

**Opening Statement of Congressman Bobby Scott
Full Committee Hearing Entitled
“ESSA Implementation: Exploring State and Local Reform Efforts”
Tuesday, July 18, 2017 – 10:00 am**

Thank you, Chairwoman, for convening this morning’s hearing on implementation of the Every Student Succeeds Act. I’d also like to thank today’s witnesses for appearing before us today. I look forward to hearing from each of you.

It is regrettable; however, that we are not hearing from the US Department of Education, especially considering media reports of the majority’s intention to critique its implementation actions during today’s proceedings. I know I, for one, would greatly benefit from an open dialogue with the Department – on ESSA and on other matters.

Chairwoman Foxx, you may remember that I sent you a letter urging Secretary DeVos and the other agency heads to appear before the committee to discuss the administration’s priorities. That request has not been fulfilled, so I would like to take this opportunity to again ask that Secretary DeVos, or

another representative of the Department appear to engage in an open dialogue with this committee.

ESSA has been the law of the land for nearly 20 months, and while that may seem like a long time, in the lifecycle of a law as consequential as the Elementary and Secondary Education Act, it really is just the beginning. States are only just now undergoing the peer review and plan approval process, following months of work amidst a regrettably chaotic regulatory environment.

I said this in February and March, but it bears repeating: I believe this Congress' use of the CRA to block regulation of Title I's core requirements was misguided and irresponsible. But counter to the bipartisan agreement of ESSA, this body did move forward with the CRA – and that is now the reality to which we must all adjust. Lack of regulation means increased subjectivity in determining compliance with the law's requirements, which makes the oversight actions of this Committee even more important.

This increased subjectivity without appropriate regulation is apparent in the Department's early feedback on state plans that were submitted in the May submission window. Plan components praised by peer reviewers in one state's plan were questioned as insufficient in another's, while other violations of ESSA's equity requirements are ignored by the Department completely.

I am disappointed with the reaction from some of my colleagues in the majority who have characterized ED's state plan feedback as overreach.

Despite the soaring rhetoric, ESSA is not a blank check to states and districts. While the law affords states and districts much flexibility in decision-making, that flexibility must occur within the guardrails of the law – including guardrails concerning the integrity of assessments to ascertain persistent achievement gaps and act to close them. Congress designed the law's guardrails to protect the interests of underserved students.

The law contains important requirements – requirements Republicans and Democrats all agreed to when we voted for ESSA – and those requirements

must be meaningful. ESSA is not – and never has been – a free for all, and it is the responsibility of the Department, as articulated by Congress in ESSA, to carefully scrutinize the quality of state plans and only approve those that meet the law’s requirements.

Even without accompanying regulations, the law is the law – and the law requires the Secretary to review plans, ask hard questions and disapprove if necessary – in the interest of students.

While, as I just mentioned, I find some of the content and the overall inconsistency of the Department’s feedback to be problematic, I do not – and none of us should – take issue with the Department attempting to do its job. The feedback must be more consistent and more rigorous, not less rigorous. And ultimately, the feedback and resubmission of plans must result in approval only of plans that meet the spirit and letter of the law.

As we will hear today, many state plans leave much to be desired, either due to ambiguity or incompleteness in response or due to proposed plan components that violate the law’s equity requirements. It is my hope that the

Department will work with states, including through provision of adequate guidance and technical assistance, to improve the overall quality of state plans and ensure implementation that honors the longstanding civil rights focus of the ESEA.

Such implementation is only possible with the support and partnership of the federal government. Not only is it the role of the Department to support and monitor state efforts to comply with the law, but it is also the role of Congress to fund programs authorized by ESSA.

Despite promises to implement the law as Congress intended, Secretary DeVos and President Trump proposed elimination of bedrock ESEA programs – Title II-A to support teachers, 21st Century Community Learning Centers to support after school – and cuts to others, including an effective cut of nearly \$600 million to Title I-A.

And while the House Majority's FY18 LaborH appropriations bill isn't as draconian as the President's budget request, it fails to honor the bipartisan agreement of ESSA by eliminating Title II-A, cutting afterschool, and

maintaining the effective cut to Title I-A that will be felt at the local level.

Elimination of Title II-A would result in thousands of layoffs and inhibit local and state efforts to improve teacher, paraprofessional, and school leader supports – defunding this program most certainly does not align with the bipartisan intent of the authorizing statute.

Lastly, Trumpcare’s proposed cuts to Medicaid, if enacted, will devastate services for students with disabilities and undermine state and local efforts to educate all students to high standards, as required by ESSA.

How effective can an implementation be without funding? I know all too often that state and local educational agencies face capacity challenges, and I hope to hear from today’s witnesses about the negative impact of underfunding ESSA programs on faithful implementation.

In closing, I remain concerned with many of the actions of Secretary DeVos and this administration concerning our nation’s students –

- the recent rhetoric from OCR and the office’s directive to ignore systemic data in investigating alleged civil rights violations;

- the lack of agency capacity to carry out key department functions;
- the rollbacks of protections for student borrowers;
- rescinding protections for transgender students; and
- the sledgehammer-like approach to deregulation without transparency of decision-making at the department...

All of these actions point to a troubling pattern that undermines the federal government's important role to protect and promote the civil rights of all students.

This pattern must not continue with ESSA implementation. I say that not out of wishful thinking or partisan spin, but because that's what the law we wrote and enacted demands.

ESSA is clear – it is the responsibility of the Department to review and provide feedback of ESSA state plans, make determinations of approval or disapproval based on compliance with statute, and partner, including through enforcement activities, with states and school districts to support the law's implementation moving forward.

And it is the responsibility of states and district to innovate within the guardrails of ESSA's equity requirements. There may have been a change in administration, but the law is the law and the federal role is clear. I hope this committee commits to robust oversight of ESSA implementation moving forward to ensure that responsibility is fulfilled.

Thank you and I yield back.