

July 27, 2016

<http://wvde.state.wv.us>

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:

The West Virginia Department of Education (WVDE) values the opportunity that has been provided to comment on the U.S. Department of Education's proposed regulations on accountability and State plans under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). The WVDE shares the commitment that ESSA has established for equity and to ensure that all students receive a high-quality education leading to college and career readiness. The proposed regulations provide clarification in key areas and establish some guidelines that will assist the State through the process of developing a viable accountability system and State plan.

With the above noted, the WVDE has identified provisions within the proposed regulations that raise concern as they either exceed the statutory language of ESSA or potentially serve to compromise the ability of the State to thoughtfully develop and implement a responsive accountability system and State plan.

The WVDE submits the following comments for consideration that highlight areas of identified concern.

#### Performance Levels

The proposed regulations for § 200.18(b) would require States to establish at least three distinct performance levels for schools on each indicator and ensure that LEAs include how each school fared against these performance levels separately by indicator. The inclusion of the specificity regarding performance levels restricts the state in authentically employing the use of a variety of proven accountability measures or approaches. The proposed regulations should be amended to provide additional flexibility regarding performance levels for accountability indicators.

#### Limits on Which Schools can Receive the Highest Summative Rating

We oppose the language in § 200.18(d) prohibiting a school from receiving the state's highest performance rating if a single subgroup scores at the lowest level on a single indicator, which, again, would be overly complicated and non-transparent.

Timelines for Identification of Comprehensive and Targeted Support Schools

The proposed regulations for § 200.19 describes a timeline in which each State would identify schools for comprehensive and targeted support and improvement by the beginning of the school year for which such school is identified. Specifically, schools identified for the 2017-2018 school year would be identified, at a minimum, on the basis of their performance in the 2016-2017 year. As West Virginia endeavors to establish a robust and comprehensive system of school support and improvement, the proposed timeline for identification challenges the ability of the State to appropriately support local capacity building while fully addressing all of the required components of the newly implemented accountability system. Specifically, new indicators, inclusive of English language proficiency, school quality and student success, will require additional time to fully develop and integrate. The submission of the State plan in March or July of 2017 and the impending approval would be difficult to reconcile with the necessary planning that will be required in order to implement with fidelity the State comprehensive system of school support and improvement. The WVDE recommends that the timeline for identifying comprehensive and targeted schools be revised to honor the comprehensive system of school support and improvement that will be articulated in the State plan.

State Allocation of Funds for School Improvement

The proposed regulations specify the obligation of the State in allocating school improvement funds to LEAs. Specifically, the regulations clarify that to be of sufficient size, each award would be at least \$50,000 per school identified for targeted support and improvement and at least \$500,000 for each school identified for comprehensive support and improvement. The restrictive amounts proposed for this provision provides a challenge for a minimally-funded state like West Virginia and would limit the State's capacity to serve multiple schools in need. While provisions have been provided for states with insufficient school improvement funds to make awards to all eligible LEAs, greater flexibility should be awarded to States in determining appropriate thresholds.

Thank you for the opportunity to provide the perspective of West Virginia on the proposed regulations. The WVDE implores the U.S. Department of Education to revisit the regulations and reconsider provisions that would restrict or impede a state from developing a rigorous and meaningful accountability system and State plan.

Sincerely,



Michael J. Martirano, Ed.D.  
State Superintendent of Schools  
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