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January 21, 2016

Deborah Spitz
U.S. Department of Education
400 Maryland Ave. SW, Room 3E306
Washington, DC 20202

Dear Ms. Spitz:

On behalf of the nineteen school districts comprising the Large Countywide and Suburban District Consortium (the Consortium), we are writing to provide our input as school district superintendents on what regulations and guidance the Department should prioritize as it begins the implementation process of the newly enacted Every Student Succeeds Act (ESSA).

As a general matter, there is much to celebrate in ESSA, including among other things:

- empowering states and districts to lead within more appropriate federal "guardrails," particularly with respect to accountability and school improvement;
- directing more federal funds to interventions with a track record of improving student outcomes;
- establishing college- and career-readiness as the central goal of public education by requiring that academic standards align with "entrance requirements for credit-bearing coursework" in each state's university system along with any state career and technical education standards; and
- supporting more innovative approaches to important issues including the development of higher-quality systems of assessment.

However, for all the progress made during the reauthorization of the Elementary and Secondary Education Act (ESEA), the Consortium believes the real work lies ahead. It begins in Washington with the regulatory process and then will quickly shift to every classroom in every school in every district in every state in our nation as we begin implementing this new legislation. In our experience, the regulatory process can either enable effective implementation with clarity and reasonable guidance or paralyze it with uncertainty and inflexibility. As the day-to-day leaders of districts that collectively educate 1.8 million students, we strongly urge the Department to implement with care and with an eye toward providing local educators and leaders the guidance and certainty we need while preserving our flexibility to best serve our students and families.

This letter identifies some priority areas that, upon our initial review of ESSA, require further clarification. In particular, we urge the Department in its first round of regulation and guidance to address assessment, accountability and school improvement, and the transition from the No Child Left Behind Act (NCLB) and ESEA Flexibility Waivers to ESSA. In the remainder of this letter, we have identified a number of pressing issues that local education agencies (LEAs) in particular will need addressed in order to plan for effective implementation. As the regulatory process unfolds, we would be happy to provide more specific recommendations about how to best address some of the issues raised below as well as other topics not included here. At this point, however, and in line with the Department's Request for Information, we write to provide the following local perspective on the Department's prioritization.

Assessment

1. Clarify whether state education agencies (SEAs) must have fully developed systems in order to pass the peer review portion of the Innovative Assessment Demonstration pilots application process (Section 1204(f)), or whether they can use the demonstration period to build and/or refine these innovative systems. ESSA's language is not entirely clear on this point, and we believe the latter approach is much more realistic and consistent with the intent of the law. The pilots should be leveraged to help forward-looking states and districts engage in the design process and iterative testing needed to break new ground in assessment while also meeting ESSA's high technical bar.
2. Clarify that assessments developed under these Section 1204 pilots can be *more* rigorous in content coverage and difficulty than the traditional State-designed assessments. This is explicitly stated in reference to the locally-selected high school assessments (Section 1111(b)(2)(H)(v)(I)) and should apply equally to Section 1204. It would be a significant missed opportunity if the innovations pursued through these pilots were bound by the current quality of state assessments. Indeed, one of the main reasons for establishing these pilots is to see if states and districts can develop *better* systems of assessment. The Department must therefore help ensure these systems have no artificial ceiling placed on their rigor, content coverage, or design.
3. Clarify whether, under the Locally-Selected Assessments provision (Section 1111(b)(2)(H)), LEAs may offer individual students and/or individual schools the choice between the state assessment and one or more state-approved, locally-selected assessments, or whether an LEA must administer just one assessment to all of its high school students.
4. Clarify whether, under Section 1111(b)(2)(B)(vi), a state's use of more innovative forms of assessment such as "portfolios, projects, and extended performance tasks" must meet the same technical bar as the rest of the state assessment, including among other things the requirement that the SEA administer the "same" assessment to all students. For example, the Department might clarify that more personalized assessments such as portfolios might be considered the "same" assessment so long as those portions of the state assessment measure well-defined standards, are evaluated using common criteria for differentiating levels of performance, and provide comparable data. Relatedly, the Department should consider providing substantial technical assistance to states and districts to help them take advantage of this new opportunity to assess a fuller range of knowledge and skills than traditional assessments do.

Accountability & School Improvement

5. Clarify the approval rights for LEA-designed comprehensive support and improvement plans for the lowest-performing schools. Section 1111(d)(1)(B)(v) states that the plan must be approved not only by the LEA (which is charged with developing the plan) and the SEA but also the "school." Although meaningful engagement with school-level leaders and stakeholders is essential to effective school turnaround planning, we cannot provide the lowest-performing schools with a veto power over the LEA's improvement plan. It would be unusual and incongruous for ESSA to establish a "school" as an entity separate from the LEA; more troubling, such an interpretation could seriously interfere with LEAs' efforts to provide the quality education students in these schools deserve.
6. ESSA's welcome empowerment of LEAs to take the lead in school turnaround must be reflected in the interpretation of Section 1111(d)(3)(B). First, clarify that SEAs may initiate "additional improvement" actions only after LEAs have an authentic opportunity to exercise the leadership that ESSA rightly invests at the local level. Similarly, clarify that the "alternative evidence-based State determined strategies" are resources that LEAs *may* choose to adopt in carrying out their school improvement responsibilities, rather than a means for SEAs to dictate to the local level how school improvement should proceed at the outset.

Other Priority Issues

7. Clarify the transition timeline and process, so all stakeholders can plan for which provisions in the law are in effect during which school year. This includes, among other things, the dates for state and local plan submissions and review, as well as the timelines for school improvement, innovative assessment pilots, assessment audits, and other grant opportunities, the planning for which will require significant time and resources on the part of states and districts.
8. Clarify that LEAs are among the required stakeholders that SEAs must consult in provisions addressing areas for which LEA input is not only appropriate but, we would argue, critical. For example, under Section 1111(c)(3)(A)(ii), SEAs should be required to consult LEAs in determining the minimum number of students that constitute a subgroup for accountability purposes (i.e., the "n" size). These determinations are an important element of the state's accountability system and LEAs are particularly well-positioned to provide meaningful input to the SEA's deliberations. Similarly, SEAs should be required under Section 2101(d)(3) to consult LEAs in developing their Title II plans. There may be additional required consultations that the Department should clarify must include LEAs.
9. Clarify that when SEAs award Direct Student Services sub-grants under Section 1004(b)(2), they must prioritize those LEAs with the largest *number* of schools identified for comprehensive and/or targeted improvement. The language could also be read to prioritize an LEA because its improvement schools constitute a large *percentage* of the individual LEA's roster of schools. This latter reading would unfairly prioritize smaller districts for which even one identified school may constitute a large percentage of the district's schools.
10. Clarify that SEAs may not require LEAs to engage in NCLB-style cost-by-cost accounting of their compliance with the "supplement, not supplant" rule under Section 1012(b). The Department should instead ensure that implementation of ESSA's admirable new approach is free from the murkiness that has long plagued this requirement.

In enacting ESSA, Congress made clear that states and local districts must play a leading role in accomplishing the shared goal of preparing all students for success in college, career, and civic life. We strongly urge the Department to leverage the federal regulatory process to help provide us with the clarity, support, and flexibility we need to succeed in this ambitious but essential mission. 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.

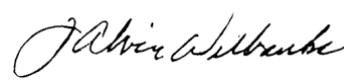
Sincerely,



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



Tim Mills, Vice-Chair
Bellevue School District, WA



J. Alvin Wilbanks, Past Chair
Gwinnett County Public Schools, GA

Established in 2012, the Large Countywide & 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.