



Pennsylvania Association of School Administrators
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July 20, 2016

Meredith Miller
U.S. Department of Education
400 Maryland Ave. SW Room 3C106
Washington, D.C. 20202-2800

Dear Ms. Miller:

I am write to offer comments regarding the Notice of Proposed Rulemaking on accountability and state plans published in the Federal Register on May 31, 2016 on behalf of the Pennsylvania Association of School Administrators (PASA), whose members include school district superintendents and other chief school administrators who are responsible for educating 1.7 million students enrolled in Pennsylvania public schools. We welcome the opportunity to provide this feedback and look forward to the department's response, in the hope that the final rule reflects the feedback of the diverse group of stakeholders weighing in on proposed regulations necessary to implement the Every Student Succeeds Act (ESSA).

PASA believes the he proposed regulations do not achieve an appropriate balance, or conform with the intent of Congress, by providing sufficient flexibility to states and school districts in some areas while in others the proposed regulations appear to be overreaching authority provided to the Department. The power of ESSA is the flexibility it provides to states and to schools allowing them to focus on each school, classroom and student. The ESSA framework holds promise in stark contrast to the prescriptive and punitive 'one size fits all' approach under the No Child Left Behind Act (NCLB).

After carefully reviewing the Department's proposal, we believe several elements must be revisited. We are aware of the fact that collectively, leverage applied by USED regulations on accountability systems increase the likelihood that the changes implemented by state and local education state agencies is more peripheral than substantive. That they are more about just tweaking existing programs rather than fully rethinking approaches to improved accountability. Unnecessarily rigid regulations may hinder innovation at the state and district levels that we know is needed to effectively serve our underserved students and underperforming schools.

Several critical elements of the proposed regulations and our comments on each are offered below:

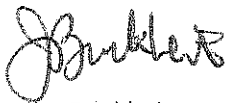
- **N-Size:** USED proposes to leave the n-size determination up to the state, unless the state wants to go above 30, in which case the state will have to justify a larger n-size. This is a compromise position beyond which USED must not stray. The proposal, as it stands, means that if more than 2 students are absent on testing day, the school would be out of compliance. USED must not issue any further guidance and could consider refraining from any regulation on this topic at all, as ESSA statue was clear in its assertion that this is a decision to be left to the states.

- **95 Percent Participation:** ESSA maintains the requirement that 95 percent of students take the tests. USED's proposed regulations leave it up to the states to determine how to respond to/cope with schools that do not reach the threshold, and require states to take serious action, but stop short of federal prescription about what that action/consequence might be. While this could be perceived as a higher level of prescription than ESSA intended, it is something that can be worked with, and we urge USED to issue no additional regulations on this topic.
- **Summative Indicator:** We are opposed to USED's regulation (200.18) that requires the state plan to include one summative rating from at least three distinct rating categories for each school. The statute requires evaluation of LEAs and schools on academic and non-academic factors, but stopped short of requiring each to be rated by a single indicator. The statute's clear step away from reducing a school to a single letter or number score is important and provides flexibility and support for more nuanced state and district reporting, including the use of data dashboards. Reliance on a summative indicator mirrors current reporting requirements, blurs the nuance that comes from multiple and varied indicators, unnecessarily hinders the ability of state and local education agencies to consider new approaches and increases the likelihood of states just maintaining the status quo of the broken NCLB. Why are we trying to reduce what should be a fair and comprehensive picture of schools to a single score? USED should ensure that states retain the flexibility to develop their own weighting systems, including the weight of individual factors. States must have the flexibility to choose among and report on multiple academic and non-academic factors that provide educators, parents, and stakeholders responsible for helping students and improving schools with relevant information. Allow states do what they were tasked to do: take responsibility for building transparent and fair accountability systems.
- **Timeline for Implementation for Comprehensive Supports:** We are opposed to the proposed regulation that would require all SEAs to identify LEAs in need of support/improvement for the *start* of the 2017-18 school year. It is very likely that states may not have their accountability plans finalized until well into the 2016-17 school year. This unnecessarily rushed timeline creates a scenario whereby a school in the first year of ESSA implementation will be labeled as needing support based on 2016-17 data, which is NCLB data. Given that 2017-18 is the first year of ESSA implementation, it follows that identification under ESSA would come only after ESSA-related data has been collected, at the end of the 2017-18 school year for use during the 2018-19 school year. We are concerned this proposal creates uncertainty as state and local education agencies may be unclear about which data is shaping their accountability status for 2017-18 (NCLB or ESSA?). We also suggest that this proposal, like the summative indicator, increases the likelihood that states maintain the status quo or, at best, implement only minor or peripheral changes to their systems. Instead, USED should treat the 2017-18 school year in a manner consistent with how it treated the 2016-17 school year after ESEA waivers expired, and freeze accountability ratings/labels.
- **Foster Child Transport:** We strongly oppose USED's proposed regulation as it relates to the transportation of foster children. The USED proposal deems that when it comes to transporting children in foster care, if the child welfare agency and district cannot reach an agreement the LEA is fiscally liable to cover transportation costs. While we agree with the right of students in foster care to have transportation to their school of origin, but finds that USED's proposed regulation is an egregious overreach in direct conflict with the underlying statute. The ESSA statute requires a collaborative approach between child welfare agencies and LEAs and provides that if there are additional costs for transporting students in foster care, the district "will provide transportation" for the child if the local child welfare agency agrees to reimburse the local educational agency for the cost of such transportation; if the local educational agency agrees

to pay for the cost of such transportation; or if the local educational agency and the local child welfare agency agree to share the cost of such transportation. It does not identify any specific entity as fiscally liable. USED's proposal directly undermines the collaborative, carefully negotiated language in ESSA and reduces the responsibility of the child welfare agency to meaningfully engage in discussions with the LEA. USED regulation in this area is unnecessary beyond simply underscoring that the LEA will provide transportation only in the three specified instances.

Thank you for the opportunity to provide feedback on this regulatory proposal and look forward to next steps in moving the policymaking process forward. Should you have any questions, please contact me at jbuckheit@pasa-net.org or at 717-540-4448.

Sincerely,

A handwritten signature in black ink, appearing to read "Buckheit". The signature is stylized and cursive.

Jim Buckheit
Executive Director