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Defending students' rights through impact litigation

TEACH FOR AMERICA
California



Honorable John B. King, Jr.
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

RE: Docket ID ED-2016-OESE-0032-0001 - Notice of Proposed Rule-Making for Title I of the Elementary and Secondary Education Act (ESEA) of 1965 as amended by the Every Student Succeeds Act (ESSA) enacted on December 10, 2015

Dear Secretary King,

We represent a group of education organizations in California, which inhabit varied roles in education policy advocacy but which all recognize the critical role that the ESEA has played for more than half a century in ensuring that all students have an equitable opportunity to learn. As such, we write to support many of the elements of the proposed regulations that are designed to help keep states focused on equity and the needs of all students as required by ESSA.

We have also all been active participants in over two years of discussion at the California State Board of Education about its next generation state accountability system. Despite public pronouncements from the Board about a desire to develop a unified system, there are several key areas of the system that remain unaddressed. Whether inaction on these issues is because the state does not have the will or lacks the technical capacity to address them, these regulations and any accompanying guidance will be essential to make California's single unified system of oversight and accountability, complying with federal and state law, a reality.

Specifically, we support several provisions of the proposed regulations that are key to addressing the historic inequities of student outcomes or inattention by California's state leaders.

Section 200.16 Subgroups of students

We applaud how the ESSA law underscored the need to focus on subgroups of students, specifically those that have been historically underserved in our education system. The law not only requires that they be included in the statewide accountability system in producing disaggregated data for each required indicator and annually

differentiating among all public schools on these data, but also in identifying schools with consistently underperforming subgroups for targeted assistance. We support the proposed regulations, which reinforce that subgroups must be taken into account in all elements. States like California, making little effort to comply, would also benefit from some guidance as to how this can be done.

The other laudable focus of the law on subgroups is the need to set long-term goals and interim progress for each subgroup of students that take into account the improvement necessary to make progress in closing outcome gaps. While this requirement is in the ESSA law, states could benefit from greater clarity in the regulations. Despite multiple requests from members of the State Board and stakeholders to focus on setting differential improvement expectations for subgroups, staff from the California Department of Education have yet to supply any analysis or signal that they would be doing this. We believe motivation and guidance from these regulations could assist in setting the accelerated targets necessary to close persistent achievement gaps.

Section 200.18 Annual Meaningful Differentiation of School Performance

After over two years of discussion of a state accountability system, this area of the regulations is one of the most critical in ensuring that California's unified system of accountability is transparent and understandable for parents and community members. The most recent mock up of the LCFF evaluation rubrics, which would be the primary reporting mechanism on school performance, included ten rows of cells of different colors. The colors reflect a range of indicators that are important in looking at the quality of a school but the overall picture it paints is not clear to parents, community leaders, and even many educators.

Moreover, one area of the law that California state leaders have yet to discuss, despite numerous requests from stakeholders, is how they will meaningfully differentiate school and district performance annually, as required by federal law. The framework for a summative measure included in the proposed regulations or something similar, which provides clear guidance as to how states can annually identify schools and districts for support and assistance, must remain in the final regulations. Unfortunately, California has yet to produce a workable alternative that both allows for this meaningful differentiation and greater transparency to parents. We support the proposed regulations as a way to move this important work forward, and a thorough review process to ensure every state plan genuinely meets the statutory requirements of ESSA. Providing a summative measure does not have to conflict with the multiple indicator approach that California has adopted and can build on it, to ensure that parents have a clear entry point to interact with the richer performance data and the state can clearly identify those LEAs and schools with wide achievement gaps and in need of extra attention. This regulation must be maintained as it provides necessary structure to the critical requirement in the law of annual differentiation.

The provisions included to ensure that states are emphasizing the academic indicators that the law requires be given "substantial" weight individually and "much greater" weight in the aggregate provide strong guardrails for states to institute their own methods of meeting the law. They allow states flexibility in determining the proportionate weights of all the indicators and ensure the integrity of the law that protects the fundamental rights of students to achieve academically. ESSA

further requires that all indicators in the accountability system are able to be disaggregated by subgroup, an important requirement to uphold.

Section 299.18 Supporting Excellent Educators

We support the proposed regulations' focus on ensuring that states address the inequitable distribution of effective teachers and providing support to educators so that "low-income and minority students [have] greater access to effective teachers, principals, and other school leaders" in their consolidated state plans. In particular, the requirement to define "ineffective teacher" will be important because, thus far, staff of the California Department of Education revising the state's teacher equity plan have given no indication of addressing the inclusion of effectiveness in its analysis of the distribution of teachers. As such, these provisions, particularly the section that requires the state to prioritize strategies "to support any schools identified for comprehensive or targeted support and improvement ... that are contributing to those disproportionate rates," are critical elements of the regulations. In addition, the need to monitor inequities is crucial and we support the requirement to "publish and annually update" the data in a manner that is "easily accessible and comprehensible to the general public." Furthermore, the regulations should include a provision that requires each SEA plan to include the manner in which the state will monitor and support the equitable distribution of experienced and effective teachers, principals, and other school leaders within each LEA.

Section 299.13(b) State Plan Requirements – Timely and Meaningful Consultation

The law requires states, districts, and schools to consult in a timely and meaningful way with multiple stakeholders but, to date, all too often this is not the case. Please take steps to ensure the final regulations ensure that current classroom teachers, including high-performing teachers from high-needs schools, and the parents of students at these schools, have real seats at the table.

While many of us will comment separately on these and other provisions of the proposed regulations, we believe it is important to highlight those provisions that address shared concerns about the direction California has been headed in developing its state system of accountability, purportedly in compliance with federal law. We support the U.S. Department's continued focus on addressing historic inequity, reflected in these proposed regulations and thank you again for your leadership on this critical issue. We look forward to working with the Department to make these regulations meaningful and to support their implementation in California, and we thank you for your attention to these comments.

Respectfully,



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