



Indiana Department of Education

Glenda Ritz, NBCT
Indiana Superintendent of Public Instruction

August 1, 2016

Ms. Meredith Miller
U.S. Department of Education
400 Maryland Avenue, SW, Room 3C106
Washington, DC 20202-2800

Docket ID: ED-2016-OESE-0032

Dear Ms. Miller:

On behalf of Glenda Ritz, Indiana's Superintendent of Public Instruction and the staff of the Indiana Department of Education (IDOE), I want to thank you and Secretary King for the opportunity to comment on the United States Department of Education's (USED) Notice of Proposed Rulemaking (NPRM) on accountability and state plans under the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA).

There are numerous aspects of the law passed by Congress and in the proposed regulations from USED that give state educational agencies (SEAs) flexibility in creating and expanding systems useful to educational programs while providing appropriate "guardrails" to ensure that state actions are consistent with the objectives and provisions of ESSA.

While we thus commend the overall approach taken in the regulations, there are provisions that we feel strongly need revision before the regulations are finalized. We request the USED give serious consideration to the issues described below.

Timelines for Accountability for School Improvement Identifications:

(Section 200.19(d); Section 200.21(a)). The proposed rules spell out that states are expected to make the first school improvement identifications under ESSA at the start of the 2017-2018 school year, with data from the 2016-2017 school year. Indiana will need time to revise our accountability systems based on the new law. This includes adding new indicators of English language proficiency and of school quality or student success, agreeing on indicator weights, and establishing criteria and procedures for school identification. This effort will need to be carried out in close collaboration with stakeholders. IDOE will then need to collect the data needed for school identification, including data for the indicators that might not yet exist. Using this data from the transition year is unfair to schools that will be placed into a four-year school improvement process based on using standards and processes where many of the programs and flexibilities in funding have not been totally implemented.

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Furthermore, ESSA states that the Secretary has 120 days to approve plans once submitted. (ESSA, p. 16) The proposed rules from USED suggest that there will be two submission windows, March 6 or July 5, 2017. (Proposed Rules and Regulations, p. 90) Whereby, Indiana would comply to submit our plan by one of the proposed dates, with these timelines, this means that notification of the results of the initial review may not occur before July 4 and November 2. Both dates occur after the dismissal of school for the summer or into the academic year for which schools would be held to new accountability standards without the benefit of planning for their implementation. Our school leaders are committed professionals and deserve the opportunity to steer their efforts in support of ESSA, or at the very least, know the criteria upon which they will be evaluated prior to the accountability period. The current timeline precludes that opportunity.

We recommend that states use the 2017-18 year as the first data year, in line with ESSA's language, and 2018-19 as the first designation year of accountability identification.

Performance Levels for Indicators and Summative Ratings:

ESSA requires that states develop accountability systems that meaningfully differentiate between schools. The proposed regulations are too specific in requiring a published single rating. Because states will be required to identify their lowest performing schools, they will need to create a metric that does that, but also may need to display more information such as a dashboard. As one example, a number of states use a continuous measure of performance, such as a score of zero to 100 for an indicator or for a school as a whole.

We recommend that the final regulations include clearer and more flexible language that would allow a variety of state systems, such as those with a scale, to operate, so long as they comply with statutory provisions requiring clear distinctions among schools, both on the individual indicators and in the summative rating. The final regulation should be clear that it is at the discretion of the state to use dashboards to display data or a single rating.

Funding LEA's for School Improvement:

The statute authorizes the SEA to reserve 7 percent of the State's Title I allocation to serve schools identified for Comprehensive or Targeted Support and Improvement. At least 95 percent of these funds must flow through to LEAs, unless the SEA and an LEA agree to have improvement activities carried out by the State or an outside provider.

The proposed regulations would require that the SEA, in allocating funds, provide at least \$50,000 for each Targeted Support and Improvement school and at least \$500,000 for each Comprehensive Support and Improvement school, unless the SEA can conclude (based on a

demonstration by the LEA in its application) that a smaller amount would suffice. (*Section 200.24 (9)(c)(2)(ii) – p. 34608*)

With the proposed regulation setting an arbitrary minimum allocation of \$500,000 for Comprehensive Support and Improvement Schools, there is no consideration of student population. For small rural schools, this would likely be more than they need, but the state would have no discretion in awarding less unless the district requested and justified less, which few are likely to do. The result would be less money for schools that may have larger student populations and need more than the \$500,000 to effect comprehensive improvement, thus creating a funding inequity.

By setting the minimum allocations in regulation, states do not have the autonomy to make decisions based on actual school needs.

We recommend that the USED strike provisions related to minimum dollar amounts for school improvement awards and allow states to determine the financial needs of identified schools to implement necessary interventions and the appropriate distribution of funding between identified schools within the state.

Equity in Funding:

Section 200.35 of the proposed requirements to ESSA can be interpreted as a mandated equalization of per-pupil funding at the state, district and/or school level and to be reported to USED. It seems that this is beyond the intentions of the ESSA Statute. Indiana does not currently collect expenditure data at the school level or by federal/state/local funding streams. These changes would put an undue burden on the IDOE and the LEAs. If this were to be implemented, Indiana would need a couple of years to put a new system in place.

This process of creating equity does not allow school corporations to be innovative based on need of the population of the individual school. This kind of reporting and potential rule could cause schools and school corporations to be inflexible to the needs of the students year by year based on the student population. This rule continues the top down approach that occurred through NCLB that stifled improvement all for the sake of data collection to be used punitively towards the SEA, the LEA and the school building in question.

We recommend the USED strike this provision out of these proposed requirements.

Contents of the Consolidated State Plan:

In its proposed ESSA regulations, USED has proposed adding numerous requirements that are not found in the statute and, it appears, has ignored statutory language and calling for the plan to include only what is absolutely necessary. Congressional intent that the consolidated plan be

a mechanism for streamlining administration and reducing burden would be lost if this regulation is not changed. In establishing requirements for the consolidated state plan, the Secretary may “require only descriptions, information, assurances..., and other information that are *absolutely necessary* for the consideration of the consolidated application” Indiana would welcome a true consolidated plan without the added planning requirements that go beyond what is called for in the ESSA statute.

Alternate Diploma in the State Plan:

Indiana currently does not allow an alternate diploma in state statute. Indiana currently allows a certificate of completion; however, it does not meet the standards of an alternate diploma as defined in ESSA. Indiana would need more clarification whether a certificate of completion could be counted towards the graduation cohort group in ESSA regulation as an Alternate Diploma. On top of this, the regulations cannot identify a student as a student with a disability. Indiana would need this rule to go further on what is allowable and give time for IDOE and stakeholders, internally in state government and externally, to create the correct state statutory language that would allow Indiana to take advantage of this opportunity. The Indiana legislature runs from January to April in 2017, so that means, IDOE has a short window to change law before ESSA goes into full effect.

Conclusion:

In closing, we strongly urge USED to refrain from writing rules and regulations that are more prescriptive or directive than the *Every Student Succeeds Act* itself. In addition, we urge USED to avoid being overly prescriptive in ways that make it difficult for our state to achieve ambitious statewide education goals Indiana supports the emphasis on high expectations for all students including English language learners and those students with disabilities. All we are asking for is the tools to allow our local schools to continue the fine work they are doing in educating the 1,000,000 students that attend our schools each year. Adding undue burden through regulation and data collection to the state and to our school corporations, stifles the positive work underway in our classrooms. I thank you for your consideration of our concerns.

Sincerely,



Jeffrey J. Coyne
Director of Federal Relations
Indiana Department of Education