



National Alliance for Partnerships in Equity

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Via <http://www.regulations.gov>

Deborah Spitz
Education Program Specialist
Office of Early Learning in the Office of Elementary and Secondary Education
U.S. Department of Education
400 Maryland Avenue SW, Room 3E306
Washington, DC 20202

Re: *Implementing Programs under Title I of the Elementary and Secondary Education Act (Docket No. ED-2015-OESE-0130, at 80 Fed. Reg. 79528)*

Dear Ms. Spitz:

The National Alliance for Partnerships in Equity (NAPE) respectfully submits the following comments in response to the Department of Education's Request for Information to solicit advice and recommendations on regulations to implement programs under Title I of the Elementary and Secondary Education Act of 1965. NAPE has worked for nearly four decades to ensure that women and girls have equal educational opportunities in career and technical education, particularly in the areas of non-traditional occupations.

The National Alliance for Partnerships in Equity www.napequity.org is a consortium of state educational and affiliate agencies providing national leadership for equity in education and workforce development. NAPE supports the work of state and local personnel in 34 states throughout the nation in carrying out the equity and special population provisions in the Carl D. Perkins Vocational and Technical Education Act as well as other education and workforce development legislation. In fact, more than 11.5 million secondary school students and 14.5 million community college students are served annually by NAPE's state level members.

The Every Student Succeeds Act (ESSA) stays true to the original intent of the law—leveraging the power of the federal government to ensure state and local school districts address the needs of historically disadvantaged students. Despite erroneous claims to the contrary, ESSA preserves Secretarial authority to issue regulations to assist states in complying with the law. The Secretary also maintains the power to enforce the law when states shirk their duties to use federal funds to provide quality educational opportunities to disadvantaged children.

As important, ESSA includes critical measures to strengthen the role of Career and Technical Education (CTE) in our nation's K-12 education system by promoting activities that integrate academic and CTE content in the classroom, expanding college and career guidance programs,

improving the availability of CTE student performance information, and recognizing that CTE is a core component of a well-rounded education. To effectively implement and fully realize the potential of these important new provisions, we would like to highlight some areas where we believe guidance and technical assistance from the Department would provide clarity for states and school districts, while maintaining ESSA's emphasis on local control and flexibility.

With regard to greater alignment between academics and CTE as reflected across Title I and throughout ESSA, NAPE is pleased to see that ESSA will require states to align challenging academic standards with relevant CTE standards—ensuring a state's educational goals include high-quality CTE. As with any effort to foster greater alignment between academics and CTE, the department should work closely with states, providing both baseline regulatory requirements and best practices on effectively integrating state-identified academic and CTE standards. The enactment of ESSA was a significant step toward ensuring that all students have access to a high-quality education, including CTE, and are prepared to graduate from high school ready for college and careers.

For ESSA to work for *every* child, the Department must engage parents and community leaders in its implementation. The knowledge, perspectives and voices of students, parents and local communities must drive decisions about funding, accountability, supports, interventions, data reporting, and assessment at the federal, state and local levels. Federal regulations, guidance and technical assistance are necessary to ensure that low-income communities, communities of color, the disability community, immigrant communities and tribes are included in decision making. While the law contains several consultation and engagement provisions, the Department should emphasize the importance of stakeholder engagement as it considers every matter of policy.

In direct response to the request for information regarding regulations to implement programs under Title I of ESSA, we encourage the Department to propose regulations regarding data reporting, accountability, assessment, and supplement not supplant, and resource and educator equity.

I. The Department should issue regulations to clarify requirements to report achievement data in a cross-tabulated manner, as well as guidance that encourage districts to further disaggregate Asian American Pacific Islander (AAPI) performance.

Section 1111(g)(2)(N) requires state educational agencies (SEAs) receiving Title I funds to make academic achievement data¹ available in a way that can be cross-tabulated across all reporting categories (*i.e., race/ethnicity, gender, disability status, economically disadvantaged status, English proficiency status and migrant status*) by, at a minimum, gender, race/ethnicity, English proficiency, and whether the student does or does not have a disability. ESSA also specifies that this information must be easily accessible and user-friendly. Finally, ESSA requires that the Secretary provide technical assistance upon request to SEAs to comply with the above cross-tabulation requirements or to further disaggregate achievement data for Asian and Pacific Islander students.

Cross-tabulated achievement data is vital because it helps communities identify issues affecting particular subgroups of students, such as African American boys, Latina girls, or girls with disabilities. By looking at the intersection of and interaction between various subgroups, parents, community members, districts and states can unmask problems that are obscured by larger subgroups, such as whether the performance for girls overall masks the performance of a subset of girls, such as African American or Native American girls. These cross-tabulated data will permit districts to better ensure that interventions are based on accurate data instead of generalizations and oversimplifications. Because school districts are already required to collect and report this data by the six subgroups, reporting in a manner that is or can be easily cross-tabulated should not be burdensome.

For these reasons, the Secretary should issue regulations or guidance on how to comply with the provision on cross-tabulated data. The Department should encourage states to include cross-tabulated achievement information on annual report cards, while setting a minimum requirement that this information be publicly downloadable for all visitors to a SEA's website, as per the statutory requirement that this information be "easily accessible." The Department should also make clear that "user-friendly" requires schools to release this information in a format that can be easily manipulated, such as an excel spreadsheet or comma delimited file, and that formats that cannot be manipulated, such as PDFs, are not user-friendly. Furthermore, parents and stakeholders are concerned about their individual schools and achievement data is required to be collected by each local educational agency (LEA). For these reasons, in order for reported data to be "user-friendly," the Department should require SEAs to segment this data on their websites in a way that can be cross-tabulated at the state, LEA, and school levels; permitted doing so does not reveal personally identifiable information. This requirement will not be burdensome for SEAs, since they will be relying on cross-sectional data compiled and reported by LEAs and will simply have to anonymize these data, if not already anonymized by LEAs.

Indeed, the ten states that currently cross-tabulate achievement dataⁱⁱ allow users to analyze data at the state, LEA and school levels. Additionally, the Department should promulgate a uniform n-size requirement that is small enough to yield statistically reliable information and protects student privacy. The Department should also encourage SEAs to make required academic information available in a way that can be cross-tabulated by all six categories—rather than the four required by statute—and to report other indicators used in state accountability systems in a way that can be cross-tabulated across the six reporting categories.

Just as cross-tabulating achievement data can unmask educational disparities obscured by larger group performance, further disaggregating AAPI categories can also bring to light academic issues facing a diverse subgroup that contains more than 48 ethnic categories. The Secretary should encourage broader use of AAPI categories at the state and district levels to improve student outcomes and provide technical assistance for states and districts seeking to collect and report data with this important information.

II. The Secretary should issue regulations to effectuate annual data collection and reporting of school climate, safety information and CTE accountability indicators on state report cards.

Section 1111(h)(1)(C)(viii) requires states to include school climate and safety information submitted to comply with the Civil Rights Data Collection (CRDC) on annual report cards. Specifically, SEAs must report rates of in-school suspensions; out-of-school suspensions; expulsions; school-related arrests; referrals to law enforcement; chronic absenteeism (including both excused and unexcused absences); incidences of violence (including bullying and harassment); and the number and percentage of students enrolled in preschool programs, accelerated coursework to earn post-secondary credit while still in high school, and dual or concurrent enrollment programs.

Although the school climate and safety information required for annual state report cards is just a subset of CRDC data, we are pleased that parents, stakeholders, and the public will receive annual updates on whether their schools are ensuring a nondiscriminatory climate as required by our nation’s civil rights laws. Consistent with ESSA, the Department should issue guidance to make clear that annual reporting of the aforementioned data is required and that current reporting standards must be maintained, including cross-tabulation of data by race/ethnicity, gender and disability status, as applicable.

Further, the Secretary should issue guidance that encourages the use of the option to include student performance on CTE accountability indicators within state and district report cards. As outlined in ESSA, this is information that is already collected under the Carl D. Perkins Career and Technical Education Act. *The Department should make it clear that choosing to include this information will not create any new data collection burdens for states and school districts*, and should consider providing states with guidance on how to effectively integrate CTE performance measures into their report cards.

III. The Department should outline meaningful differentiation in state rating and accountability systems and define ambiguous terms.

The Department should propose regulations that ensure not only that state accountability systems are driven by the performance of groups of students, but also that support and intervention systems are developed with stakeholder input and implemented to raise achievement for consistently under-performing groups of students. Furthermore, regulations should prohibit the use of so-called “*supergroups*” in accountability systems (*i.e., the aggregation of students by race, ethnicity, disability, or income status*) because they obscure important differences in history and identity and are not consistent with the law as written. Also, in order for disaggregated data to be meaningful, “n-sizes” must be kept low and not be allowed to hide student performance, as had been a practice in the past. It will be important to ensure that identification and intervention of schools in all three categories identified in the law (high school graduation rates below 67 percent, and schools with consistently underperforming groups of students) is meaningful.

The Department should also define through regulations ambiguous terms not defined in statutory text, including “meaningfully differentiate,” “valid,” “reliable,” “substantial weight,” “much greater weight,” “consistently” and “underperforming.” In so doing, the Department should prioritize student outcomes in state accountability systems and not allow indicators that are unreliable predictors of school quality to artificially boost underperforming schools in the state rating system. Finally, regulations should make clear that affected communities must be included in decisions about interventions and that interventions must be evidence-based and designed to raise achievement for affected students.

IV. The Secretary should issue regulations that set meaningful parameters for statewide assessments—including assessments for English language learners and students with severe cognitive disabilities.

Regulations to implement the assessment provisions of the law should ensure that the 95 percent participation requirement is enforced, so that the performance of all students is taken into account in state accountability and rating systems. Additionally, regulations should affirm that the 1 percent cap on the alternate assessment is applied at the assessment level, as opposed to the accountability level. Ensuring the valid and reliable assessment of English language proficiency and the inclusion of English learners in content assessments, with appropriate accommodations, is crucial to ensuring that these students have the supports they need for English language acquisition and content proficiency. In the instances where local assessments are permitted in the law, as a pilot of eventual statewide assessments and in some districts for the high school assessment, it will be imperative to ensure that assessments meet the highest standards of validity, reliability and comparability and that those students with disabilities and English learners are included in the assessments with appropriate accommodations. These assessments should not be an excuse to provide vulnerable students with lower quality assessments or obscure disparities in student outcomes.

V. The Secretary should issue regulations that outline states’ and districts’ obligations to supplement, not supplant Title I dollars with state and local funding, with an emphasis toward ensuring that resources are distributed equitably within and between districts.

The supplement not supplant provision of the law has been a critical tool to protect against the egregious misuse of Title I funds to reinforce inequities in state and local services. Any additional flexibility provided in this requirement must continue to ensure that federal dollars are supplemental. If supplement not supplant is to allow greater flexibility in demonstrating compliance, it must presume and ensure an equal base of actual per-pupil funding before any federal funds can be considered supplemental. In this provision and throughout regulations, the Department should reinforce the non-discrimination responsibility of schools, districts and states under Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990. The Department should also seek additional opportunities to advance greater resource equity within and between school districts through meaningful enforcement of the teacher equity

provisions, and thorough oversight of reporting of per-pupil expenditures, school discipline and climate, course access and other resource issues.

VI. The Secretary should issue guidance to encourage local and state educational agencies to use newly required data to address resource disparities and preserve educator equity across school districts.

The underlying objectives of ESSA will not be met without addressing glaring gaps in access to state and local resources. To this end, the Secretary should issue guidance encouraging states to use newly required data—such as per-pupil expenditures and number of ineffective, out-of-field, or inexperienced teachers in low-income schools disproportionately attended by students of color—to address inter- and intra-district resource disparities. Guidance should also remind LEAs and SEAs of their Title VI obligations to allocate resources in a manner that does not effectively discriminate based on race, ethnicity or national origin. Additionally, the Secretary should provide guidance on how often SEAs must review resource allocations to support school improvement in schools identified in accountability systems, as well as how targeted reallocations can help drive intervention plans. The Secretary should also promulgate a definition of per-pupil expenditures to allow for standardization and ensure comparable data that accurately highlights resource inequities.

Furthermore, guidance on educator effectiveness should encourage district teacher and school leader corps to be culturally competent and diverse. To this end the Department's guidance should specifically address the issue of educator professional development at all levels to create equitable learning environments and inclusive school climates where every student can succeed.

The National Alliance for Partnerships in Equity appreciates the opportunity to provide comments on the regulatory implementation of programs under Title I of the Elementary and Secondary Education Act of 1965. Should you have questions concerning our comments, please contact Mimi Lufkin, Chief Executive Officer at 717 407 5118.

Sincerely,



Mimi Lufkin
Chief Executive Officer

ⁱ Academic achievement data in this instance refers to assessment scores, the percentage of students assessed, the four-year adjusted cohort rate for high schools, and the other statewide academic indicator for elementary and secondary schools that are not high schools.

ⁱⁱ See state report cards for Colorado, Maine, Maryland, Minnesota, Missouri, Nevada, New York, Ohio, Rhode Island and Vermont.