



January 18, 2022

U.S. Department of Education, OESE  
Office of School Support Accountability  
400 Maryland Ave. S.W.  
LBJ Federal Office Building  
Washington, DC 20202-6200

We write to submit comments on the December 2021 draft “Frequently Asked Questions: Impact of COVID-19 on the 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA).”

Overall, we implore you to let states implement assessment and accountability systems that they can demonstrate will provide actionable data for educators and useful, transparent data for parents and communities for the current 2021-22 school year.

For the 2021-22 school year, when schools are struggling to meet students’ basic academic and social-emotional needs and are stretched extremely thin with added COVID-19-related responsibilities, it makes sense to delink the ESSA’s transparency requirements from its accountability ones. This year’s results—when students have, for the most part, been in school but dealing with disruptions and learning loss—cannot be compared in an apples-to-apples manner with results from the 2020-21 school year (when many students were mostly not in school), the 2019-20 school year (when assessment and accountability requirements were canceled), or the 2018-19 school year (which, for all practical purposes, does not resemble the current school year in terms of student population or the state of teaching and learning). I encourage you to allow states to use this as a baseline year for ESSA’s assessment and accountability purposes (as New York proposed).

We have entered our third calendar year in which a pandemic is disrupting teaching and learning in America’s public schools. The federal government has met the challenge with resources—vaccines, COVID-19 testing, guidance, and the American Rescue Plan funding to help with mitigation efforts like improving school building ventilation systems—that have undoubtedly saved lives and enabled safe in-person learning for millions of public school students. But the fact is that, right now, the omicron variant has a level of transmissibility unprecedented during the COVID-19 pandemic. While America’s public schools are focused on meeting students’ myriad academic, social and emotional needs, more staff and student are sick or quarantining than ever before.

Requiring the full administration of a state standardized test—which requires dedicated staffing; adherence to timing and room setup protocols that may be at

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odds with COVID-19 safety standards; and participation requirements that may conflict with federal, state or local quarantine/isolation timeline guidance—is tone deaf to the needs of schools and communities. Likewise, requiring resumption of an accountability system designed to compare schools, districts and states with each other largely based on these tests will produce data that is worthless at best, and, at worst, will be weaponized to shame schools, students and educators during what is already an extremely difficult time.

In the winter and spring of 2021, a number of states proposed realistic plans to administer assessment and accountability systems that would take into account that school year’s instructional challenges but still produce helpful data to target resources and supports to schools and students most in need. Many of those proposals were rejected by the Education Department, and states instead had to administer tests that did not produce anything helpful to educators, policymakers or the public. We urge you not to make the same mistake as last year; we urge you to give states—with input from stakeholders, including educators—the flexibility to propose assessment and accountability systems that work for their communities.

A few specific concerns are listed below.

- **Changes:** States are being asked to submit changes via plan amendments, or sometimes via an addendum template, but it is not clear which should be used when.
- **Timelines:** Many states administered 2020-21 tests in the fall of 2021 and are waiting on results. There does not seem to be enough time to receive these results; make adjustments to goals, weights, etc.; submit these adjustments to the department; receive approval (or not); and then communicate this to schools—all before spring 2022 testing.
- **Using prior years’ data:** It appears that states are being given an option to compare 2021-22 school year data with either 2020-21 data (which is grossly incomplete) or 2019-20 data (which is woefully out of date), in the English language proficiency indicator at least. Neither of these options is appropriate or likely to yield useful information.
- **Types of tests:** Across the board, educators are focusing their instruction on academic recovery. The tests that are helpful to this effort are diagnostic assessments that meet students where they are, advance learning and close learning gaps. Standardized testing that is limited to grade-level standards provides an inadequate, incomplete view of student performance and progress.

U.S. Department of Education/AFT Comments on December 2021 draft “Frequently Asked Questions: Impact of COVID-19 on the 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA).” /Page 3

Thank you.

Sincerely,

A solid black rectangular box used to redact the signature of the sender.

Randi Weingarten  
President, American Federation of Teachers

RW : emc opeiu #2 afl-cio



**To:** US Department of Education  
**From:** Hedy N. Chang, President and Sue Fothergill, Director of Strategic Programming  
Attendance Works  
**Date:** January 16, 2021  
**Subject:** Comments - *Frequently Asked Questions: Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)*

Attendance Works is a nonprofit initiative committed to advancing student success and narrowing equity gaps by reducing chronic absence through comprehensive and systemic approaches. We operate at multiple levels including supporting a community of practice involving nearly 30 states and currently working with more than three dozen districts across the country. The purpose of this memo is to offer our feedback on the ***Frequently Asked Questions: Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)*** released December 22.

We would like to start by applauding the US Department of Education for continuing to recognize the critical importance of using chronic absence data to inform covid-19 recovery and school improvement in these guidelines. Prior to COVID-19, chronic absenteeism (commonly defined as missing 10% or more of school) was already identified as a major national crisis with the U.S. Department of Education's Office for Civil Rights reporting that over 8 million of the nation's children regularly miss enough school to be at academic risk. During the pandemic, chronic absence has nearly tripled and is exacerbating existing inequities. Recent research by McKinsey found that while chronic absence is growing among low-income students, it is starting to decrease among the most affluent students<sup>1</sup> who are also the most likely students to have the resources at home to make up for lost learning opportunities in the classroom.

Thank you for reminding states that they assured the federal government that they would include disaggregated chronic absence data on their report cards in exchange for accountability waivers in the prior year. Such publicly available information is essential for enabling community members and public agencies to understand and help address the challenge facing schools. Chronic absence data continues to be an excellent source of information to guide allocating resources to students and families who need support as well as for examining where schools and communities may need to expand their efforts to ensure [positive conditions for learning](#) (physical and emotional health and safety; a sense of belonging, connection and support; academic challenge and engagement; and adult & student well-being and social emotional competence).

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<sup>71</sup> [Covid-19 and Education: An Emerging K-Shaped Recovery](#), McKinsey and Company, December 2021.

We also wanted to offer some suggestions for your guidance.

On page 15, the guidance explains that states may:

- Modify the methodology for calculating an indicator to take into account the changes to tracking attendance due to COVID-19 (e.g., modifying the definition of chronic absenteeism that is used in the SQSS indicator to address students who are temporarily attending school virtually or asynchronously due to isolation or quarantine) (see question B-13); or

We suggest offering additional guidance including:

- a) If modifications are made, please consider the importance of ensuring that chronic absence data is calculated in a comparable manner across modes of instruction and academic years. One approach could be, for example, to determine what is the equivalent of missing out on 10% of instruction whether in-person, virtual or asynchronous; and*
- b) If the state proposes a modification to the measure of chronic absence it should ensure the definition continues to capture missing school for any reason (excused, unexcused, or due to suspensions).*

We are especially concerned that states may currently feel pressure to remove excused absences when doing so would seriously undermine their ability to identify which students have missed so much instruction they are academically at risk and need additional support.

On page 16, your guidance also allows and encourages states to modify calculations to allow for examination by learning mode. We agree this is very important. We would suggest adding language that says, *If it is too late to make this change across the state for the current school year, state agencies could partner with a subset of districts to pilot tracking absence by learning mode and plan for statewide adoption in future years.*

On page 25, we suggest modifying this example of allowable uses of ESEA section 1003 school improvement funds to the following.

- Implementing an *integrated* multi-tiered system of supports (MTSS) framework *that pays attention to attendance, behavior and academics.*

We thank the department for this excellent guidance and appreciate the opportunity to provide recommendations about how they can be even further strengthened.



January 14, 2021

Ian Rosenblum  
U.S. Department of Education  
400 Maryland Ave SW

Washington, DC 20202

Re: Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)

Dear Ian,

On behalf of the Center for American Progress (CAP) and representing the interest of providing a high-quality education for every child, we write to offer comments on the proposed draft released for the U.S. Department of Education (Department)'s "Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)" FAQ sheet.

We commend the Department in taking this timely and critical step in providing guidance on what state accountability systems should entail as we embark on the 2022-2023 school year. Moreover, we also appreciate that the Department's draft guidance reiterates critical ESEA requirements for states to ensure that all students, especially those underserved and those most impacted by COVID-19, receive a high-quality education. Such requirements have encompassed identifying schools in need of supplemental resources and differentiated support on a regular basis, including following the 2021-22 school year.

We support these priorities and also comment to specifically highlight two additional steps for the Department to consider adding to this draft. The first, is to further develop more clear guidelines on time frames for amendments and submissions of modified plans as detailed in Section B on Accountability. Secondly, we believe that the Department should issue more specific guidance to states on *how* to practically and effectively measure interim progress, *how* to recognize lost instructional time, and *which* measurement factors would most accurately reflect the needs of students most impacted by the pandemic.

*Clear timelines for submissions of plans*

In order to assist SEA's in upholding their commitments to ESEA requirements and ensuring that all students, especially those underserved and those most impacted by COVID-19 receive a high-quality education current state of education, it is essential that the Department establish more clear time frames to help enforce accountability and ensure our success in building back with a better plan for K12 education.

We propose that the Department provide suggested time frames for when data from the 2021-2022 school year should be made available for use. Here at CAP, we believe that states should submit a proposed timeline of completion that includes the start date of data collection, projected end date of data collection, and projected release date of collected data. This will be important for maintaining accountability for when plans need to be submitted, and for tracking how often states are requesting extensions for their plan submissions. While it is important to maintain flexibility with timelines and allow case-by-case opportunities for extensions, we at CAP believe that the Department should be mindful in considering how often submissions may be delayed if states are not provided with a clear timeline for submissions. Although occasional delays may be expected, numerous or frequent delays within or across states that may result from unclear timelines have great potential for inducing further undue harms to students' access to resources and assistance, especially those underserved and most impacted by COVID-19, therefore creating major breakdowns in the Department's efforts to develop a nationwide accountability system that seeks to help SEAs build back better with the Biden-Harris administration.

#### *Practical and effective data measurement*

We agree with the Department and many of our coalition partners who recognize that many of the former and existing measures and methodologies for calculating Academic Achievement and participation rates are becoming insufficient and inadequate for relaying a clear picture of academic progress and for providing the needed supports for all of our students, especially those most vulnerable.

One specific example of where the Department could more clearly connect what needs to be done (the *what*) in schools to how it can be done (the *how*) is in the Section B-2 guidance suggesting that SEAs may "propose to replace school letter grades with a series of business or decision rules or filters that provide greater weight to academic indicators and result in identification of schools for support and improvement." The section notes, "Business or decision rules could, for instance consider individual indicators in a progressive process starting with the academic indicators (e.g. identifying schools with low academic performance and low growth before schools with low academic performance and high growth then considering the remaining indicators) or identify schools with low performance on one or more academic indicators and low performance on one or more other indicators" (p.11 of draft guidance).

Both SEAs and the public, however, would benefit from a clearer definition of the terminology used in this guidance, such as the phrase “business or decision rules” (pg.11). So far, we’ve seen that the pandemic has already forced a lot of SEAs to naturally engage in identification of schools for support and improvement and consideration of individual indicators over the past few two years. However, these acts of consideration and identification need to be done in tandem with a baseline accountability system and developed within the context of ‘business or decision rules.’

The design of the baseline system should be produced by the Department and should clearly outline for SEAs example(s) of what certain measures of performance and progress, for example, “low academic performance,” “high growth,” and “lack of growth (overall by individual subgroups), would consist of in ‘business or decision rules.” In order to provide such guidance, the federal government will essentially need to create a collective task force that draws on the technical and practical expertise of researchers, teachers, and community members.

Finally, we comment with questions in response to the following statements on page 10 of the draft guidance:

“If an SEA, at its discretion, chooses to establish or revise measurements of interim progress and long-term goals for one or more extended-year adjusted cohort graduation rates (ACGRs), it must establish ambitious long-term goals for its extended-year ACGRs that are more rigorous than those established for its four-year ACGR.”

**1. How is the Department defining “ambitious long-term goals...that are more rigorous than those established...”?**

“An SEA may indicate that it will revise its measurements of interim progress and long-term goals after it has assessment results from the 2021-2022 school year but may not eliminate its current measurements of interim progress and long-term goals until it has proposed revised measures.”

**2. Is there a tracking system/system of reporting in place to ensure that current measures are still being reported while awaiting approval for revised measures?**

In closing, we commend the Department of Education for the proposed guidance on the “Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)” and we’d like to thank you in advance for your consideration of our comments and questions. We are also happy to speak further about any of these recommendations. Please feel to contact Khalilah Harris, Managing Director of K-12 Education, at [REDACTED] or [REDACTED].

Thank You,

Center for American Progress

K-12 Education Team

January 18, 2022

Office of Elementary and Secondary Education  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202

Attention: Melissa Siry

Dear Ms. Siry:

I am writing to provide the comments of the Council of Chief State School Officers (CCSSO) regarding the Department of Education's (Department's) Draft Frequently Asked Questions (FAQs) on the "Impact of COVID-19 on 2021-22 Accountability Systems Required under the Elementary and Secondary Education Act (ESEA)." CCSSO is the nonpartisan, nationwide, nonprofit organization of public officials who head departments of elementary and secondary education in the states, the District of Columbia, the Department of Defense Education Activity, the Bureau of Indian Education, and the five U.S. extra-state jurisdictions.

We appreciate the Department's continued emphasis on the importance of data, transparency, and accountability for all students. State education leaders across the country are committed to ensuring every child graduates from high school prepared for college, careers, and life, and we recognize the important role that data and accountability play in making this happen. Still, we acknowledge that every state and K-12 education system across the country is continuing to manage and navigate the ongoing impacts of a global pandemic of historic proportions. The health and wellbeing of students, school staff, and communities remain of paramount concern. This ongoing crisis requires continual responsiveness from education policymakers at all levels as well as the flexibility to address changing conditions on the ground – for impacts the pandemic had on the previous school year, as well as the ongoing impacts that are occurring today.

For these reasons, CCSSO strongly encourages the Department to acknowledge through this proposed FAQ that states across the country are in different places and the pandemic continues to have varying impacts on K-12 systems and communities, including in how states have been able to collect complete or accurate data on academic performance over the past year. In some states, extenuating circumstances from this pandemic led to incomplete data collections. While many states were able to collect valid and reliable test data last school year, some states have chosen not to use these data for high-stakes decision-making due to the variable conditions present in schools as a result of the pandemic. Therefore, given the multiple varied



circumstances on the ground, we urge the Department to consider additional flexibilities for states so they can maintain the current accountability systems that were developed through significant stakeholder engagement processes.

CCSSO has a long and proud history of supporting states in developing and implementing strong, transparent academic accountability systems that seek to ensure that every student has access to an education that prepares them for success in college and career. Since Congress reauthorized ESEA, state education leaders have worked tirelessly to develop current accountability systems, aligned with federal law, and involved stakeholders throughout these processes to ensure broad support and confidence in these systems. States are committed to keeping these systems in place to best meet the needs of all students, and, when necessary, to conducting additional stakeholder engagement processes before making significant revisions to elements of these systems.

However, given the ongoing impact of the pandemic, we do not believe it is prudent for states to be asked to make one-time or temporary changes to long-standing accountability systems when a state does not have sufficient data nor time to make meaningful designations. Rather, we believe states should be granted additional flexibilities with the expectation that they address urgent issues outlined in the document's introduction to the extent practicable. Through this process, we believe state education agencies and the Department can ensure continued public confidence in longstanding statewide accountability systems and the data that are used to inform these systems.

Officials in the state educational agencies (SEAs) that CCSSO represents have carefully reviewed the draft FAQs and have a number of concerns that mainly address the need for additional clarification on certain issues rather than any fundamental disagreement with the document. Those concerns are as follows:

***Overall clarity on timelines:*** The Department has invited states to submit addenda and amendments this winter, but also has set forth a scenario in which states will reconsider (and discuss with stakeholders) long-term goals, indicators and their weights, and other elements of their accountability systems after they receive and analyze the results of their 2021-22 assessments. Given the timeline for these activities and the significant time it takes to conduct each, states are unclear when the Department expects various activities to occur. We ask the Department to clarify expected timelines to ensure they are in keeping with what is feasible and appropriate for states in the current context.

***Identification of schools for targeted support and improvement (TSI):*** Under the statute, a state must identify for TSI any school in which one or more student subgroup is consistently underperforming, as determined through the state's accountability system. The FAQs clarify that states, after a two-year hiatus, must resume identifying schools for TSI this fall, using data from school year 2021-22. Because the legal requirement is based on the concept of *consistent* underperformance (that is, underperformance demonstrated consistently over a period of years) and states have experienced gaps in the collection of assessment and other data during

the COVID pandemic, they will likely experience difficulty in identifying schools that have consistently underperformed as of 2021-22. It would be helpful if the final FAQs provided more information on the options available to states for addressing this issue.

***Exiting of schools from comprehensive support and improvement (CSI) or additional support and improvement (ATSI):*** Questions C-6 through C-9 in the FAQs provide information on exiting of schools from CSI and ATSI status, but our members have found the answers unclear regarding the data that must be used in making exiting determinations and when those determinations may be made. Specifically, may a state exit a school in the fall of 2022 based on data from 2021-22? We request that the final FAQs clarify that these decisions can be left up to each individual state.

***Flexibility to use different decision rules for local educational agencies (LEAs) with different assessment participation rates:*** As you know, for school year 2020-21 the Department waived the requirement that a state incorporate into its accountability system an expectation that at least 95 percent of students in applicable grades are assessed. With that flexibility in place, states typically experienced very uneven rates of assessment participation, with some LEAs having much lower participation rates than others. Given that variation, it would arguably not be valid to apply the same accountability classification rules across all LEAs in a state, rather than make appropriate statistical adjustments to account for differences in participation. We encourage the Department to clarify in the final FAQs how it will accept state requests to adjust classification rules, on a short-term basis, to account for variations in assessment participation.

***Data on focusing a state's accountability system on targeting resources to schools whose students have the greatest needs, including those most affected by the pandemic:*** In the Introduction section, the FAQs suggest that, in making any revisions to its accountability system, a state consider how to focus that system on targeting resources on schools whose students have the greatest needs, including those most affected by the pandemic. Please be aware that, while states (in accordance with the FAQs) will be considering and requesting changes to their accountability systems this winter, they will not have valid data on impacts of the pandemic on student learning until after 2021-22 assessments are administered in the spring and the assessment results are analyzed over the summer. We recognize every SEA and LEA is striving to meet the needs of those students with the greatest needs; however, we ask that the final FAQs be revised to acknowledge the delay in usable data accordingly.

***Exclusion of students who did not take end-of-course assessments:*** Question B-5 describes procedures for excluding (from participation rate and performance calculations) data for high school students who were scheduled to take end-of-course assessments in 2019-20 but did not take them as planned. Many states are unclear on how the data for those students would be used in calculating 2021-22 achievement rates, given that the end-of-course results are based on the year in which the student took an exam (which could have been 2020), not necessarily the year in which the accountability determinations are made. We request a clarification.

***Revision or replacement of academic growth factors:*** Question B-8 acknowledges that a state may need to modify or replace its growth factor based on the unavailability of valid growth data for 2020-21. However, this question does not explicitly say whether a state may request such a modification or replacement through a plan addendum or whether a red-lined plan amendment would be required. We ask the Department to clarify whether if the change is being made for just one year, only an addendum is needed.

***Calculating the progress in English language proficiency (ELP) indicator:*** Question B-10 acknowledges that a state might need to modify its ELP indicator, for instance by using 2019-20 (rather than 2020-21) tests as the baseline for measuring whether a student has made progress in attaining proficiency in 2021-22. However, all states received waivers from the requirement to administer ELP tests in 2019-20 and, thus, the most recent test administration for a state in this situation would be in 2018-19. Measuring ELP progress after a three-year gap in testing would likely yield highly problematic data. We request that the Department rethink its guidance on this issue to provide states flexibility if necessary.

Thank you for the opportunity to comment on this important document. If I can be of any additional assistance, please do not hesitate to contact me.

Sincerely,



Carissa Miller  
Chief Executive Officer





January 18, 2022

Melissa Siry  
Office of Elementary and Secondary Education  
400 Maryland Avenue, SW,  
Washington, DC 20202  
Submitted via: [OESE.Feedback@ed.gov](mailto:OESE.Feedback@ed.gov)

RE: Comments on “DRAFT Frequently Asked Questions: Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA) (December 17, 2021).”

Dear Ms. Siry:

On behalf of the Center for Learner Equity (CLE), formerly the National Center for Special Education in Charter Schools (NCSECS), I am writing to provide comments on the draft “Frequently Asked Questions (FAQ): Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)” document released on December 17, 2021.

CLE’s mission is to ensure that students with disabilities, particularly those in under-resourced communities, have the quality educational opportunities and choices they need to thrive and learn. The COVID-19 pandemic has affected all students’ learning over the past 24 months—and students with disabilities have been at particular risk for disruptions in access to education. While the pandemic continues to impact learning, it is essential to understand the impacts to date to provide students the services and support they need to recover from interrupted learning. In order to do that, meaningful and high quality data must be available to families, LEAs/SEAs, charter school authorizers, and the federal government to ensure that federal resources are focused on the communities that need them most.

### **Accountability Systems Can Provide Meaningful, High Quality Data**

CLE recognizes the U.S. Department of Education’s (ED) continued commitment, as expressed in these FAQs, to ensuring meaningful and high quality data on school outcomes and activities is available to schools, families, and the general public. Studies continue to show that students with disabilities have been disproportionately impacted by the consequences of the COVID-19 pandemic - from increased health risks and anxiety, to significant challenges receiving appropriate services as outlined in their IEPs during times of disrupted or remote learning. It has been widely reported that many students with disabilities did not receive the same quantity or quality of instruction, access to accommodations, or specialized support and/or related services that they received before the pandemic, due to shortened school days and the challenges of remote instruction. Students with disabilities also experienced higher rates of absenteeism, incomplete assignments, and course failures compared to their typical peers.

Accountability, including the high quality data that underpins it, is essential for equity to occur. If we do not understand the current achievement levels of our students and our schools, we cannot understand what needs to be done. Analysis from the Center on Reinventing Public Education has found that as many as 25% of states do not have a plan to release any data from the 2020-21 standardized testing cycles, and that student subgroup data is less likely to be included in the limited data made available. The availability of current, reliable, comprehensive data could mean the difference between students getting the support they need to make up for lost learning, and students continuing to fall further behind each semester. We cannot allow another year to go by without reliable assessments, reporting, and accountability metrics to gauge where our students are academically. We also appreciate that the FAQ repeatedly references the role the Civil Rights Data Collection (CRDC) plays in transparency and accountability and reinforces that SEAs must continue to report this data.

### **Proposals To Change Accountability Systems Should Be Held to the Highest Standards of Equity**

CLE notes that, while the FAQs importantly reiterate that accountability systems must operate this year, the FAQs as a whole are permissive in allowing SEAs to request significant changes to core characteristics of their accountability systems, including to the foundational goals for student achievement. ESSA was designed to use the tools of assessments and accountability to advance equity for students with disabilities, and we are concerned that SEAs may use this flexibility to erode their commitments to students with disabilities.

Respectfully, we expect ED to hold to the law as tightly as possible when reviewing any modification proposals from states, especially in areas of: Adjusting Goals (B-1); Using Multi-Year Averages as Performance Metrics (B-3); Adjusting 'N' Size (B-16); and Reporting 2021-22 Assessment Data (E-1 and E-4).

#### *Adjusting Goals (B-1)*

CLE is highly skeptical of the need to modify long term and interim goals. The pandemic should not create an excuse to further lower expectations for any student group, including for students with disabilities. We know that over 30 states have already set goals that differ by subgroup and believe that, in most states, the goals set for students with disabilities are already too low. Additionally, ED has already recognized that certain student subgroups have been disproportionately impacted by the disruptions caused by the Coronavirus Disease 2019 (COVID-19) pandemic, as articulated in the Office for Civil Rights (OCR) report, [Education in a Pandemic: The Disparate Impacts of COVID-19 on America's Students](#). The report found that:

“Although the pandemic’s effects will be studied for many years to come, we know from early studies that for many students, the educational gaps that existed before the pandemic—in access, opportunities, achievement, and outcomes—are widening. And we can see already that many of these impacts are falling disproportionately on students who went into the pandemic with the

greatest educational needs and fewest opportunities—many of them from historically marginalized and underserved groups.”

ED must ensure that the disproportionate impact on these students is not perpetuated by allowing States to adjust long-term goals and measurements of interim progress for academic achievement that do not attempt to make up for the lack of achievement.

While we understand that ESSA does not necessarily trigger interventions when goals for all students or for an individual subgroup of students are unmet, performance against the long-term goals and measures of interim progress must still be reported to parents and the public. This is because ESSA recognizes the importance of being transparent about student outcomes and how schools are – or are not – making progress in meeting their goals for all students, especially for traditionally underserved subgroups. A failure to report on such progress harms traditionally underserved groups the most, as it is data on their outcomes that is most likely to reveal performance or resource inequities. Therefore, we do not believe adjusting goals for more than one year is appropriate in any circumstance, and any proposal to modify goals for only one year should be reviewed with high scrutiny. If any revised goals are approved, they should continue to focus on gap-closing, which is the primary purpose of the ESEA as amended, as stated in Sec. 1001: “The purpose of this title is to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.”

#### *Using Multi-Year Averages as Performance Metrics (B-3)*

While CLE understands that ESSA permits the use of multi-year data averages in some scenarios, we do not believe it is appropriate to average 2018-2019 data with 2021-22 data to create any indicator of performance. We think using such disparate data points – pre-pandemic and during the pandemic – would seriously obscure the full impact of disrupted learning, especially the disparate impact initial data shows it had and continues to have on students with disabilities. Failing to identify schools properly could mean schools with the most dramatic pandemic-era drop in academic performance are not given the additional resources they need and, most concerning, parents and the public are not made aware of the performance decline. It is essential that accountability systems illustrate the current state of performance.

#### *Adjusting ‘N’ Size (B-16)*

CLE sees no reason to allow states to adjust ‘n’ size; moreover, we fear that this will result in states adopting larger ‘n’ sizes in order to minimize impact, especially related to student sub-groups such as students with disabilities. To encourage and allow this is inconsistent with the Department’s commitment to equity, especially when [analysis](#) shows that twenty-eight states set the ‘n’ size between 11 and 25 students, while eight states set the ‘n’ size at 26 or more students. In fact, those eight states set the n-size at 30 students – three times higher than necessary to satisfy ESSA’s requirements for student privacy and statistical reliability. We also know that adjustments to ‘n’ size have an outsized impact on charter school accountability, as charter schools tend to



be smaller on average, which means that it is more likely that data will be lost as 'n' sizes are raised.

*Reporting 2021-22 Assessment Data (E-1 and E-4)*

CLE makes the following recommendations regarding assessments and reporting assessment data on state report cards:

- Add clarifying language that reminds states of ESSA's statutory requirement to report on state report cards both the assessment results and the participation rates, disaggregated.
- Add a question clarifying that states must:
  - Assure participation of students with disabilities in statewide assessments;
  - Assure all assessments meet federal requirements regarding the usability and interoperability of assistive technology as an appropriate accommodation;
  - Assure the state does not exceed the 1 percent cap on students with the most significant cognitive disabilities participating via the alternate assessment based on alternate academic achievement standards; and
  - Assure access to state-approved accommodations.
- Require that SEAs publish individual year data points to allow families, student advocacy groups, and federal agencies to quickly analyze the changes in standards and performance over time.

We welcome the opportunity to discuss these proposals in more detail with the U.S. Department of Education. I can be reached at [REDACTED]. Thank you for the opportunity to comment.

Sincerely,

[REDACTED]

Wendy S. Tucker  
Senior Director of Policy

**From:** [REDACTED]  
**To:** [OESE.feedback](#)  
**Subject:** Comments on Frequently Asked Questions Impact of COVID-19 on 2021-2022 Accountability System  
**Date:** Sunday, January 16, 2022 4:54:08 PM

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**CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Thank you for the opportunity to comment on this document. My comments are not as comprehensive as I would like them to be, given the timing of the release of the document and duration of the comment period. Nevertheless, there are two important points I would like the Department to consider. My points are based on over a decade of research on accountability data.

1) More attention should be paid to evaluating the quality of accountability data. Accountability data must be subjected to the same reliability and validity criteria used to evaluate test scores. When large numbers of students are missing from summative testing, and the missingness interacts with poverty, culture, and other variables, no statistical adjustments can reproduce the desired data. Many fast-talking statisticians will say otherwise, but they are overly enamored with the statistical modeling and forget about the validity of the data going into the models. Simple research design dating back to Campbell and Stanley (1963) points out we cannot attribute cause in situations where mortality, selection bias, and other threats to validity occur. Thus, policy makers cannot assume data from accountability systems during COVID will be useful for their intended purposes. Quite the contrary, they are likely to be misleading and prompt incorrect actions on the basis of the data.

2) On that note, the Department should acknowledge the serious limitations of student growth percentiles (SGPs) and prohibit their use in accountability systems. The literature is clear that SGPs are inherently unreliable (see for example, [https://www.researchgate.net/publication/342983602\\_Evaluating\\_Random\\_and\\_Systematic\\_Error\\_in\\_Student\\_Growth\\_Percentiles](https://www.researchgate.net/publication/342983602_Evaluating_Random_and_Systematic_Error_in_Student_Growth_Percentiles) and the references within, as well as <https://theconversation.com/want-to-understand-your-childs-test-scores-heres-what-to-ignore-62155> and the references within). This research, conducted across several organizations such as ETS, WestEd, and the University of Massachusetts Amherst, shows that if a student has an SGP of 50, the error band around the SGP is about 30 points. That means the student's true SGP ranges from 20 to 80—almost the entire SGP scale. Most state department of education staff and policy makers do not read the measurement journals and so are unaware of these problems. Plus, they are influenced by those who market SGPs and make money off their reporting and calculation. Thus, 22 states use them for accountability, and for developing school improvement plans. They may as well use a random number generator. The Department can end this problem by prohibiting the use of SGPs in accountability systems.

These two comments suggest the following additions to the FAQ document:

1) B8: States should accompany accountability results with qualifications regarding the representativeness of the data and the degree to which the data are valid for their intended purposes. States should evaluate whether the data are not valid for accountability purposes, and if not, specify what types of information they provide. [ This addition would support the use of high-quality data and avoid misinterpretations and inappropriate actions based on these

limited data.]

2) B7: States should no longer use SGPs in measuring student growth, and should use or develop other methods for evaluating student progress. A promising other method is measuring students' progress within a school year, which uses each student as their own control and, in addition to providing useful accountability data, also provides actionable information during the school year that can be used to improve student achievement. [Such data can be aggregated in a way more valid and useful for accountability than SGPs.]

Sincerely,

Stephen G. Sireci, Ph.D.  
Distinguished Professor  
Director, Center for Educational Assessment  
University of Massachusetts Amherst  
College of Education  
813 North Pleasant Street  
Amherst, MA 01003, USA

Twitter: [REDACTED]

President-Elect, International Test Commission: <https://www.intestcom.org>  
<https://theconversation.com/6-big-changes-in-standardized-tests-including-less-focus-on-grading-students-and-more-on-learning-158289>

January 16, 2022

**Submitted via email**

Melissa Siry  
U.S. Department of Education  
Office of Elementary and Secondary Education  
400 Maryland Avenue, SW  
Washington, DC 20202

**RE: Comments on Draft FAQ: Impact of COVID-19 on 2021-2022 Accountability  
Systems Required under the Elementary and  
Secondary Education Act of 1965 (ESEA)**

Dear Ms. Siry:

We, the undersigned members of the Consortium on Assessment Policy and Advocacy (CAPA), thank the U.S. Department of Education (ED) for developing the **Draft FAQ: Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)** (hereinafter FAQ).

CAPA is a group of national education organizations that partner with state and local leaders to design and implement comprehensive assessment systems. Assessments are tools that, when used correctly, provide critical information to inform decisions – from the national level to the classroom – that advance student learning. But they are not perfect, and there is still work to be done to improve the design of assessment systems, and the use of assessment results, to help all students succeed.

That is why we have come together as CAPA – to (1) provide a forum for our organizations to engage with stakeholders and each other; (2) to serve as a resource and lend our collective expertise in the national education policy community, especially on issues of equity; and (3) share best practices related to equity in the design of assessment systems and use of results.

We are writing today to express our joint appreciation and support for the FAQ. This resource will serve as a useful guide for states and school districts as they seek to restart their school accountability systems following the unprecedented disruption caused by the COVID-19 pandemic. Our comments below outline some of the key components of the guidance that resonated with us, and that we hope ED will continue to highlight in future communications to educators, school districts, and states.

**First, we would like to underscore the importance of ED’s recognition in the FAQ that ESEA’s assessment and accountability framework is designed to foster equity.** Results from high-quality assessments that measure the same constructs and are broadly comparable across states help shed light on persistent inequities that prevent all students from achieving at high levels. They also provide a guide for where states and school districts should target

resources and other supports to historically underserved student populations and those students who have been more severely affected by the pandemic. Therefore, we support ED's encouragement to state education agencies "to ensure that the State's accountability system is focused on targeting Federal (including COVID-19 recovery funding), State, and local resources and support to the schools that serve students with the greatest needs, including those who have been most impacted by the pandemic, and on addressing the long-standing inequities in educational opportunity that existed prior to the pandemic." FAQ at 4.

**Second, we believe that state assessments and accountability systems should be used as tools to help education leaders and policymakers address disparate outcomes, particularly with respect to underserved students, and not act as punitive measures.** This should hold true at all times, but particularly now, where schools are still struggling to navigate the ongoing challenges of the pandemic. We appreciate that this message of using assessments for supportive purposes is provided throughout the FAQ, including in the general principles that are on pages 4-5.

**Finally, we applaud ED's recognition of the importance of supporting educator assessment system literacy and development.** FAQ at 5. We strive to educate our users about how best to use the results of particular assessments, and how not to use them. Different assessments were designed to serve different purposes and understanding these nuances is challenging. We stand ready to assist ED, states, districts, and advocates to ensure educators, students, families, and the public are aware of the appropriate use of specific assessments and have the support to use the data from those assessments to improve student outcomes.

Thank you, again, for providing this very helpful FAQ to the field. We would welcome the opportunity to continue a dialogue with ED about how the assessment community can help achieve our shared goals, particularly in the wake of the pandemic disruptions to learning, data, and assessment systems. If any questions arise, or if you would like further information, please contact Lindsay Dworkin at [REDACTED] or Augustus Mays at [REDACTED].

Sincerely,

Curriculum Associates  
ETS  
New Meridian Corporation  
NWEA  
Pearson  
Smarter Balanced Assessment Consortium  
WestEd

January 15, 2022

Melissa Siry  
Office of Elementary and Secondary Education  
U.S. Department of Education  
400 Maryland Avenue SW  
Washington, DC 20202

Dear Ms. Siry:

As a collaboration of national organizations seeking to advance educational equity through federal, state, and local policy and advocacy, the undersigned organizations welcome the opportunity to respond to the U.S. Department of Education's (ED's) request for public comments on its draft guidance, *Frequently Asked Questions Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)*.

We recognize the immense challenges that state policymakers, school district leaders, educators, families, and students face every day as they respond to the ongoing and evolving challenges posed by COVID-19. These disruptions have disproportionately affected students living in poverty, students with disabilities, students learning English, students experiencing homelessness, students in the foster care system, students who are incarcerated, undocumented students, Black and Latino students, Native students, Asian students, and students who identify as LGBTQ+. These are cross-cutting and intersectional issues, and many students experience multiple vulnerabilities due to the inequities within our system (e.g., students of color are dramatically over-represented among students who experience homelessness).

ED plays a key role in supporting states and school districts by providing funding, technical assistance, and guidance to clarify how they may implement vital federal laws aimed at protecting these students. One of those laws, the Every Student Succeeds Act, includes critical tools—statewide accountability, school improvement, and public reporting systems—to ensure districts, schools, and students that need additional resources and support receive them.

We appreciate that ED's draft guidance reiterates the critical ESEA requirement for states to **identify schools in need of extra resources and support** for Comprehensive Support and Improvement, Targeted Support and Improvement, and Additional Targeted Support and Improvement (CSI, TSI, and ATSI). By designating these schools in fall 2022, they become eligible for additional federal school improvement funding (i.e., ESEA section 1003(a) funding), and they should receive additional state and school district technical assistance to design and implement evidence-based plans for improvement.

Given that ED has waived school identification requirements for the past two years, schools currently eligible for supplemental funding and support through CSI, TSI, and ATSI may not reflect the communities and students who have struggled the most since the pandemic began; for example, in some states, these schools were last identified in the 2017-18 or 2018-19 school year. ED's guidance helpfully clarifies that states can modify the measures and criteria they use for school identification, for either one year or on a permanent basis, to ensure they are directing resources to schools with students who have been most affected by the pandemic. We agree with ED that the primary objective of accountability systems in the 2022-23 school year should be to use these systems to direct funding and supports to the schools and students who have been disproportionately harmed—academically, socially,

and emotionally—by COVID-19 and to continue these supports even after COVID-19 relief funds have been spent.

This is why we are also pleased to see the draft guidance recognize that school improvement funding will be more impactful if it is used alongside **Elementary and Secondary School Emergency Relief (ESSER) funding** to address lost instructional time and other student needs through [evidence-based strategies](#) (see pgs. 4-5 and questions D-1 and D-6 of the draft FAQs). By leveraging both funding streams, districts and schools will be better-positioned to develop and/or revise improvement plans that respond to the full range of students' needs—from academics to mental health and wraparound services—and identify and address [resource equity](#) gaps. Further, we appreciate the FAQs clarify that states can utilize limited flexibility to provide districts with more time to spend school improvement funding in light of the “pauses” that many states implemented in their systems over the last two years (see question D-8). ED should continue to emphasize that ESEA section 1003(a) funding must be directed toward schools identified for support, not broadly distributed across the school district, and update section D or E of the FAQs to clarify that districts are required to provide transparent information about how 1003(a) funding is used on local report cards.

In addition, we appreciate ways the draft guidance notes how the **underlying statute gives states the discretion and flexibility they need** to update their accountability systems to account for the unique challenges students and schools are currently facing—including revising the indicators, methods for differentiating schools, and criteria for identifying schools for CSI, ATSI, and TSI. For example, question B-13 describes how states could adjust a chronic absenteeism indicator to distinguish between a student who is absent and receives no instruction versus a student who is quarantined but participating in instructional activities. We agree that a streamlined, state plan addendum template is appropriate for states making changes for only the 2021-22 school year; this will provide clarity to districts and schools quickly regarding accountability plans for fall 2022, while also recognizing states may wish to use the regular state plan amendment process to make long-term changes based on lessons learned from the pandemic and prior years. This flexible approach recognizes the ongoing and changing context of COVID-19, as well as the need for districts to balance short- and long-term needs.

We also agree with ED that **non-statewide indicators**, including data from local assessments, can provide useful and actionable information to inform instruction or additional student or educator supports. For example, question D-1 discusses how opportunity to learn data and school quality reviews that examine a broad range of measures, such as instructional practices and perceptions of school leaders, teachers, students, and parents, can support the school improvement process. **As ED notes, however, indicators and data that are only available at the local level are inappropriate for state accountability systems that rely on comparable, statewide data to identify which districts and schools need additional resources and support.** ED should continue to ensure its guidance emphasizes that, if a state modifies an indicator it uses for accountability purposes, each indicator must still be “statewide,” “comparable,” “valid,” “reliable,” and disaggregated for all groups of students as required under ESEA section 1111(c)(4)(B) (e.g., update question B-11 to reflect the language in questions B-14 and B-15).

We appreciate that the draft FAQs recognize the **role of statewide assessments** as one of multiple measures that will be used to identify schools for support in fall 2022, as well as emphasizing opportunities states have to improve their assessment systems and how results are reported. We also appreciate that the guidance:

- addresses modifications to the academic achievement indicator that may be needed (e.g., a state previously averaged multiple years of data but lacks data from the 2020-21 school year);

- reiterates the importance of accounting for participation rates, if participation falls below 95% of all students or any subgroup, when calculating the achievement indicator;
- provides clarity to states using end-of-course (EOC) assessments that may not have data for some students still enrolled in high school who took courses associated with EOC exams during the 2019-20 school year (though we urge ED to monitor states using EOC exams to ensure students who should have taken these exams in the 2020-21 school year *are* included); and
- discusses the value of reporting contextual data alongside assessment results to provide further information to families and the public. To further improve the FAQs, we recommend:
  - strengthening questions E-1 and E-4 by **adding language on the statutory requirements to report assessment results *and* participation rates, disaggregated, on report cards for the 2021-22 school year**, given uneven reporting of these data for the last two years;
  - adding questions to support states in equitably including students with disabilities in their accountability systems by (1) implementing the 1% cap on students with significant cognitive disabilities who may take an alternate assessment aligned with alternate academic achievement standards and (2) ensuring students with disabilities have appropriate accommodations to access statewide assessments whether they are learning in-person or in remote settings; and
  - adding questions to (1) ensure public input and transparency if states are making changes to their progress in achieving English language proficiency (ELP) indicator, (2) reiterate requirements for standardized implementation of states' entry and exit criteria for English learners, and (3) clarify states' options for including recently arrived English learners in the achievement indicator and publicly reporting the method chosen.

While we are pleased the FAQs emphasize updating which schools are eligible for support in fall 2022, we are concerned states may **extend the timeline for schools previously identified for CSI and ATSI** to meet the exit criteria. Under the law, schools reidentified for CSI and Title I schools reidentified for ATSI should be eligible to receive additional support and resources—*above and beyond those they have received for the last three, four, or five years*.

We are especially concerned about Title I ATSI schools that are reidentified in Fall 2022 but will not be eligible for state support given to CSI schools. Many states prioritize 1003(a) funding and technical assistance to CSI schools, leaving districts to support ATSI and TSI schools. By not elevating these schools to CSI status (as required by ESEA section 1111(c)(4)(D)(i)(III)), groups of students—who have been disproportionately affected by the pandemic—may go without the additional help, resources, and attention they deserve. As noted in question C-6, accountability waivers for the 2019-20 and 2020-21 school years were conditioned on continuing to support previously identified schools. By extending the timeline for these schools to meet exit criteria, ED is delaying when students who have faced some of the greatest academic, social, and emotional challenges before and during the pandemic will receive enhanced funding and supports. We ask ED to reconsider this policy or, at minimum, add questions to address how states may provide additional assistance and resources to CSI schools and Title I ATSI schools reidentified in Fall 2022, including:

- taking “more rigorous State-determined” actions in reidentified CSI schools; and
- elevating reidentified Title I ATSI schools to receive comprehensive, rather than targeted, support from the state.

Because the guidance and template give states the *option* to extend the timeline for previously identified schools to meet exit criteria, the guidance should support states that choose not to take that option.

We also remain concerned as to how **individual groups of students matter in accountability systems**, especially when states determine which schools receive extra help and funding. Even before COVID, [analyses](#) found many low-performing schools were overlooked for support. This is a major equity issue, because students of color and low-income students are primarily concentrated in low-performing schools. In Mississippi, for example, 43% of “F” schools were excluded from support; at the same time, Black students were 17 times more likely than white students to attend an “F” school. In Connecticut, only one school in the state was identified as needing to provide extra support for Latino students due to the state’s limited definition of a “consistently underperforming” group of students. While ED’s guidance will help states update their systems to account for pandemic-related disruptions these students may have faced, the FAQs could go further to encourage improvements in how individual groups of students are recognized in accountability systems. Specifically, we recommend:

- updating question B-2 to ensure revisions to systems of annual meaningful differentiation include each and every required group of students and to encourage states to use disaggregated data in accountability determinations, given the number of states that previously [excluded](#) disaggregated data in school ratings and/or used combined or “super-subgroups” of students;
- updating question B-2 to emphasize the requirement that certain indicators must also carry “substantial” weight individually, including the progress in achieving ELP indicator, and to encourage states to weight the ELP indicator proportionately to the percentage of students learning English in the state;
- discouraging states from increasing the minimum number of students, or “n-size,” they use for accountability purposes in question B-16;
- clarifying TSI schools must be identified annually, recommending states consult stakeholders representing the needs of the individual groups of students (i.e., racial/ethnic groups, students with disabilities, and English learners) when modifying their definitions of a “consistently underperforming” group of students, and encouraging states that identified relatively few TSI schools in prior years to make changes that result in more schools (rather than a “similar” number) being identified for support in question C-4; and
- specifying that changes in the frequency of identification in question C-5 only apply to CSI and ATSI schools, as TSI schools are identified annually.

Finally, we support the number of places in the FAQs that emphasize meaningful **consultation with stakeholders** in making both short-term and longer-lasting changes to accountability systems, including engaging with a diverse range of individuals and groups, seeking input from community members early in the process, and ensuring outreach and opportunities for feedback are accessible to individuals with disabilities and/or limited English proficiency. Given that ED is requesting comments on its draft guidance by January 16 and for states to submit the addendum template with any one-year changes by March 7, we fear that meaningful consultation and community engagement will not be feasible on such a short timeline. However, we also recognize districts and schools need clarity sooner, rather than later, regarding accountability plans for the 2021-22 school year. Rather than pushing back timelines for submitting one-year changes via the addendum template, we encourage ED to:

- require states to post both draft and submitted COVID-19 state plan addenda on their agency websites so that stakeholders are aware of any proposed changes and any timelines for public comment;
- consider a longer timeline, and require more robust stakeholder engagement and consultation, for states making more permanent changes to their accountability systems through the standard state plan amendment process;

- highlight opportunities in the guidance for ongoing stakeholder consultation, beyond this initial period, for states making both one-year or long-term amendments, including opportunities to reset long-term goals and measures of interim progress using 2021-22 data as a new baseline, reintroduce measures of individual student growth and progress as consecutive years of data become available, and add opportunity to learn indicators or other new measures that are more important than ever to support students' pandemic recovery; and
- enhance its monitoring and technical assistance protocols to support states in identifying schools for support in fall 2022, implementing their proposed changes, and ensuring consolidated state plans are updated and submitted to ED later in the year to incorporate those changes.

As always, we appreciate the Department of Education's commitment to providing robust support to states and school districts across our country. We look forward to reviewing and supporting state and district implementation of the final guidance and partnering with ED to ensure that all students, especially those underserved and those most impacted by COVID-19, receive a high-quality education.

Sincerely,

All4Ed  
Education Reform Now  
National Center for Learning Disabilities  
National Urban League  
The Education Trust  
UnidosUS



January 18, 2022

Melissa Siry  
Office of Elementary and Secondary Education  
400 Maryland Avenue, SW  
Washington, DC 20202

RE: Comments on DRAFT Frequently Asked Questions: Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965

Submitted via: [OESE.Feedback@ed.gov](mailto:OESE.Feedback@ed.gov)

Dear Ms. Siry:

The Council of Parent Attorneys and Advocates (COPAA) writes respond to the U.S. Department of Education's (ED) request for its draft guidance, *Frequently Asked Questions (FAQ) Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)*.

While COPAA recognizes the tremendous challenge the COVID-19 pandemic has foisted upon school, district, and state leaders, we also know that students with disabilities, students living in poverty, students of color, Native students, students experiencing homelessness or living in foster care, students learning English, and other vulnerable students have experienced significant disproportionate impacts during COVID-19<sup>12</sup>. Therefore, consistent with past communications with ED related to providing flexibility to states and districts during, or as a result of the crisis, we write to: 1) encourage ED to support and reinforce existing statewide accountability requirements under the Every Student Succeeds Act (ESSA); 2) advocate that any action on waivers by ED must not allow the lowering of standards and expectations for student subgroups, including students with disabilities; 3) reinforce and support ED's requiring stakeholder engagement when a state proposes any change to statewide accountability; and, 4) thank ED for acknowledging and encouraging states and districts to braid ESSA's school improvement funding with the billions of dollars recently made available by Congress through the Elementary and Secondary School Emergency Relief Funding (ESSER).

Specifically, to address 1-3, COPAA makes the following recommendations to assure accountability for students with disabilities and strengthen the FAQ:

**B-1: SEA discretion (and ability to change) long-term goals and measurement of interim progress**

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<sup>1</sup> *Compensatory Review and Services Survey*, November 2021, Council of Parent Attorneys and Advocates at: <https://www.copaa.org/page/CompServ>.

<sup>2</sup> *How Has the Pandemic Affected Students with Disabilities A Review to Date*, October, 2021, Center for Learner Equity at: <https://www.centerforlearnerequity.org/resource/how-has-the-pandemic-affected-students-with-disabilities-a-review-of-the-evidence-to-date/>.

COPAA is concerned that ED would promote and support states in making adjustments to long-term goals and measurements of interim progress. ED has already recognized that certain student subgroups have been disproportionately impacted by the disruptions caused by COVID-19, as articulated in the Office for Civil Rights (OCR) report, [Education in a Pandemic: The Disparate Impacts of COVID-19 on America's Students](#). The report found that:

Although the pandemic's effects will be studied for many years to come, we know from early studies that for many students, the educational gaps that existed before the pandemic—in access, opportunities, achievement, and outcomes—are widening. And we can see already that many of these impacts are falling disproportionately on students who went into the pandemic with the greatest educational needs and fewest opportunities—many of them from historically marginalized and underserved groups.

ED must ensure that the disproportionate impact on these students is not perpetuated by allowing states to adjust long-term goals and measurements of interim progress for academic achievement that do not attempt to make up for the lack of achievement. Revised goals should continue to focus on gap-closing, which is the primary purpose of the ESEA as amended, as stated in Sec. 1001: “The purpose of this title is to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.”

#### **B-16: Revising Minimum Number of Students**

COPAA adamantly disagrees with ED promoting or encouraging states to adjust minimum ‘n’ size. In doing so, ED is encouraging a practice that is likely to result in states adopting larger ‘n’ sizes to minimize the impact of accountability for student subgroups such as students with disabilities. To encourage and allow this is inconsistent with ED’s commitment to equity, especially when analysis shows that twenty-eight states set the n-size between 11 and 25 students, while eight states set the n-size at 26 or more students. In fact, those eight states set the n-size at 30 students—three times higher than necessary to satisfy ESSA’s requirements for student privacy and statistical reliability<sup>3</sup>.

#### **E-1: State and Local Report Cards**

COPAA recommends that ED add clarifying language that reminds states of ESSA’s statutory requirement to report on state report cards both the assessment results and the participation rates, disaggregated. Parents of students with disabilities need to know how their children are performing. Having key data on both individual children and student subgroups is critical to helping schools target resources and interventions, to facilitating remedial learning, and providing compensatory education to students with disabilities, consistent with ED’s recent guidance<sup>4</sup>.

#### **E-6 (Add NEW)/renumber: Assessment and Students with Disabilities**

COPAA recommends that ED add a question clarifying that states must:

- Assure participation of students with disabilities in statewide assessments;

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<sup>3</sup> *Ensuring Every Student Matters What is N Size and Why Is It Important?*, 2018, All4Ed at: <https://all4ed.org/wp-content/uploads/2018/11/N-Size-Fact-Sheet-NOV-2018.pdf>.

<sup>4</sup> See: <https://sites.ed.gov/idea/files/rti-iep-09-30-2021.pdf>.

- Assure all assessments meet federal requirements regarding the usability and interoperability<sup>5</sup> of assistive technology<sup>6</sup> as an appropriate accommodation<sup>7</sup>;
- Assure the state does not exceed the 1 percent cap on students with the most significant cognitive disabilities participating via the alternate assessment based on alternate academic achievement standards; and
- Assure access to state approved assessment accommodations for eligible students.

Finally, and as expressed previously in communications regarding accountability and statewide assessments, COPAA calls upon ED to take great care in approving waivers of key requirements for statewide assessment. We urge ED to do all it can to ensure states and districts approach data gathering in comprehensive and meaningful ways and do not shirk their responsibilities and obligations under ESSA. Millions of federal dollars have been provided to districts to mitigate the impact of COVID-19, including for instructional loss for all students. It is incumbent upon states and districts to assess where students are and support schools to develop plans to help students with disabilities, including through the provision of compensatory education to make up any losses experienced during and as a result of COVID-19.

COPAA appreciates the opportunity to comment. We look forward to continuing to work with you to ensure accountability for students under ESSA and all other education and disability laws.

Sincerely,



Denise Marshall  
CEO

cc: Katherine Neas, Deputy Assistant Secretary, OSERS  
Valerie Williams, Director, OSEP

COPAA is an independent, nonprofit organization of 2700+ parents, attorneys, advocates, and related professionals; over 90% of whom identify as having a disability; or are parents or family members of individuals with disabilities. Our members work nationwide to protect the civil rights and secure excellence in education on behalf of the nearly 8 million children eligible for special education services under the *Individuals with Disabilities Education Act* (IDEA) and the 1.4 million K-12 students with disabilities protected by Section 504 of the Rehabilitation Act (Section 504). COPAA's mission is to serve as a national voice for special education rights and is grounded in the belief that every child deserves the right to a quality education that prepares them for meaningful employment, higher education, and lifelong learning, as well as full participation in their community.

[www.copaa.org](http://www.copaa.org)

<sup>5</sup> See: P.L. 114-95, Section 1111, (b)(2)(B)(vii)(II).

<sup>6</sup> See: P.L. 108-446, Sections 300.105 and 300.324; and, 29 U.S.C. 794d.

<sup>7</sup> See: P.L. 108-446, Section 1462(b)(2)(A)(i).



January 14, 2022

Melissa Siry  
Office of Elementary and Secondary Education  
400 Maryland Avenue, SW, Washington, DC 20202

**Dear Ms. Siry:**

Educators for Excellence and our National Teacher Leader Council—made up of 19 educators with nearly 200 years of teaching experience—appreciate the opportunity to provide public comment on the U.S. Department of Education's (ED's) [draft guidance](#), *Frequently Asked Questions Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)*.

As an organization that represents more than 33,000 educators across the country, we have an acute understanding of the immense and deleterious disruption the pandemic has had on student learning and mental health over the past two years. We also know that the students who are already most-impacted by systemic equity gaps have been hardest hit by COVID and its economic, educational, and mental health consequences. It is because educators have seen this damage firsthand that we understand how important it is to have strong, comparable data to identify the students and schools who most need support.

Conducting statewide summative assessments is an essential tool in supporting educational equity as students recover from the pandemic. Without assessments we cannot accurately gauge the extent of the interruption to learning and instruction and chart our future plans to fill in these critical gaps. **Therefore we strongly support the return to the statewide accountability measures required under the Every Student Succeeds Act. We also appreciate the flexibility ED has provided State Educational Authorities to adjust indicators and accountability in light of the continued pandemic.**

In Educators for Excellence's 2021 scientific, representative [survey of America's educators](#), nearly seventy percent of educators indicated their support for using assessments to identify which students and student groups need more resources and support, but only a minority thought that assessment data should be used to implement punitive measures for either students and teachers. Therefore we strongly suggest the U.S. Department of Education reiterate that states ensure:

- **Accountability measures are not used to punish educators or schools.** The challenges of operating schools during COVID are largely outside of educators' locus of control—including remote learning, trauma, and attendance issues. Thus, assessment scores do not accurately reflect school or educator performance and should not be used as performance measures.
- **Accountability leads to additional, targeted support for students, educators, and schools that need it most.** We believe that low-performing schools should receive additional funding—through the American Rescue Plan Elementary and Secondary School Emergency

Relief funds or other sources—and that interventions include sustained and research-informed academic and SEL supports, wraparound services, and professional development that is clear and relevant for districts, schools, parents, and educators.

**We also strongly support ED’s guidance that any adjustments or implementation of accountability measures include authentic engagement with stakeholders, including students, parents, and educators.** For example, our National Teacher Leader Council has indicated several key priorities including: further embedding assessments into curriculum, assuring assessments are culturally relevant, and ensuring the dissemination and accessibility of data to inform instruction. Going forward, it is essential that those who are closest to the work—students, parents, and educators—are meaningfully included in all decisions and changes in how assessments and accountability are administered and enforced.

After several years without comparable data, educators understand the importance of reimplementing the accountability required by the Elementary and Secondary Education Act and that utilizing these data will allow us to better support student learning and growth, but we also underscore that assessments are but one tool in providing an excellent and equitable education for our students. Finally, we would like to reiterate our belief that assessments should be used to drive equitable decision-making that supports students and schools and that the resulting data should not be used punitively. We look forward to working alongside states and districts to ensure that assessments and accountability contribute to an education system that uplifts all students.

Sincerely,

National Teacher Leader Council  
Educators for Excellence



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Great City Schools®**

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**Council of the Great City Schools®**

1331 Pennsylvania Avenue, NW, Suite 1100N, Washington, DC 20004

(202) 393-2427 (202) 393-2400 (fax) [www.cgcs.org](http://www.cgcs.org)

January 18, 2022

**Council of the Great City Schools Comments  
Draft FAQs on 2021-2022 ESEA Accountability Systems**  
(Submitted to [OESE.feedback@ed.gov](mailto:OESE.feedback@ed.gov))

U. S. Department of Education  
Office of Elementary and Secondary Education  
400 Maryland Avenue, SW  
Washington D.C. 20202

Attention: Melissa Siry

The Council of the Great City Schools, the coalition of the nation's largest central city school districts, submits comments on the Draft Frequently Asked Questions for the 2021-2022 ESEA Accountability System. The importance of getting the restart of the ESEA accountability system correct after two years of pandemic-related suspension cannot be overstated since all accountability provisions would be back in effect under the Draft FAQs. The Council recognizes the innumerable variations in resetting goals, indicators, and the differentiation system along with revising methodologies and weightings.

The Department's explanations of options, flexibilities, and areas of discretion in the Draft FAQs are extremely helpful. Nonetheless, state and local educational agencies are unlikely to be able to envision the range of needed modifications and revisions to ESEA accountability systems until the results of the spring 2022 assessments are compiled. The expected learning losses captured on state assessments compared to the previous year(s) must be analyzed by states, school districts, and schools before the implications for accountability can be fully realized.

As a threshold matter, the Council requests that the Department reopen the comment period for federal ESEA Accountability System Guidance prior to the beginning of school year 2022-2023 to accommodate more up-to-date assessment information and as statewide and school results are reported.

**Importance of Objective Measurement of Academic Achievement and Accountability**

The Council has consistently emphasized the importance of objective measurement of academic achievement along with accountability for student progress including the performance of traditionally underperforming groups of students. More than any other national K-12 school organization, the Council has supported a strong federal role in measuring academic performance and requiring interventions where improvement is warranted. The Council of the Great City Schools demonstrated that commitment by:

- Supporting the disaggregation of academic performance data during negotiated rulemaking for the Improving America's School Act despite the Education Department's refusal;

- Collecting and reporting disaggregated academic assessment results among member urban districts in the Beating the Odds Report years before required under ESEA;
- Recommending the creation of the Trial Urban District Assessment to the National Assessment Governing Board and Congress providing for academic performance data on the national NAEP metric that allowed urban districts to benchmark their progress against similar urban communities nationwide as well as for large urban districts in the aggregate;
- Supporting the No Child Left Behind legislation – the only K-12 school organization to do so;
- Developing the Great City Schools Key Performance Indicators (KPIs) for academic and operations areas to allow urban districts to benchmark their results against other urban districts of similar size and demographics.

The Council has consistently promoted and supported regular objective assessment of academic performance, public reporting, accountability for inadequate progress, and school-level interventions to improve results. Similarly, the Council insists that the assessments be of high quality and that the basis of comparisons to determine progress or retrenchment be statistically and practically sound.

### **Main Council Comments and Recommendations on the Draft FAQs**

#### Support for the Option of Using Spring 2022 Assessment Results as a Baseline for Future Performance Comparisons.

School districts are expecting that student participation in the Spring 2022 Assessments will reach more normalized levels after substantial declines in many states during the two previous school years. In addition to participation rate issues, there are substantial questions on the utility of prior year data for comparative purposes due to enrollment declines, high absenteeism, differing levels of hybrid and in-person instruction, extended test dates and windows, and wide variations in the impact of the pandemic among different student groups (generally noted in FAQ B-8). Moreover, in states with grade level promotion dependent on assessment proficiency, a significant number of students who have not had ample opportunity to make up unfinished learning during the pandemic will be recommended for retention. **The Council, therefore, strongly supports and encourages widespread use of the “baseline” option in FAQ B-1 “to use data from the 2021-2022 school year to establish a new baseline for its long-term goals and measurements of interim progress”.**

#### Provide Flexibility at the State and Local Level to Target Resources to a Workable Number of Identified Schools with the Greatest Learning Losses.

The more normalized participation rates in Spring 2022 assessments may provide an adequate snapshot of student performance and learning loss. However, the disruptions to school instructional programs in the current school year due to the ever-changing quarantine periods for students and teachers, on and off remote learning and school closures, widespread shortages in instructional staff and resulting personnel re-deployment, and student mental health and behavior readjustments will not produce a legitimate snapshot of the services provided by individual schools and their staff for accountability purposes in the current school year. And, using the last

uninterrupted school year(s) to compare to the current school year for purposes of school-level accountability will likely result in substantial increases in schools identified for improvement and intervention which may overwhelm the capacity of school districts and the state to support effective improvement activities. **The Council, therefore, strongly recommends providing whatever flexibility is needed at the state and local level for SY 2022-2023 to allow for the targeting of ESEA and ESSER resources to a workable number of identified schools with the greatest learning losses without overwhelming the capacity of school systems to deliver effective interventions, as occurred in the later years of No Child Left Behind.**

### **Other Council Comments and Recommendations**

- Support the Explanations in the Draft FAQs of the Options, Flexibilities, and Discretion, as well as the Use of Multi-Factor and Multi-Year Dashboards (including replacing letter grades) and the Use of Business Operations Rules in Amending State Accountability Systems.
- Recommend Adding an FAQ that Allows for Extended Academic and ELP Assessment Windows in Spring 2022 Due to COVID Infection Spikes and Variations in CDC, State, and Local Health and Quarantine Protocols.
- Agree with Ensuring a “Much Greater Weighting” of Academic Indicators in FAQ B-2.
- Request Adding a More Extensive Explanation of Options and Examples of How Participation Rates Can Be Factored into Accountability Systems (in addition to FAQs B-4, B-5, and E-5).
- Support the Option to Amend State Plans Through a One-Year Revision, Multi-Year Revisions, or Both; But Oppose Encouraging the Use of a Shortcut Approach by Simply Shifting Timelines Forward by 1-to-2-Years in the Draft FAQ A-3, B-1, C-9.
- Recommend Reworking FAQ B-16 to Downplay N-size Discretion and to Encourage Retention of Current N Sizes to Prevent Small Schools and Districts from Evading ESEA Accountability.
- Support the FAQs Allowing for the Modification of Absenteeism Indicators Due to COVID Effects on Attendance.
- Request an Expanded Explanation in FAQ B-17 of Poverty Subgroup Membership That Includes Community Eligibility and Current USDA Waivers Allowing for the Seamless Summer Option with No Area Eligibility Restrictions.
- Request Expanding the FAQs or Adding a Separate/Consolidated FAQ Focusing on the Variety of Options and Examples for Using Growth Measures.

- Support FAQ E-4 Recommending Adding an Explanation of the COVID Context in State and Local Report Cards.

Please let me know if there are questions on the Council's comments at [REDACTED] .

Sincerely,

[REDACTED]

Raymond Hart  
Executive Director

**From:** [REDACTED]  
**To:** [OESE.feedback](#)  
**Subject:** FAQ Feedback - Impact of COVID-19 on 2021-2022 Accountability Systems  
**Date:** Tuesday, January 18, 2022 4:03:18 PM  
**Importance:** High

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**CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Good afternoon.

The Missouri Department of Elementary and Secondary Education (DESE) values accountability, transparency and assessment. Missouri educators worked very hard to ensure that students could test on-site in school buildings safely during the most recent assessment window. Due to their efforts, most of Missouri's 554 districts and charter LEAs met or exceeded the participation rate target. This translates to statewide participation rates above 90% across the board. Missouri is very fortunate to have had this high level of participation. This high participation rate contributed to the validity and comparability of the data.

MAP was created to capture the highest quality of fair and meaningful data – in part through administration of the same tests under the same conditions. Which is why last year's tests were administered on-site, in school buildings, using the same standardized protocols for administration as in the past. The tests themselves were comparable to those administered in previous years and they were reported using the same metrics and scales. Combined with the high participation rate—over 90%—this means that our results are trustworthy. The assessments were valid and therefore results COULD be compared to past years' data for many purposes. That doesn't mean they SHOULD.

These tests were taken under unprecedented circumstances – teachers and students may have been absent for extended periods of time due to illness and quarantine...teachers and students alike were experiencing unparalleled stress, ...students were often learning throughout the year in new modes of instruction and changing from one mode to another. Blanket comparisons to previous years' assessment data that ignores this long list of variables would be a SERIOUS misuse of these data. Given the ongoing struggles with teacher and student absences and ongoing interruptions in student learning, DESE does not believe that now is the time to redesign our accountability system, particularly based on one year of assessment data following the interruption of learning over the last two years.

DESE has no problem with the testing and reporting requirements but the identification of individual buildings appears misguided. Attempting to modify or redesign the state's accountability system will take an enormous amount of time to do and will likely yield questionable results based on one year of data and the significant changes that have occurred over the past several years. DESE strongly believes that focusing on the ideas that are included in the introduction to the FAQ, i.e. redesigning assessment systems, determining impact on the use of the relief funds, determining which students were most significantly impacted (not just by building but as a whole) and working to address this immediately – are most important in ensuring that Missouri's students most impacted by the learning interruptions of the past two years (and the focus of Title I services) are best served.

Jocelyn Strand  
Improvement and Accountability Administrator  
MO Department of Elementary and Secondary Education

[REDACTED]  
[REDACTED]

January 11, 2022

The Honorable Miguel Cardona  
Secretary  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

**Re: Proposed COVID-19 on 2021-2022 Accountability Systems Guidance**

Dear Secretary Cardona:

Thank you for providing this opportunity to comment on the Department of Education's ("Department") proposed guidance titled "Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)". The pandemic has changed many aspects of the routines schools and students had in place pre-COVID. Even so, there is an unwavering need for adherence to effective systems of monitoring, transparency, and improvement – aligned with state-established goals for student and school performance. The information and insights gained through these systems are essential to efforts to ensure every student and school receives the resources and related support they need to succeed.

**NWEA appreciates the Department's longstanding commitment to promoting and supporting effective data collection and use, including data derived from high-quality assessments.** We designed accountability systems provide the foundation and "engine" required for achieving this data-centric vision, so we welcome the draft guidance's affirmation of accountability's centrality to state and local school improvement efforts. Accurate data is essential to ensuring educational equity and supporting continuous school improvement. Equipping students, educators, administrators, families, and policymakers with the usable information required to guide teaching, learning, and other decisions is crucial to schools' ability to prepare learners for success after graduation. We also appreciate the Department's emphasis on the different purposes of different assessments and agree wholeheartedly that not all assessments are designed to support state policymakers in system-level decision-making.

**NWEA further commends the draft guidance's focus on the fundamental equity purpose of ESEA's accountability and assessment requirements.** Congress rightly crafted the ESEA to direct additional federal resources and support to the schools and students that require supplemental help. State accountability systems were disrupted, unavoidably, by the COVID-19 pandemic, but the inequities exacerbated by the crisis are a powerful reminder that accountability systems remain essential to identifying the persistent challenges facing student groups and channeling resources and supports to them. For example, states' use of student growth measures in accountability system indicators will require close scrutiny of test data and possible adjustments in light of participant challenges. It is important and laudable that states have the opportunity to make necessary changes.

**NWEA also supports the guidance's references to improving accountability and assessment models.** The pandemic has provided the education community with an extraordinary opportunity to reimagine and transform assessment and accountability systems. The draft guidance recognizes accountability's core value in supporting struggling students (not rating or ranking schools), especially near-term application to pandemic learning recovery, while also acknowledging that states should collaborate with their stakeholders to make short- and long-term improvements to their systems. Students and schools will undoubtedly benefit from systematic, state-led efforts to identify and adopt accountability and assessment innovations.

As the Department completes work on the final guidance, we urge you to maintain your commitment to ESEA's accountability principles while continuing to allow space for short-term flexibility and longer-term innovation by states. Ensuring that mechanisms are in place to promote data collection and use is one of the most effective ways to promote educational equity and student success.

Sincerely,



Chris Mennich

**From:** [REDACTED]  
**To:** [OESE.feedback](#)  
**Subject:** Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)  
**Date:** Monday, January 17, 2022 3:12:33 PM

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Comments to Draft: [Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 \(ESEA\)](#)

**B-1. What discretion does an SEA have regarding its long-term goals and measurements of interim progress?**

**COMMENTS:** With regard to allowing states to make changes to long-term goals and measurements of interim progress, we offer the following comments:

The Department must ensure that proposed changes to long-term goals and measurements of interim progress for academic achievement do not result in less ambitious goals for certain student subgroups. Allowing States to establish new baselines using data from the 2021-2022 school year will likely result in historically under-performing student subgroups – particularly students with disabilities, students of color and economically disadvantaged students – being assigned less rigorous goals than originally set out in a State’s plan.

The Department has already recognized that certain student subgroups have been disproportionately impacted by the disruptions caused by the Coronavirus Disease 2019 (COVID-19) pandemic, as articulated in the Office for Civil Rights (OCR) report, [Education in a Pandemic: The Disparate Impacts of COVID-19 on America’s Students](#). The report found that:

“Although the pandemic’s effects will be studied for many years to come, we know from early studies that for many students, the educational gaps that existed before the pandemic—in access, opportunities, achievement, and outcomes—are widening. And we can see already that many of these impacts are falling disproportionately on students who went into the pandemic with the greatest educational needs and fewest opportunities—many of them from historically marginalized and underserved groups.”

The Department must ensure that the **disproportionate impact** on these students is not perpetuated by allowing States to adjust long-term goals and measurements of interim progress for academic achievement that do not attempt to make up for the lack of achievement. Revised goals should continue to focus on gap-closing, which is the primary purpose of the ESEA as amended, as stated in Sec. 1001: “The purpose of this title is to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.”

**B-16. May an SEA revise its minimum number of students for accountability?**

**COMMENTS:** The draft response to this question allows a state to adjust its current minimum number of students for accountability – as known as ‘n’ size. We see no reason to allow states

to adjust 'n' size and fear that this will result in states' adopting larger 'n' sizes in order to minimize impact.

The flexibility offered in the current draft will essentially render ESSA toothless, disappointing those who advocate for students who historically underperform.

Candace Cortiella

The Advocacy Institute

[www.AdvocacyInstitute.org](http://www.AdvocacyInstitute.org)

@AdvocacyInst



January 15, 2022

Melissa Siry  
Office of Elementary and Secondary Education  
U.S. Department of Education  
400 Maryland Avenue SW  
Washington, DC 20202

Dear Ms. Siry:

As a collaboration of 59 national and state organizations seeking to advance educational equity and excellence through federal, state, and local policy and advocacy, the undersigned organizations welcome the opportunity to respond to the U.S. Department of Education's (ED's) request for public comments on its [draft guidance](#), *Frequently Asked Questions Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)*.

We recognize the immense challenges that state policymakers, school district leaders, educators, families, and students face every day as they respond to the ongoing and evolving challenges posed by COVID-19. These disruptions have disproportionately affected students of color, students living in poverty, students with disabilities, students learning English, and students experiencing homelessness.

ED plays a key role in supporting states and school districts by providing funding, technical assistance, and guidance to clarify how they may implement vital federal laws aimed at protecting underserved students. One of those laws, the Every Student Succeeds Act, includes critical tools—statewide accountability, school improvement, and public reporting systems—to ensure districts, schools, and students that need additional resources and support receive them. These systems rely on comparable data from statewide assessments and other measures, such as graduation rates, measures of college and career readiness, and chronic absenteeism, to shine a spotlight on opportunity and resource gaps so that states can direct resources to the communities and students who need them most.

Given uneven access to remote learning during COVID-19 school closures and interrupted learning time during the 2019-20 and 2020-21 school years, assessment data and other indicators collected during the 2021-22 school year provide leaders with a vital tool to identify the districts, schools, and students that need substantially more resources because they have been affected most by the pandemic.

We appreciate ED's draft guidance reiterates the critical ESEA requirements for states to identify schools in need of supplemental resources and differentiated support on a regular basis—including following the 2021-22 school year. By designating schools needing comprehensive, additional targeted, and targeted support, they become eligible for additional federal school improvement funding (i.e., ESEA section 1003(a) funding), and they should receive additional state and school district technical assistance to design and implement evidence-based plans to address lost instructional time and other student and educator needs. As ED reiterates in the guidance, the primary objective of state accountability systems this year should be to use these systems to direct resources and supports to the schools and students who have been disproportionately harmed—academically, socially, and emotionally—by COVID-19 and to continue these supports even after COVID-19 relief funds have been spent. This fall will be the *first opportunity* for states to ensure their accountability systems reflect the additional resources students need as a result of the pandemic. Further, ED's guidance helpfully notes ways in which ESEA gives states the discretion and flexibility they need to update their accountability

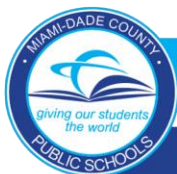
systems, as needed, to account for the unique challenges schools are facing at this time and to ensure students receive the supports they need. Finally, we appreciate that ED's guidance encourages the use of Elementary and Secondary School Emergency Relief funding for school improvement purposes under ESEA.

As always, we value the Department of Education's commitment to providing robust support to states and school districts across the country. We look forward to reviewing and supporting state and district implementation of the final guidance and partnering with ED to ensure that all students, especially those underserved and those most impacted by COVID-19, receive a high-quality education.

Sincerely,

A for Arizona  
A+ Education Partnership (Alabama)  
Alabama PTA  
All4Ed  
America Succeeds  
Association of American Educators  
BEST NC  
Bluum  
Buffalo Public School's District Parent Coordinating Council  
Capital Region Chamber  
CarolinaCAN  
Children's Education Alliance of Missouri  
Collaborative for Student Success  
Colorado League of Charter Schools  
Data Quality Campaign  
DelawareCAN  
EdAllies  
Educate Texas  
Education Reform Now  
Education Reform Now New York  
Educators for Excellence  
First State Educate  
Florida PTA  
GO Public Schools  
GO Public Schools Fresno  
GO Public Schools Oakland  
GO Public Schools West Contra Costa  
Great MN Schools  
HawaiiKidsCAN  
IDEA Public Schools  
Illinois Network of Charter Schools  
Innovate Public Schools  
Kids First Chicago  
KIPP Public Schools  
Learning Heroes  
National Alliance for Public Charter Schools

National Association of Charter School Authorizers  
National Center for Learning Disabilities  
National PTA  
National Urban League  
NewMexicoKidsCAN  
Opportunity 180  
Our Turn  
Parent Impact  
PAVE (Parents Amplifying Voices in Education)  
Ready Education Network  
Results for America  
SchoolHouse Connection  
StudentsFirstNY  
Teach Plus  
The Education Trust  
The National Parents Union  
The Oakland REACH  
TNTP  
Transform Education Now  
U.S. Chamber of Commerce Foundation  
UnidosUS  
Urban League of Long Island, Inc  
Washington Roundtable



# Miami-Dade County Public Schools

*giving our students the world*

## **Superintendent of Schools**

Alberto M. Carvalho

## **Miami-Dade County School Board**

*Perla Tabares Hantman, Chair*

*Dr. Steve Gallon III, Vice Chair*

*Lucia Baez-Geller*

*Dr. Dorothy Bendross-Mindingall*

*Christi Fraga*

*Dr. Lubby Navarro*

*Dr. Marta Pérez*

*Mari Tere Rojas*

*Luisa Santos*

January 14, 2022

## **VIA ELECTRONIC MAIL**

[OESE.Feedback@ed.gov](mailto:OESE.Feedback@ed.gov)

Dr. Miguel Cardona, Secretary of Education  
U.S. Education Department  
400 Maryland Avenue, S.W.  
Washington, DC 20202

## **RE: FREQUENTLY ASKED QUESTIONS: IMPACT OF COVID-19 ON 2021-2022 ACCOUNTABILITY SYSTEMS REQUIRED UNDER THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965**

Dear Secretary Cardona:

In response to significant pandemic impacts to classroom learning, the School Board of Miami-Dade County has amended its legislative programs to seek extended flexibility under state and federal accountability systems. On behalf of the affected students and schools in the nation's fourth-largest school district, we write in support of state and local flexibilities as expressed in the draft Frequently Asked Questions (FAQ) currently posted for comment on the Office of Elementary & Secondary Education website.

Miami-Dade County Public Schools is experiencing higher-than-anticipated levels of COVID-19 absences with over 130,000 instructional days lost so far due to student absences. These ongoing disruptions to student learning—with the potential for disproportionate impacts on educationally disadvantaged students—led the School Board to adopt an amendment to its State and Federal Legislative Programs on January 12, 2022. As described in the attached letter to Commissioner Richard Corcoran, the District is asking the state to extend flexibility in the use of standardized assessments and accountability related to school grades and school improvement ratings, as well as graduation requirements for the 2021-2022 graduating class; third grade retention requirements; and the academic growth component used in teacher evaluations.

Accordingly, we support the flexibilities proposed in the draft FAQ which enable the Florida Department of Education to amend the state education plan, and to seek any needed waivers consistent with federal law so as to meet this policy request.

Thank you for your proactive response to educational needs during the resurgent COVID-19 pandemic. If you have any questions, please contact Ms. Tabitha G. Fazzino, Chief Intergovernmental Affairs and Compliance Officer, Office of Intergovernmental Affairs and Compliance, at [REDACTED].

Sincerely,

[REDACTED]

Alberto M. Carvalho  
Superintendent of Schools

AMC:mdn  
L580

Attachment

cc: School Board Members  
School Board Attorney  
Superintendent's Cabinet



# Miami-Dade County Public Schools

*giving our students the world*

## **Superintendent of Schools**

Alberto M. Carvalho

## **Miami-Dade County School Board**

Perla Tabares Hantman, Chair

Dr. Steve Gallon III, Vice Chair

Lucia Baez-Geller

Dr. Dorothy Bendross-Mindingall

Christi Fraga

Dr. Lubby Navarro

Dr. Marta Pérez

Mari Tere Rojas

Luisa Santos

Commissioner Richard Corcoran  
Florida Department of Education  
Turlington Building, Suite 1514  
325 W. Gaines Street  
Tallahassee, FL 32399

Dear Commissioner Corcoran:

Miami-Dade County Public Schools is experiencing levels of COVID-19 absences and learning impacts that merit an extension of flexibility regarding accountability for the 2021-2022 school year. On January 12, the Miami-Dade School Board adopted an amendment to its State and Federal Legislative Programs (attached) requesting flexibility in the use of standardized assessments and accountability related to graduation requirements for the 2021-2022 graduating class; to third grade retention requirements; to school grades/school improvement ratings; and to the academic growth component (VAM) used in teacher evaluations. On behalf of the affected schools and students, I urge the state ensure fairness and flexibility in implementing accountability measures under exigent conditions, and to provide any needed state plan addendum as authorized under the federal accountability system.

Locally, over 130,000 instructional days have been lost so far due to student absences, and the effects continue to toll at escalated rates following the winter break. Since August, over 3,850 Miami-Dade students and 750 District employees have tested positive, and the positivity rate now reaches 35 percent. Despite the best efforts of students, teachers, and schools, mounting absences are certain to result in additional learning loss notwithstanding the continued availability of in-person classes and the health impacts from the Omicron variant. Miami-Dade is Florida's most dense and populous county, yet similar circumstances are being faced by schools and districts statewide.

The cumulative effects of such learning disruptions—which tend to have disproportionate impacts on educationally disadvantaged students—justify a commensurate flexibility under state and federal accountability systems. Florida has clear precedent for mitigating the potential arbitrariness of accountability measures in the wake of major challenges. For example, a hold harmless measure was implemented when Florida changed its school grading formula, ensuring that schools could drop no more than one letter grade, and your own Emergency Order of April 9, 2021, provided flexibility for determining school

grades and VAM scores during the pandemic. That order also addressed graduation waivers when a student's high school record shows achievement comparable to required assessments, as well as waivers of assessment scores for third grade promotion when the school is able to provide reasonable evidence of a student's performance level.

Please consider how best to implement similar flexibilities to meet the needs of Florida students and schools, including any state plan modifications that may need to be filed with the federal Office of Elementary & Secondary Education, so that accountability measures designed prior to the pandemic are not applied with unintended consequences.

If you have any questions, please contact Ms. Tabitha G. Fazzino, Chief Intergovernmental Affairs and Compliance Officer, Office of Intergovernmental Affairs and Compliance, at [REDACTED].

Sincerely,

[REDACTED]

Alberto M. Carvalho  
Superintendent of Schools

AMC:mdn  
L573

Attachment

cc: School Board Members  
School Board Attorney  
Superintendent's Cabinet

Office of Superintendent of Schools  
Board Meeting of January 12, 2022

January 11, 2022

Office of Intergovernmental Affairs & Compliance  
Tabitha G. Fazzino, Chief Intergovernmental Affairs & Compliance Officer

**SUBJECT: AMEND THE BOARD APPROVED 2022 STATE AND  
FEDERAL LEGISLATIVE PROGRAMS**

**COMMITTEE: FISCAL ACCOUNTABILITY AND GOVERNMENT  
RELATIONS**

**LINK TO  
STRATEGIC PLAN: EFFECTIVE AND SUSTAINABLE OPERATIONAL  
PRACTICES**

Given the ongoing disruptions to teaching and learning due to student and teacher absences caused by the COVID-19 pandemic, authorization is requested to amend the District's 2022 State and Federal Legislative Programs to request that the Florida and the U.S. Departments of Education provide flexibility on the following assessment and accountability requirements for the 2021-2022 school year:

- Graduation requirements for the 2021-2022 graduating class
- 3<sup>rd</sup> Grade retention requirements
- School Grades/School Improvement Ratings
- Utilization of academic growth component (VAM) in teacher evaluations

These recommendations are made because of the critical conditions facing the District as the COVID-19 positivity rate in the community averages 35 percent based on the January 10, 2022, Miami-Dade County official COVID dashboard. As of January 2022, over 130,000 instructional days have been lost due to student absences from school which is certain to result in additional learning loss for students.

Good cause exists to vary from the established agenda because Florida's Legislative session begins on Tuesday, January 11, 2022, and concludes on Friday, March 11, 2022. Staff will be working with our legislative team to ensure that these additional priorities are shared. This item has been approved by the School Board Attorney as to form and legal sufficiency.

**Good Cause  
E-202**

**RECOMMENDED:**

That The School Board of Miami-Dade County, Florida authorize the Superintendent to amend the District's 2022 State and Federal Legislative Programs to request flexibility on the following assessment and accountability requirements for the 2021-2022 school year: graduation requirements for the 2021-2022 graduating class; 3rd Grade retention requirements; School Grades/School Improvement Ratings; and utilization of academic growth component (VAM) in teacher evaluations.

taf:kh



To: U.S. Department of Education  
From: Learning Policy Institute  
Date: January 18, 2022  
Re: Comments on FAQs: “Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA),” released 12/17/21

The Learning Policy Institute (LPI) conducts and communicates independent, high-quality research to improve education policy and practice. Working with policymakers, researchers, educators, community groups, and others, LPI seeks to advance evidence-based policies that support equitable and empowering learning for each and every child.

On December 17, 2021, the U.S. Department of Education (ED) released a draft for public comment titled “[Frequently Asked Questions: Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 \(ESEA\)](#)” (FAQs).

To address the unprecedented student needs—both instructional and social-emotional—facing schools across the country, states, educators, and the public need access to meaningful data on a wide variety of measures that can be used for precise and responsive improvement. The moment is both urgent and timely. The COVID-19 pandemic has laid bare major inequities in access to learning opportunities and concerns about the how to strengthen teaching and learning, in part by making assessment and accountability systems more useful for informing and shaping both.

ED’s FAQs describe opportunities to rethink assessment and accountability in ways that promote better teaching and learning for all students, particularly students of color and students from low-income families, who continue to be deeply underserved by our current education systems. We support ED’s efforts to move assessments in more learning-centered directions and to reinforce the value of expanding accountability system indicators to reflect a broader range of important inputs and outcomes, including access to and completion rates of college and career ready coursework, postsecondary enrollment and completion data, and safe, healthy, and inclusive learning environments. Encouraging states to consider such changes is well-grounded in research, as we describe below.

Our comments focus on current and potential additional federal strategies that can guide states in (1) developing innovative assessment systems designed to better support teaching and learning, including learning recovery and (2) expanding accountability systems to include opportunity to learn and other equity measures that can better support student and school improvement by

illuminating inequities in opportunity. We conclude with a brief discussion of the potential impact of the omicron surge, and how it may impact school assessment and accountability processes. Guidance, support, and flexibilities from ED can help to ensure that states and LEAs lean in on equity and learning recovery, as the COVID-19 crisis—now in its third year—demands.

## **Opportunities to Support Innovative Assessment Systems Designed to Better Support Teaching and Learning, Including Learning Recovery**

As the ED FAQ draft observes, pandemic disruptions to assessments present an opportunity to improve statewide assessments, including through “the use of multiple measures of student academic achievement, including measures that assess higher-order thinking skills and understanding, which may include measures of student academic growth and may be partially delivered in the form of portfolios, projects, or extended performance tasks which can provide students with culturally and linguistically responsive ways of demonstrating progress” (FAQs, p. 5).

As school systems struggle to support learning recovery in the wake of pandemic-driven disruptions to teaching and learning, teachers and students need access to assessment data that can directly inform teaching and learning. Research suggests that for assessments to be used to actively advance student learning, they should:

1. [measure and signal sophisticated disciplinary thinking and higher-order skills](#) (e.g., through high-quality performance assessments that show how students think and what they can do with their knowledge),
2. go beyond determining if students have mastered grade-level content to [provide insight into where student performance is along multi-year learning progressions](#),
3. be used as part of systems of support for educators that help teachers and leaders identify productive next steps in the classroom and programmatically, and;
4. be one part of a multi-faceted accountability system that supports student access and success, so that the root causes of underperformance can be identified and remedied.<sup>1</sup>

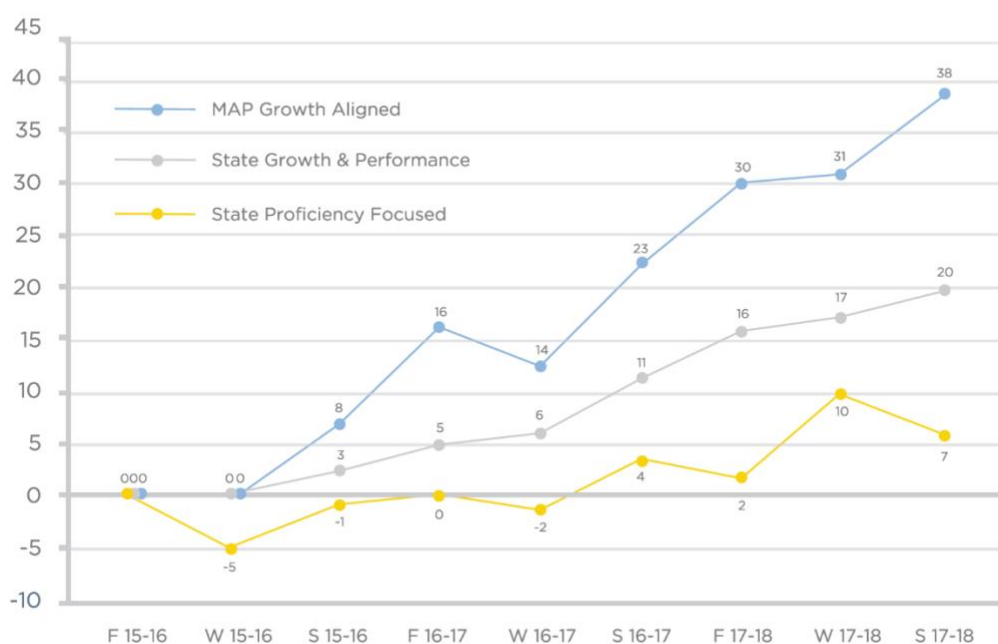
Especially in a time of significant learning disruption but also for long-term progress in personalizing learning for each student, assessment design should be anchored in multi-year learning progressions to allow for timely and relevant information that guides learning acceleration. While locating student performance in relation to grade level standards, assessments should measure skills along a learning continuum that shows more precisely where students are in their learning and how to take next steps. As noted in [The Iceberg Problem](#) (p.29):

[Growth measures used in accountability systems] cannot precisely measure learning and knowledge gains that the tests do not assess—namely, content above or below grade level. This means that “growth” measures currently possible with state assessments only detect a narrow slice of potential learning.

That report illustrates the problem with the results of a study of the use of individualized mathematics teaching tools. Schools that were able to measure student learning along a multi-year continuum and teach directly to the skills needed saw a gain of 38 percentile points in

achievement over 3 years, while those that were restricted by their school or district policy to focusing on grade level standards alone saw a gain of only 7 points over that same period of time, because they were unable to help students solidify and then build on their understanding of skills and concepts they had previously missed.

**Figure 13**  
**Change in School-Level Percentile by School Category**



*Note: Figure shows percentile gain for consistently-enrolled students. The MAP Growth Aligned category includes schools 4, 5 and 6. The State Growth & Performance category includes schools 1, 2, 3 and 7. The State Proficiency Focused category includes schools 8-14.*

**Source:** *The Iceberg Problem* (2019), available at <https://www.newclassrooms.org/icebergproblem/>

As states consider how to leverage their assessment systems in ways that support learning recovery and acceleration, it will be important to consider ways that ED can support the design of state assessment programs that provide nuanced information about student progress that supports targeted acceleration efforts, while monitoring mastery of grade-level expectations.

### Current Federal Support

Currently, the Every Student Succeeds Act (ESSA) encourages states to consider including measures of performance to evaluate critical abilities—such as critical thinking, inquiry, communication, and collaboration—that are part of high-quality standards most states have adopted and essential for student success, but poorly measured by many traditional tests. It explicitly allows the use of multiple assessments, including “portfolios, projects, or extended-performance tasks” as part of state systems (Sec. 1111(b)(2)(B)(vi)). ESSA makes it clear that assessments must “assess higher-order thinking skills and understanding.” States were also

invited to apply for an innovative assessment pilot to develop new approaches to assessment and gradually scale them up statewide (Sec. 1204).

### **Potential Federal Support**

Despite these encouragements, few states have yet been able to develop systems that provide incentives and opportunities for teaching and assessing the more complex thinking, problem solving, communication, and design skills expected by current state standards. Fewer have been able to develop systems that provide insights into student learning throughout the year in ways that are (1) connected to the curriculum students are learning, and (2) provide support for educators to implement curriculum in ways that advance student progress. To date, only five states have been approved for the innovative assessment demonstration authority (IADA), because its requirements have been perceived by many as too onerous and unsupportive of meaningful innovation, without meaningful resource investment to support this complex work.

Given the current and urgent need for new, innovative assessments that can better support learning recovery and acceleration toward sophisticated academic expectations, ED should consider strengthening IADA and using other existing assessment authorities in new ways that help states realize the opportunities for more meaningful assessment systems that ESSA offers. This could include the following approaches:

1. **Revisit technical requirements to better match the goals of new learning-centered assessment systems** by, for example, convening assessment experts and content experts to make recommendations for updating current technical requirements within the letter and spirit of the law so that they are appropriate to more instructionally relevant assessment designs (e.g., through-course, curriculum-embedded performance assessments; measures that address a broader multi-year learning continuum) while maintaining a high bar for quality, equity, and comparability across classrooms, schools, and districts.
2. **Support both planning and implementation phases of new assessment system design** through, for example, **grants** for initial planning phases focused on activities that would position states to have a clear plan for how their innovative designs will support students. Implementation support should include support for **capacity building** efforts such as the allocation of both sufficient time and funding for educator training for design, administration, scoring, and use of assessment results, as well as ongoing improvements in curriculum and instruction.
3. **Create or expand opportunities that support and incentivize multi-state collaborative efforts**, which could include supporting multi-state collaboratives pursuing common innovative task, item, and/or instrument development and/or developing new shared assessment system designs that are implemented in state-specific ways.

## Opportunities to Expand Accountability Systems to Include Opportunity to Learn and Other Equity Measures

ED’s FAQs encourage states to consider “opportunities to make broader, meaningful, and lasting changes to the State’s system, including those based on lessons from the last two years, the evolving understanding of the needs of students in the State, and other lessons on how to most **effectively measure the needs of students and schools in ways that are valid, reliable, and actionable,**” and, in particular, “opportunities to continue and expand public reporting of a range of **opportunity to learn measures,**” used for school identification or other purposes (FAQs, p. 5).

ED’s reiteration that ESSA articulates a more expansive view of accountability through the use of a wide range of [opportunity to learn indicators](#) and other “[equity indicators](#)” can help states strengthen students’ equitable access to opportunities to learn and support targeted student and school interventions, leading to improved outcomes.

To make the equity promise of ESSA real, a broad range of accountability indicators need to be combined with appropriate and effective policies and strategies that include authentic monitoring, intentional transparency, and strong communication loops to support students most marginalized by the education system.

[Such a system of accountability](#) should be animated by processes for continuous evaluation and improvement that lead to problem-solving and corrective action at the local level and that are supported by the state. The system should be:

- reciprocal and comprehensive, with each level of the system—school, district, state, and federal government—held accountable for the contributions it must make to produce an effective system;
- focused on capacity building, including the knowledge, skills, and improvement processes needed to support high-quality education;
- performance based in its means for gauging progress and success; and
- informed by multiple measures that illuminate what is working and what needs to be addressed and improved.

### Current Federal Support

ESSA created opportunities for a [more expansive view](#) of accountability systems that are designed to help leverage improvement, not just to label or sanction schools. Given that there are multiple outcomes of schooling that we care about, and that outcomes can only be understood in relation to inputs and processes, a helpful accountability and improvement system will consider inputs, processes, and outcomes simultaneously, and enable its users to begin to understand the relationships among them, so that they can pursue useful changes.

### *Multiple Measures of School and Student Success*

ESSA requires states to add at least one indicator of “school quality or student success” (SQSS) to their accountability systems. Additionally, in the design of their state accountability systems,

ESSA specifies, and ED’s FAQs support, that states may “include, for elementary and middle schools, either a measure of student growth or “another valid and reliable statewide academic indicator that allows for meaningful differentiation in school performance,” which could include, for example, science or social studies assessment results or indicators of college and career readiness (Sec. 1111 (c)(4)(B)(i)(I-II)).

[Research-based indicators](#), such as those listed below, can be used to encourage schools, LEAs, and states to pay attention to the conditions under which students are learning and the opportunities they experience.<sup>2</sup> For example, to promote equity and improve outcomes, states can, among other things:

- **track suspension and expulsion rates**, while removing zero-tolerance discipline policies that have proven ineffective in improving youth performance, replacing them with restorative justice practices. Greater attention to suspension and expulsion rates is supported by research, which demonstrates that students who are removed from school lose instructional time and tend to have lower academic success, higher rates of grade retention, lower graduation rates, and are more likely to become involved in the juvenile justice system.<sup>3</sup>
- incentivize schools to **evaluate and improve school climate**, which is associated with youth achievement and educational attainment, for all groups of youth, with special attention to those who are most vulnerable. Research has found that a positive school climate improves academic achievement and reduces the negative effects of poverty on achievement, boosting grades, test scores, and student engagement.<sup>4</sup> The science of learning and development demonstrates that a positive school environment is not a “frill” to be attended to after academics and discipline are taken care of; it is the primary pathway to effective learning.<sup>5</sup> Because children learn when they feel safe and supported, and their learning is impaired when they are fearful or traumatized, they need both supportive environments and well-developed abilities to manage stress. Therefore, it is important that schools provide a positive learning environment that allows students to learn social-emotional skills as well as academic content.<sup>6</sup>
- **monitor attendance and chronic absenteeism**, and create approaches to intervene early and support attendance where needed to increase learning time. Students who are chronically absent in preschool, kindergarten, and 1st grade are much less likely to read at grade level by the 3rd grade and are 68% less likely than other students to graduate.<sup>7</sup> Research suggests that attendance may predict a student’s academic progress as effectively as test scores.<sup>8</sup>
- use an **extended-year graduation rate** (e.g., 5, 6, or 7 years), as well as a 4-year rate, to encourage high schools to work with and bring back young people who, for a variety of reasons, could not graduate in 4 years. This approach supports and rewards schools that are implementing evidence-based strategies to ensure that all youth graduate, even those who may need more than the standard number of years, and guards against perverse incentives to exclude lower-performing youth to boost accountability metrics. For example, New York City has long tracked extended year graduation rate data, and the impact is particularly noticeable in schools serving immigrant youth. A study of the

Internationals High School Network, a group of 17 schools with a strong track record of success in graduating recent immigrant English learner students and sending them to college, found that their average graduation rates grew from 63% after 4 years to 89% by year 7. These data suggest that when schools are incentivized to keep and support youth with extra challenges, more youth may ultimately graduate.<sup>9</sup>

- measure youths’ **access to and completion of college- and career-ready courses of study** in an effort to open up evidence-based pathways to future success that help youth reach their potential and encourage schools to offer these opportunities to all youth. Research demonstrates that taking college preparatory coursework in high school correlates with several indicators of college readiness, from college enrollment<sup>10</sup> and grades<sup>11</sup> to persistence and completion.<sup>12</sup> Similar research shows that students enrolled in career academies (which blend academic preparation with well-designed experiential learning in occupational fields) enroll in community college at higher rates,<sup>13</sup> are more prepared for college coursework,<sup>14</sup> and experience higher wages and greater employment stability.<sup>15</sup> State accountability systems that include information regarding student access to and completion of a college- and career-ready curriculum can incentivize more attention to students’ curriculum opportunities, and reveal whether additional resources and supports are needed.<sup>16</sup>

[A number of states](#) have responded to ESSA’s SQSS indicator requirement by adding indicators of college and career readiness, extended-year graduation rates, suspension rates, school climate, and chronic absenteeism, which all provide information about the broader set of outcomes and opportunities that shape student success. As described by a committee of the National Academies of Sciences, Engineering, and Medicine in their 2019 report, [Monitoring Educational Equity](#), as well as others, potential [opportunity to learn indicators](#) include access to a rich curriculum and access to qualified educators. Other equity indicators could include family/community engagement and [postsecondary/workforce outcomes](#).

Some opportunity to learn and equity indicators could be considered academic indicators, as reflected in ESSA’s “other academic” indicator requirements (Sec. 1111(c)(4)(B)(ii)(I-II)), especially as states continue to broaden their conceptualization of academic goals. For example, extended-year graduation rates and college and career readiness indicators provide critical information about students’ academic progress and opportunities, and science and social studies assessment results inform educators and leaders about academic progress in a well-rounded curriculum.

### ***Gathering and Presenting Data to Address Gaps and Needs***

Throughout its recent guidance and letters, ED has supported the use of opportunity to learn indicators to better identify student and school needs and remedy inequities. Additionally, the December 2021 draft FAQs continue to support research-backed approaches to gathering and presenting data in ways that best support states and LEAs in surfacing and addressing gaps and need areas, such as through the use of **data dashboards** and **school quality reviews**.

**Data dashboards** are a key tool for improving transparency for continuous improvement, as noted throughout ED’s FAQs. Like automobile dashboards that provide information on a car’s

functioning—gas gauge, engine temperature, tire pressure, and fluid gauge—a data dashboard provides critical information about what is working and what needs attention. Using multiple measures, data dashboards can track information about inputs, processes, and outcomes in a timely way to inform action. Because of the increased transparency and scope, the dashboard approach can be more effective than a single summative rating for reporting on LEA and state progress and need. Such data also help prioritize limited resources so that they address the most pressing needs.<sup>17</sup> (Examples of data dashboards can be found [here](#).)

Similarly, broader ways of understanding and responding to school performance should be encouraged because they allow for a stronger engine of improvement. For example, data can be supplemented by **school quality reviews** that provide a qualitative look at school functioning. These reviews typically involve a school self-assessment, followed by a site visit by expert and peer reviewers who develop qualitative insights by observing teaching, reviewing student work, and talking with stakeholders. The findings garnered from the review provide educators and administrators with actionable information to develop school improvement plans and assist stakeholders in prioritizing and targeting resources to provide learning supports and build local capacity. Such reviews can occur on a periodic basis for all schools ([see VT](#)) or as needed for schools in need of improvement ([see CO](#)) to guide them in planning and developing new strategies.

## Potential Federal Support

At this critical juncture for public education, states will need federal support to stay focused on supporting schools and LEAs through staffing shortages and learning recovery while leveraging data to support student and school improvement and maintaining public buy-in for assessment and accountability systems.

Given the current and urgent need for more expansive accountability systems that can better support efficient and precise improvement, ED should consider leveraging ESSA in ways that help states implement meaningful accountability systems, during the COVID-19 pandemic and beyond.

For example, ED could support states—through resources, technical assistance, and continuing to clarify options available under ESSA—in designing accountability systems that include more information about student learning conditions and opportunities and make valid, reliable data more actionable by:

- Continuing to support approaches to gathering and presenting data in ways that best support states and LEAs in surfacing and addressing gaps and need areas, including multiple measures of school and student success, data dashboards, and school quality reviews;
- Relatedly, continuing to communicate to educators, families, and policymakers that the purpose of accountability is to support continuous improvement and transparency.
- Encouraging and providing examples to states to better connect performance on indicators to specific improvement strategies and supports;

- Ensuring that federal policies and approaches support an approach to continuous improvement in which each level of the system—school, district, state, and federal government—is held accountable for the contributions it must make to produce an effective system;

## The Impact of Omicron

ED’s FAQs were released just as the omicron-fueled surge was taking off, and likely drafted before the seriousness of this current surge and its implications for school were fully apparent. Assessment results from last spring suggest that participation rates may jeopardize the ability to make valid and reliable accountability determinations. Reports from states across the country—such as [Oregon](#), [Colorado](#), [New Mexico](#), and [New York](#)—indicate that summative assessment participation was significantly less than pre-pandemic years. In Oregon, about one-third of elementary students participated in required assessments, and just 11% of 11<sup>th</sup> graders did. In Colorado, just 58% of 8<sup>th</sup> graders took the summative math test in 2021, compared to 89% in 2019. In New Mexico, just 10% of students participated in statewide summative assessments last year. And in New York, state summative test results are available for approximately 40% of students in grades 3-8, which is significantly less than half of the participation rate for the 2018-19 school year. Omicron may further jeopardize the ability to meaningfully differentiate school performance for purposes of accountability.

To support states during the ongoing education crisis and emphasize that accountability systems are designed to help leverage improvement, not label or sanction schools, ED may want to consider ways to support states in:

- Maintaining public buy-in for assessment and accountability systems by ensuring that suspect or invalid results are not used inappropriately; and
- Using school improvement funds to maintain support for pre-pandemic identified schools and better support additional schools in which equity data demonstrates need (such as those identified through OTL and equity indicators described above).

As the impacts of omicron continue to unfold, the ED may also want to consider how to continue to provide guidance to states about needed adjustments in response to assessment and accountability challenges, including adjustments to maintain as much validity and the most effective continuous improvement systems possible. A strategic approach to these near-term challenges has the potential to foster innovations in assessment and accountability that can strengthen state systems well into the future.

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January 18, 2022

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RE: Comments on “DRAFT Frequently Asked Questions: Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA) (December 17, 2021).”

Dear Ms. Siry:

On behalf of the National Association of Charter School Authorizers (NACSA) I am writing to provide comments on the draft “Frequently Asked Questions (FAQ): Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)” document released on December 17, 2021.

NACSA is an independent voice for thoughtful charter authorizing practices and policies that lead to more great public schools. Our research, advocacy, and direct support to authorizers advance smart charter school growth and oversight. NACSA is honored to have a long history of productive partnerships with the US Department of Education (ED). Through a combination of research and dissemination initiatives, together we have fostered innovation and spread best practices for the charter sector across the country. We are pleased to be given the opportunity to share our comments as ED considers the best ways to implement accountability and school improvement requirements after over two years of disrupted learning, one of many impacts that the COVID-19 pandemic has had on schools, families, students, and communities.

### **NACSA Shares the Department’s Commitment to Accountability Systems**

NACSA appreciates that with this guidance ED is underlining the importance of having state accountability determinations in 2022 using data from the 2021-22 school year. NACSA supports this action and shares ED’s belief that state report cards and accountability determination are a vital tool to take stock of and address the inequities and disparities that, in many cases, were exacerbated by the pandemic. We agree with ED that accountability determinations-- and the data that underpins them-- is important for diagnostic purposes and directing targeted resources and support to students. It is crucial that we understand where students are as we continue to recover from the many implications of the COVID pandemic, especially given the very different schooling experiences of students in the past two years.



Due to the highly accountable nature of charter schools, authorizers have been on the front lines of adapting accountability systems and measures of school quality since the start of the pandemic. In August 2021 we released a resource for authorizers, “2021 Supplemental Renewal Guidance”, to help authorizers adjust their measurements of school quality and performance for the unprecedented disruptions caused by the COVID-19 pandemic. In that guidance we focused on temporary measurements that authorizers could use to supplement any data available through traditional assessment and accountability systems that would still enable an authorizer to determine if a school was able to adapt and serve students at a high level. In doing so we honor a shared commitment to understand community needs and keep them at the center of the learning environment.

### **NACSA Requests the Addition of a FAQ to Address the Impact of Accountability Changes on Charter School Authorizing**

Data from state accountability systems is often a vital component of the unique authorizer-driven accountability that exists within the charter sector. Authorizers rely on this data to make high-stakes accountability decisions, such as whether to renew or close a charter school, that have immediate and lasting impacts on schools and students. Authorizing practitioners have grappled with how to make such decisions within the absence of state assessment data and with incomplete or inconsistent report card data. It is important that authorizers, schools, and the community have confidence in these decisions and the data they are based on, which is one of the reasons that multiple years of state report card data often features prominently in an authorizer’s deliberations.

This reliance on state accountability systems means that any changes to these systems have an outsized impact on authorizers and their decision-making capabilities and, by extension, the 7,000+ charter schools serving approximately 3.5 million students across the country. These schools, students, and families depend on authorizers, and the accountability and transparency they provide to make informed and timely decisions about what school to attend, where to focus efforts to improve school programs and services, and if the continued operation of a charter school is truly in the best interests of students and the community. Despite this outsized impact, authorizers historically have gotten little, if any, support or resources from their SEA to help them successfully adapt their authorizer-driven accountability systems to state accountability changes. There have been no federal resources made available (either technical assistance and support or direct funding) to help authorizers make these changes and, to NACSA’s knowledge, no SEA has opted to use emergency COVID assistance funds to support authorizers in this extraordinary supplemental work. While NACSA fully supports prioritizing emergency fund spending for use in the classroom, each COVID emergency assistance bill recognizes that system-level work, like assessments and accountability, does require supplemental resources, and the work of authorizers is no different.

It is for these reasons that NACSA is requesting that the Department add an FAQ that: (1) addresses the ability of SEAs to provide assistance to authorizers to help them adapt to changes being proposed by the state; and (2) reinforce to SEAs that changes to the state accountability system could have an outsized impact on the on-the-ground implementation of authorizer-driven charter school accountability.

Respectfully, we recommend that the content of such a FAQ be similar to the following:

Q: Can states use Title I funds and/or emergency COVID relief funds to provide funding, technical assistance, and/or other supports to charter school authorizers to assist them in making any necessary modifications to their authorizer-driven accountability mechanisms that result from changes states propose to their approved ESSA plan?

A: Yes, states can use Title I funds and/or emergency COVID relief resources to support this activity. The Department reminds SEAs that the vast majority of charter school authorizers rely on state accountability systems to inform authorizer-driven charter school accountability, such as renewal, non-renewal, or charter school closure decisions. Charter school authorizers may have to significantly modify their authorizer-driven charter school accountability mechanisms to appropriately adapt it to any changes in a state's accountability system. Decisions to change some components of state accountability report cards can have an outsized impact on authorizer-driven accountability: for example; state law may encourage or require an authorizer to close a charter school if it does not meet minimal state achievement standards for multiple years in a row, a requirement that can be complicated if state performance goals are substantially changed; communities with a large number of charter schools may have higher student mobility, which can make the use of averages over long time periods less reliable; and charter schools tend to be smaller than traditional public schools, which means changes to n-size can more significantly impact data availability. It is reasonable for a state to consider if the charter school authorizers in their state would benefit from assistance, such as direct funds or appropriate technical support, to assist charter school authorizers as they themselves make any necessary modifications that result from one-year state accountability changes. This also reinforces that SEAs should consult with a wide variety of community stakeholders, which may include charter schools and charter school authorizers, when proposing accountability changes.

The Department also reiterates that any support provided by the SEA to charter school authorizers must respect ESSA section 1111(c)(5) that states that accountability for charter schools is to be overseen in accordance with state charter school law, which in practice permits states and/or authorizers to appropriately differentiate accountability consequences for charter schools (such as, but not limited to, permitting closure of a charter school identified as persistently low performing) and ensure authorizers have the discretion to set and hold charter schools to higher goals than those set by the state accountability system (if/when consistent with state charter school law).

We note that this FAQ could also be expanded to provide assurances that SEAs or LEAs themselves could use their Title I funds or relief funds to support the adaptations they too may have to make to their accountability, data collection, and report card systems. If ED elects to expand the FAQ in this way, we emphasize the importance of naming charter school authorizers specifically as an eligible target and recipient of any supports, as they are often left out and receive no new resources.

In conjunction with the FAQ, we also respectfully request that ED itself support the development and dissemination of best practices to charter school authorizers in adapting



authorizer-driven accountability systems to state accountability system changes. NACSA appreciates the work done by the Office of Elementary and Secondary Education to disseminate COVID resources to the charter school community through the National Charter School Resource Center. However, we must note that more could be done to elevate charter school authorizer resources developed by the field to the SEA audiences that make state accountability system decisions and have a responsibility to support all members of the public education system, including charter school authorizers, whose ability to execute their core duties are significantly impacted by SEA decisions. This could include the dissemination of NACSA's resources on these issues, such as the aforementioned [2021 Supplemental Renewal Guidance](#). SEAs may also benefit from OESE TA opportunities to help SEAs identify what support charter school authorizers in their states may benefit from.

We would welcome the opportunity to discuss these recommendations and ideas in more detail at any time. Thank you for your consideration.

Sincerely,



M. Karega Rausch

**From:** [REDACTED]  
**To:** [OESE.feedback](#)  
**Cc:** [REDACTED]  
**Subject:** NAESPA Accountability FAQs Comments Letter  
**Date:** Thursday, January 13, 2022 1:27:36 PM  
**Attachments:** [image.png](#)  
[image.png](#)

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**CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Melissa... Please see the NAESPA Accountability FAQs Comments Letter below. Bob

image.png



Melissa Siry  
Office of Elementary and Secondary Education  
400 Maryland Avenue, SW  
Washington, DC 20202

January 12, 2022

Re: Draft Accountability FAQ

Dear Ms. Siry,

The National Association of ESEA State Program Administrators (NAESPA) appreciates the opportunity to comment on the “Frequently Asked Questions” document regarding the “Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)” (referred to in this letter as the “FAQs document”). We also recognize and appreciate the effort to clarify how some of the requirements of ESEA apply as States transition out of pandemic-related waivers. We have a number of concerns and suggestions, listed below, which we hope you will consider as you work toward a final version of this document.

First, as a general concern, State and local educational agencies are already strained beyond their limit with compliance requirements for ESEA and other stimulus dollars. Any actions the U.S. Department of Education (ED) can take to reduce this burden with consolidated or streamlined reporting requirements, simplified or pre-formatted reporting templates, through other means would be helpful. A simplified or streamlined process for submitting amendments to consolidated State plans would also be appreciated.

Second, we hope ED can address the expectation to enforce the requirement that 95% of students be assessed. Given the current surge in infections due to the pandemic, unexpected student absenteeism because of health concerns and transportation issues, and problems with staffing, we are concerned that districts may not be able to assess the required number of students. In many States, the assessment window for English Language Proficiency and other specialized tests has already opened, and regular assessments will begin administration as early as March. Should high rates of infection, staff illness, and student absences persist, a significant number of districts may not meet the assessment requirement or have enough assessment data to provide a full and accurate

picture of student learning – especially for English Learners and other students who take special assessments.

We recommend that ED provide guidance on how States should discuss the requirement with districts, and provide the option for States to work with non-compliant districts to identify the root causes of low assessment numbers and work to focus resources in schools where low assessment rates indicate systemic issues with access to educational and public health resources, rather than penalize such districts for a public health situation outside their control. November 2021 EdFacts Guidance acknowledges this possibility through the use of a “medical exemption” indicator, which may be another option for States to indicate the share of students they were not able to assess.

To mitigate the impact of student and staff absences for health reasons, we also recommend that the academic achievement indicator be calculated based on a modified standard and that districts be allowed to use an alternative number for the denominator, including data based on participation in one or more days of assessments or average daily attendance during the assessment period.

Finally, ED’s FAQs document does not address how to incorporate data from locally selected assessments into Statewide accountability systems. Note that in 2020-21, [ED offered](#) States more flexibility around the use of assessments, including the use of shortened or remote assessments as well as local assessments. We suggest providing specific guidance which instructs States how best to report such data, and where and how it would prefer States and districts to indicate that such assessments were used where data and/or scoring is not directly comparable.

Please let us know if you have questions on any of these recommendations or issues – we would be happy to work with you to resolve these concerns.

Thank you in advance for your consideration and collaboration,



Dean Zajic, President  
National Association of ESEA State Program Administrators (NAESPA)

**Bob Harmon**

Chief Executive Officer

National Association of ESEA State Program Administrators (NAESPA)

*Ensuring Student Equity and Access*



[www.eseanetwork.org](http://www.eseanetwork.org)

Join us at the [2022 National ESEA Conference](#) in New Orleans!



January 17, 2022

Submitted via email to: [OESE.feedback@ed.gov](mailto:OESE.feedback@ed.gov)

Comments to Draft: Impact of COVID-19 on 2021-2022 Accountability Systems Required under ESEA

I am writing on behalf of the National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE) with regard to the Department of Education's draft Impact of COVID-19 on 2021-2022 Accountability Systems Required Under the Elementary and Secondary Education Act of 1965. National PLACE's mission is to strengthen the voice of families and family-led organizations at decision-making tables at all levels. As a national, family-led organization with 70 national, state, and local family-led organization members including Parent Centers, Family to Family Health Information Centers, Federation of Families for Children's Mental Health chapters, and Parent to Parent USA affiliates, among others, we provide information and support to our members to assist them to support families of children and youth to access critical education, health, and human services, and are aware of the critical importance of the ESEA accountability provisions on expectations for students, including low-income students, students of color, students with limited English proficiency, and students with disabilities, among others.

#### **GENERAL COMMENTS REGARDING THE PROPOSED GUIDANCE**

In general, National PLACE supports the introductory comments to the proposed guidance, as follows. However, our members strongly believe that many of these "considerations" are, in fact, requirements and not merely considerations and thus this introductory section of the guidance must be reframed.

1. The importance of authentic engagement with a diverse range of stakeholders, including students, families, educators, LEAs, representatives of Indian tribes located in the State, civil rights organizations and stakeholders representing the interests of children with disabilities, multilingual learners, children experiencing homelessness, children and youth in foster care, migratory students, children who are incarcerated, and other underserved students as the State makes decisions about its accountability system.

As an organization committed to deep, authentic, and impactful engagement of parents, especially parents of the most underserved, ill-served, or unserved children, and the family-led and advocacy organizations who support them, National PLACE asserts that this engagement is not only required, but more important than ever. For the past two years, the brunt of educating our nation's children has fallen in large part on their parents. For decades, family-led, civil rights, and other advocacy groups have led the charge for equity in services to, and accountability and outcomes for, these children. Their insights into decisions about accountability systems are more critical now than ever. Yet based on the feedback of our 70 members around the country, as well as from members of three national coalitions to which National PLACE belongs, this is not happening to any great extent despite their efforts.<sup>i</sup>

2. How to ensure that the State’s accountability system is focused on targeting Federal (including COVID-19 recovery funding), State, and local resources and support to the schools that serve students with the greatest needs, including those who have been most impacted by the pandemic, and on addressing the long-standing inequities in educational opportunity that existed prior to the pandemic.

It is widely recognized that the pandemic has only exacerbated the longstanding inequities that existed prior to the pandemic and that continue today. Far too many state lead agencies – whether due to personal beliefs or political pressures – have done little to address these inequities. Many state funding formulas, in fact, contribute to these inequities. The US Department of Education must take a strong stand with states and territories regarding their obligation to target federal funding, and state and local resources and support to the schools that serve students with the greatest needs. Otherwise nothing will change.

3. Temporary adjustments to the State’s accountability system, consistent with statutory requirements, that may be needed in the short-term (e.g., for one year) because of missing or less reliable data due to the pandemic for indicators that are part of the State’s accountability system, including adjustments in growth measures to ensure fairness and accuracy.

Our reach must always exceed our grasp. We may not always perform up to our expectations, but we rarely perform higher than our expectations. Many state accountability systems are based on low expectations about children of color, low income children, children with limited English proficiency (“emerging bilinguals”), and children with disabilities. These low expectations are insidious. Far too many states have used the pandemic as an excuse to continue to lower expectations, not only for students, but also for schools, districts, and themselves. National PLACE understands the terrible consequences of COVID-19 on our schools and education systems, but it cannot continue to be used as an excuse for lowered accountability.

4. Opportunities to make broader, meaningful, and lasting changes to the State’s system, including those based on lessons from the last two years, the evolving understanding of the needs of students in the State, and other lessons on how to most effectively measure the needs of students and schools in ways that are valid, reliable, and actionable.

National PLACE strongly supports this statement. Accountability systems should be based on meaningful assessments that focus not only on academic knowledge but also on critical skills including social-emotional skills. And assessments that are intended to hold schools, districts and states accountable must not also be used for high-stakes decisions about individual children. Yet they far too often are. This is another reason why deep, authentic, and impactful stakeholder engagement in accountability decisions is so important. Further, we must also consider the needs of communities and families in these discussions and decisions. Children do not live or learn in a vacuum. They live and learn in their families and in their communities. Thus, the strengths and needs of their families and communities must be considered and addressed.

5. Addressing the impact of the pandemic and lost instructional time as part of the school improvement process, which could include leveraging additional Federal pandemic recovery funds and aligning school improvement efforts with evidence-based interventions to address lost instructional time using American Recovery Plan Elementary and Secondary School Education Relief (ARP ESSER) funds.

National PLACE strongly agrees with the importance of addressing the impact of the pandemic and lost instructional time as part of the school improvement process, and notes that families of students, especially those who fared the worst during the pandemic, must be meaningful partners in decisions regarding how this should be addressed.

6. Opportunities to continue and expand public reporting of a range of opportunity to learn measures—including those that a State agreed to report when it received its accountability waiver for the 2020-2021 school year—even if the SEA does not use these measures to identify schools for improvement in the State’s accountability system

National PLACE strongly supports the need for States and territories to continue and expand public reporting of opportunity to learn measures, including but not limited to those that a state or territory agreed to report when it received its accountability waiver for the 2020-2021 school year and even if the SEA does not use these measures to identify schools for improvement in its accountability plan. Families, family-led organizations that support them, and advocacy groups rely on public reporting for their work to improve systems, services, and outcomes for children and youth, especially those with access to the fewest resources and with the poorest outcomes.

7. Opportunities to improve statewide summative assessments, which may include, consistent with ESEA section 1111(b)(2)(B)(vi), the use of multiple measures of student academic achievement, including measures that assess higher-order thinking skills and understanding, which may include measures of student academic growth and may be partially delivered in the form of portfolios, projects, or extended performance tasks which can provide students with culturally and linguistically responsive ways of demonstrating progress.

National PLACE and its members endorse the need for lead agencies to improve statewide summative assessments and the use of multiple measures of student academic achievement, including measures that assess higher order thinking skills and understanding as well as the use of portfolios, projects, or extended performance tasks that can provide students with culturally and linguistically responsive ways of demonstrating progress, as opposed to typical “pen and paper” or computerized versions of “pen and paper” tests.

8. Strategies for continuous improvement to the State’s assessment system, including enhancing the ability to provide more timely, meaningful reporting to educators and parents and supporting educator assessment literacy and development.

National PLACE strongly supports the importance of lead agencies to enhance their ability to provide more timely, meaningful reporting to educators, parents, family-led organizations, and other advocacy groups and supporting educator assessment literacy and development. However, we urge the Department to also encourage parent/family assessment literacy and development and note that the newly-funded technical assistance center on assessment of students with disabilities is now partnering with the Center for Parent Information and Resources at the SPAN Parent Advocacy Network, a family-led, family-serving organization, to provide information and training to families about the importance of students with disabilities participating in assessments, with needed accommodations, and how to understand and use the results of their children’s assessments to partner with professionals to improve services to and outcomes for their children.

9. Consistent with the Department’s message to States in the 2020-2021 school year about use of assessment during the pandemic, encouraging States to consider additional steps at the State’s

discretion to reduce the high stakes of assessments in State decisions such as graduation or promotion requirements or in educator evaluations.

As noted in an earlier comment, National PLACE supports this “encouragement” to lead agencies and notes that the research is clear that assessments developed for system accountability should not be used for high-stakes decisions about individual children, whether for promotion or graduation or other purpose.

## **SPECIFIC QUESTION COMMENTS AND RECOMMENDATIONS**

### **A. General**

In response to question A-5, “Must an SEA engage in meaningful consultation prior to submitting a request to amend its ESEA consolidated State plan?,” National PLACE strongly supports the proposed guidance answer from the Department that, “[p]rior to submitting a COVID-19 State Plan Addendum or regular State plan amendment, an SEA is required to provide the public a reasonable opportunity to comment on the requested amendments. This opportunity should also be accessible to individuals with disabilities and limited English proficiency. The SEA must consider such comments consistent with the consolidated assurances the State submitted in June 2017 under ESEA section 8304. The Department recommends meaningful consultation with a broad range of stakeholders, such as LEA leadership, educators and staff, including mental health professionals, unions, students, families, the school community, civil rights organizations, and stakeholders representing the interests of children with disabilities, multilingual learners, children experiencing homelessness, children and youth in foster care, migratory students, and other underserved students, in order to provide the opportunity for key stakeholders to be engaged in the process and to offer the SEA important perspectives to inform SEA efforts to modify accountability systems in order to direct resources and support to those schools most in need. This engagement should begin early in the Draft for Public Comment decision-making process and be accessible to individuals with disabilities and limited English proficiency.” National PLACE urges the Department to more closely monitor the extent to which lead agencies actually engage in this process and how public comments are considered and used in lead agency decision-making. The experience of most of our members from across the country is that there is insufficient opportunity for public comment, materials are not accessible to the general public, people with disabilities, or in languages other than English, and lead agencies are not seriously considering comments.

### **B. Accountability**

We support the comments of National PLACE member The Advocacy Institute, as follows.

In response to question B-1, they noted that “[a]llowing states to establish new baselines using data from the 2021-2022 school year will likely result in historically under-performing subgroups – particularly students with disabilities, students of color, and economically-disadvantaged students – being assigned less rigorous goals than originally set out in a State’s plan.” For families of these historically under-performing subgroups, who have suffered through more than a year of remote instruction, this would be devastating. National PLACE strongly agrees with their recommendation that “[h]e Department must ensure that the **disproportionate impact** on these students is not perpetuated by allowing States to adjust long-term goals and measurements of interim progress for academic achievement that do not attempt to make up for the lack of achievement. Revised goals should continue to focus on gap-closing, which is the primary purpose of the ESEA as amended, as stated in Sec. 1001: “The purpose of this title is to provide all children significant opportunity to receive a fair, equitable, and

high-quality education, and to close educational achievement gaps.”

In response to question B-16, we strongly agree with the Advocacy Institute’s comment that “[w]e see no reason to allow states to adjust ‘n’ size and fear that this will result in states’ adopting larger ‘n’ sizes in order to minimize impact.”

### C. School Identification and Exit

National PLACE has no comments except that the Department should add language regarding the need to and importance of informing parents and communities regarding these decisions and the criteria for making them.

### D. School Support and Improvement

National PLACE strongly supports the Department’s response to question D1, particularly the need for support and improvement plans for each school identified for CSI, TSI, or ATSI, and monitoring and periodic review of support and improvement plans for CSI schools. National PLACE also agrees with the Department that the pandemic has deepened pre-pandemic disparities in access and opportunities facing students of color, students from low-income backgrounds, multilingual learners, children experiencing homelessness, students with disabilities, and lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) students, with significant impacts on their learning. National PLACE strongly believes that SEAs, LEAs, and schools **must** address the impact of the pandemic and lost instructional time as part of the CSI, TSI, or ATSI support and improvement plan. National PLACE also supports the Department’s encouragement of SEAs to help LEAs and schools to focus on evidence-based approaches that have been demonstrated to be effective at improving opportunities and outcomes for students, including re-engaging students in their learning by meeting the social, emotional, mental health, and academic needs of students and through such approaches as using high-quality assessment systems and high-quality tutoring efforts, and targeting resources and support; *and providing information and assistance to families as they support students, including through home visits and information sharing.* Finally, National PLACE endorses the component of the response recommending that “SEAs, LEAs, and schools may also consider using school quality reviews that look at a broad range of data and measures, such as instructional practices and perceptions of school leaders, teachers, students, **and parents** to inform the school improvement planning process,” including ensuring that the meaningful educator and family engagement reflects the diversity of and is representative of the school community (including specifically engaging stakeholders representing the applicable group(s) of students when a school is identified for TSI or ATSI).”

National PLACE also supports the Department’s responses to D3 on evaluation of resource equity; D4 regarding how to award ESEA section 1003 funds to support schools with the greatest needs; and D6’s examples of allowable uses of ESEA section 1003 school improvement funds, including “creating a trauma-informed school environment that addresses the needs of students and staff experiencing the symptoms of traumatic stress. • Implementing a multi-tiered system of supports (MTSS) framework. • Establishing early warning indicator (EWI) systems to promote targeted and timely engagement strategies in response to data. • Providing college and career pathways that integrate enrollment, support, and success in rigorous academic coursework, career and technical education, work-based learning, and student support services. • Leveraging tools that allow teachers to understand and cultivate students’ social and emotional development by measuring school climate, integrating social and emotional learning into instructional practices and design, providing social and emotional supports, and reducing school exclusions. • Establishing school-based wellness teams comprised of

representatives from administration, teachers, and counseling, nursing, and support staff. • Increasing access to mental health services,” and *encourages the Department to add language regarding the fact that funds may be used to inform and engage parents in each of these processes.*

#### E. State and Local Report Cards

National PLACE strongly urges the Department to strengthen the language in the answer to E1. For parents, family-led organizations, and advocacy groups to be able to use the information in state and local report cards to advocate for needed improvements and partner with lead agencies, districts and schools in the improvement process, they need interpretive guides to accompany important data points and to do so in a way that maximizes transparency for all stakeholders. National PLACE strongly endorses the concepts of introductory sections with “information on key metrics and subgroups that may have been impacted by COVID-19 that can help parents and other stakeholders quickly access and understand such information and provide additional context for such data on the State and local report cards.” National PLACE also supports the recommendation and urges the Department to strengthen its recommendation to “provide the report card on an interactive platform that allows users to see how high-level State and LEA data may have been impacted by COVID-19 and allows the user to access additional information within that category through drop-down menus or other interactive tools. This kind of platform, or dashboard, can allow the user to view additional data on specific categories of equity indicators (e.g., course and program offerings and access, educator quality), view performance on these indicators by subgroup, and view growth in performance on each of these measures, in a format that is nuanced, transparent, and actionable.”

In the response to E5, National PLACE recommends that the Department add language regarding the importance of consulting with and engaging stakeholders including parents, family-led organizations, and advocacy groups in the discussion and determination of what a state should include in a state report card as well as the format to make it as user-friendly and useful as possible.

Thank you for the opportunity to provide these comments. Please feel free to contact me with any questions or for further discussion regarding the perspectives and recommendations of National PLACE and its members on the important issue of the Impact of COVID-19 on 2021-2022 Accountability Systems Required under ESEA

Sincerely,



 Ensuring a Place at the Table for Every Family

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<sup>i</sup> Consortium for Constituents with Disabilities (CCD), Leadership Conference for Civil and Human Rights, and the State/Local Education Resource Equity Group.



January 15th, 2021

Melissa Siry  
Office of Elementary and Secondary Education  
400 Maryland Ave, SW  
Washington, DC 20202

Subject: Comment Request; Frequently Asked Questions Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)

Dear Ms. Siry,

On behalf of the National Center for Learning Disabilities (NCLD), which represents the 1 in 5 public school students with learning and attention issues, I am writing in response to the U.S. Department of Education's (ED) invitation to provide input on ED's Draft document titled "Frequently Asked Questions: Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)". We reiterate our long standing expectation that schools, districts, and states are held accountable to equitably meet the needs of students with disabilities even during these unprecedented times.

The purpose of the Every Student Succeeds Act (ESSA) is "to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps". Therefore, ED must be uncompromising when approving any amendment or allowing any one year temporary change to a state's education plan if the amendment will not meet the academic, social, emotional, or behavioral needs of students. This is especially important because, as acknowledged by ED, the pandemic has had a disparate impact on students of color, students who are English learners, students who are LGBTQ+, students impacted by poverty, and students with disabilities.<sup>1</sup>

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<sup>1</sup> Goldberg, S. B. (2021). Education in a pandemic: the disparate impacts of COVID-19 on America's students. U.S Department of Education Office for Civil Rights. Retrieved from: <https://www2.ed.gov/about/offices/list/ocr/docs/20210608-impacts-of-covid19.pdf>

We appreciate that ED's draft guidance reiterates the critical ESSA requirements for states to identify schools in need of supplemental resources and differentiated support on a regular basis—including following the 2021-22 school year. By designating schools needing comprehensive, additional targeted, and targeted support, they become eligible for additional federal school improvement funding (i.e., ESSA section 1003(a) funding), and they should receive additional state and school district technical assistance to design and implement evidence-based plans to address lost instructional time and other student and educator needs.

As ED reiterates in the guidance, the primary objective of state accountability systems this year should be to use these systems to direct resources and supports to the schools and students who have been disproportionately harmed—academically, socially, and emotionally—by COVID-19 and to continue these supports even after COVID-19 relief funds have been spent. This fall will be the first opportunity for states to ensure their accountability systems reflect the additional resources students need as a result of the pandemic. Further, ED's guidance helpfully notes ways in which ESEA gives states the discretion and flexibility they need to update their accountability systems, as needed, to account for the unique challenges schools are facing at this time and to ensure students receive the supports they need. Finally, we appreciate that ED's guidance encourages the use of Elementary and Secondary School Emergency Relief (ESSER) funding for school improvement purposes under ESEA and to address lost instructional time and other student needs through evidence-based strategies (see pgs. 4-5 and questions D-1 and D-6 of the draft FAQs). By leveraging both funding streams, districts and schools will be better-positioned to develop and/or revise improvement plans that respond to the full range of students' needs—from academics to mental health and wraparound services—and identify and address resource equity gaps.

One way in which states can better meet the needs of students is to have the same high expectations for all students, including each subgroup of students. In NCLD's [review](#) of state education plans in 2018, we found that only 18 states had the same long-term goals for students with disabilities as their peers. In addition, we found that many states (32) set the long-term goals for students with disabilities below 60% proficient in English Language Arts, Math or both. We recognize that some states may be filing an amendment to revise their long term goals in response to the impacts of the COVID-19 pandemic. Setting low expectations for students with disabilities is unacceptable and suggests that the state does not believe all children can succeed at high levels.

**The National Center for Learning Disabilities**

1220 L Street NW, Suite 100 - Box #168, Washington, DC 20005

Web: [www.nclld.org](http://www.nclld.org) – Email: [policy@nclld.org](mailto:policy@nclld.org)

**RECOMMENDATION: If states request amending their long-term goals, NCLD strongly recommends that ED encourages states to establish the same, ambitious long-term goals for students with disabilities as their peers.**

In addition, statewide summative assessments provide essential information to states, districts, educators, families, and the public about how student groups — including those most systemically marginalized, like students with disabilities — are doing compared to their peers. These assessments are comparable across states and districts and are one of the only sources of information available to show how districts are serving all students. We have not been able to gain significant new data during the pandemic and can't afford to continue to do so, particularly as students and schools face new and unique challenges. Even in the face of the ongoing pandemic-related challenges, ED must hold states accountable for administering state-wide assessments in the 2021-2022 school year.

ED must strongly enforce the requirements under 34 CFR §§ 200.2 – 200.9. Specifically, states must comply with 34 CFR §200.6 regarding the inclusion of students with disabilities. States have only two ways to include students with disabilities in state academic assessments. These are:

- *Assessment aligned with the challenging state academic standards for the grade in which the student is enrolled, with appropriate accommodations as needed; or*
- *Alternate assessments aligned with alternate academic achievement standards for students with the most significant cognitive disabilities as defined by the state. The number of students with the most significant cognitive disabilities assessed using an alternate assessment may not exceed 1.0 percent of the total number of students assessed in the state.*

The inclusion of students with disabilities is also required by the Individuals with Disabilities Education Act (IDEA), 34 CFR §300.160, which states that “A State must ensure that all children with disabilities are included in all general State and district-wide assessment programs, including assessments described under section 1111 of the ESEA, 20 U.S.C. 6311, with appropriate accommodations and alternate assessments, if necessary, as indicated in their respective IEPs.”

**RECOMMENDATION: NCLD strongly recommends that the FAQ document include information on the administration of alternate assessments and the 1 percent cap on students who are assessed using these tests.**

In addition, ESSA requires states to provide “the appropriate accommodations, such as interoperability with, and ability to use, assistive technology, for children with disabilities (as defined in section 602(3) of IDEA (20 U.S.C. 1401(3))), including students with the most significant cognitive disabilities, and students with a disability who are provided accommodations under an Act other than the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), necessary to measure the academic achievement of such children relative to the challenging State academic standards or alternate academic achievement standards.” It is important that ED reiterate this requirement and clarify that these accommodations must be provided whether a student is in-person or in a remote school or testing setting.

**RECOMMENDATION: NCLD strongly recommends ED emphasize and clarify the assessment accommodation requirements under ESSA to ensure students with disabilities are equitably included in state accountability systems.**

ED must also ensure that states adhere to the ESSA requirement to assess at least 95 percent of all students, including participation from at least 95 percent of students with disabilities. This participation requirement ensures that the results of state assessments are representative of all students and each student subgroup, including students with disabilities. Administration that falls short of this participation rate must not be viewed as representative and, as such, should not be used to make accountability decisions. Last year, ED allowed states the opportunity to waive the requirement that the Academic Achievement indicator be adjusted to account for a participation rate below 95 percent. Because of this, we have two years of incomplete data to assist with targeting resources to the schools that need them the most. It is imperative that we have robust information this year to support students, families, and educators.

**RECOMMENDATION: NCLD strongly recommends that ED strengthens questions E-1 and E-4 by adding language on the statutory requirements to report assessment results and participation rates, disaggregated, on report cards for the 2021-22 school year, given uneven reporting of these data for the last two years.**

NCLD appreciates the opportunity to provide comments on this important resource. Accountability systems, as required under ESSA, are critically important to meeting the needs of students with disabilities and providing an equitable education for the millions of public school students. States have an obligation and opportunity to make sure that

our students are front and center in discussions about achievement, equity, school quality, accountability and improvement. Now more than ever, ED must ensure that states strive to make improvements in how they serve all learners. If we can provide additional information, please contact me at [REDACTED].

Sincerely

A large black rectangular box redacting the signature of Lindsay Kubatzky.

Lindsay Kubatzky  
Director of Policy and Advocacy  
National Center for Learning Disabilities



## NATIONAL DOWN SYNDROME CONGRESS

**To:** U.S. Office of Elementary and Secondary Education

**From:** National Down Syndrome Congress (NDSC)

**Date:** January 18, 2022

**RE:** Comments to Draft: [Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 \(ESEA\)](#)

NDSC is the country's oldest national organization for people with Down syndrome, their families, and the professionals who work with them. We provide information, advocacy and support concerning all aspects of life for individuals with Down syndrome, and work to create a national climate in which all people will recognize and embrace the value and dignity of people with Down syndrome.

We are writing to express concern that many of the flexibilities proposed to state accountability under the Every Student Succeeds Act (ESSA) in the draft FAQs could undermine the purpose and promise of ESSA to **“provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.”** While we certainly understand that assessments and accountability have been impacted by COVID 19, especially during school closures, it is critically important to provide flexibility that is the narrowest and shortest duration possible and that state ESSA plans provide meaningful subgroup accountability. We ask that you reflect on all the flexibilities offered in the proposed draft with this request in mind, since there are too many areas of concern to highlight all of them in these comments.

NDSC is glad to see many mentions in the draft FAQs of disaggregation of data by subgroup, including the disability subgroup, and a continued requirement to annually measure the achievement of not less than 95 percent of all students and 95 percent of students in each subgroup on its annual statewide assessments. However, these provisions are undermined by other flexibilities that diminish subgroup accountability. We will focus on two in particular below:

**COMMENTS:** With regard to allowing states to make changes to long-term goals and measurements of interim progress, we offer the following comments:

The Department must ensure that proposed changes to long-term goals and measurements of interim progress for academic achievement do not result in less ambitious goals for certain student subgroups. **Allowing states to establish new baselines using data from the 2021-2022 school year will likely result in historically under-performing student subgroups – particularly students with disabilities, students of color and economically disadvantaged students – being assigned less rigorous goals than originally set out in a state’s plan.**

The Department has already recognized that certain student subgroups have been disproportionately impacted by the disruptions caused by the Coronavirus Disease 2019 (COVID-19) pandemic, as articulated in the Office for Civil Rights (OCR) report, [Education in a Pandemic: The Disparate Impacts of COVID-19 on America’s Students](#). The report found that:

“Although the pandemic’s effects will be studied for many years to come, we know from early studies that for many students, the educational gaps that existed before the pandemic—in access, opportunities, achievement, and outcomes—are widening. And we can see already that many of these impacts are falling disproportionately on students who went into the pandemic with the greatest educational needs and fewest opportunities—many of them from historically marginalized and underserved groups.”

The Department must ensure that the **disproportionate impact** on these students is not perpetuated by allowing states to adjust long-term goals and measurements of interim progress for academic achievement that do not attempt to make up for the lack of achievement. Revised goals should continue to focus on gap-closing, which is the primary purpose of the ESEA as amended, as stated in Sec. 1001: “The purpose of this title is to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.”

**B-16. May a State Education Agency (SEA) revise its minimum number of students for accountability?**

**COMMENTS:** The draft response to this question allows a state to adjust its current minimum number of students for accountability – as known as ‘n’ size. As we have seen in the past, when there aren’t enough students in the assessed grades at a school to meet a large n size, there is no accountability for the subgroup’s academic performance and no access to targeted support and improvement, if needed. We see no reason to allow states to adjust ‘n’ size and fear that this will result in states’ adopting larger ‘n’ sizes in order to minimize impact. As the reports on this webpage detail, n size has a major role in ensuring equity under ESSA.

<https://all4ed.org/publication/n-size/>

Thank you for the opportunity to submit comments on the draft FAQs. Please contact Ricki Sabia, NDSC’s Senior Education Policy Advisor, at [REDACTED] with any questions about our comments.



1201 16th St., N.W. | Washington, DC 20036 | Phone: (202) 833-4000

Rebecca S. Pringle  
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*Executive Director*

January 15, 2022

The Honorable Miguel A. Cardona  
Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C., 20202

Dear Secretary Cardona:

On behalf of the National Education Association, I am pleased to submit this feedback to the [Frequently Asked Questions on the Impact of COVID-10 on 2021-2022 Accountability Systems](#) (FAQ). We appreciate the comprehensive approach of the document and your incorporation of recommendations that focus on the authentic engagement of educators and other stakeholders, the incorporation of opportunity to learn measures in accountability systems and school improvement planning, and the reduction of the high stakes of assessments.

We applaud that the FAQ includes reminders that state educational agencies (SEAs) must engage in meaningful consultation with a broad range of stakeholders, including educators, prior to amending its Consolidated State Plan. Additionally, the recommendations that educators are considered in efforts to improve State assessment systems is a step in the right direction, but must go further to clearly recommend educators as full partners in recognition of their expertise and knowledge as educational professionals who see the outcomes of policy in real time.

While the FAQ provides some good suggestions for expanding the range of indicators that inform how schools can rebuild their communities during and beyond the COVID-19 pandemic, we believe it falls short of providing the flexibility that many SEAs, local educational agencies (LEAs), and schools so desperately need to mount an equitable and well-rounded recovery from the ongoing pandemic.

We urge you on behalf of our members to consider providing the flexibility that state educational agencies need by creating an expedited waiver process for assessment and accountability based on the alarming surge of Omicron variant cases amongst students and educators. The ever-changing, disparate, and often chaotic policies around school building closures during the current Omicron surge are creating an even more unreliable environment for usefulness of high stakes tests than last year when flexibilities were afforded by your Department. Continuing to overstress results from statewide summative assessments when the resulting data during the pandemic

continues to be unreliable, unrelated to schools' real time needs, and incomparable to prior years is forcing states to go through the exercise of conducting annual meaningful differentiation in a way that is not meaningful at all.

Our primary concern with the FAQ is that it guides SEAs to adjust their accountability systems rather than re-conceptualize them. The system is built on the faulty premise that high stakes statewide summative assessments do anything other than categorize and sort students and schools. This has always been a problem, but amid COVID-19 - it is an emergency. Creating guidance that encourages SEAs to lean on questionable measures for imputing values to calculate discretionary indicators like student growth rather than giving them the time and support to create more equitable, informative, and well-rounded systems is not only uninformative and unnecessary, but it also inhibits bona fide efforts to create better systems.

Educational agencies and schools continue to struggle with severe staffing shortages, high incidents of infection and sickness from COVID-19, and ongoing disruptions to instruction. This proposed guidance is insufficient for gathering information alternative to statewide summative assessment data and identifying schools based on what they need rather than what they have "accomplished" according to rote standardized assessment.

Following this letter, please find the Attachment with our full list of comments to the guidance. In general, here is our feedback:

- The FAQ, while theoretically helpful for adjusting accountability systems, will be difficult for SEAs to implement in time for fall 2022. If the Department wants to encourage states to update and diversify their accountability system indicators - exemplars and guidance would have been welcome earlier in the year to allow for States to collect meaningful, useful input not only about what information would be helpful, but also reasonable to collect.
- We request that the Department insert in the FAQ guidance and create an accompanying document (or adjust this year's Addendum) to grant SEAs and LEAs targeted waivers in assessment and accountability to address situations in which a particular locality has been so affected by the ongoing COVID-19 pandemic that it is unable to report reliable results or participation rates and generate meaningful data.
- We thank you for recommending that states continue to contextualize information reported in assessment data in plain and accessible language. To increase public understanding, we request an addition that such information is placed in a manner that ensures visibility and that it accompanies BOTH 2020-2021 and 2021-2022 results on SEA and LEA report cards.
- We request that the FAQ explicitly state that SEAs can and should continue funding for schools designated for comprehensive support and improvement even after meeting exit criteria so long as it occurs within the four-year window following initial identification.
- For comprehensive support and improvement schools that do not meet exit criteria within the state-determined timeline, we request that the FAQ encourage states to reconsider punitive rigorous interventions including closure, merger, and fresh start. Public schools and the educators who staff them play a vital role in protecting and promoting child welfare and enhancing communities. Such instability would only further damage our students' learning.

- We request that the Department temporarily waive the requirement that accountability systems assign academic indicators count for “significantly more weight” than non-academic indicators. This requirement prevents SEAs from being able to use the variety of information they need to make informed decisions about how to identify schools for improvement and direct resources.

State accountability systems are not presently equipped to accurately discern the root causes of opportunity gaps that exist in our schools. High stakes tests cannot measure the grossly inequitable access to in-person and remote learning, nor the disruptions to continuity in access to staff and services throughout this worsening pandemic. We continue to believe that allowing a reprieve from federal accountability and assessment requirements during these unprecedented times are necessary for the re-stabilization of our schools. The Department has an opportunity to encourage a movement towards multiple and varied forms of assessment and school quality indicators that would provide more robust and informative data for education communities in targeting resources and support. It is an opportunity for real systemic change we urge you to make for the betterment of our education system during the COVID-19 pandemic and beyond.

On behalf of the National Education Association and its three million members, thank you for the opportunity to comment on the Frequently Asked Questions. We appreciate the importance you have placed on transparency, educator voice, and the expansion of accountability systems to include opportunity to learn and other indicators beyond student assessment scores and growth. We hope that you will consider the feedback we have compiled. As always, we stand ready to collaborate with you to overcome the COVID-19 pandemic and support every one of our students, educators, and schools across the nation.

Respectfully,



Christine DonFrancesco  
Senior Policy Analyst

ATTACHMENT

Together with the letter above, the National Education offers the following feedback to the [Draft Frequently Asked Questions on the Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 \(ESEA\)](#):

- B-2 – We are concerned that requiring academic indicators to have “much greater” weight than SQSS indicators will: (1) force overreliance on test-based indicators regardless of their reliability; and (2) fail to account for the widely varying learning experiences that students have had that could help contextualize data. We request that USED offer a waiver as part of the Addendum to provide applying SEAs with the latitude to adjust the weights of indicators in their accountability systems to reduce assessment-based indicators until data is reliable for purposes of conducting annual meaningful differentiation (AMD). We are also concerned that recommending a system based on decision rules may result in (1) confusion for stakeholders that will make it difficult to conduct oversight of SEA’s implementation of AMD and school identification; and (2) over-identification of schools for support and improvement, which may unnecessarily put schools, educators, and students at risk. While we support this option in theory, we hope that USED will advise interested SEAs to ensure transparency and opportunities for stakeholder input and feedback.
- B-3 – We are concerned about recommendations that combine current results with pre-pandemic data. Growth is a discretionary indicator for public elementary, secondary, and high schools for statewide academic achievement indicators. The recommendation that SEAs consider omitting student growth measures for high schools for the 2021-2022 school year should extend to elementary and secondary schools as well, especially in cases where data is unreliable, insufficient, or not comparable to prior years.
- B-4 – We continue to have strong reservations about a blanket requirement that SEAs conduct statewide summative assessments especially considering how the pandemic has unfolded – with new variants, staff shortages, and lost instructional time mounting significant hurdles to being able to ascertain accurate or informative information. The interests of health and safety must prevail over the desire to collect information from statewide assessments ill fitted to meet the needs of the moment. For states that preemptively asked for a waiver of the participation rate requirement last year, they were met with a response from USED that so long as they made “every effort to...assess all students to the extent practicable,” (See, [Wisconsin response letter](#), 3/26/21), that no waiver was needed. This response declined to outline navigable conditions for excusing SEAs and/or LEAs from assessment requirements, which will make it even more confusing for SEAs this year as they juggle preparations for reinstating accountability with higher prevalence of the virus, new variants, and severe staff shortages. Depending on the conditions, low participation rates are a distracting and non-necessary basis for identifying schools for support and improvement during the pandemic.
- B-7 – Forcing states to conduct assessments last year resulted in many states reporting data that they have claimed was invalid, unreliable, and not comparable to past years’ performance. States noted unreliability of 2020-2021 based on a variety of factors, from low participation rates among students who are “historically lower achieving” ([Michigan](#)); abbreviated assessments ([California](#)); and altered administration timelines ([New Jersey](#)). While we appreciate USED’s advice that states provide information to

contextualize data from 2020 – 2021, we feel it is important to heed states’ disclaimers and advise against forcing them to combine this data into growth and accountability calculations.

- B-10 – SEAs that report unreliable data from English Language Proficiency exams should not be forced to use incomplete and thus unreliable measures to draw conclusions about progress toward meeting long term goals and/or student progress.
- B-11 – We request that the Department strike the term “learning loss” from the document as it is a technical FAQ and does not need to incorporate the term to provide clear guidance. We also request that the Department pivot away from recommending SQSS indicators include performance gaps when doing so is a redundant measure given that Academic Achievement Indicators are already broken out by required subgroups.
- B-13 – We recommend that SEAs are allowed to permanently change the meaning of chronic absenteeism to account for the proliferation of digital learning and remote instructional options that allow continuity of instruction. The wording of the guidance currently reads states have the option of ONLY making the adjustment for one year when there should not be anything that preempts them from making a permanent change if needed or desired.
- B-14 – Given the Accountability Template waivers offered last year, we request that B-14 include a reference to homework gap data. Additionally, the Department should consider both a healthy, safe, and inclusive learning environment, and integrated student support services in the context of school support staff. Much support must happen effectively for learning to take place: To give just a few examples, children must be safely transported, provided nutrition, given the support of paraeducators for learning challenges, and have learning spaces that are clean and as COVID safe as possible. We recommend including staffing levels and retention rates in key support areas such as paraeducators, food service, transportation, and custodial as potential indicators.
- B-17 – We believe school meal access should be universal and that other measurements of economic disadvantage should replace NSLP eligibility.
- C-5 – We request an omission of this question and answer as the option posited may create an excessive paperwork burden and will confuse timelines for meeting exit criteria; it also settles for using inferior data. In cases where SEAs opine that identification will be of more use or more accurate in a subsequent year, we would prefer that they have the option to delay identification of schools rather than running accountability back-to-back.
- C-6 – We ask that the Department include in this section a recommendation that even if SEAs do exit schools from improvement, they have the option of continuing to pass down federal funds to support the school and should do so until the expiration of the allowable time. This recommendation is particularly salient for schools exiting CSI status for improvements in graduation rate demonstrated during the pandemic while waivers were in effect.
- C-6, C-7 – We request clarification on the terms you outlined for exiting schools from CSI or ATSI status in 2021-2022. Please clarify the last statement in the first paragraph of C-6 and its implications as there were two different documents that States may have utilized to request flexibility: The [Addendum](#) (Released Jan. 18, 2021) and the [Accountability Template Waiver](#) (Released Feb. 22, 2021).
- D-3 – We request that the Department recommend SEAs institute a publication requirement for LEAs required to conduct a resource allocation review to ensure transparency and public accessibility.

- D-8 – We appreciate the option that SEAs may extend the duration of a subgrant to an LEA under Sec. 1003, however, we ask that this option be included as part of the Addendum Template for 2021-2022 so that any states that secured an Accountability Template waiver in 2020-2021 can opt in without having to submit a separate waiver. This would ease the paperwork burden for SEAs and allow LEAs greater flexibility in ensuring the continuity of services and support for schools identified for improvement.
- E-1 – We request that the Department include a recommendation that LEAs also include disclaimers and/or guide to assist the public in interpreting data points that may have been impacted by COVID-19, including assessment scores.
- E-4 – We appreciate the recommendation that SEAs and LEAs reporting statewide assessment results from 2020-2021 provide information to contextualize the results. We request the same recommendation apply to 2021-2022 data and be included in this FAQ.
- E-5 – We request that the FAQ include a recommendation that SEAs and LEAs formalize an ongoing feedback loop as needs may change as the pandemic recovery continues to evolve.
- E-6 – The NEA recommends including surveys of students and educators, as well as optimal ratios of Specialized Instructional Support Personnel (encompassed partially in Civil Rights Data Collection) including nurses, school counselors, school psychologists, social workers, occupational therapists.

January 16, 2022

**Submitted via email**

Melissa Siry  
U.S. Department of Education  
Office of Elementary and Secondary Education  
400 Maryland Avenue, SW  
Washington, DC 20202

**RE: Comments on Draft FAQ: Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)**

Dear Ms. Siry:

New Meridian thanks the Department of Education (ED) for releasing the proposed *Draft FAQ: Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of the 1965 (ESEA)* – subsequently *FAQ*. We write this letter in support of ED’s *FAQ* and as a call for increased federal support of assessment innovation.

New Meridian is a nonprofit assessment company on a mission to foster deeper learning and equity for all students. Since 2016, our diverse team of assessment experts have been working with state partners to develop a better way to evaluate student readiness by emphasizing the skills that matter most: critical thinking, problem solving, an effective communication. New Meridian works closely with states to develop innovative assessment solutions that provide educators with insight into how students apply content knowledge to solve real-world challenges, while providing policymakers with rich, actionable data needed to accelerate educational equity.

The 95 percent participation rate articulated on pg. 12 is imperative to giving stakeholders the information they need to understand how the public education system is serving all students. This requirement empowers states to administer a statewide assessment and measure the achievement of all students.

Requiring the use of statewide assessments and comparable data as stated on pg. 17 enables stakeholders to compare across districts, identify inequities, and allocate funding and resources to historically underserved students and those more severely impacted by the pandemic. Publicly reporting disaggregated data by student group articulated in the *FAQ* sustains the federal government’s commitment to Civil Rights and an equitable education system for all students.

New Meridian remains committed to providing states with high-quality solutions for today, and we recognize the need to plan for tomorrow. Through renewed energy in the education sector and increased federal funding, pandemic-related challenges are creating opportunities for transformational change.

Lessons-learned point us to a more balanced system in which our commitment to comparable data and accessible, high-quality assessments is strengthened as we broaden measures of student learning. Achieving this balance will require thought, time, and investment. In



preparation to support state partners in reimagining assessments, New Meridian developed the following five design principles:

1. Design for coherence across state, district, and classroom assessment models.
2. Maintain an overarching commitment to equity through comparability.
3. Promote and research more holistic views of student learning.
4. Allow for greater student agency.
5. Develop score interpretation models and data systems that reinforce coherence and usability.

New Meridian appreciates the thoughtful, responsible flexibility outlined in the *FAQ*. And we call on ED to consider the policy environment needed to support the research and development (e.g., expanding and funding IADA pilots) necessary to seize this opportunity. We would like to schedule a conversation to discuss possible paths forward in creating a policy environment that both supports innovation and ensures these assessments continue to act as a critical lever for equity. Now is the time for partnership and to boldly reimagine assessments.

New Meridian looks forward to working with ED and states leaders as we accelerate the next generation of assessments and sustain access to high-quality solutions. For questions or additional information, please contact Ashley Eden at [REDACTED].

Sincerely,



Ashley Eden  
Vice President, Policy and Advocacy  
New Meridian Corporation  
aeden@newmeridiancorp.org

To: Melissa Siry, OESE, U.S. Department of Education  
From: Laura Pinsonneault, Scott Marion, and Chris Domaleski, Center for Assessment  
RE: Comments on Accountability Systems FAQ  
Date: January 17, 2022

Thank you for this opportunity to provide comment on the *Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA) Frequently Asked Questions (FAQ)*.

We focus our feedback on the policy and practical considerations on system design and identification/exit determinations. In each area, we share our questions and recommendations.

### System Design

Our primary concerns for system design pertain to timelines, data availability and quality, and short- and long-term implications of changes to accountability systems.

#### *Timelines*

States must inform any changes to system design with the most recent data available. In fact, the draft guidance acknowledges the importance of data-informed changes, for example, in question B-8: “The Department encourages each SEA that currently uses student growth in one or more of its indicators, as soon as possible, to evaluate its data from the 2020-2021 school year (e.g., participation rates, match rates, data quality issues).” States generally do not receive summative assessment results from their vendor(s) until June at the earliest and it is usually another several weeks for data to be clean enough to support necessary modeling and analyses. We question how states are to propose changes – or even hold course – with any confidence absent this year’s assessment results.

1. The language of B-8 ignores the importance of also evaluating data from 2021-22; participation rates, match rates, and data quality matters for this year’s assessment just as they do for 2020-21. We recommend adding and acknowledging this in the final FAQ.
2. The FAQ should clarify what a state should do if it discovers this summer that its data cannot support certain design proposals with confidence and credibility.
3. Even if the state determines that the proposed changes can be supported, conducting the analyses will push back reporting timelines. The FAQ should provide guidance and flexibility regarding reporting timelines.
4. The final FAQ needs to provide more clarity around timelines for addendum and amendment submission, particularly given that states need and want to engage with stakeholders and conduct analyses to inform their proposed changes.

#### *Data Availability and Quality*

The challenges to collecting high quality economic status data were substantial even before the COVID-19 pandemic; the fact that more schools started 2021-22 in person than in 2020-21 does little to diminish those challenges.

The document acknowledges the importance of considering data coverage and quality, but with unsatisfying suggestions about student-level economic status data (B-17). Most states have already collected economic status data for 2021-22, and even if states know of significant challenges to data

quality for data that has or is being collected, there are not sufficient mechanisms or resources to address those challenges satisfactorily.

5. We recommend the final FAQ offer options to states to address challenges in collecting, using, and reporting student-level economic status data.

The guidance offers options for states to replace or redesign measures, redefine thresholds, and adjust how indicators are combined (weighting and/or use of summary scores or ratings). We recommend making clear that this may include allowing states to differentiate their systems based on available data, as is currently allowed for exceptional schools (such as K-2 or very small schools) for which standard accountability measures do not “fit.” Such differentiation would allow states to use the full set of indicators when available and an amended set for schools with missing data. We recognize that changes to the FAQ as we propose here may further challenge comparability of results, but the kinds of suggestions proposed in the FAQ, such as replacing indicators for just this year, make clear that comparability is valued less in the current context. Further, the flexibility to maintain original systems for as many schools as possible may be important to states.

6. Therefore, we recommend allowing states the flexibility to use the maximum amount of data for the most schools possible.

Many of the SQSS issues and potential options (B-11 – B-14) appear to run afoul of what has been permitted/denied previously (e.g., access to high-quality educators or high-quality curriculum) because they are not necessarily or easily disaggregated by student groups. Will ED approve such indicators now? For one year only or indefinitely?

7. We recommend that ED clarify if the rules for the SQSS indicator may be modified (relaxed) for the 2021-2022 accountability determinations.

While we appreciate the multiple references to opportunity to learn (OTL) measures, most of us doing this work would argue that OTL measures are not ready to be incorporated in accountability systems.

8. We recommend the FAQ clarify ED’s recommendations for how OTL measures should be used in 2021-2022 accountability systems.

### *Significance of Changes*

Final guidance needs to acknowledge both timeline challenges (and, as recommended above, options) as well as recognize the fact that any single system adjustment also changes the meaning of system outcomes.

The draft FAQ notes that states may replace the other academic indicator (noted in B-6 and B-7 - a growth measure for all states but one) and all or some measures of school quality and student success (in B-14) with something else; change the number of years of data used in a calculation; adjust indicators weights; and/or replace summative ratings with a series of business rules that lead to an identification. Any one of these options – whether temporary or permanent – would significantly and meaningfully impact system outcomes, making ESSA identifications mean something different for 2021-22 compared to prior years. States need sufficient time to plan for and communicate about these changes.

The 95% participation requirement, once again, may be particularly challenging this year. As COVID continues to rage across the country only a couple of months before many states start testing, we urge ED to consider relaxing this requirement. This recommendation comes from a concern for equity; regions across the country have had to make difficult decisions about moving to remote schooling and families have had to make difficult decisions about whether their child(ren) will participate in state testing, but schools most affected by COVID – often in large and diverse urban areas – certainly have had (and may expect to have) lower test participation rates than prior years, while schools that have been able to maintain in-person schooling have fewer concerns about test participation. Maintaining the requirement that 95% test participation factor into the Academic Achievement indicator calculations serves to 1) exacerbate error variance of scores within states by comparing outcomes for schools with low test participation (because of the pandemic) against those with more traditional test participation; and 2) compromise the validity of results for schools with low test participation rates (by effectively assigning every non-tested student the lowest performing rating).

9. We recommend eliminating the penalty associated with the 95% participation rate requirement tied to the achievement indicator especially if COVID rates continue to remain high.

#### Identification and Exit

There is no ideal timeline for reinstating accountability requirements, but CSI identification places a burden on states and districts to communicate and support local education agencies navigating a changing the accountability system in the middle of the school year. States anticipating both temporary and permanent changes are put in a position of having to account for and message that CSI means something different in 2022 than in did in 2019 and may again mean something different in 2025.

10. The FAQ should acknowledge the changing meaning of CSI identification for some states and provide guidance for how states should communicate about the differences in their 2022 CSI list compared to prior identification.

Further, the requirement to identify schools with “consistently underperforming” student groups poses unique challenges for states in light of the very reason waivers were granted for accountability over the last two years: missing data compromises systems for summarizing and understanding performance, including any attempt to understand trends.

11. We recommend that final guidance clarifies or provides additional options for states to define consistent underperformance absent (or with incomplete) prior years’ data.

#### Closing Thoughts

We recognize the pressure to restart school accountability in 2021-2022, but the FAQ should acknowledge the varied and sometimes dramatically challenging situations states face in reinstating accountability systems while we are still, unfortunately, in the midst of the pandemic. We urge you to add language and the maximum flexibility possible to the final document that addresses these challenges as ever-present context for states implementing the guidance.

**From:** [REDACTED]  
**To:** [OESE.feedback](#)  
**Subject:** Public Comment on Impact of COVID-19 on 2021-2022 Accountability Systems Required under ESEA  
**Date:** Tuesday, January 18, 2022 3:44:56 PM  
**Attachments:** [image003.jpg](#)

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**CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

To Whom It May Concern:

Jefferson County Public Schools (JCPS) appreciates the opportunity to provide public comment on the document entitled "*Draft Frequently Asked Questions: Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)*."

Continuous consideration of the impact of COVID-19 on the 2021-2022 school year

In regard to the following section (p. 19, C-2): ESEA section 1111(c)(4)(D)(i)(I) requires an SEA to identify not less than the lowest performing five percent of schools each time it identifies CSI schools. An SEA must run its accountability system for purposes of identifying at least the current lowest-performing five percent of Title I schools in fall 2022 based on data from the 2021-2022 school year (i.e., an SEA may not refrain from running its 2021-2022 accountability system and simply carry over a previous year's list of identified schools).

Feedback:

As of January 2022, it is becoming increasingly clear that there continues to be a severe impact of COVID-19 on schools, due to a variety of reasons, including but not limited to:

- Quarantining of students and staff
- Substitute shortage
- Bus driver shortage
- Shifts from in-person to remote learning
- Social and emotional health of students and staff

We respectfully ask the Department of Education to consider amending the requirement of identifying new CSI schools for the Fall of 2022 based on data from the 2021-2022 school year. Initial research and analyses are now being released showing the inequitable impact of COVID-19 on students and schools, especially students of color and schools that serve diverse populations (Lewis & Kuhfeld, 2021). By continuing to associate accountability through assessment scores and communicate to the public, especially students, the label of CSI or

“lowest performing five percent,” the Department of Education would be contributing to the fallacy that this school year is “back-to-normal” and that schools should be held accountable for the instructional climate and quality of their schools. If the requirement of state assessments continues for the 2021-2022 school year, we recommend that additional re-consideration of allowing states to revise their ESEA plans for a waiver of the Fall 2022 CSI and ATSI identification labels.

On pgs 4-5, what is outlined in steps 1-9 for state considerations, including authentic engagement, focused resources, and broader, more meaningful and lasting changes can be accomplished without the detrimental and inaccurate impact of CSI and ATSI identification. These labels will essentially publicly name schools that serve the most diverse and vulnerable populations as “low-performing” based on a year where those same schools were likely the ones suffering the most impact of COVID-19 listed above (e.g., staffing shortages) and are not reflective of the instructional quality, but instead reflective of the inequitable impact of the pandemic. Again resources and support can be geared to schools that states and districts know need support via the many metrics that are collected such as attendance, quarantining, student well-being surveys, teacher retention, etc.

Reference: Lewis, K., & Kuhfeld, M. (2021). Learning during COVID-19: An update on student achievement and growth at the start of the 2021-22 school year. NWEA.

JCPS appreciates the guidance and flexibility provided by the Office of Elementary and Secondary Education to state and local education agencies. We thank you for the opportunity to provide comment on this important matter and welcome your consideration of our request outlined above.

Sincerely,

Dena Dossett



Dena Dossett, Ph.D.

Chief - JCPS Accountability, Research, and Systems Improvement

VanHoose Education Center



**P.K. Agarwal**  
Dean of UCSC Extension

**Tony Alpert**  
Executive Director

**Magda Chia**  
Chief Strategy Officer

**Christyan Mitchell**  
Chief Operating Officer

**Executive Committee**  
Dan Farley, *Chair-Elect*  
Deb Came, *Past Chair*  
Carolina Cardenas  
Cheryl Cotton  
Charity Flores

January 14, 2022

Submitted via email  
Melissa Siry  
U.S. Department of Education  
Office of Elementary and Secondary Education  
400 Maryland Avenue, SW  
Washington, DC 20202

RE: Comments on Draft FAQ: Impact of COVID-19 on 2021-2022  
Accountability Systems Required under the Elementary and Secondary  
Education Act of 1965 (ESEA)

Dear Ms. Siry:

As Smarter Balanced Assessment Consortium (Smarter Balanced) staff, we express our appreciation for the U.S. Department of Education (ED) Draft *FAQ: Impact of COVID-19 on 2021-2022 Accountability Systems Required under the Elementary and Secondary Education Act of 1965 (ESEA)* and the opportunity to provide feedback.

As a member organization, Smarter Balanced provides a dynamic system of tools in support of teaching success – collaboratively created and always evolving to fulfill our deep commitment to our diverse students and educators. Our organization was founded on the principles of assessment best practice and ones that emphasize equity, accessibility, and supports for high-quality instruction. For over a decade we have lived by these principles and have partnered with educators from across the nation to develop and enhance tools for teaching and tools for statewide assessment in support of a balanced assessment system.

We appreciate that the FAQ delineates numerous ways in which SEAs may utilize flexibility to address their local needs as they attend to the effects of the ongoing pandemic. Similarly, we appreciate the Department's emphasis that a diversity of stakeholders should be included in the process of making changes to assessment and accountability plans, especially those who may serve as advocates for students who are traditionally marginalized and under-represented. Further, we concur with the Department's description in B-15 that statewide indicators are necessary to help ensure that schools are evaluated consistently within statewide accountability systems.

Regarding B-8, the descriptions of caution are helpful and comprehensive. However, SEAs may also benefit from considering whether the composition of the data is different based on the participation of specific LEAs. These might not appear as regional differences or subgroup differences but may indicate a difference in the population that is included in the test.

Again, Smarter Balanced appreciates the opportunity to share our expertise in assessment systems, accountability, and supports for instruction via the FAQ document. We welcome the opportunity to discuss this, or any other aspects of the assessment system field. If you have any questions about the feedback or if we can be of any assistance in the future, please do not hesitate to contact us.

Sincerely,

Tony Alpert  
Executive Director



Magda Chia, Ph.D.  
Executive Strategy Officer

