



January 21, 2016

The Honorable John King
Acting Secretary
Department of Education
400 Maryland Ave., SW
Washington, DC 20202

RE: Docket Number ED-2015-OESE-0130

Dear Acting Secretary King:

On behalf of the 1.6 million members of the American Federation of Teachers, I write today to discuss the U.S. Department of Education's role in implementing the new Every Student Succeeds Act.

Though ESSA is not perfect, the AFT vigorously supported its passage, as it will help ensure that those students most in need have opportunities to be prepared for life, career and college. ESSA turns the page on the broken policies of No Child Left Behind, the waivers, and Race to the Top, and has the potential to ensure every public school is a place where parents want to send their kids, where students are engaged, where educators want to teach, where the curriculum is rich, and where there is joy in teaching and learning.

The promise of ESSA is the opportunity to create a new accountability system that focuses on meaningful learning that prepares children for the complex world they are entering, provided by educators who know how to meet the needs of the whole child and who are supported by adequate resources that address significant poverty and its effects. Such a system needs to consider multiple pathways to high school graduation; support student-centered approaches to learning, such as community schools and early childhood education, which level the playing field; and ensure educators have the tools, time and trust to do their jobs. If we continue to make school accountability all about high-stakes testing, we will replicate the problems of schools that currently cannot meet students' needs because they are too narrowly focused on test scores, to the detriment of the whole child.

As I said in my Jan. 7 letter regarding opt-out and test participation requirements, the overwhelmingly bipartisan passage of ESSA is a signal that the administration must abandon the policies that created the culture of overtesting and punishment. ESSA affords states the opportunity to focus on more than just test scores to determine what supports a school, its teachers and students need to succeed, and

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The American Federation of Teachers is a union of professionals that champions fairness; democracy; economic opportunity; and high-quality public education, healthcare and public services for our students, their families and our communities. We are committed to advancing these principles through community engagement, organizing, collective bargaining and political activism, and especially through the work our members do.



the administration should do all it can to support, not curtail, this opportunity. Let's not squander this opportunity by continuing the business-as-usual emphasis on test scores above all else.

I strongly encourage the Department of Education to follow the framework of the members of Congress who overwhelmingly passed ESSA, and to ensure that any guidance or regulations are workable in America's classrooms and reflect the voice of educators. The department should be focusing on providing guidance and elevating practices that work, and involving educators and parents in this process, rather than promulgating prescriptive and restrictive regulations.

To that end, I encourage this Department of Education to support the bipartisan reform framework contained in ESSA and maintain the flexibility allowed within it by refraining from heavily regulating this law. As is apparent in ESSA's unprecedented prohibitions against the secretary of education overreaching on policy, parents, communities and educators are not interested in having highly prescribed rules and mandates for preK-12 education from the federal government. This is especially true when it comes to requiring the use of standardized tests in making high-stakes decisions in both school and educator accountability.

Educators are closely watching what will happen with ESSA. Shortly after the law passed in December, the AFT held a conference call for our members. Although it was right before the holidays and at the end of a work day, more than 172,000 educators took time to join the call. There was great hope among those on the call that ESSA would bring about an end to the high-stakes testing policies that have for too long dominated education.

After the call, we conducted a follow-up poll of more than 2,000 AFT members and asked, "What is your biggest fear about the new law?" The No. 1 response was "nothing will change—schools will still not get adequate resources and supports." And the No. 2 response was that the testing fixation will continue. These two responses—totaling 70 percent of all responses—show the long road the Department of Education faces in order to regain the trust of America's educators.

Our educators are excited and stand ready to help ESSA succeed. But they are clear that if the promise of the new framework and flexibility of ESSA is somehow molded through regulation to be No Child Left Behind by another name, then we will lose this important opportunity to improve teaching and learning.

It is a false choice to pit accountability against support of teaching and learning. We can do both. For example, project-based learning provides supports, holds

schools accountable for learning, and allows for time in the curriculum for music and the arts.

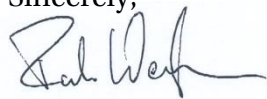
Across the country, educators from prekindergarten to high school applauded the passage of ESSA because it clearly reflects that their voices were heard. ESSA, as it stands now without regulation, already provides the opportunity to create systems in which:

- Assessments will be used to help improve schools and inform instruction, not arbitrarily measure them;
- School accountability will be based on a number of reasonable factors that align with the needs of students;
- Teacher evaluation, where deemed appropriate at the state and local levels, will be used to grow and strengthen the profession, not to sort and punish; and
- There will be more time for teaching and learning in schools.

The intent of this law is clear: Let states have the flexibility they need to succeed. We all should support states in designing accountability and support systems that are best for their schools and communities. We stand ready to partner with states to leverage their new flexibility in order to give teachers the latitude and resources they need to deeply engage students and to understand and support the development of a wide range of skills and knowledge. We urge the department to do the same: Let the states do their work.

Attached are specific comments on areas the department has indicated it may wish to regulate. We look forward to an ongoing dialogue with you on the implementation of ESSA.

Sincerely,

A handwritten signature in blue ink, appearing to read "Randi Weingarten", with a stylized, flowing script.

Randi Weingarten
President

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Transition to new law

The department should be transparent and clear, and provide all stakeholders as much lead time as possible, regarding all aspects of transitioning to the new law. This includes providing information on effective dates and deadlines that will affect how this law is implemented by states, school districts and schools.

The department should also adhere to the spirit of its Dec. 18 letter on transition to the ESSA, which said the department wanted to provide states flexibility and supports in the transition, and to absolve districts of the No Child Left Behind requirement to set aside funds for supplemental educational services.

Assessments

The department should expedite state efforts to have better and fewer assessments so that more time can be spent teaching and learning.

A key first step must be to quickly establish the pilot program for innovative assessments, so states willing to try project-based assessments can do so and other states can learn from them. The rules around this pilot should be set up to allow for maximum innovation and flexibility, and they should not be so burdensome as to preclude states from applying.

The department should also encourage states, and make it as easy and quick as possible for them, to permit school districts to replace their state high school test with a nationally recognized, locally selected assessment and to eliminate double testing in subjects such as eighth-grade math.

There are some instances where it makes sense to regulate. Regarding native language assessments and translation of communication materials to parents, the department should define “to the extent practicable.” This definition should be based on how many or what percentage of students from a distinct language background need to be present at the state or district level to decide which languages to translate. In the current anti-immigrant climate, some agencies might decide it’s not “practicable” to translate into a certain language; it is important to prevent such discrimination.

The department should, through regulation, allow states to maintain continuity in their English language proficiency standards and assessments since the latest iteration of English language proficiency standards developed by the ELP consortia are the most comprehensive, rigorous and helpful to teachers to date.

In terms of alternate assessments tied to alternate standards for the most significantly cognitively disabled students, the AFT reiterates what we've consistently communicated to the department on this issue: that such assessments have been so cumbersome to design and administer that teachers often spend significant portions of the entire first semester on the process. And only in rare cases did the process produce information that was not already known by the teacher and communicated to the family.

Accountability and school identification

The department should tread carefully in regulating on accountability matters, including the identification of schools for intervention and support, and should support the law's intent: that schools should now be judged based on multiple academic measures and multiple indicators of school success. Such a system should be truly robust and fully state-designed. Any attempts by the department to restrict this intent will not be welcome in schools or statehouses.

One way the department could be helpful in this regard would be by highlighting a range of indicators that could be used as academic indicators for elementary and middle schools and as indicators of school quality or student success. Such lists should by no means be seen as exclusive—that is, they should not be considered the only allowable indicators—they would assist states in thinking beyond test scores.

We are very pleased that the law requires states to incorporate at least one additional indicator into their accountability systems. This provision represents a significant recognition of the multiple factors that influence young people's success. The department should encourage states to meaningfully incorporate nontest academic and nonacademic measures into the accountability systems, not to use such indicators as afterthoughts in the system. This will ensure that the additional indicators are more than just an extra data point that states will collect but rather are a powerful tool to drive how states will support students to succeed.

The department should not attempt to regulate how states include the 95 percent participation requirement into their statewide accountability system.

Interventions

Any regulating around interventions should allow for truly supportive interventions such as community schools and early childhood education. This

means that community schools should be able to meet the requirements of the definitions of “evidence-based” interventions. One of the most exciting aspects of this new law is that schools identified as in need of support and improvement will have resource equity plans, and states and districts must assist with these plans. Your enforcement of this requirement—that states and districts be held responsible for resource equity in schools—could be one of the department’s most helpful acts in meeting the original purpose of this law, that is, leveling the playing field for disadvantaged students.

Engaging stakeholders

We urge the department to encourage states to undertake a broad and inclusive outreach strategy that includes teachers and paraprofessionals, parents, and community partners in the many aspects of the law that call for stakeholder involvement. Specifically, the department should enforce the stakeholder engagement requirements in designing accountability systems at the state level, and in designing and implementing systems of support and intervention, including in resource equity plans at the local level.

Data collection

There are many new areas in which ESSA requires states to collect and report publicly or to the Department of Education, which may take time to do well. For example, many school districts may not have the mechanism to track students in foster care. For all of reporting requirements listed under Section 1111(h), we recommend that flexibility, and time to gather and report out the data, is adequately provided.

Definitions

Many terms in ESSA, such as “meaningfully differentiate” and “much greater weight,” are undefined and may appear unclear and open to interpretation by states. The AFT believes that Congress, in delivering a law with broad leeway for states, was intentionally imprecise. And we would encourage the department not to attempt to regulate such terms now. If, a number of years down the line, it is apparent that states are, for example, intentionally creating overly simplistic accountability systems or masking subgroup performance, the department should step in and clarify such terms. Now, on the heels of ESSA’s passage, is not that time.