

August 1, 2016

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

DOCKET ID: ED-2016-OESE-0032-0001

Dear Mr. Secretary:

Thank you for the opportunity to submit comments on the U.S. Department of Education's proposed rules for ensuring educational equity and accountability for students of color, low-income students, students with disabilities, and English Learners under the Every Student Succeeds Act (ESSA). As our country transitions from No Child Left Behind to ESSA, it is essential for the Department to maximize this opportunity to ensure that every state provide a high-quality education to *all* students.

As high-performing teachers who teach in high-need schools and/or high-need content areas, we work every day to help our students learn the skills and knowledge they need to be equipped for a successful future. As teachers, we see our students and grow academically and meet achievement goals - often despite enormous obstacles, including poverty and exposure to community violence. When regulating the new law, we urge the Department to continue to keep the interests of our students, who have historically been marginalized, at the forefront. They are depending on ESSA to move us closer to becoming a nation where every child -- regardless of race, income, background, or where they live -- has the same opportunity for a high-quality education.

The regulations the Department proposed in May are a good first step towards ensuring that all students are counted and that parents and communities can hold their schools accountable for meeting the needs of their students. In particular, we applaud the Department for reinforcing that individual groups of students must each count in accountability systems and that "super subgroups" cannot be allowed, as well as reinforcing the importance of including (almost) all students in the state's assessment system through the 95 percent participation requirement. As teachers in high-need schools, we know that this vital to ensuring that all of our students count and that districts and states have meaningful data to direct resources and support to the schools that need them the most.

As practicing teachers, we believe that no accountability plan can be successful without including the perspectives of all stakeholders, especially the perspective of teachers and school leaders who are working with high-need students every day. We are concerned that this is not happening in many states. A July 2016 Teach Plus survey of over 1,000 teachers from 40 states found that 88 percent of teachers want to have input in state ESSA implementation, but only 16

percent have had that opportunity to date. While we applaud the new requirements for consultation and coordination, we urge the Department to specify that stakeholder engagement activities should include both representatives of teachers' unions *and* current classroom teachers. In many states, leaders have appointed one union representative to their stakeholder panel and consider this to be fully representative of teacher voice. This is shortsighted. We have seen some union leaders, including retired teachers and teachers from more affluent schools, take positions on accountability (and other issues) that are very much at odds with our views as high-performing teachers in high-need schools. The regulations should specify that state leaders should provide a seat at the table for teachers who are currently in the classroom, including high-performing teachers from high-poverty schools – the teachers of the students who are the focus of ESSA. As demonstrated during the Department's negotiated rule-making process, the multiple teachers at the table offered very different perspectives – and there was value to having all of them there. We believe having the perspective of our high-performing teacher from a high-poverty school, Audrey Jackson, enabled the panel to be more successful than it would have been without her. We want to see this same opportunity on state ESSA panels, given the unique and essential role teachers play in our education system, requiring states to include multiple teacher voices at the table makes sense and will only add value to states and help them be more successful during the implementation process.

As educators, we know there are many factors that contribute to a school's success. We commend the Department for ensuring that the focus of school performance remain on student academic achievement and high school graduation, as well as for clarifying language to create guardrails that ensure that the "other indicator of school quality or student success" is meaningful. We also applaud the Department's defining of "consistent" in the "consistent underperformance" as no more than two years. As teachers, we know how important it is to be clear in directions, and without the clarifying language, we are concerned that states could ignore the schools and students who most need support. For many of us, our students have at some point attended schools that "consistently underperform" for many years and, all too often, the result is even greater gaps in student performance.

We respectfully offer the following additional recommendations to further strengthen the regulations:

ACCOUNTABILITY (§200.13-200.15, Pages 34597-34599)

Section: 200.12

- **Current Language:** (a)(1) Each State must describe in its State plan under section 1111 of the Act that the State has developed and will implement, beginning no later than the 2017–2018 school year, a single, statewide accountability system that meets all requirements under paragraph (b) of this section in order to improve student academic achievement and school success among all public elementary and secondary schools, including public charter schools.
(3) Take into account the achievement of all public elementary and secondary school students, consistent with §§ 200.15 through 200.17 and 200.20;

- **Recommendation:** Add academic growth. For example “(a)(1) Each State must describe in its State plan under section 1111 of the Act that the State has developed and will implement, beginning no later than the 2017–2018 school year, a single, statewide accountability system that meets all requirements under paragraph (b) of this section in order to improve student **academic growth and achievement to proficiency** and school success among all public elementary and secondary schools, including public charter schools.
- (3) Take into account the **academic growth and achievement to proficiency** of all public elementary and secondary school students, consistent with §§ 200.15 through 200.17 and 200.20.”
- **Rationale:** While all schools have the end goal of improving student achievement, adding “academic growth” to the language will ensure that schools that are not yet at their achievement goals but are making great strides in narrowing the achievement gap can get some credit for their success. As teachers in high-need schools, we set high expectations for achievement for our students, but we recognize that many students are several grade levels behind when they enter our classroom so it is important that growth be included. It is also important to us to continue to have high expectations for all students rather than lower expectations for some of them. To that end, we think it is important that the end goal be not just “growth” but, instead, “growth to proficiency.”

Section: 200.14

- **Current Language:** (d) A State must demonstrate in its State plan under section 1111 of the Act that each measure it selects to include within the indicators of Academic Progress and School Quality or Student Success is supported by research that performance or progress on such measures is likely to increase student achievement or, for measures within indicators at the high school level, graduation rates.
- **Recommendation:** Change “for measures within indicators at the high school level, graduation rates” to “for measures within indicators at the high school level, graduation rates and postsecondary readiness,” for example, “(d) A State must demonstrate in its State plan under section 1111 of the Act that each measure it selects to include within the indicators of Academic Progress and School Quality or Student Success is supported by research that performance or progress on such measures is likely to increase student achievement or, for measures within indicators at the high school level, graduation rates and **postsecondary readiness**.”
- **Rationale:** The target for our students should not ultimately be limited to whether or not they graduate, but what they are capable of achieving after graduation. There are many schools that boast high graduation rates, but have a low ACT average or college acceptance rate. If we are attempting to set a high bar of excellence for our high schools, the measure should be what the students are capable of doing with the diploma and not simply whether or not they receive one. In addition, we support adding indicators that would demonstrate growth and/or achievement in preparing students for college and career, such as SAT or ACT scores.

Section: 200.14

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- **Recommendation:** Define types of research allowable as support.
- **Rationale:** The measure a state chooses to include should be supported by educational research conducted by a university or another highly reputable research entity. States should be held to a high standard in order to prevent the adoption of assessments from companies that do their own research to support a product.

ASSESSMENT (§200.15-200.17, Pages 34599-34603)

Section: 200.17

- **Current language:** “(iii) Must not exceed 30 students, unless the State provides a justification for doing so in its State plan under section 1111 of the Act consistent with paragraph (a)(3)(v) of this section; and...”
- **Recommendation:** Change 30 students to 10 students, for example: “(iii) Must not exceed 30 10 students, unless the State provides a justification for doing so in its State plan under section 1111 of the Act consistent with paragraph (a)(3)(v) of this section; and...”
- **Rational:** In order for every student to succeed, they must count. The n-size is critical because it ultimately determines which students count, and which don't. Reporting data for as many students as possible is vital to highlighting achievement gaps in academic achievement, as well as identifying schools that are doing a great job at closing those gaps. However, with an n-size as high as 30, it would be too easy for subgroups of students to be ignored. For example, if a high school has only 27 Latino students in a senior class of 100, with an n-size as high as 30, those students would not have to be counted for reporting and accountability purposes. As a result, we wouldn't know whether or not the Latino students at that school were graduating at lower rates than their peers from other subgroups, and the school and district would not know to more target resources the there to help – and, worst of all, that group of students would continue to be underserved by our school. Ten is still large enough to protect the privacy of the students, but would ensure that most students are counted. Some states, such as Maryland, currently have an n-size of 10, and we would like to see this continued.

PUBLIC REPORTING, § 200.18, Pages 34601-34602, § 200.20, Page 34603 – REPORT CARDS § 200.30-200.37, Pages 34608-34614)Section: 200.36

- **Current Language:** “(a) *Reporting information on postsecondary enrollment.* (1) Each State and LEA report card must include the information at the SEA, LEA and school level on postsecondary enrollment required under section 1111(h)(1)(C)(xiii) of the Act, where available, consistent with paragraph (c) of this section. This information must include, for each high school in the State (in the case of a State report card) and for each high school in the LEA (in the case of an LEA report card), the cohort rate (for all students and each subgroup of students under section § 200.16(a)(2)) at which students who graduate from high school enroll in programs of postsecondary education, including—”
- **Recommendation:** Add “six year postsecondary graduation rate,” for example: “(a) *Reporting information on postsecondary enrollment.* (1) Each State and LEA report card must include the information at the SEA, LEA and school level on postsecondary enrollment **and the four-year and six-year post-secondary graduation rate** required under section 1111(h)(1)(C)(xiii) of the Act, where available, consistent with paragraph (c) of this section. This information must include, for each high school in the State (in the case of a State report card) and for each high school in the LEA (in the case of an LEA report card), the cohort rate (for all students and each subgroup of students under section § 200.16(a)(2)) at which students who graduate from high school enroll in programs of postsecondary education **and the four-year and six-year post-secondary graduation rate**, add the following to clarify the calculation of postsecondary persistence (d) *Calculating six-year post-secondary graduation rate.* To meet the requirements of paragraph (a) of this section, each State and each LEA must calculate the cohort six-year post-secondary graduation rate in the following manner:
 - (1) The numerator must consist of the number of students from the cohort identified in (2) who have completed by obtaining a degree of postsecondary education six years beyond graduation.
 - (2) The denominator must consist of the number of students who enrolled in a post secondary institution of education in accordance with § 200.37(b)(1) in the school year six years prior.
- **Rationale:** This would help measure “ability of high schools to prepare students to enroll in postsecondary institutions”-- a necessary but not sufficient measure because the most important outcome is for students to successfully *complete* their postsecondary training. Research suggests that some low-income students who do not graduate from the institution they enrolled in may have been better off not enrolling due to the enormous student debt they accumulate. Many students enroll in institutions with open enrollment or with very low selectivity rates. Thus, while we may be convincing students to attend college, whether they graduate with a degree is far from certain, as the admissions process does not necessarily certify that that students are prepared to graduate. Some non-selective private (non-profit) colleges have six-year graduation rates below 30%. A Department of Education study found that only 54% of high school graduates entering

post-secondary education completed a degree in six years, and when we look at African American and Hispanic subgroups the number falls to 36% and 40% respectively.

SCHOOL IMPROVEMENT (§200.19-200.28, Pages 34602-34608)

Section: 200.19

- **Current Language:** “(2) A State must identify schools for comprehensive and targeted support and improvement by the beginning of each school year, ...”
- **Recommendation:** Change this section to read “(2) A State must identify schools for comprehensive and targeted support and improvement **at least one week before** the beginning of each school year...”
- **Rationale:** Making student, teacher, and classroom changes before school starts is much less disruptive than after the beginning of the school year. As teachers, we start thinking about our class as soon as we get our class assignments. Before school starts, we learn about our students’ needs and begin differentiating assignments, planning for IEP accommodations, and gathering resources based on student needs. This ensures that we can start the year from day one building a vibrant learning culture that ensures all students’ academic and socio-emotional needs are met.

Section: 200.21 (c) and (d)

- **Current language:** (c) For each identified school, an LEA must conduct, in partnership with stakeholders (including principals and other school leaders, teachers, and parents (d) Is developed in partnership with stakeholders (including principals and other school leaders, teachers, and parents), as demonstrated, at a minimum, by describing in the plan...
- **Recommendation:** Add “students” between teachers and parents in both sections, for example, “For each identified school, an LEA must conduct, in partnership with stakeholders (including principals and other school leaders, teachers, **students**, and parents (d) Is developed in partnership with stakeholders (including principals and other school leaders, teachers, **students**, and parents), as demonstrated, at a minimum, by describing in the plan...”
- **Rationale:** Students should be required stakeholders so that their perspective is included. Too often, students’ voices are left out of these discussions, and adults determine what is best for them without their input. Students are the primary stakeholders in their education. If we don’t explicitly include ‘students,’ they will continue to be left out. There are examples of both state boards of education (Maryland) and school districts (Anne Arundel County, MD) where students are represented, and they have demonstrated their value to the conversation time and again.

Section: 200.21

- **Current language:** (A) Disproportionate rates of ineffective, out-of-field, or inexperienced teachers identified by the State and LEA consistent with sections 1111(g)(1)(B) and 1112(b)(2) of the Act; and...
- **Recommendation:** add “as identified by a state approved teacher evaluation system” after the word “ineffective,” for example, “Disproportionate rates of ineffective, **as identified, in states that have them, by the state-approved teacher evaluation system,** out-of-field...”
- **Rationale:** We believe that “ineffective” needs to be tied to some definable standard to ensure that states do not use less rigorous processes than an evaluation system. Including this language will make sure that states and LEAs cannot be arbitrary in how they identify “ineffective.”

Section: 200.21

- **Current language:** None
- **Recommendations:** Add funding to reduce teachers’ class loads, increase collaborative planning time, and allow for co-teaching and peer observations, for example: “(4) (B)(ii) Including, at the LEA’s discretion, a review of LEA- and school-level budgeting and resource allocation with respect to resources described in paragraph (d)(4)(i) of this section and the availability and access to any other resource provided by the LEA or school, such as—
(C) Instructional materials and technology;”
Add (D) Funding that will reduce teachers’ class loads and increasing teachers’ collaborative planning time and (E) Funds for substitute teachers to cover classrooms during co-teaching, demonstration lessons, peer observations, planning, and debriefing sessions facilitated by teacher leaders and/or teachers in hybrid roles.”
- **Rationale:** Interventions should not be focused solely on buying new reading or math textbook programs, as is often the case. In the past, failing schools have been rotated through new purchases of intervention and/or instructional programs, but have had minimal focus on classroom instruction. An intervention program is only as good as the instructors implementing it. Interventions are important, but the heart of school improvement is teachers delivering consistent, quality instruction for students.

Section: 200.21

- **Current Language:** (d) *Comprehensive support and improvement plan.* Each LEA must, with respect to each school identified by the State for comprehensive support and improvement, develop and implement a comprehensive support and improvement plan for the school to improve student outcomes that—
(i) Early stakeholder input was solicited and taken into account in the development of the plan, including the changes made as a result of such input; and
- **Recommendation:** Add in a public way, for example “(i) Early stakeholder input from teachers, parents, students, community, and school leaders was solicited and taken into

account **in a public way** submitted in the development of the plan, including the changes made as a result of such input: and...”

- **Rationale:** Including detailed stakeholder groups and recording all submitted input and making it public will help ensure transparency and equity of voice for all groups that are affected by this work.

Section 200.22

- **Current Language:** (c) Targeted support and improvement plan.
(1) Is developed in partnership with stakeholders (including principals and other school leaders, teachers, and parents) as demonstrated by, at a minimum, describing in the plan how—
(ii) Stakeholders will have an opportunity to participate in an ongoing manner in such plan’s implementation;
- **Recommendations:** (ii) All stakeholders **including those who submitted input at the onset of the process will be notified by the state at least four weeks before final decisions are made and** have an opportunity to participate in an ongoing manner in such plan’s implementation.
- **Rationale:** Requiring the state to notify stakeholders who were present at the onset of the process will help ensure all stakeholder groups have a voice and an opportunity be engaged in the continuous improvement process. Too often, teachers who were part of the initial process of reform are shut out of the ongoing review of the process.

Section 200.24

- **Current Language:** (d) *State responsibilities.* (1) Each State must— (i) Establish the method described in paragraph (c) of this section that the State will use to allocate school improvement funds to LEAs;
(ii) Monitor the use of funds by LEAs receiving school improvement funds;
Recommendation: (ii) Monitor **and make public** the use of funds by LEAs receiving school improvement funds;
- **Rationale:** It is important to make explicit to states that the use of public funds should be accessible to the public, especially stakeholders. As teachers in high-poverty schools, we often hear about funding for interventions or grants to states and districts to better serve the schools, yet we are left wondering where that funding went or why we are left to buy our own books for classroom libraries, for example. Improved transparency will better hold LEAs accountable for ensuring that resources are used as intended.

RESOURCE EQUITY (§299.13-299.19, Pages 34614-34621)

Section: 299.13

- **Current Language:** None
- **Recommendation:** Add an additional subsection to 299.13 (b) to ensure that agendas and written follow up to participants is required in state plans.

- **Rationale:** While we appreciate the Department’s requirements for public notice of the processes, procedures and outreach during the design, submission, and revision of state plans -- as well as the publication of information on how comments and consultation occurred -- we also know from experience that often without agendas developed with stakeholders and clear, written follow up, “consultation” can become a rubber stamp without any real collaboration. We recommend an additional subsection to ensure that agendas and written follow up to participants is required in state plans. This will make the process of consultation more meaningful and ensure that stakeholders – especially those representing our students, who have historically been marginalized – have the information they need to participate in true collaboration.

Section 299.15

- **Current Language:** (a) *Consultation.* In its consolidated State plan, each SEA must describe how it engaged in timely and meaningful consultation consistent with § 299.13(b) with stakeholders in the development of each of the four components identified in §§ 299.16 through 299.19 of its consolidated plan. The stakeholders must include the following individuals and entities and must reflect the geographic diversity of the State:
 - (1) The Governor, or appropriate officials from the Governor’s office;
 - (2) Members of the State legislature;
 - (3) Members of the State board of education (if applicable);
 - (4) LEAs, including LEAs in rural areas;
 - (5) Representatives of Indian tribes located in the State;
 - (6) Teachers, principals, other school leaders, paraprofessionals, specialized instructional support personnel, and organizations representing such individuals;
 - (7) Charter school leaders, if applicable;
- **Recommendation:** To (6) add “practicing” before each of the categories and ensure this group of teachers represents diverse schools, and add to (7) practicing teachers, for example: “(6) **Practicing** teachers (including union and non-union teachers, and high-performing teachers from high-poverty schools), principals, other school leaders, paraprofessionals, specialized instructional support personnel, and organizations representing such individuals from schools of different demographics; (7) **Practicing** charter school leaders **and teachers**, if applicable.
- **Rationale:** The Department should require states to ensure that practicing teachers – those of us who are currently in the classroom and delivering instruction in the schools and to the students who will be impacted by accountability plans – are actively involved in implementation decisions that will guide our work. All too often, we are represented in stakeholder discussions by a teacher from an affluent school, or a low-performing teacher, or a retired teacher who is many years out of the classroom and less in touch with the realities of teaching and learning today. It is critical to specify that teachers should come from schools with a range of demographics to ensure a range of perspectives. While we know all teachers want what is best for students, as teachers in schools with a high concentration of students living in poverty, we know that our students and schools often have needs that are different from students from more affluent backgrounds. We believe that without the perspective of teachers from high- poverty schools, any plan

created might sound good in theory, but in reality, will not meet the needs of our students.

Section: 299.17

- **Current Language:** “(4) The minimum number of students that the State determines are necessary to be included in each of the subgroups of students consistent with...”
- **Recommendation:** Add the words “not to exceed 10 students”. “(4) The minimum number of students, **not to exceed 10 students**, that the State determines are necessary to be included in each of the subgroups of students consistent with...”
Rationale: States need the opportunity to have small subgroups, but our students in these subgroups also need to have a voice and have their data validated that they are gaining and growing in their education. For example, if a school has a small English Language subgroup of approximately 40 students and the state set minimum level of 50 students then these students will lose the chance to have data closely monitored.

Section: 299.18

- **Current Language:** “(2)(i)(iii) If the SEA plans to use funds under one or more of the included programs for this purpose, how the State will improve educator preparation programs consistent with section 2101(d)(2)(M) of the Act”
- **Recommendation:** Add the words “and continuing education for early and veteran teachers”. “(2)(i)(iii) If the SEA plans to use funds under one or more of the included programs for this purpose, how the State will improve educator preparation programs consistent with section 2101(d)(2)(M) of the Act and **continuing education for early and veteran teachers**”
- **Rationale:** Currently, states provided multiple supports for early career teachers in hopes of retaining them. However, we are losing more and more teachers who move past the initial years and find themselves in unsupported situations and in a position where the private sector offers better support, leadership and growth opportunities. Some of this attrition could be prevented if Title II, Part A funds could be used to support all teachers, not just new teachers.

Section: 299.19

- **Current Language:** 299.19 (a) (iii) (iii) School conditions for student learning, including activities to reduce—
(A) Incidents of bullying and harassment;
(B) The overuse of discipline practices that remove students from the classroom, such as out-of-school suspensions and expulsions; and
(C) The use of aversive behavioral interventions that compromise student health and safety
- **Recommendation:** Include language to address for overcrowding in classrooms and schools, for example: “**(D) Overcrowding in classrooms in high-poverty schools so that students are in a safe environment and the number of students in learning environments is responsive to student learning needs.**”

- **Rationale:** Teachers can better individualize and differentiate instruction and build strong learning cultures when class sizes are small. This is especially important in high-poverty classrooms, when students often need more academic and socio-emotional support. A positive side effect of reducing class sizes in high-poverty schools would also be a reduced load for teachers, which would result in less burnout and help schools retain teachers, which is critical to a school culture.

Section: 299.19

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 - (A) Incidents of bullying and harassment;
 - (B) The overuse of discipline practices that remove students from the classroom, such as out-of-school suspensions and expulsions; and
 - (C) The use of aversive behavioral interventions that compromise student health and safety
- **Recommendation:** Add language to address inadequate infrastructure and facilities, for example: “299.19 (a) (iii) (iii) School conditions for student learning, including activities to reduce—
 - (A) Incidents of bullying and harassment;
 - (B) The overuse of discipline practices that remove students from the classroom, such as out-of-school suspensions and expulsions; and
 - (C) The use of aversive behavioral interventions that compromise student health and safety
 - (D) Poorly maintained facilities and insufficient heating/cooling of classrooms and school buildings.”**
- **Rationale:** The deplorable conditions we heard about this year in Detroit are found in urban, rural, and even some suburban classrooms and schools across the country. Not only it is difficult for students and staff to focus on learning when their environment is uncomfortable or dangerous, but it sends a message that students and teachers in this school do not deserve better.

Thank you for your consideration of our views. We look forward to working with you and in our states to move this process forward in ways that preserve ESSA’s civil rights legacy. We are eager to do everything we can to ensure ESSA does as much good as possible for our students and schools.

If you have any questions please contact Christina Ross, Teach Plus Teacher-in-Residence, at cross@teachplus.org.

Sincerely,

Teach Plus Teaching Policy Fellows from California, Colorado, Illinois, Indiana, Maryland, Massachusetts and Tennessee