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Ms. Meredith Miller
U.S. Department of Education
400 Maryland Ave., SW, Room 3C106
Washington, DC 20202-2800

Dear Ms. Miller,

Thank you for the opportunity to comment on the Notice of Proposed Rulemaking regarding the accountability provisions of the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA). As states and districts undertake the complex task of implementing the new law, it is crucial to ensure that they have the clearest guidance to meet both the spirit and letter of ESSA. Outlined below are the specific sections of each regulation on which we provide recommendations.

Sec. 200.14, Indicators of school quality and student success. ESSA requires states to select at least one additional, non-academic indicator to include in their accountability systems and provides examples such as access to advanced coursework and school climate surveys. The regulations affirm that the measures selected may differ among grade spans. The regulations also require that these measures be supported by research showing that performance on such measures is positively related to student achievement (or graduation rates).

ASCD Comment: We appreciate the flexibility provided by the statute—and affirmed in the proposed regulations—that allows states to select different indicators of school quality or student success for each grade span. Providing for a variety of indicators will help to ensure that states address the unique and diverse needs of students from kindergarten through high school. We also applaud the requirement that states not be precluded from adding or replacing measures over time, if such measures are not ready for the 2017–18 school year.

However, the requirement that the measures be supported by research that links performance on the measure to student achievement—as worthy as it might be—may stifle states’ ability to select measures that will help drive school improvement and address the comprehensive needs of all students. This restriction could cause states to select from among the limited choices enumerated in the statute, which were meant only as examples, not as a defined menu. States and districts across the country are implementing accountability systems that include a variety of measures and they need to continue to have the flexibility to select indicators that address their communities’ unique needs and help to provide a more comprehensive picture of student and school success.

ASCD Recommendation: *We recommend that states have complete autonomy to select measures that meet the statutory requirements without requiring a link to research on student academic performance.*

Sec. 200.15, 95 percent participation rate. States are to establish consequences for schools that fail to meet the student participation rate in state assessments; the regulations require them to select one of three federally prescribed sanctions or develop one of their own that meets prescribed criteria.

ASCD Comment: ESSA specifically gives states the authority to decide the consequences for schools that fail to meet the 95 percent participation rate on state tests. Prescribing federal sanctions goes against the intent of the statute.

ASCD Recommendation: *We recommend revising the regulatory language to be clear that states have complete autonomy in devising consequences for schools that fail to meet the statutory participation rate.*

Sec. 200.18, School rating system. States must develop a summative rating system for schools that includes three levels of performance.

ASCD Comment: ESSA requires an evaluation of LEAs and schools based on academic and nonacademic factors, but it does not require schools to be evaluated based on a single rating. This requirement diminishes the value of having a multimetric system of determining school quality. Furthermore, the fundamental purpose of accountability is to identify both areas of strength and areas in which schools need support to improve. Boiling down all the factors in accountability systems to arrive at a single score does not provide sufficient information to help schools improve, nor does it shine a light on the unique characteristics that make schools successful.

ASCD Recommendation: *We recommend that the summative rating system requirement be removed.*

Sec. 200.19, Definition of “consistently underperforming” subgroups: Districts are required to identify schools with “consistently underperforming” subgroups, which must address four federally prescribed criteria, or states can develop their own.

ASCD Comment: We appreciate the clarification of the term “consistently underperforming” to help states identify schools for targeted support and improvement. Departmental guidance is helpful, but states must have the flexibility and autonomy to define the term with appropriate specificity.

Sec. 200.19, Timeline. The regulations require states to use accountability data from the 2016–17 school year to identify schools in need of comprehensive support in the 2017–18 school year (under the new accountability systems).

ASCD Comment: Using data collected under the requirements of the No Child Left Behind Act (NCLB) will not provide accurate information to help schools identify areas for improvement under new accountability systems. The outdated accountability requirements under NCLB were superseded for most states through waivers, which themselves are set to expire August 1.

ASCD Recommendation: *We strongly recommend that states be given a transition period and the time to implement their new accountability systems*

before they are required to track accountability data for school improvement purposes.

Sec. 200.21, School approval of comprehensive support and improvement plans.

Schools are required to participate in the creation of school improvement plans. The regulations propose that a school must also approve the plan that a district creates for comprehensive support and improvement.

ASCD Comment: It is entirely appropriate that schools participate in the development of school improvement plans. However, districts should retain the authority over approval of such plans to ensure that all schools in the district are treated equally and no schools (particularly the lowest-performing schools) have veto power over such decisions. Districts can help to ensure that plans consider the equitable distribution of resources across the district, such as access to effective educators and student supports and services that contribute to student success and school improvement.

ASCD Recommendation: We recommend that the language requiring school approval be deleted.

Sec. 200.22, Targeted support and improvement plans. Schools are required to develop and implement plans to address the reasons for identification as Targeted Support schools that will improve outcomes for all of the lowest-performing students in the school.

ASCD Comment: Identification as a Targeted Support school is based on whether the school has a consistently underperforming subgroup. This is a narrow and specific criterion, and the plan that a school develops should address the needs of the specific subgroup that is identified as underperforming. Indeed, the proposed regulation requires the identification of resource inequities—but only those that affect the one lowest-performing subgroup. It is inconsistent to then require that the plan improve the outcomes for all low-performing students in the school (not just the subgroup) on each of the indicators in the state’s accountability system, and

it may require an investment beyond what is necessary to improve the outcomes of the specific underperforming subgroup.

ASCD Recommendation: We recommend that the regulatory language be revised to limit the improvement requirement to the subgroup of students identified as underperforming.

Thank you again for the opportunity to submit comments on the proposed ESSA regulations on accountability. We appreciate your careful consideration of our recommendations and look forward to continuing to work with you and the Department on effective implementation of ESSA. Please contact ASCD Government Relations Manager Megan Wolfe at 703-575-5616 or megan.wolfe@ascd.org should you have any questions or need further clarification.

Cordially,

A handwritten signature in black ink that reads "David Griffith". The signature is written in a cursive, slightly slanted style.

David Griffith
Senior Director, Government Relations