

# Congress of the United States

Washington, DC 20510

May 23, 2019

The Honorable Betsy DeVos  
Secretary  
U.S. Department of Education  
400 Maryland Ave., SW  
Washington, DC 20002

Dear Secretary DeVos:

We write in response to the Department of Education's (Department) release of its Non-Regulatory Information Document, *Opportunities and Responsibilities for State and Local Report Cards under the Elementary and Secondary Education Act (ESEA) of 1965, as Amended by the Every Student Succeeds Act (ESSA)*, for public comment.

When Congress passed ESSA, we agreed to provide state and local educational agencies (LEAs) with greater flexibility in the design of their accountability and improvement systems, while ensuring compliance with key equity guardrails in the design of those systems, including guardrails related to the reporting of student outcomes in our nation's schools. In keeping with recent ESEA reauthorizations, ESSA required unprecedented levels of transparency by state and local systems through the availability of actionable data and information. While ESEA has required states and LEAs to collect and report achievement data for nearly two decades, ESSA expanded reporting requirements to capture information about systems design, resource allocation, and more. State and local report cards required by ESEA, as amended by ESSA, are the vehicles through which this critical data is communicated to families, policymakers, and other stakeholders.

In January 2017, the Obama Administration released non-regulatory guidance based upon its accountability and State plan regulation published on November 29, 2016.<sup>1</sup> Unfortunately, that regulation was rescinded by Republicans in Congress in March of 2017<sup>2</sup> and as a result, states and LEAs have been left with minimal direction from the Department during a crucial phase of ESSA implementation. Action to update this guidance is long overdue, particularly in light of the demonstrated challenges that plague state and local compliance with reporting requirements in ESSA.<sup>3</sup> As the Department updates and releases its final non-regulatory guidance document, we urge you to provide more clarity for states and LEAs on these critical issues.

First, we appreciate the Department's inclusion of guidance on timely publication of state and local report cards. We have been troubled by the lengthy delays in state and school district publication of report cards and underlying data sets. States have continued to release new data and make substantive changes to their report cards for the 2017-18 school year well into the

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<sup>1</sup> U.S. Department of Education. Every Student Succeeds Act State and Local Report Cards Non-Regulatory Guidance. January 2017. <https://www2.ed.gov/policy/elsec/leg/essa/essastatereportcard.pdf>.

<sup>2</sup> Pub. L. 115-13, 131 Stat. 77 (2019).

<sup>3</sup> Data Quality Campaign. "Show Me the Data." April 2019. <https://dataqualitycampaign.org/showmethedata/>.

spring of 2019.<sup>4</sup> Timely publication of report cards is important for parents and families. While the Department's statement on this issue – that this information will be most useful if it is released before the start of the succeeding school year or as early in the succeeding school year as possible – is a step in the right direction, we encourage the final guidance to more clearly communicate an expectation of timely publication.<sup>5</sup>

The final guidance must provide states and LEAs with more clarity around data disaggregation, particularly in light of states' failure to report on all subgroups as required by ESSA. Under ESSA, states and school districts must disaggregate most data elements for different student subgroups, including for economically disadvantaged students, students from major racial and ethnic groups, children with disabilities, and English learners. Some data elements, such as student achievement data, must be further disaggregated by gender, and for migrant students, homeless children and youth, children in foster care, and military-connected students. Based on a review of state report card data released this April by the Data Quality Campaign (DQC), 41 states did not report on at least one of these federally-required subgroups of students.<sup>6</sup> Given the level of non-compliance, it is clear the Department must provide more explicit direction about the data disaggregation requirements under ESSA, consolidating recommendations into one section and more prominently linking to the required data elements detailed in Appendix A. The statute is clear, and Department guidance must provide more emphasis and clarity around state and LEA responsibilities for this statutorily-required data reporting.

Further, ESSA requires state and local report cards be presented in a language that parents can understand and school district report cards be made available in a uniform format. We are concerned that Department guidance does not clearly address the state and LEA responsibilities for complying with these accessibility requirements. According to an analysis by the DQC, only 15 states translate information on report cards into a language other than English.<sup>7</sup> The Department must provide additional guidance and recommendations to support state and local compliance with these requirements.

Finally, we would like to see greater clarity from the Department on state and local reporting requirements for schools that have been identified for comprehensive support and improvement (CSI), targeted support and improvement (TSI), and additional targeted support (ATS). Under ESSA, states are required to report the number and names of all public schools in the state that have been identified for CSI, TSI, and ATS in the state and LEA respectively. ESSA also requires that report cards include concise descriptions of the state's system for meaningful differentiation, including information on the methodology by which the state differentiates all schools as well as all the methodology that leads to school identification as CSI, TSI, or ATS. In the final guidance to states and LEAs, we urge the Department to clarify:

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<sup>4</sup> Daarel Burnette II, "States Fall Short on School Data Transparency, Advocacy Group Says," *Education Week*, April 3, 2019, <https://www.edweek.org/ew/articles/2019/04/03/states-fall-short-on-school-data-transparency.html>.

<sup>5</sup> U.S. Department of Education, *Opportunities and Responsibilities for State and Local Report Cards Under the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act (ESSA), Draft for Public Comment*. March 2019. <https://www2.ed.gov/policy/elsec/leg/essa/rptcardpubliccomment3282019.pdf>.

<sup>6</sup> Data Quality Campaign. "Show Me the Data." April 2019. <https://dataqualitycampaign.org/showmethedata/>.

<sup>7</sup> Data Quality Campaign. "Show Me the Data." April 2019. <https://dataqualitycampaign.org/showmethedata/>.

- State and LEA report cards must include the number and names of all public schools in the state and LEA respectively, for all categories of schools identified for improvement, including CSI, TSI, and ATS;
- State report cards must include concise descriptions of the state’s system of meaningful differentiation, including the methodology that leads to school identification; and
- School-level report cards must indicate whether a school has been identified for CSI, TSI, or ATS.

Clear and consistent information on how states, school districts, and schools serve their students is critical for parents and families to better understand their children’s education, and to advance equity in our nation’s public schools. As you work to finalize this guidance, we urge your attention to our requests to better ensure states and school districts comply with ESSA’s data collection and reporting requirements.

Sincerely,



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PATTY MURRAY  
Ranking Member  
Senate Health, Education, Labor, and Pensions  
Committee



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ROBERT C. “BOBBY” SCOTT  
Ranking Member  
U.S. House of Representative Committee on  
Education and Workforce