

**ESSA IMPLEMENTATION
TESTIMONY OF THOMAS AHART
SUPERINTENDENT OF THE DES MOINES PUBLIC SCHOOLS
BEFORE THE
HEALTH, EDUCATION, LABOR AND PENSIONS COMMITTEE
OF THE UNITED STATES SENATE**

May 18, 2016

Good morning Chairman Alexander, Senator Murray and members of the HELP Committee. I am Tom Ahart, Superintendent of the Des Moines Public Schools (DMPS). With my seven member Board of Education, I am responsible for education in the largest school district in the State of Iowa, serving 33,000 students across our 63 schools.

Like many school districts across the country, DMPS has undergone major demographic changes from barely qualifying for Title I concentration grants at 15 percent census poverty two decades ago to now having 75 percent free and reduced priced lunch eligibility. Des Moines now enrolls 21 percent English learners, 25 percent Hispanic students, 18 percent African American students, 7 percent Asian and Pacific Islander students, 0.5 percent Native American students, and 15 percent students with disabilities. The country of birth of our student body spans 106 nations and enter our schools speaking more than 100 languages.

We are committed to meeting the educational needs of each one of our 33,000 students by recruiting and supporting a team of talented professionals at the district level and in each one of our schools. DMPS has been the recipient of the ASBO Certificate of Excellence in Financial Reporting, the GFOA Certificate of Achievement. We are implementing one of six national Principal Supervision and Support Programs from the Wallace Foundation and a U.S. Department of Education School Climate Transformation grant. There is an expectation of providing a positive learning environment in every school and classroom across Des Moines. That commitment is reflected in a steady increase in our 4-year graduation rate and in reading, math and science proficiency rates on our state test. Additionally, we have dramatically decreased our days lost to out of school suspension, made considerable progress in closing achievement gaps, and have increased student enrollment and completion of Advanced Placement courses by more than 400% in the last three years. We were also one of the first districts in the country to sign onto and commit to The Males of Color Pledge, part of President Obama's My Brother's Keeper initiative.

Des Moines continues to operate under the antiquated No Child Left Behind Act (NCLB), since Iowa is one of the few states without an NCLB waiver. We have more reasons than most school districts to welcome the enactment of the Every Student Succeeds Act (ESSA). I look forward to the development of a more thoughtful state accountability system under ESSA, and we are working closely with our state department of education on a statewide implementation process.

As with most Iowa school officials, I have benefited in many ways from the tutelage of Chairman Tom Harkin over the years. In fact, my Board of Education President Rob Barron was

a long-serving Harkin staff member. That background and ongoing interaction on federal education policy with our Iowa delegation, however, did not prepare me for the ESSA negotiated rulemaking process.

As a member of the Education Department's Negotiated Rulemaking Committee, representing local school district officials, I expressed serious concerns with proposals to expand federal ESSA requirements beyond those specified in the Act, as well as the proposed regulations that directly ignored ESSA-legislated prohibitions.

Virtually all the school-based representatives on the Committee expressed practical concerns regarding the impact and feasibility of a number of the proposed regulations. These operational concerns relate to regulatory barriers to effective instructional services for students, interference in school autonomy in staff recruitment and selection, intrusion in the deployment of effective school leaders, unworkable criteria and unnecessary requirements, additional costs, and unrealistic administratively-created obligations.

While regulations are designed to clarify provisions of the statute and facilitate effective implementation, many of the regulatory provisions appear to restrict, condition, redefine, and even expand ESSA.

A number of the regulatory proposals during negotiated rulemaking were rationalized as helping school districts understand their responsibilities and helping auditors better monitor program implementation. I am hard pressed, however, to identify any regulatory additions offered by the Education Department or members of the Rulemaking Committee that I would consider, from my perspective as superintendent of schools, to be necessary for the effective implementation of ESSA at the local level.

The most troubling regulatory proposal during negotiated rulemaking was the Education Department's draft regulation to impose per-pupil expenditure comparability requirements under the Supplement Not Supplant provision of the Act.

Proposals to revise the comparability of services provisions of the Elementary and Secondary Education Act (ESEA) had been circulating for more than a decade, but have never been enacted. Despite no changes in the current ESEA comparability provisions of the statute, the Education Department drafted proposed Supplement Not Supplant regulations that would require new per-pupil expenditure comparability, including teacher salary differentials between Title I schools and the average of non-Title I schools. Operationally, this proposed regulation would effectively require salary equivalency between such schools or require school districts to make up the difference with state and local funds. Since the nation's teacher salary system is primarily based on increasing salary increments for years of experience (as well as for advanced educational attainment), schools with older, higher paid staff compared to younger, less highly-paid staff would necessarily trigger noncompliance on an unprecedented scale. The school representatives on the Rulemaking Committee did not agree with the Department's draft regulations, and more flexible regulatory options were rejected by the Department as well.

To comply with the Education Department’s draft regulations school districts would have to spend additional state and local funds to cover the salary differentials between higher paid and lower paid teachers. The Center of American Progress (CAP) reported in 2012 that the cost of compliance with this type of per-pupil comparability requirement would be \$6.8 billion based on national data at the time, and in 2015 CAP estimated the compliance cost at \$8.5 billion nationally using the most recent OCR expenditure data. The Council of the Great City Schools estimated the compliance cost for their 69 member school districts could reach \$3.9 billion, ranging from millions to hundreds of millions of dollars in individual districts.

In an alternative compliance scenario, school districts potentially could shift their older, higher-paid teachers to Title I schools and their younger, lower-salaried teachers to non-Title I schools in order to comply.

Unfortunately, neither of these options correlate with improving the academic performance of our students, since there is no relationship between salary level and teacher effectiveness. Moreover, the teacher transfer option would violate most collective bargaining agreements and result in unwarranted disruptions in instructional continuity and communities of practice in our schools.

Higher paid teachers teach for the same six hours daily and 180 school days annually as teachers with lower salaries and less time in the profession; students receive an equivalent level of service from their teachers regardless of salary or years of service. Moreover, current federal requirements already ensure that at least the same number of full-time equivalent teachers are deployed in Title I as in non-Title I schools.

School districts clearly do not have the state and local funds to cover the salary differential costs of compliance with these draft regulations, nor would districts want to summarily transfer higher paid staff in order to comply. Many districts literally would be faced with an impossibility of performance under these draft regulations – which have no reasonable basis in the Act and appear to violate at least three separate statutory prohibitions in ESSA.

Title I is an important element of my district’s efforts to effectively serve all of our students. What seems often to be lost on the Department is that many high poverty schools are not served with Title I because, frankly, there is not enough to go around. While a 40% free/reduced price meal rate can qualify a school for Title I services, we have multiple schools with over 70% of students qualifying for free/reduced priced meals that do not qualify for Title I in Des Moines. In addition to those challenges already mentioned, our ability to best serve schools with concentrated poverty without Title I funds will also be jeopardized under the proposed regulations.

Other regulatory additions from negotiated rulemaking also are of concern, including provisions that apparently would require: middle schools to offer advanced math coursework to any requesting student statewide, once the state opts to exercise the ESSA 8th grade advanced math assessment double-testing relief; a series of unauthorized regulatory conditions to be met before states could qualify for an alternate assessment waiver; and restrictions on the authorized use of nationally-recognized high school assessments.

Based on the negotiated rulemaking experience, I am also concerned about other federal regulations that may be proposed and ultimately finalized on ESSA implementation. While there are clearly new flexibilities allowed under ESSA, there are numerous new state and local responsibilities, including additional performance indicators, more schools likely to be identified for improvement and intervention, additional reporting and data disaggregation, and new state and local plan requirements. We already have a lot of implementation challenges during the upcoming transition year.

There is now an unprecedented level of collaboration in Iowa between our state education department and local school districts on implementation of our new responsibilities. We are jointly looking at defining our new performance indicators, differentiating schools for improvement measures, defining under-performance criteria, and establishing goals and benchmarks. I meet regularly with our state chief school officer, and several ESSA implementation planning teams are currently being organized by our state department of education with membership from school district staff, community members, and other organizations from around the state. In Des Moines Public Schools, our School Improvement Advisory Committee and our Equity Committee, both made up of a broad range of community members, will collaborate with my district staff to ensure sound implementation of ESSA at the local level.

Federal regulatory expansions or restrictions, such as we experienced in negotiated rulemaking will complicate, if not impede the implementation process in Iowa. There are sufficient statutory parameters on the performance indicators and weighting priorities that states should be allowed to design their own benchmarks including “acceleration or catch-up” objectives. The definitions and criteria for school differentiation need no further regulatory enhancements. Since the English learner subgroup composition has been delegated to the states, additional federal requirements or further disaggregation is unwarranted.

Even in areas of some ambiguity, such as Additional Targeted Support and Improvement criteria beyond school year 2017-2018, I would encourage letting state and local officials work out the intricacies of the various components of the state accountability and school improvement system. After the draft comparability-based supplement not supplant regulations, I have serious concerns regarding any additional federal regulations on local resource allocations under the school improvement provisions of the Act. And, further federal regulatory action regarding the evidence-based activities referenced in numerous sections of the Act could result in the federal government restricting curriculum and intervention options, or even prohibiting instructional activities that have shown positive results but don't have experimental or quasi-experimental designs.

The Every Student Succeeds Act was enacted with a broad base of support and good will at the national, state and local level. The tendency toward over-regulation that was evident during the negotiated rulemaking process could undermine that broad support. No Child Left Behind has demonstrated that the best intentions for improving achievement of at-risk students cannot be

micromanaged effectively from the federal level. Since the federal government did not get it right under NCLB, I would suggest that state and local officials should be given the opportunity to get it right under ESSA. On the other hand, the Education Department could be helpful in issuing non-regulatory guidance that provides a non-exclusive range of examples of implementation options for various provisions of ESSA that can be considered by state and local educators. One-size-fits-all is a misnomer. Clearly, even in Iowa, the broad range of individual district characteristics vary widely and the only hope for successful results from ESSA rests in the state agencies' ability to craft guidance that is meaningful to individual state and district contexts.

Clearly, the Committee and the Department have oversight responsibilities, and hopefully will identify those instances where state or local school officials may fall short in initial implementation. I am encouraged, however, by the cooperation and collaboration on ESSA between state and local education officials and other stakeholders that has begun in the field. I hope the Education Department ultimately takes a more collaborative approach to ESSA regulations and implementation than has occurred to date.

Finally, I am proud of the progress my district has made over the last four years, despite insufficient state funding. We are becoming the model for urban education in the United States. The proposed ESSA regulations will force us to disrupt some of the most effective school reform efforts in the country and threaten the progress of some of the most disadvantaged students in the country. We can do better if ESSA regulations align with the letter and the spirit of the statute itself.

Thank you for the opportunity to discuss ESSA implementation with you this morning.