

EQUITY ALERT: HOW THE ESSA ACCOUNTABILITY REGULATIONS AFFECT CALIFORNIA



The Education Trust–West

On November 28, 2016, the U.S. Department of Education issued final regulations to implement provisions of the Every Student Succeeds Act (ESSA) regarding school accountability, data reporting, and state plans. These final rules balance state flexibility with the need for clarity as California continues its work designing a new state accountability system and implementing ESSA. Importantly, these rules clarify and reinforce some of the protections the law provides for students of color, English learners, students with disabilities, and other traditionally underserved student groups.

HERE ARE 10 WAYS IN WHICH THE REGULATIONS WILL AFFECT SCHOOL ACCOUNTABILITY IN CALIFORNIA:

1. **CALIFORNIA WILL BE GIVEN MORE TIME TO FINALIZE ITS STATE PLAN AND TRANSITION TO THE NEW ACCOUNTABILITY SYSTEM.** The regulations extend the deadline for the creation of state plans by two months, from July to September 2017. They also give states an additional year to identify schools for comprehensive and targeted support and improvement. These extended timelines offers California stakeholders more time to offer input. However, this extension also heightens the importance of local engagement, monitoring, and accountability over the next several years, since full accountability for school performance will not kick in until 2019-20 and beyond.
2. **CALIFORNIA WILL NEED TO CONSULT WITH COMMUNITY-BASED AND CIVIL RIGHTS ORGANIZATIONS WHEN DEVELOPING ITS CONSOLIDATED STATE PLAN.** While the statute already requires extensive consultation, the final regulations expand the list of stakeholders. Among those added are community-based organizations and civil rights organizations, including those representing students with disabilities, English learners, and other historically underserved students. This means that California has both the opportunity and imperative to engage the many organizations around the state that work with families and youth, and on behalf of our neediest students.
3. **CALIFORNIA WILL HAVE TO SUMMARIZE EACH SCHOOL'S PERFORMANCE AND PROVIDE THIS INFORMATION IN ADDITION TO ITS DASHBOARD OF INDICATORS.** The regulations do not require states to numerically rate schools, but they do require that each school be given a "single summative determination" from at least three categories. The regulations make clear that a data dashboard alone is insufficient as a means of differentiating schools from one another, although the summative determination could be based on a dashboard. In effect, this means that California will probably need to analyze or summarize the data from all of the evaluation rubric indicators into a single label, category, grade, description, or something similar for each school. This "summative determination" must be reported "in a clear and understandable manner" on annual report cards. Advocates will likely also urge California to report this determination on the evaluation rubric dashboards.
4. **A SCHOOL'S SUMMATIVE DETERMINATION MUST BE INFLUENCED BY THE PERFORMANCE OF EACH STUDENT SUBGROUP.** The regulations require that any school with a "consistently underperforming subgroup of students receives a lower summative determination than it would have otherwise received" if it did not have these lower performing groups. This ensures that a school determination does not hide or gloss over the performance of subgroups. This is particularly important and relevant in schools where a student subgroup is relatively small, as compared with the total student enrollment. In California, this will ensure that a school does not receive the

highest determination or rating if it has a consistently underperforming subgroup; every group of students in that school would have to be performing at acceptable levels.

5. **CALIFORNIA CAN USE THE SAME MEASURE IN MORE THAN ONE ACCOUNTABILITY INDICATOR.** The regulations clarify that a given measure may be used more than once across accountability indicators. This clears up a misunderstanding introduced by the draft regulations, which suggested that a measure could not be used more than once. California’s State Board of Education has signaled that it will not include Smarter Balanced 11th grade test scores in the state’s Academic Achievement indicator alongside 3rd-8th grade test scores, despite ESSA law requiring an academic indicator for all schools, including high schools. Board members used the draft regulatory language to support their argument, since California plans to include 11th grade scores in its separate College and Career Index. These final regulations clarify that that a state may use a particular measure or instrument in more than one indicator. These regulations—in combination with the clear statutory language—pave the way for continued advocacy urging the state to include 11th grade test scores in the Academic Achievement indicator, so that the performance of every 11th grader counts.
6. **CALIFORNIA CAN DEVELOP OTHER WAYS TO MEASURE ACADEMIC ACHIEVEMENT BESIDES THE “PERCENT MEETING STANDARD.”** Historically, most states—including California—have reported the percentage of students meeting or exceeding the proficiency standard on state tests. This helped orient stakeholders to clear goals for academic performance. However, some argue that this system ignored the wide variation in performance among students and encouraged educators to chiefly focus on improving the performance of those students just below the proficiency line. These final regulations offer states more flexibility in how they report data as part of an Academic Achievement indicator. They may now include measures of student performance below or above the proficient level. This might be in the form of an index based on scaled scores, for example. This is permissible so long as a school receives less credit for the performance of a student who is not yet proficient than for the performance of a student who is proficient, and the credit a school receives for the performance of a more advanced student does not fully compensate for the performance of a student that is not yet proficient. California state leaders and some equity advocates have expressed interested in using an alternative to “percent proficient.” The final regulations clear the way for California to consider those alternatives.
7. **CALIFORNIA MUST INVOLVE STUDENTS IN SCHOOL IMPROVEMENT PLANS.** These regulations were revised to require the involvement of students, as appropriate, in developing school improvement plans. This helps ensure that a school’s plan represents the perspectives of those who will be most directly impacted by its implementation. This matters in California, because advocates have fought hard to ensure that state laws and regulations require districts to involve students in the creation of district-level Local Control and Accountability Plans. These federal regulations ensure that students will also be included in the process of developing school-level plans.
8. **CALIFORNIA MUST CONSULT WITH PARENTS WHEN DEVELOPING FEDERALLY-MANDATED STATE AND LEA REPORT CARDS, AND THESE REPORT CARDS MUST BE UNDERSTANDABLE TO PARENTS.** These regulations require that report cards conveying important, required information about school and district performance be developed in consultation with parents. This is based on the belief that “it is essential that the perspectives of parents—who are among the primary consumers of State and LEA Report Cards—be solicited, considered, and incorporated into the report card development process.” To the extent that California intends to align its “evaluation rubric” data dashboards with state and LEA Report Cards, or to reference information from the evaluation rubrics in these report cards, this means that state leaders must consult with parents and ensure

those dashboards are understandable to parents. To date, state leaders have primarily solicited input from district leaders and advocates, not from parents. Advocates will likely push state leaders to do so.

9. **STATES ARE ENCOURAGED TO SET “N-SIZES” OF 30 OR SMALLER.** If a state chooses an n-size that is greater than 30 students, it must provide justification for why it is doing so and gain approval from the U.S. Department of Education. Under No Child Left Behind, California used an n-size of 100. This made it possible for schools or districts to avoid transparency and accountability for groups with fewer than 100 students. With the Local Control Funding Formula, California lowered the subgroup size to 30 for state accountability and reporting purposes. The final ESSA regulations will give California strong encouragement to maintain that 30-student subgroup size for federal accountability purposes as well. The regulations also clarify that states can have lower n-sizes for reporting than they do for accountability. This is important to California, which has established smaller n-sizes for reporting data on special populations like foster youth, since there are often relatively few of them in a given school or district. California will be able to maintain those smaller subgroup sizes.
10. **CALIFORNIA MUST HAVE A PLAN FOR ELIMINATING INEQUITIES IN TEACHER QUALITY.** ESSA requires states to describe their strategies to support and develop excellent educators and ensure all students have access to those educators. The final regulations require states to define “ineffective,” “out-of-field,” and “inexperienced” teachers and annually report on the rates at which low-income students and students of color are taught by those teachers, as compared to other students. Where disproportionality exists, states must do a root cause analysis that reflects gaps between districts, within districts, and within schools, and develop strategies that focus on the most significant rates of disproportionality. States must describe their timelines and interim targets for eliminating differences. California will need to update its educator equity plan to reflect these requirements and integrate that plan into its ESSA state plan.

While the regulations clarify some of the law’s key provisions, they maintain the extensive flexibility that ESSA grants states in designing their accountability systems. Advocates in California will need to continue providing both pressure and support to state and district leaders in this work. We must be vigilant in ensuring that:

1. Our accountability systems reflect how schools are doing for all groups of students;
2. Any school that is not meeting expectations for one or more groups of students takes swift and meaningful steps to improve; and
3. Families, communities, and the public get accessible and transparent information on how schools are doing for all groups of students.

To learn more about ESSA and how it impacts California, visit these resources:

- [The Every Student Succeeds Act: What it Means for Equity and Accountability in California](#): Issued in late 2015 when ESSA was first signed into law, this Education Trust–West Equity Alert describes some of the key provisions of ESSA that will affect critical decisions California needs to make related to school accountability.
- [The Every Student Succeeds Act: What's In It? What Does it Mean for Equity](#): This page includes The Education Trust’s overview of ESSA and downloadable fact sheets on what the law means for: 1) Standards, 2) Assessments, 3) Accountability systems, 4) Public reporting, 5) Teachers and leaders, and 6) Funding.
- [Resources developed by the Students Can’t Wait Workgroup](#): It’s critical that there be strong voices advocating for equity and achievement. This set of tools and fact sheets equips advocates with information on ESSA, accountability indicators, school ratings/determinations, goal-setting, and improvement planning.
- [The U.S. Department of Education’s summary of final ESSA regulations](#)