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*Arlington Public Schools, VA*

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*Beaverton School District, OR*

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*Poway Unified School  
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*Fulton County Schools, GA*

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*Greenville County Schools, SC*

**Tony Sanders**  
*School District U-46, IL*

**Buzz Smith**  
*Knox County Schools, TN*

**Jack Smith**  
*Montgomery County Public  
Schools, MD*

**J. Alvin Wilbanks**  
*Gwinnett County Public  
Schools, GA*

August 1, 2016

The Honorable John King, Secretary  
U.S. Department of Education  
400 Maryland Avenue  
Washington, DC 20202

Re: Notice of Proposed Rulemaking (Docket ID ED-2016-OESE-0032)

Dear Secretary King:

On behalf of the nineteen school districts comprising the Large Countywide and Suburban District Consortium (the Consortium), we are writing in response to the U.S. Department of Education's May 31, 2016 notice of proposed rulemaking (NPRM) regarding accountability systems, State Educational Agency (SEA) and Local Educational Agency (LEA) report cards, and consolidated State plans under the Every Student Succeeds Act (ESSA). This letter builds on the recommendations included in our letter to the Department on January 21, 2016.

The proposed regulations seek to balance ESSA's empowerment of states and districts with the federal "guardrails" necessary to ensure that all students—especially historically disadvantaged subgroups—receive a world-class education that prepares them for success. In the comments that follow, we have identified a few ways that we recommend the Department can strengthen the regulations and provide even more of the clarity and stability states and districts need to lead effectively.

We appreciate the opportunity to provide our input and local perspective to the Department and look forward to benefiting from these and other regulations, along with guidance and technical assistance. Finally, we would be happy to provide the Department any further information or additional assistance as it addresses these and other issues.

We look forward to the work ahead in realizing ESSA's potential to drive better outcomes for all of our students.

Sincerely,



Justin (Tim) Mills, Chair  
Bellevue School District, WA



Aaron Spence, Vice-Chair  
Virginia Beach City Public  
Schools, VA



S. Dallas Dance, Past Chair  
Baltimore County Public  
Schools, MD

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Established in 2012, the Large Countywide and Suburban District Consortium is an invitational, self-funded network of some of the nation's most highly-regarded districts and leaders, all of whom are committed to advancing systemic education improvement and innovation in policy and practice to benefit *all* students as they prepare for success in college, career, and civic engagement. Our 19 districts span 13 states from Washington to Florida, include 8 of the largest 25 school districts in the nation, enroll an average of 90,000 students, and educate a total of 1.8 million students. Our growing and increasingly diverse student bodies reflect communities across America: 58% are students of color and 43% qualify for free or reduced-cost lunch.

## RECOMMENDATIONS

### Accountability Systems

1. **Recommendation:** Revise §200.17 to include a clarification that LEAs must be included among the "other stakeholders" an SEA must consult in determining the minimum number of students that constitute a subgroup for accountability purposes (i.e., the "n" size).

Commentary: ESSA rightly emphasizes the importance of meaningful stakeholder engagement. However, the list of required stakeholders in Section 1111(c)(3)(A)(ii) regarding how an SEA determines its "n" size does not explicitly include LEAs but does include "teachers, principals, other school leaders, parents, and other stakeholders." We believe LEA input on this specific issue is not only appropriate but essential. These determinations are an important element of the state's accountability system and LEAs are particularly well-positioned to provide meaningful input to the deliberations.

2. **Recommendation:** Revise §200.18(b)(4) to clarify that the "single rating" required for each school must only be specific enough to place each school in one of three required rating categories. In other words, the Department should clarify that the "grain size" for the single rating is at the rating category level. States may choose a smaller grain size (e.g., 1-100 scale or A-F grades), but they may not choose a larger one.

Commentary: ESSA assigns to each SEA the responsibility for designing its statewide accountability system, within a set of federal guardrails. Proposed regulation §200.18(b)(4) calls for each state system to produce annually a "single rating from among at least three distinct rating categories" for each school "to describe a school's summative performance" on those accountability systems. This aligns tightly with ESSA, which at a minimum requires states to identify the following three categories of schools: (1) schools that need comprehensive support and intervention, (2) schools that need targeted support and intervention, and (3) all other schools. States may decide to create more rating categories to further differentiate school performance, but those three are required by law, a requirement that is appropriately reinforced by §200.18(b)(4).

However, the proposed language has been interpreted by some to require that each school receive a single *numeric* rating, which is then used to assign each school into the three (or more) rating categories. We believe the regulations should remain focused on the statutory obligation summarized above. States may choose to use a specific, numeric rating (or letter grade, etc.) to assign schools to rating categories. Or states may choose to assign rating categories without producing a rating that is any more specific than necessary to comply with ESSA. There are legitimate arguments for a variety of approaches, but §200.18(b)(4) should reflect that ESSA places those decisions squarely in states' hands.

### School Support and Improvement

3. **Recommendation:** Revise §200.19(d) to require states to identify schools for comprehensive support and improvement before the 2018-19 school year, on the basis of 2017-18 data. For the 2017-18 school year, states should continue implementing improvement plans for their current list of schools identified under NCLB and/or ESEA Flexibility waivers.

Commentary: Proposed §200.19(d) establishes the timeline for when states must identify schools for comprehensive support and improvement. According to the proposed rule, states must identify schools at the beginning of the 2017-18 school year, on the basis of 2016-17 data. This is concerning for two

main reasons: First, it may not even be possible to comply with the proposed regulation if, for example, a state's new accountability system includes as indicators data that were not collected during 2016-17. Second, because the data will be collected before states finalize their accountability system, schools will most likely not have notice during 2016-17 about for what and how they will be held accountable. This approach risks undermining the trust of and buy-in by school leaders, educators, and community members that we believe is essential for successful school improvement efforts. Contrary to the arguments raised by some, we do not view this request for a different timeline as ignoring the urgency of improving our lowest-performing schools and our schools with persistent achievement gaps. Rather, we believe the needs in these schools are so great and the work to improve them so challenging that we must set our LEAs and schools up for success with a timeline that is more likely to lead to effective improvement actions. Further, we will continue this urgent work with the current list of identified schools—the students in those schools also need their schools to improve through thoughtful, sustained efforts.

4. **Recommendation: Revise §200.21(d)(7) to make clear that the school's role in "approving" a comprehensive support and improvement plan does not amount to a veto power. In other words, the revised provision should make clear that an LEA can submit to the SEA for approval an improvement plan even if the "school" has not approved it.**

Commentary: Proposed §200.21(d)(7) states that comprehensive support and improvement plans "[m]ust be approved by the school identified for comprehensive support and improvement, the LEA, and the State" (emphasis added). Although meaningful engagement with school-level leaders and stakeholders is essential to effective school turnaround planning, we cannot provide an LEA's lowest-performing schools with a veto power over the LEA's improvement plans for those schools. Such an interpretation could seriously interfere with LEAs' efforts to provide the quality education that students in these schools deserve. Further, it would be unusual and incongruous for ESSA to establish a "school" as an entity separate from the LEA. (Who would even decide whether the "school" approved? The faculty? The principal? What if the improvement plan includes changing school leaders?) We acknowledge that the proposed regulation merely repeats the relevant legislative language in ESSA Section 1111(d)(1)(B)(v), but we strongly urge the Department to exercise its regulatory authority to clarify this issue.

5. **Recommendation: Revise §200.23(c)(1) to clarify that SEAs may take additional action in LEAs with a significant number of schools that are both identified for targeted support and improvement *and are not meeting exit criteria*. Alternatively, clarify that such LEAs must have a reasonable amount of time to improve schools identified for targeted support and improvement prior to additional state action.**

Commentary: ESSA's welcome empowerment of LEAs to take the lead in school improvement must be reflected in the interpretation of ESSA Section 1111(d)(3)(B)(i), which outlines the circumstances under which states may choose to "take action to initiate additional improvement" in LEAs with significant numbers of schools identified for support and improvement. The legislative language, which is restated without further clarification in the proposed regulation §200.23(c)(1), draws a distinction between LEAs with significant numbers of comprehensive schools and LEAs with significant numbers of targeted schools. Namely, states may take additional action in the former only if the comprehensive schools are not meeting the exit criteria. By not including similar language about the latter, the proposed regulation implies that states can take additional action without regard to the LEA's own improvement activities and progress. We believe LEAs with significant numbers of targeted schools should similarly be given an authentic opportunity to exercise the leadership that ESSA rightly invests at the local level before any further state actions are taken.

6. **Recommendation:** Revise §200.24(b)(1) to clarify that specific evidence-based interventions are not required as part of an LEA application for school improvement funds unless the LEA (or school) has already had a meaningful opportunity to develop a support and improvement plan, including but not limited to conducting a needs assessment and engaging with stakeholders.

Commentary: Proposed §200.24(b) lists what LEAs must include in applications for school improvement funds. The draft language suggests on one hand in §200.24(b)(1) that LEAs must identify the specific evidence-based interventions that will be implemented in schools identified for improvement:

"A description of one or more evidence-based interventions that are based on strong, moderate, or promising evidence under section 8101(21)(A) of the Act and that *will be implemented* in each school the LEA proposes to serve" (emphasis added).

On the other hand, §200.24(b)(2) seems to contemplate LEAs applying for school improvement funds *before* developing comprehensive improvement plans or ensuring schools develop targeted improvement plans:

"A description of how the LEA *will...*(i) *Develop* and implement a comprehensive support and improvement plan...; and (ii) Support each [targeted] school...in *developing* and implementing a targeted support and improvement plan..." (emphases added).

It is critical that LEAs and schools be given an opportunity to conduct a meaningful needs assessment and engage with stakeholders prior to selecting which specific evidence-based interventions are most likely to improve outcomes in each particular school. Because we believe it is so critical for the selection of interventions to be based on the needs assessment, we encourage the Department to clarify that LEAs will never have to identify interventions before conducting a needs assessment and developing a plan on the basis of the results of that assessment.

### Consolidated State Plans

7. **Recommendation:** Revise §299.13(d)(2) to allow states to submit their state plans in at least two stages, as described below.

Commentary: The commentary accompanying §299.13(d)(2) indicates that states will likely have a choice of two proposed target due dates (March 2017 or July 2017) for submitting consolidated state plans to the Department for peer review and approval. We are concerned that there is simply too much for SEAs to do in too short a time to do it all well. This is particularly true in the many states that have reduced SEA capacity over recent years. Without a more manageable timeline, the following risks are more likely to occur: (1) states will not engage authentically with the many stakeholders identified by ESSA as essential to the development of state plans; and (2) states will default to the status quo and potentially miss the opportunity ESSA affords them to chart a new course and consider more comprehensive redesigns of their systems that truly prepare all students for success. We thus encourage the Department to offer states the opportunity to submit their consolidated state plans in two (or more) stages. The first stage could track the current proposed dates and include all parts of the consolidated plan that must be in place before the 2017-2018 school year begins (e.g., statewide accountability systems). The second stage could then include the remaining parts of the plan (e.g., certain aspects of the state's school improvement approach).