

July 2016

John B. King, Jr., Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

Re: Comments on Proposed Rules and Regulations

Dear Secretary King,

The Vermont State Board of Education thanks you for the opportunity to respond to the ESSA proposed rules. Our Board is proud to represent a state where the people support a strong state funding system, enjoy schools that foster high student performance and register narrow equity gaps as compared with the nation. Nevertheless, the opportunity gap is our most pressing concern and is the number one goal in our strategic plan.

With these traditions and values in mind, we have strong concerns and reservations about ESSA. Fundamentally, if we are to close the achievement gap, it is imperative that we substantively address the underlying economic and social disparities that characterize our nation, our communities and our schools. With two-thirds of the score variance attributable to outside of school factors, test scores gaps measure the health of our society more than the quality of the schools.

Consequently, the continuation of a test-based, labeling and “assistance” model (broadly seen as punishment) has not only proven ineffective, but has had a corrosive effect on the confidence of the people. The encouragement of privatization has been harmful to local democracy, has further segregated a too fragmented nation and has diluted rather than focused valuable resources.

Regarding the draft regulations, we think they go well beyond the role of the federal government as specified in ESSA. The regulations need to be brought into conformity with the parameters authorized in law.

We share comments on several specific elements of law and rule:

*Education and Accountability is More Than Test Scores: The Narrowness of the Measures* – The plan relies on what we can easily measure, rather than on what is important. By requiring that test scores in two subjects and graduation rates be given preferential weight, we discourage schools from supporting truly broad opportunities to learn and the skills necessary for a healthy society. In a world where violence and terrorism command the news, the education of our youth to participate in a strong civic life in a democracy is a fundamental skill. Similarly, we must equip students with the capabilities to address critical imperatives like global warming, environmental degradation and growing global inequality.

It is a given that all of our children need to be able to read, write and do math. Yet it has been a half a century since James Coleman showed us that higher poverty schools tend to be lower scoring schools. It is just as clear that these neediest of schools feel the pressures and censure of accountability most acutely. We also know these schools are most likely to narrow their focus to the subset of learning that matters most for accountability purposes. This creates a hidden equity gap as students in our least affluent schools are the most likely to suffer from a narrowed curriculum. The result of this approach is the segregation of our schools into rich and varied programs for some and narrow, restricted education for the less fortunate.

The solution is found in ambitious, broad academic standards for all students that reflect the comprehensive goals of education. While we appreciate your nod toward the humanities, these words ring hollow when faced with an underfunded system which punishes based on basic skills test scores. Unless our programs are adequately supported, they will neither close the opportunity gap nor build a better society or a stronger nation.

*Summative Labels/Ranking Schools by a Single Score* – ESSA requires states to inform the public on the status of education – which has seen more than a century of state practice in our town reports. But the proposed federal rules propose combining all measures into a single score. The result is an invalid measure with a false precision claiming to be transparent. Schools and students have many purposes which cannot be validly measured so simplistically. It provides the public little value to combine job placement rates with test scores and community service, for example. Such single mashed-together ratings mask, rather than reveal, areas that need attention.

More dangerously, with this single measure being so highly test-based, the interaction of test scores with background factors systematically and invalidly penalizes the disadvantaged. The result is that our neediest children are stigmatized through negative labels while we deny them the essential resources.

For understandable reasons, the federal government places a greater emphasis on empirical measures which can be computerized, averaged, and garnished with an elegant display of admirable psychometric properties. Limiting our vision to scalable attributes, risks the danger of not measuring valuable and important school factors. Thus, a narrow fealty to statistical rules ensures that the single score is an invalid measure. For instance, it gives us no hint as to whether our graduates will be productive citizens contributing to the common good.

*Lock-Stepping/Lack of flexibility*- The statute places undue emphasis on students graduating on time. And, ESSA still requires all students to take the grade-level tests. Any parent of two or more children knows that children are not inter-changeable. Some students need more time, greater support and more resources to reach the same goal. Our task is to meet our children

where they are, and move them to where they need to be. Students who are learning English may need more time to perform well on tests. We want our best teachers eager to embrace the privilege of serving our newest Americans, just as we want them to embrace the privilege of supporting and teaching our least privileged students, and equipping them to participate in our civic and economic life. The emphasis on “on-time graduation” and “grade level” proficiencies is contrary to everything we know about child development. It may foreclose more important life-goals for some of our students, discourage or devalue the efforts of their teachers, and be detrimental to the broader social good.

*Disaggregation*– According to ESSA, test scores must be disaggregated by schools by demographic groups. This is often referred to as “shining a light” on a problem. It is pointless, even harmful, if this illumination is not accompanied by adequate resources and programs to resolve the inequities. The federal government has never matched their requirements with the money. It is time to quit blaming the victims of our neglect.

Further, Vermont has limited racial and linguistic diversity. Because of the relatively small number of students of color in most of our schools, we will not be able to report subgroup data in most schools by race and ethnicity.

We must employ all available and useful data but we must also be mindful of the limitations of statistical models. Disaggregated data only becomes valid and sensible for very large schools and districts. Introducing solutions that aggregate data across grade levels and across schools interjects noise in the system, and fails to control for “third variables.” Thus, in most cases, we cannot validly and fairly attach high stakes consequences to these models. Instead, we urge statements from you on the proper use and limitations of data so as to guide continuous improvement rather than simply making summative pronouncements.

*Cut scores* – Because of our very small schools, collecting and analyzing data using more sophisticated statistical methods is foreclosed. We are interested in growth over time and this is best measured through the use of continuous scale scores rather than cut scores. Having at least three categories is an ineffective half-measure. It detracts from meaningful discussion of growth and progress. We must use the full range of our limited data. The overemphasis on proficiency levels distorts true underlying patterns of performance, and will distort the measure of equity gaps.

*Minimum N* - The minimum n question is a technical one of validity and reliability. Smaller n sizes allow further disaggregation but at the cost of the validity of any inferences based on that measure. This is an acute problem in Vermont schools, which have small testing groups and extremely small subgroups. Psychometrically suspect numbers do not enhance the valid identification of needs or growth. Nor should these indicators be manipulated by introducing data from other locations to pad the n sizes. The result is an invalidly constructed measure that has the effect of under-estimating both gains and losses.

### Conclusions –

The logic of ESSA is the same as NCLB. It is to identify “low performing schools.” Its operating theory is pressuring schools in the belief that the fear of punishment will improve student learning. It assumes poor achievement is a function of poor will. If we learned anything from NCLB, it is that that system does not work. It did not narrow gaps and did not lead to meaningful improvements in learning. If ESSA is similarly restrictive, we can expect no better.

This thinking perpetuates a disabling narrative about public schools. We ask for leadership from Washington that celebrates the glories of what we can accomplish rather than unrelenting dirges.

We are dismayed that the federal government continues to commoditize education and support charter and private schools which segregate children and show no particular learning advantage. We are disturbed that the federal government continues to underfund its commitment to our most vulnerable children, who are disproportionately served by public schools. We are disappointed that the federal government could not embrace and promote a more expansive understanding of the purpose and value of public schools in creating a strong citizenry.

We take note of the \$1.3 billion budget cut approved by the House Appropriations Committee. While you have recently called for a broader “well-rounded” education, you suggest that these initiatives be paid for out of the funds that were just slashed. The federal government is ill-credentialed to call on more from states while providing less.

The Vermont State Board of Education feels it is time we commit to attacking the underlying challenges of poverty, despair, addiction and inequity that undermine school performance, rather than blaming the schools that strive to overcome the very manifestations of our greater social troubles. In the rules and the implementation of ESSA, we urge the federal government to both step-back from over-reach and narrowness; and step-up to a new re-framing, broadening and advancing of the promises of what we can achieve for the children and for the nation.

Sincerely,



Stephan A. Morse, Chair  
Vermont State Board of Education