



**To:** U.S. Department of Education  
**From:** Alliance for Excellent Education and Learning Policy Institute  
**Date:** January 21, 2016  
**Re:** Request for Information ED-2015-OESE-0130  
Recommendations for Implementation of Title I of the Every Student Succeeds Act

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The Alliance for Excellent Education (the Alliance) and the Learning Policy Institute (LPI) appreciate the opportunity to offer comments and recommendations as the U.S. Department of Education (ED) proposes regulations to implement Title I of the Elementary and Secondary Education Act (ESEA), currently known as the Every Student Succeeds Act (ESSA). The implementation of ESSA provides the opportunity to ensure that all students, particularly those traditionally underserved, receive an education that develops “deeper learning” competencies (or higher-order thinking skills), including critical thinking, complex problem solving, effectively communicating, collaborating with peers, and demonstrating self-direction. ESSA regulations can ensure and support states in embedding deeper learning into both policy and practice. Please find below recommendations regarding how the regulations can create deeper learning opportunities for all students and ensure that all students graduate from high school fully prepared for college, a career, and citizenship.

## **Regulatory Recommendations for Supporting Deeper Learning in ESSA**

### **Accountability Recommendations**

#### **1. Clarify that states are not required to implement an accountability index.**

**ESSA Provision:** Sec. 1111(c), Statewide Accountability System

#### **Concern**

ESSA requires a multiple-measure accountability system. Under waivers, many states chose to utilize multiple measures; however, they incorporated these measures into accountability indexes that gave too little weight to key indicators and masked the performance of student subgroups. For example, the Alliance found that in eleven states, high school graduation rates counted for less than 25 percent of a school’s score.<sup>1</sup> With graduation rates accounting for such a small portion of the index, schools have a disincentive to focus on graduation rates because doing so will only have a minor effect on the overall rating.<sup>2</sup> Similarly, the Education Trust found that state indexes allowed schools to earn high overall ratings despite the low performance of student subgroups. For example, in Florida, the average proficiency rate for African American students in “A” schools is the same as that for white students in “C” schools.<sup>3</sup>

In addition, accountability indexes “indicate a school’s performance status but are silent on what to do to change it.”<sup>4</sup> Other methods for implementing a multiple-measure accountability system, such as data dashboards, may be more effective in promoting transparency, supporting the continuous improvement of all schools, and allowing schools to more effectively measure the deeper learning skills and competencies students need to be successful in postsecondary education and the workforce.<sup>5</sup>

### **Recommendation**

ESSA regulations should clarify that states have the flexibility to implement a multiple-measure accountability system without using an index. In addition, in order to comply with the statutory requirement for specific indicators to have “substantial weight” (Sec. 1111(c)(4)(C)(I)) and “much greater weight” (Sec. 1111(c)(4)(C)(II)), regulations should clarify that states may define these terms according to the action that results from performance on the indicators. When defining “substantial weight” on the set of academic outcomes indicators, ample attention must be paid to the indicator in the decision rules used to make a judgment about a school’s need for intensive assistance. For example, if performance on the graduation rate indicator and the assessment indicator lead to comprehensive or targeted improvement, then those indicators would be considered to have “substantial weight.”

## **2. Incorporate indicators of school quality or student success that are meaningful and actionable.**

**ESSA Provision:** Sec. 1111(c)(4)(B)(v)(I), Statewide Accountability System, Indicators of School Quality or Success

### **Concern**

In addition to student achievement, graduation rates, and English language proficiency, ESSA requires states to incorporate at least one indicator of school quality or success, which may include a measure of student engagement, student access to and completion of advanced course work, postsecondary readiness, or school climate. Within each category of indicators there exists measures of varying quality in terms of individual capacity to provide data that is both actionable and a meaningful assessment of school quality or student outcomes. It is critical that state accountability systems are structured to accurately identify low-performing schools and gaps in performance, as well as provide data to all schools that allows for continuous improvement, regardless of whether that school is identified for comprehensive or targeted support and improvement.

### **Recommendation**

ESSA regulations should also require states to describe how their measures of key indicators will provide actionable and meaningful information regarding student performance without prescribing specific indicators that states must use. States should also include measures for diagnostic purposes, in addition to the indicators used for identification purposes, that identify the root cause of student performance and are meaningful and actionable. The inclusion of these measures will support all schools in making continued progress regardless of their identification status.

**3. Clarify that measures of postsecondary education outcomes may be utilized in state accountability systems and on state report cards.**

**ESSA Provision:** Sec. 1111(c)(4)(B)(v)(VI); Accountability Indicators; Sec. 1111(h)(1) and (2), State and Local Report Cards and Sec. 1112(b)(2)(10), Local Educational Agency Plans

**Concern**

Under ESSA, states have flexibility in determining which indicators to use for purposes of the required indicator of school quality or student success. One of the options specified in the statute is “postsecondary readiness” (Sec. 1111(c)(4)(B)(v)(VI)). Currently, it is not clear that states can utilize measures of participation and success in postsecondary education, including rates of postsecondary, enrollment, remediation, persistence, and completions.

In addition, under Sec. 1111(h)(1)(C)(xiii) and Sec. 1111(h)(2)(C), state and local reports cards are required to include, where available, data, overall and by subgroup, on students who enroll in the first academic year after graduation in a program of postsecondary education. This data is limited in its utility since it does not provide information to the school, district, and community as to whether those students enrolled were enrolled in and completed credit-bearing courses.

**Recommendation**

ESSA regulations should encourage states to report on enrollment in non-remedial course work, as well as rates of remediation, persistence, and completion in postsecondary education, and include these measures in accountability systems. These measures provide strong evidence of whether a student graduates from high school prepared for postsecondary education, rather than a prediction. Under waivers, six states incorporate postsecondary education enrollment or rates of remediation into their accountability systems.<sup>6</sup>

**Assessment Recommendations**

**4. Clarify how states may implement the “same” assessments.**

**ESSA Provision:** Sec. 1111(b)(2)(B), Academic Assessments Requirements

**Concern**

ESSA requires states to implement assessments that measure “higher-order thinking skills and understanding,” and explicitly allows the use of “portfolios, projects, or extended-performance tasks” (sec. 1111(b)(2)(B)(vi)), as well as adaptive assessments (sec. 1111(b)(2)(J)). Simultaneously, ESSA requires “the same academic assessments to measure the achievement of all public elementary school and secondary school students in the State” (sec. 1111(b)(2)(B)(i)(II)). Portfolios, projects, performance tasks, and adaptive assessments, by definition, include different assessment items; therefore, ESSA regulations must clarify how they may be implemented while meeting the statutory requirement for the implementation of the “same” assessments to measure all students in the state.

## **Recommendation**

To ensure states have the flexibility to implement robust assessments that more effectively measure higher-order thinking skills than simple multiple-choice tests, ESSA regulations should clarify that states may meet the requirement for implementing the “same” assessments by demonstrating that the state-approved assessments

- measure the same well-defined standards using clear specifications for student responses;
- are evaluated using common, criteria to determine levels of performance; and
- provide comparable data.

### **5. Clarify that states have the flexibility to implement balanced systems of assessment.**

**ESSA Provision:** Sec. 1111(b)(2)(B), Academic Assessment Requirements, and Sec. 1201(a)(2)(F), Grants for State Assessments

## **Concern**

ESSA requires annual assessments in mathematics and reading. The requirement for annual assessments may overshadow the flexibility included within ESSA for states to implement balanced systems of assessment, including formative and interim assessments that may include rich performance tasks, and the ability of states to use federal assessment funding for this purpose.

## **Recommendation**

ESSA regulations and/or non-regulatory guidance should clarify that states have the flexibility to implement balanced systems of assessment that include rich performance tasks and may use federal assessment funding to implement formative and interim, as well as summative, assessments that include such measures.

### **6. Align assessments with the full range of academic state standards.**

**ESSA Provision:** Sec. 1111(b)(2)(B)(ii), State Plans, Academic Assessments

## **Concern**

Under the No Child Left Behind Act, state assessments often concentrated on low-level skills, failing to measure the full range of state academic standards, including those that required higher-order thinking. For example, results from a RAND Corporation study show the quality of state assessments to be remarkably low.<sup>7</sup> Specifically, among the seventeen states with available data, fewer than 2 percent of mathematics items and only 21 percent of reading/writing items required higher-level processing and complex analyses. Further, only 3–10 percent of elementary, middle, and high school students were assessed using extended activities that called for complex analyses and the ability to synthesize complex ideas. ESSA requires state assessments to be aligned with the state’s challenging academic standards, yet does not clarify that they should be aligned with the full range of standards, which vary in terms of rigor.

## **Recommendation**

ESSA regulations should require that state assessments and the locally selected assessments permitted under Sec. 1111(b)(2)(H) measure the full range of challenging academic state standards, including standards that require higher-order thinking skills and understanding, such as students' ability to think critically, solve complex problems, communicate effectively, collaborate with peers, and demonstrate self-direction.

In addition, non-regulatory guidance to states should provide states with examples of how funds from Titles I and II can be used to provide professional learning opportunities to educators regarding instructional strategies designed to help students acquire these competencies. Non-regulatory guidance should also be provided to states regarding ways federal funds can be used to engage and educate parents and communities on high-quality assessments that measure higher-order thinking.

### **7. Ensure educators are provided with professional development opportunities to support deeper learning.**

**ESSA Provision:** Sec. 2102(c)(4)(B)(ii), State Use of Funds, State Activities and Sec. 2103(b), Local Use of Funds, Types of Activities, for Preparing, Training, and Recruiting High-Quality Teachers, Principals, or Other School Leaders.

## **Concern**

A focus on instructional practice is critical to successful implementation of deeper learning. There remains significant variation in the quality, utility, and relevance of professional development opportunities. Funding under Title II of ESSA is allowed for a variety of state and local activities without primacy being placed on activities that support deeper learning and have been demonstrated to create greater opportunities for student learning across the full range of state standards.

## **Recommendation**

To support educators in implementing effective instructional strategies to help students meet standards, ESSA regulations should clarify that states and districts can use funds under Title II to support teachers in developing the skills necessary to create engaging learning opportunities that promote deeper learning. Specifically, professional development should

- employ empirically-based practice and scientifically valid research on strategies for deeper learning that are specific to the academic subject matter;
- develop and conduct ongoing assessment of student learning, which may include the use of performance-based assessments, project-based assessments, or portfolio assessments for formative, interim or summative purposes, that measures a broad range of competencies including higher-order thinking skills (including application, analysis, synthesis, and evaluation);
- utilize such data to inform instructional practice and strategies and personalize learning;
- implement innovative practices, including project-based learning and applied learning, to support student acquisition of critical thinking, complex problem solving, and effective communication and collaboration skills; and
- provide opportunities for teachers to participate in professional learning communities.

## **8. Define higher-order thinking skills as those that demonstrate deeper learning.**

**ESSA Provision:** Sec. 1111(b)(2)(B)(vi), State Plans, Academic Assessments; and Sec. 1111(b)(2)(H), Locally-Selected Assessment

### **Concern**

States are required to implement a set of high-quality assessments that involve multiple measures of student achievement, including measures that “assess higher-order thinking skills and understanding.” However, ESSA does not clarify which skills should be considered higher-order for the purposes of meeting this requirement.

### **Recommendation**

ESSA regulations should clarify that for states to meet this requirement, assessments implemented by the state shall measure critical thinking, complex problem solving, and depth of knowledge skills, consistent with the criteria ED published for assessment peer reviews.

In addition, ESSA regulations should clarify that the requirement for assessments to assess “higher-order thinking skills and understanding” applies to locally selected assessments permitted under Sec. 1111(b)(2)(H) as well as state assessments.

## **9. Support the use of high-quality assessments.**

**ESSA Provision:** Sec. 1112(e)(2)(B)(iv)(I), Parents Right-to-Know and Sec. 1202(e)(3)(C)(vi), Assessment Audits

### **Concern**

ESSA includes two provisions regarding time spent on test administration: (1) under the Parents Right-to-Know provision, states must inform parents, where the information is made available, with “the amount of time students will spend taking the assessment” and (2) under the provision providing funding for assessment audits, information for stakeholders must include the amount of time teachers spend on administering assessments. Both provisions may incentivize states to substitute lower quality assessments that take less time to administer in place of higher quality assessments that may take longer to administer, such as extended-performance tasks, project-based learning, and portfolios.

### **Recommendation**

ESSA regulations should clarify that time spent on completing higher-quality open-ended assessments (as allowed under Sec. 1111(b)(2)(B)(vi)) that are administered over a period of time and include activities related to completing an extended-performance task, project, or portfolio, are excluded from this determination. These are the types of high-quality assessments that measure the full range of standards and higher-order thinking skills. They are distinct from close-ended assessments, such as multiple-choice tests that take less time to complete, in that they are necessary to measure higher-order skills and are typically embedded in the curriculum as part of the instructional process as well as the assessment process. Including this clarification in the regulations

recognizes the distinction between these types of activities and will serve to incentivize state-adoption of higher quality assessments.

In addition, ED should provide non-regulatory guidance to states regarding ways states and school districts can communicate to parents and communities how performance assessments differ from traditional multiple-choice tests and why they are treated differently under this provision.

## Notes

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<sup>1</sup> Alliance for Excellent Education, unpublished update to *The Effect of ESEA Waiver Plans on High School Graduation Rate Accountability* (Washington, DC: Author, 2013).

<sup>2</sup> Ibid.

<sup>3</sup> N. Ushomirsky, D. Williams, and D. Hall, *Making Sure All Children Matter: Getting School Accountability Signals Right* (Washington, DC: Education Trust, 2014).

<sup>4</sup> R. Rothman and J. Cardichon, *Data Dashboards: Accounting for What Matters* (Washington, DC: Alliance for Excellent Education, 2015).

<sup>5</sup> Ibid.

<sup>6</sup> Based on the most recently approved ESEA flexibility requests, Hawaii, Connecticut, New Jersey, and Maryland include either the total percentage or number of students who enroll in any institution of higher education within sixteen months of earning a regular high school diploma. Georgia, Nevada, and New Jersey include the rate of remediation at two- or four-year colleges and universities.

<sup>7</sup> Alliance for Excellent Education analysis of Tables 4.1, 4.2, and 4.3 in K. Yuan and V. Le, *Estimating the Percentage of Students Who Were Tested on Cognitively Demanding Items Through the State Achievement Tests* (Santa Monica, CA: RAND Corporation, 2012).