

January 21, 2016

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Washington, DC 20202



**The Education Trust**

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

Docket ID ED-2015-OESE-0130

Dear Ms. Spitz,

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 implementation of the Title I provisions of the Every Student Succeeds Act.

The Every Student Succeeds Act contains a number of meaningful levers that education leaders, parents, members of the business and civil rights communities, and advocates can use to advance education equity, including:

- Consistent, state-adopted standards for all students that are aligned with the demands of postsecondary education and work;
- Statewide annual assessments aligned with statewide standards;
- Clear requirements that statewide accountability systems must expect more progress for the groups of students who have been behind, base school ratings on the progress of all groups of students, and expect action when any group of students is consistently underperforming;
- A demand that states and districts report on and address inequities in the rates at which low-income students and students of color are assigned to ineffective, out-of-field, or inexperienced teachers;
- Continued targeting of federal funding to the highest poverty schools and districts; and
- Richer public reporting on academic outcomes and opportunities to learn for all groups of students, including, for the first time, school-level per-pupil spending and access to rigorous coursework.

To be clear, none of these levers will guarantee gap-closing and improved achievement for all. No law, no matter how strong, could ever do that.

But taken together, they represent key building blocks for an equity-focused school system — one that sets high expectations for all students, provides resources necessary for meeting those expectations, measures and reports progress toward them, and ensures action when any school, or any group of students, falls off track.

The task ahead is to ensure that states and local communities take full advantage of the opportunity — and responsibility — afforded by these levers. The state and local flexibility built into the law can be an important part of that by allowing plans that meet unique contexts and promoting ownership and buy-in of those plans. But the U.S. Department of Education also has an important role to play through regulation and guidance, especially when it comes to ensuring that states and localities are living up to the purpose of Title I: expectations and supports for vulnerable students.

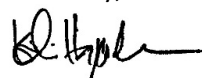
The Administration can and should issue regulations and guidance that:

- 1) Sets parameters to ensure that state and local plans serve all groups of kids. Past experience is full of examples of state and local decision-makers deprioritizing or downright undermining the needs and potential of low-income students, students of color, English learners, and students with disabilities. This has taken many forms, from setting too-low goals for schools to masking the performance of individual groups of students in school ratings to allowing inequitable staffing and funding patterns to exist year after year. Regulation and guidance must help guard against such decisions, which are counter to the purpose of Title I.
- 2) Bolsters strong state and local leaders. Past experience also offers examples of strong state and local leaders using the leverage offered by federal policy to make tough decisions. Regulation and guidance can promote and provide cover for strong leadership, especially when it comes to politically difficult decisions that benefit vulnerable students and communities.
- 3) Provides clarity and support to states and local leaders. Any law as big as the Every Student Succeeds Act leaves many key implementation questions unanswered — questions about timelines, transitions, and what does and does not meet the letter of the law. Regulation should provide as much clarity as possible to states and districts as they're developing their plans. Implementing the law well will also require new thinking and approaches. Guidance should offer insight and examples to help guide implementation of key provisions.

The following are our recommendations for the Title I provisions the Administration should regulate and/or issue guidance on, and what regulations and guidance should look like. Throughout, our focus is on leveraging Administrative action to build on the potential offered by the Every Student Succeeds Act and guard against risks to equity. All of these recommendations are consistent with statute and the purpose of Title I and are within the Administration's ability to act.

Thank you for your attention. We look forward to continuing to work with the Administration to ensure that the Every Student Succeeds Act represents a step forward in the fight for educational justice.

Cordially,



Kati Haycock  
CEO, The Education Trust

## Accountability

Strong accountability systems set a clear expectation that schools must raise the achievement of all their students, not just some. They focus attention and resources on the full range of student groups. And they prompt action when schools don't meet expectations for any group.

We applaud the Every Student Succeeds Act's requirements that states put in place school accountability systems that expect more progress for groups of students who have been behind, base ratings on the performance of all groups of students, and require action whenever a school consistently underperforms for any student group. Our recommendations are aimed at bolstering and clarifying these important equity levers to guard against low expectations or inaction in the face of underperformance, and to support states that want to set their sights high for all students.

### **1) Ensuring that expectations for all groups of students are rigorous and focused on academic outcomes.**

A key function of a school accountability system is to communicate what is expected of schools both to the schools themselves and to the public. In order for school accountability systems to support improvement and gap-closing, these expectations have to be both rigorous and focused on student outcomes. Therefore, we recommend the following:

- a) Clarify the evidence that states will need to provide to show that their goals are “ambitious” (Sec. 1111(c)(4)(A)) and require “significant progress” (Sec. 1111(c)(4)(A)(i)(III)) toward closing achievement gaps and provide guidance regarding what these goals could look like.**

The Every Student Succeeds Act requires states to establish “ambitious ... long-term goals” for all groups and each individual student group for improving proficiency rates on state assessments and graduation rates. The law also requires that for groups that are behind, these goals “take into account the improvement necessary ... to make significant progress in closing statewide achievement gaps.”

Because performance against these goals underlies 2 of the 5 required indicators in the school accountability system, getting them right is critical for ensuring that the system sets rigorous expectations for all student groups. The terms “ambitious” and “significant progress” clearly communicate the goal of dramatically improving student outcomes for all groups — especially those who are starting behind — and regulation should reinforce this goal.

***Recommendation:*** *Require states to explain their methodology for setting ambitious goals that require significant progress toward closing achievement gaps and clarify the evidence states will need to provide to demonstrate that their goals meet these criteria. For example, states could show how their goals are benchmarked against their top-performing schools for students overall, and their top-improving schools either a) for students overall or b) for each respective student group, whichever is faster.*

*To ensure that states are tracking schools' performance against these goals on a regular basis, we also recommend that the Administration clarify that the “measures of interim progress” required in the law*

*include, at minimum, annual performance targets aligned to long-term goals. States should also be required to make publicly available: 1) their goals; 2) the evidence used to demonstrate that they meet the “ambitious” and “significant progress” requirements; and 3) the interim annual progress targets aligned to these goals.*

*In addition to these requirements, we recommend providing guidance on what goals could look like, with specific examples that states could choose to draw on.*

**b) Define “meaningful differentiation” in the context of the other academic indicator (Sec. 1111(c)(4)(B)(ii)(II)) and the additional school quality indicator (Sec. 1111(c)(4)(B)(v)).**

Statute requires that the indicators states select for the other academic indicator and the additional school quality indicator in their accountability systems allow for meaningful differentiation between schools. This provision is critical to ensure that states don’t select indicators for their accountability system that obscure differences in performance between schools.

**Recommendation:** *Require states to demonstrate their method for determining meaningful differentiation, and 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 5th percentile school are only a few percentage points lower than those for the 95th percentile school.*

**c) Clarify that the school quality indicator (Sec. 1111(c)(4)(B)(v)) must be disaggregated by student group within each school in a statistically valid manner.**

State accountability systems have to measure all indicators (except English proficiency) for all students and for each group of students. This means that all indicators — including the other indicator of school quality — must be disaggregated by student group. This requirement is critical to ensuring that accountability systems promote equity on all indicators, not just some.

**Recommendation:** *Clarify that the other indicator of school quality must be disaggregated for each group of students within each school. This means that states cannot use indicators such as the number of AP or IB classes offered in a school to meet these requirements, but could look at the percent of students in each student group that are enrolled in an AP or IB class.*

**d) Provide guidance on the kinds of indicators that states could consider as the other measure of school quality (Sec. 1111(c)(4)(B)(v)).**

To support states in selecting meaningful measures of school quality that are related to and support student learning outcomes, we recommend providing guidance to states on the types of indicators they should consider.

**Recommendation:** Provide guidance on examples of indicators that states could consider as the other measure of school quality. Such examples could include measures of postsecondary readiness, such as AP/IB participation and success, or performance on college entrance exams such as the ACT or SAT.

**e) Set parameters around “substantial weight” and “much greater weight” (Sec. 1111(c)(4)(C)(ii)).**

The law requires that the student achievement indicator, the additional academic indicator, and the measure of progress toward English proficiency each carry “substantial weight,” and that together, these indicators carry “much greater weight” than the other indicator of school quality. These requirements are necessary to ensure that these systems maintain a strong focus on student achievement and attainment.

**Recommendation:** Clarify that in order to meet this requirement, states have to demonstrate that the other indicator of school quality cannot be weighted such that it prevents a school from being identified for comprehensive support and improvement, targeted support and improvement, or additional targeted support and improvement if it would have been identified as such based on indicators (Sec. 1111(c)(4)(B)(i)-1111(c)(4)(B)(iv)).

**f) Set parameters around the term “consistently underperforming” (Sec. 1111(c)(4)(C)(iii)).**

States have to ensure that their accountability systems clearly identify and require action in any school that is for any group of students. Because both school identification and action are triggered by “consistent underperformance,” the way these terms are defined will be critical to ensuring that schools are held accountable for the performance of all groups of students. A lax definition could allow schools to continue to get top ratings despite low or even declining results for some groups, and allow some students to languish for years in schools that are not serving them well.

**Recommendation:** Require states to base the definition of “consistently underperforming” on their statewide goals and interim performance targets for each individual group of students. Clarify that this definition must be more expansive than the criteria for schools that require additional targeted support and interventions, described in Sec. 1111(d)(2)(C), and must include not just the lowest performing schools for groups but also those that are consistently not making progress for one or more groups of students.

States should also publicly report their definition of “consistently underperforming,” including both the level and duration of underperformance, and describe how this definition fits the above-mentioned criteria.

**g) Require states to specify how they will include participation rates in their accountability systems, and provide guidance on options for doing so.**

States’ school 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.

**Recommendation:** *Require states to clearly state how they will factor the 95 percent participation requirement into their accountability systems, with a clear delineation of consequences for failure to meet this requirement for one or more groups of students. In addition, we recommend providing guidance on ways in which states can make the 95 percent participation requirement meaningful. For example, states could reduce a school’s rating by a level if the school does not meet the 95 percent requirement for one or more student groups.*

**h) Specify that the “progress in achieving English language proficiency” indicator (Sec. 1111(c)(4)(B)(iv)) must be measured annually.**

In the Every Student Succeeds Act, the subsection on indicators for the state accountability system includes the requirement that all indicators “except for the indicator described in clause (iv)” must be “annually measure[d]” (Sec. 1111(c)(4)(B)). Though the language was clearly targeting the requirement for disaggregation, in the current form, this provision could be interpreted as not requiring annual measurement of the English-language proficiency indicator.

**Recommendation:** *Require state accountability systems to annually measure, and include as an indicator, “progress in achieving English-language proficiency.”*

**2) Ensuring that school ratings reflect how schools are doing for all groups of students**

In recent years, as more and more states have been designing their own accountability systems, many have chosen to base their school ratings either solely on school-wide average performance, or on schools’ performance for students overall and for a supergroup of students. As a result, in most states, school ratings tell parents and community members little about how schools are performing for individual groups of students. Moreover, schools that are doing fairly well on average, but are performing poorly for such groups as their African American students or their English learners are allowed to ignore this underperformance.

The accountability requirements in the Every Student Succeeds Act seek to put an end to these trends by requiring that state accountability systems a) be based on indicators that are disaggregated by student group; b) differentiate any school that is consistently underperforming for one or more groups of students; and c) demand action when schools consistently underperform for any student group.

To ensure faithful implementation of the law, we recommend the following actions:

**a) Clarify that states cannot measure the performance of a supergroup of students in place of individual student groups and that the definition of subgroup in Sec. 1111(c)(2) includes students from each major racial and ethnic group.**

Statute requires states to base accountability ratings on schools’ performance for all students and for each student group, and to differentiate any school where any student group is consistently underperforming. Given the recent trend in states’ reliance on supergroups, we recommend that the Administration explicitly clarify that states cannot use supergroup performance as a substitute for the performance of individual student groups in accountability ratings.

**Recommendations:** Clarify that state accountability systems cannot use schools' results for a supergroup (e.g., a high-need group that includes students who are low-income, have a disability, or are English learners) in place of results for individual student groups.

The definition of subgroup in Sec. 1111(c)(2) must be clarified to specify students from **each** major racial and ethnic group. In other words, states should not be able to combine students from different racial groups (e.g. African American, Latino and Native) into a single group.

**b) Clarify how states must differentiate schools that are consistently underperforming for one or more groups of students, as required in Sec. 1111(c)(4)(C)(iii).**

If there is one thing we have learned from recent developments in state accountability policy, it's that when states publish school ratings (be they A-F grades, 1-5 star ratings, Poor-to-Exceptional labels, or top-to-bottom lists), both educators and the public pay the most attention to these labels, while measures that do not affect the rating are largely ignored. In recent years, we have heard from a number of advocates in states that did not include subgroup performance in their school ratings that results for individual groups of students were receiving little to no attention.

This is why the faithful implementation of the Every Student Succeeds Act requirement that ratings be based on disaggregated results for each group of students — and that they differentiate schools that consistently underperform for any group — is critical.

**Recommendations:** Clarify that school accountability ratings, or combination of ratings (be they letter grades, other labels, index values, or rankings), must reflect how each school is performing for each group of students that it serves, as well as whether the school is consistently underperforming for any student group. We also recommend providing guidance to states on how they can meet this requirement. For example, a state could choose to lower a school's rating by one or more levels if the school consistently misses improvement targets (tied to the state's goals) for any group of students.

**3) Ensuring that meaningful action is taken whenever a school is underperforming for all students or for any group of students.**

While it's critical to make sure that schools are held to high expectations for all groups of students, and that accountability ratings reflect how well schools are serving each student group, ensuring that meaningful action is taken whenever schools underperform for any group of students is also critical. We strongly support the requirements in the Every Student Succeeds Act that any school that is consistently underperforming for any group of students take action to improve and receive support to do so.

To ensure that states implement these requirements both meaningfully and transparently, we recommend the following actions:

**a) Provide guidance on the quality of improvement plans, and require states to explain how they will support their local educational agencies in determining what actions need to be taken in each school.**

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. While the decisions regarding specific interventions and supports are best made by states and local educational agencies, the Administration can support this work by providing examples of quality improvement plans and requiring transparency.

**Recommendations:** *Provide guidance on, and share 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. States should also have to explain how they will support their local educational agencies in determining what interventions and supports each school should receive.*

**b) Set parameters around exit criteria for comprehensive support and improvement and additional targeted support and improvement schools.**

States must set exit criteria for schools identified for comprehensive support and improvement, as well as for those requiring additional targeted support and improvement. These criteria will determine whether schools have improved sufficiently to no longer require the specific level of support, or, conversely, whether that support and intervention needs to be escalated. Exit criteria both set clear expectations for the results of the improvement process and help ensure that schools are firmly on the path to improvement before supports and interventions are removed.

**Recommendations:** *Require that states demonstrate how their exit criteria a) necessitate meaningful, sustained improvement on the indicators in the system and b) are related to the state’s long-term goals and interim progress targets. Exit criteria should be public, and states should have to describe how they meet the above-mentioned conditions.*

**c) Clarify what constitutes “unsuccessful implementation” of improvement plans in targeted support and improvement schools (Sec. 1111(d)(2)(B)(v)).**

Targeted support and improvement schools that fail to successfully implement their improvement plans within a local educational agency-determined timeframe are subject to additional action from their local educational agency. The law is not clear, however, on what constitutes “unsuccessful implementation” — a term that is important both for setting clear improvement expectations and for preventing students from languishing for an extended period of time in schools that are not serving them well.

**Recommendation:** *Clarify that “unsuccessful implementation” means failure to achieve meaningful, sustained improvement in relation to the state’s long-term goals and interim progress targets for the student group or groups identified as consistently underperforming. States should be required to describe how their definition meets the above-mentioned criteria.*

**d) Require states to specify timelines for escalated action in comprehensive support and improvement and additional targeted support and improvement schools, and to describe how**



**they will ensure that their local educational agencies take action in targeted support and improvement schools within a reasonable timeframe.**

States must intervene in schools receiving comprehensive support and improvement that do not meet exit criteria within a state-determined number of years (not to exceed four years). The law also requires states to identify additional targeted support and improvement schools that do not meet exit criteria within a state-determined number of years as comprehensive support and improvement schools. Targeted support and improvement schools that fail to successfully implement their improvement plans within a local educational agency-determined timeframe are subject to additional action from their local educational agency. To ensure that students are not left to languish in low-performing schools, it is important that these timelines be both rigorous and transparent.

***Recommendations:** Require states to clearly specify timelines within which comprehensive support and improvement and additional targeted support and improvement schools need to meet exit criteria in order to avoid escalation of interventions. In addition, require states to describe how they will ensure that their local educational agencies will take additional action in targeted support and improvement schools that do not make necessary improvements within a reasonable amount of time.*

**e) Require states to describe how they will determine the appropriate supports and interventions for comprehensive support and improvement and additional targeted support and improvement schools that do not meet exit criteria, and to describe how they will ensure that local educational agencies take meaningful action in targeted support and improvement schools that do not meet exit criteria.**

When schools fail to improve, their state or local educational agencies (depending on the level of underperformance) require them to take additional action. Ensuring that these escalated interventions are based on the needs of the school, and that they are substantial enough to lead to substantial gains is important both for protecting the students in these schools and for incentivizing action earlier in the improvement process.

***Recommendations:** Require states to describe how they will determine the appropriate supports and interventions for comprehensive support and improvement schools and additional targeted support and intervention schools that do not meet exit criteria and how these actions are likely to lead to academic gains in schools where prior improvement efforts have failed. In addition, states should be required to describe how they will ensure that their local educational agencies will take similarly meaningful action in targeted support and improvement schools that do not make necessary improvements.*

**f) Provide guidance on measuring resource inequities.**

The school improvement process in comprehensive support and improvement and in additional targeted support and improvement schools must identify resource inequities and include addressing these inequities in their improvement plan. To ensure meaningful implementation of this requirement, we recommend that the Administration provide guidance on the types of resource inequities that local educational agencies should consider.

**Recommendation:** Provide guidance on how local educational agencies should measure resource inequities in struggling schools. Specifically, we recommend that the Administration clarify that “resources” include, at minimum, funding, effective teaching and leadership, time in class, and course access. Moreover, for effective teaching and course access, 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.

#### 4) Clarify implementation timelines.

The Every Student Succeeds Act states that Sec. 1111(c) and Sec. 1111(d) requirements take effect beginning in the 2017-18 school year. It is not clear, however, whether this means that the first set of school ratings under states’ new accountability systems must be based on data from the 2017-18 school year, or the 2016-2017 school year.

**Recommendation:** Clarify that the first set of school ratings based on accountability systems that comply with the Every Student Succeeds Act requirements must rely on data from the 2017-18 school year.

### Assessment

Statewide, annual assessments aligned with state standards are an important way of measuring student progress consistently across classrooms, schools, and districts. They provide parents with objective information about whether their children are academically on track. They help educators benchmark the performance of their students against those across the state. And they give parents and the public an objective measure of how schools are doing at improving learning for all groups of students.

The Every Student Succeeds Act maintains the important requirement for statewide, annual assessment, but provides some flexibility for innovation in state assessment systems, including an option for states and local educational agencies to select different nationally recognized high school assessments; allowance of portfolios, projects, and performance tasks as part of a state assessment system; and an innovative assessment system pilot program. While innovation is important, it *cannot* come at the price of rigor and comparability — the two features of statewide annual assessments that are most critical for equity.

Our recommendations seek to ensure that as states and local educational agencies take advantage of these opportunities for innovation, assessments remain both rigorous and comparable.

#### 1. Ensuring assessments are comparable.

Comparable assessments are a critical safeguard against lower expectations for low-income students, students of color, English learners, and students with disabilities. To preserve this comparability, we recommend the following:

**a. Clarity and specificity on locally selected high school assessments (Sec. 1111(b)(2)(H)).**

The locally selected high school assessment option in the Every Student Succeeds Act creates the potential for local educational agencies within the same state to use different assessments. This poses serious risks to equity and must be implemented with extreme caution.

**i. Define “nationally recognized high school academic assessment.”**

First, the term “nationally recognized high school academic assessment” must be defined. The phrase is a subjective one, and it opens the door to significant issues with comparability. There are also many assessments which are solely norm-referenced and thus unable to provide objective information about a student’s mastery of academic standards, as required by statute (Sec. 1111(b)(2)(H)(v)(I)).

**Recommendation:** Define “nationally recognized high school academic assessment” as a limited set of criterion-referenced assessments that are aligned to state standards, are fully vetted through peer review, and are already used in multiple states.

**ii. Establish rigorous requirements for determining comparability of nationally recognized high school assessments to statewide assessments.**

Statute requires that nationally selected high school assessments undergo the same peer review process as statewide assessments to ensure that they meet all technical and comparability criteria (Sec. 1111(b)(2)(H)(iii)(II)). This peer review process must be stringent in order to ensure that these assessments are rigorous, of high quality, and comparable to statewide assessments in each state.

**Recommendation:** Establish a rigorous peer review process to ensure that nationally recognized high school assessments meet the quality and comparability criteria in statute. The peer review teams for these assessments should include professionals with expertise and experience specifically in conducting and evaluating comparability studies. When submitting a locally selected assessment for peer review, the state or local educational agency proposing the use of the assessment must provide evidence of assessment comparability, including, at minimum, comparability studies and scoring crosswalks to demonstrate how the new assessment will yield “comparable, valid, and reliable data on academic achievement, as compared to the State-designed assessment ... with results expressed in terms consistent with the State’s academic achievement standards” (Sec. 1111(b)(2)(H)(v)(II)) such that the results can be used in the state’s accountability system.

**iii. Provide clear guidance for state technical criteria.**

Sec. 1111(b)(2)(H)(ii) requires states to establish technical criteria for determining if a locally selected assessment will be allowed. Aligning state technical criteria with the standards for the peer review process will ensure quality and consistency through the approval process.

**Recommendation:** Require states to demonstrate that they have aligned their technical criteria to the peer review requirements, including the requirement for high-quality comparability studies and scoring crosswalks to be submitted and validated prior to consideration for state approval.

**iv. Provide additional areas of clarity around the approval process.**

Within Sec. 1111(b)(2)(H), there are two additional provisions that should be clarified in order to make the process of reviewing and approving locally selected assessments as straightforward as possible. First, while statute requires locally selected assessments to go through the peer review process, which includes provisions for Secretarial disapproval, it should be clear that the Department of Education can disapprove of a locally selected assessment based on the results of the peer review and the quality of evidence submitted.

Additionally, while Sec. 1111(b)(2)(H)(iv)(II) requires state educational agencies to allow a locally selected assessment to be used in any local educational agency after the assessment has been approved, it must be very clear that approval of an assessment in one state does not indicate approval in another state, nor does it provide a presumption of approval in another state. Because every state has different standards and accountability systems, alignment and comparability for that state's context must be examined in each instance, even if the same assessment has been approved in another state.

**Recommendations:** Clarify that the Secretary may disapprove of a locally selected assessment if the peer review determines that the assessment does not meet the quality and evidence criteria.

Additionally, clarify that the peer review and approval process must be conducted for each assessment in each state seeking to use a locally selected assessment, and that approval of the assessment in one state does not guarantee its approval in another state.

**b. Setting standards for quality and comparability for portfolios, projects, and extended performance tasks when used for accountability purposes.**

The Every Student Succeeds Act allows for additional flexibility in constructing state assessment systems, including allowing a portion of the assessment to be “delivered in the form of portfolios, projects, or extended performance tasks” (Sec. 1111(b)(2)(B)(vi)). While such measures can be valuable for assessing student knowledge and skills, strict quality controls must be in place to ensure rigor and comparability. Without these quality controls, these measures could threaten the objectivity and comparability of the assessment system.

**Recommendation:** Require states that choose to use portfolios, projects, or extended performance tasks as a part of their statewide annual assessment system to demonstrate that they have ensured the integrity and comparability of the results. At a minimum, the states should have to ensure that a) the tasks are always scored by an external evaluator (someone not employed by the student's school); b) the state has developed 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. Additionally, states must explain how the tasks contribute to the summative score for a student, including the weight of such tasks in the system and the content areas being measured through those tasks.

**2. Clarifying requirements around the Innovative Assessment and Accountability Demonstration Authority (Sec. 1204).**

The Innovative Assessment and Accountability Demonstration program opens the door to different assessments in different districts on a time-limited basis. While there is value in and need for assessment innovation, this, too, must be implemented with extreme caution.

**a. Establish clear standards for ensuring innovative assessment systems are valid, reliable, and comparable.**

According to both the application (Sec. 1204(e)(2)(A)(iv)) and the peer review (Sec. 1204(f)(1)(B)(i)) requirements, states have to demonstrate how their innovative assessment system is valid, reliable, and comparable to statewide assessment systems. In order to make sure innovative assessment systems meet this bar, the standard for “valid, reliable, and comparable” should be at least as rigorous as those for statewide assessment systems and states’ demonstration should include actual evidence, not just plans.

**Recommendation:** *Set a standard for technical quality that exceeds that of the statewide assessment and requires comparability studies and scoring crosswalks, beginning in the first year of the demonstration period and updated annually.*

**b. Clarify that applications can only be submitted after the statewide assessment peer review process.**

The peer review process must inform the determination regarding whether the innovative assessment system “is comparable to the State assessments under section 1111(b)(2)(B)(v)” (Sec. 1204(f)(1)(B)(i)). This provision clearly requires a state to first have an approved statewide assessment system.

**Recommendation:** *Clarify that a state must first have its statewide assessment system examined in the peer review process and approved prior to submitting an application for demonstration authority.*

**c. Define “reasonable time” for waiver.**

The demonstration authority requires states to scale the innovative assessment system statewide either within the initial demonstration period or in the two-year extension, a provision that is critical for equity. However, statute also permits the Secretary to provide some latitude in enforcing this timeline through a waiver. In order to receive such a waiver, the state must have a “high-quality plan for transition to statewide use of the innovative assessment system in a reasonable period of time.” Because having a comparable, objective benchmark for student achievement is so important, and because at the time of the waiver request, a state will have already had five years to scale the system, the term “reasonable period of time” should be narrowly defined.

**Recommendation:** *Define “reasonable period of time” as one additional year, after which authority must be withdrawn if a state has not scaled the innovative assessment system statewide.*

**d. Require the progress report to clearly indicate sufficient quality and comparability before demonstration authority is expanded.**

Prior to the extension of demonstration authority to other states or consortia beyond the initial cohort, the Every Student Succeeds Act requires the Institute of Education Sciences to publish a progress report

on the innovative assessment systems to inform technical support and the peer review process. The report must also “examine the extent to which ... substantial evidence exists demonstrating that an innovative assessment system has been developed in accordance with the requirements of subsection (e)” (Sec. 1204(c)(2)(A)(iii)). Because the report will be used to inform the potential expansion of demonstration authority, the report should focus on whether there is clear evidence of these systems meeting standards for technical quality and comparability, not just compliance.

**Recommendation:** Clarify that the report from the Institute of Education Sciences must show that no fewer than 5 of the 7 states with demonstration authority can provide clear, high-quality evidence of validity, reliability, and comparability in their innovative assessment system in order for the Secretary to extend demonstration authority to other states or consortia, and if that bar is not met, the Secretary must be able to pause or terminate the demonstration authority.

**1. Clarify assessment requirements relating to students with the most significant cognitive disabilities and English learners.**

The function and integrity of a state’s assessment system, and the way those results are used in a state’s accountability system, depend on the effective and appropriate assessment of all students, including students with disabilities and English learners. Too often, in our not-so-distant history, these groups of students in particular were disproportionately excluded from having access to the same learning opportunities as their peers because they either did not have to participate in the assessment system or their results did not count in a meaningful way. In order to prevent this situation from recurring, two provisions should be more explicit.

**a. Cap the actual number of students with the most significant cognitive disabilities — by subject — at 1 percent of all students.**

The Every Student Succeeds Act codifies the 1 percent cap on students taking the alternate assessment. Without this limit, it is far too easy for students with disabilities to be pushed out of the general education curriculum.

**Recommendation:** Update the 1 percent regulation on the alternate assessment on alternate academic achievement standards to make clear that the statute caps the actual number of students with the most significant cognitive disabilities — by subject — at 1 percent of all students. In addition, clarify that districts have flexibility to exceed the cap with state approval, and create strict federal parameters under which a state may apply for a waiver of the cap.

**b. Clarify states’ responsibilities on assessing English language proficiency annually for recently arrived English learners.**

The law allows for recently arrived English learners to be exempt from taking the reading or language arts assessment in their first year or for their results to be excluded for accountability purposes in the first year. While it seems implicit, it should be clear that these provisions in no way change a state’s responsibility to administer an English-language proficiency assessment in a student’s first year.

**Recommendation:** Clarify that recently arrived English learners must take the state’s English-language proficiency assessment in their first year.

## Standards

Academic standards are shared expectations for what all students need to know and be able to do at each grade level. Consistent, high expectations linked to the demands of postsecondary education are critical for ensuring that all students — not just some — get access to meaningful learning opportunities that prepare them for success after high school.

The Every Student Succeeds Act takes a significant step forward in ensuring each state’s academic standards in mathematics, reading or language arts, and science represent the knowledge and skills students need to be successful in postsecondary education and the workforce. Our recommendations are aimed at taking full advantage of this important development.

### **1) Clarify that that alignment “with entry requirements for credit-bearing courses” reflects actual placement in these courses, not just admittance to an institution.**

Section 1111(b)(1)(D)(i) requires standards to be “aligned with entrance requirements for credit-bearing coursework in the system of public higher education in the State and relevant State career and technical education standards.” To ensure that states’ academic standards are “challenging” and are putting students on the path to postsecondary success, this requirement should be clarified to refer specifically to placement in credit-bearing coursework.

**Recommendation:** *Require states to demonstrate standards’ alignment to the actual expectations of placement in credit-bearing coursework.*

### **2) Clarify which states need to demonstrate alignment with preparedness for credit-bearing coursework, and ensure this demonstration is meaningful.**

Through the process of ESEA Flexibility requests, many states have submitted a demonstration of their standards’ alignment with their system of public higher education. If a state has not made significant changes to its standards since that demonstration, it should not have to go through another process of demonstration. However, for states that have not gone through this process successfully, the requirement that states “demonstrate” their academic standards’ alignment with entrance requirements for credit-bearing coursework in the state’s system of public higher education and relevant career and technical education standards should be equally rigorous.

**Recommendation:** *Limit this requirement to states that have not demonstrated alignment through an ESEA Flexibility request or that have substantially changed their standards since their previous demonstration. For those states, require them to describe how the higher education community was included throughout the standards development and adoption process and include clear data and evidence that students demonstrating mastery of the standards are indeed able to be placed, and successful, in credit-bearing courses. This evidence should include, at minimum, letters from the head of the higher education system(s) or, in states that do not have such systems, representatives of typical higher education institutions, certifying that the standards are aligned with requirements for placement in credit-bearing coursework.*

## Teachers

Research confirms that teacher effectiveness is the most important in-school factor influencing student achievement, but that low-income students and students of color have less access to strong teachers than their more affluent and white peers.

Given the importance of this issue, we applaud the Every Student Succeed Act's requirements for both transparency and action around disparities in access to quality teachers. Our recommendations are aimed at ensuring that 1) states substantively implement their teacher equity plans and 2) meaningful reporting allows states, local educational agencies, and communities to gauge progress on equity gaps.

### **1) Ensuring that states substantively implement their teacher equity plans.**

The Administration took an important step for students last year by requiring states to submit plans for how they will address inequitable distribution of teachers. The Every Student Succeeds Act builds on that momentum by maintaining states' and local educational agencies' obligation to act on disparities in access to strong teachers and requiring states to monitor progress in eliminating these inequities. The passage of the law creates an opportunity both to reaffirm and strengthen state teacher equity plans.

We recommend, first and foremost, confirming that existing teacher equity plans are still in effect. We also recommend clarifying timelines for when these plans will need to be updated to address disproportionality in assignment to ineffective (rather than unqualified) teachers. In addition, we recommend addressing key shortcomings in existing state plans by setting parameters around measures that states should use to assess progress toward eliminating inequities, and providing guidance on strategies that explicitly address inequitable access to strong teachers, rather than improving teacher quality more generally.

#### **a) Reaffirm that current teacher equity plans are still in effect and clarify timelines for compliance with the Every Student Succeeds Act requirements.**

States may not know where their plans stand given the passage of the new law. We recommend clarifying that these plans are still in effect, and specifying a timeline for when they will need to be updated to comply with the new Every Student Succeeds Act requirements.

**Recommendation:** *Confirm that state plans are still in effect, and notify states that they will need to update their plans to comply with the Every Student Succeeds Act requirements in the 2017-18 school year.*

#### **b) Clarify options for defining "effectiveness."**

Sec. 1111(g)(2)(A) of the Every Student Succeeds Act requires states to make public "any methods or criteria the State is using to measure teacher, principal, or other school leader effectiveness" to meet the equitable distribution requirements discussed above. We recommend clarifying that states and local educational agencies that have evaluation systems in place can use results from these systems to define "ineffective."



**Recommendation:** Clarify that states can use teacher evaluation system results to define “ineffective.”

**c) Set parameters around measures that states should use to monitor progress toward eliminating disparities.**

Sec. 1111(g)(1)(B) of the Every Student Succeeds Act requires states to monitor progress toward eliminating disparities in assignment to inexperienced, out-of-field and ineffective teachers for low-income students and students of color. Unfortunately, many state plans call for monitoring that is disconnected from this goal, and instead focus on progress in implementing the steps the state has laid out, regardless of whether those steps prove to have a positive impact for vulnerable students. Some plans call for monitoring the distribution of teachers, but only commit to “improvement” without any indication of if and when the states expect to actually reach the full requirement, effectively leaving students underserved indefinitely.

These trends indicate the need for clarification regarding the measures that should be used to monitor progress toward eliminating inequities.

**Recommendation:** Clarify that states must set concrete timelines and numeric progress targets for eliminating disparities in assignment to inexperienced, ineffective, or out-of-field teachers for low-income students and students of color.

**d) Provide guidance on best practice for equity-focused (rather than raise-all-boats) strategies.**

Though the Every Student Succeeds Act requires elimination of disparities in access to strong teachers, many of the strategies in state plans focus on the overall supply, preparation, and support of teachers. While overall teacher quality may have an impact on the most vulnerable students, without targeting efforts to address issues to those who are most impacted, states will continue to underserve the students Title I is intended to support.

**Recommendation:** Provide guidance to states on strategies that are specifically targeted to eliminating disparities in access to strong teachers. This guidance should highlight examples from states who did incorporate targeted, equity-focused strategies in their plans.

**e) Explore enforcement options for when states do not meet the progress targets set in their teacher equity plans.**

Given the fact that the statute requires states and districts to ensure that low-income students and students of color are not disproportionately taught by inexperienced, out-of-field or ineffective teachers, it is not enough to simply have a plan for eliminating these disparities. States must be held accountable for reducing inequities, with clear follow-up and consequences when progress is not made.

**Recommendation:** Explore enforcement options for when states do not meet the progress targets set in their teacher equity plans. For example, states that are not making progress on eliminating

*inequities could be required to spend a substantial portion of their Title II set-aside on improving equitable access to strong teachers.*

## **2) Meaningful reporting allows states, districts, and communities to gauge progress on equity gaps.**

Section 1111(h)(1)(C)(ix) of the Every Student Succeeds Act requires state and district report cards to compare high- and low-poverty schools across the state and within each district on indicators including:

- Inexperienced teachers, principals, and other school leaders;
- Teachers with emergency or provisional credentials; and
- Teachers who are not teaching in the subject or field in which they are licensed or certified.

These public reporting requirements have potential to add critical transparency and draw attention to the issue of inequitable access to strong teachers. These data can also provide families, community leaders, and advocates with information they need to fight for greater equity in their districts and schools. But for these requirements to have their intended impact, states must use consistent, meaningful definitions in their reporting.

We recommend that the Department take the following actions:

### **a) Define “inexperienced.”**

A substantial number of states report teacher experience levels, but they do so in vastly different ways: some focus on average years of experience, others on teachers in their first half decade, and others on the most novice teachers in their first year. Without clear guidance on how to define “inexperienced,” states could choose widely varying definitions, some of which could obscure inequities instead of highlighting them.

We recommend defining “inexperienced” as “in the profession for the first year.” While some first-year teachers and leaders are good from the start, most will improve substantially with experience. The first year on the job is incredibly challenging, and states and local educational agencies that concentrate their novice educators in their highest need schools should have to address these disparities.

**Recommendation:** *Define the term “inexperienced” as “in the profession for the first year” for the purposes of reporting on the number of inexperienced teachers, principals, and other school leaders.*

### **b) Define “high-poverty schools” and “low-poverty schools.”**

The Every Student Succeeds Act requires states and local educational agencies to report educator qualification data for each individual school and to compare these qualifications across high-poverty and low-poverty schools.

To ensure consistent reporting across local educational agencies, and to reduce state and local educational agencies’ ability to select data that portray them in the best possible light, even at the cost of concealing disparities, we recommend defining “high-poverty schools” and “low-poverty schools” for the purpose of public reporting.

**Recommendation:** Define “high-poverty schools” as schools that are in the top quartile of poverty within the state or local educational agencies, respectively, and define “low-poverty schools” as those in the bottom quartile of poverty within the state or local educational agencies, respectively. States and local educational agencies should be able to choose whether to perform these analyses across all schools or within each grade-span. Local educational agencies with fewer than four schools in the same grade-span should be allowed to compare schools in the top half and bottom half of poverty for that grade-span instead of using the quartile approach.

## School Funding

Inequities in funding are foundational to all sorts of other inequities in our schools. Yet, as a nation, we continue to spend less on educating our low-income students and students of color — the very students who could benefit most from additional support.

The Every Student Succeeds Act contains several provisions that, if implemented well, have the potential to help address these funding inequities by increasing transparency regarding the resources available to individual schools, and truly holding local education agencies accountable for using federal funds to supplement, not supplant, state and local dollars.

To ensure that these provisions are implemented in a way that supports greater funding equity and doesn’t obscure inequities, we recommend the following actions:

**1) Clarify requirements around reporting of school-level expenditures, and provide guidance on best practices for this reporting.**

The Every Student Succeeds Act requires that states and local educational agencies report school-level per-pupil expenditures by funding source on their annual report cards. Implemented well, this requirement will greatly increase school funding transparency.

Recent attempts to collect school-level expenditure data, however, highlight the need for greater clarification and guidance to ensure that these data are meaningful and comparable across schools and local education agencies. School-level expenditure data collected under both the American Recovery and Reinvestment Act and Civil Rights Data Collection requirements vary greatly in quality and comprehensiveness. In many states, local educational agencies are reporting vastly different school-level expenditure data — a result of differences in accounting practices, rather than actual resources available to schools. This lack of comparability undermines the usefulness of the data and shows the need for greater clarification and guidance.

**Recommendations:** Clarify 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 the reporting. School-level expenditure data should include both personnel and non-personnel costs, and centralized local educational agency spending for services provided to schools (such as professional development) should, to the maximum extent possible, be assigned to individual schools.

*We also 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.*

**2) Clarify that to demonstrate compliance with the Supplement, not Supplant requirements, local educational agencies must present actual data on school-level expenditures of state and local funds.**

The purpose of the Supplement, not Supplant provisions in the Every Student Succeeds Act is to ensure that federal dollars are used to provide additional services for economically disadvantaged students, not to fill in gaps created by inequitable allocation of state and local resources. While we support the simplification of requirements for demonstrating compliance with these provisions in Sec. 1118(b)(2), additional clarification is needed to ensure that local educational agencies are meaningfully held accountable for using federal dollars to supplement, not supplant state and local funds.

**Recommendation:** *Clarify that to demonstrate compliance with Supplement, not Supplant, local educational agencies must use data on school-level expenditures from state and local sources to show that each Title I school received all of the resources it would have in the absence of federal funds. Local educational agencies that can show that each Title I school received at least as much per pupil in state and local dollars as the average of non-Title I schools could be considered compliant with Supplement, not Supplant. Local educational agencies that cannot meet this standard should be required to provide additional evidence to prove that providing less funding to their Title I schools does not violate Supplement, not Supplant requirements.*

*To ensure appropriate use of school expenditure data in Supplement, not Supplant demonstrations, we also recommend providing clarification regarding the costs that must be included in and excluded from expenditure totals used for this purpose, as well as any allowable adjustments for population density or very small schools. In addition, we recommend clarifying that local educational agencies can choose to demonstrate compliance using within grade-span, or agency-wide expenditure comparisons.*

## **Public Reporting**

Information on how all groups of students are performing academically, and whether all groups of students have access to key resources for learning, is a key tool for parents making important decisions for their children, as well as for parents and community groups working to spark necessary improvements.

The Every Student Succeeds Act requires public reporting of powerful new indicators, and emphasizes the importance of clarity and utility of this reporting. Our recommendations seek to maximize the utility of the information that the statute requires states to report for parents, community members, and the public by providing guidance on report card format and clarifying new reporting requirements. In

addition, we recommend asking states to demonstrate that they have consulted with parents to ensure that their report cards are understandable, as required by law.

We recommend the following actions:

**1) Provide guidance on how states can ensure that their report cards are both “concise” and “understandable,” (Sec. 1111(h)(1)(B)) with particular attention to the accountability methodology used on state and local report cards.**

In order for parents and community members to make use of the data that the Every Student Succeeds Act requires states and local educational agencies to report, local and state report cards must present this information in a clear, understandable manner.

Section 1111(h)(1)(B) underscores the need for clear reporting by requiring report cards to be both “(i) concise; [and] (ii) presented in an understandable format that is developed in consultation with parents.” The law also requires report cards to clearly describe the state’s accountability system. In order to implement these requirements, states will need to strike the right balance between providing the public with enough information to understand how school performance is being measured, without giving so much detail as to create confusion.

**Recommendation:** Provide guidance on how states can meet the standards for a concise and understandable format, with particular attention to explaining accountability methodology in a straightforward, transparent way. States should also be required to demonstrate that they have consulted with parents to be sure the report card is understandable.

**2) Clarify new reporting requirements**

The Every Student Succeeds Act requires states to report several new pieces of information on their state and local educational agency report cards. To support states in reporting quality data that will be useful to parents, community members, and the public, we recommend the following actions:

**a) Clarify timelines for including data currently reported to the Civil Rights Data Collection (CRDC) report cards.**

The law requires that states and local educational agencies report several pieces of data that they have submitted to the CRDC on report cards. The required indicators include “rates of in-school suspensions, out-of-school suspensions, expulsions, school related arrests, referrals to law enforcement ...” (Sec. 1111(h)(1)(C)(viii)) and several other elements. Because the CRDC data collection does not take place annually, we recommend clarifying the timelines for reporting these indicators on state and local report cards.

**Recommendation:** Clarify that states and local educational agencies can either a) report the required CRDC indicators the same year they submit data to the Office of Civil Rights and report the most recently submitted data in years when the collection is not taking place; or b) update the reported indicators each year, including in years the data are not submitted to the CRDC.

**b) Define the term “inexperienced” in Sec. 1111(h)(1)(C)(ix)(I).**

The definition should be the same as our recommendation on p. 18.

**c) Define “high-poverty” and “low-poverty” schools for the purposes of reporting educator professional qualifications (Sec. 1111(h)(1)(C)(ix)).**

The definition should be the same as our recommendation on p. 18.

**d) Clarify requirements around reporting of school-level expenditures.**

See our recommendations on pp. 19-20.

**e) Require states that choose not to report college matriculation rates to explain barriers to making these data available and how they will work to remedy these barriers.**

The Every Student Succeeds Act requires states where data on postsecondary matriculation of high school graduates is available to publicly report that information by school and student group. In an economy where most jobs will require at least some education after high school, knowing the rates at which students enroll in postsecondary institutions is incredibly important for parents, community members, and the public. Given the importance of these data, pressure should be applied to move states toward being able to meet this requirement.

***Recommendation:*** *Require states that choose not to report college matriculation rates to explain barriers to making these data available and how they will work to remedy these barriers.*