



Every Student Succeeds Act (ESSA)

Implementation Update

NSBA Federal Advocacy and Public Policy



Presentation Overview

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Recent Implementation Activity

- **Proposed Assessment Regulations**
 - Negotiated rulemaking committee reached consensus
- **Proposed Accountability Regulations**
 - Published May 31, 2016
 - Open for public comment *NOW*
- **Supplement, Not Supplant Regulatory Language**
 - Negotiated rulemaking committee *did not* reach consensus



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TITLE I: PROPOSED ASSESSMENT REGULATIONS



Title I: Assessments

- Maintains requirements in Title I for challenging academic standards and aligned assessments

Subject	Grade Tested
Reading/English language arts	Grades 3-8, once in high school
Mathematics	Grades 3-8, once in high school
Science	Once in grade 3-5, 6-9, 10-12

- ESSA retains the requirement that States annually measure the achievement of not less than 95% of all students and 95% of students in each subgroup.
 - ESSA defers to State and local policies regarding students opting out of assessments
 - Proposed regulations do not specifically address opt-out



Title I: Assessments

- States and districts must continue to collect and report disaggregated data:

Disaggregated results within the state, districts and school sites

Each major race and ethnic group

Gender

Economically disadvantaged

Migrant status

English proficiency status

- Negotiated rulemaking concluded in April
- Assessment-related issues considered by negotiators
 - Exception for 8th grade advanced math
 - Locally-selected, nationally recognized assessments
 - Assessing students with disabilities, including students with the most significant cognitive disabilities (Addresses accommodations)
 - Assessing English learners, including appropriate accommodations and English language proficiency assessments
 - Computer adaptive tests (CAT's)



Title I: Assessments

- **8th Grade Exception for Advanced Mathematics**
 - State may exempt 8th grade student in an advanced math course if:
 - Student takes an end-of-course assessment typically administered to high school students
 - Student's performance is used the year the student takes the assessment for accountability
 - In high school, the student takes a State administered EOC or nationally recognized assessment in high school that is more advanced (Used for accountability)
 - Nationally recognized assessment must provide all accommodations
 - State must describe "strategies to provide all students in the State the opportunity to be prepared for and take" such courses. (Outlined in State Plan)

- **Locally Selected Nationally Recognized HS Assessment**
 - State determines whether districts in the State may utilize option
 - If a district opts to provide the nationally recognized assessment within the district, the assessment must be administered to all high school students in the district. (Exception: students with most significant cognitive disabilities.)



Title I: Assessments

- **Locally Selected Nationally Recognized HS Assessment (continued. . .)**
 - Specific notifications and procedural requirements
 - Example: Parental notification of intent to use nationally recognized assessment, and parents must be informed of how to provide meaningful input regarding the district's request.
 - Use of appropriate accommodations
 - Equity in the provision of accommodations
 - Regulations define “nationally recognized high school academic assessment”
 - “Nationally recognized high school academic assessment” means an assessment of high school students’ knowledge and skills that is administered in multiple States and is recognized by institutions of higher education in those or other States for the purposes of entrance or placement into courses in postsecondary education or training programs.”



Title I: Assessments

- **Inclusion of English learners in assessment systems**
 - Appropriate accommodations, and, “to the extent practicable, assessments provided in the native language of the student.”
 - States must identify languages other than English that are present to a significant extent in the participating student population.
 - States submit a plan and a timeline for developing assessments in the identified language(s). The rule includes factors States must take into consideration.
 - Process and transition requirements for assessing EL’s with assessments written in English
 - States must develop a statewide assessment for assessing English language proficiency.
- **Inclusion of students with disabilities in assessment system**
 - Incorporates definition by referencing federal disability laws.
 - States define student with the most significant cognitive disabilities, but definition must meet specific criteria.
 - “Appropriate accommodations, such as interoperability with, and ability to use, assistive technology devices consistent with nationally recognized accessibility standards” required



Title I: Assessments

- **1% cap on assessing students with the most significant cognitive disabilities with an alternate assessment.**
 - State may not exceed
 - State cannot prohibit district from assessing more than 1%
 - District will be required to submit information to State if it exceeds 1%
 - State must monitor districts that exceed cap and verify that district:
 - Is following State guidelines
 - Will not significantly increase #, unless can show enrollment increase
 - Disproportionality in number/percentage of subgroups
 - State must describe how it will provide oversight in districts
 - States must ensure equity in the provision of accommodations.
 - Increased training and technical assistance for identifying and utilizing effective accommodations, and for identification and education of students with the most significant cognitive disabilities.
 - Specific reporting requirements



Title I: Assessments

- The negotiated rulemaking committee reached a consensus on the proposed assessment regulations
- What happens next?
 - ED is bound to the consensus-based language
 - ED will forward regulations to the Office of Management and Budget (OMB) to publish in Federal Register
 - OMB has regulations (Regulations have not been published)
 - Once published, regulations will be open for public comment/review for 60 days



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TITLE I: PROPOSED ACCOUNTABILITY REGULATIONS



Title I: Accountability

- ESSA eliminates AYP and the 100% proficiency requirement.
 - State defined index system that includes certain federally-required indicators.
 - System outlined in the State Plan submitted to ED for approval
- Must include “ambitious State-designed long term goals” with “measurements of interim progress.”
- Must include index factors, or indicators
 - Performance/progress on certain academic indicators
 - Measure of School Quality and Student Success (non-academic indicator)
- States must annually identify and differentiate schools based on indicators and factors in the accountability system.



Title I: Accountability

- Every 3 years, States must identify schools for “Comprehensive Support and Improvement”
 - 5% lowest performing in the State;
 - High schools that fail to graduate one-third or more of its students;
 - Schools with a consistently underperforming subgroup that, on its own, is performing as poorly as all students in the lowest performing-five percent of Title I schools and that has failed to improve after implementation of a Targeted Support and Improvement Plan

- Annually, States must identify schools for “Targeted Support and Improvement”
 - Schools that have a “consistently underperforming” subgroup, as determined by the State



Title I: Accountability

- On May 31, 2016, proposed accountability regulations published in the Federal Register
 - Public comments due by August 1, 2016
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- State accountability systems
 - Accountability indicators (Requirements for indicator selection)
 - Sub-groups of students
 - Disaggregation of data
 - State Plan requirements
 - Report card requirements
 - Long-term goals
 - Meaningful differentiation/identification of schools
 - Identification and plan requirements (+Data procedures)
 - Targeted support and Improvement (+Data procedures)
 - Comprehensive support and Improvement
 - Identification and plan requirements
 - Per-pupil expenditure reporting
 - H.S. Graduation rate calculations



Title I: Accountability

- **Participation in Assessments/Annual Measurable Achievement**
 - States required to annually measure at least 95% of all students and 95% of students in each subgroup of students enrolled in public school
 - Participation rates are calculated separately on RLA/Math
 - Participation rate requirement for all students/subgroup of student's must be factored into the State accountability system.
 - Required State action:
 1. Assign a lower summative rating to the school;
 2. Assign the lowest performance level on the Academic Achievement Indicator;
 3. Identify the school for targeted support and improvement; or
 4. Another equally rigorous State-determined action that will result in similar outcome re: meaningful differentiation
 - Must develop and implement an improvement plan to address reasons for low participation and interventions to improvement (District and school)



Title I: Accountability

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- **Schools identified for Comprehensive Support and Improvement**
 - State notification: State must notify no later than the beginning of the school year for which the school is identified.
 - District notification: District must notify the parents of each student enrolled in the identified school, including, at a minimum, the reason for the identification and an explanation for how parents can be involved in developing/implementing improvement plan
 - Specific format requirements
 - District is required to conduct a needs assessment in partnership with stakeholders
 - Academic achievement, by subgroup
 - School's performance on all indicators in State system
 - Reason/reasons school was identified
 - At the district's discretion, locally selected indicators



Title I: Accountability

■ Schools identified for Comprehensive Support and Improvement (continued. . .)

■ District Plan

- Developed with stakeholders (Include description)
- Incorporates needs assessment
- Includes one or more interventions that are evidence-based
- Identifies/addresses resource inequities
- Made publicly available, consistent with notice requirements
- Approved by the school, the district, and the state

- Failure to meet exit criteria = needs level assessment, amend plan & possibly implement *new interventions*.

State Responsibilities

- Review/Approve
- Monitor
 - Establish Exit Criteria

Exit Criteria

- Criteria met within certain timeframe (No longer than 4 years)
- School increases student outcomes and no longer meets criteria for CS&I



Title I: Accountability

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- **Schools identified for Targeted Support and Improvement**
 - Same notification requirements, both State and district
 - District Plan
 - Addresses reasons for identification and ways to improve student outcomes
 - Developed with stakeholders (Include description)
 - Designed to improve student performance for lowest-performing or improve participation rates
 - Includes one or more interventions that are evidence-based
 - Identifies/addresses resource inequities
 - Made publicly available, consistent with notice requirements
 - Submitted by the school to the district, for approval



Title I: Accountability

- **Schools identified for Targeted Support and Improvement** (Continued)
 - Failure to meet exit criteria = Amend plan to include additional action
 - Address reasons school did not meet exit criteria
 - Encourage school to include interventions that meet higher level of evidence
 - Specific provisions re: schools with one or more low-performing subgroups.
 - Examine resource inequities
 - Example: Inexperienced/out-of-field teachers
 - Title I School: State establishes exit criteria/Could result in CS&I Identification

District Responsibilities	Exit Criteria
<ul style="list-style-type: none">• Review/Approve• Monitor• Establish Exit Criteria	<ul style="list-style-type: none">• Criteria met within certain timeframe• Successful implementation of plan and school no longer meets criteria for TS&I identification



Title I: Accountability

■ § 200. 23 State responsibilities to support continued improvement

State Review of Resource Allocation

- State periodically review resource allocations for each district serving significant numbers of schools identify for comprehensive or targeted support and Improvement
- Review must consider allocations between schools/districts
- Must consider inequities identify by the plans and would require the State to take action to address resource inequities (Extent practicable)

Technical Assistance

- State must describe how it will assist districts in developing plans, conducting school-level needs assessments, selecting evidence-based interventions, reviewing and addressing resource inequities.

Additional State Action

- Example: Additional improvement action could include reorganizing the school to implement a new instructional model; replacing leadership; conversion; changing governance; closing school.



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TITLE I: SUPPLEMENT, NOT SUPPLANT



Title I: SNS

- The requirement: What is supplement, not supplant? (SNS)
- ESSA changes to supplement, not supplant requirements:
 - Eliminates previously used conditions for determining violations in non-schoolwide programs
 - Applies more flexible “schoolwide program” requirements to all Title I schools
 - Districts are no longer required to identify that a specific service or cost is supplemental
 - District demonstrates compliance through district-determined methodology
 - ESSA incorporates NCLB language: “Nothing in this title shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.”
 - Methodology must ensure that Title I schools receive all of the State and local funds it would have received if it had received no Title I funds



Title I: SNS

- ED's Proposed Regulations:
 - District chooses methodology
 - Districts are not required to identify that an individual cost or service supported with Title I funds is supplemental
 - District also not required to provide services through a particular instructional method or in a particular instructional setting
 - District must spend an amount of State and local funds per pupil in Title I schools that *is equal to or greater than the average per pupil expenditure in non-Title I schools*
 - Allocation would include staff positions
 - District comply on districtwide or grade-span basis
 - Exceptions for single school districts/Districts w/ no Title I sites
 - Discretion to exclude very small schools/programs serve same purpose
 - Failure to meet the “equal to or greater” test = non-compliance
 - District will not be out of compliance unless unable to meet requirements for one of three preceding years



Title I: SNS

- Negotiated rulemaking committee was unable to reach a consensus on ED's proposed regulations
- What happens next?
 - ED may proceed with regulations in *any* form
 - ED is not bound by negotiations
 - ED will send regulations to the Office of Management and Budget (OMB) to publish in Federal Register
 - OMB has the regulations
 - Regulations will be open for public comment/review for 60 days
 - Congressional action?

Congressional Oversight

- **Congressional Review Act**: Empowers Congress to review and overrule, by means of an expedited legislative process, new federal regulations issued by government agencies.
 - Congress is given 60 legislative days to disapprove, after which the rule will go into effect.
 - Congressional resolution of disapproval must either be signed by the President, or must be passed over the President's veto by two-thirds of both Houses of Congress.
- ED Department's proposed rule on **Title I supplement, not supplant (SNS)** will be subject to congressional review.

Congressional Oversight

- **In addition, Congress can influence the ESSA implementation process by doing the following:**
 - Convene oversight hearings to express legislative intent of the *Every Student Succeeds Act*, and ensure that the ED Secretary drafts regulations and non-regulatory guidance pursuant to the law.
 - Draft a letter to the ED Department urging the Secretary to encourage States to ensure that they are “meaningfully” engaging local school board members in the drafting of State Plans.
 - Interface directly with State Education Agencies (SEAs), and serve as liaison between constituents and State education officials.
 - Raise awareness about local district-level concerns regarding the ED Department’s proposed regulations. (i.e. Accountability, Assessments, and Title I funding provisions).

Congressional Oversight

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- **Hearings:** On Capitol Hill, House and Senate ED Committees convened four oversight hearings on ESSA implementation to ensure that the ED Department promulgates rules/guidance pursuant to the spirit of the law.
- **Letters to ED Department:** In February, U.S. Senators Angus King, Deb Fischer and Jon Tester sent a letter to the ED Department seeking clarification on how it plans to incorporate input from local stakeholders.
- **Coalition Meetings:** House and Senate ED Committee Staff met with NSBA and other members of the *ESSA Implementation Network* to discuss local stakeholder engagement and other regulatory priorities.



Questions?





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Working with and through our state associations, NSBA advocates for equity and excellence in public education through school board leadership.

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