

July 27, 2016

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

Dear Secretary King:

Thank you for providing this opportunity to comment on the Department of Education's proposed regulations regarding the accountability, school improvement, data-reporting and consolidated state plan requirements in the Every Student Succeeds Act (ESSA). We applaud the Department's efforts to engage the field in implementing ESSA to ensure all students graduate college career ready. Congress expressly names early learning as an area for states, districts and their partners to elevate, expand and better integrate with K-12 education. This decision creates significant opportunities for new and exciting collaboration between early learning programs and elementary schools. High-quality early learning programs improve education, health, and economic outcomes for our nation. Increasing children's access to these opportunities and promoting seamless and supportive transitions to elementary school will place more kids on a path to college, and career, readiness. Our response to the Notice of Proposed Rulemaking (NPRM) aims to clarify areas where regulation can support ESSA's focus on early learning with fidelity to the intent of the law as passed by Congress.

THE DEPARTMENT'S FINAL REGULATIONS SHOULD PROMOTE CLARITY ABOUT ESSA'S BIRTH TO SIX EARLY LEARNING VISION

ESSA shifts significant authority to states and districts, this includes a range of policies and practices with implications for early learning quality and program alignment with elementary school programs. The success of ESSA will in part rely on states' implementation of plans that recognize early learning programs span from birth to early elementary school. To this end, we encourage the Department to restate that ESSA utilizes the definition of an "early childhood education program" as it is defined in the Higher Education Act (HEA), which spans programs from birth to age six. Embedding this definition in the regulations and tying it to the term "preschool" will provide needed clarity to states and districts. Reiterating the statutory definition as part of the Department's regulations will also help to ensure that states develop plans that are inclusive of the broad range of early learning programs and practices in their communities. Additionally it will promote greater connections to kindergarten readiness and improved alignment between elementary school and early learning programs.

Access to high-quality early learning opportunities prior to elementary school profoundly impact a young child's healthy development and learning. As such, we also recommend that the regulations specifically encourage state strategies and use of funding to support preschool when developing state plans. Consistent with ESSA, the regulation need not describe a single set of quality indicators, but the

regulations should encourage states and local educational agencies to consider: early childhood workforce needs, including continuous professional development, training, and compensation; relevant research about young children’s development and needs; alignment with the state quality rating improvement system or other quality standards; the unique developmental and learning needs of dual language learner’s; and strategies for working collaboratively to develop a statewide system of high-quality education and care.

By elevating the importance of high-quality preschool for children under age six in the state plans, states and districts will have a clear pathway for continuing their work in developing and implementing a system that promotes school readiness. It is important to support early learning programs that facilitate the lifelong gains research shows are possible when we invest in high-quality preschool for our nation’s youngest learners.

THE DEPARTMENT’S FINAL REGULATIONS REGARDING STAKEHOLDER ENGAGEMENT SHOULD MORE EXPRESSLY DESCRIBE EARLY CHILDHOOD EDUCATORS AND LEADERS

ESSA requires states and districts to gather input, ideas and feedback from stakeholders, including early learning representatives. This statutory requirement not only calls for stakeholder engagement regarding state plan development, but concerning key implementation areas such as the requirements to develop comprehensive and targeted support and improvement plans and to conduct a needs assessment for schools identified for comprehensive support and improvement. States and districts that effectively engage early learning leaders will not only promote more equitable access to high-quality early learning in their communities, they will also be much more likely to achieve their accountability goals. As the Department notes, consultation requirements are “essential” and meaningful stakeholder engagement begins with ensuring that the regulations expressly include early childhood educators in the provisions where stakeholders are described. With this goal in mind, we recommend:

- Strengthening the proposed engagement requirements related to the development of comprehensive support, targeted support, improvement plans, and completing the needs assessments required for schools identified for comprehensive support and improvement. We recommend improving the proposed regulations (Sections 200.21(c) and (d)(1) and Section 200.22 (c)(1)) by calling on LEAs to work “in partnership with stakeholders (including principals and other school leaders; teachers, *including those early childhood educators and leaders working with children prior to school entry*; and parents.”
- Improving the consultation and coordination requirements for the development of consolidated state plans. We recommend that the proposed regulations (Section 299.15 (a)(6)) be amended to require consultation with “teachers, *early childhood educators and leaders*, principals, other school leaders, paraprofessionals, specialized instructional support personnel and organizations representing such individuals. We also recommend that Section 299.15(a)(9) be amended to require consultation with “community-based organizations, *including community-based early childhood programs.*”

THE DEPARTMENT'S FINAL REGULATIONS SHOULD ENCOURAGE COMPREHENSIVE INTEGRATION OF EARLY LEARNING IN STATE PLANS

State plans provide a comprehensive structure for state and local ESSA implementation and therefore should clearly require articulation of plans for better aligning early learning program standards with elementary school standards across the range of developmental domains. Among other related requirements, ESSA Sec. 1111(g) specifically calls on states to describe, "...how the State will provide assistance to local educational agencies and individual elementary schools choosing to use [Title I] funds ...to support early childhood education programs." The Department's proposed regulations should also clearly require states to demonstrate how the State will support its early learning vision in its state plans, including the promotion of alignment between early childhood education programs and elementary school programs. In so doing, the state should be required to describe how it will promote equitable access to high-quality early childhood education programs.

Supporting All Students (Section 299.19)

Proposed Section 299.19 addresses ESSA's Supporting All Students provisions, and proposes to require states to describe how they will ensure all children have a significant opportunity to meet the state's challenging academic standards and graduate high school prepared to enter college or a career. Specifically, states are required to describe strategies, timelines, and how states will use ESSA funding to support a continuum for a student's education from preschool through grade 12, including the transition from early childhood education to elementary school. We thoroughly support this proposed language to ensure a continuum of services and urge the Department to maintain it.

In addition, the Department should encourage states to consider the role early developmental and behavioral screening can play in ensuring equitable access to a well-rounded education, including helping with the accurate identification of children with disabilities. Additionally, states and districts should consider including screening among the potential interventions for comprehensive and targeted support schools. As many as one in four children birth to age five, are at risk for a developmental delay or disability. Early identification allows communities to intervene earlier, leading to more effective supports and services during the preschool years, rather than providing more costly special education services in later childhood.

Supporting Excellent Educators (Section 299.18)

We recommend explicitly using the term 'early childhood educator' in addition to 'teacher' throughout the proposed regulations (when appropriate) and in particular, when asked to articulate how states will support state-level strategies to develop, retain and advance excellent educators to improve student outcomes and improve teacher and leader effectiveness.

We know that educators are the linchpins of quality, and, further, that teachers' ability to create and sustain successful and effective early learning environments depends greatly on supportive policies and leaders across programs, schools, districts and states. Given this, we should ensure that teachers of young children have the supports that they need to engage in developmentally appropriate best practices. Specifically, we recommend the following changes to Section 299.18:

- State education agencies (SEAs) should be required to describe: (1) the “state’s system of certification and licensing of teachers and principals or other school leaders, *including early childhood educators*”; and (2) the “state’s system to ensure adequate preparation of new educators, particularly *for those teaching in early childhood programs*, as well as low-income and minority students.”

A state’s professional development and educator evaluation systems play critical roles in supporting educators’ learning and development, and in turn, students’ learning and development. This means that the systems should appropriately engage and accommodate the early childhood educators. Thus, we recommend amending the proposed regulations with the following changes:

- Section 299.18(a)(3): The state's system of professional growth and improvement, which may include the use of an educator evaluation and support system, for educators that addresses induction, development, compensation, and advancement for *early childhood educators*, teachers, principals, and other school leaders if the state has elected to implement such a system. Alternatively, the SEA must describe how it will ensure that each LEA has and is implementing a system of professional growth and improvement for teachers, *including early childhood educators*, principals, and other school leaders, which addresses induction, development, compensation, and advancement. *Any system that is inclusive of early childhood educators should be coordinated with a state's plan for the Child Care and Development Block Grants for professional development systems and workforce initiatives.*
- Section 299.18(b)(1)(ii): Improve the quality and effectiveness of teachers, *including early childhood educators*, and principals or other school leaders

We further recommend that the regulations add preschool children as (N) to the list of identified student groups within Section 299.18 (b)(2)(i), to ensure a focus on how the SEA will improve the skills of teachers, principals or other school leaders. Finally, within Section 299.18(c)(2)(i), it is very important that the statewide definition of “ineffective teacher” or statewide guidelines for LEA definitions of “ineffective teacher” differentiates between categories of teachers and *is appropriate by age and grade*. The regulations should reference the National Academy of Sciences’ guidelines for the use of child assessments and be clear that early childhood educators should be evaluated using practices generally accepted and used by the early learning field.

THE DEPARTMENT'S FINAL REGULATIONS REGARDING STATES’ USE OF SCHOOL QUALITY OR STUDENT SUCCESS INDICATORS SHOULD ENCOURAGE A FOCUS ON ALL DOMAINS OF EARLY CHILDHOOD DEVELOPMENT

ESSA and the Department’s proposed regulations for statewide accountability systems (Section 200.14(b)(5)) require states to select one or more indicators of School Quality or Student Success that may vary across grade spans and are supported by research showing that performance or progress on such measures is positively related to student achievement. We recommend the language used in this section includes that states should utilize developmentally appropriate measures that are valid and reliable. The measures should highlights gaps and needs leading up to school entry. We further recommend that the Department revise its reference to the *early grades* in this section to instead read

early years as the “grouping” of children in early learning settings is established by a child’s age, not by a grade system as in K-12 education. An extensive body of research tells us what young children should know and be able to do to succeed in elementary school and states should use this research to help close achievement gaps and improve student outcomes.

Accordingly, the Department should urge states to consider valid and reliable ways to measure how schools are supporting early learning and development outcomes. Such measures must be developmentally appropriate and could focus on areas such as: cognitive and behavioral self-regulation; social and emotional development; language and literacy; cognitive development; and perceptual, motor, and physical development.

THE DEPARTMENT'S FINAL REGULATIONS REGARDING COMPREHENSIVE AND TARGETED SUPPORT AND IMPROVEMENT SCHOOLS SHOULD BETTER ADDRESS EARLY LEARNING

ESSA requires states to notify school districts of schools within their jurisdiction that qualify for comprehensive support and improvement. Section 200.21 calls on school districts with such schools to work in partnership with stakeholders, including principals, school leaders, teachers and parents, to design and implement comprehensive and targeted support and improvement plans. Under the proposed regulations, these improvement plans must include one or more evidence-based interventions that are supported, to the extent practicable, by the strongest level of evidence that is available and appropriate to meet the needs of the school, and may be selected from among state-established evidence-based interventions or a state-approved list of evidence-based interventions.

Specifically, the proposed regulations list high-quality preschool as an example of an evidence-based intervention. Research shows that high-quality preschool programs produce long-term improvements in student success, including higher achievement test scores, lower rates of grade repetition and special education, and higher educational attainment. Accordingly, we strongly support the Department’s recognition of high-quality preschool as an effective intervention to improve student outcomes in an elementary school identified for comprehensive support and improvement. We also recommend encouraging states to include increasing access to high-quality preschool on their state-approved list of evidence-based interventions through guidance, when applicable.

In developing a comprehensive support and improvement plan, LEAs must identify and address resource inequities, including, at the LEA’s discretion, a review of LEA- and school-level budgeting and resource allocation with respect to preschool access and availability. We appreciate that the Department proposed this requirement in Section 200.21, which emphasizes the importance of improving equity and access to turn around comprehensive support and improvement schools.

Targeted support and improvement schools must develop improvement plans. In particular, schools identified due to a low-performing subgroup must identify and address resource inequities that have impacted the low-performing subgroup. We recommend applying the same language proposed in Section 200.21 - regarding reviewing resource inequities in comprehensive support and improvement plans - to targeted support and improvement plans, which focuses on preschool access and availability.

THE DEPARTMENT'S FINAL REGULATIONS SHOULD REQUIRE STATES TO ALIGN FAMILY ENGAGEMENT ACTIVITIES ACROSS ALL RELATED FEDERAL EDUCATION AND CHILD CARE PROGRAMS

ESSA emphasizes greater early learning and elementary education alignment and coordination to ensure successfully transitions to elementary school. As this Administration noted in its joint Policy Statement on Family Engagement from the Early Years to the Early Grades, “families are children’s first and most important teachers, advocates, and nurturers. Strong family engagement in early childhood systems and programs is central—not supplemental—to promoting children’s healthy intellectual, physical, and social-emotional development; preparing children for school; and supporting academic achievement in elementary school and beyond.” State policies and investments directly influence school district investments, policies, and practices. Accordingly, we urge the Department to require states to align family engagement policies among the various early childhood education programs, including Head Start, CCDBG, IDEA, and MIECHV, as well as relevant state early childhood education programs.

THE DEPARTMENT'S FINAL REGULATIONS SHOULD ENSURE STATE REPORT CARDS ACCURATELY DESCRIBE THE NUMBER AND PERCENTAGE OF CHILDREN ENROLLED IN PRESCHOOL

For the first time, ESSA requires states and districts to report the number and percentage of students enrolled in preschool programs. This requirement presents an important opportunity for states and communities to measure and address preschool access and meaningfully bridge preschool with the K-12 continuum, as is the intent of the law. The statute provides that this data is to be reported in accordance with the Civil Rights Data Collection (CRDC) survey conducted by the Department’s Office for Civil Rights. Because the intent of this requirement is to get a better picture of how children are being served across the birth through six continuum, we recommend that this requirement be clarified. Currently the CRDC asks for data on a number of valuable elements related to preschool children served by LEAs including: cost (charge for parents); daily length of program (full or part day); eligibility; and number of children served by specific age (3, 4 and 5 years), but it does not capture where all children are being served across all settings.

All of this data is useful and relevant to efforts by local education agencies as part of their comprehensive or targeted support and improvement plans and state agencies as part of the consolidated state plan provisions that identify and address resource inequities related to preschool programs. Such information provides a deeper understanding of the availability and equity of access for families and children to preschool programs and the connection of programs to local education agencies. Given the abundance of research on the positive impact of experiences in preschool programs for children from low income families, data supporting a deeper analysis will be of great benefit to local and state accountability and continuous improvement efforts.

Therefore, we recommend that the Department develop a methodology in collaboration with OCR and states to help provide clarity on the data that should be used here, and that the final regulations reflect the need for a full picture that offers a numerator of all kids ages birth to six enrolled in all early childhood programs, as defined by HEA, over a denominator of all kids ages birth to six in the state. In addition, given the Administration’s focus on these critical issues, and the extent to which they are referenced in other areas of the law, we recommend that the report card capture data, collected by

CRDC, addressing the issues of absenteeism, suspension and expulsion in preschool, as well as access to developmental screenings.

Thank you for the opportunity to provide comments on the proposed ESSA regulations, which will inform state and local implementation of ESSA. These recommendations should be read with the understanding that some organizations undersigned support additional or varied policy positions. We look forward to working with the Department as it continues implementation efforts that include improving access to high-quality early learning and development opportunities for children.

Sincerely,

First Five Years Fund
Center for Law and Social Policy
Child Care Aware® of America
Early Care and Education Consortium
National Association for the Education of Young Children
National Association for Family Child Care
National PTA
National Women's Law Center
Ounce of Prevention Fund
Parents as Teachers
Partnership for 21st Century Learning
Save the Children Action Network
Sargent Shriver National Center on Poverty Law
Wolf Trap Foundation for the Performing Arts/Institute for Early Learning through the Arts

Advocates for Children of New Jersey
Children's Action Alliance
Children's Alliance
Children's Institute
Children's Trust of South Carolina
Clayton Early Learning
Colorado Children's Campaign
Connecticut Voices for Children
Erikson Institute
First 5 Association of California
Kentucky Youth Advocates
Los Angeles Universal Preschool
McCormick Center for Early Childhood Leadership at National Louis University
New Mexico Early Childhood Development Partnership
Rhode Island KIDS COUNT
Stand for Children Illinois
Strategies for Children
VOICES for Alabama's Children
Voices for Georgia's Children
Voices for Ohio's Children

Voices for Utah's Children
Wisconsin Council on Children and Families