



601 PENNSYLVANIA AVE, N.W.
SOUTH BUILDING, SUITE 900
WASHINGTON D.C., 20004
PH: 866-240-7909

BOARD OF DIRECTORS

- *Andre Allen*, General Dynamics Information Technology
- Douglas Becker, Ph.D.*, HMH Riverside
- Nikki Eatchel*, Scantron
- Henrik Skovdahl Hansen, Ph.D.*, Dansk Psykologisk Forlag
- Christine Niero, Ph.D.*, Professional Testing
- John Oswald*, ETS
- Dan Rinn*, National Technology Transfer
- Rachel Schoenig, J.D.*, Cornerstone Strategies, Llc.
- Cicek Svensson*, Cicek Svensson Consulting
- Alex Tong*, ATA
- Timothy Vansickle, Ph.D.*, Questar
- John Weiner*, PSI Services LLC
- Bill West*, Pearson VUE
- *Chair*

Chief Executive Officer: *William G. Harris, Ph.D.*

General Counsel: *David Arnold, Ph.D., J.D.*, Wonderlic, Inc.

Secretary: *Gerald Borofsky, Ph.D.*, Bay State Psychological Associates

Treasurer: *Walter Wang*, Collegepre

September 9, 2016

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

Re: Docket ID ED—2016—OESE—0047, Innovative Assessment Demonstration Authority

Dear Ms. McKinney:

The Association of Test Publishers (“ATP”) provides this letter in response to the Notice of Proposed Rulemaking issued by the United States Department of Education (“Department”), dated July 11, 2016 (81 *Fed. Reg.* 44958), seeking comments on the proposed regulations developed to implement the innovative assessment demonstration authority provision in the Every Student Succeeds Act (“ESSA”), amending Title I of the Elementary and Secondary Education Act. Those proposed regulations amend the current regulations in 34 CFR Part 200. The ATP’s comments and recommendations are submitted timely by the due date of September 9, 2016; the ATP is also submitting comments today in the parallel NPRM on Title I Assessments.

The ATP is the international trade association representing approximately 175 publishers, developers, and vendors of assessments and assessment services (both non-profit and for profit) used in a variety of settings, including virtually every educational purpose for which the Department of Education is responsible. The ATP serves as the “Intelligent Voice for Testing,” providing input to the United States Congress, state legislatures, and federal and state agencies and courts, in their efforts to examine and resolve issues surrounding testing and the use of test data.

This letter is submitted on behalf of the ATP's educational assessment members, including many of the entities that have historically provided testing products and services to the states under the Improving America's Schools Act ("IASA") and No Child Left Behind Act ("NCLB") and related laws and regulations administered by the Department – and who will be called upon to assist in implementing the ESSA. Moreover, ATP members are called upon to provide evidence used in the peer review process, and to serve as a resource to educators at every level on a variety of assessment-related issues. Accordingly, the ATP feels it is critical that the transition from NCLB to ESSA be smooth and free of debate as states and districts continue to move forward with their assessments, assessment systems, and/or assessment programs.

As set forth in the Federal Register Notice, the proposed regulations are intended to support Section 1204 of the ESSA that allows the Secretary to provide innovative assessment demonstration authority to an SEA or a consortium of SEAs. Specifically, Section 1204(a) provides examples of innovative assessments that may qualify for such demonstrations: competency-based assessments; instructionally-embedded assessments; interim assessments; cumulative year-end assessments, performance-based assessments that are capable of being combined into an annual summative determination (which may be administered through computer-adaptive assessments), and on-demand assessments that allow students to validate mastery or proficiency when they are individually ready to take the assessment(s). Also as noted, there are no current regulations in 34 CFR that deal with this demonstration authority.

The education members of the ATP pride themselves on the ability to innovate, whether that has been in the context of individual state/local programs or as part of the various assessment consortia. Indeed, the industry has responded quickly and energetically to assist states to implement a wide variety of education reforms and policies. In so doing, the ATP and its members have been in the forefront of efforts to utilize technology to advance the goals of education reform. For example, the industry has pioneered the development and use of:

- Performance-based and portfolio assessments, in addition to constructed response and essays;
- Technology-enhanced items (e.g., drag and drop, hot spot, gamification);
- Formative and interim assessments;
- Technology-based student assessments administered online, as well as for using paper and pencil with technology-based scoring and assembly;

- Technology-based adaptive assessments based on an item bank, that enable each student to be assessed accurately and quickly using items best tailored to measure that student's level of knowledge and achievement;

- Vertical scaling and growth measures, which in fact predates the emphasis on alignment of standards in the Improving America's Schools Act and later in the No Child Left Behind Act, as well as the current focus on growth indicators;
- Tests that provide BOTH normative and criterion-referenced interpretations of student performance;
- International benchmarking;
- Tests of college and career readiness;
- Assessments for English learners and students with disabilities that adhere to universal design principles; and

- Extensive and sophisticated data and reporting systems that allow districts, principals, teachers, and parents to monitor and predict student performance early enough to target interventions and resources to meet individual student needs so they can meet college and career ready standards.

Accordingly, the ATP recommends that the Department include a requirement in proposed §200.76 that an SEA or consortia of SEAs must use competitive bidding to identify and select participants in the development of any innovative assessments under this authority. This requirement could be easily enforced by the Department as part of the application process, merely checking to make sure that each applicant can demonstrate that it will use competitive bidding for testing entities to participate in developing its proposal or by assigning a specific selection criterion value to that factor. As indicated above, the US testing industry possesses a wide range of expertise in dealing with assessment innovation, and this requirement will ensure that every entity, regardless of size, is able to present ideas and potentially participate in the innovation process. Of course, many state procurement laws specifically require this type of process, so there will not be any burden placed on SEAs by this requirement.

As a complement to this SEA requirement, the ATP recommends that the Department itself utilize a similar competitive bidding process identifying “external partners” to assist interested SEAs in planning for seeking authority and developing an application (see page 44960, col 2). Inasmuch as these experts will have a significant amount of input to SEAs, it will be as important that a wide-range of assessment partners’ innovative ideas are available to SEAs.

Conclusion

The ATP appreciates the opportunity to provide comments on the proposed Title I assessment regulations. We hope the Department will find these comments and recommendations useful to help improve our educational system and ensure that state and local assessments/assessment systems function smoothly and effectively to meet the needs of all stakeholders.

The ATP has at its disposal a wide array of psychometric content, alignment, and design resources and we stand ready to respond further on these issues if the Department has any questions or requests for further information.

Sincerely,



William G Harris, Ph.D.
CEO