Every Student Succeeds Act: U.S. Department of Education Accountability Rulemaking
Summary of Key Proposed Regulations and Related Questions for Principal Feedback

June-July 2016

The U.S. Department of Education recently published a Notice of Proposed Rulemaking (NPRM) seeking public input on proposed regulations to implement the Every Student Succeeds Act's (ESSA) accountability, State and LEA report cards, and consolidated State-planning provisions. NAESP and NASSP plan to submit comments responding to important aspects of the NPRM and would benefit from members' consideration and input on several key issues addressed by the rulemaking. The Department of Education's pending ESSA NPRM addresses three Title I policy areas:

1. Requirements for **accountability systems**, including requirements regarding the indicators used to annually meaningfully differentiate all public schools, the identification of schools for comprehensive or targeted support and improvement, and the development and implementation of improvement plans, including evidence-based interventions, in schools that are so identified;

2. Requirements and content for **State and LEA report cards**, including reporting related to student achievement, expenditures, educator qualifications, and more;

3. Requirements for **consolidated State plans**, the timing of submission of such plans, and the content to be included in such plans.

While we welcome your input on the full NPRM, we are particularly interested in gathering feedback on the Department's proposals for implementing the law's annual assessment requirement, using and weighting performance indicators, school turnaround strategies, English learner, and other associated provisions. This document summarizes provisions related to these issues and poses questions for your feedback. Please share your answers no later than July 15, 2016. For further reference, you may access the full NPRM by clicking here.

Summary of Select ESSA and NPRM Provisions and Related Questions for Principals

ESSA Requirement and Related NPRM Highlights	Related Questions
ESSA Assessment Participation Requirement: State accountability systems must measure the achievement of not less than 95% of all students, and 95% of all students in each subgroup, on the annual statewide assessments in reading/language arts and mathematics. **NPRM Highlights** Under the NPRM, assessment participation rates would be calculated separately on assessments in reading/language arts and mathematics. Further, a State would be required to take at least one of the following actions for a school that misses 95% participation for all students or one or more subgroups: • Assign a lower summative rating to the school; • Assign the lowest performance level on the State's Academic Achievement Indicator; • Identify the school for targeted support and improvement; or • A rigorous State-determined action that will result in a similar outcome for the school in the system of annual differentiation and improve test participation. If a State uses the "other rigorous State-determined action" option, the proposed regulations would also require the following: • The school must develop and implement an improvement plan that address	**Assessment Participation Questions** • As a principal in a school that may be challenged by low assessment participation rates, do you feel the proposed regulations are appropriate and sufficient action and support for schools with regard to the statutory 95% student participation rate? Why or why not? • What state incentive would help your school ensure that all students participate in State assessments? Please explain your answer. • Is it appropriate for the proposed regulations to further require that States take punitive action against any school that misses the 95 percent target? Are there options that would help schools address test participation challenges?

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the reason or reasons for low participation in the school and include interventions, except that schools identified for targeted support and improvement due to low participation rates would not be required to develop a separate plan (from that of the school improvement plan required for a school otherwise identified for targeted or comprehensive school support and improvement). • For an LEA with a significant number of schools missing the 95% participation rate to develop and implement an improvement plan that includes additional actions to support the implementation of school-level plans to improve low assessment participation rates.	
ESSA Long Term Goals Requirements Each State must establish ambitious long-term goals, and measurements of interim progress for specific indicators, for all students and for each subgroup of students: economically disadvantaged students, students from major racial and ethnic groups, children with disabilities, and English learners. Goals must be set, at a minimum, for improved academic achievement, improved high school graduation rates, and increases in the percentage of English learners making progress toward English language proficiency. **NPRM Highlights** Proposes a general requirement for States to meet each key accountability and improvement system element, including long-term goals and measurements of interim progress [§200.13]. For English Language Proficiency each State would be required to: Establish goals and measurements for English learners toward attaining English language proficiency that set expectations to make annual progress;	**Long Term Goal Setting Questions** • What is a reasonable timeframe for schools to support an English learner in attaining proficiency in English – setting the same long-term goals and measurements of interim progress may not account for differences in how students learn, particularly in the early grades? • In setting long-term goals for English learners to achieve English language proficiency, would States, districts, and schools be better able to support English learners if the regulations included a maximum or cap for the State-defined timeline? • What are other research-based factors states must consider when setting long-term goals and uniform procedures for measuring interim progress of English learners?

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and developing a uniform procedure for setting such goals and measurements of interim progress that would be applied consistently to all English learners in the state, consider the proficiency level of the student, and may consider student-level factors: time in program, grade level, age, Native language proficiency, and limited or interrupted formal education	• Is there a maximum timeline that should be included in regulations for States when setting long-term goals for English learners related to the instructional expertise of teachers and principals? If so, is there research supporting your perspective? Please explain your school-based experience and the need for professional development of English language learners differentiated among teachers and principals.
ESSA Subgroup Accountability Requirement The following subgroups of students must be included in the statewide accountability systems: • Economically disadvantaged students • Students from major racial and ethnic groups • Children with disabilities • English learners **NPRM Highlights – English language learners** For accountability, each State would be required to: • Include each subgroup, separately, and the all students group, consistent with the State's n-size, when establishing long-term goals and measurements of interim progress, measuring school performance with the indicators, annually meaningfully differentiating schools, and identifying schools for comprehensive and targeted support and improvement.	**Questions on Accountability Requirements** • Should the regulations retain, modify, or eliminate the current Title I regulation provision allowing a student previously identified under 602(3) of IDEA, but no longer receiving special ed services, to be included in the children with disabilities subgroup for purposes of calculating academic achievement for up to two years? • How long after an English learner has exited a subgroup should that student's test scores be counted? Does this have any school-based implication?

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• Include, at the discretion of the State, for not more than 4 years after a student exits the English learner subgroup, the performance of a student previously identified as an English learner on the Academic Achievement indicator within the English learner subgroup. • Include, with respect to an English learner with a disability for whom there are no appropriate accommodations for one or more domains of required the English language proficiency assessment, as determined by the IEP or 504 team, performance on the English language proficiency assessment based on the remaining domains in which it is possible to assess the student. • Select from two available options for the inclusion of recently arrived English learners in accountability and apply that exemption uniformly to all; or establish a uniform statewide procedure for determining how to apply the statutory exemptions for the inclusion of recently arrived English learners in the system. • Report annually on the number and percentage of recently arrived English learners included in the accountability	
ESSA Indicators Requirement States accountability systems must include indicators focused on: • Academic achievement, specifically proficiency on annual assessments (and growth for high schools, at state's discretion); • Student growth measures or another valid and reliable statewide academic indicator for elementary schools and non-high school secondary schools; • The 4-yr adjusted cohort grad rate (+ extended grad rate at state's discretion); • Progress in English language proficiency • Not less than one indicator of school quality or student success (e.g., engagement, postsecondary readiness; school climate or safety). Each indicator muse be used for all students AND each subgroup.	**Identifying Indicators Question** • Is the proposed requirement that any School Quality or Student Success Indicator be supported by a research finding that performance or progress on the measure is likely to increase student academic achievement and aid in meaningful differentiation of schools too narrowly defined? • Are there valid and reliable indicators you would like to see your state use that would be precluded?

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NPRM Highlights The NPRM reiterates that the School Quality or Student Success Indicator must be supported by research that performance or progress on such a measure will increase student achievement. States must use a different measure for each indicator, but may use different indicators across elementary, middle and high schools. Proposed regulations also suggest that the Academic Progress and School Quality/Student Success Indicator, while providing a more holistic picture of a school's performance, must result in "meaningful differentiation" to identify schools in need of support and improvement. The progress in Achieving English Language Proficiency Indicator must: - Be based on performance on the English language proficiency assessments in grades 3-8 and in grades for which English learners are assessed in high school - Include proficiency level and additional student-level characteristics, use objective and valid measures of student progress, and align with State-determined timeline for attaining English language proficiency	- What research-supported indicators of school quality or student success would help states meaningfully differentiate between schools to identify those that are in need of comprehensive or targeted support and improvement? Please note that these measures must be disaggregated by subgroup. - Should the regulations standardize the criteria for including children with disabilities, English learners, homeless children, and children in foster care for purposes of calculating the adjusted cohort graduation rate? - Is the proposed requirement that States use a different measure for each indicator too limiting?
ESSA Indicator Weighting Requirement States accountability systems must differentiate school performance on an annual basis using all indicators in the system, including schools in which any subgroup is consistently under-performing "Substantial weight" must be given to each of annual assessment proficiency, the other academic indicators, grad rate, and English proficiency AND in the aggregate "much greater weight" than the other indicators of quality or student success **NPRM Highlights**	**Weighting of Academic Indicators Question** - The proposal establishes criteria for states to demonstrate that the academic indicators it uses for accountability are each afforded "substantial weight" and, when combined have "much greater weight" than other indicators. Are these criteria appropriate? - Given these requirements, how would you urge

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States must give substantial weight to each of the Academic Achievement Indicator, the Graduation Rate Indicator, and the Progress in English Language Proficiency Indicator; these academic indicators must in aggregate be weighted more than the School Quality/Student Success Indicator. While the proposed regulations do not specify indicator weights, indicators must be consistently weighted the same across schools in a grade span. States may also prioritize among the substantially weighted indicators such that certain indicators more heavily within a system. The regulations do not define "substantial" or "much greater" for a State; however, they do establish criteria by which States would have to demonstrate that they have met the "substantial" and "much greater" weight requirements: • Much Greater Weight –School Quality and Student Success indicator(s) cannot be used to change the school identify unless: (1) for schools identified for comprehensive support and improvement, the school has made significant progress for the all students group on at least 1 "substantial weight" indicator measured for all students; and (2) for schools identified for targeted support and improvement, any Consistently Underperforming or Low-Performing Subgroup makes significant progress on at least 1 "substantial weight" indicator. • Substantial Weight – State demonstrates, based on all students and each subgroup, that school performance in the lowest performance level on any "substantial weight" indicator does not have same summative rating as school in highest level on all indicators.	your State to weigh the academic indicators relative to each other and School Quality/Student Success Indicator?
ESSA School Differentiation Requirement Each State must establish a system for meaningfully differentiating all public schools in the State each year. The system must be based on all of the indicators in the State accountability system under 1111(c)(4)(B) for all students and subgroups. It must also afford "substantial" weight and "much greater" weight to the academic indicators as described above.	**Questions** • Will a State's summative rating and labeling accurately reflect a school's performance? Should there be more than three performance levels? What would be more useful categories in performance indices to best reflect a school's performance? Please explain. • The proposal would require states to use a state-

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NPRM Highlights Each State's system of annual meaningful differentiation would be required to: • Include the performance of all students and each subgroup of students in a school on all of the indicators • Include at least 3 distinct levels of performance for schools on each indicator that are clear and understandable and set in a way that is consistent with the schools' attainment of the State's long-term goals and measurements of interim progress • Provide information on each school's level of performance on each indicator separately, including as part of LEA report cards • Result in a single rating from among at least 3 distinct rating categories for each school, based on the level of performance on each indicator; describe a school's summative performance and rating on LEA report cards • Meet the requirements to annually measure the achievement of not less than 95% of all students and 95% of all students in each subgroup on the assessments • Inform the State's methodology to identify schools for comprehensive and targeted support and improvement States would be required to use consistent weighting among the indicators for all schools within each grade span, with substantial weight given to each of the academic indicators. And States must give much greater weight to those indicators, in the aggregate, than to the indicator(s) of school quality or student success	established methodology to identify any school with one or more "consistently low-performing" subgroup. In doing so, states would have to use performance on accountability indicators over not more than 2 years. Is the 2-year cap appropriate? If not, how many years of academic data would you recommend be used to identify consistently low-performing subgroups? • The proposal requires states to differentiate school performance annually and to assign each school a summative rating from among at least three ratings categories. Do you support the summative rating requirement? Should states have the flexibility to publish disaggregated data on student performance (based on 3+ performance levels) on each indicator and then identify schools for support and improvement, as required, without assigning a summative rating? • The English learner subgroup must meet the State n=size requirement in a particular school if a State chooses to include English learners in the Academic Achievement Indicator. States can determine the minimum number of students for a subgroup or n=size, not to exceed 30 as proposed in the regulations. What is an appropriate n=size states must consider for subgroup accountability purposes, in light of such discussion regarding English learners?

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ESSA Identification of Low Performing Schools Requirement Each State must create a methodology, based on the system of annual meaningful differentiation, for identifying certain public schools for comprehensive support and improvement. This system must include three types of schools: • The lowest-performing 5% of all Title I schools in the State • Any public high school in the State failing to graduate 1/3 or more of its students • Title I schools with a consistently underperforming subgroup that, on its own, is performing as poorly as all students in the lowest-performing 5% of Title I schools and that has failed to improve after implementation of a targeted support and improvement plan Further, States must use their method for annual meaningful differentiation to identify any public school in which one or more subgroups of students is consistently underperforming, and to notify each LEA in the State of any public school served by the LEA of such identification so that the LEA can ensure the school develops a targeted support and improvement plan. The notification must also identify if a subgroup of students in the school, on its own, has performed as poorly as all students in the bottom 5% of Title I schools that have been identified for comprehensive support and improvement. **NPRM Highlights** In establishing a statewide category of schools for **Comprehensive Support and Improvement**, each State would have to include 3 types of schools: • <u>Lowest-Performing Five Percent of Title I Schools</u> - taking into account (1) A school's summative rating among all students on the State's accountability indicators, averaged over no more than 3 years and (2) statutory requirement to assign substantial weight individually and much great weight overall, to the indicators of Academic Achievement, Academic Progress, Graduation Rates, and Progress in Achieving English Language Proficiency	**Questions** • Is this approach defining school underperformance fair, objective and accurate? Why or why not? • Is the distinction between comprehensive and targeted support and improvement helpful to school and district leaders in targeting resources and attention where they are most needed? • States are also permitted to set a threshold higher than 67% for identifying low graduation rates in high schools. Do you agree with this permissive action? Why or why not? • Do you agree with this definition of "chronically low-performing"? How should the State define "sufficiently improved"? • A State may include, for up to 4 years after exiting the English learner subgroup, the assessment results of the student previously identified as an English learner in calculating the Academic Achievement Indicator in reading/language arts and mathematics for the English learner subgroup in the accountability system. What should a State include as part of its criteria for "exiting" the subgroup? • Further, the School Quality/Student Success

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• Low Graduation Rate High Schools - to include any high school in the State with a four-year adjusted cohort graduation rate among all students below 67%, or below a higher percentage selected by the State, averaged over no more than 3 years • Schools with Chronically Low-Performing Subgroups – any title I school with one or more subgroup that performs as poorly as all students in any of the lowest-performing five percent of title I schools and have not sufficiently improved, as defined by the State, after implementation of a Targeted Support and Improvement plan over no more than 3 years In establishing a statewide category of schools for **Targeted Support and Improvement**, each State would have to include 2 types of schools: • Schools with Low-Performing Subgroups – subgroup performance at a level at or below the summative performance of all students in any of the lowest-performing 5% of title I schools identified for CSI • Schools with Consistently Low-Performing Subgroups – schools identified using a state-established methodology, including any school with one or more "consistently low-performing" subgroup, taking into account (1) school performance on accountability indicators over not more than 2 years; and (2) assignment of substantial and much greater weight to academic indicators (may include any school missing the 95% participation requirement) • Each State must also identify subgroups consistently underperforming using a uniform definition across all LEAs	Indicator cannot be changed or otherwise used to identify a school for comprehensive or targeted support and improvement, unless each underperforming or low-performing subgroup is making significant progress on at least one of the substantially-weighted indicators (the Academic Indicators). In short, a school can only be removed from "identification" of targeted or comprehensive school support and improvement if progress is being made for the relevant subgroup of students on an indicator that receives substantial weight in the accountability system. How can a State, in a meaningful way, highlight the School Quality/Student Success Indicator if it will not be sufficient to identify fully a school that is unsuccessful? • The proposed regulations require a State to include, in the Progress in Achieving English Language Proficiency Indicator, the composite score of an English learner who has a disability that prevents that student from taking an assessment with accommodation. States are also required to assess all English learners annually on all four domains of English language proficiency (speaking, listening, reading or writing), and hold schools accountable for the performance of all English learners.

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States would have to make the required identifications based on the following timeline and with the specified frequency: • <u>Lowest Performing Title I Schools</u> and <u>Low Graduation Rate High Schools (CSI)</u> – first identification before the start of the 2017-2018 school year; at least every 3 years thereafter • <u>Title I Schools with Chronically Low-Performing Subgroups</u> (CSI) – first identification with state's second identification of Low-Performing Title I Schools and Low Graduation Rate High Schools (no more than 3 yrs after 2017-2018) • <u>Schools with Consistently Underperforming Subgroups (TSI)</u> – first identification <u>before the start of the 2018-2019 school year; annually thereafter</u> • <u>Schools with Low-Performing Subgroups (TSI)</u> – first identification before the start of the 2017-2018 school year; at least once every 3 years thereafter, in conjunction with CSI identification If a school is repeatedly "failing" to make sufficient progress toward the State's goals for academic achievement, graduation rates, or English language proficiency, this outcome would be reflected in a single summative performance rating. The three differentiated performance levels must be provided to the public in "user-friendly" terms that the local community, students and parents can understand. Each indicator must be reported <u>separately</u> and together to reach the <u>single summative rating</u>, which is then presented in a performance indices, such as an "A-F" system, to the public.	• With regard to this inclusion and a narrow exemption for such students, how should English learners who are also in the disability subgroup be handled for accountability purposes that will ensure fairness and accountability?
States must implement school support and improvement systems, including: • At least two categories of schools: (1) Comprehensive Support and Improvement; and (2) Targeted Support and Improvement. • Locally developed turnaround plan for CSIs, informed by needs assessment, indicators, etc. • School developed plan for each subgroup at issue in TSI school, informed by indicators, needs assessment etc.. If subgroup ID would lead to lowest 5% ID, must also identify resource inequities.	**Questions** • The proposal would require state awards to districts to be at least $50,000 per school for implementation of targeted plans and $500,000 for each comprehensive plan, unless the state demonstrates that a lower amount is sufficient. Are these minimum grant award levels appropriate?

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• State defined exit criteria for both categories. Higher state consequence can be applied if timely exit does not occur.	Should states have the flexibility to set minimum grant amounts that may be lower than those proposed?