: Question five is about time lines. What does it mean to meet this requirement two years after the date of enactment when the date of enactment is in the middle of the school year. We assigned this law into effect in December. Technically two years after the date of enactment would be December 7, 2017: We are looking input here on how we should interpret that and the second question is whether district might need additional time to meaningful implement a methodology that reaches this requirement that ensures that each title one school reach the local, state funds. Maybe we can get input on each of those time line

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Mr. Payment: Did they mean to enact it to match the school year or is it just our Congress?

Mr. Amerikaner: All we know is what's on the page. My guess is that often times we get sort of two years later kinds of clauses in order to give advance notice of what's to come. It's not unusual that we would have the situation like this.

Mr. Payment: Would we be trying to give guidance to starting implementation in the middle of the school year or are we looking to you can't go after you could go before but then what authority exists to implement six months before?

Mr. Amerikaner: I actually think what we would love to hear from you guys what would be the best outcome we could get to if given what's on the page and then we can come back and see what we can do with
that and work with our lawyers an see what
we can produce that would reflect your best
ideas.

Mr. Payment: It seems to me that
you are going to more likely to implement 6
months after and ask for a delay so you can
fully implement because you are
interrupting revenue streams. It won't
match the fiscal cycle getting Congress to
solve that. You are more likely to get a
delay than a supplement.

Mr. Pohlman: I am wondering if
there's a way of any flexible of kind of
findings that looks at fiscal years or
audits of the fiscal years so that the
audits performed on the fiscal year or two
years prior or two years after enactment.
I think it would allow for the difference
in fiscal years that I don't think there's
a ton of variety at the state level. It
would allow for if there's a different
fiscal year that this test is really
2 applied during the volume. The auditors
3 need to be applying the test during your
4 annual circular audits. How is there a way
5 to extend the language to think about it
6 within the sort of two years after the
7 fiscal year, the fiscal year starting two
8 years after the enactment.
9 Mr. Wilbanks: First of all let
10 me say you are all consistent. Every time
11 there is a law or something passed we have
12 this and it's March now, and it will be
13 awhile before all the rules get obligated
14 it would be helpful if there's a two year
15 period regardless. It could begin this
16 August as the waivers end August of this
17 coming year. Then two years in would be
18 much better. Many of us operate from a
19 rolling three-year budget so we are
20 obviously developing our FY 17 budget as we
21 speak, but we are also looking out and

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getting a handle on 18 and 19. This will allow us time to do that.

Ms. King: Yeah I just wanted to add the poor people expenditure reporting needs to be included for the first time on the 17-18 year report card and that's based on the prior year data. It make it is most sense to align this with that. Again, with part of the goal being that the ease of enforcement and the compliance in terms of your evidence of compliance is publicly reported data if you wanted to come up with an entire other system for additional new reporting of data not previously reported you wouldn't necessarily tie it to this. Assuming we are wanting to go with otherwise required data. I wanted to add that to the mix. Maybe it would be you have your 2017, 2018 school year would be the first time that you publicly reported the data and that year doesn't show up in
1 compliance and then you use that
2 information to inform on how you make new
3 decisions on the actual fiscal calendar an
4 in consistent with the fiscal calendar and
5 you end up demonstrating compliance in the
6 18-19 school year. It would be helpful to
7 get other counsel. We are going to have
8 loads and loads of LEA's that are already
9 compliant so they could demonstrate
10 compliance tomorrow. For those LEA ease
11 going to have to take action to demonstrate
12 compliance what is the right amount of time
13 to get to compliance so that they can
14 demonstrate it.
15 Ms. Pompa: I think this is one
16 definitely where it depends on what
17 methodology you come up with or if you are
18 going to have any guardrails, but whatever
19 it is it seems to me that you could leave
20 this coming year as is and have districts
21 report what is going on, and then start the

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following year building on Liz's notion of
maybe they are in compliance already if you
put this in if not I think it would be a
fascinating way to show how law has changed
what's happening in districts.

Mr. Evers: My answer won't solve
the problem, but I think the issue of
meaningfully implementing a methodology in
mid year as a practical matter it's already
been done by setting the budget for the
previous summer. So I don't think that's
an issue or shouldn't be an issue locally
I'm not a local official any more. Where I
think where it gets kind of clunky is the
idea of collecting the data in 2016-17
where that data system really doesn't exist
in any places now. As far as rolling out a
methodology I don't think as a practical
matter it's been done the previous summer
when the budget was passed.

Ms. Mack: My comment kind of
1 deals with this question and also the one
2 that's following just wanted to note that
3 each though time line should be followed
4 and we are going to establish something
5 that if there is a district that doesn't
6 need that time line that there should be
7 supported put in there to help that be met
8 rather than that being punitive because in
9 the end it's the student that is lose.
10 Mr. Chau: I want to emphasize
11 the need to align this with any federal
12 reporting clients that our districts have
13 as well. They tend to have to report out
14 data a year prior to the consolidated
15 applications. I know that the more we can
16 align and not have additional reporting
17 requirement it is better and since we are
18 already required to do some of that and
19 integrate it with the existing reporting
20 requirements will be very important so it's
21 not to create more work. I know others

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1 said we do our budget planning a year in
2 advanced before. To distinguish between
3 reporting what we are going to do and
4 implementing it are two different things
5 and we can certainly report ahead of time
6 but the implementation can come the year
7 after. We may need to distinguish what it
8 is they are asking for in this requirement.
9 It's one thing to report and it's another
10 thing to demonstrate you are doing it.
11 Ms. Jackson: This is not my area
12 of expertise, but Derrick said what I was
13 thinking this triage approach of first
14 let's get the lay of the land what's the
15 situation. What do we ideally what to do
16 and where are you and what is the plan?
17 You don't want to recreate a plan that you
18 are finally going forward with for five
19 years and adjust it if it's not working. I
20 like your different phase approach you
21 described.
Mr. Cheeks: I am real concerned about auditors. (laughter) they are going to hang their hat on two words shall and may. The one thing I want to echo and I think everyone is going to be exactly on point it's easy to meet this requirement.

I guess I just really am concerned about how the interpretation of this law is then carried out in terms of verifying that people are in compliance because oftentimes people got to verify compliance have no view whatsoever in terms of the actual impacting they are having on children. So that's the one piece that I would really lift to ensure that somehow we have figured that nuance out.

Ms. Podziba: Ary let's segway into the last question.

Mr. Amerikaner: What enforcement action must a state take if they find a district does not comply with the
1 requirement. I thought it might be knowing
2 that in addition to auditors there is also
3 monitoring responsibilities of the state
4 with their districts and so that there are
5 it's not just auditor that is would be
6 technically in compliance with this
7 requirement.
8 Ms. Jackson: So when I try not
9 to get anybody in trouble with this
10 comment. I just want to know that Marcus
11 said there's a difference between
12 compliance and being impactful in positive
13 ways. I have had hundreds of dollars worth
14 of supplies dropped off in my classroom
15 without any training for them and these are
16 fiscal years changing like we have to use
17 money for something here you go. So then
18 you have hundreds of dollars of materials
19 sitting there we had one training and
20 here's table of contents and then a year
21 and a half we have a new curriculum. So

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this maybe beyond the scope of statute and 
regulations here but as a teacher I just 
want to mention that the intentions are 
mostly always good. People want to make 
sure that you are actually utilizing funds 
given for something that benefits, but when 
there are tight time lines and the issue is 
compliance instead of impact that the 
children don't always benefit.

Mr. Amerikaner: Is there 
something here just as a follow up Audrey 
that you would hope we could do? Is there 
an action you want me to take in this 
particular regulation that you want me to 
take to address this?

Ms. Jackson: As a classroom 
teacher I would look at a different cohort. 
Sometimes I have many children way behind 
for one thing. They are not all struggling 
for reading for the exact same reason. To 
me the intent, the time line, and like
1 measurable outcomes you are going to
2 monitor along the way are the most critical
3 parts. With a are you trying to shift? I
4 was each thinking you know what are the,
5 what is the like interval for measuring
6 it's just every year if it's always a year
7 dose I don't think that matches every type
8 of impact you are trying to say. Sometimes
9 you need to say a change in a month.
10 Sometimes it may take years to have a
11 significant impact which is hard for us to
12 hear sometimes when you are talking big
13 dollars in kids lives. Sometimes it takes
14 years for a significant change to happen.
15 If you only reward investments in one-year
16 intervals you may not always invest what
17 you need to for the big long-term change.
18 That doesn't give you a quick answer. I
19 think if there is a way to in regulatory
20 guidelines or supporting materials to talk
21 about selecting what the problem practice

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if you will in a bigger picture outside the classroom is that you are trying to address the levers for impact and they held accountable as opposed can you assure me that this went to ex.

Mr. Pohlman: Sure. I would just like to add that you noted several entities beyond auditors who have authorities -- I would add authorizers that's allowed or discussed in state lied that's a difference to the state charter law. That needs to be made clear that authorizers should be included in the end and enforcement actions or corrective actions in response to areas of findings.

Ms. Pin Ahrens: As a parent and student advocate here I would encourage that for deciding the corrective action that the district and state should take. This is an opportunity for meaningful engagement of families and students in
terms of what do we do when those funds are not allocated appropriately to schools within, so I think there should be some sort of guidance that could come out of this piece in terms of including the parents and family members.

Ms. Briggs: More of the question I am not sure what the options are currently or what's envisioned for enforcement or corrective action.

Mr. Amerikaner: I don't know if I can speak to the entire realm of options, but I can sort of say that like for instance some of the things that when we have found when states have found or auditors have found noncompliance in the past there's been remedies including sort of making the shortchanged entity whole in some way over some amount of time. You know calculating how much money was sort of not spent in whatever way the rule in
question was asking it to be spent and whether to make that entity whole and immediately or over a certain amount of time. It is one example that's just coming to my mind. There's probably others so I don't mean at all to limit the committees thinking on that.

Ms. Podziba: Other thoughts?

Mr. Cheeks: That last comment brings to light a major problem that we run into in my state and probably a number of other states which is making the program whole. At the end of the day the child in the seat still doesn't benefit necessarily from that re-cooping of funds so one of the things I want to think to try advantage of if there's ways to provide proactive substantive actions that will prevent school districts from falling into a position being out of compliance with this.

That positions you to at least to deal with

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the worst of the worse those are going to
be blatantly not even applying with the
law. I think somehow clarification on
supporting the correct action prior to the
punitive components makes a better
approach. It works more beneficial for the
child in the seat.

Ms. Briggs: I sound like I'm
repeating myself again. Given that any
problems that might be found would be
unique to the particular situation either
in the district or within the state again,
I think regulatory saying these are the
three options seems like not the best way
to go and so I will leave this up to
guidance and you know past practice.

Ms. Pin Ahrens: I just wanted to
you know since we are talking about
interventions I was thinking about the
single school district again. I think this
might be the opportunity if they were to
1 provide reporting and not be exempt from
2 the supplement not supplant reporting this
3 would be the place where the state would
4 have the opportunity to intervene and
5 provide more funds to those districts.
6 Mr. Chau: I want to connect this
7 back to the previous question in our
8 discussion around reporting and the more we
9 could ask for districts to report out how
10 they are planning on spending their funds
11 which we do anyways to our states in our
12 budgeting process. If we can include this
13 reporting the year prior to or the
14 beginning of the year so that we would be
15 able to receive feedback rather than having
16 the pay back in the middle of the year
17 that's definitely something that we would
18 want to avoid and try to fix that prior to
19 or during the school year.
20 Ms. Ricker: I actually want to
21 concur with what Rita said earlier as I am

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thinking through this I am thinking if there is a school or a state who's misallocated funds it's uncovered after the school year the money has already been spent or accidentally spent or misspent it's certainly not a solution to with hold funds from them at the end of the day that's programming for kids they don't get. I would say that like a serious, sincere attempt to communicate with the communicate with the community is to how that, like how that got misspent or accidentally misspent or accidentally allocated incorrectly needs to happen so that the community can feel that at the end of the day there's a accountability to us to them. The community can help hold that district or that school site accountable then to say okay so as a result of this misallocation we are going to watch X, Y and Z this year because we realize that's what our students
1 need. So I am really strongly attracted to
2 this idea that it is an opportunity to have
3 a meaningful partnership with students in
4 their families around the intentional
5 allocation of those funds.
6 Mr. Chau: I just wanted to flag
7 that I totally agree. I think there's a
8 nice symmetry when we talk about
9 methodology we are talking about
10 transparency. When we talk about
11 compliance and performance we talk about
12 transparency as well. It's nice
13 symmetrical approach to this.
14 Ms. Pin Ahrens: Do you have
15 another comment?
16 Mr. Payment: So I am putting my
17 school board President hand on. What are
18 the points of intervention where
19 preliminary report could be submitted and
20 viewed against other funding sources and
21 then reconciliation report done as a later

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1 point so there is time before the end of
the school year. I don't think we have
ever done this I am trying to think how it
happens. I guess maybe if there's an
administrator that hasn't managed multiple
I am wondering if there are I don't know
how much states vary in their funding is it
June first or July first through June 30th
for most school systems at the state level
I don't know if that's different. Federal
funding is probably different than October
1st so what would be is there a meaningful
points of check points that could be done
early on and looked at and later in time
for reconciliation so I think that's
probably that's how you get to the
solution.

Mr. Evers: Three times in a row

this is great, again, not to belabor this
point. The idea of looking at what we are
suggesting with congressional intent is
1 really critical we all agree in focusing on
equity and families and parents are
involved. At the end of the day what we
suggest is rule making for guidance needs
to be consistent with what Congress
intended. I think we need to look back
where this began and go from there. I will
tell you from our advantage point from
Wisconsin when we get in this position with
school districts everybody is involved. We
wanted to first step to collaborate the
local school districts and make a difficult
decision rather than going -- that's my
vantage point from Wisconsin. For this
group I hope we can focus on what
congressional intent is.

Mr. Amerikaner: Can I ask a
follow up for making difficult situation
better? Is there for my purposes do you
happen to have an example or are you
thinking of a way you might approach that
with the district in this context? I don't mean to put you on the spot I am okay with that.

Mr. Evers: Our present position is if we find somebody not in compliance we as soon as we figure it out we meet with district leadership right from the get go and try to resolve it. If we can't resolve it then we escalated it to the point where we may have to recoop funds, but as the last position, so between that and taking funds away there's a whole slew of steps involving the community.

Mr. Payment: So some states are probably better than others with that. We just went through a reform with the bureau of Indian education. It's moving towards more of the gotcha approach, the jugular approach to more of the facilitated approach at the heart is the difference in some ways between charter officers who then
compliance Department's and the state
Department's where we do see ourselves as
the team and our charter officers work with
us more closely. I think it's a resource
issue too. States have so much more
resource and they are monitoring. I think
there's a different paradigm there of
catching it in a proactive way is different
than catching it down the road where it
maybe too late. I think part of that is
facilitating that relationship between the
funning source and the person and the
entity that receives the funding so they
are volunteering information in advance. I
think I am doing it wrong, oh no I am doing
it wrong. You can't do it that way but
maybe you can do it that way.
Mr. Wilbanks. I think what
really calls the non-compliance? Is it
something that's been repeated and is
more -- at many times when you take away
1 funds or you require repayment of funds
2 which is really this you don't send funds.
3 I guess there's been a few checks written
4 but generally you don't get future funds
5 and the kids do suffer, but you just can't
6 keep on using that as an excuse for not
7 complying. There has to be some
8 consequences down the road. I think of
9 consequences be at the highest level in the
10 district. They are called superintendents
11 aren't they?
12 (laughter)
13 Ms. Podziba: Ary, you will be
14 working with your team to develop language,
15 are there any points or language you need
16 more input on?
17 Mr. Amerikaner: I think we put
18 on all of them. I know that we have been
19 through a lot of material. I wanted to
20 give everyone one last chance if there's
21 anything that this conversation has
triggered for them they didn't say before
we go back and put pen to paper before we
go back and respond to.

Ms. George: I wanted to add onto
the graduated consequences is the provision
of technical assistance something that
might need additional assistance to
districts to help them out.

Ms. Podziba: Any other advice or
input that anyone would like to provide to
Ary before she and her team put pen to
paper and bring a proposal back to you?
Okay. So it's 3: 20 let's take a 15
minute break and when we come back we will
start on assessments.

Ms. Podziba: We are going to
move to the assessment issues. I am going
to turn the floor over to Patrick to do the
overview for us.

Mr. Rooney: Thank you and good
afternoon. It's rare that I get to say we
move to the exciting portion of the topic
testing especially after following
  3 budgeting. I think we will spend the rest
of today and tomorrow going through the
assessments. Before we begin I want to
give a little bit of context and talk about
two things, first as opposed to the
supplement not supplant. We are not
covered under title one regulations there's
an extensive set of regulation that is have
been this place for a number of years right
after the no child left behind. Many of
the statutory requirements have not changed
significantly between what the requirements
are under NCLB and what the requirements
are under ESSA. As a result we propose the
theory of action that the committee started
with the current regulations as the base
and amend or advise those regulations as
necessary where there's new aspects of the
statute where we incorporate new or
1 specific clarifications. You can see that 2 approach reflected in an issue paper that 3 we created for the discussion today which 4 is largely focused on significant new 5 aspects of the law where there are not 6 current regulations. In addition if you 7 look at issue paper six it's designed to 8 show how the current regulation that is are 9 not covered in individual issue papers but 10 the smaller shifts of a language that are 11 in the ESSA compared to what's done in 12 grand NCLB. Limited English proficient to 13 English learner to match the change in the 14 ESSA and removing the time line for line 15 assessments first need to be administered 16 under NCLB which introduced the idea of 17 annual assessments through grades through 18 eight. It's a time line for when states 19 had to comply with that piece. Since it's 20 no longer germane to where states are today 21 the -- show a strike through to remove that
1 piece. The second topic around which we
2 wanted to write brief context the
3 Department's role with the state assessment
4 systems. The law requires that the
5 Department to conduct a peer review of
6 state title one plans which include data
7 assessment systems. This was a requirement
8 under NCLB and remains a requirement it's
9 an essential tool that the Department uses
10 to confirm that states have complied with
11 the basic requires of the law to have a
12 basically sound assessment system. We have
13 been conducts peer reviews of state,
14 language arts and science and math
15 assessments since early 2000's and it's
16 grounded in the statutes an national
17 testing standards. The peer review itself
18 consists of a panel of outside experts
19 conducting their review by examining states
20 documentation about how it's been developed
21 and how the test was performed as the state
intended it to be performed. The peer review is not actually looking at the actual test or the actual test questions that are on the test. It's around the process documentation of how the state document it is creation of the test and the data confirms how the test performed. After they review the recommendations or the Department makes a determination about whether the assessment system met all the requirements in the statute of limitations. With that short overview of context I actually want to before we dig into specifics certainly where we did with Karen we had experts join us at the table. Hopefully tomorrow we will have more space. We have three experts to join us to help with our discussion over the next three days. Next we have Peggy Carr she's the national center of education statistics. And she's led the national progress for a
number of years as long as I can remember.

Dr. Martha Thurlow next to her is the
director of the national center and at the
University of Minnesota she has a wealth of
experience working with states to support
their efforts to develop assessments for
students with disabilities. In the corner
we have Dr. Hakuta who is a professor of
education at Stanford University. He has
been working with the states for the
assessment of English learners and math
content as well as English language
proficiency. I want to turn it over the
Peggy in what it means to have a technical
sound system.

Ms. Carr: Thank you. My charge
is to talk a little bit about what makes a
high quality assessment.

Mr. Rooney: We have the power
point she's going to go through in hand
outs which we will hand out to you.

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Ms. Carr: I want to preference my remarks with today is that I will not go overall of the important factors but just the crucial ones that make a high quality assessment will lead to a lot of what needs to be assessed in Q and A. When we talk about in general assessment it includes more than just a pool an instrument it's a collection of loss of data from different sources and a variety of sources and the tool itself, the assessment tool is just one part of the assessment system. Of course there are different types of educational assessments and we have formative assessments and we have summative assessments and that's going to be the focus of my remarks today. Summative assessments measure what students should know and be able to do at the end of some targeted period usually a specified targeted period, but it's about mastery of
a domain and how students are actually performing or demonstrate that understanding of that domain. Test questions and sometimes people will talk about them as probes. Really these are the tools within the assessment that are used to locate the student on a continuum of ability or a continuum of understanding of a domain of interest. This is regardless of the time of assessment it is, so whether it is a criteria referenced or assessment or an assessment that is known referenced where you are looking at the average student is benchmarking the place where you want to compare the student. The goal is to locate the student on this continuum. So there are two important functions that I want to talk about when we reference a high quality educational assessment. They are in the categories of the integrity, the internal workings of and assessment itself
and how valid the assessment is for making
inferences about what students know and can
do and then of course there's consequential
validity the importance of the consequences
of the utility, and the relevance of the
assessment for the purposes for which it
was intended. So by far perhaps the most
important concept when it comes to making
valid inferences about students is the
validity of the assessment and how valid is
the assessment when you talk about the
degree to which the assessment measures
what it purports to measure or intends to
measure there are components that is are
also related. They are not mutually
exclusive to the concept we are a larger
concept of validity. They include
reliability, alignment, and fairness. They
are all necessary components of the
validity. They are not necessary and
sufficient in and of themselves for
determining whether or not an instrument has validity or the degree of validity that an instrument is able to claim. So the concept of validity is a very large concept and they are various types of validity and content and criteria reference validity and at the highest level you have construct validity. In all of these cases the core is how well this assessment measure what is it purports to measure the reliability of an instrument is the degree to which an instrument can precisely predict how well it precisely how well it can predict what a student knows, what he is able to do how well you are able to locate that student on the mastery domain. How consistent is that prediction. Are you able to conduct a test and then a retest and then pretty much come up with the same response. If you have equivalent instruments or forms are they highly correlated. Do they have comparable
1 level of reliability? These are important
2 criteria for determining one's ability to
3 be able to locate students on the continuum
4 of a domain. Then there's content
5 alignment and how well the assessment
6 actually covers the domain of interest
7 whether we are talking about mathematical
8 abilities or literacy and how much depth
9 and breadth that one sees in the
10 assessment. Then of course there's
11 fairness, there's issues of bias and issues
12 we want to make sure it measures the domain
13 of interest and not construct irrelevant or
14 perhaps another domain that is not
15 intended, and then as I indicated
16 consequences are important. I want to dive
17 just a few minutes we are not going to talk
18 much about some of these other topics and
19 what you see here is again that major goal
20 of locating that student on that assessment
21 domain and the questions that you ask the
student is how you are able to determine
where that student is. It's not just the
number of questions it's the nature and the
quality of the questions. So if you have a
fourth grader you really shouldn't ask the
student one plus one or two plus two
because that's not going to give you a lot
of information about what a fourth grader
knows and can do or what the fourth grader
is expected to know and be able to do.
What about that complex equation there?
It's not something you want to focus on for
a fourth grader. It's not going to give
you a lot of information about that
student. Collectively the right number and
the nature of the questions and the quality
of the questions collectively give you
information about the accuracy that you
need to locate that student on that
continuum of ability. I want to point out
something important because we often use
these terms synonymously or as if they are
equal validity and reliability. You can
have an instrument that's extremely
reliable and accurate and very consistent
and gives you the same response again and
again. If you are not measuring what you
report to measure then there is no
validity, so an instrument can be very
reliable but not valid. An instrument that
is valid is always reliable. Fairness my
colleagues will say a little bit more so I
won't spend too much time on this. Issues
of fairness and equity can be built into
the instrument itself and how you design
the items an even how you administer the
assessment. You want to allow the student
to tell you through the questions what
they're able to know and not the confused
by the language and not be inhibited or
have barriers because the accommodations
are not available. There are also
1 technical ways to determine fairness and bias. You may have heard of terms like a differential item functioning and if you have students of different background that is have the exact same ability but they perform differently statistically on an item that's an item you want to flag and take a little or a deeper look into it. I mentioned earlier about content alignment. This is very close to the concept of content validity. Any assessment starts with an assessment framework that really define it is domain so whether we are talking about gee I don't mean met try, measurement or statistics in probability the framework will lay it all out for you. There's a blueprint that test developers use to actually determine what type of items we are going to include on the assessment, the nature of those items where the logical choice, construct tiff response
1 and how much time the students should be
2 spending on those items and for what
3 content strand. I want to also point out
4 because it's mentioned in some of the
5 literature that we have here is that we
6 want to make sure that we are able to
7 locate that student on that continent so
8 you can't just always concentrate on the
9 middle of the distribution you may need
10 items at the top or at the bottom because
11 there's students down at either end or up
12 at either end and you want to be able to
13 indicate what that student knows and can
14 do. Finally I mentioned consequential
15 validity. You want to be able to have an
16 instrument that can communicate
17 expectations for the student or the parent
18 for the teacher about what is expected what
19 the student is expected to know and be able
20 to do. This is important for instruction
21 and important for transparency for
stakeholders through the reports and
through the items. That concludes I think
the comments that I have I will turn it
back over to you at this point.

Mr. Rooney: One other hand out

that I wanted to hand out before we get
started and that is we realized that
everyone in your packet I think it's after
six we have the copy of the assessment of

the ESSA statute that the missing every
other page. Which will make this
conversation a little bit more difficult
when you don't have the statutes. This
version shall swap out the version in your

packet I apologize for that. Before we

start into issue papers I think we wanted
to have an opportunity for questions for

Peggy. Martha and Kenji will give a short

presentation. We will talk about inclusion

of students with disabilities and Kenji

before issues five A and five B. However,
1 we want them to be part of this
2 conversation throughout all of the question
3 about assessments how to make sure that we
4 are including all student ins according to
5 them all of the issue papers an all of the
6 discussion we want to have as a committee
7 over the next two days, so feel free to ask
8 them questions as well. We want to have
9 Peggy to the overview. I want to flag that
10 Martha and Kenji will talk later in the
11 week.
12 Ms. Podziba: Should we see if
13 there's any questions for Peggy?
14 Mr. Payment: I love measurement
15 and data and statistics. I appreciate the
16 section on bias so you stated that to me I
17 understand that and I agree with that if
18 it's there's additional content in the
19 question that can lead a student away from
20 what it's actually measuring it's not only
21 it's an invalid measurement as well, so it
1 sounds definitive to me it's coming from
2 the Department of Education. So is it
3 understood that it's that clear today or do
4 we have people around the room that don't
5 quite understand that yet? I would add
6 that the rural communities where literacy
7 is lower than it's even further compelling.
8 Ms. Thurlow: I will start. Do
9 people really understand bias means? The
10 simple answer is no it's very complex in
11 the end. I would start that Peggy
12 emphasized the domain, the importance of
13 the domain in defining what you mean in the
14 frameworks, et cetera. People often think
15 they agreed there but they go along through
16 the next steps that we will take is this
17 unfair or not unfair? Is it bias in the
18 results, and in fact they have different
19 very different definitions of what the
20 content means so going it's always critical
21 to start that what does the content mean?
1 You will see this example when people talk
2 about reading. A standard may say
3 understands or comprehends the text. For
4 some people comprehend means they can
5 decode and they can understand. For others
6 it means they can understand it doesn't say
7 anything about decoding, so that's just one
8 example it's a lot of complexities I say
9 around bias and there's not necessarily
10 agreement.
11 If I could just add to this I
12 really appreciated that question, and I
13 would say that there's a term that's going
14 around these days called the assessment
15 literacy which is the literacy of educators
16 around assessment that assessment systems.
17 I think it's become, it's kind of jumped to
18 the foreground because of the in many ways
19 the radical uses of assessment under no
20 child left behind as a punitive and so
21 forth. Really not using it in the hint of

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trying to support instruction. Like giving feedback on that you know an annual assessment and so forth. It really got over used and now we are seeing kind of a push back against that. It include ed in that are a lot of thing that is you are concerned about that the assessment is considered a one size fits all. It's given far more credit for accurately validly and reliably assessing students understanding than is wanted even by the test takers and so forth. It truly is a problem. As our student becomes more diverse and culturally diverse and so forth that becomes a question as well. I do think that this really this assessment and conversation gives us the opportunity to try to in a sense improve the assessment literature of all the users of the assessment systems.

Ms. Jackson: I won't get into this too much right now. I don't know if
1 this is accurate use of the term. To me
2 there's also in some ways a bias in terms
3 of access to accommodation. I have many
4 students effected by trauma. In order for
5 to receive many accommodations they have to
6 have an IEP or 504 plan. I am interested
7 in the role UDL can play in more reliable
8 and accessible accommodations I will put
9 those two together. There's also a bias
10 there's time when I give a math test and I
11 will have kids that will not do as well if
12 I gave them one question each half hour
13 they would guarantee to get almost
14 everything right. The context in which the
15 assessment delivered is actually itself can
16 play a role.
17 Ms. Carr: I was going to say the
18 literature is still growing when it comes
19 to identifying appropriate accommodations.
20 There's a lot of consensus just in general
21 about the use of particular accommodations

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but not all of them have been proven to be effective accommodations and the literature is now just beginning to grow around quasi experimental designs in which we demonstrate that an accommodation really is helping to remove a barrier for a student.

Ms. Jackson: I am very interested in learning about that. For many students having more time or have them a break even though they illusion is that it would. So thank you for noting that.

Ms. Thurlow: I was going to add that we have been going through a paradigm shift since 2010-11-12 somewhere in there where the consortium states have really tried to step back and open up what do we mean by universal design and accessibility and pull thing that is maybe in the past were considered accommodations into a more accessibility framework where all students can benefit from them. It raises one issue
and that is about decision making when either IEP team or 504 team and now a designated adult makes decision about what a student needs or doesn't need those are very difficult decisions. They should be data based, but often there's not enough time for database decisions, so we need to put some effort or thinking around that decision making process as well.

Mr. Hakuta: Around accommodations it's definitely growing around what's an appropriate accommodation for whom. And Martha and I represent sort of a diagram of students with disabilities and English language learners within there's a lot diversity to begin with and that that there are sort of misuses that are fortunately I think are starting to go away of taking some of the combination practices for students with disabilities and say things that's good for them. Let's
use it for that. A lot of this is well intentioned and you know they might convert the universal design principles and there for this and that. There is a knowledge based and I hope to share some of that with you of you know you really need to target this. There are you know native language assessments or assessments through Spanish or a native language from a student that maybe inappropriate accommodation for some students but not all even if their English language learners. Those are the kinds of nuances. I think we are getting better at understanding.

We have to because we have increasing population of English learners who have disabilities.

Ms. Briggs: A clarifying question to mar that you were talking about bias. I thought I heard you say that a question might be bias if the student can
1 comprehend it but not decode it?
2 Ms. Thurlow: I was talking about
3 the interpretation of the content being
4 assessed. Really understanding what you
5 how you're defining that content. What
6 your standards are in what they mean, so we
7 have standards now that say the student
8 will comprehend text. I can tell you
9 person A will say that means that student
10 understands it and it doesn't say anything
11 about that student needing to decode it so
12 it would be appropriate for the student to
13 have text to speech and others will say
14 when you use the word comprehends what it
15 means is that the student can decode the
16 text and understands it. So the point I
17 was trying to make is that bias is a very
18 complex issue and often it goes back way to
19 the standard you are trying to get at and
20 that people understand the same words
21 differently. Did that help or no?
I still think I hear you saying that could be bias around whether or not a student needs to decode the question or content or text. That seems to make a difference of opinion.

Right. It’s complicated bias conversation. Yeah. Good clarification. Yeah. So this is just a little aside but as we started our work here we were decoding several words that we weren't quite sure we understood were on the same page. Until we got on the same page we were interpreting different outcomes or results of what we were talking about until we came to that conclusion and understood it. I think most people sitting at the table are college educated. We had different -- we carried about what bias means in our different communities and professions, et cetera. Sometimes we gloss over the differences of being able to
decode words without recognizing that.

Ms. Carr: I just wanted to follow up on the issue that I think Martha is referring to regarding a reading comprehension that construct of reading comprehension. There are some state level differences about what reading comprehension is. The nape assessment defines reading comprehension to exclude reading the reading test. There are some states we won't call any names out. There's some states that have as their definition that reading comprehension and an appropriate accommodation is to read the entire reading test, but they would be excluded from the nape assessment and some of the international assessments if they did that. That's an example of how it can be a very different interpretation of the construct and could lead to differences in inclusion of students.
Mr. Pohlman: This may not be the right time to ask the question so someone can say table it. Can you commend on the impact of any translations or other items that will sort of materials on the underlying validity of an assessment. If it were translated for adaptive into languages other than it's original publishing what effect or impact that might have. This maybe let's take a look and move on but it's a question I have.

Mr. Hakuta: This is a typical expert response which is its complicated. You know you can go to Google translate and it will translate stuff for you and that's not a good translation. It gets you by in some cases that's not a standard that we want within translation. So there is and so simply doing an expert translation of a test might not do justice to the validity of that same test. A good translation

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1 could and so we have examples of that for
2 example the some of the smarter balance
3 assessment in that is in Spanish for
4 example that would be an example of a
5 clearly well conducted translation, so it
6 is possible to do but it's hard to do on
7 the cheap, so there are other things you
8 can do around giving linguistic access
9 using the native language. It could
10 involve glossaries and so forth or you
11 could you know translate the instructions
12 well. There's different hybrid approaches.
13 May I ask a follow up? I think
14 you would have to translate that assessment
15 first and then go through any validity
16 testing that would be necessary; is that
17 correct?
18 Yes, I want to add to I think
19 your response would you describe really
20 good. The industry has made a lot of
21 progress in this area particularly because

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1 we are now very much involved in
2 international assessment so the protocol
3 for handling an assessment that is supposed
4 to be comparable and standardized across
5 different languages has really been
6 something that the field has a lot of
7 experience in. So for example translating
8 and then back translating is of course
9 expensive but something that a good process
10 would try to do. The nape assessment for
11 example did something very similar when we
12 went into Puerto Rico we had it translated
13 but then we found out that the translator
14 didn't really know Puerto Rican Spanish or
15 something. I didn't realize there was a
16 difference, but there was and when the
17 students read the assessment they were
18 confused about some of the language, so we
19 learned the hard way, so I do want to
20 emphasize that the field is making some
21 really good progress but it is not cheap.

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Mr. Hakuta: But just to add to that with the kinds of construct that is trying to be measured today it gets more complicated. So many of the concepts within college career ready standards involve quite sophisticated displays of language by the test taker. So that and in the traditional sense you might have tried to simplify the language or tried to remove that as a construct to be measured but then that is part of the construct. Language is much more construct as a lot of the academic assessments that are used today. So in language is differ in the way they express some of these things like trying to construct an argument on how you make it plain and how you display the evidence around it and so forth. So I think that how that plays out in translation is still you know you can't take the old research and translation and
just immediately apply it to the current kind of construct that we are trying to measure all of that to say that this is quite complicated. It's exciting for researchers but at the practical level it's very complicated.

Ms. Jackson: I just want to add a clarifying question if you translate a test into child's native language or a language responsible at home that it wouldn't be reliable unless instruction is in that language newcomers aside. If you are learning about a topic all the time and then it's translated that it wouldn't necessarily be reliable?

Mr. Hakuta: I think you hit the nail right on the head. Again, there's some people who some students this would be appropriate. If you are not receiving instruction in that language then there's a lot of each something simple as just that
the vocabulary used in the discipline
unless you are taught in it you won't get it.
Ms. Harper: Not to go too far
down this because I think this will be part
of a discussion in one of our under one of
these specific topics but I represent
native American languages, native languages
in school that is are taught in the medium
of native languages and we have a lot of
questions about the validity and
reliability of result that is come from
translated assessments and this is an issue
with specifically with our native language
medium schools with a lot of -- the less
commonly taught languages around the U.S. I
think this is definitely something that we
do need to dive into later, but we have
been shown in several instances where
translating assessments into the native
languages is inefficient. It's a waste of
resources in years and resources that can
be better spent serving our students so we
need to talk about our civil rights
assessments in the language of instructions
in schools just as Ms. Jackson is saying we
should match up assessments with the
language of instruction. I will be happy
to get into that more later.

Mr. Rooney: We have a whole
issue that is on that topic. We can hold
onto that conversation until we get to that
topic.

Ms. Ricker: Thank you. I
actually because we had brought up bias
earlier and we are actually talking about
translation my hypothesis is that
translating something doesn't mean we
removed the cultural bias from it or any
bias from it. And understanding that
actually constructing a test in someone's
in a native language of a student may not
necessarily remove bias either, but I am wondering you could comment on the protocols in place to scrub bias and the remedy from when unbiased is uncovered in a test whether it's been translated or not?

Ms. Carr: I mentioned earlier statistical approaches to trying to uncover bias or equity issues in the development of assessment when I talk about DIV. I want to say program that is are concerned about DIF analysis where IE functions differently for different groups when they all have the exact same or you have been controlled for liability. They need to be doing these types of assessments for these different students on language backgrounds most large assessment scales do them. That is something that we should be concerned about that the groups of interest where you want to make absolutely sure that something isn't getting passed once it's been
developed through the design process
through the item development process things
could slip through. So there are other
technical approaches to trying to identify
them. I want to be careful and say that
you might have an item that shows up in DIF
but when you look at it and you dissect the
item there's really nothing wrong with it
and you let it go. Usually there's a board
program that has enough funds to do this.
They have something like IRB boards when
items don't pass DIV you have a group of
able bodies experts that dive into those
items to make a determination as to whether
or not there's a problem that needs to be
explored.

Can I ask I think Martha maybe we
can talk about what states generally do to
revise our assessments.

That's kind of where I was going
that often states have more than one
process to look at bias and the statistical analysis is one approach and then followed up by looking at the items. Many states also have either what they call content review or bias and sensitivity review committees, so there's a committee to look at the content. Is the congress tent of every item exactly what we expect it to be when getting at the standard we expect it to be getting at? Then they have a bias in sensitivity committee which is made up of you know individuals who know students with disabilities after individuals who know English learners an individuals who know low performing students and different ethnic groups who really look at the items for any potential issues that they see in terms of bias of the items for the various groups of students and then the statistical often followed by another one.

Mr. Payment: So I mentioned
1 literacy and sometimes embedded in some of the biases is also first experience or
first generation. In some cases my family lineage my mother was raised on this little island off the mainland. We were talking through 1950 so she has an eighth grade education. She didn't have the experience of the classics or some literature that we still use as passages that we have students read. It's so disconnected from their every day life that there's a bias in math as well, sometimes people don't recognize that. So just the experience of being first generation and not being literate you know through a certain generation that's it.

Mr. Ahart: Can you speak a little bit more on what standards the state has to meet in terms of the technical adequacy and when that was last done?

Mr. Rooney: That's maybe a
question for us in the Department to handle. The peer review process that I mentioned when I was talking about the process part is based, the statute so under the past was under the statute NCLB and the regulations we developed would be under ESSA and according to the regulation that is we come to through this committee and then the educational testing standards is APA the American psychological association and American educational research association and the national council for measurement of education NCME APA, ARA and ACPME the three organizations developed the professional education testing Standards for all educational and psychological assessments. They just revised and released standards in 2014 which is the first time they have been updated since 1999. The Department uses those standards in addition to statute of regulations to
1 develop our guidance for the peer review of
2 state assessments which we conducted from
3 the early 2000's to about 2012 when we
4 paused holding a peer review. Most states
5 were using new assessments and we released
6 a--we launched the peer reviews which are
7 starting later this spring.
8 Thank you.
9 Ms. Thurlow: I just wanted to
10 add that the Standard for education and
11 psychological testing went through a
12 dramatic change between the previous
13 version which was 1999 and the 2014
14 version. If you go find a 1999 version you
15 will see the validity and reliability, and
16 I can't remember all the next ones but way
17 toward the back is a chapter on students or
18 individuals with disabilities and then
19 another one on they called it something
20 different. It wasn't just the L's it was
21 linguistic and cultural diversity something

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like that. The new set of standards really took seriously the fairness and bias issues and they ended up having three foundational chapters they called them foundational chapters on which everything else should be based. Everything should be flowing through all the chapters and certification exams and lots of different kinds of testing topics in the three chapters are validity, reliability and fairness and so I think it's a really important shift. I think that shift was recognized or is recognized in the peer review guidance. Ms. Podziba: I checked at the break so there was no one signed up for a public comment. Do you think it makes sense to dive into the first assessment issue? Let's try to get our feet wet through the topic. We can pick it up tomorrow. The first paper is on computer adaptive testing. Under assessments number
Mr. Rooney: I will do a short intro and we have two questions or there's three questions. Thank you, Audrey. To guide us today the first topic is computer and testing I want to have a little bit of frame to make sure we are talking about the same thing fixed foreign test all students take the same questions and a computer adapted test. The test is responses from a student to determine whether to offer harder or easier questions as a result not all students will get the exact same questions on the assessment. The benefit of this is the test is more tailored to what the student's knowledge and ability. It also permits an adaptive test permits the similarly valid and reliable score as a fixed form test user fewer questions so they can calibrate to what the student knows and can do it can become a more
1 precise measure with fewer questions. The
2 ESSA exclusively permits computer adaptive
3 testing. It was not explicitly permitted
4 but it was something states could do. Many
5 states did develop an adaptive test, Oregon
6 has had computer adaptive testing since the
7 beginning of NCLB and there's many states
8 that have computer adaptive test. It's
9 guiding part of the conversation we have.
10 So the test needs to meet the state
11 requirements for technical quality’s that
12 are identified elsewhere in the statutes
13 for all assessments. It needs to measure
14 among each students based on the academic
15 standards for the students grade level and
16 grow toward sump standards an adaptive
17 tests may also measure the students level
18 of proficiency and growth using items above
19 or below students grade level. States may
20 also develop an adaptive alternate
21 assessment based on alternate academic

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achievement standards for the students with
the most cognitive disabilities. They also
have the same, the language is different
but it's same requirement measuring.
Achievement standards for which the student
is enrolled with that overview I want to
jump into the conversation. Some of these
are different. The issue paper is one of
them in that we tried to craft what
potential proposed regulations might be for
this topic. If you look on page topic and
the in blue is the text that is taken
directly from the statute and in red is
some potential language for the groups
consideration for discussion today. For
all of them we want to use this session to
talk through the questions and the issues
some of them are a little more
straightforward I think we did take a crack
as what some of the proposed language.
With that we can go through the first

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questions. I will read the first question is the statute sufficiently clear that from computer adaptive test must meet the same requirements that are like reporting grade level achievement and then a follow up if it captures information about the fifth grade student who's third year is well below grade level how would a state credit the school for the students learning while fifth-grade content and is still behind.

Ms. Pompa: I think the language is good for today. I think one thing to consider is more and more test makers are looking at computer adaptive testing for English learners. It carry it is same dangers in terms of changing language or modifying language such that the standard is not actually what's being measured. I would if it could be somehow expanded right now it gives the impression that we are only talking about students with severe
cognitive disabilities, but the nature of testing in how it's changing is that it's going to be used with more and more students, so language that can convey that somehow would be important I think?

Ms. Podziba: I am unsure are you talking about the proposed regulatory language?

Ms. Pompa: Yes.

Ms. Podziba: I am wondering if we can respond to the questions first and after words look at the regulatory text based on the -- I think this language is fine for today meaning not today, today this era this world we are living in.

Okay.

Mr. Rooney: When you are talking about adaptive test for English learners, do you mean test of an English learners English language proficiency or a test of
1 their reading and math content?
2 Ms. Pompa: Reading and math content knowledge.
3 Ms. Podziba: Thank you.
4 Ms. Briggs: I agree with Delia.
5 I think it reference that is the caps have to be as good as the other assessments.
6 The second question strikes me as accountability. How is state credits the school for what the student has learned either straight upgrade level or growth above the blue I think that of that what you do with the data once you get it and less of an assessment issue. I am not sure is that reflected somewhere. I guess maybe that's three? Is that new language three?
7 Well, I think actually I would say two little, little two ii's we are trying to clarify about measuring students proficiency at the grade level in growth provide that had the assessment provides
sufficient valid and reliable information at the grade level efficiency.

Is that 200.8 the reports to parents the individual’s reports to parents and students?

Mr. Rooney: I am forgetting what 200.8 is?

Ms. Briggs: I am in the table of contents. I did have a couple of questions about what cats can do as opposed to dogs (laughter). There's this notion of I think they are cross referenced to 200.2 would suggest that the cats need to provide itemized score analyzed and achievement standards? Is all of that possible? I wasn't sure about what cats can do?

That's what 200.8 is about the individual student reports and making sure it provides diagnostic information about students and the that's required of all tests is the statement requirements.
I take a cat in the fourth grade
it tells me I am so smart I am actually a
sixth grader. Dare to dream. I don't know
what itemized score analysis is and that
possible to create out of cats because that
would be required in making this reference
to 200.2.

Mr. Rooney: Our expert says that
it is. I don't think of it is any less
likely to happen in a fixed forum test.
Typically the way it states report and I
actually heard others at the table who knew
this better than I do. They often report
kind of strain level information the
student took a fourth grade content and
here's how they did on algebra and
probability and statistics, and they can
try to provide sub-scores based on other
topics others that do what they want.
I want to chime in to say in
order for that to happen there has to be
1 constraints on they call it the algorithm
2 used to define which items. An individual
3 student would end up saying based on their
4 performance. If they are not constraints
5 on the content or the test blueprint I
6 think then you are much more challenged to
7 be able to report in a way that you need to
8 be able to report.
9 Ms. Carr: In my estimation it's
10 not a valid cat. You do not include
11 consideration of content coverage as
12 basically is what I just went over in my
13 overview. The algorithm should include
14 specifications about psychological I'm
15 sorry the psychometric qualities of the
16 items that as well as the content coverage
17 aligned with the domain of interest.
18 Ms. Thurlow: There are cats out
19 there that do not consider the standards of
20 the content domains. They are based solely
21 on student’s performance which is a danger
for equity.

I just want to answer the basic question which is I think is important which is when you do have a task that go above or below grade level. I think it's helpful to have that information which I think is important in looking at growth, but the bottom line is the danger of taking assessments and going below particularly below grade level you still want to make sure you have a final measure of how that student is performing on the grade level standards. That's the requirement in the statute and the regulation should be very clear and specifying that.

Ms. Evangelista: As someone who -- what I think of assessment the first thing I think about is how it's driving the instruction that we are doing with students. And I know that you know working with the population where none of my
1 students are come anything at grade level
2 in the ninth grade certainly not in English
3 some of them in math, but mostly most of
4 them are not. I do think it's important
5 that students are given credit for the
6 growth that they make with students and
7 that information is used on the school
8 level to really drive our instruction and
9 set next steps for students just saying
10 they are not on grade level doesn't always
11 help us to tailor the instruction that
12 students need. I know that we know in New
13 York we are given credit for that progress
14 reporting an overall on the city level to
15 see how we have made progress for students
16 coming in at the low-grade level.
17 Ms. Ricker: Thank you. I want
18 to be technology specific about the answers
19 to the statute sufficiently clear? And say
20 that right now one concern we have is that
21 the statute is insufficiently clear
1 specifically about the condition that is
2 need to exist to accurately and equitably
3 access the sort of bandwidth the technology
4 needed to perform a computer adaptive test
5 successfully. Obviously one piece of that
6 is training on the technology right? And
7 Delia is right more and more testing
8 companies are designing computer adaptive
9 tests. I think that will grow faster than
10 this sort of access to the technology and
11 bandwidth and school districts need to do
12 this and not have you know a testing site
13 crash or kicked off on question five and
14 they log it back in and they are on
15 question eight mysteriously. I would and I
16 do believe it's necessary to address the
17 sort of conditions that need to exist to do
18 this or to access computer adaptive
19 assessment
20 Ms. Goss: To kind of reiterate
21 what she was saying about growth a lot of
times they come in at below grade level
when they come to us in our title one
programs and how would this then show then
total growth within each of the areas
because they could actually in the case of
that you know going away from literacy a
little bit going into the math aspect their
growth might need to be in say fractions or
decimals or you know something like that.
They may go leaps an bounds on that subject
but go know where on anything else and so
how does some of those kinds of things show
up in the reporting data with the cats?
Mr. Rooney: I don't know if we
need to respond to that. I think that's a
good question the question is whether the
regulation would permit an adaptive test
that then could measure that and whether we
are providing the conditions I think not
necessarily our I don't think the
regulations would be prescriptive on how
that would be done. I love to hear more
people when they think how Ed should
consider that in the regulation we are
trying to craft.

Ms. James: So just talking about
the growth versus academic proficiency part
of what I enjoy most is being able to
reflect and operate as reflective
practioner with my teachers as well as my
additional support staff. One of the
things that I think we do a pretty good job
at assessing students at where they are and
then measuring how far they have grown and
having had experience within the last two
years with use of the adaptive test it has
proven to help our students specifically
that are not on grade level to help our
teachers identify how to backfill and
thousand provide that into intervention
support. I am really fancied by how it
works because what we learned specifically
with second graders is that some of our second graders who a couple of the students were deemed as autistic students they actually demonstrated high levels of proficiency above what the teacher was actually was teaching in the classroom. Then there were certain areas for students if I think about some of my former high 9 school counter parts and now current high school counter parts. I think specifically about some of the students who are considered advanced in enrolled in classes such as advanced placement classes is wondering how they are making an impact on the student who obviously passed very foundational courses what they have learned that you can still have the opportunity to truly measure growth. I personally would like to steer away. I think there's need to look at active proficiency. If we are really impacting lives of young people and
trying to measure mastery within our teacher staff if you will and understand the impact that the teachers have I really think we should spend more time on growth.
I don't discount at all the need to have aligned with academic proficiency, but I think I would like to push the need to measure growth because that's what we are doing. All of our children come to us at different levels. I don't want to take too much air space. I think that we are on the right track when we start to measure growth regardless of any student’s learner profile.

Ms. Jackson: We are kind of mixing diagnostic with some of the assessments. In the reporting that would be really important to note that teachers and schools are going to have to be reflective if the diagnostic interpretation which is more in line with growth if you
are entering grade level for example. If that's based on what they have been instructed on. If the teachers is meeting them where they are at to move them and help them grow and if they are only grade level standards and the child is starting to make progress with regard to that. I think that's complex and you can argue a lot of different ways. I want to note that we are basically talking about taking two different types of assessments and integrating them into one computer experience and then I also wanted to come back to the idea of the purpose of the assessment and I love, I love data and I love growth data a lot. I think it really motivates students. I want to make sure that we discussed at some point probably not at four thirty on a Monday making sure we are not duplicating assessments if it is diagnostic that the timing of reporting
back is efficient and quickly enough to actually inform and adjust practices.

Mr. Ruelas: So to that in regards I agree with Delia with regards to the whole statute is clear in regards to reporting student achievements on cats itself. The part that you know I find pretty interesting in gist kind of want to point out is that the last part of the question says how would a state credit the school for the student’s learning while we are reporting that the student did not master the fifth grade content is still behind? That's a state accountability question it can't be answered at the federal level even know the student is not at that grade level his or her score will more than likely count toward the determination of the school being classified as one of the lowest performing schools which is what the federal requires.
I think the state is the ultimate decision on how to support these schools in regards to the growth or lack there of, et cetera.

Mr. Rooney: So that's fair and this might be a nice transition to the second question if people are amenable to it. I think both Lara and Aqueelha and Ryan have started to address what the question is a little bit, and there is a separation between the data that come from the assessment system and the use of that data and how it's used in the accountability system. Right now we are focused on the first part is how do you get good data from the assessment system and we are not delving into then how does the states accountability system use that data. The second question is over time could a focus exclusively on student growth without -- grade level neither chronic under performance at grade level graduating.
from high school or college or career
despite consistently improving each year.
That's partly why some of the comments you
heard from the table is around this statute
is clear that if you do an adaptive test
you have measure the performance of the
student on the grade level achievement and
you may also include additional and then
you can measure growth a grade level and
then you can include content above or below
as necessarily helpful to write additional
information and if there's a focus on the
growth without a focus on the grade level
of achievement of that then it could mass
that can the students growing each year but
still not exactly where they need to be
before they graduated high school and ready
for whatever the next step is college or
career and how do you balance those two
things between the growth data and the
grade level achievement data?

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Ms. Podziba: Let's get some answers.

Mr. Hager: Definitely you run into that problem. You are going to have a group of students that are never catching up. You have to grow toward something and how far you are going. If you are growing at the same pace and you started three years behind and then three years behind and never caught up. A colleague gave this analogy and I think it's an apartment one for this discussion. You know how you get a credit card statement if you continue to pay at this amount it will take you 30 years to get to you know your credit card will be paid off. I think in it's very easy for me to say this in terms of we credit growth and we credit getting to the goal of deficiency that we have to make sure that we are not taking 30 years to pay off our credit card bill. The ideal goal
1 would be by the time the student is
2 actually caught up. It's going to happen
3 for some quicker than others. In terms of
4 how we balance growth versus proficiency.
5 We have to make sure that we are not just
6 happy we are making one year progress if
7 the student is three or four years behind.
8 It's got to capture more than that.
9 Ms. James: Just to speak to that
10 and build a front end Ron, I think there's
11 a good place to start with growth and I
12 don't think that is the alls well end well.
13 I believe it should be used as a spring
14 board and to dig deeper. I most certainly
15 believe at the district level there should
16 be guidance that's given for school
17 principles and school leaders to develop a
18 comprehensive school plan in which they out
19 line specific target goals aligned to
20 academic proficiency. I do believe that
21 there needs to be sub goals that support
growth and then that cause and momentum
that's huge in a school and especially when
you are talking about having data driven
instruction or data driven meetings with
individual children and it trickling up to
the teacher from the administrative level
and administrative meeting with their
instructional suits and that continues to
have a string line of accountability. It
is certainly what I appreciate is using the
growth measurement as a tool to help steer
teachers and or school leaders and support
staff to the direction of how do we get
children to be proficient. Just speaking
from my own personal experience having
students that attended a school who were
three years behind in their reading grade
levels with the diagnostic assessment given
eyearly in the school year understanding
where we are starting, and then being
intentional about testing intermittently

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and then saying having students participate in that dialogue and then allowing them to see significant growth and just last year I am speaking from my own experience about 90% of my students exceeded a 2.6 growth in reading and interventions which was a direct reflection of how and what we choose to do with the growth measurement tool.

Mr. Wilbanks: I too think it is a good form of really offering some incentive if not satisfaction to teachers and principals that really work for years. I think danger which is stated in the question at some point in time they got to graduate from high school and will there be college and career ready. There has to be I think either another something that gives a projectory of where that student is and what is the likelihood that he or she will be able to complete high school. I do think it's great that it's only part of
what I see as one of the problems in really getting kids to where they need to be.

Ms. Pin Ahrens: Thank you. I want to build on that and saying that I appreciate that as a former educator that's this focus on growth, but as a parent I want to reinforce what Alvin is saying by the end we need to get them to be able if they choose to go to college without remediation. I want to emphasize that I think we should be focusing more on making sure that they are meeting those grade level standards while still giving them credit for growth but it has to be a sufficient accelerated growth rate. We need to determine if they are three years behind then what is the growth rate at each grade level to ensure by the end that they are not needing remediation when they graduate from high school? So there's got to be I think different growth we are
1 talking about.
2 Ms. Briggs: I echo the comment
3 about how this is a danger. Reading your
4 text it says you offered responses to the
5 questions above. I am just curious what
6 answer is in the proposed regs to that
7 second bullet about this notion of growth
8 and is that enough?
9 Mr. Rooney: I would point you to
10 C 2II and the red text that's added there.
11 Provide third-degree the assessment
12 pertains -- determination of the grade
13 level proficiency. I think our intent
14 there is to hopefully make it clear that
15 the test needs provide same level of
16 validity and reliability around the
17 precision of grade level achievement but we
18 were providing any other there for
19 providing a clear grade level achievement.
20 Ms. Podziba: Okay. Let's take
21 two more comments and call it a day Tony
and Thomas. I am going to check in with the public. Let's have those two final comments from the committee today.

Mr. Evers: The law is clear that the proficiency has to be measured. I think this is what you have is a great first start. In turn I value the growth if they are going to be valued in one test. I am not a statistician. It seems to me in those cases where cats have been made so that you can measure proficiency and growth in the same test the requirements like the peer reviewers have looked at and recommended and required actually make the test longer. That's just something that people have to recognize. If you are going to have a cat and it's going to measure both proficiency and it's going to measure an addition growth likelihood of us expanding testing time for kids is going to increase.

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Mr. Ahart: I like to weigh in on the important of growth I think it's emphasized more than it has in the past.

Efficiency is paramount. One of the things that is large urban struggle with is growth actually not really being given full credit for that and actually if you want to talk about return on investment and the performance of the school and the results they get for their kids they out shine some of their well to do suburban neighbors but continue to get punished and labeled as failure and that can be you know just be -- for the teachers and leaders in that school. It keeps it more and more difficult to keep the people serving the kids with the most needs. In particular we looked at this very closely in our district particularly with our immigrant EL's when we are required to test them after their first year in the country. I feel like we
are punishing them we are demonstrating
four five years of growth within a year.
  If we get them as freshman in high school
age our teachers can work miracles and not
have them proficient. I do believe that
some credit should be given that the school
suspect failing because I think our school
has a whole lot of kids they get through no
one's fault there's huge gaps in their
learning. It paints an accurate picture on
how schools are performing even if the
students haven't reached their ultimate
goal by the time we want them to reach it.
I think that's very important.

Ms. Podziba: Thank you I would
like to check in with the public is there
anyone that would like to address the
audience today? Sorry I'm tired. Is there
anyone in the committee that would like to
address the audience? Is there anyone in
the audience that would like to address the
committee?

Ms. Podziba: Patrick, I will turn it to you to adjourn for the day.

Mr. Rooney: Thank you everyone for a very productive first day. I appreciate everyone's time for sticking through it. We will convene tomorrow morning at 9 a.m. Thanks.

[END OF TRANSCRIPTION]