

**Congress of the United States**  
Washington, DC 20510

May 24, 2016

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

Dear Secretary King:

Since enactment of the original Elementary and Secondary Education Act (ESEA) in 1965 as part of President Johnson's civil rights agenda and war on poverty, Congress, through Title I-A, has focused the resources and attention of the federal government on improving educational opportunities for our nation's disadvantaged students, including low-income students, students of color, students with disabilities, and English learners. While the Every Student Succeeds Act (ESSA) reauthorizes and updates this law, this longstanding bipartisan intent remains unchanged.

In negotiating with our Republican colleagues, we agreed on statewide accountability system and school support and improvement provisions contained in sections 1111(c) and 1111(d), respectively. These provisions replace the previous law's overly prescriptive federal system of school-level accountability with a statutory framework that affords increased flexibility for state and local decision-making while maintaining strong federal guardrails to protect and promote the bipartisan intent of Title I-A. States and school districts eagerly await Title I-A rulemaking and guidance that will enable compliance with the law's new and often imprecise statutory requirements. Of particular interest is rulemaking to further clarify the federal requirements contained in these sections.

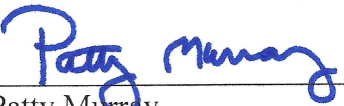
Federal regulations and guidance are necessary for effective implementation of any federal statute. As such, ESSA preserves the Department of Education's (Department) full regulatory authority to promulgate rules and issue guidance. Although the statute contains discrete provisions that prohibit the Department from prescribing the specific way in which states must comply with certain statutory requirements of sections 1111(c) and 1111(d), nothing in ESSA removes the Department's broad legal authority to promulgate rules that set parameters for state and local decision-making. We urge you to use that existing regulatory authority to further clarify the statutory requirements within sections 1111(c) and 1111(d), particularly through clarifying vague statutory text to set appropriate parameters for state and local decision-making. Federally-defined parameters that come from rulemaking will be necessary to ensure that implementation of accountability and school improvement provisions upholds the historic intent of Title I-A.


Regulation of statewide accountability system and school support and improvement provisions will empower states and school districts to utilize new flexibility while maintaining focus on improving outcomes for underserved students, including through adequately resourcing low-performing schools. We urge you, through such regulation, to further clarify statewide accountability requirements in ESSA to ensure that each state -

- Sets long-term goals and measures of interim progress that expect greater academic gains from low-achieving groups of students to result in significant narrowing of statewide achievement gaps over time;
- Utilizes, within its statewide accountability system, indicators that meet statutory requirements for indicator quality to annually generate summative scores accurately reflective of student learning for all students within each school;
- Calculates 'consistently underperforming' based on the performance of each subgroup within the school, not performance relative to other groups of students, and uses this calculation to annually differentiate new schools for targeted supports;
- Meaningfully factors into its statewide accountability system, each school's successful administration of the annual statewide assessment to all students and each subgroup of students within the school;
- Provides clear and actionable school-level performance information for educators, parents, and communities that leads to meaningful stakeholder engagement in school improvement efforts; and
- Ensures prompt provision of targeted supports, additional targeted supports, and comprehensive supports in, at a minimum, any school with any consistently underperforming subgroup, any high school with a graduation rate below sixty seven percent, and the lowest-performing five percent of schools in the state within a statewide system of continuous improvement that includes additional actions when supports prove to be ineffective.

Holding schools, school districts, and states accountable for providing a quality education to all students will be essential in upholding the legacy of this civil rights law. We thank you for your attention to this critical matter and look forward to continued partnership to ensure effective implementation of the ESSA's statewide accountability system and school support and improvement provisions.

Sincerely,

  
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Patty Murray  
United States Senator

  
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Robert C. "Bobby" Scott  
United States Representative