

U.S. DEPARTMENT OF EDUCATION

Statement by Secretary John King

Hearing, “ESSA Implementation: Updates from the U.S. Secretary of Education on Proposed Regulations”

U.S. Senate, Committee on Health, Education, Labor and Pensions

June 29, 2016

Thank you Chairman Alexander, Ranking Member Murray, and members of the Committee. I appreciate the invitation to come back before this Committee and testify today regarding how the Department of Education is moving forward with the implementation of the Every Student Succeeds Act (ESSA), which the President signed into law on December 10, 2015. I am grateful that, thanks to the leadership of Chairman Alexander and Ranking Member Murray, and the Members of this Committee, Congress acted last year to reauthorize this critical piece of legislation.

Over the past seven years, our schools and students have made tremendous strides. Our nation’s high school graduation rate is at a record high 82%, in part due to significant gains by historically underserved student groups. 49 States and the District of Columbia have adopted and are implementing rigorous, college- and career-ready standards and aligned assessments for all students. In the last three years alone, since the President’s call to action on preschool for all, 38 States and the District of Columbia have increased their public pre-school investments for four year olds by more than \$1.5 billion. When the President made that call to action, 11 States did not offer preschool. Now all but four States do. Between 2008 and 2013, there was a nearly 30 percent reduction in the number of students who did not graduate on time and college enrollment for Black and Hispanic students is up by more than a million.

And yet so much work remains. Far too many students from every background still arrive at college needing remedial classes. And pernicious gaps remain for students who have been underserved for generations. Black and Hispanic students continue to lag behind their White peers in achievement and graduation rates. Our recent Civil Rights Data Collection (CRDC) release illustrates, in powerful and troubling ways, the disparities in opportunities and experiences that different groups of students have in our schools. Students with disabilities are more than twice as likely as students without disabilities to be suspended. Black and Latino students participate at lower rates in gifted and talented education programs. Schools with high concentrations of Black and Latino students are less likely to offer

advanced courses, such as calculus and physics. One out of every five English Learner and more than a quarter of Native American high school students is chronically absent. These are the very children that the Elementary and Secondary Education Act of 1965, as most recently amended by ESSA, was designed to protect and serve.

ESSA advances equity by upholding critical protections for America's disadvantaged students. The law maintains resources and supports for students from low-income families; students with disabilities; English Learners; Native American students; foster and homeless youth; neglected, delinquent, or at-risk youth; and migrant and seasonal farmworker children. ESSA requires that all students be taught to rigorous college- and-career ready academic standards and that vital information about their progress and performance be shared with educators, families, students, and communities on an annual basis, through statewide assessments. For the first time, the law asks States to consider the progress of all of their English Learners toward English Language Acquisition in the context of their Title I plans. ESSA also encourages a smarter approach to testing. Our Administration is pleased that ESSA includes provisions consistent with President Obama's Testing Action Plan, which put forward principles for reducing the amount of classroom time spent on unnecessary standardized testing, encouraging States to limit the amount of time devoted to these assessments and supporting efforts to audit, streamline and improve assessments at the State and local levels.

Through this law, Congress has reinforced the Federal commitment to holding ourselves accountable for the progress of all students while establishing a new, improved Federal-State partnership that moves away from the one-size-fits-all approach of No Child Left Behind (NCLB) and its overemphasis on testing as the only means of assessing how schools and students are doing. ESSA builds on the work already underway in States to develop their own strong State systems for school improvement. And it maintains the expectation of meaningful action to support students in schools where students or groups of students are struggling – and, in high schools that have low graduation rates year after year.

ESSA also provides local communities and States with a pathway towards equity and excellence for all students, by reclaiming the goal of a well-rounded education for all students. Using the greater flexibility in ESSA, States will be able to go beyond test scores in Mathematics and English Language Arts by adding their own indicators of school quality and progress, to ensure a rigorous, well-rounded education for every student. We know that strong math and literacy skills are necessary for success in college, careers, and life – but they are not sufficient. That may mean States measuring how students – particularly historically underrepresented subgroups of students – are doing in Advanced Placement and

International Baccalaureate courses, or whether they have access to rigorous coursework like physics or computer science. It may mean States taking a closer look at chronic absenteeism, postsecondary enrollment, placement in remedial college coursework, or socioemotional development as additional measures of how schools are serving all students.

The possibilities are expansive, but their real-world impact for children will depend on implementation. A rich, well-rounded education helps our children make critical connections among what they're learning in school, and their curiosities, their passions, and the skills they will need to become the sophisticated thinkers and leaders who will solve the most pressing challenges facing our communities, our country, and the world.

As a parent of children in public school, and a former teacher, principal, and State education commissioner, I can tell you that the prospect of a new law of this magnitude is both exciting and daunting. There is an incredible amount of work to be done at all levels to implement the law. ESSA represents a significant departure from NCLB in many ways. There are new opportunities, such as the Innovative Assessment Demonstration Authority, and new requirements, including the requirement to publicly report per-pupil expenditure data. The law rightly shifts more authority to States and also expects more of them – from developing and incorporating new indicators beyond test scores and graduation rates into their accountability systems to building the infrastructure for meaningful stakeholder consultation and engagement.

Since the bill was signed into law, we have been listening to the many stakeholders who care about implementation. We met with teachers and principals and their representatives, State and school district leaders, tribal officials, parents, civil rights leaders, and many others to hear their questions and concerns and identify areas in which regulations, guidance, or technical assistance might be most needed. We posted a notice seeking public comment on areas in need of regulation in the Federal Register, and also requested feedback on areas in need of guidance. We received hundreds of comments. All told, we held over 200 meetings with stakeholders across the country. And our outreach continues.

In response to that feedback, we announced our intention to regulate in a few key areas: accountability (including data reporting) and State plans, assessments under Title I, Parts A and B, and Title I's requirement that federal dollars supplement, not supplant, State and local funds.

As required by statute, for the Title I, Part A assessment and supplement, not supplant regulations, we engaged in negotiated rulemaking in late March and early April. Through that process, we were able to gather a lot of good input and feedback, and reached consensus on assessments, but not supplement not supplant. For Title I, Part A assessment regulations, the consensus-based language will be reflected in the notice of proposed rulemaking that we will publish later this year. For supplement not supplant, we are considering how best to address the feedback we received from a wide variety of stakeholders and carefully considering how best to meet the objective behind this proposed regulation.

Our notice of proposed rulemaking (NPRM) on accountability, State plans, and data reporting was published in the Federal Register on May 31 for a 60-day public comment period concluding on August 1. We welcome comment from all quarters on these proposed regulations – including from members of this committee. In addition, the NPRM contains several directed questions on which the Department is seeking particular input. As always, we know the regulations will be improved through public input, and we look forward to receiving feedback.

One of our top priorities in the proposed regulations was to guarantee a meaningful role for stakeholders in the development of each State’s vision for its educational system. It is important that the input and perspectives of parents, teachers, principals, civil rights and community leaders, and other state and local education and community leaders be reflected in both the initial development and the ongoing implementation of State plans under ESSA, especially as state and local leaders shape new school accountability systems under the law.

Our proposed regulations on accountability create flexibility for States to create their own vision of an excellent, well-rounded education, and add their own indicators of school quality or student success to include in their accountability systems, such as chronic absenteeism or access to and success in advanced courses. States have flexibility to choose these indicators, as long as they can be measured by subgroup, meaningfully differentiate among schools, and demonstrate that they are related to academic achievement or graduation rates.

Consistent with the strong civil rights legacy of the law, the proposed regulations ensure a focus on all students and historically underserved subgroups of students in accountability decisions, and provide safeguards to ensure that all students have an accurate measure of their academic performance, and that parents and communities are informed when students are falling behind. And the proposed regulations confirm that public charter schools must be included in State accountability systems.

The proposed regulations ensure that meaningful action is taken to improve student outcomes in the lowest-performing 5 percent of schools, in schools that fail to graduate at least two-thirds of their students, and in schools where a subgroup of students is consistently underperforming or chronically low-performing. At the same time, the regulations build on the new law's flexibility around school improvement and intervention and support locally designed solutions to improve struggling schools, and provide a clear role for parents, families, educators, and stakeholders to meaningfully participate in the implementation process. These strategies must be evidence-based and, as a part of determining how to improve their lowest-performing schools, districts must look at resource inequities.

The proposed regulations ensure that parents, educators, and community members have key information about how schools and students are performing and being supported, providing clear and transparent data on report cards on critical measures of student success, school quality, and resource equity – including per pupil expenditures, and enrollment in postsecondary education. And in order to ensure that parents and students have a clear sense of how their schools are performing, the proposed regulations require a comprehensive summative rating for each school based on the State-designed system of indicators.

Finally, the proposed regulations encourage States to think comprehensively across their programs about how to support student success, and streamline requirements, through their submission of consolidated State plans. As a former State chief, I know how important it is not to think about these programs as separate silos, and instead to think holistically about the best ways to spend Federal funds.

In April, I announced that the Department would be issuing non-regulatory guidance on several key topics: students in foster care, homeless students, and English Learners. Each of these topics was raised frequently in our stakeholder outreach. I am happy to report that last Thursday we released the first of those three – *Ensuring Educational Stability for Children in Foster Care* – and plan to issue guidance to support homeless students and English Learners at the end of the summer or early fall. The Department is also working on guidance to support States and districts as they implement Title II, Title IV, and the provisions in ESSA around early learning. Our aim with these guidance documents will be to highlight examples and best practices as States and districts make use of some of the new funding opportunities in the law. These guidance documents are designed to help States and school districts understand their options and share what the Department has learned about what works across the country.

Last week's guidance addresses concerns specifically related to students in foster care, who are more likely to lag in academic achievement or be retained in grade, and less likely to graduate high school, than their peers. An important contributing factor is the high mobility of these children, which often causes unplanned school changes and slowed academic progress.

To address these concerns, ESSA added important new protections for children in foster care to promote greater educational stability and improved educational outcomes overall. Our guidance on these ESSA foster care provisions, released jointly with the Department of Health and Human Services, clarifies the new statutory requirements regarding children in foster care, promotes greater collaboration between State educational agencies, local educational agencies, and child welfare agencies, and highlights promising examples to help guide implementation. We hope that this guidance, developed with the input of a diverse group of stakeholders, will be a helpful tool that equips the field to successfully implement the new foster care provisions under ESSA and to improve supports for children in foster care more generally.

We are continuing to engage with stakeholders to identify additional areas where guidance and technical assistance may be useful. Our goal is a Federal-State partnership that will support local school districts and their schools in helping every student succeed.

As I noted at the beginning of my remarks, we have made incredible progress as a nation over the past several years, but there is more to be done. ESSA is a bipartisan achievement that provides the statutory foundation to close our remaining gaps and address our persistent inequities. I have appreciated hearing many Committee Members' thoughts on our implementation of the law so far, and look forward to hearing from you today. I take your feedback, and all the feedback we receive, very seriously. I look forward to continuing to work with you to ensure a high-quality implementation of this law, supported by the Department, so that we can ensure a world-class education for every child.

Thank you. I am happy to answer any questions that you have.