

Summary: Proposed Regulations on Accountability, State Plans, and Data Reporting under ESSA

The U.S. Department of Education (Department) is issuing a Notice of Proposed Rulemaking to implement provisions of the new Every Student Succeeds Act (ESSA) regarding school accountability, data reporting, and consolidated state plans, with the goal of giving states new flexibility to ensure that every child gets a high-quality and well-rounded education while enhancing equity and maintaining critical civil rights protections.

The bipartisan ESSA ensures that all students are prepared for college and careers while giving states and districts the opportunity to move beyond No Child Left Behind's reliance on a limited range of metrics and punitive "pass/fail" determinations for schools – and to use their planning and accountability processes to reimagine and redefine what a high-quality education should mean for their students. To that end, the proposed regulations clarify ESSA's statutory language by ensuring the use of multiple measures of school success based on 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 regulations also build on the new law'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, school leaders and stakeholders to meaningfully share in the implementation process. Finally, the regulations uphold the strong civil rights legacy of the law, which was originally signed by President Lyndon Johnson in 1965, 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 student success, school quality, and resource equity.

The passage and implementation of ESSA builds upon a period of important progress towards the promise of a world-class education for every student in America. Led by the hard work of students, families, and educators, the nation has hit important educational milestones. Graduation rates have reached an all-time high; 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 expanding access to high-quality preschool and free community college. At the same time, achievement gaps persist for historically underserved students – and, in far too many schools, those students continue to have less access to the resources and support needed to thrive.

ESSA presents 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 creates the flexibility for states, districts, and educators to reclaim the promise of a quality, well-rounded education for every student while maintaining the nation's commitment to every child by guaranteeing meaningful action is taken in our lowest performing schools, including high schools with low graduation rates, and in schools where subgroups of students underperform. The Department's proposed regulations will help realize that potential.

MAJOR PROVISIONS

Accountability

ESSA requires that all students be held to college- and career-ready standards. The proposed regulations reinforce the law's flexibility for states to incorporate new measures of school quality and student success into their accountability systems while upholding 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 action to turn around struggling schools, and to intervene in schools where groups of students are consistently underperforming, they have new flexibility, working closely with stakeholders, to choose interventions that are tailored to local needs.

Statewide Accountability Systems

- The proposed regulations affirm that states **set their own ambitious goals, and measurements of interim progress**, for academic outcomes, while also ensuring that states take into account the improvement necessary among subgroups of students to make significant progress in closing gaps in statewide proficiency and graduation rates.
- The proposed regulations reinforce the statutory requirement that states have **robust, multi-measure statewide accountability systems, while giving them the flexibility to choose new statewide indicators that create a more holistic view of student success**.
 - The proposed regulations include indicators of academic achievement, graduation rates (for high schools) or academic progress (for elementary and middle schools), and progress towards English language proficiency.
 - States would also have the opportunity to select new indicators of school quality or student success, while ensuring that those indicators:
 - Measure the performance of all students in all public schools (including public charter schools);
 - Allow for comparisons between subgroups of students;
 - Demonstrate variation across schools in the state; and
 - Are likely to increase graduation rates or academic achievement.
- To promote transparency in a format that is easily understandable by parents, the proposed regulations require states to assign a **comprehensive, summative rating** for each school to provide a clear picture of its overall standing. However, to ensure a nuanced picture of school success, states would also report a school's performance on each indicator, in addition to the school's summative result.
- To give states room to develop systems tailored to their individual needs, **the proposed regulations do not prescribe or suggest specific percentages for any of the indicators, or a range for weighting**; rather, they include the following provisions to ensure that states are emphasizing the academic indicators that the law requires be afforded "substantial" weight individually and "much greater" weight in the aggregate by stating that:
 - a school identified for comprehensive support cannot be removed from identification on the basis of an indicator of school quality or student success unless it is also making significant progress for all students on an academic one;
 - a school identified for targeted support because of a struggling subgroup cannot be removed from targeted support status on the basis of an indicator of school quality or student success unless that subgroup is making significant progress on at least one academic indicator; and
 - a school achieving the lowest level of performance on any academic indicator must receive a different summative rating than a school performing at the highest level on all of the indicators.
- Consistent with the statute's focus on measures beyond graduation rates and test scores, the proposed regulations **clarify that states choose their own indicators of school quality or**

student success. Consistent with the law’s focus on equity, the proposal requires that states are able to compare subgroups of students on each measure. To maintain the focus on student learning, they also propose that the measures included within the indicators of Academic Progress and School Quality or Student Success be supported by research indicating that performance or progress on such measures are likely to increase student academic achievement or, at the high school level, graduation rates.

- Recognizing the growing numbers and diversity of the English learner population, the proposed regulations ensure that states consider unique student characteristics, including students’ initial English language proficiency level, in setting goals, measurements of interim progress, and determining performance on the **indicator of progress in achieving English language proficiency**.
- In order 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 to support them, the law requires that all students participate in statewide assessments. States must factor into their accountability systems whether all schools have assessed at least 95% of all their students and 95% of each subgroup of students. The proposed regulations **do not prescribe how those rates must be factored into accountability systems**, but they do require states to take robust action for schools that do not meet the 95% participation requirement. **States may choose among options or propose their own equally rigorous strategy for addressing the low participation rate.** In addition, schools missing participation rates would need to develop a plan, approved by the district, to improve participation rates in the future.
- To ensure the statewide accountability system meaningfully **includes all students, especially historically underserved students**, the proposed regulations:
 - **ensure states consider each student subgroup separately.** 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 with an n-size larger than 30 students submit a justification for 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 if a state adopted a higher n-size.
- To ensure states hold all public schools accountable, the proposed regulations **ensure that states include all public charter schools in their accountability systems**.
- To provide states with flexibility to develop thoughtful accountability systems, the proposed regulations **allow states to update their accountability systems as they are able to include new measures within their indicators**.

Supporting Low-performing Schools

- Under the proposed regulations, states must identify certain schools at least once every three years for **comprehensive support and improvement**, including:
 - the bottom 5% of Title I schools in the state;
 - high schools with graduation rates below 67% 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 receiving additional targeted support.

- States must also identify schools for **targeted support and improvement**, including:
 - schools with a low-performing subgroup performing similarly to all students in the bottom 5% of Title I schools, identified each time the State identifies its schools for comprehensive support (these schools must be provided additional targeted support)
 - Title I schools with a consistently underperforming subgroup, as defined by the State, annually.
- The proposed regulations **provide suggested definitions of “consistently underperforming,” but allow states the flexibility to propose their own definitions** as long as they identify schools with subgroups that, based on the state’s indicators, underperform over two or more years.
- The proposed regulations **recognize the critical role of stakeholders, including parents, educators, principals, and other school leaders, in supporting the development and implementation of school improvement activities** by requiring that each district notify parents of students at schools identified for support and improvement of how to be involved in the school improvement process, so they can participate in developing a plan that fits its unique needs. These schools may have up to a year in the school year they are identified to conduct these planning and engagement activities.
- In place of prescriptive interventions required under No Child Left Behind, the proposed regulations **allow schools, districts, and states to select evidence-based strategies tailored to local needs**. They also would ensure that states set meaningful exit criteria so that schools implement additional actions where initial interventions do not work to improve student outcomes.
- In schools identified for comprehensive support or for additional targeted support, the proposed regulations would **require that their improvement plans review resource inequities**, including per-pupil expenditures and disproportionate access to ineffective, out-of-field, or inexperienced teachers identified by the State and district, drawing on data already collected and reported under ESSA.
- Under the proposed regulations, **states must continue to direct funds set aside for school improvement** to schools most in need of support. In order to ensure sufficient funds to provide meaningful support, the proposed regulations require that a district that receives funds for school improvement receives a minimum of \$500,000 for each comprehensive support school it serves and \$50,000 for each targeted support school it serves, unless the state determines that a smaller amount is sufficient. Additionally, the proposed regulations 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.
- In order to provide time for an orderly transition to new ESSA accountability systems and to ensure there is not a gap in supports for students, the proposed regulations require that **all states identify schools for comprehensive and additional targeted support for the 2017-2018 school year**, with annual identification of schools with consistently underperforming subgroups for targeted support beginning in the 2018-2019 school year.

Data Reporting

One of the core goals of ESSA is to enable parents and other stakeholders to engage meaningfully in their 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 proposed

regulations seek to ensure that states and districts work with stakeholders to develop report cards that include timely and essential information to inform educational improvement for all kids, including by:

- requiring states and districts to **consult with parents in designing the report cards**, and make them publicly available no later than December 31st of each year. These report cards serve to inform parents and community members about how students and schools are doing in a timely way;
- ensuring that **report cards include a full set of accountability information** (including student assessment outcomes and graduation rates) in an easily accessible manner, 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 students with the most significant cognitive disabilities who earn alternate diplomas may be included in graduation rate calculations**;
- **ensuring more transparency for parents, educators and community members around resource equity measures**, such as access to preschool, access to rigorous coursework, and school discipline;;
- clarifying that state and local **report cards must include specific information about district- and school-level per-pupil** expenditures calculated based on uniform, state-developed procedures, to ensure parents and educators have transparency into school funding; and
- **improving the quality of postsecondary enrollment data** included on report cards, so that stakeholders have greater insight into student preparation for programs of postsecondary education.

Consolidated State Plans

The proposed regulations give states the flexibility, and responsibility, to think holistically about how to improve educational outcomes for all of their students while helping to ensure access to a high-quality and well-rounded education. The proposed regulations are designed to encourage each state to engage meaningfully with a wide array of stakeholders as it thinks comprehensively about implementation of ESSA and promotes better coordination across state-based 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 for states in meeting federal requirements.

- The proposed regulations would **require broad, robust, transparent engagement with a diverse, representative group of stakeholders** at multiple points during the design, development, and implementation of a consolidated state plan. Stakeholders must include superintendents, educators, parents, community leaders, civil rights organizations, representatives of Indian tribes, and others.
- The proposed regulations reinforce the ESSA's strong emphasis on **equitable access to resources for all students**, particularly those who are traditionally underrepresented (including foster children, homeless students, and English learners). Through the consolidated plans, states must put forward plans to ensure that states meet the needs of all learners, including providing access to a well-rounded education that incorporates rigorous coursework such as STEM, history, foreign languages, music, and computer science.

- To ensure that educators have the training and support they need to best support their students, the proposed 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 ESSA’s requirement that low-income and minority students in Title I schools not be taught at disproportionate rates by ineffective, out-of-field, or inexperienced teachers.

PUBLIC COMMENT

In crafting the proposed regulation, the Department conducted extensive stakeholder outreach, including more than 200 meetings and events and hundreds of public comments. The NPRM will be on public display with the Federal Register starting on Thursday, May 26th, and can be accessed directly on our website at www.ed.gov/essa. On Tuesday, May 31st, the Federal Register will publish the NPRM for public comment for 60 days. The public comment period will close on August 1st. We invite all interested parties and stakeholders to comment on the regulations. In addition, the NPRM contains several directed questions on which the Department is particularly seeking input.