



Illinois State Board of Education

100 West Randolph Street, Suite 4-800 • Chicago, Illinois 60601-3223
www.isbe.net

James T. Meeks
Chairman

Tony Smith, Ph.D.
State Superintendent of Education

August 1, 2016

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:

I am writing to provide comments on behalf of the Illinois State Board of Education (ISBE) on the U.S. Department of Education's proposed regulations governing accountability, data reporting, and state plans under the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA). Illinois is a state with great diversity; ISBE oversees 852 school districts, more than 4,000 schools, and over 2 million students.

We commend the overall approach of the U.S. Education Department (ED) in encouraging states to utilize the flexibility provided by ESSA in the development of their accountability systems. Illinois is pleased that the proposal is not overly prescriptive in describing the long-term goals, interim performance measures, annual academic indicators that states must establish, the weighting given to the annual indicators, and the procedures for identifying schools in need of support and improvement. Illinois supports a system of capacity building and believes that everyone benefits from high-quality coaching and support.

However, there are specific provisions, listed below, that pose significant concern and require reconsideration as the regulations are finalized.

A. §200.15 Participation in Assessments and Annual Measurement of Achievement

Proposed §200.15 would require that states annually measure the achievement of at least 95 percent of all students and 95 percent of all students in each subgroup of students enrolled in public school separately for English language arts and math. States would be required to take one of the following actions for a school that misses the 95 percent participation requirement for all students or one or more student subgroups: (1) assign a lower summative rating to the school, described in proposed §200.18; (2) assign the lowest performance level on the state's Academic Achievement Indicator, described in proposed §200.14 and §200.18; (3) identify the school for targeted support and improvement under proposed §200.19(b)(1); or (4) apply another equally rigorous state-determined action, as described in its state plan, that will result in a similar outcome for the school in the system of annual meaningful differentiation under proposed §200.18 and will lead to improvements in the school's assessment participation rate so that it meets the 95 percent participation requirement. Proposed §200.15(c)(1) would further require schools that miss the 95 percent participation rate for all students or for one or more

subgroups of students to develop and implement improvement plans that address the reason or reasons for low participation in the schools and include interventions to improve participation rates in subsequent years, except that schools identified for targeted support and improvement due to low participation rates would not be required to develop a separate plan than the one required under proposed §200.22.

ED should not be dictating a methodology or sanctions for schools that do not meet the 95 percent participation target. If Congress wanted this level of intervention for schools based on participation, Congress would have included this as part of the determining factors in comprehensive and targeted schools. ED is discounting the work that is being done by states currently to address participation issues, is not considering that there may be extenuating circumstances whereby the 95 percent threshold is not met, and is approaching a complicated issue with rigidity in contrast to the flexibility offered by ESSA.

Recommendation: ISBE believes the intent of Congress is for states to determine how best to develop an accountability system and hold schools accountable when they do not meet those targets. ESSA provides that “*Each State plan shall describe a statewide accountability system that complies with the requirements of this subsection and subsection*” 1111(c). ED should adhere to congressional intent and strike this proposed regulation and allow states to continue to address schools that do not meet the 95 percent targets.

For Illinois to achieve long-term economic and social success, we need all of our students to demonstrate readiness for the world beyond school. Illinois is best positioned to ensure all of its districts are doing everything possible to make sure all students are ready. We believe congressional intent supports this position.

B. §200.18(b)(2) and (4) – Annual Meaningful Differentiation of School Performance

The proposed regulations would require each state’s system of annual meaningful differentiation to (1) include at least three distinct levels of performance for schools on each indicator that are clear and understandable to the public and (2) result in a single rating from among at least three distinct rating categories for each school, based on a school’s level of performance on each indicator.

ISBE is concerned, due to the diversity of Illinois and funding inequities between districts, that a summative score ranking and performance levels for individual indicators that could be used to compare one school to another are not an accurate representation of school quality. Insofar as each school is unique, a full picture of a school cannot and should not be represented by a single grade despite a more robust accountability system under ESSA

Recommendation: ISBE believes the intent of Congress was for states to determine how best to meaningfully differentiate schools. ESSA provides that states “*...establish a system of meaningfully differentiating, on an annual basis, all public schools in the State*” §1111(c)(4)(C). ED should adhere to congressional intent and strike this proposed regulation and allow states to develop approaches to differentiate schools.

C. §200.19 – Identification of Schools

The proposed regulations would identify (1) schools that need comprehensive support at least once every three years, beginning with the 2017-18 school year, and (2) schools with consistently underperforming subgroups of students that need targeted support and improvement annually, beginning with the 2018-19 school year. An issue for ISBE is the proposed language that “[s]chools identified for the 2017-18 school year would be identified, at a minimum, on the basis of their performance in the 2016-17 school year.”

ISBE opposes identifying schools based on an accountability system yet to be implemented. ISBE, as do other states, needs time to collaboratively develop our accountability system under ESSA. The metrics being used within the accountability system will not be finalized until a state plan is submitted in March of 2017. Schools and districts will need time to adjust for the accountability system once it is developed. Thus, to identify schools in a system different than the system under which they will be held accountable is problematic.

Recommendation: ISBE requests that ED allow states to develop an accountability system collaboratively over the next year and then use data collected from the 2017-18 school year to identify comprehensive and targeted schools.

D. §200.19 – Identification of Schools – Graduation Rate

Proposed §200.19 would specify that any high school with a four-year adjusted cohort graduation rate below 67 percent, averaged over no more than three years, must be identified as a comprehensive school due to a low graduation rate.

While the law does not specify a particular methodology to be used in making the graduation rate calculation, the proposed regulations submitted by ED require that all states use the four-year adjusted cohort rate. ED should recognize the need for flexibility in this area when, under the 2008 Title I regulations, it allowed states to use both the four-year adjusted cohort rate and an extended-year adjusted cohort rate in their accountability systems. Congress implicitly endorsed that decision in ESSA by permitting states to use both rates in their long-term goals, measures of interim measures of progress, and annual indicators. ED bases its decision on the current proposal on an argument that this policy would provide consistency across states and that “on-time” graduation is the appropriate measure for all schools and all students. If this proposed rule becomes a requirement, there will be data inconsistency based on what is reported and what is being used to identify schools based on this policy.

More importantly, this policy will overly identify schools that disproportionately are serving students who need more time to achieve their educational goals, thus identifying schools based on the students they serve and not because of their educational program. Schools serving students that may require additional time to finish school should not be set up to be identified for comprehensive support under this policy. This type of thinking ignores the diversity of the nation’s schools and students and is precisely why the Congress decided to return key decision-making authority to the states under ESSA.

Recommendation: ISBE strongly recommends that states be allowed to use **BOTH** the four-year adjusted cohort rate and an extended-year adjusted cohort rate in their identification of schools for comprehensive support and improvement. A graduation rate threshold of 67% is too low for communities, state and country. We need to ensure we are identifying the right schools for the right reasons. Allowing for both 4-year and 5-year graduation rate ensure we do not misidentify schools that are truly helping those students who may need more time to graduate.

E. §200.19 – Identification of Schools, §200.21 – Comprehensive Support and Improvement, and §200.22 – Targeted Support and Improvement - Timelines

The proposed regulations establish a number of different identification, implementation, and exit-criteria satisfaction timelines. In proposed §200.19, an identification timeline for comprehensive schools that are the lowest-performing 5 percent of Title I schools and high schools with low graduation rates is established beginning in 2017-18 and at least once every three years thereafter.

It also aligns identification of schools requiring additional targeted support to the comprehensive identification timeline. Proposed §200.19 establishes an annual identification timeline for schools with consistently underperforming subgroups.

Proposed §200.21 establishes a timeline for satisfaction of state-determined exit criteria within a state-determined number of years (not to exceed four years). The regulations in proposed §200.22 permit the LEA to establish exit criteria and determine a timeline for satisfaction, but do not place any limitations on the maximum number of years. The proposal further requires the state to establish exit criteria for schools requiring additional targeted support that must be satisfied after a state-determined number of years (not to exceed three years), after which the school must be identified as the third type of comprehensive school, one with a consistently underperforming subgroup that has failed to improve with targeted support. Identification of this third type of school is recommended to begin in 2018-19 in proposed §200.19, giving schools only one year to implement targeted supports and services, a year that could be a planning year.

ED has established timelines for identification of schools, implementation of comprehensive or targeted supports and improvement, and satisfaction of exit criteria that are inconsistent across types of schools and within types of support and misaligned to each other.

Recommendation: We recommend that ED remove these timelines and allow states to establish their own timelines for identification, implementation, and satisfaction of exit criteria that meet a standardized maximum of no more than four years, consistent with Section 1003(c). This would allow states to award subgrants for up to four years, which may include one planning year. We recommend this same maximum of no more than four years be applied to the LEA-determined timeline for schools implementing targeted supports and services.

F. §200.24 – Resources to Support Continued Improvement

Under the proposed regulations, each award supporting continuous improvement 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 exception to this is that a state could conclude, based on a demonstration from the Local Education Agency (LEA) in its application, that a smaller award would be sufficient to successfully implement the plan in a particular school.

ISBE appreciates the exception contained within the proposed regulations allowing states to make smaller awards. ISBE does not think, however, that ED is acting within the intent of ESSA in making these regulations. ESSA is deliberate in providing states latitude to make the determinations on the schools served, on plans and interventions for targeted support, and on comprehensive support schools. Under Section 1003(a), states are required to prioritize funds for districts that serve high numbers or a high percentage of schools identified for comprehensive support and improvement; districts with the greatest need for such funds, as defined by the state; and districts with the strongest commitment to improving student achievement and outcomes. Further, the amount of the award should be determined based on the evidence-based interventions and requirements outlined under section 1111(d).

Recommendation: ESSA gives states the authority to make awards “*of sufficient size to enable a local educational agency to effectively implement selected strategies*” §1003(b)(B)(2)(A)(ii). ED should adhere to congressional intent and strike this proposed regulation and allow states the flexibility to make these determinations. ED should not be dictating award amounts.

G. §200.35 - Per-pupil Expenditures

Proposed §200.35 would implement the statutory provisions requiring a state and its LEAs to annually report per-pupil expenditures of federal, state, and local funds on state and LEA report cards, disaggregated by source of funds. In addition, by requiring states and LEAs to report expenditure data for the preceding fiscal year no later than December 31, consistent with proposed §200.30(e) and §200.31(e), stakeholder awareness of LEA budget decisions from the preceding fiscal year would increase, allowing for more informed budgetary decisions in the subsequent fiscal year.

ISBE is in the process of initiating a project to collect and report on school-level budgeting. Drafting policies for data reporting, setting up systems for data collection, monitoring the collection of this data, and training of district personnel will, in all likelihood, not be possible in the 2017-18 school year, or, noting the allowance that the proposed regulations have provided, even in the next two succeeding fiscal years. Instead, this will be a multiyear process in which school-level budgeting will need to be developed in conjunction with substantive state and LEA plans and interventions.

Recommendation: ISBE is deeply committed to using all data to support improved student outcomes and has spent a number of years working on sophisticated data systems focused on

student achievement. We are just now scaling up our financial systems to report the level of data required by statute and the proposed regulations. ISBE requests ED allow for as much time and flexibility as possible while the state develops a system, trains personnel in the field, collects the data, and reports on school-site per-pupil expenditure data of federal, state, and local dollars.

H. §299.14 – 299.19 – Requirements for the Consolidated State Plan

In its proposed regulations, ED has recommended adding a number of burdensome requirements that are not found in the statute. One of the five sections in the proposed consolidated state plan requires strategies, rationale for the selected strategies, timelines, and explanations for how funds under the programs will be used for nine subparts, not to mention data on resource equity collection, performance management, technical assistance, and program-specific requirements.

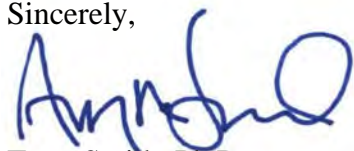
The statute clearly specifies that, in establishing requirements for the consolidated state plan, the Secretary may “*require only descriptions, information, assurances..., and other information that are absolutely necessary for the consideration of the consolidated application*” §8302(b)(3). This language has been in the statute since the consolidated plan authority was created as part of the 1994 ESEA reauthorization. Since then, ED has taken this language very seriously by winnowing down the planning requirements under the individual programs and identifying essential requirements consistent with congressional intent. The core of this intent is that the consolidated plan be a mechanism for streamlining administration and reducing burden.

Recommendation: ISBE strongly recommends ED allow states to submit streamlined plans that capture essential elements of a consolidated plan without adding planning requirements that go beyond what is called for in the statute.

Thank you for the opportunity to provide recommendations on the proposed regulations. Again, we find many positive features in the proposal, along with a number of provisions that require significant change, if not complete removal.

Illinois is committed to supporting every district to create more social economic and political capital for every student we serve. The long-term well-being of our state requires a deep commitment to excellent and equitable outcomes for all of our students. If you would like to discuss our concerns, please do not hesitate to contact our federal liaison, Melina Wright, at mewright@isbe.net or (312) 814-1295

Sincerely,

A handwritten signature in blue ink, appearing to read 'Tony Smith', is written over a light blue circular stamp.

Tony Smith, Ph.D.
State Superintendent of Education