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Congress of the United States
House of Representatives
Washington, DC 20515-3701

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August 3, 2016

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

Dear Secretary King:

I am writing to offer recommendations for finalizing the U.S. Department of Education's (Department) proposed regulations to implement statewide accountability systems, which are required under section 1111 of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA).

The ESSA gives state and local education leaders considerable control over the design of statewide accountability systems and school improvement activities. At the same time, the law identifies several factors that must be included in accountability systems and provides certain steps that communities must take to develop effective plans for strengthening underperforming schools. In drafting this section of the ESSA, Congress intended that states develop systems that identify disparities in educational outcomes and that require action when students are being underserved. Congress intended to empower state leaders, educators, parents, and other local stakeholders to manage school improvement efforts by affording them flexibility to address unequal educational outcomes with locally-tailored strategies. This balanced approach, which illuminates the importance of addressing educational inequality and gives communities the tools and flexibility to take positive, supportive action to address it, upholds the civil rights legacy of the original ESEA.

I commend you and the Department for seeking to support the balance in the ESSA between renewed flexibility at the state and local level and consistent, robust accountability systems across all states. As the Department finalizes its regulations, I ask that you consider the following recommendations, which reinforce the requirements and flexibility outlined in the ESSA:

- Revise proposed §200.15 to give schools that do not meet the law's requirements for participation in assessments, and districts with a significant number of such schools, one year to develop and implement improvement plans before the schools' low participation is factored into statewide accountability systems.
- Revise proposed §200.19 to permit states to identify schools for comprehensive and additional targeted support before the start of the 2018-2019 school year.

- Revise proposed §§200.21 and 200.22 to require schools identified for comprehensive and additional targeted support to review resource inequities beyond per-pupil expenditures and disproportionate access to ineffective, out-of-field, or inexperienced teachers.
- Revise proposed §200.24 to give greater consideration to school size and student enrollment in establishing federal minimum award amounts for school improvement.
- Clarify that school districts may report data on locally-selected indicators, in addition to indicators used in statewide accountability systems, for the purpose of informing school improvement activities.

The ESEA, as amended by the ESSA, requires that no less than 95 percent of all students and 95 percent of students in each subgroup participate in annual statewide assessments. Furthermore, section 1111(c)(4)(E)(iii) requires states to offer “a clear and understandable explanation” of how they will include participation on assessments in their accountability systems. These requirements, however, come at a time when many students, parents, and educators—who have lived and learned through the prevalence of high-stakes testing under No Child Left Behind—question the value of statewide assessments. The ESSA acknowledges that some states and school districts have policies that permit parents to opt students out of assessments, but the assessment participation rate requirement applies to all states and all districts, including those with such policies.

I understand the importance of widespread participation on assessments, and I am hopeful that the ESSA will promote healthier assessment systems that rely on fewer, better assessments. The law lowers the stakes tied to assessments by requiring states to consider multiple measures of student achievement, and it provides resources for states and school districts to audit assessments, reduce testing, and use the remaining high-quality assessments to meaningfully support teaching and learning. Despite these changes, I recognize that some schools may still confront low participation rates initially. Accordingly, I respectfully request that the Department give schools and districts time to improve their assessment participation rates. I recommend revising proposed §200.15 to give schools with low participation in assessments, and districts with a significant number of such schools, one year to develop and implement improvement plans, as described in proposed §200.15(c)(1), before states factor the low participation into their accountability systems.

More generally, states need time to implement the new law successfully. I am concerned that the timeline in proposed §200.19(d) will discourage the development of innovative accountability systems that incorporate feedback from diverse stakeholders in each state and new data on school performance. Asking states to use data from the school year that begins next month to identify schools for comprehensive and additional targeted support in the 2017-2018 school year threatens the development of lasting accountability systems that reflect states’ interests and long-term goals.

I appreciate the Department’s proposed planning year for implementing accountability systems (i.e., the 2017-2018 school year) and the flexibility to continuously update accountability systems, but I expect that states will be forced to use incomplete systems and then be faced with overhauling them in future years, a task that could be onerous. I recommend, therefore, requiring

states to identify schools for comprehensive and additional targeted support beginning in the 2018-2019 school year.

When schools are identified for comprehensive and additional targeted support, their improvement plans, as described in the proposed regulations, are required to address only two categories of resource inequities: per-pupil expenditures and disproportionate access to ineffective, out-of-field, or inexperienced teachers. These measures are important, but they provide a narrow focus on the expansive resource gaps that persist in our schools. In addition to the discretion it provides in its draft regulations for districts and schools to address inequitable access to other resources, the Department should clarify that the improvement plans for schools identified for comprehensive and additional targeted support must identify and address a number of categories of resource inequities. Specifically, the Department should revise proposed §§200.21(d)(4) and 200.22(c)(7) to require that the improvement plans for schools identified for comprehensive and additional targeted support address, at a minimum, inequitable access to advanced coursework, preschool programs in the school district, instructional materials and technology, and well-rounded education as defined in section 8101 of the ESEA.

I recommend that the Department amend proposed §200.24(c)(2)(ii) to give greater consideration to school size and student enrollment in establishing federal minimum awards for school improvement. As the Department explains in the discussion of its proposed regulations, minimum allocations of school improvement funds are necessary to ensure that schools receive adequate awards and are able to carry out strategies that improve student achievement. But America's school systems are remarkably diverse; some serve tens of thousands of students, and some serve fewer than 100 students from kindergarten to 12th grade. The Department's final regulations should maintain meaningful federal minimum awards that more accurately reflect the range of school sizes in the country's public school systems.

Finally, I recommend amending the regulations to clearly permit school districts to use locally-selected indicators not included in statewide accountability systems for the purpose of enhancing the targeting of school improvement activities. Supporting a rich array of data on school performance in each community will advance the ESEA's goal of empowering parents, educators, and local stakeholders to develop and implement appropriate school-level interventions. The Department, therefore, should clarify that local education agencies may report on additional indicators—such as discipline rates, school safety measures, and absenteeism—to inform local efforts to strengthen schools.

I share the Department's interest in transitioning to the policies of the ESSA as soon as possible so students and educators do not have to wait for the support and flexibility promised under the law. For this reason, I appreciate deeply the Department's commitment to implement the ESSA and give states and school districts the guidance and technical assistance they need to make the law successful. As the Department finalizes regulations for statewide accountability systems, I ask that it incorporate the recommendations I have outlined above, which will aid in the transition to the new law, promote improved transparency and focused interventions, and support effective use of school improvement funds.

Thank you for your attention to my request. I look forward to working with you and the Department to make sure the ESSA prompts vigorous action to eliminate disparities in educational opportunities and outcomes among America's students.

Sincerely,

A handwritten signature in blue ink, reading "Suzanne Bonamici". The signature is fluid and cursive, with a horizontal line drawn underneath the name.

Suzanne Bonamici
Member of Congress