



Arizona
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August 1, 2016

Secretary John King
U.S. Department of Education
400 Maryland Ave. S.W.
Washington, DC 20202-2800

Re: Comments to Proposed Regulations: Docket ID ED-2016-OESE-0032

Dear Secretary King:

The Arizona Education Association (“AEA”) is the largest professional association of educators in Arizona, representing over 20,000 classroom teachers and educational support personnel statewide. As AEA is committed to providing a quality public education for all of Arizona’s students, AEA welcomed the renewed commitment of the Every Student Succeeds Act (“ESSA”) to the whole child. However, the Notice of Proposed Rulemaking (NPRM) did not further the intent of ESSA to redirect education policy back to the student after years of a misguided focus on mere testing. Instead, the proposed regulations both silence the voices of the educators working with our students and return to a failed focus on testing.

AEA hopes that the regulations for ESSA are modified, so its implementation both emphasizes the diverse needs of our students and restores the voices of the educators who are best equipped to meet those needs. In that light, AEA will first offer its overall comments to the proposed regulations, and it will then follow with its responses to the specific requests for comment.

1. Overall, AEA wants Arizona students to be educated in alignment to ESSA and not the proposed ESSA regulations. The regulations tend to be overly prescriptive and undermine the flexibility expressly provided in ESSA. The intent behind ESSA was to allow local communities to craft their own solutions. ESSA specifically created opportunities for local educators to voice their input in the development of those solutions. To the extent that the regulations limit the flexibility of local communities to listen to their local educator voice, the regulations need to be modified.
2. AEA believes that proposed §200.14(d) unnecessarily limits the states’ ability to choose school accountability indicator(s) that best meet the needs of their population. ESSA requires states to identify four distinct indicators of student performance, and it specifically allows states to use “any other indicator the State chooses that meets the requirements [of the statute].” However, the proposed regulations limit the indicators by requiring they be supported by a specific and limited type of research. While AEA supports the use of research in the development of state indicators, the proposed regulations appear to place a subjective criteria

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and judgment on what research is valid and reliable. It also limits the ESSA’s broad grant of power to local communities to select indicators based on the diverse needs of the students in those local communities. The regulations should offer no such limits.

3. The requirement for states to have a single summative rating directly conflicts with the ESSA statutes that grant the states the power to establish their own accountability systems. ESSA expressly contemplates local educators voicing their opinions on how to best educate their students. The regulations should not limit how the states set up their accountability systems.
4. Section 200.12(a)(1) requires that states develop and implement a single statewide accountability system “no later than” the 2017-18 school year. However, other sections of the regulations contradict that timeline, and any contradictions should be removed from the final regulations. Our schools need time to implement the system, and they need regulatory consistency to do that.
5. ESSA requires each State to determine, in consultation with stakeholders, a minimum number of students (hereafter “n-size”) that the State will use for accountability and reporting purposes. However, the regulations overreach by prescribing a minimum n-size of 30. This minimum size is contrary to ESSA’s stated goal of including as many students as possible within the Accountability System. Arizona has many small schools that will have their students excluded by prescribing this minimum n-size, and Arizona should determine a n-size that best captures the majority of students in our schools.
6. AEA shares concerns with the regulations’ definition of proficiency as “grade-level proficiency.” ESSA allows states to select their own long-term goals which are then incorporated into the Accountability System. By further defining and prescribing the impact of “proficiency,” the regulations impede a state’s ability to craft realistic long-term goals for the actual students in that state. The regulations’ limited definition fails to capture the growth of students who initially fall far below grade level, and it will discourage the instruction and development of innovation for the very students that need it most.
7. AEA is concerned about the regulations’ inflexibility as to the Graduation Rate. ESSA allows flexibility in the Accountability System to include additional adjusted extended year cohorts in the graduation rate indicator. Specifically, 200.13(b)(2)(ii) allows a state to use a graduation rate beyond four years. However, the regulations automatically designate those schools with less than 67% 4-year graduation rate for improvement. This automatic designation is contrary to the express flexibility in ESSA that allows inclusion of extended year cohorts in the graduation rate indicator. Also, while the 4-year rate is important, it does not address Arizona’s unique choice environment that offers numerous alternative programs for

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state should have flexibility in determining the specific time periods for data use and timelines for improvement.

2. Whether we should include additional or different options, beyond those proposed in this NPRM, to support States in how they can meaningfully address low assessment participation rates in schools that do not assess at least 95 percent of their students, including as part of their State-designed accountability system and as part of plans schools develop and implement to improve, so that parents and teachers have the information they need to ensure that all students are making academic progress. (§ 200.15)
 - a. Since ESSA allows for parental-opt, severe consequences based on the 95% participation rate seem incongruous with this provision. While other factors for low participation must be addressed, schools and their teachers and staff should not be punished based on the very parental choice that is supported by ESSA. For schools falling below 95% due to parental opt-out, there needs to be other options, as schools will have difficulty creating and implementing a plan that addresses parental opt-out. Arizona should have flexibility in crafting the consequences based on the reasons for the failures to achieve the 95% participation rate.
3. Whether, in setting ambitious long-term goals for English learners to achieve English language proficiency, States would be better able to support English learners if the proposed regulations included a maximum State-determined timeline (e.g., a timeline consistent with the definition of “long-term” English learners in section 3121(a)(6) of the ESEA, as amended by the ESSA), and if so, what should the maximum timeline be and what research or data supports that maximum timeline. (§ 200.13)
 - a. AEA believes that the state needs to have the flexibility to determine timelines for ELL achievement/proficiency. Arizona has a considerable number of ELL students, at all grade levels, and these should be state-level decisions not a one-size fits all approach.
4. Whether we should retain, modify, or eliminate in the title I regulations the provision allowing a student who was previously identified as a child with a disability under section 602(3) of the Individuals with Disabilities Education Act (IDEA), but who no longer receives special education services, to be included in the children with disabilities subgroup for the limited purpose of calculating the Academic Achievement indicator, and, if so, whether such students should be permitted in the subgroup for up to two years consistent with current title I regulations, or for a shorter period of time. (§ 200.16)
 - a. AEA believes that we should retain the flexibility to include such students for the current time frame (up to two years) in the children with disabilities subgroup for the limited purpose of calculating the Academic Achievement indicator.

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5. Whether we should standardize the criteria for including children with disabilities, English learners, homeless children, and children who are in foster care in their corresponding subgroups within the adjusted cohort graduation rate, and suggestions for ways to standardize these criteria. (§ 200.34)

a. AEA believes that flexibility should be at state-level to address unique needs of our schools and students. Standardization removes the local educator voice that was integral to ESSA.

In conclusion, AEA believes that our students are best served when our educators have a voice in crafting the assessment and accountability measures that will guide our students' education. The proposed regulations silence that educator voice, and in doing so, will prevent ESSA from fulfilling its potential to provide the best education for our students. On behalf of its members, AEA implores the administration to modify the regulations so that ESSA's focus on the students remains, instead of returning to a failed, prescriptive focus on testing.

Sincerely,

Joseph Thomas

AEA President

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