



Testimony before the House Committee on Education and the Workforce

ESSA Implementation: Exploring State and Local Reform Efforts

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Chairwoman Foxx, Ranking Member Scott, Members of the Committee, thank you for the opportunity to testify on the implementation of the Every Student Succeeds Act (ESSA). My name is Phillip Lovell and I am vice president of policy development and government relations at the Alliance for Excellent Education, a nonprofit organization dedicated to ensuring that every child graduates ready for college, a career, and citizenship.

This is an important hearing to hold as states develop and finalize their plans to implement ESSA. Having reviewed the state plans submitted to the U.S. Department of Education (ED), and currently working with states that plan to submit in September, I'd like to discuss with the Committee four core themes that are important to reflect upon as ESSA implementation is analyzed:

1. ESSA is a civil rights law with equity-focused requirements that must be implemented and enforced.
2. ESSA preserves the limited but critical role of the federal government. While I may not agree with all of its findings, I appreciate that ED is carrying out its oversight role as required under the law in its letters to states responding to proposed ESSA plans.
3. The quality of ESSA state plans is uneven. There are certainly some strengths, but there are missed opportunities and many weaknesses, including proposals that are inconsistent with the law.
4. Proposed funding cuts jeopardize ESSA implementation.

ESSA's Equity-Focused Requirements

ESSA is fundamentally a civil rights law with many federal requirements designed to promote educational equity and prepare all students for postsecondary education and the workforce. ESSA provides states with significant flexibility when it comes to *how* they achieve equity and excellence, but ESSA is not a blank check. Both states and ED must implement and enforce all of ESSA's equity-focused requirements. See Appendix A for specific examples of these requirements.

There have been positive results when the federal government has focused on equity in education. For example, ED has been a driving force in the improvement of the nation's high school graduation rate by implementing federal regulations issued under the administration of President George W. Bush to get schools, districts, and states to focus on the problem, set graduation rate goals, and hold themselves accountable over time for achieving them. According to the 2017 *Building a Grad Nation* report, the national high school graduation rate is at an all-time high. All told, 2.8 million more students have graduated from high school since 2001 and gaps in graduation rates between groups of students have narrowed.¹

¹ For more information, see Figure 1, page 15; Appendix C, pages 48–9; Appendix D, page 50; and Appendix F, page 54 in J. DePaoli, J. Bridgeland, and R. Balfanz, *Building a Grad Nation: Progress and Challenge in Raising High School Graduation Rates* (Washington, DC: Civic Enterprises and Everyone Graduates Center at the School of

While this is promising, the nation will be unable to continue this trend without doubling down on efforts to close gaps among the students who have historically faced the greatest challenges—student from low-income families, African American and Hispanic/Latino students, students with disabilities, Native students, and English learners. This is critical because, although progress has been made, substantial gaps remain. (See Appendix B for information on graduation rate gaps in each state.)

In addition, the nation must improve the low-graduation-rate high schools that disproportionately enroll historically underserved students (see Appendix C for the number of low-graduation-rate high schools in each state).² As states move forward with ESSA implementation plans, it is essential that ED ensures states implement ESSA’s requirement for comprehensive support and improvement in high schools that fail to graduate one-third or more of their students.

ESSA Preserves the Limited but Critical Role of the Federal Government

When Congress enacted ESSA, it preserved the limited but critical role of the federal government in ensuring all children have access to a high-quality education. While I may not agree with all of its findings, I appreciate that ED is carrying out its oversight role as required under the law in its letters to states responding to proposed ESSA plans.

There are many organizations working to decipher what is in state plans and provide the public with digestible information about them. The Alliance, for example, produced ESSA Equity Dashboards that provide a red, yellow, or green determination on thirteen equity-focused requirements. I have submitted the ESSA Equity Dashboards that are currently available as part of my testimony (See Appendices D–H). They are also available at <http://all4ed.org/essa/essa-in-your-state/>. The remaining dashboards for states that have submitted their plans will be available in August. In addition, Bellwether Education Partners and the Collaborative for Student Success led the Check State Plans project (www.checkstateplans.org), a non-governmental peer review process that analyzes state plans and makes information on their strengths and weaknesses available to the public in order to improve them.

I want to be clear that this is not about whether we trust states. I’ve worked with many education state leaders and I know they are committed to kids. The fact remains that, while many people and organizations outside of government are reviewing and commenting on ESSA plans, only ED has the statutory authority and responsibility to review the plans and ensure they comply with the law that this committee wrote.

That said, I believe ED’s comments in several areas are insufficient, have caused confusion, and could diminish the quality of ESSA implementation. For example, ESSA allows states to use “student access to and completion of advanced coursework” as an indicator of school quality and student success [ESSA, Section 1111(c)(4)(B)(v)(V)]. However, ED criticized a state’s proposal

Education at John Hopkins University School of Education, 2017), <https://gradnation.americaspromise.org/report/2017-building-grad-nation-report> (accessed July 12, 2017).

² For more information, see Figure 6, page 28 in J. DePaoli et al., *Building a Grad Nation*.

to incorporate performance in Advanced Placement (AP) and International Baccalaureate (IB) exams in this indicator.

This is an example of the challenges that arise without clear regulations. ESSA explicitly states that access to and completion of advanced course work is permissible, and AP/IB are well-recognized examples of advanced coursework, yet a state was criticized for including AP/IB in their system. States should be applauded for promoting advanced course work, and I hope ED will clarify how these measures can be incorporated into state accountability systems.

An example of inadequate/confusing oversight within ED's letters to states is its review of state proposals to ensure compliance with ESSA's requirement that states identify schools for targeted support and improvement if they have a consistently underperforming subgroup of students. This is a critical equity-focused policy. In order to help states, districts, and schools implement this policy, today the Alliance is releasing a new publication that I submit to the Committee as part of my testimony titled *School Interventions That Work: Targeted Support for Low-Performing Students* (See Appendix I). While I hope this report gives policymakers and practitioners assistance as they support low-performing students, only ED can ensure compliance with the law.

One state, for example, states in its ESSA plan that "a school will be identified if it has one or more of the lowest performing subgroups in the state over multiple years." ED's letter to this state appropriately notes that the state must define "multiple years." However, ED fails to require the state to define what level of performance would constitute identification as "one or more of the lowest performing subgroups."

Several states intend to identify schools for targeted support and improvement if one or more subgroups of students demonstrate consistent underperformance in academic achievement and/or high school graduation rates. ED's response letters note that the statute requires states to consider subgroup performance on all indicators in identifying schools. ED needs to clarify that (a) while each indicator must be considered, states are not required to use a composite of all indicators in identifying schools for targeted support, and (b) there is no statutory requirement for students to be consistently underperforming on all indicators to be identified for support.

If states identify schools for targeted improvement based only on a composite of indicators, they are more likely to inadvertently overlook low-performing students because high performance on one indicator could mask low performance on another indicator.

For example, in one state, there are seventy-two high schools where 80 percent or more of the African American students graduate on time; but in these same schools, 60 percent or fewer of the African American students achieve proficiency in math. This represents 22 percent of all high schools in this state. In another state, there are 135 high schools where 80 percent or more of the Latino students graduate within four years, but 60 percent or fewer of the Latino students achieve proficiency in reading. If states aggregate the high school graduation rates, math proficiency rates, and reading proficiency rates together, the high graduation rate will mask the low proficiency rates. As a result, schools with African American and Latino students who are struggling in math and reading may not be identified for support.

Rather than aggregating the performance of student subgroups into a composite, state systems of meaningful differentiation should identify schools for targeted support based on the performance of any *single* subgroup on any *single* indicator. Moreover, states can develop such systems while also complying with ESSA’s requirement that states base their system of differentiation on all indicators in the system. They can do this by considering the performance of student subgroups on all indicators when identifying schools and then allowing failure on a single indicator to trigger identification. In other words, *any* indicator can trigger identification, but students need not fail on all indicators to be identified for support.

State plans can be hundreds of pages long. The fact that ED has sent letters to states with less than twenty pages of comments should come as little surprise. This is the bare minimum required for ED to carry out its oversight duty that Congress assigned to it when passing the law. In the absence of clear guidance from ED on these critical issues, states are looking to organizations like the Alliance for Excellent Education for input and insight on best practices and evidence-based strategies to address the needs of their student population.

The Quality of ESSA State Plans Is Uneven

The quality of ESSA state plans is uneven. There are certainly some strengths, but there are missed opportunities and many weaknesses, including proposals that violate the law.

Goals

While states have set high goals for achievement and high school graduation rates, performance against these goals is rarely included in their accountability systems as required under ESSA [ESSA Sec. 1111(c)(4)(B)(i)].

Targeted Support and Improvement for Historically Underserved Students

ESSA very clearly requires states to identify schools for targeted support and improvement if “any subgroup of students is consistently underperforming” [ESSA Sec. 1111(c)(4)(C)(iii)]. Rather than considering the performance of each subgroup, some states aggregate subgroups together, which violates the law and masks the performance of historically underserved students. One state, for example, proposed the use of a “super subgroup” that combines the performance of black, Hispanic, and Native students. This is unfortunate because these groups of students are distinct and they do not have the same level of academic performance. For example, according to this same state’s department of education, there is a 20-point difference between the percentage of Native American students (54.2 percent) and that of African American students (74.2 percent) who were below basic when tested on their Algebra I proficiency. Moreover, there is a 26.8-point difference among the same groups in Algebra II proficiency. By combining these groups of students together in violation of the law, this state runs the risk of inadequately supporting historically underserved students.

ESSA also requires states to measure each of their indicators “separately for each subgroup of students” [ESSA, Sec. 1111(c)(4)(B)] for accountability purposes. To my knowledge, no state is

proposing to do this in their ESSA plan. Many states propose systems that will give schools ratings, but these ratings do not specifically include the performance of student subgroups as envisioned under the law. What this means is that schools can receive an “A,” even though African American students, Latino students, or other historically underserved groups are underperforming.

To be very clear, this is not a hypothetical situation. A report from The Education Trust provides an example of a state where, in schools that received an “A,” only 58 percent of African American students were proficient in reading.³

95 Percent Test Participation Rate

Additionally, ESSA requires that 95 percent of students participate in statewide assessments so that low-performing students are not encouraged to be absent on test day. States are required to incorporate this policy into their accountability systems, yet the degree to which this is meaningfully happening varies considerably across state plans. One state, for example, explicitly states that it intends to defy the law. Specifically, ESSA is very clear about how test participation is to be calculated [ESSA, Section 1111(c)(4)(E)(ii)] and this state explicitly states that it will use a different calculation. Several other states fail to specify consequences for failing to meet the 95 percent test participation requirement for all students and each subgroup. For example, one state intends only to apply this requirement to the “all students” group and its “super-subgroup.” Another state does not address this requirement and merely states that it will await guidance from ED.

The 95 percent test participation requirement is yet another area where ED’s oversight has been lacking. Not a single letter from ED has mentioned this critical equity-focused policy.

High School Graduation Rates

ESSA requires states to include the four-year graduation rate in their accountability systems because the ultimate goal of the K–12 education system is for students to graduate from high school prepared for postsecondary education and the workforce. There is a long history of inaccurate calculations being used to mask low graduation rates, which is why ESSA is explicit about the use of the four-year adjusted cohort graduation rate, even going so far as to provide a specific definition for the calculation. Nonetheless, several states do not use the four-year graduation rate as a stand-alone indicator in their accountability systems as required under the law.

Innovation

While ESSA’s flexibility was intended to unleash creativity and innovation, this by and large has not happened. We hoped to see policies that promote critical thinking and problem solving, what

³ N. Ushomirsky, D. Williams, and D. Hall, *Making Sure All Children Matter: Getting School Accountability Signals Right* (Washington, DC: Education Trust, 2014), <https://edtrust.org/resource/making-sure-all-children-matter-getting-school-accountability-signals-right/> (accessed July 14, 2017).

some refer to as “deeper learning,” not just memorization and test-taking skills. However, state plans thus far would be more accurately characterized as cautious, not courageous. That said, there are a few notable exceptions:

- Louisiana is raising expectations for its students and ensuring that an “A” rating reflects the level of performance that one would expect of an “A” school. Louisiana also incorporates a “strength of diploma” indicator in its accountability system to incentivize preparation for postsecondary education and the workforce.
- Delaware and Illinois are examples of states that incorporate the percentage of ninth-grade students who are on track for on-time graduation. This is an indicator demonstrated by research to accurately predict high school graduation rates and will incentivize early intervention to increase graduation rates.⁴
- Several states (Arizona, Connecticut, Delaware, Illinois, Louisiana, Massachusetts, Michigan, New Mexico, Vermont) propose to include measures of college and career readiness in their accountability system (e.g., access to and performance in rigorous course work).

Proposed Funding Cuts Jeopardize ESSA Implementation

Money is not magic. However, funding was promised when Congress passed ESSA. Cuts proposed by the Trump administration and House Labor-H committee will undermine the law before states have the chance to implement it. ESSA provides states with flexibility and responsibility. But responsibility without resources will not lead to results.

By freezing funding for Title I, under-funding Title IV, Part A, and proposing to eliminate or reduce funding for professional development, literacy, and after school programs—on top of proposed cuts to Medicaid that jeopardize the services schools provide to the nation’s most vulnerable children—states are being handcuffed at the exact moment they have supposedly been given freedom.

Conclusion

It is paramount that we work together to support states in developing their ESSA plans because these plans are more than just a bureaucratic exercise in compliance. State ESSA plans outline a state’s vision, strategy, and commitment to children, parents, teachers, school leaders, employers, and the public writ large regarding how they will ensure all students have access to an education that is characterized by equity and excellence.

Considering that nearly two-thirds of the nation’s jobs will require at least some postsecondary education by the year 2020,⁵ it is not hyperbole to suggest that ESSA implementation is at the heart of the nation’s economic success. We can either step on the gas or put on the brakes. By maintaining a commitment to equity, enforcing ESSA’s requirements, and strengthening the investment in education, the nation can ensure that every child in America graduates from high school prepared for the competitive economy that lies ahead.

Thank you again for the opportunity to testify.

⁴ For more information see the University of Chicago’s To & Through Project at <https://toandthrough.uchicago.edu/>.

⁵ A. Carnevale, N. Smith, and J. Strohl, *Recovery: Job Growth and Education Requirements Through 2020* (Washington, DC: Georgetown University Center on Education and the Workforce, 2013), https://cew.georgetown.edu/wp-content/uploads/2014/11/Recovery2020.ES_.Web_.pdf.

Appendix A: Equity-Focused Requirements in the Every Student Succeeds Act

Long-term goals and measurements of interim progress

Section 1111(c)(4)(A) requires each State to establish ambitious long-term goals and measurements of interim progress toward those goals for academic achievement and high school graduation rates for all students and *each subgroup of students*.

Accountability indicators

Section 1111(c)(4)(B) requires each state to include multiple indicators of student performance in its statewide accountability system. These indicators must be annually measured for all students and separately for *each subgroup of students* for each school in the state. The required indicators include: student scores on annual assessments; English language proficiency; at least one indicator of school quality or student success; for elementary and middle schools, a measure of student growth or other academic indicator; and for high schools, graduation rates.

Participation in assessments

Section 1111(c)(4)(E) requires each State to annually measure the achievement of not less than 95 percent of all students and 95 percent of all students in *each subgroup of students* on the statewide assessments in reading/language arts and mathematics. Each State must also factor this requirement into its statewide accountability system.

Subgroups of students

Section 1111(c)(2) *requires the following subgroups of students to be included* in a statewide accountability system: economically disadvantaged students; students from major racial and ethnic groups; children with disabilities; and English learners.

Disaggregation of student data (n-size)

Section 1111(c)(3) requires each State to determine, in consultation with stakeholders, a minimum number of students (“n-size”) to be used for accountability and reporting purposes. The n-size must be the same for all students and for *each subgroup of students*.

Comprehensive support and improvement schools

Section 1111(c)(4)(D) requires each State to establish a methodology based on the system for annual meaningful differentiation to identify public schools for comprehensive support and improvement beginning with the 2017-18 school year, and at least once every three years thereafter. Comprehensive support and improvement schools include: the lowest-performing five percent of all Title I schools in the State; any public high school in the State failing to graduate one-third or more of its students; and Title I schools with a consistently underperforming student subgroup performing at the level of the lowest-performing five percent of Title I schools that has failed to improve after implementation of a targeted support and improvement plan.

Targeted support and improvement schools

Section 1111(c)(4)(C)(iii) and Section 1111(d)(2)(A)(i) require each state to use its system for annual meaningful differentiation to identify public schools in which *any*

subgroup of students is consistently underperforming, as determined by the state, for targeted support and improvement.

In addition, Section 1111(d)(2)(C) requires the identification of public schools with a subgroup performing at the level of the lowest-performing five percent of Title I schools for targeted support and improvement.