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## Education Department Releases ESSA Accountability Rules

By [Andrew Ujifusa](#) on May 26, 2016 8:41 AM

### UPDATED

The U.S. Department of Education has released a draft version of [accountability regulations for the Every Student Succeeds Act](#) that would require "comprehensive, summative" ratings for schools, but would not dictate or encourage states to set any particular weight, or a range of weights, for individual accountability measures.

The proposed regulations, released Thursday, would also clarify that states can choose their own indicators of school quality or student success that move beyond traditional accountability measures based on test scores and graduation rates. Both school quality and student success remain key portions of accountability under the federal education law.

And the regulations would not prescribe an "n-size," or minimum number of a particular group of students at a school, for that group of students to be included for accountability purposes. More on that below.

### A summary of the draft regulations released by the Education Department also states that:

- If a school is scoring at the lowest-possible level on any academic indicator, it has to get a different summative rating than a school that's getting top marks on all the indicators.
- The regulations state that, "To ensure that differentiation of schools is meaningful, the accountability system should allow for more than two possible outcomes for each school."
- For each accountability indicator, there must be three distinct levels of performance assigned to schools that are "clear and understandable to the public."
- While the proposed regulations do not dictate exactly how states must deal with schools that assess less than 95 percent of all their students and 95 percent of all subgroups of their students, the states must take "robust action" and choose from several options provided by the department, or propose their own "rigorous" strategy for dealing with them. (Those options from the department were not included in the summary.)

**UPDATE:** In the proposed regulations themselves, the department offers states these three options to address an individual school's low test-participation rates:

- (1) assign a lower summative rating to the school;
- (2) assign the lowest performance level on the State's Academic Achievement indicator; or
- (3) identify the school for targeted support and improvement.

Or the state, as we indicated above above, could submit its own plan to try to address testing opt-outs. In addition, individual schools would have to develop plans to address high opt-out rates for all students or subgroups of students.

- The proposed regulations suggest definitions for "consistently underperforming" schools, but do not mandate any such definition, as long as states in their definitions identify schools with subgroups that, based on the state's indicators, underperform over two or more years.
- The regulations allow for states to use a variety of uniform definitions for consistently underperforming subgroups of students, including:
  - 1) A subgroup of students that is not on track to meet the State's long-term goals or is not meeting the State's measurements of interim progress;
  - 2) A subgroup of students that is performing at the lowest performance level in the system of annual meaningful differentiation on at least one indicator, or is particularly low performing on measures within an indicator (e.g., performance on the State mathematics assessments);
  - 3) A subgroup of students that is performing at or below a State-determined threshold compared to the average performance among all students, or the highest-performing subgroup, in the State;
  - 4) A subgroup of students that is performing significantly below the average performance among all students, or the highest-performing subgroup, in the State, such that the performance gap is among the largest in the State;

• Even though the department is not prescribing any weights that must be used for different accountability factors, the academic factors would have to have a "much greater" weight than the measures of school quality or student success in accountability systems.

- In addition, a school identified for "comprehensive support" couldn't get that label removed on the basis of progress on the indicator of school quality or student success, unless it is making sufficient progress on other indicators.

Although the proposed regulations don't prescribe or suggest a particular weight or range of weights for various accountability measures, that's not the whole story. The proposed regulation states that a school or subgroup's performance on a school quality indicator, like school climate or student engagement, can't by itself get a school off the list of schools identified as needing comprehensive support—unless all students are making "significant progress" on at least one of the four academic indicators that must get "substantial" weight.

For schools in need of targeted support, performance on a school quality indicator by itself can't get that "targeted support" label removed, unless the underperforming or low-performing subgroups of students are improving significantly on one of those four academic indicators getting notable weight.

In other words, performance on these school-quality indicators, by itself, wouldn't prevent interventions in certain schools if academic measures indicate they're necessary.

### **Here's how the proposed regulation puts it:**

"In other words, the four substantially weighted indicators, together, would not be deemed to have much greater weight in the system if performance on the other, not substantially weighted indicator could remove a school from identification."

- Improvement plans for schools targeted for some kind of intervention would have to include a review of "resource inequities," including per-pupil expenditures and the proportion of teachers who are teaching out-of-field, and are ineffective, or inexperienced.
- Although there's no prescribed n-size as mentioned earlier, states that want to use an n-size of larger than 30 would have to submit a justification to the Education Department explaining why they wish to do so.
- As we've reported before, each subgroup of students (like economically disadvantaged students and those in special education) must be considered separately for accountability. That means "super subgroups" or the big groups combining several different subgroups of students that proliferated under waivers from No Child Left Behind, the previous version of federal education law, can no longer be used in place of an individual subgroup of students.

### **A few quick definitions here:**

- Schools in need of comprehensive support include: the bottom 5 percent of Title I schools in the state; high schools with graduation rates below 67 percent for all students based on the four-year adjusted cohort graduation rate; and Title I schools with chronically low-performing subgroups that have not improved after receiving additional targeted support.
- Schools in need of targeted support include schools with a low-performing subgroup performing similarly to all students in the bottom 5 percent of Title I schools, identified each time the state identifies its schools for comprehensive support. (These schools must be provided additional targeted support). The definition also includes Title I schools with a consistently underperforming subgroup, as defined by the state, annually.

Noting the end of what it calls the end of the "pass/fail" era of No Child Left Behind, the department said in its summary that, "[T]he proposed regulations clarify ESSA's statutory language by ensuring the use of multiple measures of school success based on academic outcomes, student progress, and school quality, thereby reinforcing that all students deserve a high-quality and well-rounded education that will prepare them for success."

### **Reactions to Draft ESSA Rules Come Pouring In**

**UPDATE:** In a statement released by the department, Secretary of Education John B. King Jr. said, "These regulations give states the opportunity to work with all of their stakeholders, including parents, and educators to protect all students' right to a high-quality education that prepares them for college and careers, including the most vulnerable students," Secretary of Education John B. King Jr. said. "They also give educators room to reclaim for all of their students the joy and promise of a well-rounded educational experience."

Reacting to the proposed rules, Sen. Lamar Alexander, R-Tenn., the chairman of the U.S. Senate education committee, said in a statement that, "I am disappointed that the draft regulation seems to include provisions that the Congress considered--and expressly rejected." However, he didn't specify what those provisions are. Alexander said he's going to give the proposed rules further review.

And Rep. John Kline, R-Minn., the chairman of the House education committee, said he will "fully review" the proposal, and said if it

doesn't match "the letter and intent of the law," he will use "every available tool" to make sure the law is implemented as Congress intended.

In a separate statement, Rep. Bobby Scott, D-Va., the ranking Democrat on the House committee, struck a different note, saying, "The Secretary's proposed regulations fulfill the federal obligation to protect and promote equity, ensuring that ESSA implementation will uphold the civil rights legacy of the law."

The Council of Chief State School Officers indicated that it was generally pleased with the department's proposals, saying in a statement that, "We appreciate the Department's initial attempt at giving guidance to states as they build these systems. The Department has balanced the need for clarity and the clear intent of the law for flexibility for states."

But the Education Trust, a civil rights advocacy group, said that while it's pleased with several aspects of the rules, it's very concerned that the definitions for consistently underperforming subgroups of students is too loose: "[B]y allowing states to limit the definition of consistent underperformance for a group to being in the lowest performance level on an indicator, or being the farthest away from statewide average performance, it undermines the idea -- and the Congressional requirement -- that any group that is struggling in any school needs help and assured action, not just the very lowest performing groups or groups in a limited number of schools." The department will publish a Notice for Proposed Rulemaking pertaining to the regulations in the Federal Register on May 31, and there will be a public comment period on the draft regulations open for 60 days. The comment period will close Aug. 1.

Read the department's summary of the regulations below:

And read the entire set of proposed rules here:

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