

**EMBARGOED UNTIL 8:45 A.M. ET ON MONDAY, NOV. 28, 2016.**

## **EVERY STUDENT SUCCEEDS ACT**

### **Accountability, State Plans, and Data Reporting: Summary of Final Regulations**

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Today the U.S. Department of Education (Department) issued [final regulations](#) to implement provisions of the Every Student Succeeds Act (ESSA) regarding school accountability, data reporting, and state plans. The regulations incorporate the valuable feedback that the Department received through the public comment process, while maintaining the focus on providing states with new flexibility to ensure that every child gets a high-quality and well-rounded education, and enhancing equity and preserving critical civil rights protections for all students.

**Comment [AFH1]:** LINK WILL BE LIVE TOMORROW MORNING, NOV. 28

The bipartisan law and these regulations give states and districts the opportunity to move beyond No Child Left Behind's reliance on a limited range of metrics and punitive "pass/fail" labels for schools, and use their planning and accountability processes to reimagine and redefine what a high-quality education should mean for their students. To that end, the final regulations clarify ESSA's statutory language by ensuring that accountability systems use multiple measures of school success, including academic outcomes, student progress, and school quality, thereby reinforcing that all students deserve a high-quality and well-rounded education that will prepare them for success. The final regulations also build on ESSA's flexibility around school improvement and intervention by providing further support for locally designed solutions to improve struggling schools, and a clear role for parents, families, educators, and stakeholders to meaningfully share in the implementation process. Lastly, the final regulations uphold the strong civil rights legacy of the law by including all students and historically underserved subgroups in accountability decisions, ensuring meaningful action where whole schools or groups of students are falling behind, and providing clear and transparent information on critical measures of school progress and equity.

The implementation of the ESSA builds upon a period of important progress towards providing a world-class education for every student in America. Led by the hard work of students, families, and educators, the nation has hit important milestones. Graduation rates have reached an all-time high of 83 percent; dropout rates are at historic lows, fueled by dramatic reductions in the dropout rates for African-American and Hispanic students; and states and cities across the country are implementing college- and career-ready expectations for all students, expanding access to high-quality preschool and free community college. At the same time, disturbing achievement gaps for historically underserved students persist – and in far too many schools, those students continue to have less access to the resources and support they need to thrive in the classroom and beyond.

ESSA and these regulations present an opportunity to continue making progress towards educational equity and excellence for all. For the first time, the reauthorization of the nation's defining elementary and secondary education law explicitly supports a preschool to college- and career-readiness vision for America's students. It also supports states, districts, and educators in reclaiming the promise of a quality, well-rounded education for every student while honoring the law's civil rights legacy – and these final regulations help realize that potential.

### **MAJOR PROVISIONS**

#### ***Accountability***

The final regulations give states flexibility to create their own educational visions and incorporate new measures of school quality or student success into their accountability systems while maintaining the core expectation that states, districts, and schools work to improve academic outcomes for all students, including individual subgroups of students. And while states and districts will continue to be required to take comprehensive action to turn around struggling schools, they have new flexibility, working closely

with stakeholders, to choose evidence-based interventions that are tailored to local needs.

#### *Statewide Accountability Systems*

- In order to **provide ample time for the transition to new statewide accountability systems**, particularly to allow for meaningful stakeholder engagement and thoughtful inclusion of new accountability indicators, **the final regulations give states until the 2018-19 school year to identify schools for comprehensive and additional targeted support and improvement**, with annual identification of schools with consistently underperforming subgroups for targeted support and improvement beginning in 2019-20. States may choose to implement sooner if they are ready.
- The final regulations allow states to **set their own ambitious goals and measurements of interim progress for academic outcomes**, taking into account the improvement necessary to make significant progress in closing statewide proficiency and graduation rate gaps.
- With regards to standards, the final regulations clarify that, **in their consolidated plans, States must simply assure that they will meet the requirements of the statute and any applicable regulations.**
- The final regulations reinforce the statutory requirement that states have **robust, multi-indicator statewide accountability systems for all public schools, including all public charter schools, underscoring the flexibility they have to choose new indicators that create a more holistic view of student success.** Those indicators must:
  - be the same for all public schools;
  - include valid, reliable, and comparable measures that are disaggregated by subgroup; and
  - measure each of the following: academic achievement; graduation rates for high schools and academic progress for elementary and middle schools; progress in attaining English language proficiency; and at least one state-selected indicator of school quality or student success (which may vary for schools in different grade spans).
- The final regulations provide states with **flexibility in their indicators to recognize the academic achievement of all students**, including those who have not yet reached proficiency or that have attained advanced levels, to reduce the focus solely on students “on the bubble” at the exclusion of others.
- Consistent with the law’s emphasis on transparency and clarity for parents and other stakeholders, the final regulations require that each state’s accountability system meaningfully differentiates schools by providing them with a **summative determination** from among at least three distinct, clear, and understandable categories, while allowing for multiple ways for states to designate schools in each category.
  - These categories **can be the same as those that ESSA requires out** – comprehensive support and improvement, targeted support and improvement, and other schools – or a state may develop its own system of summative determinations to describe school performance.
  - To ensure a nuanced and complete picture of school success, **states will also report a school’s overall result alongside performance on each individual indicator through a data dashboard** or other mechanism on its annual report cards.
- To give states flexibility to develop innovative approaches tailored to their individual needs, **the regulations do not prescribe specific weights or percentages for any of the indicators**; rather,

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they include the following provisions to ensure that states are emphasizing the indicators that the law requires be afforded “substantial” and “much greater” weight in their chosen approach:

- States must demonstrate that schools that would have been identified for comprehensive support and improvement on the basis of “substantial” indicators, but are not identified on the basis of the state-selected indicators taken together, have made significant progress for all of their students on at least one “substantial” indicator;
  - States must demonstrate that schools that would have been identified for targeted support and improvement on the basis of “substantial” indicators alone, but are not identified on the basis of all state-selected indicators taken together, have made significant progress for the subgroup that is struggling on at least one “substantial” indicator; and
  - To ensure that the system appropriately identifies schools with struggling subgroups of students, **states must demonstrate that a school with a consistently underperforming subgroup of students receives a lower summative determination** than it would have otherwise received without the underperforming subgroup.
  - Together, these provisions help ensure – consistent with the statute – that schools with low performance (including for individual subgroups) on indicators afforded “substantial” and “much greater” weight are more likely to be identified for support and improvement.
- The final regulations **allow states to choose their own indicators of Academic Progress and School Quality or Student Success, but to maintain the focus on student learning, they also require that these measures be supported by research indicating that high performance or improvement on such measures is likely to increase student learning**, such as grade point average; credit accumulation; performance in advanced coursework; or student achievement or growth. To reflect how these measures can be valuable indicators of students’ long-term success, for high schools, these outcomes can also include improved graduation rates; college enrollment, persistence, or completion; or career success.
  - Recognizing the growing size and diversity of the English learner population, the regulations **require that states consider at least one unique student characteristic, including students’ initial English language proficiency level, in determining ambitious but achievable targets for English learners’ progress toward English language proficiency**, within a state-determined maximum number of years. These targets are then used to set state-level, long-term goals and measurements of interim progress, and may also be used in the state’s indicator of progress in achieving English language proficiency, which can include all English learners, K-12.
  - To provide a fair and accurate picture of school success, and help parents, teachers, school leaders, and state officials understand where students are struggling and how best to support them, the law requires that all students take statewide assessments and that states factor into their accountability systems participation rates below 95 percent for all students or subgroups of students, such as English learners or students with disabilities. The regulations do not prescribe how states do this; rather they **suggest possibilities for how states might take into account low participation rates and allow states to propose their own actions that can be differentiated based on the extent of the issue**, but are sufficiently rigorous to improve schools’ participation rates in the future. Schools missing 95 percent participation must also develop plans to improve based on their local contexts and stakeholder input.
  - To ensure the statewide accountability system meaningfully **includes all students, especially historically underserved students**, the final regulations:

- **require states to consider each student subgroup separately** so that a combined subgroup of students or “super subgroup” cannot replace an individual subgroup;
- **do not specify what a state’s n-size must be for accountability purposes, but require that any state proposing an n-size larger than 30 students justify its n-size in its state plan**, including information about the number and percentage of schools that would not be held accountable for the results of students in each particular subgroup, as compared to the number and percentage if the n-size were 30 students; and
- **permit states to consider the performance of former English learners and children with disabilities** on state assessments within indicators for those respective subgroups.

#### *Supporting Low-performing Schools*

- Under the statute and the final regulations, states must identify certain schools at least once every three years for **comprehensive support and improvement**, including:
  - at least the lowest-performing 5 percent of Title I schools in the state;
  - high schools with graduation rates at or below 67 percent (or a higher percentage selected by the state) for all students based on the four-year adjusted cohort graduation rate; and
  - Title I schools with chronically low-performing subgroups that have not improved after implementing a targeted support plan for a state-determined number of years.
- States must also identify schools for **targeted support and improvement**, including:
  - schools with a subgroup performing similarly to all students in the lowest-performing 5 percent of Title I schools, to be identified each time the state identifies its schools for comprehensive support (these schools must also receive additional targeted support); and
  - schools with a consistently underperforming subgroup, as defined by the state, annually.
- The regulations **provide flexibility for states to propose their own definitions of “consistently underperforming” subgroups of students**, as long as they identify schools with subgroups which, based on the state’s indicators, underperform over multiple years. States may use goals and targets to identify these schools, or another state-determined method. If states’ definitions examine performance over more than two years, they must demonstrate how the chosen timeframe supports low-performing students and will help the state make significant progress in achieving its long-term goals and closing statewide proficiency and graduation rate gaps.
- The final regulations **recognize the critical role of stakeholders, including parents, students, educators, principals, and other school leaders, in supporting the development and implementation of school improvement activities** by requiring that districts notify parents of students at schools identified for support of the school’s identification, and how to be involved in the improvement process. This will allow all stakeholders to join the school in developing a plan that fits its unique needs.
- **In place of prescriptive interventions required under No Child Left Behind, the regulations allow states and districts to select evidence-based strategies tailored to local needs**, and include stakeholders in developing these plans. They will also ensure that states and districts set meaningful exit criteria for identified schools, including requiring additional action where initial interventions do not work to improve student outcomes.
- In schools identified for comprehensive or additional targeted support and improvement, the final regulations **require that their improvement plans review resource inequities related to per-pupil expenditures and access to ineffective, out-of-field, or inexperienced teachers; advanced coursework; in elementary schools, full-day kindergarten and preschool**

**programs; and specialized instructional support personnel** such as school counselors and social workers—drawing on data already collected and reported under ESSA.

- Under the final regulations, **states must continue to direct funds set aside for school improvement to schools most in need of support**. To ensure sufficient funds that provide meaningful support, the regulations require that a district receiving funds for school improvement receives a minimum of \$50,000 for each targeted support and improvement school it serves and \$500,000 for each comprehensive support and improvement school it serves; however, the state may determine that a smaller amount is sufficient in specific cases based on the school's size, identified needs, selected interventions, and other relevant factors. The regulations also reinforce the state's key role in providing technical assistance, monitoring, and other support, including ongoing efforts to evaluate the use of these funds for evidence-based interventions to improve student outcomes.

### *Data Reporting*

One of the core goals of ESSA is to enable parents and other stakeholders to engage meaningfully in their local education systems, which is only possible when they have access to clear, robust, and ongoing information about how their students and schools are doing. To accomplish this goal, the final regulations seek to ensure that states and districts work with parents to develop report cards that include timely and essential information to inform educational improvement for all students, including by:

- requiring states and districts to **consult with parents in designing the report cards**, and make them publically available no later than December 31<sup>st</sup> of each year (with the flexibility to add the per-pupil expenditure data on a slightly delayed timeline);
- ensuring that **report cards include a full set of accountability information** (including student assessment outcomes and graduation rates) so that stakeholders can fully understand school performance and better participate in developing solutions that target the specific needs of schools and students;
- clarifying requirements for new provisions, **including how to include students with the most significant cognitive disabilities who earn alternate diplomas** in graduation rate calculations;
- clarifying that state and local report cards must include information on **district- and school-level per-pupil** expenditures calculated based on uniform, state-developed procedures; and
- improving the transparency of **postsecondary enrollment data** included on report cards so that stakeholders have greater insight into student preparation for postsecondary education.

### *Consolidated State Plans*

The final regulations give states the flexibility, and responsibility, to think holistically about how to improve educational outcomes for all students while helping to ensure access to a well-rounded education. The regulations are designed to encourage each state to engage meaningfully with a wide array of stakeholders about implementation of the ESSA and to promote better coordination across ESEA formula grant programs to improve student outcomes and close achievement gaps. The consolidated state plan requirements also are intended to eliminate duplication and streamline requirements across programs, reducing burden and complexity for states in meeting federal requirements. Based on feedback, the final regulations are more streamlined compared to the proposed regulations.

- The final regulations **require broad, robust, and transparent consultation with a diverse, representative group of stakeholders** at multiple points during the design, development, and

implementation of a consolidated state plan, to ensure state and local voices are included in each stage.

- The regulations reinforce the ESSA’s strong emphasis on **equitable access for all students**, particularly those who are traditionally underrepresented (including low-income students, students with disabilities, foster children, homeless students, and English learners)
- To ensure that educators have the training and support they need to best support their students, the final regulations ask **states to describe their strategies to support and develop excellent educators**, including efforts to enhance and expand their systems of professional development, retention, and advancement. To build upon the Administration’s Excellent Educators for All initiative, “Educator Equity Plans” will be integrated into the consolidated application, to operationalize the ESSA’s requirement that low-income and minority students in title I schools not be taught at higher rates by ineffective, out-of-field, or inexperienced teachers.
- To give states more time to consult with stakeholders and develop their plans, **states may choose from two submission dates – April 3, 2017 or September 18, 2017.**

#### **NEXT STEPS**

To provide states with additional support and assistance, the Department will be releasing guidance on accountability, data and reporting, and state plans in the coming weeks, and will be hosting a series of webinars to support states and educators in this transition, beginning in January 2017. The Department has also launched the State Support Network, a new, four-year technical assistance effort focused on helping states and districts in their work on school improvement, particularly achieving significant improvements in student outcomes, scaling up effective systemic approaches and practices within and across states and districts, and identifying and sharing effective practices.