

May 25, 2016

The Honorable Dr. John King  
Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, DC 20202



**The Education Trust**

Closing the gaps in opportunity and achievement, pre-k through college.

Dear Secretary King:

On behalf of The Education Trust, an organization dedicated to closing long-standing gaps in opportunity and achievement separating low-income students and students of color from their peers, thank you for the opportunity to provide comments on areas requiring guidance in the Every Student Succeeds Act.

As implementation of this law begins, the task is to ensure that states and local communities take full advantage of the opportunity – and responsibility – the law affords for equity. States and local educational agencies can use the flexibility in the law to develop plans that meet their unique contexts, which should promote ownership and buy-in of those plans.

But recognizing and honoring the need for state and local decision-making does not mean, as some have suggested, that from now on, there is no role for the U.S. Department of Education beyond cutting checks. We cannot forget that the state and local track record of serving the interests of vulnerable children is not a good one.

Left to their own devices, some states and localities will take paths of least resistance, walking away from the promise of equity in this law; others will struggle to understand what to do with the new flexibilities. And even the strongest leaders will need bolstering to do the critical but difficult work of advancing equity.

Two of the Department's important implementation functions – promulgating regulations and issuing guidance – can address these needs in different ways. As detailed in previous communications, the Department has an obligation to issue regulations that require states and localities to live up to the purpose of Title I: setting high expectations and providing necessary supports for vulnerable children.

But in addition to clear requirements, states and local educational agencies also need support to clarify and understand options. This is where guidance comes in.

In the coming months, the Department should issue guidance that:

- Highlights the policy and practice decisions states and local educational agencies must make;
- Elevates the importance of protecting vulnerable students in each decision; and
- Provides concrete examples of how states and local educational agencies could use each decision point to advance equity.

The following are our recommendations for particular issues for which the Department should issue guidance. We look forward to continuing to work with the Department to ensure that the Every Student Succeeds Act represents a step forward in the fight for educational justice.

Cordially,

A handwritten signature in black ink, appearing to read 'K. Haycock'.

Kati Haycock  
CEO, The Education Trust

## Accountability

As noted in our previous communications to the Department, regulations are necessary in several critical areas in accountability. To complement those regulations, we recommend issuing guidance on the following issues:

- *How to set ambitious goals and how to use those goals to set exit criteria*

ESSA requires states to set ambitious goals for, at a minimum, assessment proficiency and graduation rates. These goals must be set such that for groups that are behind, they “take into account the improvement necessary ... to make significant progress in closing statewide achievement gaps.”

We recommend providing guidance on what goals could look like, with specific examples that states could choose to draw on. For example, states could show how their goals are benchmarked against their top performing schools for students overall and their top-improving schools for either a) students overall or b) each respective student group, whichever is faster.

Additionally, we recommend providing states with examples of how they can ensure that their exit criteria for schools identified for comprehensive support and improvement and additional targeted support and improvement relate to these statewide goals.

- *How to determine what constitutes “meaningful differentiation”*

The “other academic indicator” and the “indicator of school quality or student success” must allow for “meaningful differentiation” among schools. This provision is critical to ensure that states don’t select indicators for their accountability system that obscure differences in performance between schools.

We recommend the Department provide guidance on using statistically valid measures of variation to show that an indicator allows the state to meaningfully differentiate between schools. For example, states could show that the indicators they have selected have a coefficient of variation (ratio of standard deviation to mean) above 0.05. This approach would preclude the use of indicators that show very similar results for all schools in the state – for example, where results for the 5<sup>th</sup> percentile school are only a few percentage points lower than those for the 95<sup>th</sup> percentile school.

- *What indicators of school quality or student success could be considered for the school rating system*

One of the important decisions states will make is selecting meaningful measures of school quality or student success that are related to and support student learning outcomes. In addition to regulations that reinforce the critical statutory requirements around the indicator of school quality or student success, we recommend providing guidance to states on the types of indicators they should consider. Examples could include measures of postsecondary readiness such as AP/IB participation and success, or performance on college entrance exams like the ACT or SAT.

- *How to address schools and local educational agencies that miss the 95 percent participation requirement*

States’ accountability systems must annually measure the achievement of 95 percent of students, overall and in each student group, on state assessments. This 95 percent participation requirement is necessary to prevent schools from exempting struggling students from state assessments in order to boost their scores.

The Department should promulgate regulations on how states should incorporate the 95 percent participation requirement into their accountability systems. Additionally, we recommend providing guidance on ways in which states, local educational agencies, and schools can take action to address and remedy low participation if they miss the 95 percent requirement.

- *How to develop quality improvement plans, including how to measure resource inequities*

Schools identified as requiring comprehensive support and improvement, targeted support and improvement, and additional targeted support and improvement must work with their local educational agencies and community stakeholders to develop and implement improvement plans. In order for this process to lead to improvement and gap closing, it will need to both identify and meaningfully implement the right interventions and supports for each school.

We recommend providing guidance on, and sharing best practices for, the quality of improvement plans, including the expectation that the improvement process begin with a needs assessment that identifies school-based root causes of underperformance and informs specific strategies for improvement.

Schools requiring comprehensive support and improvement and additional targeted support and improvement must identify resource inequities and include how to address these inequities in their improvement plans. To ensure this requirement results in meaningful action, we recommend that the Department provide guidance on how local educational agencies can analyze and develop clear action steps to remedy the resource inequities. When analyzing resources such as access to effective teaching and advanced courses, local educational agencies should evaluate inequities not only between schools, but between groups of students within schools as well. For example, research shows that African American and Latino students are less likely to be enrolled in AP courses than their peers in the same school building.

- *What comprehensive support and improvement should entail for small high schools*

The law allows for a local educational agency to “forgo implementation of improvement activities required under this paragraph” for a high school with a graduation rate below 67 percent and fewer than 100 students. We recommend providing guidance on what types of improvement activities are appropriate and should be encouraged for this subset of schools.

## **Assessment**

The Department’s negotiated rulemaking committee came to consensus on regulatory language on assessments in several key areas. One of the focal points for these conversations was comparability, and the final regulatory language should maintain, and strengthen, that focus. In addition to clear regulations on standards for comparability, the Department should use guidance to help states understand how to demonstrate their assessments are comparable.

- *Guidance on ensuring and demonstrating comparability*

We recommend the Department provide guidance on what constitutes a high-quality, rigorous method for evaluating comparability. This guidance should highlight existing examples of high-quality comparability studies and scoring crosswalks as well as provide best practices for states as they evaluate comparability.

Comparability is particularly important the provision of ESSA allowing for portfolios, projects or extended performance tasks to comprise a portion of the assessment system. While these tasks can be valuable for assessing student knowledge and skills, without robust quality controls, they could threaten the objectivity and comparability of the assessment system. We recommend, at a minimum, the Department issue guidance encouraging states using this option to set up systems in which a) the tasks are scored by an external evaluator (someone not employed by the student’s school); b) the state has common scoring rubrics for these tasks; c) all external evaluators undergo rigorous training on scoring tasks using these rubrics; and d) following training, evaluators are able to demonstrate inter-rater reliability.

## Teacher Equity

While states have recently submitted teacher equity plans for the Department, ESSA implementation provides an important opportunity to revisit the issue. The Department should guide states' work in this area through the following:

- *Provide examples of coherent strategies and best practices that reflect true teacher equity*

Many of the teacher equity plans submitted in 2015 described "raise all boats" strategies to improve teacher quality. While that is an admirable goal, it is not the purpose of these plans. Teacher equity plans are meant to be roadmaps for correcting the disproportionality in access to strong teachers our students of color and low-income students face.

Re-examining teacher equity in the context of ESSA provides the Department with the opportunity to highlight real strategies to address this inequity. We recommend the Department issue guidance to states with examples of best practices to help states better understand the goals of these plans.

- *Encourage local educational agencies to conduct needs assessments prior to deciding how to use their Title II dollars*

In order to get the most impact for underserved students out of its Title II funds, a local educational agency needs to have an understanding of the key needs of its educator field, particularly in struggling schools. We recommend the Department provide guidance on how to conduct such a meaningful needs assessment and how to use those findings to allocate resources most effectively.

## Public Reporting

ESSA increases the types and amount of data required to be reported. These changes represent a unique opportunity for greater transparency, but without clear guidance to states, the opportunity will be lost. There are two key areas where guidance is needed to ensure states meet ESSA's goal of increased transparency.

- *How to report school-level expenditures and allocate local educational agency costs*

Recent attempts to collect school-level expenditure data highlight the need for comparability across local educational agencies within a state. Part of the lack of comparability is due to local educational agencies' use of accounting practices that track very different amounts of funding to the individual school level.

As discussed in prior letters, we believe the Department must clarify – in regulations – the requirements for reporting school-level expenditure data on state and local educational agency report cards, including specifying the types of costs that do and do not need to be included in reporting.

To implement those regulations, we recommend providing extensive guidance to local educational agencies on how to assign different types of costs that are sometimes accounted for at the local educational agency level to individual schools. For example, professional development costs could be apportioned based on the number of teachers from each school that participate in a training. Coaching costs can be allocated to individual buildings based on the number of FTE hours that a coach spends at each school.

- *How to ensure report cards are concise and understandable*

With the increase in public reporting, states and local educational agencies run the very real risk of making report cards incomprehensible to parents and community members. We recommend the Department provide guidance

on how states can meet the standards for a concise and understandable format and how they can consult with parents most effectively to be sure the report card is understandable.