



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of Education
& Early Development**

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July 28, 2016

John B. King, Jr., Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary King:

Thank you for the opportunity to comment on the proposed rules and regulations for implementation of the Every Student Succeeds Act. Alaska is committed to developing a state plan to meet the requirements of ESSA in ways that reflect our unique educational context and the vision of education held by Alaskan parents, educators, community members, and policy makers. We are hopeful that ESSA will encourage and permit flexibility so that our state plan makes sense for Alaska, meaningfully incentivizes and recognizes improvement, and provides customized support for schools in need of improvement whether in our largest urban population centers or our smallest rural villages.

Alaska remains firmly committed to providing a public education system focused on equity for our diverse student population. Given Alaska's diversity, maintaining that focus and improving student learning requires a belief in and support for locally relevant and informed solutions that encourage innovation. Federal requirements that are overly prescriptive, unidimensional, or unnecessarily cumbersome compete with the resources, energy, enthusiasm, and conviction needed for locally developed and informed solutions that will truly improve student learning.

The Alaska Department of Education submits the following attached public comment regarding the draft regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Johnson".

Dr. Michael Johnson
Commissioner

Enclosure

cc: The Honorable Bill Walker, Governor
The Honorable Lisa Murkowski, United States Senate
The Honorable Dan Sullivan, United States Senate
The Honorable Don Young, United States House of Representatives

Alaska Department of Education & Early Development
Comments on Accountability Regulations
July 28, 2016

1. **Timeline for implementation of the new accountability system.** – Regulations 200.19(d)(1) & (2) require states to identify schools for comprehensive support by the beginning of the 2017-2018 school year, based on data from the 2016-2017 school year. While section 1111(c)(4)(D)(i) of ESSA says that “beginning with school year 2017-2018” schools must be identified for comprehensive support, it is not clear that the identification must be at the beginning of the school year. Because ESSA plans are not expected to be submitted to US ED until March or July of 2017, identification of schools for comprehensive support at the beginning of the 2017-2018 school year creates a situation in which states may not have even received feedback or approval on their accountability plans from the U.S. Department of Education prior to the start of the school year in which the first set of schools must be identified. Additionally, states may not have completed state-level approval processes for state statutes or regulations needed to carry out the identification of these schools. Finally, because students may be considered as graduates at the end of the summer session, the graduation rate data will not be available at the state in time to do all the analysis for a complex accountability system by the beginning of the school year.

Alaska DEED recommends that the regulations allow an extended timeline prior to identification of schools for comprehensive support. Alaska would recommend that the schools be identified by the beginning of the 2018-2019 school year using data from 2017-2018 and prior years, but that the graduation data be used from 2016-2017.

2. **Performance levels for indicators and summative ratings** – Regulations 200.18(b)(2-4) require states to define at least three distinct levels of school performance for each indicator in the accountability system (e.g., for academic achievement, academic progress, graduation rate, English learner progress, and school quality or student success). They also require states to provide a single summative rating for each school based on at least three categories. The statutory language in 1111(c)(4)(C) requires states to meaningfully differentiate all schools using the required indicators, and to give substantially more weight to the academic indicators than the non-academic indicators, but it does not explicitly require a single summative rating or specific levels of performance for each indicator. While many states already have such systems or will develop such systems for ESSA, this requirement seems more prescriptive than the statute requires. It may create more complexity for states that wish to design a system using a dashboard approach, or a summative score on a 1-100 point scale, for example.

Alaska DEED recommends that the regulations mirror the statutory language so that states have flexibility to design a meaningful system that meets the context of their states, yet still meets the intent of transparency and simplicity for parents and the public.

3. **HS graduation rate to identify comprehensive support schools** – Regulation 200.19(a)(2) require the use of only the 4-year graduation rate to identify high schools that graduate less than 67% of their students as schools needing comprehensive support. Throughout the ESSA statute, the state is

required to use a 4-year adjusted cohort graduation rate and may choose to also use an extended-year adjust cohort graduation rate for the accountability system indicators. The statute language in 1111(c)(4)(D)(I)(II) that requires a high school with less than a 67% graduation rate to be identified as a school for comprehensive support does not specify that only the 4-year adjusted cohort rate be used. Use of only a 4-year adjusted cohort graduation rate will disproportionately impact schools that are set up specifically to serve populations of students that, by their nature, need more time to finish school, such as alternative schools, schools for students in neglected or delinquent facilities, and schools for recently arrived immigrants.

Alaska DEED recommends that the regulations allow the use of both the four-year adjusted cohort graduation rate and an extended-year cohort graduation rate for identification of high schools for comprehensive support.

4. **Requirements for consolidated state plan** – Regulation 299.14(c) requires states to describe its performance management system for six required elements related to requirements under sections 299.16 through 299.19 (standards and assessments; accountability, support, and improvement for schools; supporting excellent educators; and supporting all students). While many of these are required elements under the law, others go beyond the explicit requirements of the statute. For example, section 299.18(c)(6) requires states to conduct a “root cause” analysis of disparities in rates of ineffective, inexperienced, and out-of-field teachers. This requirement is not specified in statute. In section 299.19(a)(ii), states would be required to describe how they will support a well-rounded education in 17 separate subject areas, another requirement that is not specified in statute. In section 299.19(a)(3) states must conduct a review of LEA-level budgeting and resource allocations in 4 separate areas. Section 299.16(b)(3) requires all states to describe strategies to provide all students in the state the opportunity to be prepared for and to take advanced mathematics coursework in middle school consistent with 1111(b)(2)(C), not just those choosing to take advantage of the assessment flexibility provided for 8th graders to take an advanced mathematics end-of-course tests instead of the state’s 8th grade test.

Alaska DEED supports a true consolidated state plan, but recommends that any additional elements proposed that go beyond statutory requirements be removed to minimize the burden on the state and LEAs and to allow the state to provide assistance and support to LEAs while maintaining the responsibility at the local level for a well rounded educational program that will ensure students are ready for college or careers.

5. **Funding to LEAs for School Improvement** – Regulation 200.24(c)(2)(iii) sets a minimum of \$50,000 for schools identified for targeted support and \$500,000 for schools identified for comprehensive support. The proposed regulations on funding for Title I school improvement funds are more constraining than required by statute. ESSA requires that states utilize the Title I reservation for school improvement to provide funding to eligible LEAs while ensuring that “allotments are of sufficient size to enable a local educational agency to effectively implement selected strategies.” The proposed regulation (at least \$500,000 for Comprehensive schools and \$50,000 for Targeted schools, those funding levels that were specified by the former School Improvement Grants or SIG program) is not compatible with the needs in Alaska. This will result in awards that will exceed the capacity of schools to spend funds wisely and will limit the state’s ability meet the unique needs of

our rural and remote schools. It will also create a scenario in which we are not able to serve all schools because of the size of the state's overall allocation. Alaska's school improvement set-aside is approximately \$2,900,000. After the administrative set aside, we would only be able to serve about 5 schools while we anticipate at least 15 schools in Comprehensive status. We have learned how to serve our schools with smaller, more targeted grant funding processes, and having flexibility to determine our own grant sizes would be beneficial to our education system.

Alaska DEED recommends that the Department strike provisions related to minimum dollar amounts for school improvement awards and allow states to determine the financial needs of identified schools to implement necessary interventions and the appropriate distribution of funding between identified schools within the state.

6. **95% Participation rate in assessments** - ESSA section 1111(c)(4)(E)(iii) requires states to "provide a clear and understandable explanation" of how the state will "factor in" the 95% participation rate requirement in the state's accountability system. Section 200.15(b)(2) of the regulations lists these options for states to use in factoring in missing the 95% participation requirement: (i) a lower summative rating, (ii) the lowest performance on the academic achievement indicator, (iii) identification for targeted support, or (iv) another "equally rigorous" state determined action. Alaska appreciates the importance of assessing all students in order to make accountability determinations for schools and to ensure that schools do not systematically exclude students or student groups from participating in the required state assessments. Alaska also appreciates that parents have a choice in whether their students participate in required state assessments. The law already requires that if a school misses the 95% target, the academic achievement indicator will be calculated by including in the denominator the number of students that equal 95% so that the school will in all likelihood receive a lower calculation on the academic achievement indicator. The law and regulations also already require the development and implementation of an improvement plan to address the lower participation. Regulation 200.19(c)(3) that requires a school to be identified for targeted support for a consistently underperforming subgroup allows a a period of two years to determine that identification. There does not seem to be any indication in the list provided in 200.15(b)(2) that would allow the state to consider whether the participation rate has been missed for a single subgroup or for all students, to consider the size of a particular subgroup or by how far the 95% target has been missed, to consider whether the target has been missed for 1 year or over a period of years, or to consider any other factors in why the school missed the 95% target.

Alaska DEED recommends that the regulations be revised to allow states to factor in missing the 95% target in ways that take the level of participation and other factors into consideration in particular for the first year of missing the target, and to allow the state to factor in consequences that would potentially increase over time if the school continues to not meet the 95% participation rate targets.

7. **Definition of "long-term" English learners** – Regulation 200.13(c)(2)(B) requires states to set long-term goals for English learners to attain English language proficiency within a state-determined period of time. Section 3121(a)(6) of the ESSA requires states to report the number and percentage of English learners who have not attained English language proficiency within 5 years of initial classification as an English learner and first enrollment in the local educational agency. The US ED has asked states to comment on whether or not regulations should determine a maximum number

of years that states could use to set the long-term goals for English learners to attain English language proficiency.

Alaska DEED recommends, due to the complexity of issues related to a maximum timeline for English language learner to be achieve proficiency, and the lack of clear research to support a particular timeline, that the regulations do not prescribe a maximum timeline, but allow states to determine an appropriate timeline for the context of the English learner population in each state.

8. **Previously identified child with a disability** – The US ED has asked states if the provision in the title I regulations should be retained that allow a student who was previously identified as a child with a disability under section 602(3) of the Individuals with Disabilities Education Act (IDEA), but who no longer receives special education services, to be included in the children with disabilities subgroup for the limited purpose of calculating the Academic Achievement indicator (§ 200.16).

Alaska DEED recommends retaining the provision in the Title I regulations to allow a student who was previously identified as a child with a disability under section 602(3) of the IDEA, but who no longer receives special education services, to be included in the children with disabilities subgroup for the limited purpose of calculating the Academic Achievement indicator for up to two years consistent with current Title I regulations.

9. **Standardized criteria for inclusion in subgroups with the adjusted cohort graduation rate** – US ED has asked states whether the regulations should standardize the criteria for including children with disabilities, English learners, homeless children, and children who are in foster care in their corresponding subgroups within the adjusted cohort graduation rate, and suggestions for ways to standardize these criteria. (§ 200.34).

Alaska is open to standardizing the criteria for including children with disabilities, English learners, homeless children, and children who are in foster care in their corresponding subgroups within the adjusted cohort graduation rate.

Alaska DEED recommends standardizing by including these students in the cohort if they are identified in a subgroup at any time during their inclusion in the cohort, even if the students are no longer members of the subgroup at the time of graduation. This will recognize those students who were formerly members of a subgroup that have achieved success in graduation even if they are no longer members of the subgroup at the time of graduation.

10. **Overview section in SEA and LEA report cards** – Sections 200.30(b)(2) & 200.31(b)(2 & 3) require that SEA and LEA Report cards must contain full accountability information and a clearly labeled “overview” section. This isn’t specified in the statute. The regulations specify what must be in the overview section, and it is pretty comprehensive. The LEA report cards must have an overview section limited to 2 pages, which could be quite limiting depending on the design of a state’s accountability system. While the regulation allows reporting additional subgroups such as migrant, gender, homeless, foster and active duty military in a separate section, it could be confusing to report this data separately section. Alaska appreciates the intent to make the most important

accountability information easily available to parents and the public.

Alaska DEED recommends that this information on how to create an overview section for report cards be presented as guidance rather than through regulations.

11. **Mailing LEA report cards overview** – Section 200.31(d)(3) indicates that the LEA must mail the overview section for the LEA Report Card and for each school report card to parents directly. This creates a cost for LEAs that could distribute the information directly to parents in other ways including through email, in person at parent meetings, or through handouts to students to take home.

Alaska DEED recommends that the regulation be changed to allow direct distribution to parents through other means and not strictly by mail.

12. **Transportation for children in foster care** – Section 299.13(c)(1)(ii) requires SEA to assure that LEAs will provide children in foster care transportation, as necessary, to and from their schools of origin, even if the LEA and local child welfare agency do not agree on which agency or agencies will pay any additional costs incurred to provide such transportation. The statute in section 1112(c)(5)(ii) outlines that procedures be developed so that the child welfare agency and LEA must determine which agency agrees to provide the transportation. The proposed regulation language places the burden on the LEA if the child welfare agency refuses to agree.

Alaska DEED recommends that the regulation language mirror the statutory language on this provision.

13. **SEA report card on webpage** – Section 200.30(d)(1) specifies that the SEA must “Disseminate widely to the public the State report card by, at a minimum, making it available on a single page of the SEA’s Web site.” This word could be confusing, making it sound like all the information on the state report card must be on one webpage. The wording in section 1111(h)(1)(B)(iii) says make SEA, LEA, & Consolidate State Performance Reports all available on one webpage which implies links to all information from the same webpage.

Alaska DEED recommends that the regulation language be clarified as to the intent of providing initial access to all reports for the SEA, LEA, and CSPR on the same page of the state’s website.

14. **English learners with disabilities** – Section 200.16(b)(2) allows English learners with a disability for whom there are no appropriate accommodations for one or more domains (listening, speaking, reading, or writing) of the English language proficiency assessment because the disability is related to that particular domain (e.g., a non-verbal English learner who cannot take the speaking portion of the assessment) must be assessed on the remaining domains.

Alaska DEED supports this positive clarification in the regulations that for ELs with specific disabilities, it is not possible to be assessed on all 4 domains.

15. **Averaging data across school years** – Section 200.20 (a) allows states to average data across school years to meaningfully differentiate schools.

Alaska DEED supports this flexibility that will allow states to have more meaningful accountability determinations, especially for smaller schools, to reduce the likelihood of schools shifting in and out of a particular status from year to year.

16. **Including schools with special configurations** – Section 299.17(b)(8) describes how states may include all public schools in the accountability system, including those with no grade levels assessed, schools with variations in grade spans, small schools, newly opened schools and schools that are designed to serve special populations such as alternative schools serving high school dropouts or those living in alternative education settings. Alaska understands that this section allows the state to include variations of the accountability system for these schools that are specific to the needs and grade spans of these schools.

Alaska DEED appreciates the recognition that there are different school configurations that do not fit well into a one-size accountability system and supports the flexibility that this regulation allows. Alaska also recommends clarification, if necessary, that the provisions of 299.17(b)(8) do not present any conflict with those of 200.14(c)(2) that require each accountability measure to be calculated in the same way for all schools across the state.

17. **Root Cause Analysis:** Regulations 299.18(c)(6)(i)-(ii) prescribe the method of a root cause analysis that states must use to address disproportionate rates of ineffective, out-of-field, or inexperienced teachers. The regulations goes beyond the statutory requirement by suggesting four distinct levels that must be part of the analysis. The statutory language in 1111(g)(1)(B) only ask states to describe how it will ensure that low-income and minority children enrolled in Title I schools are not served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers, and the measures the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such description.

Alaska DEED recommends that the regulations are changed to mirror the statutory language so that states are able to determine the appropriate levels and method of analysis.

18. **Support for Educators:** Regulation 299.18(b)(2)(i) requires states to describe how the state will improve the skills of educators specifically for twelve unique student categories. The related statute Sec 2101(d)(2)(J) only list four specific student categories (children with disabilities, English learners, students who are gifted and talented, and students with low literacy levels).

Alaska DEED recommends the regulation be revised to reflect the statute or let the statute stand as written.