

**NEXT STEPS FOR K-12 EDUCATION:  
UPHOLDING THE LETTER AND INTENT  
OF THE EVERY STUDENT  
SUCCEEDS ACT**

---

**HEARING**

BEFORE THE

COMMITTEE ON EDUCATION  
AND THE WORKFORCE  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

HEARING HELD IN WASHINGTON, DC, FEBRUARY 25, 2016

**Serial No. 114-40**

Printed for the use of the Committee on Education and the Workforce



Available via the World Wide Web: [www.gpo.gov/fdsys/browse/committee.action?chamber=house&committee=education](http://www.gpo.gov/fdsys/browse/committee.action?chamber=house&committee=education)

or

Committee address: <http://edworkforce.house.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

98-732 PDF

WASHINGTON : 2016

---

For sale by the Superintendent of Documents, U.S. Government Publishing Office  
Internet: [bookstore.gpo.gov](http://bookstore.gpo.gov) Phone: toll free (866) 512-1800; DC area (202) 512-1800  
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

## COMMITTEE ON EDUCATION AND THE WORKFORCE

JOHN KLINE, Minnesota, *Chairman*

Joe Wilson, South Carolina  
Virginia Foxx, North Carolina  
Duncan Hunter, California  
David P. Roe, Tennessee  
Glenn Thompson, Pennsylvania  
Tim Walberg, Michigan  
Matt Salmon, Arizona  
Brett Guthrie, Kentucky  
Todd Rokita, Indiana  
Lou Barletta, Pennsylvania  
Joseph J. Heck, Nevada  
Luke Messer, Indiana  
Bradley Byrne, Alabama  
David Brat, Virginia  
Buddy Carter, Georgia  
Michael D. Bishop, Michigan  
Glenn Grothman, Wisconsin  
Steve Russell, Oklahoma  
Carlos Curbelo, Florida  
Elise Stefanik, New York  
Rick Allen, Georgia

Robert C. “Bobby” Scott, Virginia  
*Ranking Member*  
Rubén Hinojosa, Texas  
Susan A. Davis, California  
Raúl M. Grijalva, Arizona  
Joe Courtney, Connecticut  
Marcia L. Fudge, Ohio  
Jared Polis, Colorado  
Gregorio Kilili Camacho Sablan,  
Northern Mariana Islands  
Frederica S. Wilson, Florida  
Suzanne Bonamici, Oregon  
Mark Pocan, Wisconsin  
Mark Takano, California  
Hakeem S. Jeffries, New York  
Katherine M. Clark, Massachusetts  
Alma S. Adams, North Carolina  
Mark DeSaulnier, California

Juliane Sullivan, *Staff Director*  
Denise Forte, *Minority Staff Director*

## C O N T E N T S

---

Hearing held on February 25, 2016 .....	Page 1
Statement of Members:	
Kline, Hon. John, Chairman, Committee on Education and the Workforce .....	01
Prepared statement of .....	3
Scott, Hon. Robert C. "Bobby", Ranking Member, Committee on Education and the Workforce .....	4
Prepared statement of .....	6
Statement of Witnesses:	
King, John B., Hon., Acting Secretary, U.S. Department of Education .....	7
Prepared statement of .....	10
Additional Submissions:	
Mr. Scott:	
Letter dated February 25, 2016 from Dignity In Schools .....	58
Thompson, Hon. Glenn, a Representative in Congress from the state of Pennsylvania:	
Letter dated February 25, 2016 from National School Boards Association (NSBA) .....	61
Wilson, Hon. Joe, a Representative in Congress from the state of South Carolina:	
Prepared statement of .....	70
Questions submitted for the record by:	
Chairman Kline .....	74
Mr. Thompson .....	77
Messer, Hon. Luke, a Representative in Congress from the state of Indiana .....	77
Acting Secretary King, response to questions submitted for the record .....	79



**NEXT STEPS FOR K-12 EDUCATION:  
UPHOLDING THE LETTER AND INTENT  
OF THE EVERY STUDENT SUCCEEDS ACT**

---

**Thursday, February 25, 2016  
House of Representatives  
Committee on Education and the Workforce  
Washington, D.C.**

The committee met, pursuant to call, at 10:00 a.m., in Room 2175 Rayburn House Office Building, Hon. John Kline [chairman of the committee] presiding.

Present: Representatives Kline, Wilson of South Carolina, Foxx, Roe, Thompson, Walberg, Guthrie, Rokita, Barletta, Messer, Byrne, Carter, Bishop, Grothman, Curbelo, Stefanik, Allen, Scott, Hinojosa, Davis, Courtney, Fudge, Polis, Wilson of Florida, Bonamici, Pocan, Takano, Clark, Adams, and DeSaulnier.

Staff Present: Janelle Gardner, Coalitions and Members Services Coordinator; Kathlyn Ehl, Professional Staff Member; Tyler Hernandez, Press Secretary; Amy Raaf Jones, Director of Education and Human Resources Policy; Nancy Locke, Chief Clerk; Dominique McKay, Deputy Press Secretary; Brian Newell, Communications Director; Krisann Pearce, General Counsel; Lauren Reddington, Deputy Press Secretary; Alex Ricci, Legislative Assistant; Mandy Schaumburg, Education Deputy Director and Senior Counsel; Alissa Strawcutter, Deputy Clerk; Julianne Sullivan, Staff Director; Leslie Tatum, Professional Staff Member; Brad Thomas, Senior Education Policy Advisor; Sheariah Yousefi, Legislative Assistant; Tylease Alli, Minority Clerk/Intern and Fellow Coordinator; Austin Barbera, Minority Staff Assistant; Jacque Chevalier, Minority Senior Education Policy Advisor; Denise Forte, Minority Staff Director; Brian Kennedy, Minority General Counsel; Saloni Sharma, Minority Press Assistant; Michael Taylor, Minority Education Policy Fellow; and Arika Trim, Minority Press Secretary.

Chairman KLINE. A quorum being present, the Committee on Education and the Workforce will come to order. Good morning, welcome back.

Mr. KING. Thank you very much.

Chairman KLINE. We really appreciate the opportunity to have you with us twice in one week. I know that is unusual. Today, we are going to discuss the steps the Department of Education is taking and will be taking to implement the Every Student Succeeds Act.

Replacing No Child Left Behind was a significant achievement that was desperately needed and long overdue. The law represented the largest expansion of Federal control over K–12 schools, and it was based on the flawed premise that Washington knows best what students need in the classroom.

The Federal Government imposed rigid rules and punitive actions on States and schools in areas vital to a child's education, like which teachers to hire and fire, how to gauge school performance, and how to fix underperforming schools.

It did not take long before State and local leaders were raising concerns that this top-down approach would not work. Their concerns were affirmed year after year as we experienced little, if any, improvement in graduation rates, proficiency in reading and math, and the achievement gaps separating poor and minority students from their peers. Frustration among parents and teachers went up, while student achievement remained largely flat. Despite the good intentions behind the law, and they were good intentions, millions of children were left behind.

To make matters worse, the administration spent years pushing a convoluted waiver scheme, which doubled down on the false hope that Washington could fix the problems in our schools. States and schools were subjected to even more Federal requirements in areas like standards and teacher evaluations. They were forced to choose between onerous requirements prescribed in Federal law and onerous requirements prescribed by the Secretary of Education.

If we learned anything throughout the process to replace No Child Left Behind, it is that the American people are tired of Washington micromanaging their classrooms. They are desperate for a different approach to K–12 education, one that will significantly reduce the Federal role and restore state and local control. This is precisely the approach taken by the Every Student Succeeds Act.

Under the new law, authority over accountability, teacher quality, and school improvement is restored to State and local leaders. The law also brings new transparency and accountability to the department's rulemaking process, ends the era of federally mandated high-stakes testing, repeals dozens of ineffective programs, and sets the department on the path of becoming smaller, not bigger.

Furthermore, due to the administration's actions in recent years and the public outcry that ensued, the Every Student Succeeds Act includes unprecedented restrictions on the authority of the Secretary of Education, ending the days when one individual imposed his or her own agenda on our classrooms.

The Wall Street Journal described the new law as quote "The largest devolution of Federal control to the States in a quarter-century," close quote.

A letter written by a coalition of organizations representing governors, State lawmakers, teachers, parents, principals, and superintendents says "The Every Student Succeeds Act is clear, education decision-making now rests with States and districts, and the Federal role is to support and inform those decisions." They also urge the Department of Education to honor congressional intent, which brings us to the heart of today's hearing.

Despite our success in replacing No Child Left Behind, the real work to improve K–12 education is just beginning. The focus now

shifts to leaders in State capitals and local communities who will use the tools and authority in the new law to build a better education for their children. If they are going to succeed, they will need a Department of Education that behaves like a partner, not a dictator.

I have described countless times the shortfalls of No Child Left Behind. While it may seem unnecessary at a hearing on the future of K–12 education, we need to remember where we have been as we look to where we want to go.

Congress did not want to repeat the mistakes of the past, and we certainly did not want a Department of Education that would continue to substitute its will for the will of Congress and the American people.

Quite the opposite, we wanted new policies that would empower parents, teachers, and State and local education leaders. Congress promised to reduce the Federal role and restore local control, and we intend to keep our promise.

That is why we are here today. We want to learn what actions the department intends to take to implement the law and help ensure the department acts in a manner that strictly adheres to the letter and intent of the law.

Dr. King, this committee stands ready to assist you in that effort. The reforms you are now implementing were the result of bipartisan consensus, and we will remain actively engaged as the department moves forward. There is a lot of work to do, especially in every State and school district across the country. The department must get this right so every child can receive the excellent education they deserve.

I want to thank you again for being with us today. I know it is a very big day for you. Again, I wish you good luck in this afternoon's endeavor. I will now recognize Mr. Scott for his opening remarks.

[The Statement of Chairman Kline follows:]

**Prepared Statement of Hon. John Kline, Chairman  
Committee on Education and the Workforce**

Good morning. Welcome back, Acting Secretary King. Again, we appreciate the opportunity to have you with us twice in one week. Today we will discuss the steps the Department of Education is taking and will be taking to implement the Every Student Succeeds Act.

Replacing No Child Left Behind was a significant achievement that was desperately needed and long overdue. The law represented the largest expansion of federal control over K–12 schools, and it was based on the flawed premise that Washington knows best what students need in the classroom. The federal government imposed rigid rules and punitive actions on states and schools in areas vital to a child's education, like which teachers to hire and fire, how to gauge school performance, and how to fix underperforming schools.

It didn't take long before state and local leaders were raising concerns that this top-down approach wouldn't work. Their concerns were affirmed year after year as we experienced little – if any – improvement in graduation rates, proficiency in reading and math, and the achievement gap separating poor and minority students from their peers. Frustration among parents and teachers went up, while student achievement remained flat. Despite the good intentions behind the law, millions of children were left behind.

To make matters worse, the administration spent years pushing a convoluted waiver scheme, which doubled-down on the false hope that Washington could fix the problems in our schools. States and schools were subjected to even more federal requirements in areas like standards and teacher evaluations. They were forced to

choose between onerous requirements prescribed in federal law and onerous requirements prescribed by the secretary of education.

If we learned anything throughout process to replace No Child Left Behind, it's that the American people are tired of Washington micromanaging their classrooms. They are desperate for a different approach to K-12 education, one that will significantly reduce the federal role and restore state and local control. That is precisely the approach taken by the Every Student Succeeds Act.

Under the new law, authority over accountability, teacher quality, and school improvement is restored to state and local leaders. The law also brings new transparency and accountability to the department's rulemaking process, ends the era of federally-mandated high-stakes testing, repeals dozens of ineffective programs, and sets the department on the path to becoming smaller, not bigger. Furthermore, due to the administration's actions in recent years and the public outcry that ensued, the Every Student Succeeds Act includes unprecedented restrictions on the authority of the secretary of education, ending the days when one individual imposed his or her own agenda on our classrooms.

The Wall Street Journal described the new law as the "largest devolution of federal control to the states in a quarter-century." A letter written by a coalition of organizations representing governors, state lawmakers, teachers, parents, principals, and superintendents says, "[The Every Student Succeeds Act] is clear: Education decision-making now rests with states and districts, and the federal role is to support and inform those decisions." They also urge the Department of Education to "honor congressional intent," which brings us to the heart of today's hearing.

Despite our success replacing No Child Left Behind, the real work to improve K-12 education is just beginning. The focus now shifts to leaders in state capitals and local communities who will use the tools and authority in the new law to build a better education for their children. And if they are going to succeed, they will need a Department of Education that behaves like a partner – not dictator.

I've described countless times the shortfalls of No Child Left Behind. While it may seem unnecessary at a hearing on the future of K-12 education, we need to remember where we have been as we look to where we want to go. Congress did not want to repeat the mistakes of the past, and we certainly did not want a Department of Education that would continue to substitute its will for the will of Congress and the American people. Quite the opposite, we wanted new policies that would empower parents, teachers, and state and local education leaders. Congress promised to reduce the federal role and restore local control, and we intend to keep our promise.

That's why we are here today. We want to learn what actions the department intends to take to implement the law and to help ensure the department acts in a manner that strictly adheres to the letter and intent of the law. Dr. King, this committee stands ready to assist you in that effort. The reforms you are now implementing were the result of bipartisan consensus, and we will remain actively engaged as the department moves forward. There is a lot of work to do, especially in every state and school district across the country. The department must get this right so every child can receive the excellent education they deserve.

Thank you again for being with us today. I will now recognize Ranking Member Scott for his opening remarks.

---

Mr. SCOTT. Thank you, Mr. Chairman. Mr. Chairman, we are here today to discuss the critical role of the Department of Education in implementing the Every Student Succeeds Act.

We came together last year to write and pass a strong bipartisan law that was worthy of the President's signature. This was no small feat, and I am proud of our collective effort. I am proud of the role the House Democrats played in producing a new K-12 education law that I believe will fulfill the ESEA's original promise as a fundamental civil rights law.

At a time when Congress is often chastised for its brokenness and lack of compromise, we clearly accomplished a great deal by coming to a consensus to pass this major legislation, but passing legislation is only one step.

We all agree that fulfilling the promise of Every Student Succeeds Act rests on successful implementation that honors Congress' long-standing commitment and intent of the ESEA; that is pro-

moting and protecting the right to an educational opportunity for every child, regardless of race, income, language status, or disability.

ESSA repealed the one-size-fits-all approach of No Child Left Behind with increased flexibility for States and school districts, but with flexibility comes responsibility. States will be tasked with developing new multimeasure accountability systems, implementing more innovative assessment systems, and providing support to school districts to ensure that low performing schools improve and meet the needs of all students.

Getting this right will be hard work. The Federal Government has an important role to play in setting high expectations both for systems and for the students those systems serve. We have to maintain vigorous oversight and enforcement to ensure that these expectations are met.

Simply put, ESSA returns the decision-making to the States and local government, but this new law is not a blank check. There are Federal guidelines, and States and school districts must comply with those guidelines, and an appropriate regulatory framework is necessary to ensure that States and school districts are empowered to fully comply with the Federal law.

We know from experience that when Federal Government turns a blind eye or leaves States without a meaningful regulatory framework, it is the most vulnerable children, children of color, English learners, students with disabilities, and low-income students who frequently lose out.

We experienced this under both Democratic and Republican administrations. That is why I am glad to see the Department of Education, under the leadership of Acting Secretary King, the Department is quickly beginning the process to faithfully implement the new law.

Part of the process as dictated by the Administrative Procedures Act will be the Department of Education's promulgation of rules and regulations to clarify the language and statutory terms and requirements. This congressionally dictated responsibility is critical to helping the States and districts move forward expeditiously.

While the statute includes some specific restrictions on Federal prescription in limited circumstances, not a single provision of the law prevents the Department of Education from promulgating regulations, including important areas like assessments, accountability, and interventions.

Now Secretary King is not the only one with important work to do. As we move forward, State chiefs, State legislatures, and school districts must work collaboratively with all the stakeholders to ensure that the voices of parents, teachers, students, and civil rights communities are heard in State capitals and school board meetings across the country.

I understand that over 370 organizations and individuals have already provided recommendations to the department regarding the regulatory process. In my own reading of the public comments, I saw many individuals and groups requesting additional regulatory clarity, and this includes the Secretary's responsibility to define vague terms, set appropriate parameters, and providing options to fulfill the new legal requirements.

In addition, the State and local leaders will need to rise to the occasion and recognize their important responsibility to fight for strong student focused policies.

I look forward to hearing from the Acting Secretary today and at his confirmation hearing this afternoon, so I hope we can remove the “Acting” part of his title very soon. We’re look forward to hearing his testimony about what we can do to faithfully implement the law in a way that honors Congress’ intent to protect the civil rights of all students.

Thank you, Mr. Chairman.

[The Statement of Ranking Member Scott follows:]

**Prepared Statement of Hon. Robert C. “Bobby” Scott, Ranking Member,  
Committee on Education and the Workforce**

Mr. Chairman, we are here today to discuss the critical role of the Department of Education in the implementation of the Every Student Succeeds Act.

Early last year, this committee’s process for reauthorization of the Elementary and Secondary Education act started as partisan and ideological. We marked up and passed a bill that the White House, House Democrats, and the education and civil rights communities resoundingly rejected.

But ultimately, we came together to write and pass a strong bipartisan law that was worthy of the President’s signature. This was no small feat, and I am proud of our collective effort. I am proud of the role House Democrats played in producing a new K–12 education law that I believe will fulfill the ESEA’s promise as a fundamental civil rights law.

At a time when Congress is often chastised for its brokenness and lack of compromise, we clearly accomplished a great deal by coming to consensus to pass this major legislation.

But passing legislation is only one step of many. We all agree that the fulfilling the promise of the Every Student Succeeds Act rests in successful implementation that honors Congress’ longstanding commitment and intent of the ESEA: promoting and protecting the right to educational opportunity for every child, regardless of race, income, language status, or disability.

ESSA repealed the one-size-fits-all approach of No Child Left Behind with increased flexibility for states and school districts. But, with flexibility comes responsibility. States will be tasked with developing new multi-measure accountability systems, implementing more innovative assessment systems, and providing support to school districts to ensure that low-performing schools improve and meet the needs of all students.

Getting this right is hard work, and the federal government has an important role to play in setting high expectations – both for systems and for the students those systems serve – and maintaining vigorous oversight and enforcement to ensure those expectations matter.

Simply put, while the ESSA returns much decision-making to the state and local level, this new law is not a blank check. There are federal guardrails with which States and school districts must comply.

Democrats fought for those provisions because we know from experience that when the federal government turns a blind eye or leaves states without a meaningful regulatory framework, it is the most vulnerable children – children of color, English learners, students with disabilities, and low-income children – that lose out. We’ve experienced this under both Democratic and Republican administrations.

That’s why I am glad that the Department of Education, under the leadership of Acting Secretary King, quickly began the process to faithfully implement this new law. And part of that process, as dictated in the Administrative Procedures Act, will be the Department of Education’s promulgation of rules and regulations to clarify vague statutory terms and requirements. This congressionally-dictated responsibility is critical for helping states and school districts move forward expeditiously.

Not a single provision in the Every Student Succeeds Act prevents the Department of Education from promulgating regulations, including in important areas like assessments, accountability, and interventions.

Let me be clear: House Democrats would never have supported, and the President of the United States would have never signed, a law that revoked rulemaking authority or set a dangerous precedent when it comes to the federal government’s role in protecting the civil rights of all students.

Now, Acting Secretary King is not the only one with important work to do. As the process moves forward, state chiefs, state legislatures, and school district leaders must work collaboratively with all stakeholders to ensure that the voices of parents, teachers, students, and the civil rights community are heard in state capitols and school board meetings across the country.

I am pleased that 370 organizations and individuals have already provided recommendations to the Department of Education regarding the regulatory process. In my own reading of the public comments, I saw many individuals and groups requesting additional regulatory clarity. This includes defining vague terms, setting parameters, and providing options to fulfill new legal requirements. In addition, state and local leaders will need to rise to the occasion and recognize their important responsibility to fight for strong student-focused policies.

I look forward to hearing from Acting Secretary King about the work he is doing over the course of this year to faithfully implement this law in a way that honors Congress' intent to protect the civil rights of all students. Thank you.

Chairman KLINE. I thank the gentleman. Pursuant to Committee Rule 7(c), all members will be permitted to submit written statements to be included in the permanent hearing record, and without objection, the hearing record will remain open for 14 days to allow such statements and other extraneous material referenced during the hearing to be submitted for the official hearing record.

Normally at this time I would introduce our witness, but he should be familiar with everybody here, since he was here yesterday. I do have to ask you to stand and raise your right hand, please.

Do you solemnly swear that the testimony you are about to give will be the truth, the whole truth and nothing but the truth?

Mr. KING. I do.

Chairman KLINE. Let the record reflect Dr. King answered in the affirmative again. I think since it has been less than 24 hours since you were here, I probably will not need to explain the lighting system again. It has not changed overnight. It is still pretty much like it was yesterday.

With that understanding, sir, you are recognized.

**TESTIMONY OF JOHN B. KING, ACTING SECRETARY, U.S.  
DEPARTMENT OF EDUCATION**

Mr. KING. Thank you very much. Chairman Kline, Ranking Member Scott, and members of the committee, thank you for inviting me to speak about how the Department of Education intends to implement the Every Student Succeeds Act. I commend Congress for passing this law with strong bipartisan support.

The passage of this law is a major accomplishment and the beginning of the road as we build on efforts to expand educational excellence and equity in partnership with States, districts, communities, and educators.

ESSA presents us with a moment of both opportunity and moral responsibility. The new law reauthorizes the original Elementary and Secondary Education Act of 1965, which was a civil rights law that must be viewed in the context of the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

Responsibility to ensure that implementation of the new law lives up to its civil rights heritage rests with leaders in States, districts, and with all of us.

ESSA advances equity by upholding critical protections and maintaining dedicated resources for America's most disadvantaged

students. Importantly, the law maintains expectations that action will be taken to improve opportunities for students in schools that chronically under perform, that do not improve low graduation rates, and that do not ensure progress for all student groups.

The new law also embodies much of what the Obama administration has supported over the last seven years. For the first time, ESSA enshrines in law high-stakes State chosen learning standards, so that all students are prepared for college and careers. The law supports local innovation and builds on this administration's historic investments in quality preschool.

ESSA also requires that information on student progress is shared through annual State-wide assessments, and the law supports State efforts to audit and streamline assessments so that all State and local tests are high quality and worth taking.

Importantly, ESSA builds on work already underway to raise expectations for students and established locally tailored systems for school improvement in States. The law rightly shifts responsibility for developing strategies to support the highest needs students and schools to State and local decision-makers, and away from the one-size-fits-all mandates of No Child Left Behind; it creates opportunities for States to reclaim the goal of a rigorous, well-rounded education for every child.

There also is a continued role in ESSA for the Federal Government to construct guardrails to protect our children's civil rights. I and everyone at the Department of Education take that responsibility very seriously.

ESSA is a big and complex law with new pieces related to data reporting, accountability, support systems, programs, and authorities. At the Federal level, our role is to support States and districts, improve opportunities for students, investing in research, scaling what works, ensuring transparency, and providing guardrails to ensure educational equity.

Ultimately, we all want quality implementation of the law that supports States, districts, and schools in helping every student to succeed. We all want to build on the progress educators and students have made in recent years; demonstrated through our Nation's record high of high school graduation rates, dropout rates at historic lows, and our largest and most diverse esclass graduating from college.

We all want the story of education in America to be written by these and even more wins for our kids.

ESSA implementation will require an incredible amount of work. The department has heard from stakeholders about where guidance or technical assistance is most needed. We sought input on areas in need of regulation, received hundreds of comments via our notice in the Federal Register, and held public meetings.

We are still early in the process but there is urgency in the work to support States, districts, and educators. The department will engage in negotiated rulemaking on assessments and the law's requirement that Federal funds be used to supplement not supplant local investments in education.

Sessions will begin in late March, and will be open to the public. As we continue to meet with stakeholders and determine regula-

tions and guidance requiring updates, we look forward to a robust discussion of the new law.

Education is the path to equality and opportunity that is at the heart of the American dream, and together we can assure the dream is within reach for every child.

Thank you. I am glad to take your questions.

[The statement of Mr. King follows:]

DEPARTMENT OF EDUCATION

Statement by Acting Secretary John King

Hearing

***“Next Steps for K-12 Education: Upholding the Letter and Intent of the Every Student Succeeds Act.”***

Committee on Education and the Workforce

February 25, 2016

Thank you Chairman Kline, Ranking Member Scott, and members of the Committee. I appreciate the invitation to testify today regarding how the Department intends to implement the Every Student Succeeds Act (ESSA), which the President signed into law on December 10, 2015.

I have seen and lived the hard work and challenges faced by state leaders, principals, teachers, and other educators at all levels of our education system. And I have no greater responsibility than supporting their efforts to ensure that all children, regardless of where they live or their background, receive the education they need to succeed in school and in life.

I want to take a moment to acknowledge the hard work of this Committee in passing this law, and thank you for your work. In an era when bipartisan successes are too few and far between, you and your staff worked tirelessly to reauthorize an outdated piece of legislation, compromising where needed and always keeping the focus on what was best for kids. That is a great testament to each of you and particularly to the leadership of Chairman Kline and Ranking Member Scott.

My colleagues will tell you that as a former social studies teacher, I rarely miss an opportunity to put our work in its historical context. As you all know, the Every Student Succeeds Act reauthorized the original Elementary and Secondary Education Act (ESEA), which was signed by President Lyndon Johnson in 1965. From its inception, ESEA was a civil rights law. It was signed into law following the Civil Rights Act of 1964, and in the same year as the Voting Rights Act of 1965, by a President who believed that “full educational opportunity” should be “our first national goal.” ESSA honors the law’s civil rights heritage, and the responsibility to ensure that its implementation also honors that heritage rests with each state, district, and school—but also with all of us here.

ESSA advances equity by upholding critical protections for America’s disadvantaged students. The law maintains dedicated resources and supports for students from low-income families, students with disabilities, English learners, Native American students, foster and homeless youth, and migrant and

seasonal farmworker children. What's more, the law maintains the expectation that, in schools where students chronically underperform, in high schools that have low graduation rates over extended periods of time, and in schools where groups of students are not making progress, action will be undertaken to improve opportunities for students. With ESSA, Congress has reinforced the Federal commitment to holding our nation's schools accountable for the progress of all students.

ESSA also reflects many of the priorities that this Administration has put forward over the last seven years, moving forward a vision grounded in equity – to ensure that every young person in America receives an education that will prepare him or her with the knowledge and skills needed to succeed in college and future careers. It creates high expectations for students and for the system, and it invests in local innovation – including evidence-based and place-based interventions – consistent with many of our Administration's ideas and priorities. The law requires that all students in America be taught to high academic standards and shares vital information about their progress and performance with educators, families, students, and communities on an annual basis, through statewide assessments. ESSA also encourages a smarter approach to testing, moving away from a sole focus on standardized tests to drive decisions around the quality of schools and allowing for the use of multiple measures of student learning and progress – along with other indicators of student success – to make school accountability decisions. Our Administration is pleased that ESSA includes provisions consistent with the Administration's principles around reducing the amount of classroom time spent on standardized testing, encouraging states to limit the amount of learning time devoted to these assessments and supporting efforts to audit and streamline assessments at the state and local level.

In addition, this new law builds on the work already underway in states to raise expectations for students, develop their own strong state systems for school improvement, particularly in the lowest-performing schools and schools with chronically low graduation rates, and drive opportunity and better outcomes for every child. ESSA empowers state and local decision-makers to develop their own strategies for supporting the students and schools most in need based on evidence, rather than imposing the one-size-fits all approach of No Child Left Behind (NCLB). By providing States and districts with more flexibility to innovate and implement locally driven reform, ESSA moves beyond NCLB in a way that will drive stronger outcomes for all kids.

The new law builds on and sustains our historic investments in increasing access to high-quality preschool – one of the most powerful things we can do to ensure opportunity for students, by giving our youngest learners a strong start. And it creates an opportunity for states to reclaim the goal of a well-rounded education for all students. We have long understood that English Language Arts and Math test scores alone do not tell us all we need to know about our students' progress, or their readiness for college and careers. Under the new law, states have an opportunity to broaden how they consider what makes a school successful for the 21<sup>st</sup> century while maintaining focus on key academic outcomes. That may mean states measuring how students – all students – are doing in Advanced Placement and International Baccalaureate courses. It may mean states taking a closer look at chronic absenteeism, postsecondary enrollment, placement in remedial college coursework, or school climate as additional measures of how schools are serving all students.

The possibilities are exciting and expansive, but their real world impact for children will depend on implementation. And that is what you have invited me here today to discuss. So let me speak briefly about the Federal role in education. Education is, and should remain, primarily a State and local responsibility. What we do at the Federal level is support states and districts to improve opportunity for all students, invest in local innovation, research and scale what works, ensure transparency, and protect our students' civil rights, providing guardrails to ensure educational opportunity for all children.

We at the Department take that responsibility very seriously. This is a big and complex law, with a lot of new pieces – new data-reporting requirements, new opportunities for state-designed accountability and support systems, new programs and new authorities. Everyone – from the parent whose first child just enrolled in pre-school to the district superintendent – has questions about how this all comes together in practice. As someone who is a parent of public school children, and who has been a teacher, a principal, and a state commissioner of education, I can tell you that the prospect of a new law of this magnitude and scope is both exciting and daunting. There is an incredible amount of work to be done at all levels to implement the law.

That is why, since the bill was signed into law, the Department has been listening to the many stakeholders who care about implementation – including civil rights leaders, teacher and principal representatives, state and school district leaders, and many others – to hear their questions and concerns and identify where regulations, guidance or technical assistance might be most needed. We published in the Federal Register on December 22<sup>nd</sup> a request for information, broadly seeking input on areas in Title I in need of regulation. And as part of that notice, we held two regional meetings to seek

public input: one on January 11<sup>th</sup> in Washington, D.C., and one on January 19<sup>th</sup> in Los Angeles. In response to our notice, we received hundreds of comments, submitted on behalf of approximately 1,000 groups and individuals. We heard from teachers, principals, and other school leaders. We heard from state chiefs and district superintendents, from parents and students.

In general, the comments reflected overwhelming support for the new law. Many commenters expressed the need for regulations and guidance from the Department in order to better understand how to implement the provisions of the new law by July 2017. Among the most common areas of interest were: accountability, assessments, school improvement, data reporting, fiscal requirements, consolidated state plans, and family engagement. For example, the Leadership Conference on Civil and Human Rights, along with 36 other civil rights organizations, recommended that the Department promulgate regulations relating to assessments that would address the 95% participation requirement, the 1% cap on the alternate assessment for students with the most significant cognitive disabilities (including criteria for a waiver of that cap), and the inclusion of English learners in content assessments. The National Education Association requested that the Department regulate on data requirements relating to compliance with the requirement that funds under Title I, Part A be used to supplement, and not to supplant, state and local funds. The Business Roundtable called on the Department to ensure that there is regulatory guidance in place to prevent student achievement gaps from growing and students from exiting high-school ill-equipped to succeed in college and the workplace.

But we are still very early in the process. We are sifting through questions and comments, we are continuing to meet with groups, and we are looking across our existing regulations and guidance to figure out what is still useful and what needs to be updated.

At the same time, we know that states, districts, and educators are eager to move forward with implementing the new law, and we want to be responsive to that sense of urgency. When it comes to building new systems, the 2017-2018 school year is actually not that far away. To that end, on February 4<sup>th</sup>, we published a notice announcing our intent to engage in negotiated rulemaking on assessments under ESEA section 1111(b)(2) relating to statewide assessments, and the requirement under section 1118(b) of the ESEA that title I, part A funds be used to supplement, and not supplant, non-Federal funds. The negotiation sessions will begin in late March at the Department of Education, and are open to the public. As we said in our notice, we are hoping to seat negotiators representing a wide range of constituencies, including parents and students, state and district administrators, teachers, principals and members of the civil rights and business communities. We are looking forward to robust discussion and

hope that the final outcome will be a set of regulations – which will also be subject to public notice and comment before they are final – that support high-quality implementation of the new law and protect equity and transparency, particularly for our most vulnerable student populations.

Our goal is a renewed Federal-state partnership that will support local school districts and their schools in their charge of helping every student succeed. As we announced in December, our nation's graduation rate is at a record-high 82%, but achievement gaps persist and too many students complete their schooling without the knowledge and skills needed for future success. We need to keep the progress going for all kids, and so we are going to keep the conversation going – with stakeholders at every level, and with all of you here. And as we hear from the field, we will continue to identify opportunities to support our states and districts through regulations, guidance, and technical assistance.

Ensuring a world-class education for every child is both a demanding challenge and an urgent imperative for our nation, our communities, and our children. I know that members of the Committee share those beliefs – and I look forward to continuing to work with this Committee to ensure that in America, education is, as it must be, the great equalizer.

Thank you, and I am happy to answer any questions that you have.

Chairman KLINE. Thank you, Dr. King. It is two days in a row you have finished in less than the allotted time. That is probably unheard of. We are so very glad to see that.

I want to take a minute or two here to discuss congressional intent, and I got some notes in front of me because I want to be precise about this.

It is not so much congressional intent as it is the Department's plans with respect to congressional intent that I want to get at. As I stated in my opening remarks, there is a very clear purpose behind the Every Student Succeeds Act. We all know we tried a top-down approach to K-12 education for years and it did not work, made matters worse in my opinion.

This administration spent a lot of time and energy dictating policy through conditional temporary waivers. I cannot tell you how many times I had a discussion with Secretary Duncan about the nature of those.

As it turns out, no one believed the status quo was working, and so Republicans and Democrats came together, House and Senate and administration, to pursue a fundamentally different approach. The basic intent behind that new approach is to reduce the Federal role and restore State and local control.

In working with an experienced and nonpartisan legislative counsel's office, we made the language in the law as clear as possible. For example, Section 1111 of the law protects the right of States to set their own academic standards. However, because of the department's meddling in Common Core, the law also includes Section 8036. This section entitles State control over standards, reaffirms the right of States' withdrawal from Common Core or revise their standards as they determine necessary without fear of Federal interference.

We understand implementing new law is complicated business, and there will be areas with questions and uncertainty, but there should never be any question as to what Congress intended when it wrote the law.

Again, the State and Local ESSA Implementation Network recently wrote "ESSA is clear, education decision-making now rests with States and districts and the Federal role is to support and inform those decisions." In fact, I think it is clear that any honest observer would reach the same conclusion.

Yet it appears for some that may not be the case. In an interview with POLITICO Pro last December, then Secretary Duncan was asked about provisions of the law narrowing the Secretary's authority, and this is part of the Secretary's response:

He said "And the final thing is we have every ability to implement, to regulate the law. Philosophically, I agree with a bunch of the stuff, and candidly, our lawyers are much smarter than many of the folks who were working on this bill. There is some face-saving things you give up, some talking points that you give up, which we always do because we are focused on substance, and we have every ability to implement. That is all I have ever wanted."

Well, I find those remarks to be troubling and insulting. They suggest that even when it is clear to the department what the law says and what Congress intended, the department can do whatever

it wants to, apparently because the department's lawyers are better than ours.

Throughout the process to replace No Child Left Behind, one of the leading concerns I heard from colleagues and from many of our constituents is that this administration cannot be trusted to implement the law, and statements like this from Arne Duncan merely reinforce this legitimate concern.

Dr. King, do you agree with Secretary Duncan's remarks?

Mr. KING. Let me first say that I am deeply committed that the implementation of the law respects the ability of States and districts to make decisions about education, within the parameters of protecting the civil rights of students with the goal of equity and excellence for all students.

I had the opportunity throughout the last year and a half since I have been at the department to spend time with staff of the committee and of the Senate Committee and with our team at the department.

There are smart lawyers all around, very strong, very capable staff on all sides who worked on the development of this law, and you can trust that we will abide by the letter of the law as we move forward to do regulations, provide guidance and technical assistance to States and districts, and our intent is to work together with you, and to gather input from educators, from parents, and from members of this committee as we move forward.

Chairman KLINE. Well, I certainly hope that is the case. You are here and you are under oath, as we talked about before, and you just said that you intend to follow the letter of the law.

We will, of course, continue our responsibility in providing oversight like this hearing and others here in this body and in the Senate. You are right, there are good lawyers all around, but those good lawyers are supposed to get the language right to put the regulations in place that are consistent with the letter and intent of the law, not find ways around it, which was the implication of Secretary Duncan's remarks.

With that, I will yield back and recognize Mr. Scott for his questions.

Mr. SCOTT. Thank you, Mr. Chairman. Dr. King, shortly you will be nominating negotiators for the process of negotiated rulemaking, and in that notice, there is a constituency of civil rights listed, which includes students with disabilities and English learners.

In areas of assessment for English language proficiency, alternative assessments for students with the most significant disabilities, do you recognize that those are actually two different concerns and need separate representation on the panel; could we commit that when you talk about civil rights generally, civil rights will be represented, but also those with disabilities, and English learners will be separately represented?

Mr. KING. Thanks. You know, I think one of the key things for success of implementation of the law will be gathering broad input and feedback, and we have already begun that process with two public hearings, gathering public comment through the Federal Register, and meetings with a variety of stakeholder groups, including civil rights groups representing concerns of English language learners and students with disabilities.

I will not personally play a role in the selection of the negotiators for negotiated rulemaking, but I am confident that negotiators who are chosen will represent a diversity of interests, including educators and civil rights leaders with specific experience with English language learners and students with disabilities.

Mr. SCOTT. Thank you. In response to the chairman's question where we have given much more power to local and State agencies, we tell them what needs to be done, but we do not tell them how to do it. The "how to do it" is within their purview.

How do you maintain the requirements? How do you guarantee they will actually succeed in getting the job done if we let them decide how they are going to do the assessments? How can we guarantee the assessments will be effective in measuring achievement, progress, and achievement gaps?

Mr. KING. The key, I think one of the keys of the Every Student Succeeds Act is the commitment that States and districts will work towards expectations for students that will allow them to graduate from high school ready for college and career.

As States build their assessment and accountability systems, they should do that work in the spirit of ensuring that all students graduate ready. They have to make sure that as they do that, they are attentive to issues of equity.

One of the strengths of the law is preserving the disaggregation of data that was required by No Child Left Behind, so that we know where there are achievement gaps facing African American students, Latino students, English language learners, low-income students, and students with disabilities.

And importantly the law requires not just that there be information about those gaps, but thanks to the leadership of folks on this committee, it requires that States take action when there are achievement gaps, when schools have chronically low graduation rates, and when schools are among the lowest performing in the State.

We will take comment from States, districts, and other stakeholders to define regulations, guidance, and technical assistance to support States in that work, but we believe the law is clear that States have a responsibility to work to close achievement gaps.

Mr. SCOTT. We do not tell them how to do it, that is local control. If they are not doing it, how do you guarantee they actually get the job done? Can you do that?

Mr. KING. Importantly, the law preserves the role of the Federal Government in ensuring that States fulfill their responsibilities under the law. Certainly, States will develop plans for their implementation of the Every Student Succeeds Act. Those plans will need to explain how they will intervene when schools are struggling or when subgroups are struggling.

They will then have to produce evidence of their work to implement those plans, evidence of student performance, and to demonstrate that where progress is not made, the interventions are intensified. Again, their choice of the approach of interventions, although clearly there should be evidence-based interventions, and the department will take very seriously the responsibility of ensuring that States do what the law requires.

Mr. SCOTT. I think it is important to note that No Child Left Behind had a cookie cutter response that sometimes worked and sometimes did not. We have let the States and local governments decide what needs to be done now, but we need to make sure that the job gets done. That is where the department comes in, and we are counting on you to fulfill that responsibility.

Thank you, Mr. Chairman.

Chairman KLINE. I thank the gentleman. Mr. Thompson?

Mr. THOMPSON. Thank you, Chairman. Chairman, thanks for this opportunity. This is the first of what I think will probably be many opportunities for oversight on what was a good bill, a good law.

Dr. King, thank you again for coming in today. Oversight is so important. Just in the past couple of weeks I hosted my own educational forum, had a room full of educators, administrators, and parents, you know, getting their feedback, and encouraging them to give me feedback as this is being implemented, so that we can listen to those who this impacts most, which is our children. I look forward to continue to do a series of those around my district.

I want to check in on testing with you. During the era of No Child Left Behind, the Federal Government primarily measured school performance on student test scores. The schools with students who underperformed were thrown into the onerous one-size-fits-all school improvement system.

As the future of many schools began to hinge on the standardized test scores, pressure grew to pile on more tests to prepare for the big annual test with practice tests and taught to the test.

Under the flawed law, high-stakes testing created an environment of anxiety and teaching to the test became the norm. This administration made this dynamic worse by using its temporary and conditional waiver scheme to require States to tie teacher evaluations to results on those same assessments.

We know that assessments can play a positive role in identifying areas that need improvement, both in a school and in a child's personal education. However, the high-stakes testing created under No Child Left Behind and the department's waiver scheme left no room for State and local leaders to make those improvements and cultivate environments conducive to learning, which is what our schools should be all about.

The Every Student Succeeds Act does away with the federally mandated high-stakes testing. Under the law, students will be assessed in the subjects of reading, math, and science. However, States, not the Federal Government, will determine how much those testing outcomes will weigh in a school's performance evaluation.

The Every Student Succeeds Act also prohibits the department from imposing teacher evaluation systems on States and school districts.

With these changes, the law returns responsibility for accountability, school improvement, and teacher evaluation back to where it belongs, at the State and local levels.

Nat Malkus, an education fellow at the American Enterprise Institute, recently described the Every Student Succeeds Act as a "Significant sign of a course correction when it comes to mandatory

testing,” saying these provisions can help schools focus on important aspects of schooling that are not reflected on standardized tests.

With these comments, it is clear Congress has taken a step in the right direction. The ESSA also respects the right of States to pass laws that would allow parents to opt their children out of assessments. The Federal Government should not get in the way of States and local leaders as they carefully consider the concerns that parents have voiced when it comes to testing.

The specific language addressing States’ rights can be found in Section 1111 that reads “Nothing in this paragraph shall be construed as preempting a State or local law regarding the decision of a parent to not have the parent’s child participate in the academic assessments under this paragraph.”

In addition, the ESSA makes an important change to the assessment participation rate as it pertains to schools. In the No Child Left Behind Act, schools that failed to assess at least 95 percent of its students were automatically deemed failing. Under the new law, however, States have the sole responsibility of determining how the 95 percent participation rate factors into a school’s evaluation.

ESSA very clearly gives power back to the States when it comes to holding schools accountable for assessment participation, and the right of parents to opt their children out of those assessments. These provisions will allow States and school districts to better identify and support underperforming schools and provide more transparency and options for parents and their students.

Dr. King, how would you ensure—how will you ensure that the implementation of ESSA protects the authority of States to make these decisions without Federal interference?

Mr. KING. Thanks for the question. One of the things that I think is an important step forward of the Every Student Succeeds Act is as you said, the opportunity to broaden the definition of “educational excellence.” We have done the No Child Left Behind as a teacher, as a principal, as a leader of schools, and as a State chief, and understand that one of the weaknesses of No Child Left Behind was a narrowing of how we think about educational excellence.

I think the flexibility that States have to design their accountability systems gives them room to ask how are students doing in science and social studies, are students getting access to art and music, are students getting access to advanced course work, and are schools helping students develop socioemotional skills?

Are schools helping prepare students to participate in civic discourse? Are schools paying attention when kids are chronically absent and intervening to make sure that kids are in school, so we can ensure that they stay in school through high school graduation?

I think there is tremendous opportunity here. Our role at the department will be to create helpful parameters and to provide technical assistance. I think as you will hear from State chiefs who are part of the oversight process, that State chiefs are eager to have this flexibility and to work with their stakeholders to broaden the definition of “educational excellence.”

Chairman KLINE. The gentleman's time has expired. Mr. Hinojosa?

Mr. HINOJOSA. Dr. King, thank you for joining us today to testify before this committee on the implementation of the Every Student Succeeds Act, known as ESSA. Thank you, Chairman Kline and Ranking Member Scott for holding this important hearing.

Let me begin by saying it seems to me that this hearing is just another attempt to erode executive authority at the U.S. Department of Education. I have been here 20 years and I have seen that we have made some improvement. I do not want to go back to what it was like back during the administration of Lyndon Baines Johnson when he introduced legislation known as the Elementary and Secondary Education Act and the Higher Education Act, because it was necessary that the Federal Government participate in trying to make education for all better.

I am concerned my colleagues want to use this hearing to explain why we should return to full local control. Instead, we must use this committee hearing as an opportunity to hear about the vitally important Federal role in education.

To be clear, I strongly believe the Federal Government is responsible for providing educational equity and strong guardrails to protect the civil rights of all students.

This includes ensuring that economically disadvantaged students, students of color, English language learners, migrant students, students with disabilities, and other special populations have access to a high quality education, and to succeed and graduate from high school ready to go to college.

President Obama signed the Every Student Succeeds Act on December 10, 2015 and has provided us with a clear picture of your commitment to implementing that law. This includes promulgating the regulations that serve to interpret and clarify statutory requirements.

While ESSA contains limited prohibitions on the Secretary's authority to regulate in particular areas, the law leaves substantial authority for the Department of Education to regulate in broad parameters and define vague statutory terms.

Under ESSA, States and school districts are tasked with increased responsibility. It seems to me they will need additional support and oversight from the department in order to fulfill the requirements of this new law.

I would like to ask you a question, Dr. King. In Texas, students of color already comprise the majority of the public school students. Can you explain the long-standing importance of the Federal role in protecting the right to educational opportunity for all students, and how does the department's plan balance that role with the new flexibilities afforded to the States by Congress under ESSA?

Mr. KING. I appreciate that question. I think the measure of the success of our implementation of this law will be whether or not it advances both equity and excellence. Too often, we know in our Nation's history, the interests and needs of low-income students have been under attended to. There are too many cases in our history where the interest of English language learners have been ignored, too many cases in our history where African American stu-

dents and Latino students have not had access to the same opportunities.

We have to view this law as an opportunity to advance equity, and I think State chiefs are eager to do that. I know Tony Evers, the president of the Board of the Chief State School Officers, this year has committed to make this the year of equity for the Council of Chief State School Officers.

Our role at the department will be to set parameters, guardrails that ensure that attention is paid to the students who are most at risk. We know there are States that have had a history of under-attending to English learners, for example.

We will ensure that the regulations and guidance that we provide requires attention to the needs of English learners, and I think there are some new tools in the Every Student Succeeds Act that will be helpful. One of those new tools is the focus on schools with graduation rates below 67 percent. We know often those are schools serving low-income students.

Another one of those tools is the disaggregation of data on English learners who are also students with disabilities, a population whose needs, I think, have been underattended to as a country.

We see the civil rights legacy of the law as a central task for the department.

Mr. HINOJOSA. I am an optimist. I think we are going to go forward because we signed—the President signed a bill which was very bipartisan under the direction of Chairman Kline and Bobby Scott, so I think we just need to work like that as we try to reauthorize higher education, and we will work with you very closely. I yield back.

Chairman KLINE. The gentleman yields back. Mr. Guthrie, you are recognized.

Mr. GUTHRIE. Thank you, Mr. Chairman. Before I get to my question, I want to say I know Secretary Duncan, and when those words first came out, I thought maybe they had been taken out of context, and they were not, and I was real disappointed.

I will tell you, those sitting behind Chairman Kline that I know and those sitting behind Ranking Member Scott, who I do not know as well, but I think I can say without fear of contradiction, are extremely smart, successful, talented, and they could do a lot of other things in life but they are here because they really believe in this process and what is moving forward. I am saying all along the wall, like behind Mr. Polis.

The other thing is you wonder if he is just saying well, let's get something done and we can do what we want to do because we can figure out how to work the law to get around and still do what we want to do.

I want to be clear on congressional intent. I am going to stick to my notes here because I want to be precise. To get to my question, the Every Student Succeeds Act is a positive step forward in K-12 education. The new law repeals burdensome Federal requirements and ensures decisions affecting education are made by State and local leaders, not Washington bureaucrats.

We appreciate the work the Department has done in issuing initial guidance as States begin the process of transitioning to the new law. It has done a good job. We appreciate it.

States and local leaders have expressed to us they are willing and eager to make this transition, so moving forward, we want to make sure they have everything they need to do so.

As the Department of Education issues guidance, we want to emphasize that it should be consistent with the letter of the law and Congress' intent to give more control of K-12 education back to State and local leaders.

Just a few weeks ago, this committee was able to hear testimony from Oklahoma State's superintendent, Joy Hofmeister. She echoed this point when she said, and I quote, "State and local education agencies working closely with educators and administrators are in the best position to make decisions about the policies and practices that will benefit every child, especially those most in need. Striking the balance between guidance to the States and ensuring that States are not overly prescribed is what State leaders need."

We in Congress want to be sure the Department understands the intent of the law as we go through the guidance and regulatory process.

As you know, the new law includes several provisions to guide States as they transition from No Child Left Behind to the Every Student Succeeds Act. When it comes to accountability systems, which gets to my question, States will continue operating under their current systems for the remainder of the 2015 to 2016 school year, but those accountability systems will be suspended after that school year. Through the end of the 2016-2017 school year, States will continue to implement the school interventions they had planned before the Every Student Succeeds Act became law.

New accountability systems and school intervention policies developed and adopted by State and local leaders will go into effect at the beginning of the 2017-2018 school year.

My question is with this framework in place, Dr. King, how will you ensure that States have the information and flexibility they need to adjust to the new law in the coming years?

Mr. KING. A guiding principle for us in this process would be to gather input from stakeholders and have stakeholders input. School districts, superintendents, principals, State education agencies, parents, civil rights community, and community leaders, have their input guide our process of developing regulations, guidance, and technical assistance.

We have already started that process. The "Dear Colleague" letters, the three that we have done so far with States have been intended to address questions that we have been getting from States and to help them think through the transition.

We want to continue in that way to try to be responsive to the needs of States and districts. We are beginning the negotiated rule-making process on assessments and accountability plans, because those were areas that we saw in the comments we have received that needed additional clarity, and that is the approach that we will take to all the other areas.

I am confident that we can work together with States to support them. I think State chiefs are eager for the flexibility, and many

of them have already begun extensive stakeholder engagement as they think through their accountability plans and their new systems that they will implement under ESSA. I am confident that by the summer of 2017, as we move into the 2017–2018 school year, States will be well positioned to move forward on their new plans.

Mr. GUTHRIE. Thank you. As I mentioned the previous Secretary, I also will say your willingness to come here 2 days in a row for two separate meetings to work through these issues shows your respect for this process, and it is much appreciated. I yield back my time.

Chairman KLINE. The gentleman yields back. Ms. Fudge?

Ms. FUDGE. Thank you very much, Mr. Chairman, and thank you again, Dr. King, for being here. Let me just be clear before we start. I heard reference twice to a comment by former Secretary Duncan, and that maybe some of my colleagues are insulted or aggrieved in some way about what he said. Did you write that or did you say that?

Mr. KING. No.

Ms. FUDGE. Okay. Just to be clear. We should not hold you responsible for something somebody else said.

First question, Dr. King, an underlying focus on equity has remained in each reauthorization of the ESSA. As a sponsor of the core act, I have advocated for an accountability model that forces districts to review the equitable allocation of resources across schools. This includes human resources such as counselors, nurses, and other support personnel.

What type of guidance will you be able to provide to ensure that as districts look at resource equity, they do so in a comprehensive manner?

Mr. KING. The issue of resource equity, I think, is central to the way States and districts can use the Every Student Succeeds Act to advance opportunity for students who too often have not had those opportunities. There are a couple of key potential levers. One is as States develop their accountability systems, they will have the opportunity to incorporate issues of equitable access to opportunity.

We know, for example, there are many high schools in this country where you cannot take chemistry and physics. If you cannot take chemistry and physics, you are unlikely to be prepared for success in STEM careers.

We have many high schools, sometimes high needs urban, sometimes high needs rural, that do not offer advanced placement courses or international baccalaureate courses, so students cannot get that head start on college level work.

States could incorporate those elements into their accountability systems, and we will certainly support States in doing that.

The law also requires transparent reporting on issues of resource equity, access to advanced course work, and we want to make sure that as States move forward with implementation they are attentive to those issues of inequitable access to opportunity, and as they intervene in schools that are underperforming, one of the things they will need to do is use evidence-based interventions to respond to that inequitable opportunity.

Ms. FUDGE. Thank you. Dr. King, we hear a lot of talk, especially from my colleagues on the other side of the aisle, about regulation

of being by definition Federal overreach. It seems to me that promulgating regulations, issuing guidance, and providing ongoing technical assistance are crucial tools used by the department that helps States and districts implement the law without confusion about what it requires.

Can you just talk a little bit about that?

Mr. KING. Yes. The regulatory process and the guidance process we see as an opportunity to be responsive to States, districts, and stakeholders. As we get questions, we try to respond to those.

In the "Dear Colleague" letters that we have done so far, we have gotten questions about how States should think about the fact that many of the programs that were appropriated in the 2016 budget were done so under existing structures, not new law, so what does that mean for them.

We have gotten questions around States' obligation to provide supplemental education services and make clear that they can substitute alternative interventions given the new flexibilities under ESSA.

We have tried to be responsive and our intention is to continue to try to be responsive. Regulations often are critical to providing clarity on issues that are not clearly specified in the law, and guidance we see as an opportunity both to provide clarity and to offer examples of best practice.

Ms. FUDGE. It certainly is not your intent to try to run local schools?

Mr. KING. Absolutely not. I think we know the best ideas are going to come from classrooms, schools, districts, and States. We have to make sure that as those ideas are implemented it is done in a way that is attentive to issues of equity. I think that is our core responsibility.

Ms. FUDGE. You intend to proceed as the law has said, you are going to assist, you are not going to try to dictate to States what they should do. You are going to provide guidance, and that is clearly within the law.

Mr. KING. Exactly right.

Ms. FUDGE. Thank you so much. I yield back, Mr. Chairman.

Chairman KLINE. The gentlelady yields back. Mr. Bryne?

Mr. BRYNE. Thank you, Mr. Chairman, Dr. King. You and I met previously. I was a former chancellor of Postsecondary Education for the State of Alabama. Previous to that, I was in the legislature and served on the Education Policy Committee, the Education Budget Committee, and prior to that, I spent 8 years in the Alabama State School Board.

I and my colleagues in a bipartisan fashion on the school board worked very hard to be the accountability body for the State of Alabama. So, I personally feel very strongly about that.

Now, when No Child Left Behind came along in 2001, it tried to put a one-size-fits-all mentality on school systems around the Nation. Once again, in a bipartisan fashion, we realized that did not work, and so this committee and this Congress in a bipartisan fashion decided to move back from that.

The law we passed last year, the Every Student Succeeds Act, is very clear, it is very explicit about getting away from the one-size-fits-all mentality.

We have had some testimony recently before this committee, as was referenced earlier from the Oklahoma State superintendent of education that sort of gives us a good example of what States around the United States are intending to do to make sure they take their role in accountability very seriously.

Far from getting away from accountability, we believe in the law that we actually put accountability where it would have the greatest impact, and that is with State and local education leaders.

In some cases, those are State school board members or local school board members, and in some cases, it is State superintendents of education, local superintendents of education. People you know very well, and you know very well from your experience that these people are closer to where the schools are, closer to where the students are, and also have a pretty good handle on what needs to be done to make sure that education is getting through to every child. We want every child to be successful.

Now, to protect this State and local authority over their accountability systems, the Every Student Succeeds Act included a number of protections to ensure the law would be implemented correctly.

For example, the law asks States to evaluate schools based on consistent underperformance of any subgroup of students with consistent underperformance being "determined by the State." The law also prohibits you or any other secretary from regulating what "consistently underperforming" means.

Now, I know you did not give the quote we heard earlier from your predecessor about the smart lawyers, but the concern is there may be some smart lawyers in the Department of Education that want to find a way to get around the explicit words in this statute. We have seen that with other departments of government.

So, I want to ask you to do today in your words, not your predecessor's words, in your words, I want you to assure us that the Department of Education will respect the role of State and local leaders by following the clear restrictions of the Every Student Succeeds Act that it places on the Federal Government when it comes to accountability, and in particular, in your remarks, I want you to tell us what you will do to ensure that States retain the sole right explicitly given to them in the statute to determine the meaning of "consistently underperforming."

Mr. KING. Yes, for us, I think again, careful attention to the input that we get from States and districts will drive our work on regulations and guidance.

Joy is a great example. I think Joy shared with the committee noting that Oklahoma's approach to accountability under the waiver had subgroups together, and she actually thought the Every Student Succeeds Act requirement to look at each individual subgroup would allow her to make an important step forward for equity and excellence in her State.

Mr. BRYNE. Mr. Secretary, what I want to hear is are you going to not let your lawyers get you to do something that abates the law, will you enforce this law as it is written and given the clear intent of the Congress?

Mr. KING. We will certainly ensure that our regulations and guidance are consistent with the letter of the law. We are committed to that. We are also committed to trying to work with States

and districts to ensure their approach is consistent with the letter of the law.

Again, I think we have an opportunity—

Mr. BRYNE. Will you respect that the States have the sole responsibility to determine what this phrase “consistently underperforming” means? Will you be sure that the States have that authority as is explicitly given to them in the statute?

Mr. KING. We are early in the process on gathering comments—

Mr. BRYNE. That is a yes or no question. Will you do that?

Mr. KING. Respectfully, I am not sure that it is because as States think about this work of implementing the Every Student Succeeds Act, we are getting questions from States, from districts, and from other stakeholders about how they move forward with some of the definitions in the law, and we will work with States on that.

So, I am committed to working with this committee, committed to ensuring that our implementation is consistent with the letter of the law, and interested in your feedback, but I do not want to get ahead of the negotiating rule makers. I do not want to get ahead of the review of comments that we are getting from States and districts.

Chairman KLINE. The gentleman’s time has expired. Mr. Polis?

Mr. POLIS. Thank you, Mr. Acting Secretary, for being here today. It really was an enormous achievement for this committee and Congress along with you and the executive branch to participate in the reauthorization of ESSA last fall.

As you know, members of this committee and our staff put countless hours in the creation of the Every Student Succeeds Act, and it is important to all our constituents that it is implemented effectively, which is why you are here today.

Of course, I want to underscore the role of the department in the process of implementation. As legislators, we make laws, and the department as part of the executive branch, you have the responsibility to implement them.

I want to talk briefly about accountability. ESSA repealed the flawed one-size-fits-all accountability system of No Child Left Behind, finally, and places responsibility for making decisions around accountability to the States.

While we all agree that ESSA’s accountability requirements are an improvement over NCLB, we also know that States have a historically checkered record of making sure that all vulnerable populations are served.

As we heard recently from the State chief of schools in Oklahoma, some States use their waiver authority to develop accountability systems that hid the achievement in graduation rates of subgroups of students.

It is very important in implementing the new law that the department ensures that the Federal guardrails in ESSA are meaningful and prevent those kinds of State systems from turning back the clock on educational opportunity for all students. That is referenced specifically in the statute, of course, around the area of opt outs, in response to Mr. Thompson’s comments

While a State is welcome to pass bad laws relating to opt outs, we have Section C.4(e) of ESSA that says States must assess 95 percent of students. That means “all” means “all,” and while it is

up to States to determine the consequences for failing to assess students, it is the department that will provide oversight and enforcement to ensure States are assessing all students regardless of the State laws are on how opt outs occur.

At the end of the day, ESSA and ESEA are civil rights' laws. I believe it should be implemented in a way that maintains that spirit.

What steps do you plan to take to make sure that "all" means "all," and that States do not deliberately or accidentally hide achievement gaps or subgroup performance?

Mr. KING. I appreciate the question. I take that responsibility quite seriously to ensure that "all" means "all" and that this implementation of the law advances equity and excellence.

I think we have an opportunity in the regulations and guidance that we provide to help create guardrails that will ensure that States use their new flexibility around accountability and interventions to advance equity.

For example, as we begin the negotiated rulemaking process around assessments, the kinds of questions we have been getting have been questions around the participation of students with disabilities, the participation of English learners, the implementation of computer adaptive assessment, in a way that protects equity.

So, as we move forward with that negotiated rulemaking, a central question will be how do we ensure that regulations that we do on assessments protect civil rights of students. We will take a similar approach to our work on the negotiated rulemaking for supplement not supplant, and we continue to review comment and feedback from stakeholders to define other areas where we need to move forward with regs and guidance.

Mr. POLIS. And while the consequences of meeting the requirements are left up to State law, do you feel that you have sufficient levers to ensure those consequences are meaningful and not meaningless?

Mr. KING. We do. I will say it will require vigilance on the part of the department, particularly as States implement their first round of interventions and identify whether or not those interventions are helping to achieve progress, particularly for at-risk subgroups. We are going to have to be vigilant to ensure that States continue to move forward to shift strategy if a strategy is not working for the highest needs students.

Mr. POLIS. Thanks. You know, over testing is a major issue we hear about from students, teachers, and school boards. I am very pleased that ESSA allows ACT and SAT to meet the Federal high school testing requirements. District and State leaders in Colorado also support that change.

We have a lot of questions about implementation. What can I tell my constituents about how this new policy will be implemented?

Mr. KING. This is one of the areas also that will be tackled by the negotiated rulemaking process on assessments. It is one that we have gotten a lot of questions on, the nationally recognized high school assessments. There are a number of questions that will be posed to the negotiators, and we will gather—we will use the public comment we have already received on this subject to inform that process.

Mr. POLIS. In my last 10 seconds I just want to point out that there is a lot of interest in student data privacy, and along with Mr. Messer, we look forward to continuing to work with the department to ensure that as we take advantage of new blended learning and educational technology opportunities that the privacy of students is respected as well and in an appropriate way. I yield back.

Chairman KLINE. The gentleman yields back. Mr. Curbelo?

Mr. CURBELO. Thank you, Mr. Chairman. Thank you, Mr. Secretary, for being here with us today. As we were working towards this reauthorization, I collaborated with Chairman Kline, Chairman Rokita, and my colleague from Florida, Ms. Wilson, to see how we could support English language learners through this legislation.

Under No Child Left Behind, there were very rigid, unfair, in my opinion, standards used to evaluate English language learners. As you know, I represent Miami, Dade County, South Florida, where we have a large ELL population. A lot of these kids were being counted out after one year. Their teachers and their schools were being punished.

One of our priorities was to bring some relief not just to these students, we want to continue counting them without counting them out, but also to the teachers who spent hours and hours with these kids, and to the schools who dedicate so many resources to support them.

Can you talk to me a little bit about how the department is interpreting our language with regards to English language learners, and if relief is coming to these State school districts and schools soon?

Mr. KING. This is an extremely important area. I think in many ways the fate of our education system is bound up with how we serve our highest needs students, and we have a rapidly growing population of English learners across the country, and we have to do a better job as a country ensuring that English learners have the opportunity to get the academic skills that they need and also the opportunity to get the language skills that they need.

As we go forward with implementation, we are gathering feedback and input from the community of educators who have focused on English learners, as well as organizations who have advocated for English learner students. Their input will help to drive what goes into the regulations and guidance.

As we go into the negotiated rulemaking process on assessments, one of the key issues will be the participation of English learners in the assessment system. We look forward to the negotiators tackling that issue.

We think there are some great opportunities in the Every Student Succeeds Act. Very quickly, the opportunity to focus on growth. One of the weaknesses, I think, of No Child Left Behind was the focus exclusively on proficiency.

We have the opportunity with ESSA implementation for States to look at the growth of English learners as part of their accountability system. We have the requirement for States to look at English language proficiency as part of their systems of accountability. We have the requirement for States to focus on the needs of English learners who are also students with disabilities, a popu-

lation that has often been underattended to. We have the opportunity to focus attention on long-term ELLs, students who have been in the schools for a long time but still have not acquired the language skills they need.

I think the law will help focus attention here. We already have begun working with States on providing technical assistance in this area as they think about how to integrate growth into their accountability systems, and certainly look forward to working with you on this issue.

Mr. CURBELO. So, you can assure me today that as a result of our reauthorization, you foresee in the immediate future more flexibility, more latitude for schools, teachers, and districts to work with this unique population?

Mr. KING. Yes, I think States will have good flexibility and an opportunity to focus on the needs of English learners more intensively than some States have in the past.

Mr. CURBELO. And can you tell me briefly, since we have a little over a minute left, regarding the implementation of the Direct Student Services program, which promises to expand school choice and again bring more flexibility and options for students who have the capacity to excel and to achieve more, but who are limited by the schools they are attending?

Mr. KING. Yes, from our perspective, we have long thought that school innovation and choice can be powerful levers to drive better opportunities for equity and excellence. We do not support voucher programs.

I think that is an area in which I know there is some disagreement, even in this room, but we certainly will implement the law with respect to the D.C. program, and we will certainly implement the opportunities for students in charters that are part of the law, and the opportunity for school districts to design other versions of Public School Choice programs.

Mr. CURBELO. Thank you, Mr. Secretary. I yield back.

Chairman KLINE. The gentleman yields back. Staying with Florida, Ms. Wilson, you are recognized.

Ms. WILSON. Thank you, Mr. Chair. I welcome you once again, Dr. King. I know this is an extremely busy week for you, especially today. I appreciate your continued enthusiasm for these issues. I also look forward to your successful confirmation hearing later today.

Mr. KING. Thanks.

Ms. WILSON. We know that the Federal role is crucial for protecting the interests of all students. Do you agree? Can you talk more about the long-standing importance of the Federal role in protecting the right to educational opportunities for all students?

How might these resources in Title IV be used to support the 59,260 students attending dropout factory high schools in Florida, where one-third of students fail to graduate?

Mr. KING. When you think back to 1965 when Lyndon Johnson signed the original Elementary and Secondary Education Act, it was with the intention that education would be a driver of equality, of opportunity in American society. I think as we move forward with implementation of ESSA, it has to be done in the same spirit as that legacy.

Title IV creates a number of opportunities. States and districts will be able to use resources there for programs that are targeted at dropout prevention, at issues of school climate, which we know are often drivers of students leaving school. States will be able to use Title IV to ensure they are integrating the arts, which can be a powerful lever for student engagement.

States will be able to use those Title IV dollars to support initiatives to provide advanced course work. We know that getting students access to advanced courses in areas of interest can be a driver, not only of students staying in school and completing high school, but students going on to success in college and careers afterwards.

I think there is tremendous opportunity there. One of the challenges will be for highest needs communities. We continue to see in too many places that States are underfunding highest needs schools. Even as the Federal resources create new opportunities, we do worry that we will need a strong partnership from States to invest in the highest needs schools.

Ms. WILSON. Thank you. Just a follow-up to Representative Curbelo. We are saying that States should reduce testing, and in some way, I do not know what the communication is, but it is not the district that has the authority to reduce the testing, it is the State that has the authority. Am I correct?

In Florida, the State legislature has decided against all that we tried to put forth for English learners, and also to reduce the pipeline to prison because of the extreme emphasis on testing. So, I call them "testing factories" in Florida.

How do we go around a State to stop all of this testing, even though our Federal bill says they should?

Mr. KING. You know, in the fall, the President announced our testing action plan with a concern that a combination of State and district decisions, and I think there is some great variation across the country, had resulted in some places in too many assessments.

The question is you want good information for teachers and parents each year about how students are progressing, but you do not want assessments to crowd out good instruction, as you know from your experiences as an educator.

So, we recently issued guidance to States and districts on how they might use existing Federal dollars to audit the assessments they give, evaluate which ones are useful and creating opportunity, and which ones are unnecessary, redundant, or of low quality and should be replaced.

We are seeing, I think, progress across States around this, a number of chiefs and our State chief school officers are focused on trying to both reduce the number of assessments and improve their quality.

When I was State chief in New York, we had a grant program that focused on helping teachers and principals come together to look at their assessments and ask are these really the right ones, do we really need these, and can they be better, can we make them more performance-based, can we make them more project-based, can we make the assessment a more logical part of the instructional experience that students are having by embedding it in the instruction.

Ms. WILSON. We have to make sure that the department plans to honor our congressional intent in ESSA around the 95 percent participation rate on assessments. I am sure we have your commitment to help us.

The testing is killing them, especially in Florida. I am just speaking of Florida. I do not know about the other States.

Mr. KING. I think we have to get the balance right around assessment, and I think it is clear that in the last decade, as you look across the country, the balance has not always been right. I think we have an opportunity.

On the President's budget, we proposed an additional \$25 million for the assessment funding that would be targeted to work like audits on assessments, so that States like Florida and others could evaluate the number of assessments they are giving and their quality.

Again, we want to make sure that parents and teachers have good information for every child about how they are progressing each year, but we have to do that in a way that is balanced and ensures teachers and students are spending their time on instruction and the rich learning experiences that are going to produce better outcomes.

Chairman KLINE. The gentlelady's time has expired. Mr. Barletta?

Mr. BARLETTA. Thank you, Mr. Chairman, and thank you, Dr. King, for being here today. I am looking forward to working with you and your department as we implement the Every Student Succeeds Act.

As you know, the Every Student Succeeds Act reauthorizes the 21st Century Community Learning Centers program as a separate and directed Federal funding stream under Title IV. The original House version of the bill eliminated this important program, but as a strong supporter, I worked to ensure that funding was restored in the final conference report that was signed into law.

The 21st Century Community Learning Centers program is designed to provide Federal funding for the establishment of community learning centers that provide academic, artistic, and cultural enrichment opportunities for children. Funds are directed to students who attend high poverty and low-performing schools to provide them with additional services that help both students and their families grow both academically and socially.

Importantly to me, this program is the only Federal funding source for our Nation's After School programs, which students and working families across America rely on each and every day. In my district in Pennsylvania, the program provides 49 percent of total funding for SHINE, or Schools and Homes in Education, a successful after school educational program in Carbon and now in Luzerne Counties.

I have worked on SHINE for many years back home with my friend, State Senator John Yudichak, a Democrat, because helping our kids to succeed should always be a bipartisan cause.

Today, SHINE provides academic support for nearly 500 students from seven school districts. After school programs like SHINE are known to improve academic achievement, increase school attendance, and engage families in education. They also

keep our kids safe resulting in lower incidences of drug use and violence.

Where I am from in Pennsylvania, this is extremely important. Gangs have become a big and persistent problem in some of our neighborhoods. As a father and a grandfather, I know how important these programs are to working parents who want to be sure their kids have a safe place to go after school, not to mention a place that will provide them with the tools they need to lead successful lives.

SHINE and countless other after school programs have touched so many families, giving kids education opportunities that they otherwise would not have had.

Last month, I was thrilled to hear that the SHINE program in Carbon and Schuylkill Counties was awarded a major Federal grant, meaning more students in my part of Pennsylvania will have the opportunity to participate in this program. Right now, we are currently in the process of expanding SHINE to my home town in Hazleton, Pennsylvania.

Just last week, I was out at the Wilkes-Barre Area Career and Technical Center where I made a marshmallow pizza with kids in 5th through 8th grade, who are participating in the SHINE program. Now, these kids were not just honing their culinary skills, they were working on a much larger project, designing a restaurant using computer software and figuring out how to run it to make a profit.

Given the bipartisan agreement around the 21st Century Community Learning Center language in the Every Student Succeeds Act, and the demonstrated success of programs such as SHINE, I strongly encourage the department to follow the letter of the law as we put this program into place.

Dr. King, do you anticipate any variance from the law when it comes to implementation of the 21st Century Community Learning Center program, and can you commit that the administration will work to support programs such as SHINE?

Mr. KING. I certainly am a strong believer in the power of after school programs, having experience as a middle school principal, that for some kids after school is the time when they would be most at risk if they did not have an opportunity to be in a meaningful, engaging program at school or in a community-based organization.

The same is true sadly for many kids for weekends, school vacations, summers, those are the times when kids are without activities and most at risk.

The 21st Century programs are very important, I think, to try to meet that need, and we also have many of our Promised Neighborhoods' grantees engaged in after school and summer activities. Many of the Education Innovation and Research grantees are engaged in similar activities and building an evidence base around the kinds of program designs that serve students well.

We will certainly implement consistent with the law the 21st Century program, and think those kinds of investments in after school, whether it is through Promised Neighborhoods, or Education Innovation and Research, or 21st Century, and the flexibility that States and districts will have with Title IV dollars as well,

those kinds of investments in enriching learning time, enrichment time, arts programs, sports programs, can make a huge difference in kids' lives.

Chairman KLINE. The gentleman's time has expired. Ms. Bonamici?

Ms. BONAMICI. Thank you, Mr. Chairman. Welcome back, Dr. King, great to have you back. I am glad my colleague, Mr. Barletta, mentioned the importance of extended learning opportunities. I wish he would have told us how the marshmallow pizza tasted.

I am glad this committee is continuing its work to make sure that the implementation of the Every Student Succeeds Act delivers on the goal of Congress in providing State and local education agencies with the flexibility and the resources that they need to meet those unique needs of their communities, while also advancing equitable opportunities and outcomes for America's students, especially those who have been historically underserved.

It bears repeating that the Elementary and Secondary Education Act is really a civil rights law. Its core purpose is to help level the playing field and provide those resources and opportunities where they are lacking, and require action to help close the gaps. The rigidity of No Child Left Behind—I appreciate the chairman's comments and his list of problems that we are well aware—in many ways worked against this purpose.

I am confident that the Every Student Succeeds Act will uphold the civil rights legacy of the original ESEA and be responsive to the needs of students in each community.

I want to thank you, Dr. King, for mentioning the power of the arts to engage students. I have two nationally recognized STEAM schools in the district I am honored to represent. If you want to see engaged students, visit a STEAM school.

I want to follow up a little bit on Representative Wilson's questions. One of the most frequently criticized pieces of No Child Left Behind that I have heard about over the years is the high-stakes testing. Fortunately, ESSA takes a number of steps to reduce the punitive measures.

We know teachers need to assess students. We need to start looking at assessments as a positive tool to help inform instruction. The department's testing plan is aligned with the bipartisan legislation I sponsored to lead to the provisions in ESSA to reduce the duplicative and low quality assessments. I am pleased the President's budget prioritizes funding for auditing those assessment systems.

So, can you briefly follow up a little bit on Representative Wilson's question as well, and talk about how the funding from these State assessment grants can be used to develop streamlined assessment systems that support teaching and learning?

Mr. KING. You know, we have seen good progress on this across States. One of the things that States have begun to do is to ask if students are in 8th grade and they are taking an advanced math class, they are taking an algebra class, do they really need to also take the 8th grade math exam as well as the algebra exam. We have worked with States so that students are only taking the one exam. It has been an opportunity to reduce assessments.

We know that there are States that have gathered educators together across the State to look at both the State assessments and

the local assessments. I think one of the challenges, and you know as well, is that districts responding to the narrow accountability system of No Child Left Behind have added many interim assessments over the course of the year, some of which may be useful to inform instruction, some of which are actually a redundant exercise in mimicking the State tests.

I think we have seen States and districts take meaningful steps to get rid of those, in some cases, replace low-level tests with a research project in social studies or with a science experiment and a lab report on that science experiment in place of a bubble test.

We are seeing progress on this. I think the additional—

Ms. BONAMICI. I want to get to another question. Thank you, Dr. King. Certainly, removing the high-stakes and changing that aspect will matter.

During our subcommittee hearing on February 10, the Oklahoma State superintendent discussed her concern that their State's current accountability system masks the performance of the State's subgroup population. How does ESSA raise the floor for equity and address that concern?

Mr. KING. Yes. It is critical that ESSA requires that information be provided on the performance of all subgroups, and I think Joy from Oklahoma spoke to you on the ways in which that will enhance equity in her State, that she wants to make sure that schools are paying attention to each of the subgroups.

That is one of the areas where some States will need to make adjustments to their existing accountability systems, and I think State chiefs are eager to do that.

Ms. BONAMICI. Thank you. I am going to try to squeeze in one more question. I appreciate the department's commitment to hearing from stakeholders so far to date. Can you talk about how the department will continue to involve and be responsive to diverse education stakeholders?

Mr. KING. Yes. We continue to meet with stakeholders across the department's senior staff. I have been doing meetings myself with civil rights leaders across the country. We are going to continue to make sure we engage educators, whether we are doing the rule-making process—the negotiated rulemaking process obviously has a particular structure, and when there is a rule, we will gather public comment on that.

We see that as an ongoing conversation with stakeholders, and think that is one of the strengths of the Every Student Succeeds Act, that it really requires at every level, the Federal level and at the State level, meaningful engagement with educators, with parents, with community leaders, with civil rights leaders.

Ms. BONAMICI. Thank you. My time has expired.

Chairman KLINE. The gentlelady's time has expired.

Ms. BONAMICI. Thank you, Mr. Chairman.

Chairman KLINE. Mr. Rokita?

Mr. ROKITA. I thank the chairman. Dr. King, welcome back again, good to talk with you. Following up on Ms. Bonamici's comments, I just want to say that February 10 hearing to me and I think most members of the committee was one where it was clearly demonstrated that these local leaders, elected and not elected, were clearly looking for the chance to show that they want to do their

jobs, their job being education, which across this Nation is primarily a State issue. You would agree with that?

Mr. KING. Yes.

Mr. ROKITA. As we talked about yesterday, I have the privilege to serve as chairman of the K-12 Subcommittee, and I am also vice chairman of the Budget Committee, the latter experience has really taught me, as we kind of alluded to yesterday in stark detail, the very difficult fiscal challenges facing our country.

For me, the concerns I have with out-of-control spending and skyrocketing debt is not just about dollars and cents, it is about the kind of future we are leaving our children and grandchildren, the same children and grandchildren we are trying to educate and brings us both to the table here today.

We are all rightly concerned about the quality of education our children receive, no doubt, but too often we neglect to consider the kind of country that we are leaving them, that they will inherit. Make no mistake, if we stay on our present course, no one disputes that the country they inherit will be mired in debt, plagued by a weak economy, and left with fewer opportunities to earn a lifetime of success.

At that point, in that kind of environment, one has to wonder if our present day education efforts will simply appear moot. I think we can all agree that our children and grandchildren deserve better.

So, the crisis clearly is bigger than any one agency, certainly bigger than yours. Whenever possible, I believe we need to act on our responsibility to ensure a leaner and more accountable Federal Government.

That is why one of my leading priorities was, as we worked to replace No Child Left Behind, to help roll back Washington's education bureaucracy. Why is this important? Because every dollar spent here in Washington is money that could be spent in our Nation's classrooms, or paying down that deficit and debt, that both me, the President, and everyone else in this country seems to want to do.

So, in recent decades, the Federal education bureaucracy certainly has grown immensely. I would argue it has gotten out of control. Prior to the passage of the Every Student Succeeds Act, the Department of Education operated more than 80 programs tied to the Nation's classrooms, many of which were duplicative and ineffective.

The bipartisan law that we just passed and signed by the President eliminates dozens of unnecessary programs and replaces them with the Student Support and Academic Enrichment Grant. This grant will provide States and school districts with the flexibility they need to better target resources to the needs of students, families, and their communities.

By eliminating these duplicative programs, we help ensure Federal tax dollars are used in a more efficient manner, a goal I am assuming we both share. That means we are not only reducing the role of the Federal Government in K-12 education, although that is a great goal in itself as I stated, but we are also providing State and local leaders with the tools they need to shape their education

programs in a way they see fit, as we saw in the February 10 hearing.

Every district and every State has unique needs, and the Federal Government is in no way capable of knowing what works best for everyone. In other words, the parents and leaders know how to help our students better than Washington.

What I want to ask you today is about a provision in the law that requires the Secretary of Education to ultimately identify the number of full-time positions associated with those eliminated programs, and then reduce the department's staff by an equal amount.

This is a common sense good government policy that will help us ensure that the dollars we spend have a direct and meaningful impact on a child's education, a win for both students and taxpayers.

So, Dr. King, I know you have begun taking steps to implement these provisions, but I am concerned those steps might be insufficient. The department recently posted information on its Web site detailing the total number of full-time equivalent positions associated with all the programs funded under the ESSA as it existed under No Child Left Behind.

However, the department has only listed specific information for one program of the 49 eliminated under the ESSA. So, I have two questions. First, when will the department list the number of full-time equivalent positions for all the impacted programs? Secondly, what will you do to ensure that the number of full-time equivalent positions are reduced by that final number within a year of ESSA's enactment as required by the law? Thank you.

Mr. KING. Thanks, appreciate the questions. As we look at the 2016 budget, many of the programs that are eliminated in the Every Student Succeeds Act, do have 2016 appropriations. So, one of the distinctions I would make is that we have programs that we need to run in the 2016 year but then would not run in 2017, and that will allow an opportunity for appropriate reductions at that time.

Happy to work with you and your staff on this issue. We certainly want to make sure that we target our resources to the programs that are essential to support States and districts.

Chairman KLINE. The gentleman's time has expired. Ms. Adams?

Ms. ADAMS. Thank you, Mr. Chair, and thank you, Ranking Member Scott, and thank you, Dr. King, for joining us again, and good luck this afternoon in your confirmation.

Since being signed into law in 1965, the Elementary and Secondary Education Act has always existed to ensure equal access to a quality education for some of our country's most vulnerable student populations. For many of these students, education serves as a pathway out of poverty, a means to achieve long-term self-sufficiency, which is why passage of the Every Student Succeeds Act has been so critical, especially for places like Mecklenburg County that I represent.

According to a Harvard study, children in Mecklenburg had one of the lowest chances of experiencing upward mobility in adulthood, with quality of education being one of the main delimitating factors.

Dr. King, one of the most important components of a quality education is equitable and adequate resources. It is evident that stu-

dents who need the most are not getting the extra resources that they need. How do you plan to encourage States to look at what resources schools with disadvantaged students have and hold them accountable for providing resources to disadvantaged students in addition to improving student outcomes?

Mr. KING. Thanks. I appreciate the question. I think there are two significant opportunities. One is as States move accountability systems beyond just looking at English and math performance, they will be able to build accountability systems that build in questions like are students progressing in science or social studies, are students getting access to art and music. There is an opportunity for State leadership that I think we will see many States take advantage of.

The second significant opportunity is the requirement in the law that States report on access to some of these opportunities, are people spending on access to advanced course work, and that will make transparent whether or not students across schools are getting the resources they need.

It will require vigilance both at the Federal level and at the State level to make sure those gaps in opportunity are closed.

Ms. ADAMS. Okay. Thank you for that. I think it goes without saying that one of the main reasons No Child Left Behind was conceived was the clear disregard for the achievement of student subgroups. Without relieving the No Child Left Behind era, how will the department ensure—reliving, excuse me, how will the department ensure that there are strong parameters in place to protect our neediest students and that the States are adequately serving them?

Mr. KING. We are committed that the regulations and guidance that we develop advance equity and excellence and address the needs of subgroups.

We are still early in the process of gathering feedback and comment from stakeholders, but as we do that, we have heard a strong and clear message from the civil rights community and also from educational leaders, that they believe it is important to set guardrails at the Federal level that ensure that State accountability systems meaningfully intervene when subgroups are not performing, and that those interventions are intensified if progress is not made.

Ms. ADAMS. Thank you. Dr. King, if some of my colleagues have their way and the department has an extremely limited role in the implementation of the Every Student Succeeds Act, what negative outcomes may we be opening up our students to?

Mr. KING. We believe that we can within this bipartisan law provide the guardrails necessary to protect equity. I would say as we look back at the last 50 years, what we know is that at times, States and districts have not lived up to their responsibility to serve all students well.

I mentioned yesterday visiting part of the country where a district had concentrated the highest needs students in a small number of schools. They were racially isolated, socioeconomically isolated, and then received less resources than other schools in the community.

We have an obligation as a civil rights enforcement agency implementing a civil rights law to make sure States and districts must take responsibility for the success of all students.

Ms. ADAMS. Thank you, sir. Mr. Chair, I yield back.

Chairman KLINE. The gentlelady yields back. Dr. Foxx?

Ms. FOXX. Thank you, Mr. Chairman. Welcome back, Dr. King. Under No Child Left Behind, the Federal Government dictated how States and school districts measured school performance. Schools identified as underperforming or failing were forced to adopt prescriptive and burdensome school improvement plans. Reforms within those schools were dictated by the Federal Government. If the school failed to improve over several years, increasingly harsh corrective action was required.

Within the federally mandated school improvement plans, States and local districts lost the right to determine what was needed to make positive changes. Congress recognized the negative impact this had on students, and we worked in a bipartisan fashion to pass a law that would restore State and local control of K-12 education.

Now, under the Every Student Succeeds Act, schools and school districts are able to develop school improvement plans, approved and monitored by their State leaders. This new flexibility allows State and local leaders not only to collaborate but also to be held accountable and take responsibility when it comes to improving student learning and achievement.

Two weeks ago, Dr. Vick Wilson, the superintendent of Hartselle City Schools in Hartselle, Alabama, came before the committee to discuss how the new law represents “The first time in 15 years the State and local education agencies can demonstrate what they can do to support student learning without Federal overreach.”

Dr. Wilson emphasized the benefit of the new flexibility superintendents have under the Every Student Succeeds Act when he said “Every leader needs the flexibility to deal with these situations that are unique to their district in a manner that best meets the need. ESSA is a huge step in this direction, and will serve leaders as they strive to lead all learners up the stairs of success.”

He went on to say “Throughout the United States, the Nation’s 14,000 public school superintendents are charged with meeting and exceeding expectation of student achievement and learning for stakeholders at the local level. What works in Alabama might differ slightly from what works in Minnesota. ESSA provides a new opportunity for each of those leaders to craft and implement customized education for learners in their districts.”

As you can see, State and local leaders are eager and excited to make the changes needed in their individual districts that will have a positive impact on their students.

The Every Student Succeeds Act prohibits the Department of Education from prescribing school improvement strategies. The text of the law says “Nothing in this act shall be construed to authorize or permit the Secretary as a condition of approval of the State plan or revisions or amendments to the State plan to prescribe any specific school support and improvement strategies or activities that State or local educational agencies establish and im-

plement to intervene in support and improve schools and improve student outcomes.”

That sounds very straightforward to me. In fact, it is one more example demonstrating Congress’ clear intent to reduce the Federal role and restore State and local control of our Nation’s K–12 classrooms.

I have a very simple question for you, Dr. King. Can you assure us that the department will comply with this prohibition, and all I need is a simple yes or no.

Mr. KING. We will certainly in all of our actions be consistent with the letter of the law. As we are developing regulations and guidance, we will gather feedback and input from stakeholders and make sure that we use regulations and guidance to address areas where clarity is needed, but yes, we will ensure that we maintain the flexibility that school districts have and States have around the interventions in struggling schools, and we will also ensure they comply with the expectation of the law, that they meaningfully address achievement gaps.

Ms. FOXX. So, there was a yes in there somewhere, I believe.

Mr. KING. Yes, ma’am.

Ms. FOXX. Thank you very much. I yield back.

Chairman KLINE. The gentlelady yields back. Ms. Clark?

Ms. CLARK. Thank you, Mr. Chairman, and Ranking Member Scott, and thank you for joining us again, Mr. Secretary, and best of luck this afternoon.

Mr. KING. Thank you.

Ms. CLARK. I wanted to talk briefly about the Preschool Development Grants, and the work that we have been able to do, and I think make great progress in developing the trauma-informed practices, which I am hopeful are going to be able to reduce suspension and expulsion that we are seeing in early education and child care.

In Massachusetts alone in the last school year, we had over 600 preschoolers suspended from their programs. At the same time, we are trying to change that narrative, and we have adopted the CSEFEL model, which was jointly developed by the Departments of Education and HHS, which I think will certainly help us make sure that exclusionary discipline is the last not a first resort for young children.

So, as HHS starts implementing these Preschool Development Grants, I have two questions. One, how are you going to ensure that we are continuing our work and supporting our workforce training and development around trauma-informed education, and also, for States like Massachusetts that are midcourse in these grants, I know you are entering into a Memorandum of Understanding, but if you could expand on how you are going to do that transition.

Mr. KING. Yes. Thanks for the question. So, early learning is, I think, critical to addressing what we face as a country. We know that students who have the benefit of high quality early learning do better. We worry a lot about the issue of exclusionary discipline in early learning.

As you know, the percentage of African American students in early learning and Pre-K is around 18 percent of the percentage of

students suspended, it is in the mid-40s, so there is work that we need to do.

We have been working with HHS within the context of the Preschool Development Grant program and the Race to the Top - Early Learning Challenge, from the beginning. We have done joint guidance with them. We have been partnering in trying to support States and providers in attending to issues of training for educators and center directors, and we will continue to work with them in that.

We also have a broader administration-wide effort, You're My Brother's Keeper, focused on getting school districts and preschool providers to rethink discipline and to focus on how we ensure that students get the support they need to succeed in the classroom.

Ms. CLARK. Great. Also, in the Every Student Succeeds Act, there are several references to "specialized instructional support personnel." This is a new term that refers to professionals such as school psychologists, social workers, speech-language pathologists, and school nurses who really provide our school-based prevention and intervention services.

The law requires that States and local education agencies engage these professionals. How is the department going to help States and local policymakers and inform them about the role of these professionals and ensure that they are true collaborators in the implementation?

Mr. KING. Both in our efforts, the departments together, public comment and feedback and to meet with stakeholders, we are attending to address personnel that you are describing.

I think the voice of school counselors, for example, is hugely important as we think about how to improve school safety, school climate, support students in the transition between high school and postsecondary opportunities.

We will also in our guidance and in the regulations that we create endeavor to ensure that States are doing a good job on stakeholder input, including input from the diverse range of professionals who work in schools.

Ms. CLARK. Thank you so much. Mr. Chairman, for the first time ever, I yield back.

Chairman KLINE. I am so pleased. Thank you. The gentlelady yields back. Mr. Allen?

Mr. ALLEN. Thank you, Mr. Chairman, and thank you, Dr. King, for coming here today to discuss the implementation of the Every Student Succeeds Act. Both of my parents were in education. Obviously, we sat around the kitchen table many nights talking about how to make it better.

You know, throughout our efforts to reform K-12 education and reducing the Federal role, restoring local control has remained a primary goal because it is our firm belief that State and local leaders know best what schools need to deliver a quality education to the students.

Obviously, our teachers are very happy because of the ability to spend more time in the classroom and less time dealing with compliance issues.

Unfortunately, for the last several decades, the Federal Government has assumed more and more control over K-12 education at

the expense of State and local leaders. In fact, the Department of Education operated more than 80 programs tied to the Nation's classrooms. This flood of bureaucracy largely dictated how States and school districts should spend limited resources, making it more difficult for States and schools to address local priorities and effectively serve their students.

The Every Student Succeeds Act includes several provisions to restore flexibility to State and local leaders so they can identify and invest in the areas that best meet the needs of their students.

As part of this act, Section 5002, the purpose of this part is to allow States and local education agencies the flexibility to target Federal funds to programs and activities that most effectively address the unique needs of States and localities.

This is the flexibility that States and local leaders have been waiting for. We hear from teachers, superintendents, local leaders, and the business community in our districts all the time about having the flexibility to use their resources as they see fit to allow them to better meet unique needs of their students.

That is why I was surprised and concerned to see that your budget proposal to change the distribution of funds at the local level from a formula grant program to a competitive grant, something not explicitly authorized in the law.

The difference between the two is quite significant. Congress intended to provide all schools additional funding flexibility through a fair and equitable formula grant. The administration is proposing a scheme that will leave the department in charge of picking winners and losers. This is not at all what Congress intended.

Could you explain why your budget proposal ignores the letter and intent of the provisions in the law establishing this important flexible grant program, and will you ensure the committee that the department will implement the Student Support and Academic Enrichment Grant as Congress authorized it, as well as protect the State and local funding flexibility provided under the law?

Mr. KING. As I mentioned earlier, I think the grant program has tremendous potential to be helpful to students, whether it is investing in the arts or school support services, creating safe and supportive climates for our students.

One of the challenges is ensuring that the distribution results in schools having a meaningful allotment of funds through which they can actually produce a program that has a meaningful impact for our students.

I am certainly open to working with the committee on how we do that, but I think whatever funding level we establish, we then have to ask are individual districts and schools going to have grants large enough to make a difference for their students. Often times the tension, as you know, around competitive grants is if you do not have enough money to have a meaningful impact, rather than spread the money very thinly in a way that does not have much impact for students, there can be an advantage to a competitive process.

We are certainly open to working with you as the budget process moves forward.

Mr. ALLEN. That is the intent we need, that we follow the letter of the law here as far as these grants are concerned to make sure

it is fair and equitable to each and every State. Thank you for agreeing to do that.

The other thing that we need to address as far as education is concerned is the motivation of the student. You know, you are in the business. Obviously, we are all concerned about our dropout rate. We have 23 seconds left. Can you give me your ideas on how we can motivate folks to want to stay in school and get a good education and then go get a good job?

Mr. KING. Yes.

Chairman KLINE. You have 12 seconds.

Mr. KING. A 12 second version of that? I will say I think reauthorization of the Perkins Career and Technical Education Act could be very helpful. There are a set of students who we may not be reaching with the traditional academic program today, but if we could integrate that traditional academic program with a strong career path, engagement with employers, and a clear path to their future, that could make a huge difference.

Chairman KLINE. The gentleman's time has expired. Mr. Takano?

Mr. TAKANO. Thank you, Mr. Chairman. Secretary King, can you tell us what can the department do to ensure equitable access to effective teachers for the highest needs students?

Mr. KING. I think it is a hugely important issue. You know, one of the things that I think the Every Student Succeeds Act importantly maintains from No Child Left Behind is this commitment to equitable access to effective teaching.

We have been working with States on educator equity plans. States, I think, have been very thoughtful about that work. For example, I believe it is Minnesota that is focused on how you might help paraprofessionals prepare for transitions into teaching, to identify paraprofessionals who are close to the community, may speak the language of students, and give them opportunities to become teachers.

We have a State like Vermont that is focused on how you give students experiences in teacher prep with rural education so you can attract them to rural schools where there is a high need.

I think we have to have targeted strategies State by State, and we look forward to continuing to work with States on those equity plans.

Mr. TAKANO. Well, during the reauthorization debate, one thing that was agreed on was that children were being tested too often in schools. Teachers are spending way more time on testing than teaching, and students are spending more time taking tests than learning.

One way that the ESSA addresses this is by including the innovative assessment pilot, to allow States to be able to develop assistance with assessments that better align with student-centered competency based learning models.

How does the department plan on moving forward with the pilot?

Mr. KING. We are in the early stages of gathering feedback and input on areas where States and districts need more guidance, so we will gather that input and based on that determine the process we will follow to give guidance on the innovative pilot.

I will say we have a great example in New Hampshire. New Hampshire has been at this for several years. They have been working to develop performance-based assessments that they are now piloting in a number of their districts, that will ultimately become their State-wide—they hope will become their State-side assessment system. They have learned a tremendous amount.

I think the Council of Chief State School Officers is working with chiefs to make sure they learn from New Hampshire as we move forward.

Mr. TAKANO. Wonderful. Thank you. I look forward to the implementation. Several States, including my own home State of California, are currently or will be considering legislation this year to disaggregate data for Asian American and Native Hawaiian and Pacific Islanders.

The Education Department pledged technical assistance to States and districts interested in doing this, and the ESSA directs the Secretary to provide this technical assistance, as well as assistance in using such data to improve outcomes, academic outcomes.

How do you, Mr. Secretary, plan on implementing this portion of the law in a timely manner to meet the demand from Asian American and Native Hawaiian and Pacific Islander communities and interests from the States?

Mr. KING. I am very interested in this question. I think there is some good evidence from Washington State, for example, as well as Hawaii, around the leverage that can come from disaggregation, where you can better identify subgroups that need attention and intervention, where there is very dramatic variations in performance.

We are committed to providing that technical assistance. Our P-12 team is working on thinking about how we best support States in that work. States also have an opportunity as they use their flexibility to design new accountability systems to take that into consideration, and to go further with disaggregation than is the minimum requirement of the law.

Mr. TAKANO. Well, how will States ensure that Asian American and Native Hawaiian and Pacific Islander communities, particularly those with disparities and educational outcomes are included and are aware of opportunities, and to provide our input, for example, in the creation of State plans, how will you ensure the States are transparent about these opportunities?

Mr. KING. We will certainly ensure both that we gather input and feedback from diverse communities. We have already met with some rights' organizations that are focused on the needs of Asian American students, so we will do that at the Federal level, and we will ensure in our regulations and guidance that States understand they have a responsibility to consult with diverse stakeholders.

Mr. TAKANO. Wonderful. ESSA makes several references to "specialized instruction support personnel." This is a new term that refers to professionals such as school psychologists, school social workers, speech-language pathologists, school nurses, et cetera.

How will the department inform State and local policymakers about the important role of these professionals?

Mr. KING. We certainly will gather input from—

Chairman KLINE. I am sorry, Dr. King. The gentleman's time has expired. Mr. Bishop?

Mr. BISHOP. Thank you, Mr. Chair, and thank you, Mr. Secretary, for your time today and testifying.

I wanted to build, if I could, on my colleague from Georgia's question about the intent of the law. Specifically, I want to talk to you about a provision that is important to my constituents.

My constituents frequently reach out to me and to my office regarding Common Core. I must say as a parent, I agree with their concerns. What started off as a State led effort, it quickly grew into an avenue for Federal overreach and into local classrooms, whether through conditional waivers or, of course, Race to the Top, many States and schools got coerced into adopting Common Core.

One superintendent, Todd Gazda of Ludlow, Massachusetts, was cited in the New York Times describing the government's intrusion as "It was almost like extortion. If you want money, you have to do things the way we want."

As a former State legislator, I can absolutely agree and I can relate with the sentiments of his frustration.

Setting standards, developing curriculum, and assessing student achievements are State and local responsibility, not Federal ones, and that is why this committee was very sure to include several provisions which were included in the Every Students Succeeds Act that strictly prohibited the Federal Government from racing into our States and coercing our schools into adopting Common Core or any other standards or assessments.

The law puts a firm end to the Federal Government's bullying States into submission when it comes to how they choose to teach their students. We have so many very qualified educators and parents who are involved and know best for their students in their cities, and to have to teach to a Federal template is counter-productive, to say the very least.

That being said, the administration has implied that the Every Student Succeeds Act includes requirements for college and career ready standards or supports college and career readiness.

Now, for many, that is code for Common Core. I just would like to, I guess, take this opportunity first of all to ask you, Dr. King, exactly how many times does the phrase "college and career ready" appear in the Every Student Succeeds Act?

Mr. KING. I could not tell you the number of times, but to be clear—

Mr. BISHOP. Just a second. I do not mean to interrupt but I want to make this point. It appears zero times. The term "college and career ready" does not appear anywhere in the act, yet the administration is sending a message that directly contradicts our intent to prohibit the Federal involvement in setting standards or assessments.

On that point, do you know how many provisions in this law explicitly prohibit the Federal Government from dictating to States what kind of academic standards they can or cannot adopt?

Mr. KING. We are very clear and have always supported that standards should be State developed, State adopted, and—

Mr. BISHOP. Well, good, this is helping you then. Four times it specifically prohibits the Federal Government.

There are four provisions. I would like to just cycle through a couple of them that very clearly state that the Federal Government should not be involved in the coercion of States in adopting specific standards.

Section 8527 specifically says “No funds provided to the department under the act may be used by the department, whether through grant, contract, or cooperative agreement, to endorse, approve, develop, require or sanction any curriculum, including any curriculum aligned to Common Core standards developed on a Common Core States standards initiative or any other academic standards common to a significant number of States.”

Cycling through to Section 8544, specifically and unambiguously provides “Nothing in this act shall be construed to prohibit a State from withdrawing from Common Core standards or from otherwise revising their standards.”

You can see Congress was very clear. In fact, yesterday a State legislator in Michigan introduced a bill to get rid of Common Core in the State of Michigan in reaction to this law.

I just hope that you will ensure this committee based on your initial response here that the Department of Education will respect the clear letter of the law and ensure that Federal assessment does not force, coerce, or otherwise impose State specific standards to set academic standards.

Mr. KING. Prior to the adoption of the Every Student Succeeds Act and under the Every Student Succeeds Act, we are committed to the principle that standards should be determined by States, developed by States, and the implementation of curriculum is a matter for State and local decision-making.

That said, it is important that the Every Student Succeeds Act sets the goal that States will have high standards that move towards students graduating from high school ready for success, college, and careers, ready to take credit bearing course work when they get to college after completing their high school—

Chairman KLINE. The gentleman’s time has expired. Mrs. Davis?

Mrs. DAVIS. Thank you, Mr. Chairman. It is good to see you again, Dr. King, and in just a little while, we will be able to call you “Secretary King.” Thank you for being here.

I want to just very, very briefly mention, just to thank you, the department, I think they are following through on a letter that was received regarding increasing diversity among our schools, and we are very pleased to see movement on that, and to be able to talk about that issue more. I greatly appreciate it.

I would just respond to my colleague as well and to others because I think we certainly understand the language and the intent of the law, but I think that the concern and the opportunity to offer guidance in any number of areas is very important.

And particularly, we have talked about before, I know as a teacher and as an educator yourself, the ability of communities and districts across the country to share their valuable experiences is very, very important.

I wonder if you could discuss briefly the role really of the department to engage in that discussion, to be able to specifically in Title II address ways that districts can develop systems that recruit, pre-

pare, provide ongoing job embedded support for teachers, of course, but also for our principals.

So, given the fact that we have to be very careful about the way that is done, not prescribing, but also encouraging and guiding, how do you see that role?

Mr. KING. So, three quick examples. I think there is an opportunity with the teacher equity plans that States are implementing to lift up good work that is happening around the country, States that are thinking in smart ways about how to bridge shortages that they are facing around teachers for English language learners or teachers for students with disabilities.

States that are investing in teacher leadership opportunities, where teachers are serving as mentors or coaches for their colleagues, able to lead projects in their schools and districts.

Two, we have an initiative called Teach to Lead, which is about bringing teachers together who are leading from their classrooms, teachers who are doing interesting innovative work in their schools and districts to improve parent engagement, improve academic outcomes for students at risk, think about how to use technology in smart new ways to help students.

We are bringing those teachers together so they can share best practices, and I think that is an important role for the department.

Mrs. DAVIS. Do you see that more in face-to-face interaction, Web sites? We know there are multiple Web sites. Many schools, universities, who put out Web sites regarding how even to have a very inclusive interactive evaluation process for teachers. Is that something that you—are you feeling you have some prohibitions against doing something like that, or is it pretty clear that is a guidance?

Mr. KING. You know, it is clear that is guidance and a resource and technical assistance that we can provide to States and districts. We also have technical assistance centers that are focused on helping States and districts with innovative projects to strengthen teaching, and certainly we will continue to do that work.

Mrs. DAVIS. Thank you. I appreciate that. I think particularly for our principals as well, we know how important that is. We know there are some outstanding programs in the country, and people can take a look at those.

I would hope that none of us would want you to feel sort of constricted in being able to share really some outstanding practices. One of the things that we all deal with is how do you scale up. We know there are great examples across the country, and yet, trying to bring those with a real focus in an area so you have kind of a critical mass, and there is no question whether or not these programs can be utilized effectively throughout the country.

So, I hope we will be able to do that and explore that, and perhaps the committee as well can be able to engage in some of those practices that I think could be very helpful to schools.

Mr. KING. Absolutely.

Mrs. DAVIS. I think the act supports that. Thank you very much.

Chairman KLINE. The gentlelady yields back. Ms. Stefanik?

Ms. STEFANIK. Thank you, Mr. Chairman. Dr. King, thank you for joining us for a second day.

I want to build on Mr. Bishop's line of questioning. I want to ask you about your experience as the commissioner of education in our home State of New York.

As you can imagine and I am sure you are very familiar with, I hear lots of concerns, questions and comments from students, from teachers, from parents, about the rushed and fundamentally flawed implementation of Common Core in New York State.

To me, the feedback that I hear is that across party lines, there is frustration with teacher evaluations, with high-stakes testing, and sky high opt-out rates. In my district, for example, opt-out rates are some of the highest in the State with schools in Franklin and Hekimer Counties, reporting opt-out rates in the high 80s.

So, my question for you today is what lessons did you learn from the fundamentally flawed implementation and the rushed implementation in New York State, and do you think mistakes were made?

Mr. KING. We have to go back to as States have moved over the last few years towards higher standards, what was the reason, what was the rationale? What we know, whether it is New York or all across the country, too many of the students who graduated from high school graduated under-prepared for what is next.

As you know, on the SUNY campuses, SUNY is spending millions of dollars on remedial courses in the highest needs communities. At SUNY and CUNY, the State university system and the City university system, you have campuses where 80 to 90 percent of entering students are required to take remedial classes, essentially high school classes, for which they and their families pay college prices.

So, the challenge is how do you ensure that the system is pointed towards high standards that allow students to graduate ready for success. That is a hard process. It requires consistent stakeholder engagement—

Ms. STEFANIK. Do you think you adequately got feedback consistently from stakeholders? One of the concerns that I hear from teachers is they felt they were not adequately a part of the process and the discussion.

Mr. KING. New York, as in many States, teachers were very actively engaged in the process of developing standards, and also adjusting standards, and that process continues. I think we will always expect that States will consistently seek feedback from teachers and principals as they adjust their standards.

I do think for New York and around the country, one of the challenges is the implementation of higher standards has come along side changes in teacher evaluation, and it is fair to say, and this is true again across the country, in many places those contentious discussions about teacher evaluation got completed with the issues around higher standards.

I think this new law gives us an opportunity for a reset on those conversations around teacher evaluation in particular, and there is an opportunity for States to look at how do they ensure that their valuation systems are actually providing support to educators, how do we ensure that they do not feel like a "gotcha system" but rather feel like a source of support, and how do States ensure they are leveraging, whether it is Title I or Title II dollars to support teach-

ers around implementing higher standards, again, with a willingness to adjust that effort as time goes along.

Ms. STEFANIK. Just to go back to my initial question, you would not have done anything differently. Do you believe there were any mistakes made in the flawed roll out of Common Core in New York State?

Mr. KING. Again, in New York, as in the rest of the country, I think we have learned a lot about the change process over the last few years. There were, I think, in many States an unfortunate phenomena, there was an unfortunate phenomena of the teacher evaluation work and work of raising standards being completed together, and I think that generated both while I was there and after I left its own set of tensions.

Ms. STEFANIK. So, as commissioner, when you served as commissioner of New York State, what would you have done differently? I consistently hear from teachers, parents, and students about the rushed implementation, that their viewpoints were not integrated.

I know you are Acting Secretary of Education, you are nominated to be Secretary of Education. I think it is really important to see if you think if there were any mistakes made when you served as commissioner of New York State.

Mr. KING. I think it is more a question of what we learned over time. Again, not just in New York but across the country. I think part of what we are seeing with the testing action plan, we did something similar in New York, grants to school districts, to bring together educators to look at the assessments they were given, evaluate which ones are useful and which are not, and which could be reduced.

That was a good step. I think us in New York and folks across the country wish we had done that sooner. I think the conversation that will be unleashed by the Every Student Succeeds Act about how we broaden the definition of "educational excellence," I think, creates an opportunity.

I do not think anyone intended for science and social studies or art and music to get less attention when No Child Left Behind was adopted, but the reality is in many places, they did. We now have an opportunity with the new law to relook at that and for States to think more broadly about how they define "educational excellence."

Chairman KLINE. The gentlelady's time has expired, I am sorry.

Ms. STEFANIK. Thank you.

Chairman KLINE. Mr. DeSaulnier?

Mr. DESAULNIER. Thank you, Mr. Chairman. I want to thank you, Doctor, from what I have been able to see personally, and watching on television, and hearing your testimony in the last few days, that it demonstrates at least to me and I think to all of us your commitment and your passion for the career you have been embarked on, and your future position, hopefully.

I wanted to ask you questions about after school programs and intersession programs, and this has already been brought up in today's hearing, but there has been bipartisan effort on some of these issues.

And when we look back—I am old enough to remember when we first started talking about this, and I think if memory serves me,

Congress in the 1960s had the Jenkins Report, who talked about the importance of not just socioeconomic on the achievement gap or what had become the achievement gap, but also how we address that.

First of all, thank you for your support for community learning centers, that you kept in the budget at \$1 billion, and the success of those programs.

Secondly, probably not so positively, but I would like you to talk about this, about where this may engage. Mr. Thompson and I worked on a bipartisan effort for family engagement centers that you did not put in the budget.

Clearly, these are the kind of things that we now know looking back that if we had fully funded them and kept them going, the achievement gap might not be what it is today.

So, could you speak about family engagement, particularly in disadvantaged communities, where there is such a challenge and you have put so much of your career into, but how do you foresee not only in this budget but in coming budgets, but if we were to fully fund these, and I believe the achievement gap would start to be significantly reduced.

Mr. KING. Yes. You know, one of the challenges as we developed this budget was trying to figure out how we align the President's priorities with constraints created by the caps in the budget agreement.

I will say I think family engagement obviously is a hugely important issue in schools, it is critically important that educators are well prepared around that. The budget includes funding for teacher and principal preparation, innovation.

I think one of the places where we can stand some innovation and teacher and principal preparation is around making sure folks are well prepared to engage with families as partners when they enter schools.

There is an opportunity with Title IV dollars, you know, the existing programs that were in the 2016 budget for Title IV were at about \$278 million. We added to that \$222 million in the President's budget to get to \$500 million. Title IV resources could be used for elements of family engagement, partnerships with families that would create safe and supportive school climates and strengthening the breadth of kids' academic experience.

I think there are opportunities within the President's budget to direct resources towards family engagement, but clearly it is an area that as a country we need to do more.

Mr. DESAULNIER. So, if you were to project out over a period of time knowing in California and also having spent some time in your State, in Harlem, with a study from Columbia University, but in areas in Los Angeles and the Bay Area, where I am from, including my district, when these programs are up and are sustainable, there is a real sense, as you know, of empowerment for the whole community, and in communities that often times do not feel that ever in terms of government agencies.

So, when you do not fund them or when you fund them and then take them away or marginalize them, the effect not just on the child but on the community and through multiple generations just keeps reinforcing, I think, that there are answers, but we sort of

were loosey with the ball. We keep saying this time we are going to be there but then we go away.

So, I appreciate your comments, but say you were to stay in this job for longer than just a year, how would you project out those kinds of investments, and how can we make them sustainable, and still hold them to account?

Mr. KING. I think we do need to build on investments in family engagement. It may be there are smarter ways to use existing resources, Title I is another place where districts could be investing resources in family partnerships.

I also think we are seeing with our Promise Neighborhoods initiative the leverage that comes when you have schools partnering with community-based organizations, so that you broaden the outreach to parents and can engage parents on multiple levels, both as the first teacher of their children, but then also providing parents with opportunities to get a GED if they need that, opportunities to get employment training, opportunities to get language skills.

We are seeing some very strong examples in Promise Neighborhoods and in our innovation, education and innovation and research programs.

So, I think this is a place where there is good momentum, and we have to continue to build on that momentum.

Mr. DESAULNIER. Thank you. Thank you, Mr. Chairman.

Chairman KLINE. The gentleman yields back. Mr. Carter, you are recognized.

Mr. CARTER. Thank you. Dr. King, thank you for being here this week. We appreciate the time that you have committed to us this week very much.

You know, I am a freshman member of the House, and quite often, I am asked what have you done since you have been there. I point to this, and I want to thank you, Mr. Chairman, because this is one of the things that I am very proud of that we have done, this devolution of power from the Federal level to the State level. It is very important.

You are going to play an important role. Your department is going to play an important role in implementing this, and delivering on the promises that we have made to reduce the Federal role, to restore State and local controls, and most importantly, to empower parents to hold schools accountable.

Over the last seven years, I have witnessed in the State of Georgia the Federal Government using rules and regulations and guidance to impose the one-size-fits-all policies and the micromanaged schools, hampering the ability of parents and teachers and State and local officials to address the unique needs of their students, and that is very important to me.

I believe education at the local level is the best. I am very adamantly in favor of this, and I want to make sure it is implemented like we intended for it to be.

The reforms that we have in Every Student Succeeds gets the Washington bureaucrats out of it, and that is what we want, and that is very important, very important to me, very important to my constituents.

We can finally stop Common Core. I can tell you in the 1st District of Georgia, this is what people would want, and we want to make sure this gets done.

I want to talk specifically about some provisions in the law that protect State and local early childhood efforts from Federal interference. This is very important. The law is very clear that early child care and education programs are a State and local responsibility.

In fact, I read from Section 8549(b) of the law, and you can see it here, "It is the sense of Congress that the State retains the right to make decisions free from Federal intrusion concerning its system of early learning and child care, and whether or not to use funding under this act to offer early childhood education programs."

It is very clear on what we meant for that. It broadly outlines how States can better serve children and families, and it highlights the efforts to provide parents—the most important role that they play, they are the ones who are really the key here—provides them with a variety of programs and services, and protects the rights of local providers to design the programs that best meet the needs of the children that they serve.

When it comes to implementing the Preschool Development Grant program, the Every Student Succeeds Act deliberately clarifies, it says "Nothing in this section shall be construed to authorize the Secretary of Health and Human Services or the Secretary of Education to establish any criterion for grants made under this section."

It is very clear on what we are stating there. The law always specifies that it is up to the States, not the Federal Government, to develop and implement learning curriculum, standards, assessments, as well as specific measures or indicators of quality in the systems that states use to assess the quality of the programs and the providers.

You want to know why? The reason is because it is parents and teachers who know what is best for their children, not the Federal Government. This is something I believe very strongly in.

The States are now responsible. They are responsible now for defining terms such as "high quality" as it relates to early childhood programs, determining teacher qualifications and evaluations, specifying class sizes, setting expectations for scope and duration of programs, not the Department of Education.

So, as the First Five Years Fund, in support of these provisions through the Every Student Succeeds Act, State leadership will have the opportunity to efficiently coordinate their early childhood systems, developing a plan to improve and expand upon what they are already doing.

So, Dr. King, my question to you is how will you work with the Department of Health and Human Services to ensure that these provisions are honored so that the States can provide children and families quality early learning opportunities without Federal interference?

Mr. KING. We certainly, as we move forward with implementation of the Preschool Development Grants and the successor program in the Every Student Succeeds Act, we will continue to work closely with Health and Human Services to support States and dis-

tricts and programs that they have designed, that reflect their work on ensuring students have access to high quality opportunities.

I think as a country, as we think about the direction of early childhood education, we have to be focused on the issue of quality, are the teachers who are in the early learning context well prepared for the diverse students with which they are engaging? Are we doing everything we can to ensure inclusive environments?

As you know, we have programs for preschool children under IDEA, and to the extent that we can ensure those students have access to inclusion in the general education classroom, and we should—

Chairman KLINE. Dr. King, I am sorry, but you have a hard stop time and Mr. Carter's time has expired, and we are going to try to move expeditiously through the next three members, starting with Dr. Roe.

Mr. ROE. Thank you, Mr. Chairman, and sorry, Dr. King, I missed the first part. I had to be at a Veterans Affairs markup.

There are many issues Congress wanted to address in reauthorizing the Elementary and Secondary Education Act, perhaps the most significant issue was the Federal Government's top-down approach to holding schools accountable.

The Every Student Succeeds Act gives the power back to the States to establish accountability systems that work best for their schools. The law outlines several broad parameters for State leaders to look at as they develop State-based accountability systems.

However, States now have the flexibility to weigh each expectation as they see fit. Within these State-based accountability systems, States will evaluate their public schools based on proficiency in reading and math, English proficiency for English learners, and graduation rates for high school students, a valid and reliable State-wide indicator for elementary and middle schools, and at least one other indicator of school quality or student success.

The Every Student Succeeds Act, and this is a critical difference from No Child Left Behind, also allows State leaders to establish their State's long-term goals as well as the measurements of interim progress they will use to evaluate progress toward those goals.

As a result, the law successfully returns the responsibility of accountability back to State and local leaders who know better than anyone what their students need to succeed in school.

As Education Week noted, "The Every Student Succeeds Act is a U-turn from the current much maligned version of the ESEA law, No Child Left Behind Act, States' wide discretion in setting goals, figuring out just what to hold the schools and districts accountable for and deciding how to intervene in low-performing schools."

Key education stakeholders have also praised the new law. The chief counsel of a State school officer said, and I quote, "Through the Every Student Succeeds Act, States have the flexibility they need to improve education outcomes for all kids while at the same time maintaining strong accountability."

The Every Student Succeeds Act makes clear that the Department is prohibited from prescribing the indicators States use in

their accountability systems beyond what is explicitly outlined in the statute.

Dr. King, my question is what will you do to ensure your implementation of the law protects explicit authority of States to determine the weight and mix of indicators, both academic and non-academic indicators, that are used in their accountability systems?

Mr. KING. I appreciate the question. You know, as we move forward with implementation, I think we have a great opportunity for States to leverage their flexibility with respect to accountability systems and interventions.

On the accountability side, I think we have an opportunity where States can broaden how they define an excellent education to make their definition more well-rounded than the narrow focus on English and math assessments that we saw during the No Child Left Behind era.

An opportunity for States to look at students' progress. I mentioned this earlier, in science and social studies, arts, music, socioemotional learning.

On the issue of interventions, there is an opportunity for States and districts to develop much more targeted interventions, freedom from the one-size-fits-all approach of No Child Left Behind.

Where a school identifies, for example, that their English language learners are struggling, they should be able to tailor a response that is around teacher professional development and teacher support to work effectively with English learners, rather than having to use a cookie cutter solution that is provided external to the districts.

I think there is tremendous opportunity. As we develop guidance and regulations, we will take input very seriously from all stakeholders, including the counsel of chief State School officers, superintendents, teachers, principals, civil rights leaders, community leaders, and ensure State and local flexibility within the guardrails of protecting students' civil rights.

Mr. ROE. I appreciate that response. I do want to work with you on yesterday's question on the higher ed part of reducing the incredible amount of rules and regulations, and I yield back.

Chairman KLINE. The gentleman yields back. Mr. Grothman?

Mr. GROTHMAN. Thank you. Thanks again for joining us. I am going to talk to you a little bit about teacher evaluations, something I have been interested in for a long time, just wrapped up a book last night, "The Smartest Kids in the World," and I would recommend it to you. You can see how different countries around the world deal with getting the best teachers.

Nevertheless, I think one of the goals of the Every Student Succeeds Act is to remove or to clarify, as we have up here on the screen, it says "Nothing in this act shall be construed to authorize or permit the Secretary to prescribe any aspect or parameter of a teacher, principal, or other school leader in the evaluation system within a State or local educational agency."

You know, I think it is a great thing that we have 50 different States and a lot of times in those States it varies from district to district as to how they evaluate their teachers.

In the past, prior to passing this bill, the Department of Education forced States into adopting prescriptive teacher evaluation

policies in exchange for additional Federal funding or much needed relief from No Child Left Behind, be put into a straightjacket and have to do an evaluation system that the district did not want, and you also had the situation of all sorts of different evaluation systems and the ability to pick the best around the country for every individual district.

What I would like to get from you today is just to clarify, and you see what the statute says, I want you to assure the committee that the department intends to follow the law, and we are not going to have any more actions in which you require or coerce States or school districts to adopt a certain teacher evaluation system or even specific elements within a teacher evaluation system, can we be confident now that those days are gone?

Mr. KING. Yes. We are very clear that the law puts teacher evaluation in the hands of States and districts, and I think we have an opportunity with the new law for a reset in the conversation about teacher evaluation.

I do think we have technology over the last decade where teachers in many places have felt attacked or blamed by the discussions around evaluation, and now States and districts can use that flexibility in smart ways.

It is important you referenced Amanda Ripley's book. I think there are very interesting opportunities for States to leverage their flexibility now and to focus on teacher leadership in the way that some of our international competitors do, to focus on strengthening teacher preparation in some of the ways our international competitors do, to create mentoring and induction support in some of the ways our international competitors do.

So, I think the new law gives us an opportunity for States to reset their approach on issues of teacher quality, certainly it is important that the law maintains the focus on equitable access to effective teaching, and States are doing good work on their equity plans that we will continue to support.

Mr. GROTHMAN. Just to understand, you are not too much in the conversation?

Mr. KING. Right. I understand our role is to try to support States, certainly the Teacher and School Leader Incentive Fund, for example, is an opportunity to support districts in their work in lifting up teacher leadership and support. We are clear that the law makes teacher evaluation a project for States and districts.

Mr. GROTHMAN. Thanks very much. I yield the remainder of my time.

Chairman KLINE. I thank the gentleman, and he yields back. Mr. Messer?

Mr. MESSER. Thank you, Mr. Chairman. Thank you, Dr. King. I admire your stamina. I know you have had a lot going on in the last couple of days, and I think this may be the caboose of your questioning, so thank you for your patience, and thank you for the gracious way you have conducted yourself.

Yesterday, we had an opportunity to talk a little bit about some of the challenges with Indiana's charter school funding. Today, I want to talk to you a little more about the broader opportunities that come with educational choice for kids in America.

We have all either seen or heard accounts of how empowering parents gives better opportunities for not only kids but the communities that they live in as well.

Just a few weeks ago, we had a remarkable testimony from a young woman, Denisha Merriweather, a graduate student of the University of South Florida. She came to the committee and gave a personal account of how school choice and the opportunities associated with that have changed her life.

She began by painting a picture of what school was like for her before she had a change in educational opportunity, and I will quote from her, she said “My grades were bad and I did not understand most of my school work. I got picked on by other kids because I was doing so poorly in school, and I kept getting into fights, I failed third grade, not once but twice.

All too well, it seemed my future was mapped out for me. I would follow in the footsteps of my mother, uncle, and brother, who all dropped out of school. I was unmotivated, and learning became a nightmare, a punishment for being a child.”

Ms. Merriweather went on to talk about how local school choice options allowed her to transfer into a better school, and as a result of that, her life took a dramatic turn. Not only did she graduate from high school, she went on to college, and now she is pursuing a Master’s degree.

These are stories we have all heard before. I have visited the BASIS School in Washington, D.C. where kids from every zip code in Washington, D.C. are obtaining STEM level training and having incredible success in their life. When I met with those young people, the one question they asked me is why does not every kid in America have the same kinds of opportunities that I have.

Today, over 44 States provide school choice options, and as you know, the Every Student Succeeds Act includes provisions that support and encourage educational choice and opportunity for kids.

That is really my question for you, Dr. King, how will the department ensure that these provisions, access to charter schools, magnet schools, and direct student services—how will you make sure that the intent of Congress in that act is implemented, so that we make sure that kids’ futures are not determined by their zip codes, and every kid has an opportunity to succeed?

Mr. KING. We have several great opportunities. I think the charter school program and the CMO program are both helping to drive the creation of high performing charters, and at the same time, improve the quality of charter authorizing, because as you know, the promise of school choice is undermined when we have charters that are chronically underperforming and authorizers fail to act.

Mr. MESSER. The same with public schools, we have to hold public schools accountable as well.

Mr. KING. That is exactly right. I think there is opportunity with those two charter programs. There is opportunity with the magnet program. The President’s budget proposes an increase in the magnet program.

I think it is an opportunity for magnet programs to learn from evidence about the kinds of magnets that are driving better outcomes and good examples nationally like the work that is happening in Hartford, Connecticut, for example, creating magnets

that actually draw tremendous student interest from across district lines with quality arts programs, for example, that are appealing or our STEM programs that are appealing to parents.

The President has in the budget a proposal called "Stronger Together," which I mentioned yesterday, which focuses on socioeconomic integration of schools, again creating opportunities for students to go to schools that are created across district lines or within a district, to intentionally serve a diverse population and offer opportunities.

Mr. MESSER. Thank you. I know we are at the hard stop. I would just say this, I appreciate your testimony. Frankly, while I would like to see us do much more, I appreciate your predecessor's commitment to making sure that at least in the space of charter schools that we were partners in making sure kids have better opportunities. I hope that work will continue with you.

Mr. KING. Absolutely.

Chairman KLINE. The gentleman's time has expired. All questions have been asked and answered, I believe. Let me turn to Mr. Scott for his closing remarks.

Mr. SCOTT. Thank you, Mr. Chairman. I thank Dr. King for testifying today, and I want to thank you for holding the hearing.

The committee is continuing to fulfill its responsibility to perform oversight on this new law. This ongoing process will expose problems, either overreach by the department or failure of the department to enforce the provisions of the law.

Let's be clear that States and localities were given the authority and flexibility but they were not given a waiver. They are required by law to assess the performance and graduation rates of students, and to take effective action to narrow any achievement gaps. They have all kinds of flexibility on how to do it, but the law requires them to actually do it.

Let's not forget the intent of the Elementary and Secondary Education Act when it was passed in 1965. It was to fulfill the finding in *Brown v. Board of Education* that found it is doubtful that any child may reasonably be expected to succeed in life if denied the opportunity of an education, and such an opportunity is a right which must be made available to all on equal terms.

The ESEA addressed that by providing funding for education for lower income children with particular focus on areas of high concentration of poverty, and later under No Child Left Behind, we added the responsibility that action had to be taken to address achievement gaps.

The Every Student Succeeds Act improves on No Child Left Behind and builds on the progress we have made since Brown in 1954 and ESEA in 1965.

We look forward to working with Dr. King and the Department of Education to ensure that the opportunity of an education is in fact made available to all of our Nation's children on equal terms, and I yield back.

Chairman KLINE. The gentleman yields back. I thank the gentleman. I want to make just a couple of really quick points. I know you have to leave, and we are very, very grateful for the time that you have spent with us.

At several points in the hearing today, some of my colleagues on the Democratic side of the aisle, and I think even perhaps you, Dr. King, have argued that nothing in ESSA prevents the Secretary from implementing the law.

Let me assure you that on this side of the aisle, we understand that is part of your job, to implement this law, but the language included in the law now includes explicit instructions about that implementation. These instructions include unprecedented restrictions on the Secretary's authority. That was done on purpose.

In answering Mr. Byrne's question earlier, Dr. King, you stated that you thought the provision in Section 1111(c) was unclear, but the plain reading of the text says "Consistently underperforming as determined by the States," not as determined by the U.S. Department of Education or determined by the Secretary of Education, the Acting Secretary of Education, as determined by the States.

So, the question is not does the Secretary have authority to implement the law. Of course, he does, but that implementation must be consistent with the law, which you have said repeatedly that you understand and intend to do that.

You cannot regulate contrary to the law, and you cannot rewrite the law, the regulation. You can implement the law as written.

We wish you good luck in doing that, rest assured we will be watching every minute as this goes. We would like to work with you and your staff, and have every intention of doing that, and speaking of good luck, good luck this afternoon.

Mr. KING. Thank you.

Chairman KLINE. There being no further business, the committee stands adjourned.

[Additional submissions by Mr. Scott follow:]



DIGNITY IN SCHOOLS CAMPAIGN | INFO@DIGNITYINSCHOOLS.ORG | WWW.DIGNITYINSCHOOLS.ORG

February 25, 2016

Chairman John Kline  
 Ranking Member Robert “Bobby” Scott  
 House Education and the Workforce Committee  
 2176 Rayburn House Office Building  
 Washington, DC 20515

**RE: Full Committee Hearing, “Next Steps for K-12 Education: Upholding the Letter and Intent of the Every Student Succeeds Act”**

Dear Chairman Kline and Ranking Member Scott,

As a coalition of 103 organizations from 25 states committed to reforming overly punitive discipline policies and practices, members of the Dignity in Schools Campaign (DSC)<sup>1</sup> welcome the opportunity to submit this statement for today’s hearing and to highlight regulatory action that we believe the Department of Education is constitutionally-bound to take to implement the *Every Student Succeeds Act* (ESSA)(P.L. 114-95).

While states must act to implement many of the provisions in ESSA, we believe that it is the role of the federal government, through the Department of Education (“the Department”), to provide needed clarity, particularly in the areas of accountability and assessments, to ensure implementation of the law consistent with congressional intent. In the past, the Department has issued regulations that have standardized educational data, provided more flexibility for states in some areas, and offered more clarity for states and school districts to build systems and implement statutory requirements. This is not only a historical function of a federal agency, as outlined in the Administrative Procedure Act (P.L. 79-404), but also a clearly outlined role and responsibility of the Department as contemplated in the language of ESSA.<sup>2</sup>

<sup>1</sup> The Dignity in Schools Campaign is a national coalition comprised of organizations representing students, parents, educators, researchers, and LGBTQ, civil rights and education advocates committed to ending overly punitive discipline practices. See [www.dignityinschools.org](http://www.dignityinschools.org).

<sup>2</sup> “The Secretary shall take such steps as are necessary to provide for the orderly transition to, and implementation of programs authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), as amended by this Act, from programs authorized under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), as in effect on the day before the date of enactment of this Act.” (a)(2)(b). P.L. 114-95.

We believe that the Department can provide this clarity through the issuance of regulations and guidance, as well as the provision of technical assistance to states and LEAs. In particular, we also believe that, for states choosing school climate and safety as an accountability indicator of overall school quality and student success, the Department can—and we believe should—act to provide assistance to states on how to implement alternatives to promote positive and inclusive school climates (such as positive behavioral interventions and supports). This is an unprecedented accountability provision in federal law and we believe the Department must act to ensure that states can effectuate the intent of the law by providing assistance and clarity through guidance, regulations, and technical assistance. In addition, the Department must also provide clarity on how states that implement this accountability indicator should measure improvements in school climate and safety. Again, particularly because this is an unprecedented provision, additional information and clarity will help states and LEAs to ensure that implementation is consistent with the law’s intent to help foster positive and inclusive school climates and reduce the use of exclusionary and overly punitive discipline practices that undermine academic success.

We also believe that the law contemplates significant public stakeholder input to the Department to aid in implementation of ESSA. For instance, in January, DSC members from Minnesota, Ohio, Mississippi, California, Louisiana, Georgia and Pennsylvania testified at ESSA regional meetings organized by the Department, in Washington, D.C. and Los Angeles, CA, to assistance that we believe the Department can provide to advance positive and inclusive school climates. The law also outlines a multi-disciplinary peer review process to review state plans. We urge the Department to incorporate stakeholder feedback and to thoroughly review the testimony and comments submitted.

We also seek your Committee’s support and oversight to ensure that stakeholder comments and feedback are incorporated throughout the implementation process and that the Department promptly responds to stakeholder requests for support and information. This includes the Department’s issuance of a timeline to give states, districts, and stakeholders clarity on the timing of the implementation process. While we stand ready as stakeholders to work with state and local partners to implement the law, we recognize that the law contemplates a federal role and function and we depend on the Department to fulfill its responsibility. The flexibility of the law does not diminish this federal responsibility to utilize administrative procedure, as outlined in the Administrative Procedure Act, to provide clarity and assistance to states.

This law provides more responsibility to states and districts than ever before, and the children served by our nation’s public schools must be at the forefront of decision-making and implementation of ESSA. We look forward to partnering with state and local leaders to come to the table and fight for strong policies that support all children. Further, we believe that we all must honor the role outlined for the Department in effectuating the law’s purpose and aiding states in implementation.

Sincerely,

The Dignity in Schools Campaign

[Additional submissions by Mr. Thompson follow:]



www.nsba.org  
 Phone: 703.838.NSBA Fax: 703.683.7590  
 1680 Duke Street Alexandria, Virginia 22314-3493

February 25, 2016

The Honorable John Kline  
 Chairman  
 Committee on Education and the  
 Workforce  
 U.S. House of Representatives  
 Washington, DC 20510

The Honorable Bobby Scott  
 Senior Democratic Member  
 Committee on Education and the  
 Workforce  
 U.S. House of Representatives  
 Washington, DC 20510

**Our Mission**  
 Working with and  
 through our State  
 Associations, NSBA  
 Advocates for Equity  
 and Excellence in  
 Public Education  
 through School Board  
 Leadership

Re: *"Next Steps for K-12 Education: Upholding the Letter and Intent of  
 the Every Student Succeeds Act."*

**Office of Advocacy**

Dear Chairman Kline and Senior Democratic Member Scott:

John D. Tuttle  
 President

The National School Boards Association (NSBA), representing more than 90,000 local school board members across the nation, works with and through our state associations to advance equity and excellence in education. NSBA applauds your leadership in the passage of the Every Student Succeeds Act (ESSA), and the historic step toward ending years of overly-prescriptive and restrictive policies under No Child Left Behind. Specifically, we commend your efforts during the reauthorization of the Elementary and Secondary Education Act of 1965 to support school districts by passing a provision in the law, Title VIII, Part F § 8541, to restore local governance and community ownership in public education.

Thomas J. Gentzel  
 Executive Director

Michael C. Zola  
 Associate Executive Director

Section 8541 reflects a new paradigm that encourages the U.S. Department of Education ("Department") to open communication channels between the Department, states, and school districts. This provision underscores the national interest to return the decision-making authority back to states and local communities. Therefore, NSBA urges Congress to use its oversight authority to ensure that any regulations and non-regulatory guidance promulgated by the Department upholds the local governance structure and adheres to the legislative intent of the law.

As the regulatory process begins, how the Department responds to Section 8541's requirement should be strongly considered as determinations are made on what and how regulations and non-regulatory guidance will be issued with respect to title I and other provisions of the law. If the Department implements the law pursuant to Section 8541, it will allow local stakeholders the autonomy and flexibility needed to institute smart, innovative and effective strategies to ensure that all students have access to a high-quality education.

As you examine next steps for ESSA implementation and the appropriate role of the federal government in education, NSBA urges Congress to encourage the Department to do the following:

- **"Meaningful Consultation" with Local Stakeholders:** The Department should provide clarification on how it plans to "meaningfully" consult with states, school districts, and local school boards during stages of the implementation process.

- ***Technical Support for School Districts:*** The Department should provide both state and local education agencies with adequate technical support, guidance, and resources to ensure that local education agencies are prepared to comply with ESSA's provisions. For example, the Department should clarify timelines for when States must complete state plans, so that school districts will have enough time to provide feedback and implement the expected changes.
- ***Local School Board Perspective on Negotiated Rulemaking Committee:*** As the Department reviews nominations in response to its intent to establish a negotiated rulemaking committee, the collective voice of over 90,000 local school boards should be included as they are critical links to public schools and the communities they serve.

As Congress exercises its oversight authority, the test of whether regulations, guidance and technical assistance advance the spirit of the law should be based on, in part, whether they uphold the local governance structure. The Department must foster a collaborative environment by partnering with school districts and local school boards, because they are in the best position to offer clear visions for student achievement, quality teaching, and how to best design standards, assessments and accountability systems in accordance with the needs of students.

NSBA believes education is a civil right, and is deeply committed to education equity in accordance with the legacy of the Elementary and Secondary Education Act. As we continue to advance our mission to promote equity and excellence in public education through school board governance, we look forward to working with you during the implementation of the Every Student Succeeds Act.

Sincerely,



Thomas J. Gentzel  
Executive Director

Attachment: NSBA Comments in response to the U. S. Department of Education's "Request for Information," January 20, 2016. NSBA's comments submitted in response to the Department's "Request for Information."



www.nsba.org  
 Phone: 703.838.NSBA Fax: 703.683.7590  
 1680 Duke Street Alexandria, Virginia 22314-3493

January 20, 2016

Via electronic mail ([www.regulations.gov](http://www.regulations.gov))

Deborah Spitz  
 U.S. Department of Education  
 400 Maryland Avenue, S.W., LBJ, Rm 3E306  
 Washington, D.C. 20202

Re: ED Request for Information; Docket ID: ED-2015-OESE-0130  
 Title of Collection: *Implementing Programs Under Title I of the Elementary and Secondary Education Act*

Dear Ms. Spitz:

The National School Boards Association (NSBA), representing through our state associations nearly 14,000 school districts, 90,000 school board members, and over 50,000,000 students nationwide, offers the following comments to the U.S. Department of Education's Request for Information, *Implementing Programs Under Title I of the Elementary and Secondary Education Act*, ED-2015-OESE-0130 ("RFI"),<sup>1</sup> published by the U.S. Department of Education (the "Department") on December 22, 2015. NSBA understands that through this RFI, the Department is seeking advice and recommendations concerning topics for which regulations and non-regulatory guidance may be helpful as States, school districts, and schools implement the various Title I programs contained in the *Every Student Succeeds Act* ("ESSA").

This letter builds on my testimony at the Department's hearing on ESSA implementation in Washington, D.C. on January 11, 2016. Through our comments, NSBA underscores the importance of community leadership and ownership of our nation's public schools, while the Department considers regulations and non-regulatory guidance to implement ESSA. NSBA believes education is a civil right, and advocates for equity and excellence in public education through local school board governance.

NSBA applauds the historic reauthorization of the Elementary and Secondary Education Act and its clear directive to restore local governance and community ownership in public education. Specifically, Congress directed that nothing in ESSA should be construed to allow the Department to:

<sup>1</sup> Notice, 80 Fed. Reg. 79,528 (Dec. 22, 2015).

- “(1) exercise any governance or authority over school administration, including the development and expenditure of school budgets, unless authorized by [ESSA];
- “(2) issue any regulation without first complying with the rulemaking requirements [under federal law]; or
- “(3) issue any non-regulatory guidance without first, to the extent feasible, considering input from stakeholders.”

ESSA, Title VIII, Section 8033 (to be codified at 20 U.S.C. § 8541 (Local Governance)).

NSBA also applauds the Department's work in immediately engaging those entities that will be directly impacted by ESSA by publishing this RFI and holding public hearings, enabling the Department to hear firsthand from the collective voice of local school boards and from other stakeholders in our nation's public education system. These community engagement efforts, as well as those to come through the negotiated rulemaking process, mark a significant moment for education policy and present an opportunity for the Department to support the new federalism in education by supporting a new paradigm of “open communication channels” between the Department, States, and local school districts.

#### **I. ESSA Implementation: Strong Local Governance Structure**

Local school boards are the communities they serve — urban, rural, and ethnically and linguistically diverse. School boards of all communities are parents, educators, city clerks, lawyers, electricians, and homemakers. And because they are of the community, they are accountable to their communities, and are in the best position to establish a clear local vision for student achievement, quality teaching, and learning to support strong student outcomes. In fact, NSBA's legislative body — a national body of local school board members that establishes advocacy priorities — informed the local governance provision in Section 8541, and its historic recognition of the importance of the local school board voice in ESSA implementation.

Because state and local governments often incorporate federal guidance into their own statutes, regulations, and policies, the Department will achieve better results and minimize disruption to the delivery of high quality public education by conferring with school districts *before* issuing non-regulatory guidance or promulgating regulations implementing ESSA. This “collaborative framework” would move forward both the spirit and intent of Section 8541, and also optimize the important balance between agency discretion and stakeholder interests.

Although we are at the very beginning of what should be an open and transparent regulatory effort to implement ESSA, it is exceedingly important that any Departmental regulations and non-regulatory guidance reflect the express and implicit Congressional intent of this reauthorization — to restore significant decision-making impacting public education back to the local level and recalibrate the federal role in education. As a result, this letter sets out in part how the Department can comply with this overarching requirement of the law and addresses specific areas where regulatory clarification or restraint can support this mandate.

## II. NSBA Recommendations: Programs Under Parts A and B of Title I

With local governance and community ownership in public education as the overarching goal, NSBA recommends that the Department examine the following areas as it considers regulations and non-regulatory guidance with respect to Title I.

### A. Establish Federal-State-Local Partnership

NSBA recommends that the Department ensure a balanced “federal-state-local partnership.” To support this partnership, the Department would not only actively seek input from local school boards, but also encourage States to work with local school districts. In fact, ESSA specifically requires this sort of partnership by requiring States to assure that they solicit and consider local stakeholder input while developing state education plans.

The Department should clarify the phrase “nationally recognized” with regard to the locally-selected, nationally recognized assessments option to allow school districts greater flexibility and cost savings in choosing from among a variety of instruments to meet the needs of their students. The Department should allow maximum flexibility to use multiple student assessment tools with local school districts having the option to select the best tool to measure the progress of their students. Guidance in this area should encourage each State to engage its school districts to determine how and which assessments may be used.

The Department should direct States to collaborate with local school districts, including their governing boards, to identify state-based goals and timelines around student achievement, high school graduation rates, and measures for supports and interventions. NSBA believes that to maintain strong communications between the States and local school districts, any Department regulations should ensure that meaningful consultation actually takes place.

With regard to State accountability systems, the Department should seek input from States and local school districts and provide explicit non-binding guidance and best practices that can help States and school districts identify, set, and use a variety of student success indicators. For example, ESSA requires States to make their Title I plans available for public comment for a period of not less than 30 days prior to submission to the Secretary for approval. Further, States must provide an assurance that public comments were taken into account in the development of their plans. The Department should clarify how they will ensure that States will comply with these statutory requirements.

Similarly, without prescribing or mandating requirements, the Department should provide in guidance a variety of models that would help school districts determine targeted improvements for struggling schools and support tools that may help schools address equity issues.

The Department should acknowledge the movement in many States towards permissive parental opt-out provisions for assessments, and reiterate in no uncertain terms that ESSA does not impose federal penalties for States that do not achieve the 95% student participation threshold.

Concomitantly, the Department should urge States to build on the non-punitive framework of ESSA, by working collaboratively with local school districts to identify strategies and appropriate responses to meet the 95% testing requirement that do not penalize students, schools, or school districts.

The Department should work with States as it develops its Innovative Assessment Pilot (“IAP”). It should select a State for participation only if that State has collaborated with local school districts and their representative school boards associations in developing the IAP, including competency-based approaches.

#### **B. Provide Appropriate Flexibility Through Local Governance**

NSBA urges the Department to build in to the Title I regulatory system sufficient flexibility for local schools and communities to make decisions regarding use of Title I funds based on local needs. To avert placing significant burdens on school districts, the Department should refrain from applying a “one-size-fits-all” approach through its regulations or guidance. For instance, Title V, Section 5002 of ESSA allows greater transferability among certain funds within Title I and other parts of ESSA. It will be helpful for the Department to clarify which funds can be combined, which funds cannot be combined, and note any new guidelines for streamlined reporting and compliance under this provision.

With regard to ESSA’s new requirements for Foster Youth, the Department should clarify what “coordinating transportation” means for foster children who remain in their school of origin. It should seek input from local school districts about potential challenges to implementation of this provision, including cost and geography.

#### **C. Support Local School Districts with Compliance Process**

NSBA advises the Department to provide technical and compliance support to local school districts that will need to fulfill their audit and other reporting requirements in the years to come. Across the country, the Department’s vast regional office structure should provide a system by which it can ensure a meaningful consultation – which would consist at a minimum of a thorough consideration and analysis of the views provided by local school districts through their national representative, NSBA.

The Department should implement Impact Aid program changes acknowledging Congressional intent to lessen the burden on school district revenues as a result of federal activities. It should seek specific input from impacted districts before enacting regulations, including those affecting eligibility criteria and payment computations.

NSBA reaffirms its strong commitment to safe schools and joins Congress in the repudiation of sexual abuse by school employees. As the nation’s largest collective employer, school districts will be impacted by regulations implementing ESSA provisions prohibiting the aiding and abetting of sexual abuse. NSBA stands ready to work with the Department in its efforts in this area.

Regarding ESSA's requirement that each school district provide the Secretary with an assurance that the school district is aware of its obligations under FERPA and of the importance of student privacy, the Department should work with school districts to ensure that any implementing regulations do not create or expand exposure to legal liability under existing state legal frameworks.

**III. The Department Should Actively Engage NSBA as the National Representative of Local School Boards and Their State Associations of School Boards in the Efforts to Implement ESSA.**

NSBA urges the Department to recognize the importance of school board input as part of the Department's historic efforts to implement ESSA. Congress has recognized this significance in enacting Section 8541, which provides, in part, that the Secretary cannot "issue any regulation without first complying with the rulemaking requirements [under federal law]," or "issue any non-regulatory guidance without first, ... , considering input from stakeholders," such as local school boards and state school board associations.

That same recognition is set forth with regard to certain negotiated rulemaking where the Department "shall obtain the advice and recommendations of representatives of Federal, State, and local administrators, parents, teachers, paraprofessionals, and *members of local school boards* and other organizations involved with the implementation and operation of programs under this subchapter." 20 U.S.C. § 6571(b) (emphasis added).

The Department should also ensure that States include state school board associations as the representatives of local school boards in the ESSA implementation efforts. See 20 U.S.C. § 6573(a)(1)(A), (b)(2)(E).

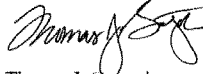
As the voice of over 90,000 school board members in nearly 14,000 school districts and their state associations of school boards, NSBA requests an appointment to the Department's negotiated rulemaking panel for standards, assessments, and supplement-not-supplant provisions, in addition to other topics related to Title I of ESSA for which the Department may choose to utilize the negotiated rulemaking process.

**CONCLUSION**

School districts and school boards are in the best position to represent the concerns and priorities of their local communities with respect to this landmark recalibration of the federal role in public education. NSBA urges the Department to implement ESSA pursuant to Congress' directive, which encourages federal-state-local partnership and direct involvement by school boards specifically. We share a goal: to ensure that all students are held to high academic standards that prepare them to succeed in the 21st Century. Let's create a new regime of open communication, direct input from stakeholders, and flexibility for local communities.

NSBA thanks the Department for the opportunity to comment on behalf of our nation's local school boards, and for its review and consideration of issues raised here addressing the areas of inquiry set out in the RFI. NSBA looks forward to continued participation in the Department's process for implementation of ESSA in our nation's schools.

Respectfully submitted,



Thomas J. Gentzel  
Executive Director

[Additional submissions by Mr. Wilson follow:]

## Common Core Prohibitions *Statement*

During the past several years, many of my constituents have reached out to my office with concerns about Common Core. What started off as a state-led effort quickly grew into an avenue for federal overreach into local classrooms. Whether through conditional waivers or the Race to the Top grant program, many states and schools felt coerced into adopting Common Core.

One superintendent, Todd Gazda of Ludlow, Massachusetts, was cited in the *New York Times* describing the federal government's intrusion as:

"It was almost like extortion—if you want this money, you have to do things the way we want."

Setting standards, developing curriculums, and assessing student achievement are state and local responsibilities—not federal ones. That's why several provisions were included in the *Every Student Succeeds Act* strictly prohibiting the federal government from reaching into our states and coercing our schools into adopting Common Core or any other standards or assessments. The law puts a firm end to the federal government bullying states into submission when it comes to how and what they choose to teach their students.

That being said, this administration has implied that the *Every Student Succeeds Act* includes requirements for "college- and career-ready standards," or supports college- and career-readiness. For many, that's code for Common Core, so I want to take this opportunity to ask you, Dr. King, exactly how many times does the phrase "college- and career-ready" appear in the *Every Student Succeeds Act*?

... The answer is zero.

The term "college- and career-ready" does not appear anywhere in the law. But the administration is sending a message that directly contradicts our intent to prohibit federal involvement in setting standards or assessments. To follow-up on that, do you know how many provisions in the law explicitly prohibit the federal government from dictating to states what kind of academic standards they can and cannot adopt?

... The answer is at least four.

There are four provisions in the law—by my count—that explicitly prohibit the federal government from incentivizing, forcing, or coercing states into adopting a specific set of academic standards such as Common Core.

As a matter of fact, section 8527 of the law states:

"No funds provided to the Department under this Act may be used by the Department, whether through grant, contract, or cooperative agreement to endorse, approve, develop, require, or sanction any curriculum, including any

curriculum aligned to the Common Core State Standards developed under the Common Core State Standards Initiative or any other academic standards common to a significant number of states.”

In addition, section 8544 states:

“Nothing in this Act shall be construed to prohibit a State from withdrawing from the Common Core State Standards or from otherwise revising their standards.”

So as you can see, the intent of Congress is very clear. Congress does not want the federal government reaching into our states or schools and telling teachers what they should be teaching.

Will you assure this Committee the Department of Education will respect the letter and intent of the law and ensure the federal government doesn't force, coerce or otherwise impose on states a specific set of academic standards?

[Questions submitted for the record and their responses follow:]

MAJORITY MEMBERS:  
 JOHN KLINE, MINNESOTA, Chairman  
 JOE WILSON, SOUTH CAROLINA  
 VIRGINIA FOXX, NORTH CAROLINA  
 DUNCAN HUNTER, CALIFORNIA  
 DAVID P. ROE, TENNESSEE  
 GLENN THOMPSON, PENNSYLVANIA  
 TIM WALBESKO, MICHIGAN  
 MATT SALMON, ARIZONA  
 BILLY GUTHRIE, KENTUCKY  
 TOM RUSSITA, INDIANA  
 LOU BARLETTA, PENNSYLVANIA  
 JOSEPH J. HEEB, NEVADA  
 LUKE MESSER, INDIANA  
 BRADLEY BYRNE, ALABAMA  
 DAVID BRAT, VIRGINIA  
 BUDDY CARTER, GEORGIA  
 MICHAEL T. BISHOP, MICHIGAN  
 GLENN GROTHMAN, WISCONSIN  
 STEVE RUSSELL, OKLAHOMA  
 CARLOS CURBELO, FLORIDA  
 ELISE STEFANK, NEW YORK  
 ROCK ALLEN, GEORGIA



COMMITTEE ON EDUCATION  
 AND THE WORKFORCE  
 U.S. HOUSE OF REPRESENTATIVES  
 2176 RAYBURN HOUSE OFFICE BUILDING  
 WASHINGTON, DC 20515-6100

MINORITY MEMBERS:  
 ROBERT C. "BOBBY" SCOTT, VIRGINIA  
 Ranking Member

RUBEN HINOJOSA, TEXAS  
 SUSAN A. DAVIS, CALIFORNIA  
 RAJA M. GRIFFIN, ARIZONA  
 JOE COURTNEY, CONNECTICUT  
 MARCO A. FLORES, OHIO  
 JARED POLIS, COLORADO  
 GREGGORY KYLE CAMACHO SABA, AM  
 NORTHERN MARIANA ISLANDS  
 FREDERICA E. WILSON, FLORIDA  
 SUZANNE BONAMICI, OREGON  
 MARK POCAN, WISCONSIN  
 MARK TAYLOR, CALIFORNIA  
 HAKEEM S. JEFFRIES, NEW YORK  
 KATHERINE M. CLARK, MASSACHUSETTS  
 ALMA S. ADAMS, NORTH CAROLINA  
 MARK DELSAULNIER, CALIFORNIA

March 29, 2016

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

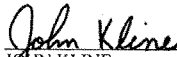
Dear Secretary King:

Thank you for testifying at the February 25, 2016, hearing on "Next Steps for K-12 Education: Upholding the Letter and Intent of the *Every Student Succeeds Act*." I appreciate your participation.

Enclosed are additional questions submitted by members of the Committee after the hearing. Please provide written responses no later than Tuesday, April 19, 2016, for inclusion in the final hearing record. Responses should be sent to Sheariah Yousefi on Committee staff, who can be contacted at (202) 225-6558.

Thank you, again, for your contribution to the work of the Committee.

Sincerely,

  
 JOHN KLINE  
 Chairman  
 Committee on Education and the Workforce

Enclosure

cc: Additional Member Questions

**Chairman Kline (R-MN)**

1. The *Every Student Succeeds Act* (ESSA) recognizes the need to support expanding and replicating successful charter school models. The reforms in the new law will help make sure there are fewer children on waitlists and more students learning and succeeding in the classroom. ESSA promotes state efforts to develop, replicate, and expand quality charter schools to help more students receive the best education possible while weeding out the under-performing models, so we can continue to improve the overall quality of options for students. In addition, ESSA also encourages states to continue to support new charter school models to encourage more innovation and continue striving to find new ways to best educate students. ESSA also advances increased support for harder-to-serve populations, such as students with disabilities and low-income students, so they can get the extra help and specialized attention they need to excel in school. What efforts have you taken to get these vital reforms in place as soon as possible so more vulnerable kids can begin enjoying the benefit of a quality education?
2. ESSA advances several reforms that will help states and school districts recruit, develop, and retain talented, experienced educators. One provision in particular authorizes a new and innovative approach to teacher preparation, empowering states to use federal funds to support teacher and leader preparation academies. The provision places an emphasis not solely on a teacher's college coursework or credit hours, but also time spent working directly with students. It encourages states to increase the selectivity and rigor of their preparation programs and award teachers with a certificate of completion if and only if they have demonstrated their ability to improve student learning. In order for these academies to improve teacher preparation and ultimately student outcomes, this administration and future administrations must follow the letter and spirit of the law, which aims to protect the independent nature of the programs. For example, the law prohibits the federal government from influencing how teachers and school leaders are trained, as well as defining the type or amount of coursework required to start teaching in the classroom. Therefore, what specific steps will the Department take to ensure state and local leaders have the freedom to develop innovative approaches to teacher preparation as Congress intended?
3. In addition to other school choice reforms, ESSA establishes a Weighted Student Funding pilot program that will encourage high-quality schools to enroll harder-to-serve students. The pilot program will empower eligible school districts to combine federal, state, and local funding, assign that funding on a weighted basis to each child, and ensure that funding follows the child to the public school he or she attends. This approach will help schools utilize taxpayer dollars more effectively and help children receive their fair share of federal resources, especially low-income children, children with disabilities, and English learners. It's our hope this effort will not only increase access to high-performing schools, but will also raise the quality of *all* schools and grow beyond the initial pilot phase beginning in the 2019-2020 school year. As such, what are your plans for implementing this pilot program? In particular, how you will promote the program to ensure school districts are aware of it, and how you will ensure districts have adequate flexibility to implement weighted student funding formulas that make sense for their districts? Finally, how will you measure the success of the program and look for opportunities to expand the program to other districts in the future?

4. The Direct Student Services program allows states to provide supplemental support to students in need of additional academic assistance, particularly for students in underperforming schools. This additional support can be used by school districts to provide services that increase the quality and scope of learning for students, such as public school choice options, high-quality academic tutoring or online courses. The Direct Student Services program will help states and school districts overcome challenges, so they can better serve students. What will you do to ensure states understand the opportunities provided through the Direct Student Services program, and will you assure the Committee the Department will not impose any restrictions on states and schools participating in this program not otherwise provided explicitly in the statute?
  
5. In recent years, this administration has set federal education policy through a controversial conditional waiver scheme and pet projects such as Race to the Top. The Secretary of Education has used taxpayer dollars to impose on states and school districts a backdoor education agenda that includes Common Core, teacher evaluations based on high-stakes testing, and prescriptive school improvement plans. That's why ESSA includes more than 50 pages of new and unprecedented restrictions that put an end to this extraordinary overreach. More specifically, ESSA includes clear language restricting the ability of the Department to issue guidance that could jeopardize the successful implementation of the law's key provisions. As the law states, "Nothing in this Act shall be construed to authorize or permit the Secretary... to issue new nonregulatory guidance that in seeking to provide explanation of requirements under this section for State or local educational agencies ... provides a strictly limited or exhaustive list to illustrate successful implementation of provisions under this section; or purports to be legally binding." The law also states, "Nothing in this Act shall be construed to allow the Secretary to issue any nonregulatory guidance without first, to the extent feasible, considering input from stakeholders." In order for ESSA to deliver the certainty and flexibility states and school districts were promised, this administration and future administrations must issue guidance that follows the letter of the law and the congressional intent behind it. Administrations must also ensure that auditors working with state and local leaders do not carry out their responsibilities in a way that implies guidance carries the force of law. What steps will you take to ensure the guidance issued by the Department fully complies with the requirements in ESSA, and the Department's auditors likewise comply with the intent of these provisions?
  
6. In exercising its oversight responsibilities, the Committee wants to ensure any regulatory policies the Department issues are in compliance with the provisions in ESSA. The law outlines specific procedures the Secretary must follow when issuing certain regulations and requires greater transparency and accountability over the development of new rules affecting K-12 schools. For example, the law clarifies the Secretary's authority to issue "emergency" regulations and requires the Secretary to submit proposed regulations to Congress at least 15 days before they are published in the Federal Register. The law also requires the Secretary to have at least a 60-day comment period to ensure the public has time to thoughtfully review the proposed regulation and provide feedback. Will you assure the Committee that your Department will abide by the parameters in the law and only issue regulations through an open and transparent process?
  
7. Over the years, our investment in early learning and child care programs has grown into a multi-billion dollar commitment. Multiple agencies are responsible for administering

dozens of programs. In fact, the Government Accountability Office identified 45 different programs that provide similar services and compete for limited resources. ESSA reforms an existing program, known as the Preschool Development Grant Program (PDGP), to help states streamline and strengthen existing federal, state, and local early learning efforts. This will encourage the collaboration of early child care and education providers, improve the quality of services, and strengthen parental engagement. To better ensure the success of this program, ESSA moved PDGP from the Department to the Department of Health and Human Services (HHS). While HHS is required to work with your agency to implement the PDGP, the law is clear: the Secretary of Health and Human Services is primarily responsible for administering the program. What are you doing to ensure a smooth and timely transition of the PDGP to HHS?

8. ESSA includes reforms to the Title I peer review process. ESSA requires the Secretary to appoint panels of education leaders from outside the federal government, such as teachers, local leaders, governors, or college professors, who will review a state's plan. You and future secretaries are prohibited from any involvement in the peer review process to ensure the process focuses on a state's judgment—not the judgment of federal bureaucrats. As the law states, "Peer reviewers shall conduct an objective review of State plans in their totality and out of respect for State and local judgments, with the goal of supporting State- and local-led innovation and providing objective feedback on the technical and overall quality of the State plan." The law further states, "All written communications, feedback, and notifications under this subsection shall be conducted in a manner that is transparent and immediately made available to the public on the Department's website, including plans submitted or resubmitted by a State, peer-review guidance, notes, comments and the names of the peer reviewers . . . State plan determinations by the Secretary, including approvals or disapprovals; and notices and transcripts of the hearings under this section." These are important provisions that are vital to our effort to return control of K-12 education to state and local leaders. Therefore, how will you ensure these protections are implemented in a way that reflects the letter and intent of the law?
9. Because ESSA provides states and school districts with the flexibility they need to support schools, dozens of organizations representing parents, teachers, and state and local leaders—the very people we want to empower—entitled, "Next Steps for K-12 Education: Implementing the Promise to Restore State and Local Control." When asked what they expect from the implementation process, witnesses expressed the need for an open and transparent process that reflects the perspectives of states, local communities, and schools. As Superintendent of Hartselle City Schools in Hartselle, Alabama, Dr. Paul "Vic" Wilson explained, "When it comes to federal regulations and the [*Every Student Succeeds Act*], less is more. I strongly encourage the [Department of Education] to incorporate input and feedback from stakeholders before adding regulations that could hamper state and local decision making." As such, what are your plans for proposing regulatory policies to implement the law? Will you issue regulatory proposals together or separately? Furthermore, on what topics do you anticipate issuing proposed rules? As much as you can, please describe the specific details you expect for the implementation process moving forward, as well as how you will ensure the American people have ample opportunity to review and provide feedback throughout the process.

**Rep. Thompson (R-PA)**

1. The historic passage of the *Every Student Succeeds Act* (“ESSA”) rightfully restores in Title VIII, Part F § 8541, local governance and community ownership in education. In the spirit of the law, how will the U.S. Department of Education (“Department”) ensure that implementation of ESSA will uphold the local governance structure, specifically the explicit authority of state and local education agencies to develop standards, assessments, and determine non-academic and academic indicators in their accountability systems?
2. Congress recognizes that states and local stakeholders are in the best position to establish a clear vision for student achievement, quality teaching, and learning to advance equity and excellence in education. Does the Department plan to provide technical assistance to support states with their efforts to solicit and incorporate local stakeholder input, while identifying state-based goals and timelines around student achievement, high school graduation rates, and measures for support and interventions?

**Rep. Messer (R-IN)**

1. During the ESSA conference, I offered an amendment which would allow Title II funds to be accessed by state and local education agencies to support efforts to train teachers on the appropriate use of student data. This will help ensure individual student privacy is protected. What are the Department’s plans to help state and local educational agencies take advantage of this opportunity to improve privacy protections for students and their families?

[Acting Secretary King's response to questions submitted for the record follows:]

**Chairman Kline (R-MN)**

1. The *Every Student Succeeds Act* (ESSA) recognizes the need to support expanding and replicating successful charter school models. The reforms in the new law will help make sure there are fewer children on waitlists and more students learning and succeeding in the classroom. ESSA promotes state efforts to develop, replicate, and expand quality charter schools to help more students receive the best education possible while weeding out the under-performing models, so we can continue to improve the overall quality of options for students. In addition, ESSA also encourages states to continue to support new charter school models to encourage more innovation and continue striving to find new ways to best educate students. ESSA also advances increased support for harder-to-serve populations, such as students with disabilities and low-income students, so they can get the extra help and specialized attention they need to excel in school. What efforts have you taken to get these vital reforms in place as soon as possible so more vulnerable kids can begin enjoying the benefit of a quality education?

Throughout this Administration, the Department has provided financial support for new and innovative high-quality charter school models across the country. In addition, our major charter schools grant competitions under the Charter Schools Program have included a focus on underserved students (such as students living in poverty), in order to help ensure that these children have full access to high-quality charter schools. In the soon-to-be-announced Fiscal Year (FY) 2016 competitions, the Department will continue to emphasize the importance of charter schools serving *all* students—including students living in poverty, students with disabilities, and English learners. As we begin to plan for the FY17 competitions—which are the first charter schools grant competitions that will reflect the provisions articulated by ESSA—we are exploring how we can best ensure that our nation’s most vulnerable students have equal access to high-quality charter schools.

We recognize the importance Congress placed on ensuring that populations of students receive the supports necessary for their educational success and we agree with that focus. In order to support states and districts as they transition to ESSA, ED intends to issue guidance to states later this year concerning the changes in the law that impact vulnerable populations, including homeless students, students in foster care, and English learners, so that States and districts are well prepared to meet the unique needs of these populations.

2. ESSA advances several reforms that will help states and school districts recruit, develop, and retain talented, experienced educators. One provision in particular authorizes a new and innovative approach to teacher preparation, empowering states to use federal funds to support teacher and leader preparation academies. The provision places an emphasis not solely on a teacher’s college coursework or credit hours, but also time spent working directly with students. It encourages states to increase the selectivity and rigor of their preparation programs and award teachers with a certificate of completion if and only if they have demonstrated their ability to improve student learning. In order for these academies to improve teacher preparation and ultimately student outcomes, this administration and future administrations must follow the letter and spirit of the law, which

aims to protect the independent nature of the programs. For example, the law prohibits the federal government from influencing how teachers and school leaders are trained, as well as defining the type or amount of coursework required to start teaching in the classroom. Therefore, what specific steps will the Department take to ensure state and local leaders have the freedom to develop innovative approaches to teacher preparation as Congress intended?

**We recognize that high-quality teacher preparation can take many forms, and we encourage innovative approaches to preparing candidates to enter the classroom and make a difference for students, including through various current grant competitions as well as through the new authority mentioned. We believe that the new provisions in ESSA related to preparing and supporting teachers, principals, and other school leaders, including the academies, offer an opportunity for States, working in partnership with schools, districts, and other partners, to foster innovative approaches to educator preparation that ultimately can demonstrate improved student outcomes.**

**The Department is reviewing all of the new provisions in ESSA, including those relating to the teacher, principal, and other school leader academies, in order to determine the best ways to support States in transitioning to, and implementing, the new law. The Department will do everything it can, consistent with the law, to ensure that States, school districts, and their respective leaders and teachers have the information and support they need to be successful and compliant.**

3. In addition to other school choice reforms, ESSA establishes a Weighted Student Funding pilot program that will encourage high-quality schools to enroll harder-to-serve students. The pilot program will empower eligible school districts to combine federal, state, and local funding, assign that funding on a weighted basis to each child, and ensure that funding follows the child to the public school he or she attends. This approach will help schools utilize taxpayer dollars more effectively and help children receive their fair share of federal resources, especially low-income children, children with disabilities, and English learners. It's our hope this effort will not only increase access to high-performing schools, but will also raise the quality of *all* schools and grow beyond the initial pilot phase beginning in the 2019-2020 school year. As such, what are your plans for implementing this pilot program? In particular, how you will promote the program to ensure school districts are aware of it, and how you will ensure districts have adequate flexibility to implement weighted student funding formulas that make sense for their districts? Finally, how will you measure the success of the program and look for opportunities to expand the program to other districts in the future?

**We share your interest in weighted student funding formulas as a promising means of improving equity in education funding, particularly for the disadvantaged students served by Title I and other ESEA programs, and we agree that the new authority under Title I, Part E of the ESEA to enter into local flexibility demonstration agreements provides an important opportunity to test such approaches. However, the Department's first priority is to support States and school districts in meeting the very significant challenges of fully implementing the required elements of ESSA by the beginning of the 2017-2018 school year, about which we are getting many questions from State and local leaders. In particular, we are dedicating our staffing**

and resources to ensuring that State and local education officials and other stakeholders have the guidance, technical assistance, and other support they need to develop and implement State and local plans meeting the requirements of the new law. As a result, the Department will not be able to devote staffing and resources to examining options for implementing the Flexibility for Equitable Per-Pupil Funding authority under Part E of Title I of the ESEA until we are confident States and districts are strongly positioned to implement the fundamental requirements of the law.

4. The Direct Student Services program allows states to provide supplemental support to students in need of additional academic assistance, particularly for students in under-performing schools. This additional support can be used by school districts to provide services that increase the quality and scope of learning for students, such as public school choice options, high-quality academic tutoring or online courses. The Direct Student Services program will help states and school districts overcome challenges, so they can better serve students. What will you do to ensure states understand the opportunities provided through the Direct Student Services program, and will you assure the Committee the Department will not impose any restrictions on states and schools participating in this program not otherwise provided explicitly in the statute?

**The new Direct Student Services provisions in Title I provide States with flexibility to reserve additional funds, on top of the seven percent already reserved for school improvement, to support students in low-performing schools, and we are committed to supporting States in implementing Direct Student Services in a way that will promote equity and educational opportunity for all students. We are still in the early stages of implementation, but have already heard from numerous stakeholders – through public meetings, comments submitted in response to our request for information regarding Title I, and other channels – about areas of the law where regulations or guidance are necessary or would be helpful as States and districts transition to implementing the ESSA, and this input has and will continue to shape our priorities for issuing regulations or guidance in the year ahead. In part due to this input, we plan to propose guidance on the Direct Student Services program.**

5. In recent years, this administration has set federal education policy through a controversial conditional waiver scheme and pet projects such as Race to the Top. The Secretary of Education has used taxpayer dollars to impose on states and school districts a backdoor education agenda that includes Common Core, teacher evaluations based on high-stakes testing, and prescriptive school improvement plans. That's why ESSA includes more than 50 pages of new and unprecedented restrictions that put an end to this extraordinary overreach. More specifically, ESSA includes clear language restricting the ability of the Department to issue guidance that could jeopardize the successful implementation of the law's key provisions. As the law states, "Nothing in this Act shall be construed to authorize or permit the Secretary... to issue new nonregulatory guidance that in seeking to provide explanation of requirements under this section for State or local educational agencies ... provides a strictly limited or exhaustive list to illustrate successful implementation of provisions under this section; or purports to be legally binding." The law also states, "Nothing in this Act shall be construed to allow the Secretary to issue any

nonregulatory guidance without first, to the extent feasible, considering input from stakeholders.” In order for ESSA to deliver the certainty and flexibility states and school districts were promised, this administration and future administrations must issue guidance that follows the letter of the law and the congressional intent behind it. Administrations must also ensure that auditors working with state and local leaders do not carry out their responsibilities in a way that implies guidance carries the force of law. What steps will you take to ensure the guidance issued by the Department fully complies with the requirements in ESSA, and the Department’s auditors likewise comply with the intent of these provisions?

**The Department does not view guidance documents as having the force and effect of law, and guidance we issue under ESSA will conform to that principle and to the ESSA requirements. The Department recognizes the value of input from stakeholders and has always been committed to ensuring state and local involvement in the development of non-regulatory guidance. The Department believes that effective dialogue with the public is critical to the successful implementation of ESSA. To that end, we have received feedback from across the country and from a wide variety of stakeholders about opportunities to provide guidance and will continue to meet with stakeholders in order to help identify the appropriate areas to provide guidance. We will also seek input from the public through written comments and webinars. We plan to provide States and districts guidance on a rolling basis throughout the year and in sufficient time for them to appropriately plan for the full implementation of the ESSA.**

6. In exercising its oversight responsibilities, the Committee wants to ensure any regulatory policies the Department issues are in compliance with the provisions in ESSA. The law outlines specific procedures the Secretary must follow when issuing certain regulations and requires greater transparency and accountability over the development of new rules affecting K-12 schools. For example, the law clarifies the Secretary’s authority to issue “emergency” regulations and requires the Secretary to submit proposed regulations to Congress at least 15 days before they are published in the Federal Register. The law also requires the Secretary to have at least a 60-day comment period to ensure the public has time to thoughtfully review the proposed regulation and provide feedback. Will you assure the Committee that your Department will abide by the parameters in the law and only issue regulations through an open and transparent process?

**Yes. We will abide by the ESSA’s requirements to ensure that the public has time to review and provide feedback on all of the proposed regulations. We began the process of negotiated rulemaking last month on two issues within Title I, Part A of the ESSA: assessments and the requirement that Federal funds supplement, and not supplant, state and local funds. In addition, we recently announced that we are planning on issuing regulations on state accountability systems and reporting, state plans, and the Title I, Part B innovative assessment demonstration authority.**

7. Over the years, our investment in early learning and child care programs has grown into a multi-billion dollar commitment. Multiple agencies are responsible for administering dozens of programs. In fact, the Government Accountability Office identified 45 different programs that provide similar services and compete for limited resources. ESSA reforms

an existing program, known as the Preschool Development Grant Program (PDGP), to help states streamline and strengthen existing federal, state, and local early learning efforts. This will encourage the collaboration of early child care and education providers, improve the quality of services, and strengthen parental engagement. To better ensure the success of this program, ESSA moved PDGP from the Department to the Department of Health and Human Services (HHS). While HHS is required to work with your agency to implement the PDGP, the law is clear: the Secretary of Health and Human Services is primarily responsible for administering the program. What are you doing to ensure a smooth and timely transition of the PDGP to HHS?

**The Department has long worked with HHS to help States better coordinate and improve the quality of their early learning systems and looks forward to continuing that collaboration under the new jointly-administered PDGP authorized by ESSA. We are currently working with HHS to develop a memorandum of understanding that will formalize our joint administration of the program and facilitate a smooth transition. We will draw on lessons learned from previously jointly administrated programs, such as the Race to the Top – Early Learning Challenge program and to administer the PDGP, which was launched in 2014 to build state and local capacity to implement high-quality preschool for four-year-olds from low-and moderate-income families. To date, PDGP has made grants to 18 States, to help over 200 high-need communities provide an estimated 120,000 low-income children access to high-quality preschool through the first three years of the program. In addition, the Department and HHS engage in numerous other activities to ensure coordination at all levels. For example, the Departments co-chair an Interagency Policy Board on Early Learning that coordinates policy, programs, research, and technical assistance across agencies and issues joint policy statements on key issues, including the inclusion of young children with disabilities in classrooms and programs with typically developing peers and preventing and eliminating the expulsion of young children from early childhood programs. Other examples of collaboration include the joint development of Birth-to-Five: Watch Me Thrive, which provides a toolkit to increase rates of developmental screening and follow-up, and dissemination of materials highlighting how to utilize Medicaid to support creating school environments with physical and mental health supports. As we have done with other jointly-administered programs, staff from both agencies will continue to work together to implement the program as authorized, to support States in their coordination efforts, and to expand high-quality early learning for children.**

**We will continue to work with HHS to ensure that all early childhood education programs are aligned and implemented in the most effective way possible to provide high-quality early learning opportunities to our children.**

8. ESSA includes reforms to the Title I peer review process. ESSA requires the Secretary to appoint panels of education leaders from outside the federal government, such as teachers, local leaders, governors, or college professors, who will review a state's plan. You and future secretaries are prohibited from any involvement in the peer review process to ensure the process focuses on a state's judgment—not the judgment of federal bureaucrats. As the law states, "Peer reviewers shall conduct an objective review of State plans in their totality and out of respect for State and local judgments, with the goal of supporting State- and local-led innovation and providing objective feedback on the technical and overall quality

of the State plan.” The law further states, “All written communications, feedback, and notifications under this subsection shall be conducted in a manner that is transparent and immediately made available to the public on the Department’s website, including plans submitted or resubmitted by a State, peer-review guidance, notes, comments and the names of the peer reviewers ... State plan determinations by the Secretary, including approvals or disapprovals; and notices and transcripts of the hearings under this section.” These are important provisions that are vital to our effort to return control of K-12 education to state and local leaders. Therefore, how will you ensure these protections are implemented in a way that reflects the letter and intent of the law?

**The Department is still in the early stages of planning the Title I peer review process and will abide by the statutory requirements included in the ESSA.**

9. Because ESSA provides states and school districts with the flexibility they need to support schools, dozens of organizations representing parents, teachers, and state and local leaders have voiced their strong support. Last month we held a hearing with state and local leaders—the very people we want to empower—entitled, “Next Steps for K-12 Education: Implementing the Promise to Restore State and Local Control.” When asked what they expect from the implementation process, witnesses expressed the need for an open and transparent process that reflects the perspectives of states, local communities, and schools. As Superintendent of Hartselle City Schools in Hartselle, Alabama, Dr. Paul “Vic” Wilson explained, “When it comes to federal regulations and the [*Every Student Succeeds Act*], less is more. I strongly encourage the [Department of Education] to incorporate input and feedback from stakeholders before adding regulations that could hamper state and local decision making.” As such, what are your plans for proposing regulatory policies to implement the law? Will you issue regulatory proposals together or separately? Furthermore, on what topics do you anticipate issuing proposed rules? As much as you can, please describe the specific details you expect for the implementation process moving forward, as well as how you will ensure the American people have ample opportunity to review and provide feedback throughout the process.

**We heard from many stakeholders – through public meetings, comments submitted in response to our request for information regarding Title I, and other channels – about areas of ESSA where regulations or guidance would be helpful to provide clarity about the meaning of new provisions. We put out a request for information in response to which the Department received approximately 400 public comments, with approximately 1,000 groups and individuals providing input. We also had over 100 presenters who spoke during our public meetings in Washington, DC and in Los Angeles, CA. Transcripts for both meetings are on our ESSA webpage.**

**Over the past few months, Department staff have met with civil rights groups, state and local leaders, community and business representatives, educators and students and parents in places like Nashville, TN; Columbia, SC; Colorado; and most recently rural Washington State to hear their thoughts on the new law and how the Department can support States and districts as they transition to and implement the new law, and those conversations will continue.**

**We began the process of negotiated rulemaking last month on two issues under Title I, Part A of the ESSA: assessments and the requirement that Federal funds**

supplement, and not supplant, state and local funds. In addition, we recently announced that we are planning on issuing regulations on state accountability systems and reporting, state plans, and the Title I, Part B innovative assessment demonstration authority. We will continue to seek input on other areas where guidance and technical assistance would be helpful.

Any proposed rules will be published in the Federal Register, where the public will have an opportunity to comment on every detail, and the Department will respond to that public comment before finalizing a rule.

**Rep. Thompson (R-PA)**

1. The historic passage of the *Every Student Succeeds Act* (“ESSA”) rightfully restores in Title VIII, Part F § 8541, local governance and community ownership in education. In the spirit of the law, how will the U.S. Department of Education (“Department”) ensure that implementation of ESSA will uphold the local governance structure, specifically the explicit authority of state and local education agencies to develop standards, assessments, and determine non-academic and academic indicators in their accountability systems?

We support the move from NCLB’s overly prescriptive, one-size-fits- all approach to ESSA’s, which empowers State and local decision-makers and sets guardrails to protect our most vulnerable students. This new approach will allow States to build on their recent progress. Over the past seven years, States have taken tremendous steps forward. More students than ever are being taught to college- and career-ready standards; dropout rates are at historic lows and graduation rates at all-time highs; and more students—particularly students of color—are enrolling in higher education. ESSA also gives state and local education agencies the opportunity to move away from accountability systems that focus almost exclusively on test scores and to instead focus on a broader set of school and student outcomes, and which will continue to ensure all students move towards being prepared for college and careers. In implementing the ESSA we will, as we have done in the past, communicate with stakeholders about the law’s provisions through a variety of modes of communication. We will also provide technical assistance and guidance to provide greater clarity in high priority areas for States, districts, and grantees, and that is responsive to input from stakeholders and ensures that States, districts, and their subgrantees comply with their Federal civil rights obligations when developing and administering standards and assessments.

2. Congress recognizes that states and local stakeholders are in the best position to establish a clear vision for student achievement, quality teaching, and learning to advance equity and excellence in education. Does the Department plan to provide technical assistance to support states with their efforts to solicit and incorporate local stakeholder input, while identifying state-based goals and timelines around student achievement, high school graduation rates, and measures for support and interventions?

We agree that it is critical that States prioritize input from a wide variety of stakeholders, including, among others, leaders at the local level. The Department will continue to prioritize providing high quality technical assistance to States, districts, and other grantees, and is working to ensure that our 15 regional Comprehensive

Centers, will provide frontline assistance to states as they begin implementation of ESSA. In addition, Content Centers will provide support to states on a spectrum of school improvement and technical assistance areas and Equity Assistance Centers will promote equal educational opportunities and provide assistance to States as they transition to the new law.

We are still early in the process and anticipate that our technical assistance plans will evolve as specific State and local needs evolve. We are working to determine our highest priority topics for technical assistance that will be most helpful to SEAs and LEAs as they transition to the ESSA.

**Rep. Messer (R-IN)**

1. During the ESSA conference, I offered an amendment which would allow Title II funds to be accessed by state and local education agencies to support efforts to train teachers on the appropriate use of student data. This will help ensure individual student privacy is protected. What are the Department's plans to help state and local educational agencies take advantage of this opportunity to improve privacy protections for students and their families?

The Department strongly believes that benefits of using student data must always be achieved while protecting student privacy. In order to help ensure that States and districts have the necessary information to properly protect student privacy, the Department's Privacy Technical Assistance Center (PTAC) serves as a "one-stop" resource for education stakeholders to learn about data privacy, confidentiality, and security practices related to student-level longitudinal data systems. PTAC provides timely information and updated guidance on data privacy, confidentiality, and security practices through a variety of resources, including training materials and opportunities to receive direct assistance with privacy, security, and confidentiality of longitudinal data systems.

Additionally, in order to better support States and districts in implementing federal elementary and secondary formula-funded educational programs, the Department reorganized in fall 2014 to create the Office of State Support – which provides State-centered technical assistance and support to all 50 States, the District of Columbia, and Puerto Rico. Since its inception, the Office of State Support has focused on ensuring that States and districts have the support they need to implement components of the Elementary and Secondary Education Act (ESEA). This support has included, for example, funding a comprehensive technical assistance network, the Equitable Access Support Network, to ensure that States and districts have access to the necessary resources to develop and implement State Plans to Ensure Equitable Access to Excellent Educators, including the necessary support to ensure that appropriate data privacy protections are in place.

Since the passage of ESSA, the Department has been focused on ensuring that all States have the support they need to conduct an orderly transition to the ESSA. The Department has also begun to develop guidance and technical assistance to support States and districts as they work to faithfully implement the ESSA. Although the

**Department has not yet finalized the full scope of this guidance and technical assistance, the Department appreciates this opportunity to carefully consider developing guidance and technical assistance designed to support States and districts in their efforts to improve privacy protections for students and their families and commits to continued consideration of this important issue.**

[Whereupon, at 12:33 p.m., the committee was adjourned.]

