



MEMORANDUM

To: U.S. Department of Education
From: Alliance for Excellent Education
Date: January 21, 2016
Re: Docket #ED-2015-OESE-0130; Recommendations for Implementation of Title I of the Every Student Succeeds Act

The Alliance for Excellent Education (the Alliance) appreciates the opportunity to offer comments and recommendations as the U.S. Department of Education (ED) proposes regulations to implement programs under Title I of the Elementary and Secondary Education Act (ESEA), currently known as the Every Student Succeeds Act (ESSA).

The United States recently achieved a high school graduation rate of 82.3 percent for the 2013–14 school year, the highest graduation rate on record. Moreover, the nation has seen a reduction in the number of high school dropouts from 1 million in 2008 to approximately 750,000 in 2012. ESSA provides states, districts, and schools with the flexibility they need to innovate and implement evidenced-based school improvement efforts to continue progress on the national graduation rate.

This flexibility must be balanced with an unwavering commitment to equity. While the nation has made remarkable progress, major challenges in educational opportunity and quality persist. One in five students still drops out every year, which is more than 4,000 students every school day. Additionally, there remain 1,235 high schools nationwide that fail to graduate one-third or more of their students. These schools disproportionately enroll students of color and students from low-income families.

As ED works to issue regulations for ESSA, the Alliance recommends several regulations to ensure every student has the opportunity to graduate from high school ready for college, a career, and citizenship. The Alliance’s priority recommendations include the following:

1. Require use of the Adjusted Cohort Graduation Rate to implement ESSA’s requirement to identify and support high schools where one-third or more of students do not graduate (see page 1).
2. Set parameters around the definition of “consistently underperforming” subgroups to ensure that state accountability systems do not mask the graduation rates and achievement of traditionally underserved students, such as students of color and students from low-income communities (see page 3).

3. Define “substantial weight” so that high school graduation rates carry sufficient weight within state accountability systems in order to trigger interventions in high schools that have low graduation rates (see page 6).
4. Use funding targeted for school improvement for high-quality interventions in schools that have the lowest-performing students and the most promising approaches for school improvement (see page 4).
5. Clarify that when states are developing their accountability systems, they have the flexibility to utilize accountability dashboards, not just indexes, to promote transparency, support continuous improvement of all schools, and measure students’ deeper learning skills and competencies (see page 7).¹

Please find attached a chart containing recommendations for ESSA regulations with accompanying regulatory language. The Alliance looks forward to working with ED to ensure that the implementation of ESSA prepares all students for postsecondary education and the workforce.

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¹ Deeper learning skills and competencies include mastering core academic content, thinking critically and solving complex problems, working collaboratively, communicating effectively, and being self-directed in one’s learning while having a strong academic mindset.

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Provision	Concern	Recommendation	Regulatory Language
<p>Sec. 1111(c)(4)(D)(i)(II), State Plans, Identification of Schools</p>	<p>States are required to identify all public high schools in the state that fail to graduate one-third or more of their students. ESSA does not clarify that this graduation rate of one-third or more should be based on the four-year Adjusted Cohort Graduation Rate (ACGR) as defined under ESSA.</p>	<p>ESSA regulations should clarify that the “one-third or more” shall be based on the four-year ACGR as defined under ESSA. Since states are permitted to use an extended-year graduation rate, also defined under ESSA, states using an extended-year rate should set a rate for school identification under this subclause that is above one-third and subject to Secretarial approval.</p>	<p>In identifying schools pursuant to Sec. 1111(c)(4)(D)(i)(II), states shall annually identify for comprehensive support as described under Sec.1111(d)—</p> <p>(A) Any high school that has a four-year ACGR at or below 67 percent, or</p> <p>(B) consistent with the requirement for statewide graduation rate goals described under Sec. 1111(c)(4)(A)(i)(I)(bb)(BB), if a state chooses to use an extended year graduation rate to identify schools pursuant to Sec. 1111(c)(4)(D)(i)(II), any high school that has an extended year graduation rate below a threshold that is set by the state and approved by the Secretary that is above 67 percent.</p>
	<p>States are required to identify all public high schools in the state that fail to graduate one-third or more of their students. ESSA does not clarify that states should consider the one-third or more as a floor and not a ceiling and that states have the flexibility to set the rate for identification higher than one-third or more.</p>	<p>ESSA regulations should clarify that states may set the graduation rate for the purpose of identifying high schools at a rate greater than one-third of more. For example, New Jersey identifies any high school with a graduation rate below 75 for intervention and support.ⁱ</p>	<p>In identifying schools pursuant to Sec. 1111(c)(4)(D)(i)(II), states shall annually identify any high school that has a four-year ACGR at or below 67 percent. A state may set the graduation rate for which identification of a high school is based upon above 67 percent.</p>
<p>Sec. 8101(23)(A)(i), Definition, “Extended-Year Adjusted Cohort Graduation Rate”</p> <p>Sec. 8101(25)(A)(i), Definition, “Four-Year Adjusted Cohort Graduation Rate”</p>	<p>For the purpose of calculating the ACGR, both the extended-year ACGR and the four-year ACGR require the denominator of the formula to be based on “the number of students who form the original cohort of entering first-time students in grade nine enrolled in the high school no later than the date by which student membership data must be collected annually by state educational agencies for submission to the National Center for Education Statistics under Sec. 153 of the Education Sciences Reform Act of 2002 (20 U.S.C. 9543).” ESSA does not clarify that the date intended is October 1 of each year.</p>	<p>ESSA regulations should clarify that the date referenced in this provision is October 1 of each year.</p>	<p>Under Sec. 8101(23)(A)(i) and (7)(25)(A)(i), the reference to “the date by which student membership data must be collected annually by State educational agencies for submission to the National Center for Education Statistics under Sec. 153 of the Education Sciences Reform Act of 2002 (20 U.S.C. 9543)” means October 1 of each year.</p>
<p>Sec. 8101(23)(B), Definition, “Extended-</p>	<p>The cohort removal provision within the definition of the “Extended-Year Adjusted Cohort Graduation Rate” and the “Four-Year</p>	<p>ESSA regulations should clarify that the term “documentation” within the definition requires written verification.</p>	<p>Under Sec. 8101(23)(B) and (7)(25)(B), within the definition of “Extended-Year Graduation Rate” and “Four-Year Adjusted Cohort Graduation Rate,” the term “documentation” means written verification.</p>

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<p>Year Adjusted Cohort Graduation Rate”</p> <p>Sec. 8101(25)(B), Definition, “Four-Year Adjusted Cohort Graduation Rate”</p>	<p>Adjusted Cohort Graduation Rate” require “documentation” to confirm that the student has transferred to another country, or transferred to a prison or juvenile facility, or is deceased, in order to remove the student from the cohort. The language is unclear as to what constitutes “documentation.”</p>		
<p>Sec. 8101(23)(A)(ii)(I)(bb), Definition, “Extended-Year Adjusted Cohort Graduation Rate”</p> <p>Sec. 8101(25)(A)(ii)(I)(bb), Definition, “Four-Year Adjusted Cohort Graduation Rate”</p>	<p>ESSA allows students with “the most significant cognitive disabilities” to be included as graduates in the four-year and extended-year ACGR calculations if they receive a state-defined alternative diploma within the time period they are provided a free and appropriate public education. To ensure this provision is implemented appropriately and limited only to students with the most significant cognitive disabilities, additional clarification is needed.</p> <p>ESSA regulations need to clarify how this provision impacts accountability determinations. For example, consider a high school with a graduation rate of 67 percent that is identified for comprehensive support based on the four-year ACGR for School Year (SY) 2015–16. If additional students with the most significant cognitive disabilities graduate the following year, this provision requires the graduation rate for SY 2015–16 to be increased retroactively. If the graduation rate increases to 68 percent, the statute does not clarify what happens to the identification status of the school or what happens to a school that receives school improvement funding.</p>	<p>ESSA regulations should clarify that</p> <ol style="list-style-type: none"> 1. students with the most significant cognitive disabilities do not count as graduates unless and until they receive a “State-awarded alternate diploma;” 2. this provision relates only to the 1 percent of students with the most significant cognitive disabilities that are assessed using the alternative academic assessment aligned to alternate academic achievement standards under Sec. 1111(b)(2)(D); 3. as stated under Sec. 1111(b)(2)(D)(ii)(II), the application of the prohibition of the local cap does not apply to the calculation of the graduation rate and only applies to state assessments, pursuant to Sec. 1111(b)(2)(D)(i)(I); and 4. if the retroactive modification of a school’s graduation rate changes its identification status (i.e., that a school is no longer identified for comprehensive or targeted improvement), such school may be removed from such identification but will not lose school improvement funding if it has been awarded such funding under Sec. 1003A or Sec. 1003(a). 	<ol style="list-style-type: none"> 1. Students with the most significant cognitive disabilities shall not be included in the numerator of the extended-year ACGR and the four-year ACGR as described under paragraphs 23 and 25 of Sec. 8101 until such students receive an alternative diploma that meets the requirements described under Sec. 8101(23)(A)(ii)(I)(bb) and Sec. 8101(25)(A)(ii)(I)(bb), respectively. 2. Sec. 8101(23)(A)(ii) and Sec. 8101(25)(A)(ii) only apply to students with the most significant cognitive disabilities that are assessed using the alternative academic assessment aligned to alternate academic achievement standards under Sec. 1111(b)(2)(D). Such students shall not exceed 1 percent of the total number of all students in the state. 3. Sec. 1111(b)(2)(D)(ii)(II) does not apply to the calculation of the extended-year ACGR and the four-year ACGR as defined under paragraphs 23 and 25 of Sec. 8101. 4. The Alliance for Excellent Education recommends addressing item (4) in non-regulatory guidance as follows: Question: If the graduation rate of a school identified for comprehensive improvement increases retroactively above the one-third threshold as a result of the graduation of students with the most significant cognitive disabilities, how does this impact the school’s identification status? Answer: A state may choose to no longer identify such a school for comprehensive support and improvement.

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			<p>Question: If the graduation rate of a school identified for comprehensive improvement increases retroactively above the one-third threshold as a result of the graduation of students with the most significant cognitive disabilities, how does this impact the ability of a school to receive funding under Direct Student Services (Sec. 1003(A)) or School Improvement (Sec. 1003(a))?</p> <p>Answer: A state shall not revoke Direct Student Services or school improvement funding as a result of a change to a school’s identification status.</p>
<p>Sec. 1111(c)(4)(C)(iii), Statewide Accountability System, Annual Meaningful Differentiation</p>	<p>State accountability systems are required to differentiate among schools “in which any subgroup of students is consistently underperforming.” This determination shall be based on all indicators within the state accountability system. ESSA neglects to provide parameters for what constitutes “consistently underperforming,” creating the opportunity for subgroup performance to persist for an extended period of time without requiring intervention and support.</p>	<p>ESSA regulations should do the following:</p> <ol style="list-style-type: none"> 1. Define “consistently” to mean two consecutive years. 2. Provide parameters for states regarding how they define “underperforming,” and require states to demonstrate how they consulted with the community, including parents and civil rights organizations, in defining this term. ED’s parameters should ensure that states take into consideration gaps that exist between subgroups and the highest performing subgroup, as well as the degree to which subgroups miss state-set goals and annual benchmarks. In addition, the parameters should ensure that “underperformance” is not defined solely in relationship to the performance of schools identified for comprehensive support. For example, a school with a student subgroup that performs above the level of schools identified for comprehensive support, but far below other subgroups within the same 	<ol style="list-style-type: none"> 1. For purposes of meaningful differentiation as described under Sec. 1111(c)(4)(C), the term “consistently” is defined as “two consecutive years.” 2. <i>The Alliance may provide ED with additional recommendations and draft regulatory language based on data analysis and ongoing input received from education policy researchers.</i>

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		school, district, or state, should be identified for targeted support.	
Sec. 1003(b)(1)(A), School Improvement Funding, Uses of State Reservations	Under ESSA, school improvement funds may be disseminated through competition or formula. The impact of distributing funds by formula may be limited because a formula distribution does not take into account the quality of the planned interventions or the capacity of the school/local educational agency to implement them.	ESSA regulations should allow state educational agencies to distribute school improvement funding through both formula and competition. Formula funds would provide resources to all local educational agencies with an identified school. The competitive funds would provide local educational agency with funding based on the quality of the proposed interventions and the capacity of the local educational agencies, their schools and partners to implement them.	<i>The Alliance may provide ED with additional recommendations and draft regulatory language based on ongoing input received from school improvement researchers and practitioners.</i>
	Under ESSA, there is a priority for school improvement funds to be allotted to local educational agencies serving a high number or percentage of schools identified as low-performing under the state accountability system. Prioritizing local educational agencies based on the number or percentage of schools may place low-performing high schools at a disadvantage because (a) local educational agencies have fewer high schools than middle or elementary schools, and (b) high schools typically serve far more students than elementary or middle schools. For example, a local educational agency may have three identified elementary schools, each serving 100 students. Another local educational agency may have one identified high school serving 600 students. If priority is given to local educational agencies with the largest number of identified schools, the local educational agency with only one identified high school would be prioritized below the local educational agency with the	ESSA regulations should clarify that the determination of “need for such funds” shall be based substantially on the number of students in schools identified for comprehensive support and improvement. ESSA regulations should clarify that the determination of “strongest commitment” shall be based substantially on the quality of the interventions proposed to be implemented.	In assessing the demonstration of need for school improvement funds pursuant to section 1003(f)(2), the state educational agencies shall take into consideration the number of students enrolled in schools served by the local educational agencies that are identified for comprehensive or targeted support and improvement under section 1111(d) as compared to the number of students enrolled in such schools within the state. The state educational agencies shall substantially base the determination of strongest commitment required under section 1003(f)(3) on the quality of the interventions proposed, including the strength of the evidence base for the interventions and improvement under section 1111(d) as compared to the number of students enrolled in such schools within the state.

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	<p>three identified elementary schools, even though the high school serves twice as many students as the elementary schools combined. The priority also includes schools that “demonstrate the greatest need for such funds,” however, the legislative language is unclear as to how this need shall be demonstrated under this provision.</p>		
	<p>Under ESSA, states shall reserve 7 percent of Title I funding for school improvement, serving schools implementing comprehensive support and improvement activities or targeted support and improvement activities under Sec. 1111(d). This provision does not reference the Title I status of these schools.</p>	<p>ESSA regulations should clarify that a school does not need to be Title I-receiving or Title I-eligible in order to be eligible for and receive school improvement funding.</p>	<p>Eligibility.—Any school that is identified for comprehensive or targeted support under Sec. 1111(d) shall be eligible for funding under Sec. 1003, irrespective of whether such school is classified as eligible for funding under Sec. 1113.</p>
<p>Sec. 1111(b)(2)(B)(ii), State Plans, Academic Assessments</p>	<p>State-selected assessments are often aligned with the content of state academic standards at low level, failing to measure the full range of state academic standards. Results from a RAND Corporation study show the quality of state assessments to be remarkably low.ⁱⁱ 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. This provision requires state assessments to be aligned with the state’s challenging academic standards, yet it does not clarify that they should be aligned with the full range of standards, which vary in terms of rigor.</p>	<p>ESSA regulations should require that state assessments be aligned with the challenging state academic standards and address the depth and breadth of such standards. In addition, as allowed under ESSA, the use of assessments that measure the depth and breadth of state academic standards, such as projects or extended-performance tasks that are demonstrated over a period of time, also serve to focus instruction on the development of higher-order thinking skills and mastery of the full range of challenging academic state standards. Including this language in regulations is consistent with current language in ESSA under the Innovative Assessment Pilot. Specifically, under Sec. 1204(e)(2)(A)(ii), a state must demonstrate that the assessment system will be “aligned to the challenging state academic standards and address the depth and breadth of such standards.”</p>	<p>Sec. 1111 (b)(2)(B)(ii): The assessments administered to all public and secondary students in the state shall address the depth and breadth of the state’s challenging academic standards.</p>

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Sec. 1111(b)(2)(B)(vi), State Plans, Academic Assessments	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.	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.	For the purposes of Sec. 1111(b)(2)(B)(vi), the phrase “higher-order thinking skills and understanding” shall be measured by assessments that provide students the opportunity to demonstrate critical thinking, complex problem solving, and depth of knowledge skills and shall apply to locally selected assessments permitted under Sec. 1111(b)(2)(H) as well as state assessments.
Sec. 1111(c)(4)(C)(ii), Statewide Accountability System, Annual Meaningful Differentiation	<p>ESSA requires two types of differentiation within the accountability system:</p> <ol style="list-style-type: none"> 1. differentiation of low-performing schools for either comprehensive or targeted support and improvement, and 2. differentiation of the supports/interventions to address the specific needs of identified schools. <p>Under ESSA, the meaningful differentiation of schools must be “based on” all of the indicators required under the law; however, the term “based on” is unclear.</p>	ESSA regulations should clarify that states may satisfy the requirement to “base” differentiation on all indicators by describing how each indicator will be used in the process of differentiating schools for targeted support and improvement and differentiating the support and interventions that schools will receive using the indicators in the accountability system.	<p>A state may demonstrate that its system complies with the requirement for the differentiation of any public school with a consistently low-performing subgroup to be based on all indicators under Sec. 1111(c)(4)(B) by describing how each indicator will be used under Sec. 1111(d)(2) to</p> <ul style="list-style-type: none"> • identify schools for targeted support and intervention, or • inform the interventions that will be implemented in identified schools.
	ESSA includes several undefined stipulations regarding the weight of indicators within the system that warrant clarification through regulation. Specifically, under Sec. 1111(c)(4)(C)(ii), the indicators described in clauses (i)–(iv) of subparagraph (B) shall each carry substantial weight and, in the aggregate, carry much greater weight than is afforded to the indicator(s) in the state accountability	ESSA regulations should define “substantial weight” according to the action that results from performance on the indicator.	<p>An indicator described under Sec. 1111(c)(4)(B), will be determined to have “substantial weight,” if:</p> <ol style="list-style-type: none"> (1) The state requires the implementation of evidence-based interventions if a school misses the state-set benchmark for such indicator for two consecutive years for all students or at least one subgroup of students. (2) For state accountability systems that utilize an index to differentiate schools as required under Sec. 1111(c)(4)(C)—(i) the indicator carries

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	<p>system, described in subparagraph(B)(v), in the aggregate.</p> <p>The lack of clarity regarding the terms “substantial weight” and “much greater weight” could result in states assigning weights to indicators that result in accountability systems that misidentify low-performing school or incentivize schools to focus on indicators that are a less meaningful indicator of student performance and preparation for postsecondary education success.</p>		<p>greater weight than the total weight of the indicators selected under Sec. 1111(c)(2)(B)(v)(I), and (ii) with regard to graduation rates as described under Sec. 1111(c)(4)(B)(iii), the state demonstrates that the weight assigned to graduation rates and assessments described under Sec. 1111(c)(4)(B)(i) is balanced and does not encourage schools to exit low-performing students from high school without a regular diploma in order to increase scores on such assessments.</p>
		<p>ESSA regulations should define “much greater weight” such that performance on the indicator(s) with less weight would not prevent a school from being identified for comprehensive or targeted intervention.</p>	<p>A state may demonstrate that the indicators described in clauses (i)–(iv) of Sec. 1111(c)(4)(B) have “much greater weight” than the indicator or indicators described in clause (v) of such Sec. by demonstrating that the identification status of a school for comprehensive or targeted support and improvement as required under Sec. 1111(d) will not impacted by performance on such indicator.</p>
<p>Sec. 1111(c)(4)(B)(v)(I), Statewide Accountability System, Indicators of School Quality or Success</p>	<p>In addition to student achievement, graduation rates, and English language proficiency, states shall incorporate at least one indicator of school quality or success which may include, for example, a measure of student engagement, student access to and completion of advanced course work, postsecondary readiness, and school climate. Within each of these categories of indicators, there exists measures of varying quality in terms of their individual capacity to provide data that is both actionable and a meaningful assessment of student outcomes. It is critical that state accountability systems are structured to have the capacity to accurately identify low-performing schools and gaps in performance, as well as provide data to all</p>	<p>ESSA regulations should do the following:</p> <ol style="list-style-type: none"> 1. Clarify that states are not required to base the differentiation of schools required under Sec. 1111(c)(4)(C) upon an index and that states may utilize an accountability dashboard, or other methods for implementing a multiple-measure accountability system, that 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.ⁱⁱⁱ 	<ol style="list-style-type: none"> 1. A state shall base its system of annual meaningful differentiation described under Sec. 1111(c)(4)(C) on all of the indicators in the state’s accountability system. A state may use the indicators to develop an index that differentiates school performance or a state may use the indicators to identify and differentiate schools as required under this Sec. without using an index.

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	<p>schools that allows for continuous improvement, regardless of whether that school is identified for comprehensive or targeted support and improvement. In addition, because the goal of K–12 education is to prepare students for postsecondary education and the workforce, state accountability systems should reflect this goal. Finally, because accountability indices/letter grades may allocate inappropriate values to specific indicators, mask student subgroup performance, or over-simplify the complexity of school performance.</p>	<p>2. Encourage the use of additional measures for diagnostic purposes, rather than 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. Such diagnostic measures may not carry weight within the accountability system and may be included within the indicators described under Sec. 1111(c)(4)(B)(v).</p>	<p>2. A state may incorporate additional measures that are used for diagnostic purposes into its accountability systems. States using an index as the basis for the system of annual meaningful differentiation described under Sec. 1111(c)(4)(C) are not required to assign weight to measures used for diagnostic purposes and not for purposes of differentiating schools pursuant to such Sec.</p>
		<p>3. Require states to describe how indicator(s) of school quality or student success are</p> <ul style="list-style-type: none"> • measurable, in that the indicator is valid, reliable, and stable; • actionable, in that the indicator can be impacted by the school; and • meaningful, in that evidence demonstrates that improving this indicator will positively impact student outcomes. <p>In addition, ESSA regulations should require states to describe how they will review the capacity and effectiveness of each of the selected indicators of school quality or student success in meeting these requirements on an ongoing basis.</p>	<p>3. For each indicator of school quality or success selected by the state under Sec. 1111(c)(4)(B)(v), the state shall describe how the indicator is</p> <ul style="list-style-type: none"> • measurable; • actionable; and • meaningful. <p>States shall also provide a description of the process for reviewing the capacity and effectiveness of each of the selected indicators of school quality or student success in meeting these requirements on an ongoing basis.</p> <p>A “measurable” indicator is valid, reliable, and stable over time.</p> <p>An “actionable” indicator is one that can be impacted by the school.</p> <p>A “meaningful” indicator shows evidence demonstrating that improving performance will positively impact student outcomes, such as graduation rates or achievement.</p>
		<p>4. Clarify measures that are most likely to provide actionable and meaningful information regarding student performance and comply with the requirements of the statute.</p>	<p>The Alliance recommends addressing item (4) in non-regulatory guidance as follows:</p> <p>Question: What are examples of indicators of school quality and success that states may incorporate into their accountability systems?</p>

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			<p>Answer: The following are among the indicators of school quality and success that states may incorporate into their accountability systems:</p> <p>(A) For the purpose of measuring student engagement pursuant to Sec. 1111(c)(4)(B)(v)(II)(III), a state may use rates of</p> <ul style="list-style-type: none"> • chronic absenteeism, and/or • English language learner re-designation. <p>(B) For the purpose of measuring access to and completion of advanced course work pursuant to Sec. 1111(c)(4)(B)(v)(II)(V), a state may use rates of access, performance, and completion of</p> <ul style="list-style-type: none"> • Advanced Placement courses; • International Baccalaureate courses ; • dual enrollment and/or early college programs; and/or • advanced diplomas. <p>(C) For the purpose of measuring postsecondary readiness pursuant to Sec. 1111(c)(4)(B)(v)(II)(VI), a state may use one or more of the following:</p> <ul style="list-style-type: none"> • completion of or performance in Advanced Placement programs • completion of or performance in International Baccalaureate programs • completion of or performance in dual enrollment and/or early college programs • rates of participation in postsecondary education, which may include enrollment, remediation, persistence, and completion • performance on college entrance/placement exams • high school readiness, including a composite of indicators such as middle school grade point average, attendance, and disciplinary incidents that are correlated with an increased likelihood of graduating from high school • rates of students earning an industry recognized credential

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			<ul style="list-style-type: none"> • measures that integrate preparation for postsecondary education and the workforce, including performance in course work sequences that integrate rigorous academics, work-based learning, and career and technical education • completion of a state-approved career and technical program of study as described in Sec. 122(c)(1)(A) of the Carl D. Perkins Career and Technical Education Act of 2006 • performance on assessments of career readiness and acquisition of industry-recognized credentials that meet the quality criteria established by the state under Sec. 123(a) of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102) <p>(D) For the purpose of measuring school climate pursuant to Sec. 1111(c)(4)(B)(v)(II)(VII), a state may use one or more of the following:</p> <ul style="list-style-type: none"> • rates of suspension and expulsion, based on the number of incidents and including in-school suspensions • transfer rates to schools within the local educational agency • student subgroup disproportionality in special education • survey-based measures of students’ social-emotional skills and/or school climate and culture that have been shown to correlate with students’ academic and/or behavioral outcomes
<p>Sec. 1111(d)(1)(C)(ii), Statewide Accountability System, Comprehensive Support and Improvement, State Educational Agency Discretion</p>	<p>States are provided the flexibility to permit the local educational agency to forego implementation of any required improvement activity for any high school identified for comprehensive support and improvement and that has a total enrollment of less than 100 students. The purpose of this clause is to account for wide annual variations in performance that can result from relatively minor changes in performance due to a small overall student population. However, this provision prevents a high school with a small student population that is consistently underperforming from being identified for</p>	<p>ESSA regulations should clarify that a high school that has a total enrollment of less than 100 students shall not be permitted to forego implementation of any required improvement activities if such schools meet the requirement described under Sec. 1111(c)(4)(D)(i)(II) for three consecutive years. Regulations should clarify that for reporting purposes, any school meeting the identification requirements shall still be publicly identified, regardless of whether implementation of strategies was foregone by the school.</p>	<p>For the purposes of Sec. 1111(d)(1)(C)(ii), a state may not grant an LEA flexibility to forego implementation of any required improvement activity in a school that meets the identification requirement under Sec. 1111(c)(4)(D)(i)(II) for three consecutive years.</p> <p>For the purposes of Sec. 1111(d)(1)(C)(ii), the term “total enrollment” means the aggregate number of students enrolled in each of grades 9, 10, 11, and 12 at any time during the school year of the class for which the graduation rate is calculated for purposes of identification pursuant to Sec. 1111(c)(4)(D)(i)(II).</p>

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	intervention and support.	ESSA regulations should also clarify that “total enrollment” is based on all grade levels within the school and must include all students enrolled at any time during the school year, rather than the number of students enrolled at a single point in time or the average yearly enrollment.	
<p>Sec. 1111(e)(1)(B)(iii)(VIII), Statewide Accountability System</p> <p>Sec. 1111(d)(3)(A)(i)(II), School Support and Improvement Activities</p>	States may set their subgroup sizes higher than necessary to meet the requirements under Sec. 1111(c)(3)(A)(iii), increasing the likelihood that those states will overlook a number of student subgroups in their accountability systems. This interferes with the state’s ability to meet the requirements under Sec. 1111 (c)(4)(D)(III) and (d)(3)(A)(i)(II) to meaningfully differ among school performance as it applies to subgroups and school identification. For example, fifteen states with approved waivers set a subgroup size of thirty students and five states set it at forty or more students.	Under ESSA, states should be required to set a subgroup size that maximizes the number of subgroups captured under the state accountability system. This can be done while also meeting the requirements under Sec. 1111(c)(3)(A)(i). States can more accurately identify and support schools by lowering the subgroup size. For example, Massachusetts was able to hold 100 additional schools accountable for the performance of student subgroups by lowering its subgroup size. The California Core Districts lowered the state-set subgroup size from 100 students to 20 students and was able to include 150,000 additional students in their accountability system. States should structure their accountability systems to expand, rather than limit, the number of student subgroups included within those systems, in order to fully comply with the requirements under Sec. 1111(c) and (d).	<i>The Alliance may provide ED with additional recommendations and draft regulatory language based on data analysis and ongoing input received from education policy researchers.</i>
<p>Sec. 1111(h)(1), State and (2) Local Report Cards</p> <p>Sec. 1112(b)(2)(10), Local Educational Agency Plans</p>	Under Sec. 1111(h)(1)(C)(xiii) and (2)(C), state and local reports cards are required to include, where available, data, overall and by subgroup, on the students who enroll in the 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	ESSA regulations should limit the reporting of student participation in postsecondary education to enrollment in credit-bearing course work.	<p>Sec. 1111(h)(1)(C)(xiii)—For the purposes of this clause, the term “enroll”, means enrollment in a credit-bearing program or course at an institute of postsecondary education without the need for remedial course work.</p> <p>Sec. 1112(b)(2)(10)—For the purposes of this clause and the description of how the local educational agency will implement strategies that facilitate the effective transition for students from high school to postsecondary education,</p>

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	<p>whether those students enrolled were enrolled in and completed credit-bearing courses.</p> <p>In addition, many states offer multiple diploma pathways; however, not all pathways are aligned with college- and career-ready expectations. Few states report high school graduation rates or postsecondary data that is disaggregated by subgroup and diploma pathway. This information is critical to ensuring that parents and students are able to make informed decisions regarding what diploma pathways in high school are most likely to lead to postsecondary education. It also critical from an equity perspective; this data will show if traditionally underserved students are disproportionately enrolled in diploma pathways that are not aligned to college- and career-ready expectations, or that are unlikely to lead to postsecondary education.</p>	<p>ESSA guidance should require states and districts to report rates of enrollment, remediation, persistence, and completion of postsecondary education, and to disaggregate this data by student subgroup and diploma pathway within two years of the promulgation of ESSA regulations. These measures provide strong evidence of whether a student graduates from high school prepared for postsecondary education, rather than a prediction. Under waivers, only six states incorporate postsecondary education enrollment or rates of remediation.^{iv}</p>	<p>participation in postsecondary education shall be limited to enrollment in a credit-bearing program or course without the need for remediation.</p> <p>The Alliance recommends addressing this concern in non-regulatory guidance as follows:</p> <p>Question: What information related to postsecondary education must be reported on state and local report cards?</p> <p>Answer: State and local report cards must report the number and percentage of students who graduate from high school and enroll the following school year in credit-bearing course work at an institution of higher education. States must also report the number and percentage of such students who require remediation, as well their rates of persistence into the second year of postsecondary education, and their rates of securing a postsecondary credential within six years of initial enrollment. This data must be disaggregated by student subgroups and by high school diploma pathway.</p>
<p>Sec. 1112(e)(2)(B)(iv)(I), Parents Right-to-Know</p> <p>Sec. 1202(e)(3)(C)(vi), Assessment Audits</p>	<p>ESSA includes the following two provisions regarding the time spent on test administration. Under the Parents Right-to-Know provision, states shall inform parents, where the information is made available, “the amount of time students will spend taking the assessment.” In addition, under the provision providing funding for assessment audits, information for stakeholders shall 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.</p>	<p>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, a project, or a 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 assessments that take less time to complete, yet are often of lower quality. Including this clarification in the regulations recognizes the distinction between these types of activities and will serve to</p>	<p>Sec. 1112(e)(2)(B)(iv)(I)—For the purpose of determining the amount of time a student will spend on taking an assessment, such determination shall exclude the student time spent on activities related to completing extended-performance tasks or components of a portfolio assessment.</p> <p>Sec. 1202(e)(3)(C)(vi)—For the purpose of determining the amount of time a teacher spends on administering an assessment, such determination shall exclude the time spent on activities related to completing extended-performance tasks or components of a project-based or portfolio assessment.</p>

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		incentivize state-adoption of higher quality assessments.	
<p>Sec. 1111(d)(1), School Support and Improvement Activities, definition of “comprehensive support”</p>	<p>ESSA requires the implementation of “comprehensive support” in each state’s lowest performing schools, including the lowest performing 5 percent of schools and high schools that fail to graduate one-third or more of their students. In order for such schools to improve, it is important for states, districts, and schools to have a clear understanding of what is meant by “comprehensive support.”</p>	<ol style="list-style-type: none"> 1. ESSA regulations should define comprehensive and improvement support as a strategy to improve student outcomes that includes multiple interventions in response to multiple needs that are calibrated to address the array of issues contributing to a school’s underperformance. 2. ESSA regulations should provide states with examples of effective components of comprehensive support and improvement. 	<p>The term “comprehensive support and improvement” is defined as a strategy to improve student outcomes that includes multiple interventions in response to multiple needs that are calibrated to address the array of issues contributing to a school’s underperformance.</p> <p>Schools identified for comprehensive support pursuant to Sec. 1111(d)(1) shall implement evidence-based assistance strategies and activities appropriate to address the needs of students in such identified school, including:</p> <p>(A) increasing personalization, including through—</p> <ul style="list-style-type: none"> (i) the continuous and timely use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students; (ii) providing a personalized sequence of instructional content and skill development informed by the student’s academic interests and learning styles that is designed to enable the student to achieve his or her individual goals and ensure he or she can graduate on time and ready for college and a career; (iii) implementing strategies that develop caring, consistent relationships between students and adults that communicate high expectations for student learning and behavior; and (iv) providing individualized support to students to assist in the transition from middle school to high school and from high school to postsecondary education; <p>(B) strengthening curriculum and instruction, including through—</p>

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			<p>(i) in high schools, increasing the availability of advanced course work, such as dual enrollment, early college, International Baccalaureate, and Advanced Placement;</p> <p>(ii) providing opportunities for student advancement through demonstrations of mastery of knowledge and skills, including through the use of performance-based assessments; and</p> <p>(iii) increasing access to applied learning opportunities aligned with college- and career-ready standards, including work-based, project-based, and service learning opportunities that are implemented in partnership with employers or community based organizations;</p> <p>(C) strengthening teacher and school leader effectiveness, including through—</p> <p>(i) the use of ongoing, rigorous, transparent, and equitable teacher and leader evaluation systems for the purpose of improving practice, student learning, and school performance;</p> <p>(ii) significantly increasing the annual number of professional development hours provided for staff to participate in collaborative, job-embedded, individualized professional development that is aligned with the school’s comprehensive instructional program and continually evaluated to assess the impact on professional practice;</p> <p>(iii) strategies to increase teacher retention, including high-quality induction programs, sustained mentoring for teachers with less than two years of experience, leadership opportunities, career ladders, and financial incentives including increased salaries to attract and retain teachers in hard-to-staff subject areas or communities for teachers who commit to teaching for a minimum of three years;</p> <p>(D) increasing learning time, including through restructuring the school day, week, or year to provide expanded learning opportunities for students,</p>

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			<p>including for credit recovery, and professional development and common planning time for teachers;</p> <p>(E) provide integrated student support services, including through partnerships with external partners, to address the social, emotional, health, and other needs facing students in and outside of school that influence student achievement;</p> <p>(F) the effective use of technology to support the activities implemented in comprehensive support schools; and</p> <p>(G) providing ongoing mechanisms for family and community engagement.</p>
Sec. 1111(d)(1), School Support and Improvement Activities, Definition, “Targeted Support”	ESSA requires the implementation of “targeted support” in schools with at least one consistently underperforming subgroup. In order for such schools to improve, it is important for states, districts, and schools to have a clear understanding of what is meant by “targeted support.”	ESSA regulations should define “targeted support and improvement” as interventions selected and implemented to address the specific needs of the students that led to the school’s identification, which may include interventions described under the definition of “comprehensive support.”	<p>The term “targeted support and improvement” is defined as a strategy to improve student outcomes using interventions selected and implemented to address the specific needs of the students that led to the school’s identification, which may include interventions described under the definition of “comprehensive support.”</p> <p>Schools identified for targeted support pursuant to Sec. 1111(d)(2) shall implement evidence-based, linguistically and culturally relevant, targeted assistance strategies and activities appropriate to address the needs of the group of students identified in such a school, which may include activities described under “comprehensive support and improvement.”</p>
Sec. 1111(c)(4)(F), Partial Attendance	ESSA permits the performance of students who have not attended the same school for at least half of the school year to be omitted from accountability determinations. This flexibility applies to performance on state assessments, the additional academic indicator, and English language proficiency. The statute, however, does not provide this flexibility regarding graduation rates because doing so would undermine the accuracy of graduation rates. If this provision were applied to graduation rates, it would mean that students who drop out of school within the first semester of the school	As stipulated under Sec. 1111(c)(4)(F), ESSA regulations should clarify that the “partial attendance” policy does not apply to graduation rates.	Pursuant to Sec. Sec. 1111(c)(4)(F)(i), any high student who has exited high school without a regular high school diploma and without transferring to another high school that grants a regular high school diploma shall be removed from numerator of the calculation of the four-year ACGR, and as applicable, the extended-year ACGR, regardless of when the student exits high school, subject to Sec.1111(c)(4)(F)(ii).

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	year would not be counted as dropouts for accountability purposes.		
Sec. 1111(d)(1)(C), State Educational Agency Discretion	ESSA permits states to differentiate evidence-based improvement activities in the case of high schools that fail to graduate one-third or more of their students. The intention of this provision is to ensure that alternative high schools that predominantly serve dropouts or students who are over-aged and under-credited are treated fairly and appropriately under state accountability systems. For example, if an alternative high school has a student population comprised of young people who have dropped out of school, and this high school has a graduation rate of 50 percent, it should be recognized as successfully graduating students who would otherwise lack a diploma. It may be inappropriate for such a school to be required to implement interventions as required under Sec. 1111(d) that are similar to interventions that would be implemented by a regular high school with a graduation rate of 50 percent. However, it is critical for ESSA regulations to require states to specifically describe how they will implement the discretion authorized under this subparagraph to (a) prevent this flexibility from being inappropriately applied to non-alternative schools, and (b) ensure ineffective alternative schools are appropriately held accountable and required to undergo reform.	ESSA regulations should require states to specifically describe how they will ensure that the discretion authorized under this subparagraph shall not be inappropriately applied to non-alternative schools. In addition, states should be required to describe how ineffective alternative schools are appropriately being held accountable and required to undergo comprehensive, evidence-based reform.	Under Sec. 1111(d)(1)(C), differentiated improvement activities, the state is required to demonstrate to the Secretary <ul style="list-style-type: none"> • that schools receiving this flexibility predominantly serve students returning to education after exiting high school without a regular diploma or who are significantly off-track to graduation from high schools within 4 years of enrollment; and • how the state will ensure continuous improvement in schools differentiated pursuant to this Sec. including the criteria that will be used by the state to determine when it shall take action to initiate additional improvement in any school not demonstrating improvement under this flexibility, consistent with Sec. 1111(d)(3)(B).
Sec. 1003A, Direct Student Services	Direct Student Services (DSS) provides an important opportunity to improve achievement for low-performing students and provide underserved students with access to rigorous course work that would not otherwise be	1. Priority: ESSA regulations should permit states to prioritize— <ul style="list-style-type: none"> (i) local educational agencies serving the largest numbers of students attending 	1. Priority—In making Direct Student Services awards under Sec. 1003A, the state educational agencies shall prioritize awards to local educational agencies —

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	<p>available. The statutory language within this Sec. is very broad; therefore, clarification is warranted under ESSA regulations on such issues as:</p> <p>1. Priority: The statute stipulates that states prioritize awards to local educational agencies serving the highest percentages of schools identified for comprehensive or targeted intervention. States should also prioritize local educational agencies serving the largest numbers of students attending such schools. This is necessary because, as written, this provision could be interpreted in such a way that would disadvantage high schools. For example, one local educational agency may have two elementary schools each with an enrollment of 100 students that are identified for comprehensive or targeted intervention. Another local educational agency may only have one high school that enrolls 400 students identified for comprehensive intervention. Because high schools typically serve many more students than elementary schools, the high school could be disadvantaged under the state’s DSS grant competition because its local educational agency only serves one school identified for improvement, even though this high school serves twice as many students as the other local educational agency.</p>	<p>schools identified for comprehensive or targeted intervention; and</p> <p>(ii) schools identified for comprehensive or targeted intervention with the most effective strategies for strengthening student achievement, as determined by the state.</p>	<p>(i) serving the highest percentages, as compared to other local educational agencies in the state, of schools, or of students enrolled in schools that are—</p> <p>(A) identified by the state for comprehensive support and improvement under Sec. 1111(c)(4)(D)(i)</p> <p>(B) implementing targeted support and improvement plans under Sec. 1111(d)(2); and</p> <p>(ii) proposing the highest quality strategies for strengthening student achievement.</p> <p>Allowable use of funds—Consistent with Sec. 1003A(c)(A)(ii), a local educational agency receiving an award under Sec. 1003A for Direct Student Services may use the award to support course work sequences that</p> <p>(i) are aligned with the state’s challenging academic standards;</p> <p>(ii) integrate rigorous academics, career and technical education, and work-based learning; and</p> <p>(iii) include opportunities for students to earn credit toward a postsecondary credential or an industry-recognized credential.</p>

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	<p>2. Required/permissible uses of funds: For example, several permissible uses of funds are stipulated under the statute (Sec.1003A(c)); however, the provisions of subsection (e), Providers and Schools, relate primarily to tutoring. This section does not include language pertaining to “required uses of funds.” Therefore, ESSA regulations should clarify that local educational agencies are not required to use funds for tutoring. In addition, ESSA regulations should facilitate alignment between various provisions of the law regarding career and technical education and the acquisition of industry recognized credentials (see, for example, state/local plan requirements Sec.1111(g)(1)(D) and related report language; subparagraphs (10) and (12) under Sec.1112(b); and allowable uses of professional development funds under Title II (Sec. 2103(b)(3)(O), ESSA regulations should clarify DSS uses of funds related to CTE)</p>	<p>2. Required/permissible uses of funds:</p> <p>(A) ESSA guidance should clarify that local educational agencies are not required to use DSS funds for tutoring.</p> <p>(B) To align DSS with several provisions within Title I/II and accompanying report language related to CTE and the acquisition of industry recognized credentials, ESSA regulations should clarify that DSS funds may be used to support the integration of rigorous academics, career and technical education, and work-based learning</p>	<p>2. Required/permissible uses of funds</p> <p>The Alliance recommends addressing item 2(A) in non-regulatory guidance as follows:</p> <p>Question: Is a local educational agency that receives a grant to implement Direct Student Services required to provide tutoring?</p> <p>Answer: No. A local educational agency may use a Direct Student Services grant to provide tutoring; however, it is not required to do so.</p> <p><i>Regulations (for item 2(B))</i></p> <p>The term “industry-recognized credential” means –</p> <p>(i) An industry-recognized credential that meets the quality criteria established by the state under Sec. 123(a) of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102), or</p> <p>(ii) a career pathways program certificate that –</p> <p>(A) is based on quality program standards;</p> <p>(B) recognizes participation in a work-based learning experience;</p> <p>(C) incorporates an assessment of skill attainment and career and college readiness; and</p> <p>(D) is recognized by multiple employers.</p>
	<p>3. Key terms: clarification is needed regarding key terms, such as “personalized learning approach”</p>	<p>3. Key terms: ESSA regulations should define the term “Personalized learning approach.”</p>	<p>3. The term “personalized learning approach” is defined as an approach to teaching and learning in which students—</p> <p>(i) are known well by their teachers;</p> <p>(ii) receive instruction that is connected to their interests, strengths and aspirations and aligned with the state’s challenging academic standards;</p> <p>(iii) have the opportunity to connect learning to real-world applications, including through internships, apprenticeships, and work-based learning;</p> <p>(iv) have flexible learning environments, including learning experiences outside the traditional classroom;</p> <p>(v) receive support to succeed in intellectually challenging work;</p>

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			<p>(vi) develop skills and competencies including the ability to think critically, use knowledge and information to solve complex problems, work collaboratively, communicate effectively, learn how to learn, and developing academic mindsets.</p>
	<p>4. DSS providers: the statute does not limit the type of entity that may provide DSS. ESSA regulations should clarify that providers may include entities that are not described under the statute, including national nonprofit organizations with demonstrated expertise in education</p>	<p>4. DSS providers: ESSA guidance should clarify that DSS providers may include national nonprofit organizations that have a demonstrated record of effectively supporting school improvement or expertise in effective methods of strengthening school performance.</p>	<p>The Alliance recommends addressing item (4) in non-regulatory guidance as follows:</p> <p>Question: May a local educational agency provide funds to a national nonprofit organization to implement Direct Student Services?</p> <p>Answer: Yes. A local educational agency may allocate Direct Student Services funding to a national nonprofit organization that has a demonstrated record of effectively supporting school improvement, expertise in effective methods of strengthening school performance, or expertise in preparing students for postsecondary education and the workforce.</p>
	<p>5. DSS eligibility: ESSA regulations should clarify that any school identified for comprehensive or targeted support and improvement is eligible for DSS funding, regardless of Title I status.</p>	<p>5. DSS eligibility: ESSA regulations should clarify that a school does not need to be Title I-receiving or Title I-eligible in order to be eligible for and receive DSS funding.</p>	<p>Eligibility.—Any school that is identified for comprehensive or targeted support under Sec. 1111(d) shall be eligible for funding under Sec. 1003, irrespective of whether such school is classified as eligible for funding under Sec. 1113.</p>
<p>Sec. 8002(21), Definition, “Evidence-Based”</p>	<p>ESSA provides a definition for “evidence-based” as it applies to state, local educational agency, or school activities, strategies, or interventions. Within this definition, subclause (I) requires the demonstration of a rationale based on high quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes. This subclause does not factor into the demonstration the context within which the evidence-based activity, strategy or intervention is being implemented. An activity, strategy, or intervention that demonstrates results in one context may not in another.</p>	<p>ESSA regulations should clarify that in order to demonstrate that an activity, strategy, or intervention meets the requirement under subclause (21)(A)(ii)(I), the state, local educational agency, or school needs to provide a strong logic model or theory of change that explains clearly how the activity, strategy, or intervention would improve the targeted outcomes and address the particular context within which it shall be implemented (e.g., urban, rural, high poverty, high English language learner population, etc.).</p>	<p>In meeting the requirement under subclause (21)(A)(ii)(I), the state, local educational agency, or school shall provide a strong logic model or theory of change that explains clearly how the activity, strategy, or intervention will improve the targeted outcomes and address the particular context within which it shall be implemented (e.g., urban, rural, high poverty, high English language learner population, etc.).</p>

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Sec. 1113(5), Use of Feeder Pattern for Secondary Schools	ESSA permits local educational agencies to lower the priority threshold for high schools for Title I funding from 75 percent to 50 percent and permits the use of a feeder pattern to calculate poverty. The statute requires the local educational agency to inform secondary schools of the opportunity to use a feeder pattern and to secure approval from a majority of secondary schools to use the feeder pattern calculation. It is important for secondary schools to (a) have the opportunity to select the feeder pattern and (b) know the poverty rate of the school as calculated under the feeder pattern and under the calculation selected by the local educational agency.	ESSA regulations should require local educational agencies to provide their secondary schools with information regarding Title I allocations under Sec. 1113 using the feeder pattern and school rankings under Sec. 1113(a)(3) using the feeder pattern, and a procedure for determining use of the feeder pattern.	Pursuant to Sec. 1113(5), local educational agencies must provide their secondary schools with <ul style="list-style-type: none"> • a comparison of the poverty rate of the school using the feeder pattern and the poverty rate of the school using the calculation selected by the local educational agency under Sec. 1113(a)(5)(A); • information on how the selection of the feeder pattern may change the school’s ranking as described under Sec. 1113(a)(3) and information on the likelihood that the school would receive Title I funds based on this ranking; • a procedure for the school to express their support or dissent for using the feeder pattern that is clear, transparent to the public, and allows sufficient time for the school to make a decision that is informed by community and families of the students attending the school; and • information from the first three bullets that schools may use regarding the feeder pattern to inform and consult with the community and families of students attending the school.
Sec. 1113(a)(3), School Rankings Sec. 1111(c)(4)(C)(iii), Statewide Accountability System, Annual Meaningful Differentiation	Guidance on Community Eligibility Program (CEP) from ED allows a state education agency to base reporting and accountability on using either (1) students who are directly certified and which may be supplemented with available survey data; or (2) <i>all</i> students in a Community Eligible School (CES), in which case the “economically disadvantaged” subgroup would be the same as the “all students group.” It is unclear how CESs using the methodology under item (2) will be able to report differences in student subgroup performance between students who are economically disadvantaged and those who are not economically disadvantaged. It is also unclear if and how school rankings under Sec. 1113(a)(3) might be impacted by CEP.	Regulations and/or guidance is needed to ensure accountability and support for economically disadvantaged students is not thwarted by the use of the CEP and that Title I funding is distributed within the parameters as set under ESSA.	<i>The Alliance may provide ED with additional recommendations and draft regulatory language based on data analysis and ongoing input received from education policy researchers.</i>

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Sec. 1111(g), Other State Plan Provisions	The joint explanatory statement for ESSA explains that the Conferees’ intend for states to describe in their state plans how they will work with local educational agencies to ensure effective transitions from middle to high school and from high school to postsecondary education, particularly for those students at-risk of dropping out. Specific strategies are included in the statement. Without regulations and/or guidance states may be unaware of the requirement to include strategies for successful transitions between middle and high school and high school and postsecondary education in their state plans.	The language on effective student transitions from middle to high school and from high school to postsecondary education should be reiterated in regulations.	Pursuant to report language regarding Sec. 1111, states must describe how the unique needs of students in middle grades and high schools will be met. States will work with local educational agencies to assist in identifying students who are at-risk of dropping out using indicators such as attendance and student engagement data, to ensure effective transitions from middle to high school, including by aligning curriculum and student supports, and to assist in effective transitions from high school to postsecondary education through strategies such as partnerships between local educational agencies and institutions of higher education, employers, or other local partners. Strategies to improve transitions may include integration of rigorous academics, career and technical education, work-based learning, early college high school, dual or concurrent enrollment, or career counseling. States will provide professional development to teachers, principals, other school leaders, and other school personnel to ensure that academic and development needs of middle and high school students are met.
Sec. 1204, Innovative Assessment and Accountability Pilot	ESSA regulations should ensure the Innovative Assessment and Accountability pilot, under Sec. 1204, promotes educational opportunity and equity. The sharing of lessons learned regarding promising and effective practices should not be limited to only those states participating in the pilot.	Under Sec. 1204(c), the Secretary shall publish a progress report detailing the progress of the innovative assessment systems under this pilot. This report should include data on the performance of subgroups of students, including a comparison between the academic performance of student subgroups attending local educational agencies who participate in the pilot and who do not participate in the pilot, based on the annual assessments required under Sec. 1111(b)(2)(B)(v). To further support the sharing of best practices to ensure all students benefit from these systems, regulations should clarify that assessment funds distributed to states under ESSA may be used to evaluate the impact of the pilot and how promising and effective practices can be replicated.	The report published by the Secretary under Sec. 1204(c), shall include data on the performance of subgroups of students, including a comparison between the academic performance of student subgroups attending local educational agencies who participate in the pilot and who do not participate in the pilot, including performance based on the annual assessments required under Sec. 1111(b)(2)(B)(v). In addition, state assessment funding under ESSA may be used to evaluate the impact of the pilot and how promising and effective practices can be replicated.
Sec. 1111(g)(1)(B), Other Plan Provisions	State plans must describe how students from low-income families and students of color are not served at disproportionate rates by	ESSA regulations should indicate to states that they have the flexibility to extend this provision to students with disabilities, English language	Sec. 1111(g)(1)(B) – pursuant to meeting the requirements under Sec. 1111(g)(1)(B), states have the flexibility to include a description of how students with disabilities, English language learners, and rural students are not

Provision	Concern	Recommendation	Regulatory Language
	<p>ineffective, out-of-field, or inexperienced teachers, and the measures used by the state to evaluate and publicly report the progress. Research shows that students with disabilities, English language learners, and rural students face similar barriers to access to in-field, experienced, and effective teachers. Unfortunately, under ESSA there is no requirement for states to assess and address any disproportionality in access.</p>	<p>learners, and rural students, to ensure that all students have equal access to effective, in-field, and experienced teachers.</p>	<p>served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers and the measures the state will use to evaluate and publicly report the progress made toward closing gaps in access.</p>
<p>Sec. 1111(h)(1)(C)(viii)(I), Annual State Report Cards, Minimum Requirements</p> <p>Sec. 2103(b)(3)(I)(iv), Supporting Effective Instruction, Local Use of Funds</p>	<p>Annual state report cards are required to include measures of school quality, including chronic absenteeism (both excused and unexcused absences). In addition, under Title II, funding may be used to carry out in-service training for school personnel in addressing issues related to chronic absenteeism. ESSA does not define “chronic absenteeism” which will result in inconsistent definitions among states, preventing comparability, and may affect validity.</p>	<p>ESSA regulations should ensure consistency and comparability among states by defining chronic absenteeism as the percentage of students missing 10 percent or more of the school year. Basing the definition on a percentage of the school year rather than a set number of days (which may also vary among states) accounts for variations in the length of the school year. This definition would also account for variations in the amount of time a student is enrolled in a school and allow for early intervention. For example, if a state bases the determination on a student missing 18 days or more, it may take more several months to identify that student. Further, this definition is unlikely to capture students who enrolled in multiple schools over the course of an academic year and do not accumulate the required number of absences at an individual school.</p>	<p>Sec. 1111(h)(1)(C)(viii)(I) – for the purpose of determining “chronic absenteeism” under Sec. 1111(h)(1)(C)(viii)(I), a state shall measure the percentage of students missing 10 percent or more of the school year.</p> <p>Sec. 2103(b)(3)(I)(iv)– for the purpose of training school personnel to addressing issues related to “chronic absenteeism” under Sec. 2103(b)(3)(I)(iv)), “chronic absenteeism” shall be measured by the percentage of students missing 10 percent or more of the school year.</p>
<p>Sec. 8101(23)(A)(i), Definition, “Extended-Year Adjusted Cohort Graduation Rate”</p>	<p>Under Sec. (B) of the definitions of “extended-year adjusted cohort graduation rate” and “four-year adjusted cohort graduation rate,” in order to remove a student from a cohort, documentation must be provided that confirms that the student has transferred to a prison or</p>	<p>ESSA regulations should clarify that when applied to a student transferring to a prison or juvenile facility, the term “transfer to” requires written documentation that the student has been either expelled or removed from the school for at least one academic year and has been placed</p>	<p>Under Sec. 8101(23)(B) and Sec. 8101(25)(B), for the purposes of cohort removal, written documentation shall be provided that the student has been either expelled or removed from the school for at least one academic year and has been placed in a setting that provides a diploma-granting education program. Unless this requirement is met, the student shall remain part of the student’s original cohort.</p>

Provision	Concern	Recommendation	Regulatory Language
Sec. 8101(25)(A)(i), Definition, “Four-Year Adjusted Cohort Graduation Rate”	juvenile facility. This provision does not provide the clarity to ensure that the student is placed in a facility that provides a diploma granting program nor to does it set any parameters regarding how long a student has to be placed in a facility before being removed from the cohort.	in a setting that provides a diploma-granting education program. Unless this requirement is met, the student should remain part of their original cohort.	
Sec. 1111(h)(1)(C)(viii)(I), Annual State Report Cards, Minimum Requirements	Under Sec. 1111(h)(1)(C)(viii)(I), state report cards are required to include information submitted by state educational agencies and each local educational agency, in accordance with data collection conducted pursuant to Sec. 203(c)(1) of the Department of Education Organization Act (20 U.S.C. 3413(c)(1)), also known as the Civil Rights Data Collection (CRDC), which includes school climate data such as disciplinary instances. The requirement will not be fully met as this data is currently being collected and reported biennially and is based only on a sample of schools.	In order to meet the annual requirements under Sec. 1111(h)(1)(C)(viii)(I), and under the Department’s regulatory authority within Title VI of the Civil Rights Act of 1964, 20 U.S.C. 3413(c)(1), ESSA regulations should require that collection of data submitted pursuant to the CRDC should be annual and universal. This serves to align the CRDC with the annual reporting requirements under ESSA.	In order to meet the annual reporting requirements under Sec. 1111(h)(1)(C)(viii)(I), states shall submit annual data for all public schools within the state as required under the Civil Rights Data Collection, (20 U.S.C. 3413(c)(1)).

ⁱ New Jersey Department of Education, “ESEA Flexibility Request” (Trenton, NJ: Author, 2015), 67, <http://www2.ed.gov/policy/elsec/guid/esea-flexibility/flex-renewal/njrenewalreq2015.pdf> (accessed January 14, 2016).

ⁱⁱ 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).

ⁱⁱⁱ Ibid.

^{iv} 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.