

**THE EVERY STUDENT SUCCEEDS ACT:
STATES LEADING THE WAY**

HEARING
OF THE
**COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS**
UNITED STATES SENATE
ONE HUNDRED FIFTEENTH CONGRESS
SECOND SESSION
ON
EXAMINING THE EVERY STUDENT SUCCEEDS ACT, FOCUSING ON
STATES LEADING THE WAY

SEPTEMBER 25, 2018

Printed for the use of the Committee on Health, Education, Labor, and Pensions



Available via the World Wide Web: <http://www.govinfo.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

32-295 PDF

WASHINGTON : 2020

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C O N T E N T S

STATEMENTS

TUESDAY, SEPTEMBER 25, 2018

Page

COMMITTEE MEMBERS

Alexander, Hon. Lamar, Chairman, Committee on Health, Education, Labor, and Pensions, Opening statement	1
Murray, Hon. Patty, Ranking Member, a U.S. Senator from the State of Washington, Opening statement	3

WITNESSES

Blomstedt, Matthew L., Ph.D., Commissioner, Nebraska Department of Edu- cation, Lincoln, NE	6
Prepared statement	8
Bunting, Susan, Ed.D., Secretary, Delaware Department of Education, Dover, DE	11
Prepared statement	13
Jeffries, Shavar, President, Democrats for Education Reform, Newark, NJ	16
Prepared statement	18
Spearman, Molly, Superintendent, South Carolina Department of Education, Columbia, SC	21
Prepared statement	23

ADDITIONAL MATERIAL

Statements, articles, publications, letters, etc.	
Bloomstedt, Matthew: Supporting documentation from the Nebraska Department of Education ..	54-70
Bunting, Susan: U.S. Department of Education, Office of Elementary and Secondary Edu- cation	71-72
Delaware Department of Education, One Percent Waiver Request	73-84

QUESTIONS AND ANSWERS

Response by Matthew Bloomstedt to questions of:	
Hon. Todd Young	85
Hon. Patty Murray	87
Hon. Bernard Sanders	89
Hon. Elizabeth Warren	92
Hon. Tim Kaine	94
Hon. Maggie Hassan	96
Hon. Doug Jones	98
Response by Molly Spearman to questions of:	
Hon. Patty Murray	99
Hon. Bernard Sanders	102
Hon. Elizabeth Warren	104
Hon. Tim Kaine	106
Hon. Maggie Hassan	107
Hon. Doug Jones	109

IV

	Page
Response by Shavar Jeffries to questions of:	
Hon. Patty Murray	110
Hon. Bernard Sanders	111
Hon. Tim Kaine	115
Hon. Doug Jones	116
Response by Susan Bunting to questions of:	
Hon. Patty Murray	117
Hon. Bernard Sanders	120
Hon. Elizabeth Warren	122
Hon. Tim Kaine	124
Hon. Maggie Hassan	125
Hon. Doug Jones	127

THE EVERY STUDENT SUCCEEDS ACT: STATES LEADING THE WAY

Tuesday, September 25, 2018

U.S. SENATE,
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,
Washington, DC.

The Committee met, pursuant to notice, at 10:07 a.m. in room SD-430, Dirksen Senate Office Building, Hon. Lamar Alexander, Chairman of the Committee, presiding.

Present: Senators Alexander [presiding], Cassidy, Young, Scott, Murray, Casey, Bennet, Murphy, Warren, Kaine, Hassan, Smith, and Jones.

OPENING STATEMENT OF SENATOR ALEXANDER

The CHAIRMAN. The Senate Committee on Health, Education, Labor, and Pensions will please come to order.

Senator Murray and I will each have an opening statement. Then I will introduce the witnesses, whom we welcome today. Then we will hear from the witnesses, as I said, and then Senators will each have 5 minutes to ask questions.

We have a full house of guests in the audience and I welcome you here. We are glad you are here. This is part of your right as an American citizen. You can expect a vigorous back and forth among the Senators. That is the nature of this Committee. We have different points of view, but I would ask that those in the audience respect the rules of the Senate in terms of no applause, or demonstrations, or comments during the hearing.

Candace Hines, a kindergarten teacher in Memphis, recently wrote in the Memphis "Commercial Appeal" the following, "This year, Tennessee schools will begin to implement our state's new education plan under the Every Student Succeeds Act," which we call ESSA. "Unlike the previous education law, No Child Left Behind, ESSA gives Tennessee more autonomy to design policies to meet the needs of our state's students," she wrote. "ESSA empowers Tennessee with the responsibility to decide how to close achievement gaps, improve schools, and make sure that all our children succeed."

Reaching the point of fixing No Child Left Behind took seven years of congressional efforts, 27 hearings, and a three-day markup in this Committee where we considered 57 amendments.

The consensus this Committee reached was this: continue the law's important measurements of academic progress of students, but restore to states what to do about that progress.

The Every Student Succeeds Act gave Tennessee, in Candace's words, "A real opportunity for our state to build on the progress we have made and enact change, especially in traditionally underserved communities."

Today, I look forward to hearing how Nebraska, South Carolina, and Delaware are taking advantage of that opportunity. Under ESSA, in order to receive over \$18 billion in annual Federal funding, states have the opportunity to design their own state plan that includes setting academic goals for students, measuring schools' performance, and deciding how to fix failing schools.

In the words of two Memphis teachers, Soya Moore and Jessica Hurlley, "ESSA put issues such as teacher evaluations, student assessments, and school reform directly into the hands of state education departments and school districts. ESSA provides a window of opportunity for teachers to get in on the policy discussion and the law's implementation planning."

Today, 49 states, plus the District of Columbia and Puerto Rico, have had their plan approved by the U.S. Department of Education.

Last October, this Committee held a hearing to hear from the state education chiefs in three states—Tennessee, Louisiana, and New Mexico—that were among the best at making the most of the new law by designing innovative plans.

For example, we heard from Tennessee Education Commissioner, Candice McQueen, about the state's development and use of a Ready Graduate indicator that will evaluate students' readiness for college, career, or the military service.

This past spring, students in grades 3 to 8 and high school took the federally required tests in reading, mathematics, and science, giving states under these new plans new data. This gives that new data a chance to see how students are making progress toward the new achievement goals that each state has set.

Some states—such as Idaho, North Dakota, Texas—are starting to run this new data through their state designed accountability systems and have released lists of schools identified for support and improvement. All states are working to produce these new lists and then we will begin to work with local districts to improve these schools.

Today, we will hear specifically from three states who, based upon my review of the plans, have also taken advantage of the flexibility we encouraged under the law to design innovative plans.

For example, South Carolina is using flexibility provided under ESSA to use some of its Title 1 money to fund programs for high school students to take dual credit classes, or for students to receive extra math or reading help at afterschool programs.

Nebraska's ESSA plan includes a statewide data base so teachers can access best practices, share information with each other, and work together.

Delaware's accountability system includes a College and Career Preparedness indicator which will measure the percentage of high school students who have successfully taken advanced classes or had technical skills training that will prepare them for success after graduation.

Former North Carolina teacher and principal, Alison Welcher, recently wrote, “Ultimately, these plans are just writing on paper. The most important work states will undertake comes during the next phase: implementation. We are at a tipping point. States have an exceptional opportunity to use their authority to set a high bar for those who have the privilege of leading our Nation’s schools.”

The Every Student Succeeds Act put states back in the driver’s seat for decisions on how to help their students, and I am eager to see what this new chapter holds for our Nation’s students.

Senator Murray.

OPENING STATEMENT OF SENATOR MURRAY

Senator MURRAY. Well, thank you very much, Chairman Alexander.

I do want to thank all of our witnesses that are here today. This is an important hearing on the implementation of ESSA.

But before I talk about that, I do want to dig into one issue that is on the mind of every teacher, parent—many of them who are here today—students, and should be a focus of this Committee, and that is the growing number of deadly school shootings around our country.

In the aftermath of these shootings, we should be doing everything we can to address gun violence and make our schools safer. Unfortunately, Secretary DeVos is heading in the opposite direction. Despite an outcry from students, and parents, and teachers, and Members of Congress, she is going to allow schools to use Federal funds to purchase guns or firearm training for teachers.

This is not what Congress intended when we passed the bipartisan Every Student Succeeds Act. And some Republicans, like Congressman Cole, have made that point clear. Congressman Cole said, and I quote, “It is already against the law. I think it is pretty clear if you read the Every Student Succeeds Act.”

Even worse, this idea is dangerous and it could put the lives of all of our children and schools’ staff at risk. You only need to hear one story of a teacher that accidentally fires a gun in a classroom, or leaves it where a child can get access to it, or threatens a child with a gun to know we need fewer firearms in schools, not more.

Now, Secretary DeVos is claiming that Congress did not give her the authority to stop this, but Republicans and Democrats in Congress are telling her the opposite. She absolutely does, and can, and should put an end to this reckless and irresponsible idea.

Secretary DeVos refuses to hold up her responsibility to keep student safe. Mr. Chairman, I hope that you will work with me to make it abundantly clear to her that this is not what we intended in our legislation and direct her to do the right thing.

While it is on Secretary DeVos to act, our hands are not tied. We could work together, and should work together, just as we did to pass ESSA to stop this.

Finally on this point, Mr. Chairman, I want to express my support for Senator Murphy and every other Democrat, actually, on this Committee’s request for Secretary DeVos to come and testify in front of this Committee on ESSA and on gun safety.

Twenty months into this administration and neither Secretary DeVos nor anyone from her Department have testified in front of

this Committee. Now, I understand that Secretary DeVos may not want to come in front of us, but given the urgency of this issue of school safety, Mr. Chairman, I do hope that we can remedy that as soon as possible.

Now Mr. Chairman, on numerous occasions I have expressed, as well, my concerns with Secretary DeVos' approval of state plans that do not comply with the law.

I have voiced these concerns in this Committee room and in private conversations with the Chairman, and I am disappointed that, so far, we have been refused to honor the agreement that was made in this room and work with me to resolve the issues with Secretary DeVos' implementation of our bipartisan law because all but one plan has now been approved.

Today I really want to focus on the real life impacts of some of these flawed state plans.

Secretary DeVos has approved state accountability systems that do not take into account the performance of certain groups of students including low income students, students of color, students with disabilities, and English learners.

Democrats voted for this law, in part, because of these requirements to ensure equity. Yet, they are being disregarded by this administration. Secretary DeVos has also approved plans that fail to properly identify schools that need help or support getting back on track.

Here is what this really means for students and schools in our communities. Without properly counting the success of groups of students who have historically struggled in a school's overall performance, a school may look like it is succeeding, even if all the African Americans students or all the students with disabilities, for example, are falling behind.

Without properly identifying three separate categories of schools in need of support or improvement, a school that is in need of a little bit of support will never be identified. And rather than getting the help that it needs, the school's problems may get worse and a school could fall further and further behind.

These are not theoretical. Under the plans Secretary DeVos has approved, students will fall through the cracks and schools will be left off worse. At their core, these provisions are about providing equity in our schools.

Now, equity is not easy. We have to put in the hard work. We have to ask schools to put in the hard work. We have to ask students to put in the hard work to get a strong education and set themselves up for a success, but we have to do our part. We have to ensure that Secretary DeVos is implementing the law the way we agreed to it to give those students a fair shot.

Our Federal education law should not be focused solely on making states' lives easier. It should be about providing every student—no matter where they live, or how they learn, or how much money their parents make—the opportunity to better themselves through education.

Finally, I do want to touch on one more issue with Secretary DeVos' implementation, now that she has approved all but one of these state plans. When we worked together on ESSA, we set out

to build on the strong steps that were being made to hold states accountable for the learning of students with disabilities.

I made it a priority to ensure we were not leaving students with the most significant cognitive disabilities behind by limiting the number of children who could be tested using a simplified assessment.

Well, it is only appropriate to use this test with about one half of 1 percent of students. We set the cap at 1 percent. This is important because if too many students are taking the simplified test, it means that too many students are being taught to a lower standard, and that too many students with disabilities are being subjected to low expectations.

It is concerning to me that Secretary DeVos has waived the 1 percent cap for 23 states that have not made public the waiver request and the supporting documents public. Transparency here is important and parents and Congress have a right to have this information. So I hope we can address that issue as well today, and I hope to hear from the states that are here today.

There are clearly, in my opinion, a lot of problems with the way Secretary DeVos is implementing our bipartisan K-12 education law. And I do hope today that rather than just focusing solely on the things we like, that we do the hard work and address the very real concerns with the way this law is being implemented and focus on the students that are going to be impacted.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Murray.

I will address two or three of those points briefly, but I will do it during my 5 minutes when the time comes, so we can appreciate Senator Murray's comments.

We will go now to the witnesses. Thank you for being here.

Our first witness is Dr. Matthew Blomstedt, who is the Nebraska Commissioner of Education. He has led the statewide effort to create the Nebraska Every Student Succeeds Act state plan working to find input from thousands of Nebraskans.

Prior to becoming Commissioner, he served as Executive Director of the Nebraska Rural Community Schools Association.

Our next witness is Dr. Susan Bunting, Secretary of the Delaware Department of Education. Dr. Bunting makes it a priority to visit 100 schools statewide every year. I think there are only three counties in Delaware. Are there not? That is a lot of schools for three counties.

Prior to her time as Secretary, Dr. Bunting served as the Indian River School District Superintendent. She was a Middle School language arts teacher and an elementary school gifted and talented teacher.

Our third witness, I will introduce. Mr. Shavar Jeffries, President of Education Reform Now. Welcome. Mr. Jeffries' commitment to improve education stems directly from his personal experience. He was raised by his grandmother in the South Ward of Newark, New Jersey. His grandmother, a public school teacher, instilled in him a deep respect for the value of education.

He served as a former Associate Professor of law at Seton Hall Law School Center for Social Justice at Newark, New Jersey.

Our final witness is Ms. Molly Spearman, State Superintendent of South Carolina. Ms. Spearman was named South Carolina's State Superintendent of Education in January 2015. Since that time, she has worked to prioritize school safety and instruction to ensure that every child is on track to college or a professional career.

Prior to her time as Superintendent, Ms. Spearman served as a music teacher, public school assistant superintendent, four term member of the South Carolina House of Representatives, deputy superintendent of the South Carolina Department of Education, and Executive Director of the South Carolina Association of School Administrators.

We thank the four of you for coming and we will now begin remarks.

Dr. Blomstedt, let us begin with you.

STATEMENT OF MATTHEW L. BLOMSTEDT, PH.D., COMMISSIONER, NEBRASKA DEPARTMENT OF EDUCATION, LINCOLN, NE

Dr. BLOMSTEDT. Thank you, Senator Alexander, Ranking Member Murray, and all Members of the Committee.

Thank you, really, for the opportunity to appear before you to discuss Nebraska's implementation of the Every Student Succeeds Act.

Nebraskans are proud of the education system in our state. We typically rank high in student achievement on various, different settings. Yet with other states, we have an equity issue as well. We face longstanding gaps in achievement based on race, poverty, special needs, ethnicity, English learners, every subgroup or category that we are very concerned about. In 2014, Nebraska embarked on a journey at the state level to address these longstanding gaps.

I am grateful for this Committee and to Congress for passing the Every Student Succeeds Act in 2015 as it really complements our work to address these disparities head on and reach our full vision that all students receive the preparation they need for learning, earning, and living.

Let me take you back to 2014 just for a moment. Early that year is the first year that I actually started. I started on January 2, 2014. But the Nebraska legislature passed revisions to our Quality Education Accountability Act. Legislative bill 438 set forth the new vision for educational improvement along with an educational accountability system that we now call Accountability for a Quality Educational System Today and Tomorrow, or AQuESTT.

As part of the planning and implementation of AQuESTT, the State Board of Education and I conducted stakeholder input sessions to further refine and improve the initial system that was proposed. That journey continues. With changes adopted in L.B. 438, the Governor, the State Board of Education, myself, and the legislature included, are all working toward the common vision for education.

The State Board further directed efforts with a strategic plan that highlights specific goals around student achievement and seeks to engage school districts in a partnership with the state to address these historic gaps in achievement.

With the passage of ESSA, we now see the Federal Government as a strong partner in supporting us to execute on this vision and to address the achievement gaps in our state.

ESSA has allowed us to better align Federal programs into our state system, which would not have been possible underneath No Child Left Behind without significant waivers to that law. In fact in early 2015, Nebraska submitted an application for a waiver before we knew ESSA would become law.

Under our state law, we were already planning to classify schools and invest more concentrated support in those schools that were identified for most need of assistance to improve. This would not have been allowed in that fashion underneath NCLB, but ESSA really gave us a roadmap to be able to move that vision forward.

Today, we can move forward not only in establishing our long term goals, but working on key strategies to achieve them. Our long term goals include reducing the percentage of students, including students in each subgroup, who are not proficient in math, reading, and science by 50 percent over a ten-year period of time based on a baseline established in 2014–2015.

Similarly, we have set an objective to reduce the percentage of students who do not graduate and to reduce the percentage of our English learners who do not reach the state's growth targets for English language proficiency.

Under ESSA, our state is able to align Federal supports for underperforming schools with state systems of accreditation and accountability. For instance, under our state law, we must identify priority schools to have the opportunity to provide substantial state-directed interventions toward improvement in these schools.

The ability to align our state priority school status with Federal identification categories greatly strengthens our state's approach to school improvement, and leverages the Federal funds as a strong support for schools that are in need of improvement.

Nebraska still has a lot of work to do to establish this particular system. So we are now also working and trying to change how we offer support to our schools identified under this accountability system and aligned with our state AQuESTT system.

Based on the requirements of ESSA, Nebraska's systems will identify schools in need of comprehensive support and improvement, as well as targeted support and improvement, and hold them accountable for making improvements in the achievement of all students as appropriate also by subgroups of students' performance as triggers that target support as well.

Our state agency will work with individual districts in turning around those particular schools, working as best we can to be able to support that, building the capacity across our educational service units and our Department of Education, and changing the path that we have taken.

Further, we really provided that tailored assistance approach for schools that fall in certain categories. We have those that are traditionally rural, small community schools. We have those that are urban and metro schools. We have what we call demographically shifting communities, and we have Native American schools. We are trying to provide a particular focus on those places.

In summary, Nebraska is committed to addressing inequities of the past by focusing on opportunities to learn for all students, and by adopting a relentless focus on outcomes that ensure all stakeholders deliver on the promise of equity.

I really look forward to be able to share more and interact with you. So thank you, again, for this opportunity to be here.

[The prepared statement of Dr. Blomstedt follows:]

PREPARED STATEMENT OF MATTHEW L. BLOMSTEDT

Chairman Alexander, Ranking Member Murray, and Members of the Committee:

Thank you for the opportunity to appear before you to discuss Nebraska's implementation of the Every Student Succeeds Act (ESSA). Nebraskans are proud of the education system in our state; we typically rank among the top 15 in student achievement in all subjects and grades, as measured by the National Assessment of Educational Progress. Further, in 2014–2015 we had a four-year adjusted cohort graduation rate of 89 percent, well above the national average. As with other states, Nebraska faces long-standing gaps in achievement outcomes for students in certain student subgroups, like African American students and Native American students compared to those for our students as a whole. ESSA complements our work to address those disparities head-on to reach the state's vision of all students receiving the preparation they need for learning, earning, and living.

Thank you, Senator Alexander, Senator Murray, and Members of the HELP Committee for leading the effort to enact ESSA in 2015. It replaced a Federal structure under the No Child Left Behind Act that dictated top-down goals and a nationally determined accountability system. ESSA, by contrast, has given states the opportunity to better align Federal accountability requirements with their own education policy objectives in a manner sensitive to state and local needs and circumstances. Toward that effort, the Nebraska Department of Education (NDE), with substantial input from stakeholders, embarked on a process of integrating ESSA with the state's educational accountability system that was implemented with the 2014 enactment of major education legislation in our state, Legislative Bill (LB) 438. That state law resulted in Nebraska developing a new vision for educational improvement, along with an educational accountability system that we call Accountability for a Quality Education System, Today and Tomorrow (AQuESTT).

At the passage of LB 438 in early 2014 in the first few months of my tenure as Commissioner, and while beginning the development of our state ESSA plan in December 2015, the State Board of Education and I led significant stakeholder engagement efforts across Nebraska. We received input from a diverse array of voices including school board members, parents, private non-profit leaders, and community leaders among others. In Nebraska, we are fortunate to have an elected State Board of Education as a constitutional body that has a positive working relationship with the state legislature, Governor, and other policymakers across the state. As such, we have regular opportunities to engage with all of state and local government in a productive manner. We also used the NDE webpage as a mechanism for contact with stakeholders broadly, and thousands of individuals and groups provided input on our strategic plan, on AQuESTT, and on our ESSA plan. In addition to input through the website, specifically with respect to our ESSA plan, we embarked on a listening tour at seven locations around the state, conducted engagement sessions with other stakeholders, and carried out a number of other activities to ensure that many groups of individuals and perspectives were part of the planning process. While it may be difficult to include every voice effectively, I believe we heard the voices of varying stakeholder groups and incorporated their input and feedback when relevant. We will continue to work with stakeholders throughout the duration of the period covered by the plan and beyond ESSA. While we sought stakeholder engagement before ESSA, ESSA inspired us to improve our stakeholder engagement processes.

The education of Native American students and communication with tribal governments continue to be an important focus of our work. ESSA contains new requirements to consult with American Indian tribes in the development and implementation of our state plan and we continue to embrace the importance of that requirement. State tribal consultation is personally very important as we have identified our areas of focus on equity and believe there is a need to expand capacity to assist in the successes of state and local tribal consultation. I recognize that schools on tribal lands must serve the important needs of the local school district community as well as that of the sovereign tribal governance. The rich and open conversa-

tions I have had throughout our state with tribal leaders have personally opened my eyes about the importance of culturally relevant practices, tribal governance, and efforts to re-establish a Nebraska Indian Education Association. Those conversations were made priorities with the passage of ESSA and for that I am personally grateful and deeply committed.

The state accountability law mentioned earlier, (LB 438) required NDE to classify the state's public schools. The State Board of Education approved four classification levels and identified the schools in the lowest level as Needs Improvement. Additionally, state law required that we select no more than three schools as "priority schools" with the opportunity to provide substantial and state directed interventions toward improvement. ESSA allowed us to better align Federal programs into our state system, which would not have been possible under NCLB without significant waivers of the law. In fact, in 2015 Nebraska submitted a significant application for waiver in advance of the passage of ESSA. However, the passage of ESSA allowed the significant state direction to be realized without such a waiver. As a result, consistent with ESSA requirements, and building from our state's own strategic plan, we have established long-term goals of reducing the percentage of students (including students in each subgroup) who are not proficient in math, reading, and science by 50 percent over a ten-year time period, from a baseline established in 2014–2015. Our performance indicators and interim measures of progress under ESSA are aligned with that objective, which we believe to be ambitious but achievable. Similarly, we have set an objective of reducing the percentage of students who do not graduate (using the four-year adjusted cohort rate and an extended seven-year rate) by 50 percent over a ten-year period and of reducing, again by 50 percent and over 10 years, the percentage of our English learners who do not reach the state's growth targets for English language proficiency.

Importantly, our state has also established *challenge* (or stretch) goals calling for higher performance in some of these areas. The inclusion of these additional goals resulted from conversations with Nebraska Governor, Pete Ricketts and I directly. Although Governor Ricketts did not sign our plan specifically, he did submit a letter in support of the plan to Secretary DeVos. The Governor also worked closely with me to identify areas that could be enhanced for the future and to identify areas of statute and rule that might be amended to maintain a high expectation. For example, our challenge goal for academic achievement is a 70 percent (rather than 50 percent) reduction in the rate of non-proficiency. We will carefully monitor our schools' performance against the initial goals to see if, in a later year, we should transition to the more ambitious stretch goals instead.

Equally important to the work with Governor Ricketts on ideas in the ESSA plan have been conversations and partnership with the state legislature in making small but important changes in the state accountability law. This past spring the legislature passed LB 1081, an omnibus bill on behalf of the Nebraska Department of Education that included important provisions, which enhanced the ability of our then submitted ESSA plan to better align with state statute. For instance, the legislature passed and the Governor approved provisions that included assuring annual classification of school districts and buildings, expanding the number of state priority schools from "no more than three" to "no less than three" and adding important language for a Nebraska Reading Improvement Act. All such changes assist the alignment of ESSA goals with the state accountability system. Most significantly, the powers of state governance still make up the bulk of the authority, funding, and responsibility for education of Nebraska's students. The benefit of ESSA is that it will fully support those powers of the state to benefit and direct resources to schools that are most in need of support for improvement. The ability to align Federal supports established in comprehensive support and improvement (CSI) and targeted support and improvement (TSI) schools is strengthened by the powers of the state through accreditation and accountability. For instance, the ability to use our priority school status with additional schools is a much stronger power than CSI or TSI alone. Public schools are compelled under state law to meet the requirements of accreditation and now under the accountability provisions that allow intervention in priority schools. Nebraska still has work to do in establishing the most effective alignment of these supports and powers, but I believe this is a major step forward in the proper alignment of Federal, state, and local governments for the improvement of schools, student experiences, and student achievement.

Additionally and with a particular attention to student achievement, Nebraska includes performance indicators for academic achievement and growth, high school graduation, and English language proficiency; ESSA requires that a state accountability system include one or more indicators of school quality and student success. In Nebraska, we included measures of chronic absenteeism (a student missing at

least 10 percent of school days), science achievement (measured using our state assessments), and the, *Evidence-Based Analysis*, or EBA. The EBA is a measure of school quality based on the extent to which schools implement certain policies, practices, and procedures, such as practices that support on-time grade completion and provide educational opportunities and access. These indicators arose from our work on AQuESTT, reflected what our stakeholders believe are key indicators of school performance, and meet the ESSA requirement that school quality and student success indicators be valid and reliable across the state, and produce data that can be disaggregated by subgroups.

Taken together, our performance indicators present a multi-dimensional and holistic picture of what our schools are accomplishing; one that I believe is far superior to the situation we had under NCLB that had a unidimensional focus on the percentage of students testing proficient in reading and math. Our accountability system incorporates these various indicators in a manner that reflects our state's judgment on the appropriate weighing and meets the ESSA requirements. Most of all, I continue to be encouraged by Secretary DeVos and those at the USDE who challenge states to continue to evolve and innovate through this accountability system. Plans of this magnitude must adapt and change in order to remain a positive force for improvement. I believe we can always be improving, and the flexibility afforded under ESSA lives up to that vital aspiration.

Based on the requirements of ESSA, Nebraska's system will identify schools in need of comprehensive support and improvement (CSI) and targeted support and improvement (TSI) and hold them accountable for making improvements in the achievement of all students or, as appropriate, of the student subgroups in which the performance has triggered a TSI identification. The NDE will work with individual districts in turning around those schools. Beginning this school year, we are awarding the Section 1003 school improvement funds competitively, with the competition structured so that local educational agencies (LEAs) with the greatest need for assistance to improve will have the most likelihood of receiving funding. Further, NDE and intermediate education agency staff are being trained to work with CSI schools, including training on the monitoring the uses of school improvement funds. Consistent with the law, our staff will also provide technical assistance (to each LEA in the state that has a significant number of CSI or TSI schools) on the use of evidence-based educational interventions. This effort will begin with completion of a needs analysis for each targeted LEA. Further, we will provide tailored assistance to schools falling within certain categories: small community schools, urban and metro schools, demographically shifting schools, and Native American schools.

It is important to note that valid and reliable assessment is essential if we are to hold schools accountable for the achievement of their students, and if we are to give parents and other community members accurate information on how their children are progressing. Accordingly, we recently announced the creation of our Nebraska Student-Centered Assessment System (NSCAS). NSCAS is comprised of multiple measures of student learning, including formative assessments that enable educators to monitor student understanding and adjust instruction in the moment; interim assessments that track academic growth and target learning needs over time; and summative assessments that provide final measures of student achievement in English language arts, reading and science. The system also includes professional development opportunities that help teachers use assessment data to strengthen their instruction and effectiveness. In addition, we are providing LEAs and schools with information on how to engage parents in assessment, such as on test-taking strategies, what questions to ask teachers about assessment results, and guidance on how results are best used to support student learning. We are confident this new system will enable Nebraska to test more efficiently and effectively, and provide a foundation for our efforts to improve education for all our students.

Finally, an effective and engaged educator workforce is an essential component of any effective system of public education. ESSA gave Nebraska new tools and opportunities for supporting our teachers and school leaders. We have worked with stakeholders to develop activities under Title II that align with initiatives already underway in the state on improving educator effectiveness and increasing equal access to effective educators. This work resulted in the creation of an Educator Workforce Index that measures the quality of a district's educator performance assessment system, and the extent to which students are exposed to inexperienced, out-of-field, or unqualified teachers and school leaders. We expect to continue to improve that effort and anticipate the approach will drive ongoing conversations and efforts on educator quality and equity. In particular, it should support attainment of our strategic plan goal that, by 2020, all Nebraska districts have a research-based evaluation system for all certificated staff.

We will also take advantage of the optional three percent set-aside available under Title II for strengthening school leadership, and use it for activities that increase the capacity of school leaders to attract, recruit, develop, and retain effective educators. This action, which directly focuses on a critical need as identified by our stakeholders, is another example of how ESSA has given us new tools with which to tackle our particular needs and challenges in K–12 education.

In summary, Nebraska is committed to addressing inequities of the past by focusing on opportunities to learn for all students and by adopting a relentless focus on outcomes that ensure all stakeholders deliver on the promise of equity. We have asked all Nebraskans to join us in this commitment and the historic principles of equity embedded in the Elementary and Secondary Education Act as reauthorized by ESSA. This unmatched opportunity to lead a state-level approach to equity with a strong Federal and local partnership is not one Nebraska takes lightly. Instead, we continue to champion commitments to equity, build capacities to improve supports for schools and students, and enhance our efforts to be change agents for the good of all of Nebraska's students.

This concludes my brief overview of Nebraska's implementation of the Every Student Succeeds Act. I look forward to sharing more of Nebraska's progress under ESSA with you, and am pleased to take your questions.

The CHAIRMAN. Thank you, Dr. Blomstedt.
Dr. Bunting.

**STATEMENT OF SUSAN BUNTING, ED.D., SECRETARY,
DELAWARE DEPARTMENT OF EDUCATION, DOVER, DE**

Dr. BUNTING. Chairman Alexander, Ranking Member Murray, and Members of the Committee.

Thank you for having me here today as well, and for working to approve the Every Student Succeeds Act with bipartisan support three years ago.

In 2015, I was serving as a district superintendent and advocated on behalf of Delaware's chiefs for the passage of this law in Congress. We recognized that No Child Left Behind had run its course and welcomed this reauthorized law to give us the opportunity to promote different approaches to improving struggling schools.

Today, I have the honor of serving as Secretary of Education in Delaware. In this role, I realized that by passing ESSA, Congress has harnessed the energy in states and local communities, and infused promising practices into the implementation of the new law while still ensuring appropriate accountability guardrails.

While it is too early to provide final judgment on the prospects of ESSA to achieve these goals, I am greatly encouraged by the work underway in Delaware to create more equitable opportunities for all children. We will be sharing some of this progress as we talk with you today.

Delaware educators are working to get it right for students with support from the Council of Chief State School Officers, we are working to close gaps and to turn around schools. We are making sure that school improvement interventions do not result in unintended consequences for children. Most importantly, we are doing all of this by surrounding ourselves with stakeholders who are providing constant feedback to make sure that we get it right.

From the beginning, the law rightly asked states to work closely with stakeholders and we embraced that opportunity involving a diverse group of stakeholders to both write our ESSA plan and to help us implement the law.

To help create the plan, we brought together an ESSA Advisory Council, whose members ran the gamut from the President of the State's Superintendents Association to a Nanticoke Tribe member, from legislators to P.T.A. officers, and from businessmen to the Executive Director of the Latin American Community Center. These stakeholders made many of the critical decisions.

One example can be seen in our statewide accountability system, which now includes multiple measures of school success rather than a single academic indicator. Included at both the elementary and secondary levels are academic proficiency in English language arts and math, and also growth in English language arts and math.

In addition, school quality measures include chronic absenteeism, proficiency in science and social studies, career and college preparedness, and ninth graders being on track to graduate. A further indicator of student success is the graduation rate itself. Delaware also measures English language learners' progress toward proficiency.

Our stakeholders also have helped to redesign how the Department of Education will offer support to low performing schools. We have created a Performance Support Team, no longer as a single office within the Department responsible for school improvement, rather a team is ready to come together across areas of expertise to address the specific and unique needs of each of our schools.

Once schools are identified, the Performance Support Team will offer a menu of evidence-based available supports that can be aligned with individualized plans developed jointly between the state and local education agencies.

Delaware's political leaders have also strongly seized a role in our state's school improvement movement, investing additional funds for math specialists and reading interventionists, and putting \$6 million in grants for schools with large low income or English learner student populations.

ESSA's positives have been many and its negatives few. However, we have encountered a few challenges in implementing the law.

For example, our design to include science and social studies proficiency in the academic achievement and progress sections of our accountability system failed to receive initial Federal approval even though Secretary DeVos has strongly encouraged states to think out of the box. Consequently, we were forced instead to relegate these two subjects to the school quality section of our accountability system.

As Delaware journeys deeper into ESSA implementation, the most significant obstacle, that of turning around our struggling schools, still lies ahead. We have the structure, though, and the partners in place to improve outcomes for all students.

When the Senate voted overwhelmingly to approve ESSA, it was a vote of confidence in state and local educators, and their ability to do what is right for children.

I reiterate my gratitude for allowing us the flexibility to implement ESSA in a way that best addresses the specific needs of the students in each state, and I request that you continue to support

us as we work closely with stakeholders in our state to fully implement the law to ensure every student's success.

As state leaders, we do not consider this a job. It is our life's work. Like my colleagues here today, Delaware is committed to maximizing ESSA-supported opportunities that can lead to better outcomes for all of our students. We will make it happen. Our children deserve nothing less.

Thank you.

[The prepared statement of Dr. Bunting follows:]

PREPARED STATEMENT OF SUSAN S. BUNTING

First, I would like to thank this Committee for working to develop and approve ESSA with 85 "yes" votes in the Senate in 2015. At that time, I was serving as a local district superintendent and as an AASA legislative advocate, and was fortunate to share the perspective of superintendents with Delaware's congressional delegates to not only confirm that No Child Left Behind (NCLB) had run its course and that its one-size-fits-all approach did not yield necessary improvements, but to also enthusiastically support the new law's support for promoting different approaches to improving struggling schools across the country. By passing ESSA, Congress harnessed the energy in states and local communities in Delaware and across the country, and infused promising practices into the implementation of the new law while still ensuring appropriate accountability guardrails. While it is too early to provide final judgment on the prospects for ESSA to realize its goals, I am greatly encouraged by the work underway in Delaware to create more equitable opportunities for all children.

Stakeholder Engagement in ESSA Assessment, Accountability, and Reporting

Congress embraced state and local flexibility in ESSA, while preserving accountability for outcomes for all students. This was a bipartisan acknowledgement that states and school districts, with the support of the U.S. Department of Education, are best situated to know how to serve the young people in their communities. No one better understands the potential and the possible pitfalls faced by our schools than the education professionals I represent and serve. Delaware educators are working to "get it right" for students. With support from the Council of Chief State School Officers, we are working to close gaps and turn around schools, and we are making sure that school improvement interventions don't result in unintended consequences for kids. To date, we have attempted to do this by surrounding ourselves with stakeholders who are providing constant input and feedback on the best ways to maximize flexibility in promoting student success.

Admittedly, from the beginning, Delaware's ESSA plan has been one "of the people, by the people, and for the people." The law rightly asks states to work closely with stakeholders—teachers, principals, parents, students, tribal leaders, and community organizations—to do what is best for the students in their state and local communities. Delaware thoroughly embraced this opportunity and involved a diverse group of stakeholders in not only writing its ESSA plan but also in myriad other ESSA-connected activities. The plan's design was a collaborative effort between the Department of Education and an ESSA Advisory Council, whose members ran the gamut from the president of the state's superintendents' association to a Nanticoke tribe member, from legislators to PTO officers, and from businessmen to the Executive Director of the Latin American Community Center. Together they crafted a plan that strikes an appropriate balance by setting a high bar to ensure all kids receive an equitable education while making sure those closest to students have the flexibility they need to make critical decisions on how to reach mutually established targets.

As an example, the law makes sure every child is tested at least once a year, but allows state and local leaders to determine the best way to conduct those assessments. Stakeholders contributed to Delaware's selection of Smarter Balanced as its assessment tool to measure third through eighth graders' academic proficiency and growth. Being concerned about the testing load for upperclassmen, they supported the decision to administer the SAT to all eleventh graders to fulfill the high school academic assessment requirement.

Another major stakeholder contribution was a distinct but equally diverse committee's creation of a new statewide accountability system, entitled the Delaware

School Success Framework (DSSF). Developed by practitioners and stakeholders, DSSF includes multiple measures of school success rather than a single academic indicator. Included at both the elementary and secondary levels are academic proficiency in ELA and math and growth in ELA and math. In addition, school quality measures include chronic absenteeism, proficiency in science and social studies, career and college preparedness, and a 9th grader's being "on track" for graduation. A further indicator of student success is the graduation rate, which is calculated for the four-, five-, and six-year adjusted cohort. The latter two indicators are factors solely at the secondary level. Finally, at both levels, English Language Learners' progress toward proficiency as documented via ACCESS 2.0 is a factor in each school's overall "success." All factors are weighted with the academic measures comprising a greater percentage of the overall 500-point index.

Delaware's communities were also deeply involved in the design of new ESSA state, district, and school report cards, which will debut on December 17th of this year. Mirroring the practice of conducting community conversations about the ESSA plan design, a Delaware Department of Education team held an assortment of meetings with parents and community members throughout the state to solicit input regarding what information they would most like displayed via the electronic document. Participants in these sessions examined lists of Federal and state required contents, identified which of those along with community specific informational items warranted inclusion, and expressed preferences for which should be featured on the main page and which should be listed under tabs. The result of this collaborative process, precipitated by congressional approval of ESSA, is that the federally required report card will better reflect Delaware's community needs than prior iterations have in the past.

Transforming State and Local Education Systems

This connectivity with stakeholders from the 98-mile stretch of this gem of a state is only one of the noteworthy changes in what Delaware is doing differently under ESSA. Paramount as well has been the restructuring of our State Department of Education, which has been transformed from a regulatory agency into a supportive one. During the ESSA plan design, the Department adopted an icon featuring Delaware's vision of "Every learner ready for success in college, career and life" surrounded by the top priorities for the state's work—rigorous standards, engaged community, early learning, and environments conducive to learning. These priorities focus the Department's work to the extent that every project and even budget decisions are strictly guided by the citizen committees' and Department staff's established priorities. In order to best prepare for the identification of Comprehensive Support and Improvement (CSI) and Targeted Support and Improvement (TSI) schools, our agency has reorganized personnel and responsibilities to form Academic Support, Educator Support, Student Support, and Operational Support Teams dedicated to service to schools. For the past eighteen months since I became Secretary, our message to the field and education stakeholders has been, "We are here to support you."

Working with Districts and State Policymakers to Improve Our Schools

Another key ESSA-related change has been the introduction of individualized district superintendent goal-setting and summative conferences. Soon after the verification of Smarter Balanced and SAT results, I meet with each individual superintendent to discuss his/her district's and schools' results. Based on the state's academic targets for the Year 2030 (a year chosen because of the 2017 entering kindergartners' opportunity to pass through the educational system in the 13 years before 2030), each superintendent and I calculated the annual growth his/her district must make in order for the state to reach its academic goals. Recognizing his or her individual district's contribution to the state's overall achievement, the local superintendent in turn shares with and holds school leaders in their home district accountable for progress toward the district's academic goals. In addition, each superintendent selects a specific subgroup that warrants particular attention based on performance data. During the conferences I include such directed questions as, "How do you plan to increase third grade reading proficiency?", "What strategies do you have for enhancing SAT scores?" and "What additional supports are you providing to your English learners?" At mid-year we again meet to discuss progress toward the overall goals and engage in deep conversation about accomplishments and challenges. A final query is always, "What can the Department do to be of greater support?" This concept of superintendent accountability is a relatively new one in

our state. Yet, the overarching theme of support is being embraced from the leadership to the local level, and ESSA has greatly facilitated this approach.

During these conversations superintendents frequently mention groups with which educators have not been given enough professional learning to support. In addition to English learners, students with disabilities and those who are economically challenged, educators have more recently cited concerns about supporting trauma-impacted students. As a result of these conversations, the Delaware Department of Education is working with higher education institutions to develop a teacher pipeline that is prepared to enter classrooms with the skills necessary to best serve our diverse student population. These skills include the knowledge of and experience in working with special education students, English learners, and those who have endured adverse childhood experiences. In fact, Delaware has launched a major initiative to introduce teachers and administrators throughout the state to and encourage the use of trauma-informed practices.

The refreshing change from NCLB's focus on identifying and punishing schools to ESSA's support model has helped to promote the redesign of the former silos, created by individual work groups, to a new synergetic team structure at the Department. This performance support team is composed of professionals focused on student, educator, and academic support focused on enhancing the overall success of schools. The law ensures every state will focus on improving low-performing schools, yet gives states the opportunity to work with local educators, parents, civil rights advocates, and other stakeholders to determine the best evidence-based strategies to improve specific struggling schools. As Delaware fulfills the requirement of identifying both CSI and TSI schools in November, individuals within the performance support teams are working together to create a menu of evidence-based available supports that can be aligned with individualized plans developed jointly between the state and local education agencies/charters. No longer is a single office within the State Department of Education responsible for school improvement; rather a team is ready to come together, across areas of expertise, in an effort to address the specific and unique needs of each of our schools. In the spirit of collaboration and community, my agency is facilitating regular communication between and the solicitation of feedback from local education agencies, charters, and multiple stakeholder groups to build a more cohesive approach to continuous school improvement.

Delaware's political leaders have embraced a role in our state's school improvement movement. Recognizing the plight of the state's struggling schools, state legislators passed a Fiscal Year 2019 (FY19) budget that funds math specialists for our state's lowest performing middle schools. Moreover, they allocated moneys to support the placement of reading interventionists in the lowest performing elementary schools. Acknowledging the impact of poverty on learning and of the steadily expanding English learner population in the state, the fiscal year 2019 budget also included six million dollars for opportunity grants that were made available to the forty-four schools whose student populations met the 60 percent poverty and/or the 20 percent English learner criteria. Both traditional and charter schools have flexibility to invest these funds in the supports each deems most beneficial for its students.

Ongoing ESSA Challenges

ESSA positives have been many and its negatives few. Despite careful planning and invaluable input from a variety of interested partners, Delaware has encountered a few challenges in implementing the law. Our design to include science and social studies proficiency in the academic achievement and progress sections of our accountability system failed to receive initial approval from the US Department of Education, even though Secretary DeVos has strongly encouraged states to "think out of the box." Consequently, we were forced instead to relegate those two key subjects to the School Quality section of our accountability system. A second challenge has been the unavailability of a high school growth measure. Although we originally had hoped to use PSAT scores as the baseline upon which to measure growth toward the SAT, that strategy was determined to be statistically unsound so we were unable to pursue it. A third challenge involved a volatile reaction within our state to the proposed use of stars as a rating symbol on the new report cards. Local legislators, for example, argued that a two-star rating would send an unduly negative message because "No one would stay in a two-star hotel!" The diverse group of stakeholders working on the project decided to use labels rather than stars to avoid unnecessary controversy.

As Delaware journeys deeper into ESSA implementation, the Department acknowledges that the most significant obstacle, that of turning around our struggling

schools, still lies ahead. The names of our CSI schools will be published within the next month. My team has been working on a plan that will emphasize the Department's provision of necessary supports to struggling schools rather than our intent to punish or demean them. Such an approach reflects the Department's transformed culture, our belief in collaboration, and our realization that each school's needs must be assessed and uniquely addressed. The Department will provide districts with assistance in completing needs assessments to determine possible evidence-based interventions and strategies, thought partnerships, professional learning opportunities, on-line resources, and connections to experts, partners, and networks. Together we will improve outcomes for our kids.

Conclusion

Although Delaware's plan was the first to be approved, other states have also seized the opportunity to lead the way in implementing ESSA. As states and districts continue to advance in implementation, the spirit of ESSA will be more fully reflected in state and local systems. Throughout this process, educational leaders at every level are using the flexibility in ESSA to better meet the needs of all students, from every background. Since December 2015, states have worked hard to think differently about their schools and how they can better serve all students. They have asked for and taken seriously input from educators, administrators, parents, students, and community leaders, knowing that no plan can be successful without support and buy-in from the community. However, since these systems are complex, only time can reveal the benefits of full implementation.

When the Senate voted overwhelmingly to approve ESSA, it was a vote of confidence in state and local educators and their ability to do what is right for kids. I reiterate my gratitude for allowing us the flexibility to implement ESSA in a way that best addresses the specific needs of pupils in each state and request that you continue to support us as we now fully implement the law to ensure every student's success.

I am confident that states are taking advantage of the opportunity ESSA presents and will deliver better outcomes for all students. As state leaders, we don't consider this a job, it's our life's work. Like my colleagues here today, Delaware is committed to maximizing ESSA-supported opportunities. We WILL make it happen. Our children deserve nothing less.

The CHAIRMAN. Thank you, Dr. Bunting.
Mr. Jeffries, welcome.

STATEMENT OF SHAVAR JEFFRIES, PRESIDENT, EDUCATION REFORM NOW, NEWARK, NJ

Mr. JEFFRIES. Chairman Alexander, Ranking Senator Murray, and distinguished Members of the Committee.

I appreciate the opportunity to testify before you on state implementation of Every Student Succeeds Act. My name is Shavar Jeffries and I am President of Education Reform Now, a national nonpartisan think tank and advocacy organization. We develop and advocate for policies intended to transform public education from pre-K through higher education, especially for those students who are ESSA's intended beneficiaries.

I was born and raised in the South Ward of Newark, New Jersey by my grandmother, a public school teacher. I have been a civil rights lawyer and child advocate for 20 years. The opportunities I have had are a direct result of receiving a great education, and my life's work has been to ensure that all of America's children have that same opportunity.

The theme of today's hearing, "States Leading the Way," in too many ways remains more an expression of aspiration than a description of fact. Some states have been leaders.

Mr. Chairman, under Governors Bredesen and Haslam, your home State of Tennessee has advanced many important policies that improve educational opportunities for all students.

Senator Murray, our chapter in your home State of Washington has worked in coalition with other advocacy groups to increase school funding, including increases in teacher pay to help ensure every child has access to a qualified teacher.

Yet alongside these islands of progress, we still see yawning achievement gaps that persist along lines of income, race, nationality, and disability.

One example is Montclair High School in my home State of New Jersey, a racially diverse school with a student population that is half white, one-third black, one-tenth Hispanic. Overall test scores and graduation rates for the school are solid, yet black students among others at Montclair High lag behind their white peers in both math and reading proficiency by 30 percentage points and are thus significantly less likely to graduate, and significantly, therefore, less likely to pursue and achieve the American dream.

Nonetheless, the state's first report card under ESSA found that black students at Montclair High were not even at risk of being an underperforming subgroup and Montclair, sadly, is not an isolated example.

In enacting ESSA, Congress made its purposes explicit, to provide all children a significant opportunity to receive a fair, equitable, and high quality education, and to close educational achievement gaps. Congress made clear that this educational guarantee extends to specific subgroups of students who historically were denied that equal education opportunity, namely, low income students, students of color, English language learners, and children with disabilities in particular.

While it is true Congress chose to give states significant flexibility in fulfilling ESSA's purpose, Congress at the same time made clear that certain guardrails were nonnegotiable. These guardrails spelled out unequivocally in the statute include the following:

Differentiating schools based on the performance of each of those subgroups;

Identifying schools for targeted support and improvement when those subgroups are not meeting state defined academic proficiency goals;

Identifying schools for additional targeted support and improvement when any subgroup performs at a level equal to the bottom 5 percent of schools in the state; and,

Ensuring that all indicators in the state accountability systems are the same statewide so that we do not have different standards for different populations of kids.

On these and other issues, some state plans are exemplary. The District of Columbia, for example, differentiates schools on each indicator for each subgroup just as the statute requires, and even goes beyond ESSA by stipulating that 25 percent of a school's rating is based on subgroup performance.

Other state plans, however, clearly violate the statute. Arizona, for example, permits individual school districts to choose which as-

assessments will apply for low performing schools despite ESSA's specific mandate otherwise.

ESSA does broadly defer to states regarding the remedies a district ought to use to address any achievement deficits that are found particularly those with respect to schools that are needing an improvement, although ESSA is clear that those interventions ought to be evidence based.

Yet these decisions, of course, are among the most fundamental in ensuring that ESSA's core purpose, providing a fair, equitable, and quality education to all that will close achievement gaps is, in fact, achieved.

We ask that as the work of this Committee continues that you monitor this process closely in addition to those areas where there is a clear, explicit Federal role and consider course corrections in those states, districts, and schools that are falling short.

The driving purpose of Title 1 is equity. Right? That was the entire purpose for the statute and it is incumbent upon this Congress to work with the states to make sure that the legacy of inequity that so many young people in this country have experienced is remedied, and that is the bargain that the states struck with the Federal Government in taking the billions of dollars in Federal support. That they, in fact, take the affirmative steps required to address the achievement gaps that Congress was so concerned about in enacting ESSA.

Thank you very much.

[The prepared statement of Mr. Jeffries follows:]

PREPARED STATEMENT OF SHAVAR JEFFRIES

Introduction

Chairman Alexander, Ranking Member Murray, and distinguished Members of the Committee, I appreciate the opportunity to testify before you today on state implementation of the Every Student Succeeds Act (ESSA).

My name is Shavar Jeffries, and I am President of Education Reform Now (ERN). ERN is a non-partisan think tank and advocacy organization with a national office here in DC and chapters in eight states. We develop and advocate for policies intended to transform public education from pre-K through higher education, especially for those students who are ESSA's intended beneficiaries.

I was born and raised in the South Ward of Newark, New Jersey by my grandmother, a public-school teacher. I have been a civil rights lawyer and child advocate for 20 years. The opportunities I have had are directly attributable to the quality of education I received, and my life's work has been to ensure that all American children—especially those who come from low-income, racially diverse communities like my own—have the same opportunity. I appear today to discuss the good work some states are doing in meeting this challenge as well as the many states that still have much work to do.

The Purpose of Today's Hearing

The theme of today's hearing—"States Leading the Way"—in too many respects remains more an expression of aspiration than a description of fact. It is true, Mr. Chairman, that some states have been leaders. Your home state, Tennessee, has advanced policies that ensure greater numbers of kids have access to quality schools that achieve better outcomes for all students. Under Governor Phil Bredesen, a Democrat, and his successor, Governor Bill Haslam, a Republican, Tennessee has been a model for leveraging Federal initiatives and funding streams, including President Obama's Race to the Top, in support of its own priorities.

Likewise, Senator Murray, in your home State of Washington, our chapter there has worked in coalition with advocates and state legislators toward the goal of "full funding" for public education as required by the state constitution. Washington has

made significant progress on funding equity and differential pay for educators so that schools serving students with the highest needs get their fair share of the most qualified teachers, especially those in key shortage areas like STEM and special education, contrary to the reality in too many states where the students most in need have teachers with the least knowledge and expertise.

Yet alongside these islands of progress, we still see too many states in which yawning achievement gaps persist along lines of income, race, nationality, and disability as well as deficits in equal educational opportunities that contradict the core purposes of ESSA.

An Example of the Importance of Subgroup Accountability at a Diverse High School

To illustrate, let me talk to you about Montclair High School in my home-State of New Jersey. Montclair was and remains today a racially diverse school—half White; one-third Black; and one-tenth Hispanic. Overall test scores and graduation rates for the school are solid, but those overall numbers mask stark achievement gaps showing that students at Montclair High have very different school experiences based on the color of their skin.

The proficiency gaps between Black and White students in both English Language Arts and Math are on the order of 30 percentage points; Black students are five times more likely to be suspended than White students; and Black students are substantially less likely to be assigned to honors or Advanced Placement courses as White students. The New Jersey State Department of Education, however, doesn't recognize the yawning and persistent gaps at Montclair High School—where Black students have not made significant progress and where outcomes on most indicators last year slightly declined—as worthy of its attention. The state's first report card issued last year under ESSA deems that Black students at Montclair High are not even at-risk of being an “underperforming subgroup” let alone identify Montclair as a school in need of what ESSA defines as “targeted assistance.”

The Montclair example, sadly, is typical: millions of low-income students; students of color; students who speak English as a second language; and students with disabilities likewise experience, in too many states, segregated educational experiences, even within the same school, that run counter to the purposes of Federal law. For these subgroups of students, no state is making consistent and significant gains across all grades and subjects for the very populations of students who historically have experienced educational inequity and whose interests lie at the heart of Title I. Far too many states are not even trying.

The Purpose of ESSA

In enacting ESSA, Congress made its purposes explicit:

“[T]o provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.”

Congress made clear that this educational guarantee extends to “all children”—not some; not the rich; not those well positioned to manipulate the system—but all children. And in driving home this equity mandate, Congress prioritized specific subgroups of students who historically had been denied equal opportunities: low-income students; students of color; students who speak English as a second language; children with disabilities; and, others such as children in foster care, those who are homeless, and the sons and daughters of migrant workers.

What the Statute Actually Says on State Plans

In pursuing this statutory goal of providing an equitable education to all, Congress chose to give states a great deal more flexibility. The arguments we had with in and between both political parties were about how much flexibility to provide to states and about which critical elements warranted Federal guardrails. Neither side got everything they wanted. That, after all, is what's required to break political gridlock and get things done. This was no small feat on your part. You succeeded after several attempts in past years did not.

We and our coalition members supported the final conference report, as did the vast majority of Members of Congress, because it included key “bright-line” provisions to ensure that states and school districts use Title I dollars to fulfill ESSA's intended purposes. The flexibility provided to states and localities in many other areas makes the guardrails that Congress chose and agreed to put into place of paramount importance.

We know there are states that have avoided, in some cases defiantly so, complying with Federal education law when it comes to almost every group of students for whom the Federal Government has tried to level the playing field over the past five decades, especially: girls and women; students of color; English Language Learners; low-income families; immigrants; and, persons with disabilities. Not too long ago, the U.S. Secretary of Education sat before you and admitted, only grudgingly, under questioning from Senator Murphy, that she had previously misspoken about the responsibility of schools to educate every child regardless of their citizenship status even though this has been an issue of settled law for almost four decades pursuant to the U.S. Supreme Court decision in *Plyler v. Doe* back in 1982.

Some States Are Not Leading the Way

The best I can say about where we are now is that when it comes to states leading the way on ESSA, the jury is still out. But there already have been some troubling developments.

We at ERN have put together a list of more than 30 sections of the law that contain what we call “bright line” provisions where Congress made its intent crystal clear and yet the U.S. Department of Education approved state plans that fail to adhere to them. This is not an exhaustive list, nor are these provisions sufficient for meeting all of the law’s stated purposes. But these are provisions that Members of the Committee and your colleagues in both chambers deemed necessary, by overwhelming margins. I obviously can’t address all of these here today, but they include:

- Differentiating schools, in part, based on the performance of each and every subgroup.
- Identifying schools for what the statute calls “Targeted Support and Improvement” in cases where students in a school are not meeting state-defined goals, regardless of how their school is doing overall.
- Identifying schools for what the statute calls “Additional Targeted Support and Improvement” in which any subgroup performs at a level equal to the bottom 5 percent of schools in the state.
- Ensuring that all indicators used in state accountability systems are the same ones used statewide, for each and every child.
- Including student attainment of grade-level proficiency, along with academic growth, as a factor in differentiating schools.

Some states have plans that meet or exceed one or more of these statutory requirements. The District of Columbia, for example, has a good plan that meets statutory requirements on differentiating schools based on each indicator for each subgroup. The District of Columbia actually went beyond what was required in the statute, based on recommendations put forth by our local chapter in coalition with other civil rights and advocacy groups, such that 25 percent of each school’s overall accountability rating will be based on subgroup performance on each indicator.

There are also states that have plans approved by the U.S. Department of Education that violate one or more of key statutory provisions. It is important to note that opinions about adherence to the law do not seem to be a matter of partisanship. Former House Education and Workforce Committee Chairman John Kline (R-MN) went public in August with his concerns about state plans that violated key statutory provisions saying:

“During the eight long years our team spent working to pass this bill, no topic was more hotly debated than that of annual testing. . . In the end, we arrived at a fair and sensible compromise in the law: Keep the requirement that the same academic assessments [be] used to measure the achievement of all public elementary school and secondary school students in the state. . . [and be flexible in other areas]. . . However, Arizona and New Hampshire recently passed laws¹ that violate ESSA by permitting individual school districts to choose which assessments to administer . . . such violations undermine ESSA in its entirety.”²

¹ Cariello, Dennis M. and Hudalla, Nicholas M. (July 2017). *Achieving a Complete Understanding of Statewide Student Academic Achievement: The Legal Aspects Concerning State Assessment Laws in the Every Student Succeeds Act*. Retrieved from: <https://edex.s3-us-west-2.amazonaws.com/Final%207-26-17%20ESSA%20White%20Paper.pdf>

² Kline, John. (August 2017). *An ESSA Co-Author Weighs In on Accountability: The Ed. Department must step up to enforce ESSA*. Retrieved from: <https://www.edweek.org/ew/articles/2017/08/28/an-essa-co-author-weighs-in-on-accountability.html>

The U.S. Secretary of Education went on to approve both of those plans without asking these states to change their policies. On our comprehensive list of key statutory provisions is a list of states that have approved plans that are clearly in violation of each of the provisions I cited and others. I cannot cover all of them in the space allotted for my testimony but I'd be happy to discuss this further with any of you here or after the hearing.

Keeping Our Eye on the Prize

I want to close with an additional note on an area that the law leaves wide open and that is the types of interventions states, districts, and schools themselves must mount under the various categories under the law. The law lays out a fairly complicated set of roles and responsibilities for each level of government in deciding how to intervene in any particular school, but the law is clear that the Federal Government has no role in making those determinations whatsoever beyond provisions that they be "evidence-based," however states and districts choose to define that term.

I'm not going to debate the wisdom of that structure because the law, present and past, is complicated and because of that, there are many different interpretations of what was required prior to ESSA and what role those requirements, or the lack thereof, played in the success of efforts to either turn schools around or create new choices that provide better opportunities for students and families.

At the end of the day, however, these decisions—for which, again, it is clear, there is little to no Federal role—are the most important ones that will be made across this country over the next several years. History indicates that decisions will often be made based not on what is in the best interests of students, but rather what the path of least resistance is for those charged with carrying them out, despite whatever good intentions they, and I'm sure my fellow panel members, have. I ask that you at the very least monitor this process closely and make course corrections that provide incentives—if not requirements—for meeting the underlying purposes of the ESSA statute.

I look forward to discussing these and other issues with the distinguished Members of this Committee today and in the future in the hope that we, as a Nation, can work together to provide every child with the opportunity for a world class education so that every student truly succeeds to the utmost of his or her potential.

The CHAIRMAN. Thank you, Mr. Jeffries.
Ms. Spearman, welcome.

STATEMENT OF MOLLY SPEARMAN, SUPERINTENDENT, SOUTH CAROLINA DEPARTMENT OF EDUCATION, COLUMBIA, SC

Ms. SPEARMAN. Good morning, Chairman Alexander, Ranking Member Murray, my friend and Senator Tim Scott, and Members of the Committee. And, if I may, a surprise guest for me this morning, our State High School Principal of the Year, Luke Clamp, and a finalist for the National High School Principal of the Year.

I am very honored to have this opportunity to talk with you today about what is going on in South Carolina. I can assure you that I understand the rewards and challenges of serving in the classroom as a music teacher for 18 years and a principal; serving as a state legislator, and having to make tough policy decisions; and now as a state elected Superintendent of Education running an agency with 1,000 employees and trying to show progress in a system of 780,000 students, 55,000 teachers, 1,200 schools, and a diverse 82 districts ranging from world class communities where you have everything at your fingertips to the rural area where I live where school is the only job in town and Wal-Mart is about 30 miles away.

We have held over 120 ESSA stakeholder meetings in our discussions and the message was clear. Educators complained that they

were exhausted and frustrated with the one academic assessment model in No Child Left Behind.

Our business leaders explained to us that while we had been working on No Child Left Behind, a whole new industry of high skilled manufacturing jobs had arrived in South Carolina and we had over 60,000 jobs available with very few of our students prepared to take those jobs.

Parents said they did not understand because their students had done very well in our elementary and high schools, and had graduated college, but they had arrived back at home living in the basement with no job and a lot of college debt. What had happened? We had a big problem.

A new commitment was born. We call it the Profile of the South Carolina Graduate. That conversation started with a group of 12 superintendents. It quickly expanded to the State Chamber of Commerce, local chambers, school board members, PTA members, educators, and now it has been adopted by our General Assembly and signed by our former Governor Nikki Haley.

It is in law and it simply means that we, in South Carolina, are committed to supporting every student. That when they graduate one of our high schools, that they are prepared, not just with content knowledge, but now with the skills and characteristics that they need to live a successful life in their personal pathway. ESSA allowed us the flexibility to design an accountability model that matched our profile of the graduate.

We now use multiple measurements for college and career readiness. We give schools credit for industry credentials, apprenticeship programs, work-based environments, as well as dual credit, A.P., I.B., whatever the student completes.

As a proud military state, it is now not a lesser choice, but we recognize students who score ready on ASVAB, and those who enlist in the military or go to a military academy.

Secondly, I am very proud that ESSA has allowed us a renewed commitment to the areas like where I live, underserved communities where not just education is a challenge, but jobs are a challenge, health care is a challenge, special credit to the Opportunity Zones championed by Senator Scott, and included in your tax cut and job legislation.

Now, we have the Department of Commerce in our state working side by side with us in the same communities to fix education, but to also bring much needed jobs to the parents and opportunities for our students in these very rural areas.

For us in South Carolina, we built a four tiered support system for these schools. We call it communities of practice model. We know that we are wasting our time, and energy, and taxpayer dollars if we do not build a sustainable program in those rural communities with capacity. So when we leave, the work can still go on.

We use a model of transformation coaches. These highly skilled educators are the boots on the ground in these schools every day. They are there to give professional development. They work side by side with the principals and the teachers to give them the knowledge and skills that they need to serve these students.

Recently, I was visiting one of these areas. In fact, we are now managing three districts in South Carolina, and I asked 20 tenth

graders, “What do you want to see changed in your schools?” Well, the hands popped up all over and the first young African American gentleman said, “I want to be a welder, but we do not have a welding program in our district.” A young lady said, “I want to be a nurse, but we do not have a health science class in our school.”

I am proud to tell you that through the flexibility provided in ESSA funding, and our model of collaborative support, both of those students and their classmates are now involved in a career center. We had to move them to a nearby district for that, but it is working. We know for those high risk, underserved students, if we can get them involved in a career in technology program, their graduate rate jumps to 92 percent.

As Senator Murray said, it is hard work. It is easy to say we are going to have every child prepared, but it is hard work and I am here to represent the people who are out there doing that hard work every day.

We cannot do it alone as teachers. We have to have your support. We have to have parents’ support, the business community.

I want to thank you for giving us the flexibility to do what is needed in these individual communities. Without the flexibility of ESSA, these triumphs that we know are going to happen could not be. So thank you very much.

[The prepared statement of Ms. Spearman follows:]

PREPARED STATEMENT OF MOLLY SPEARMAN

Chairman Alexander, Ranking Member Murray, and Members of the Committee:

Thank you for inviting me to present the opportunities the Every Student Succeeds Act (ESSA) has allowed the State of South Carolina as compared to No Child Left Behind (NCLB). As a former public school music teacher and principal, I have had the experience of teaching in some of our most affluent school districts with every resource imaginable from keyboard labs, guitar labs, and a well-equipped theatre to traveling 18 miles away to my home district of Saluda where I found myself standing in an old, non-air-conditioned portable classroom with an upright piano and had to bring my own record player. Previously serving four terms in South Carolina’s House of Representatives and now as a statewide elected constitutional officer, I know firsthand the challenges of ensuring every student receives the opportunities they need and deserve through the public education system. In my current role, I have observed and been part of the education policy pendulum swinging back and forth over many years. This gives me the unique opportunity to present to you the positive changes that ESSA has afforded our state.

South Carolina previously operated under two accountability systems—a state system and the Federal NCLB. The dual system was very confusing in our state and was clearly not a best practice as our work was not aligned with a single goal. With the flexibility offered under ESSA, and the requirement of an outcomes-based system, South Carolinians are now united in our efforts and our commitment to accountability is clear. We measure how well all of our schools are doing in preparing every graduate for college-and career-readiness and citizenship, and we shine a light on areas where we need to improve to ensure achievement gaps are not masked or ignored. All of our work is centered on the *Profile of the South Carolina Graduate*, a document, which outlines the knowledge, skills, life, and career characteristics that every graduate should possess. This work began with a group of district superintendents and quickly grew to involve the South Carolina Chamber of Commerce and adoption by education stakeholder groups and local school boards prior to being put into statute by South Carolina’s General Assembly and signed by then Governor Nikki Haley. Another important change for South Carolina made possible by ESSA is the use of multiple measures—not just the “bubble-in” assessments required under NCLB. This holistic approach creates a common-sense accountability system that considers all important factors and gives schools credit for performance outside of just one high-stakes test, all while ensuring meaningful goals and targeted supports for all schools.

This change has ushered in the addition of a student academic progress, or growth model, as an indicator in our accountability system. Currently, we are using the Education Value-Added Assessment System (EVAAS) for grades 3–8 in English language arts and mathematics. We believe that using an academic progress measure is fair and a motivation for teachers who often find students at very different levels of readiness in their classrooms.

After robust discussion that included statewide town hall meetings, webinars, and public hearings, South Carolina chose to include a positive and effective learning environment as a measure of school performance at the high school level. Stakeholder feedback involving students, parents, and education advocates, such as members of the Columbia Urban League and South Carolina Council for Exceptional Children, who strongly suggested a focus on improving the climate of schools through safe, healthy, and positive environments. Currently, surveys are being used to fulfill the reporting requirements. Our stakeholders feel strongly that initiatives addressing character building, leadership development, creativity, and the arts must be a part of a successful school. We recognize our ESSA plan currently only requires this to be measured at the high school level. We are committed to working with parents and educators to find a path forward to reflect this priority in other grade levels in the future.

Hearing from small businesses, local and state chambers of commerce, and military liaisons, South Carolina recognized the importance of students being prepared for both college and the workforce in our ESSA plan. Our approach to ESSA incentivizes career readiness, as schools are rewarded for supporting and preparing students in work-ready skills. South Carolina high schools are awarded points for career readiness based on student completion of an apprenticeship, work-based learning opportunity, career program pathway, industry credential, or a silver rating or above on a career readiness assessment. We are proud that our system also recognizes military service readiness through success on the Armed Services Vocational Aptitude Battery, or ASVAB.

Officials at the United States Department of Labor have continuously recognized South Carolina as a national leader in apprenticeship programs, with over 226 programs that are youth-specific. Recently, two young men completed a mechanics apprenticeship at their local school bus shop—the first of its kind in the Nation. Upon high school graduation, they both have a high-skilled, well-paying manufacturing career awaiting them: one working full-time at BMW and another working part-time at a diesel engine plant while the company pays for him to obtain his technical college degree. Stories like these are proliferating across our state because our ESSA accountability system supports the needs and possibilities of the South Carolina workforce.

Continuing the focus of NCLB upon student subgroups, our ESSA plan requires that we must keep our focus on and serve all students. We are keenly aware of the importance of understanding and addressing both the barriers and successes of our most vulnerable students and subgroups in South Carolina. We have increased transparency in subgroup reporting by lowering the masking threshold (or n count) to 20. This will increase the visibility of subgroups in schools where none had been previously identified under NCLB. This, in conjunction with the increased accountability reporting, will shine a light on the performance of the subgroups across all metrics in the accountability system. South Carolina will continue to account for the performance of student subgroups in its identification of schools in need of targeted support and improvement.

In South Carolina, schools identified as Targeted Support and Improvement (TSI) Schools will consist of any school with a “consistently underperforming” student subgroup that has performed at or below all students at the bottom 10 percent of schools statewide, across all indicators, for three consecutive years. This strategy captures more students than ESSA requires.

Schools with the lowest performing subgroups will be identified for Additional Targeted Support and Intervention (ATSI) if the scores of any subgroup(s) are lower than the “all students” performance of the highest ranking Comprehensive Support and Improvement (CSI) School. In other words, when a subgroup performance mirrors that of the lowest 5 percent of schools in our state, we will work closely with every district to intervene and provide technical assistance. From these schools that are identified as ATSI, schools identified as having a “chronically low-performing” student subgroup(s) across all accountability indicators for two consecutive identification cycles, or 6 years, will then be moved from targeted support to our CSI category. Our expectation is not only for districts and schools to address the performance of these subgroups, but to sustain their improvement over time, giving these

students an equal opportunity to meet the vision for every student in our state found in the *Profile of the South Carolina Graduate*. Measuring the performance of subgroups across all accountability metrics will emphasize South Carolina's commitment to excellence for all students.

One important strategy we have implemented to support our lowest-performing schools is the development of a team of transformation coaches to build capacity and provide targeted assistance in the schools that need it most. Transformation coaches support South Carolina's educators and school leaders by being "boots on the ground" daily in our lowest performing schools to strategically guide their efforts. These coaches, who are fully funded by and employees of the state, range from a former national principal of the year to strong classroom and district award-winning leaders. They are selected based on their content experience and leadership qualities to be agents of support and change. They truly have answered the call to serve in our most underprivileged areas, often times located in rural communities nearly 40 miles from the nearest Walmart.

In South Carolina, we strongly believe schools will only be able to achieve excellence when the performance of all students, including those in historically underserved subgroups, meet expectations. This also gives us a unique opportunity to blend our efforts, particularly for students with disabilities, in a braided approach with our work under both ESSA and IDEA.

As an example of our commitment to high standards and accountability, the state recently took over management of three school districts in South Carolina. One of those, Florence School District Four, is a very small, rural, high poverty district where students were performing at the lowest levels in our state and had little opportunity for career skill development. The district was financially unstable and the future was bleak at best for these students. Now under state management, a new model of shared services is underway. We have contracted with two neighboring school districts to provide district level functions at a cost-savings of over \$600,000, representing a 50 percent administrative cost reduction for the district. These savings are being pushed down to the classroom to provide more opportunities for these rural students. I visited the district's high school in May right before the state-takeover and asked a group of students what they needed in their school. The first hand was from a 16-year-old male student who said, "I want to be a welder, but we have no welding program." Another student, young lady said, "I want to be a nurse, but we have no health science equipment." One of my proudest achievements is that these young people are enrolled this year in welding and health science, in addition to the challenging academic content that all students receive.

On behalf of my staff at the South Carolina Department of Education, I commend your congressional staff and the staff at the United States Department of Education as both have been extremely responsive to our questions and needs. Participating in the U.S. Department of Education State Support Network, as well as supports provided by the Council of Chief State School Officers, have been very helpful as we designed and are now implementing our ESSA plan.

Finally, I want to thank each of you for your service to the students, parents, and educators in South Carolina and across our country. As a former legislator, I also appreciate the role this Committee plays in monitoring the progress of this new law and how it is being implemented across states. ESSA has moved the education pendulum in the right direction of accountability, support, creativity, and flexibility which benefits everyone. Thank you.

The CHAIRMAN. Thank you, Ms. Spearman.
We welcome the South Carolina Principal of the Year.

Ms. SPEARMAN. Thank you.

The CHAIRMAN. We will go to Senator Scott.

Senator SCOTT. Thank you, Mr. Chairman.

Thank you to the panel for being here and Molly, good to see you again.

Ms. SPEARMAN. Good to see you.

Senator SCOTT. I hope you are doing well.

Ms. SPEARMAN. I did not see you come in.

Senator SCOTT. Yes, ma'am. I am sorry I missed your opening comments. I was not here for the beginning of the Committee. I

was in my Armed Services Committee where we are working on a couple of nominations as well.

But I did want to say about Molly Spearman, our amazing Superintendent of Education, that your dedication and commitment to public service is unrivaled. Your passion for education is, perhaps, a place where I would like to reinforce your commitment to public service.

I know that when you started from your farm in Saluda County.

Ms. SPEARMAN. Dairy farm. Yes, sir.

Senator SCOTT. The more I think about farmers, the more I realize that the day does not start at 7:30, or 8:30, or 9:30, but your day starts at 4:30 or 5:00.

That work ethic that you learned on the farm certainly has transferred into your passion and your desire to serve people in the public forum. And that your commitment to education is not simply a commitment as the Superintendent of Education.

It started as a teacher having a positive interaction and a passion, a love for children reinforced that commitment. And then as the assistant principal, your ability to see from a management perspective how to engage the students, how to engage their parents, and how to make sure that everybody was a part of the glue that makes schools work.

Then as a legislator, serving in the State House, God bless your soul for that.

Ms. SPEARMAN. Amen.

Senator SCOTT. I only served one term; that was enough for me, but it is really hard work, important work that you were inspired to focus your attention even as a state legislator on education, on making sure that the quality of life experienced by your kids throughout the state would be benefited and impacted positively by your service.

Now, certainly, as a Superintendent of Education, you continue an amazing career in public service. So thank you very much for representing kids so well. Thank you very much for representing parents and the passion that they have for their own children so well. And thank you so much for being an amazing example of what South Carolina produces.

Ms. SPEARMAN. Thank you.

Senator SCOTT. My question for you, I will start off with the issue that you mentioned, and thank you for mentioning the Opportunity Zones in your opening comments.

One of the things that I had in mind when I designed the opportunity zoning legislation was finding a way to bring more resources into distressed communities so as to make sure that those kids, kids like myself—when I was a 7-year-old kid living in single parent household disillusioned—that there would be the type of resources that would allow for me to see the full expression of my capacity. I think that school construction, seeing that as a real opportunity in Opportunity Zones, I hope it manifests.

Can you speak at all about the passing of the tax legislation, providing more resources, and how schools, or the charter schools or private schools, would benefit from that?

Ms. SPEARMAN. Yes, sir, and thank you for your kind remarks. And likewise, we are very proud of your service.

I want to thank you because I know that you take time to go and visit schools whenever you are home, and it means so much because you are an inspiration to many of our students.

You are right. Education cannot solve the problems in some of these distressed communities alone, but when I go and visit there, the most precious, well-mannered children with dreams some of them have never seen all the jobs that are available.

The other "Ah-ha!" that has come to me that when I have business leaders come in to me or if it is health care folks to say where they feel like they need to go and work, as with the Department of Commerce in South Carolina, and when they put the map down, it is the exact same place where the education challenges are.

We are working very closely with the Department of Commerce. They are there in Timmonsville, which is a small, rural area in Florence County. We have a renewed relationship now with a Honda factory that has moved in.

Senator SCOTT. Yes.

Ms. SPEARMAN. They are opening up apprenticeships or internship programs for students to go in and not only see the jobs and the teachers to see the jobs, but experiment with those. So it gives hope and that is what I see in these students.

But the other thing, Senator, that I see is that ESSA has allowed us to make work a cool thing again. We had gone, the pendulum, so far that everything was based on a college entrance exam, and that is great for many people.

But we need workers who show up to work on time. We need workers who can get along with each other working along with our business and industry. That is what I see has improved so much with ESSA, and designed into our accountability model, and goes hand in hand with what is going on in our Opportunity Zones.

Senator SCOTT. Thank you.

The Chairman has been kind enough to extend me an extra minute. I appreciate that, sir.

The CHAIRMAN. Well, sure.

[Laughter.]

Senator SCOTT. Thank you.

The CHAIRMAN. Then I will have to give Senator Murray an extra minute.

Senator SCOTT. We talked about the importance of bringing more resources into distressed communities. We talked about the power of ESSA to have more flexibility without any question.

When we look in South Carolina and Orangeburg specifically, we have a charter school there, the High School for Health Professionals in Orangeburg. It is in an economically distressed community. But what we are seeing here is that in a distressed community, where I believe that your ZIP Code should not determine the quality of your education, we are seeing specifically the exact opposite that we have heard about throughout the country, and specifically home in South Carolina.

We are seeing, in 2017, 100 percent graduation rates, 100 percent college or military acceptance rates, and 70 percent of the students went into college with some type of scholarship. This is the kind of success we need everywhere around the country and you

are highlighting a part of what makes that possible at home in South Carolina.

I know you are a Bearcat and so as a Lander University Bearcat, you cannot go to Lander University if you do not finish high school.

Ms. SPEARMAN. Right.

The CHAIRMAN. We will be glad to have a second round of questions, if you will state your question and then we will go to Senator Murray.

Senator SCOTT. Thank you very much.

How does our plan enable growth among successful charter schools like the High School for Health Professionals and how can we foster increased enrollment in, and replication of, successful schools?

The CHAIRMAN. Senator Scott can ask that——

Senator SCOTT. For the record.

The CHAIRMAN. ——For the record——

Senator SCOTT. Yes, sir.

The CHAIRMAN. ——Or he can come back in a second round. I will be glad to give him plenty of time to ask it.

Senator SCOTT. Thank you for your indulgence.

The CHAIRMAN. We have other Senators waiting.

Senator Murray.

Senator MURRAY. Thank you very much, Mr. Chairman. I thank all of our panelists today.

Mr. Jeffries, let me start with you. For over a year, I have raised concerns about Secretary DeVos' implementation of ESSA, specifically approving state plans that do not comply with all of the law's equity guardrails, including the subgroup accountability and school identification. The law really is a series of building blocks, each phase provides a foundation for the next phase of implementation.

If in Phase 1, State Plan Approvals, if it is flawed and implemented incorrectly, that flawed implementation will then necessarily impact the implementation of the next phase of the law, which is School Improvement.

Talk to us about how the failure to correctly implement subgroup accountability and school identification impacts school improvement, and what that means for students who are sitting in our classrooms today.

Mr. JEFFRIES. Thank you, Senator.

That failure fundamentally defeats the core purposes of ESSA. Congress was very clear and explicit. That is saying that the foundational purposes of ESSA were to ensure that all children have a significant opportunity for a fair, equitable, and quality education that closes achievement gaps. States simply cannot close achievement gaps if they do not even know they exist.

To ensure that this was not the case, Congress was very explicit to say there must be subgroup differentiation by the core subgroups for which we have had a long history, sadly, where certain populations of young people simply have not had access to educational equity. That is low income children, children who speak English as a second language, children of color, children with disabilities.

We have many states that simply have decided not to comply with that mandate. We have some states that simply do not dif-

differentiate by subgroups at all. We have some states, like Arizona, that differentiates by subgroups in Grades 3 through 8, but not in high school.

We have several states—Connecticut and Massachusetts, Mississippi and New Mexico—that have what we call “super subgroups”. They just group all four subgroups into one omnibus subgroup, which means those states have no capacity to differentiate based on disaggregated data about whether some of those subgroups do well or not.

Senator MURRAY. Correct.

Mr. JEFFRIES. In any event, without the subgroup data then you cannot then craft remedies that are tailored to the particular deficits that need to be addressed.

Senator MURRAY. Thank you. I think that outlines it exactly. I really appreciate that.

Let me talk about another issue that is really important to me. It is important to me as a mother, as a grandmother, as a former preschool teacher, as a United States Senator, and that is the issue of gun violence.

I believe that Congress was very clear when we passed the bipartisan Every Student Succeeds Act that the Title IV Part A program was intended to be used for purposes like helping more children get access to mental health care or providing additional programming in STEM or the arts. Not for purchasing weapons.

As I said in my opening statement, unfortunately Secretary DeVos is ignoring our intention and allowing states and school districts to purchase firearms and firearm training, actually, with ESSA funds.

Mr. Jeffries, I wanted to ask you, can you tell me about some of the consequences, including for students and for staff, when firearms are brought into school buildings?

Mr. JEFFRIES. Well, absolutely.

First Title IV, as the Senator pointed out, is designed to ensure that kids are actually educated well so that core educational services in particular in Title 1 schools, kids are often now going without: going without access to STEM support, going without access to technological supports, going without access to mental health and other types of services, services that they do not already have enough money for. So to divert money into sending teachers to gun ranges really is preposterous.

The idea that we are going to have untrained teachers walking around schoolhouses and not using Title 1 dollars to learn how to teach Fifth Grade fractions better, but to go to gun ranges and to see if they can figure out whether they are capable of wielding firearms in a school building really just feels absurd on its face.

We see in so many instances that trained security personnel too often are shooting unarmed people unjustifiably.

The idea that teachers—who really do not have free time and oftentimes are underpaid and have their hands full with the professional development support they need so they can actually teach better—we are going to send them for some random number of hours to gun ranges, and believe they will then be equipped with the capacities they need to know when to shoot, when not to shoot when children are in a school building and parents have to drop

their kids off at the school. So this is not a situation when in their private capacity, people can decide to wield firearms. Parents have to take their kids to school.

The idea that untrained teachers who are not security professionals will be armed really just feels absurd on its face and it will also pose a very present danger to our young people.

Senator MURRAY. The other side of that question is what are some of the programs that would not be funded if this money was taken away for arms training?

Mr. JEFFRIES. Well, there are a range of services that Title IV funds from computer science programs, music, art, STEM, extended learning time, personalized learning, which is a very important approach that many school districts are going to now.

The core educational services in Title I schools, schools are already struggling to meet and already do not have the resources to meet. The idea that we would divert precious and scarce resources to arming teachers is not only a bad policy, but it would contradict the equity mandates in ESSA.

Senator MURRAY. Thank you very much. Appreciate it. My time is up.

The CHAIRMAN. Thank you, Senator Murray.

I want to get pretty quickly to the question of school report cards, but I want to briefly respond to a couple of comments Senator Murray had.

I am glad to continue to visit with her about the question of whether Secretary DeVos is following the law in implementing the subgroups. The Senator raised that last January. Secretary DeVos offered to meet with us.

I met with her and career lawyers from both the Trump and who formerly worked with the Obama administration, consulted with the congressional Research Service, and I believe that she is exactly following the law in those cases.

She is still willing to meet with Senator Murray or other Senators who would like to meet with her to discuss that. I think we have a difference of opinion in reading the law.

In terms of the waivers, there have been 23 waivers under the disability provision. They are granted according to a regulation that was guidance that was created during the Obama administration. They all, or most all, last for 1 year so that the state may implement those provisions, and that waiver provision is within the 2015 ESSA law.

As far as guns go, arming teachers, I am not a fan of arming teachers, although the National Center for Education Statistics says 43 percent of schools do have armed school personnel.

As I read the law, Title IV specifically gives states the decision about spending their money to create safe conditions including drug and violence prevention.

The other law, Senator Hatch's provision, the Stop Violence in School Act, was a different provision under the Department of Justice where that funding is and it specifically says in that law that it is not to preclude any other provision of law authorizing provision of firearms or training in the use of firearms.

Now, let me go to each of you and ask you about school report cards. One of the most offensive parts of No Child Left Behind to

me was that we seemed to catch schools doing things wrong. There was a management book that was about catching people doing things right as a good principle of management, but we had this failing school designation which showed up in the newspapers, and it offended teachers, and discouraged people all across the board.

The new law does not have a provision about what kind of school report card you should have. It does say that you should collect the data, these aggregated subgroups, and make it public. But each of you has, in different ways, created reports of what you are doing.

In Delaware, there are scores of zero to 500 points and three categories. In Nebraska, you have excellent, great, good, or needs improvement. In South Carolina, you have excellent, good, average, below average, and unsatisfactory.

Tell me your thoughts, if you can succinctly, about why you chose those labels and how you are avoiding the discouraging label of “failing school”?

Mr. Blomstedt.

Dr. BLOMSTEDT. Yes, in our case, we had several different conversations with our State Board of Education. We actually brought in folks from an assessment perspective in looking at how we would define our particular schools.

We were actually somewhat, on some fronts, criticized for having a feeling like that is a positive skewed one. But I will tell you from our schools is they know what excellent is. They know what great is. They know what good is.

What we are very worried about is providing the resources and support for those schools that fall in needs and permitted. So we had serious conversations about those particular labels and what they would mean for our schools.

The CHAIRMAN. Ms. Bunting.

Dr. BUNTING. We have a philosophy of the people, by the people, and for the people and our report cards clearly reflect that.

We have held a number of community conversations throughout the state, and it has been our stakeholders that have been able to guide us on what they would like to see in a report card.

We are very transparent. We will report on subgroup data. We crunch that data, and we are very attuned to the performance and the gaps, and that will be made public for people to see.

But we are highly engaged with our public in designing the exact features of that report card, and the labels that are used, and the method that has been designed to get them.

The CHAIRMAN. Ms. Spearman, you have about 25 seconds.

Ms. SPEARMAN. Yes, sir.

In South Carolina, we believe that words do matter. So we did try to find some encouragement for schools in what they were doing. We have a system that is a 100 point system. We are reporting on a very transparent report card that is very easy to understand by parents, I believe.

The CHAIRMAN. Thank you very much.

Senator Bennet.

Senator BENNET. Thank you, Mr. Chairman.

Thank you to the panel and for all you do for education.

I first want to ask whether there is anybody on the panel who believes that we should be spending Federal education dollars to arm teachers in our schools?

Dr. BUNTING. In Delaware, that has not been a major topic of discussion, but actually our teachers union has come out against it. Our Governor is strongly against it. It is not getting traction and we have other ways. We are very concerned about school safety, but we are looking at other ways to make sure that that happens.

Dr. BLOMSTEDT. I would say in Nebraska's case, we have had no serious conversations at all about trying to use Federal funds for that approach, and I would not support that.

Ms. SPEARMAN. South Carolina, we are putting our focus on mental health counselors, school resource officers, and training of teachers.

Senator BENNET. Thank you for that testimony.

Mr. Jeffries said earlier that the whole purpose of Title 1 was equity, and I believe that too.

In fact, I do not think that—as a former school superintendent myself of the Denver public schools—I do not think that there is any reason for the Federal Government to be involved in this except for the civil rights issues.

As all of you know, it is sad to say this and politicians do not like to say this, but it is sad to say that among wealthy countries in the world, we have some of the lowest economic mobility in our country of any country in the world, developed country in the world. The highest income inequality of any developed country in the world and the exception to that are people that get a quality education.

The exception to the idea that your parents' income determines your income, that your parents' income exactly determines the quality of the education you can get are people who managed to get through somehow, like Mr. Jeffries talked about how he got through.

I would be curious what each of you is doing in your states to take on this equity issue that Mr. Jeffries raised. Not just how you are spending your Title 1 money, but what are you doing to make sure the most qualified teachers are teaching the poorest kids? That the poorest kids have access to the highest quality curriculum, or to A.P. tests, that we are getting them through high school and into college?

With that, I will yield the balance of my time. Mr. Blomstedt, please take it.

Dr. BLOMSTEDT. Yes, first of all, thanks for that question.

I think for us, we have outlined a series of equity commitments from the Department of Education that go beyond, certainly beyond the requirements of ESSA and thinking about, "How are we going to get to each one of those students and make sure that they have the resources necessary to be successful?"

When we are looking at our schools that need improvement and fall into that category, we are looking at specific interventions that are going to make a difference for them.

I think, in particular, our work around thinking how we get the best teachers in these classrooms is absolutely important, absolutely critical. Thinking about how we support leaders that under-

stand, building level leaders that understand what quality instruction looks like for all students. We get worried about things like the disproportionate discipline and other things that occur.

We are looking at a whole bunch of different factors to make sure that we are changing our system to serve that equity need.

Dr. BUNTING. I can echo his statements and I would like to add that equity access is one of our main priorities under ESSA. We are doing a great deal, even to train our whole department, on equity issues and trying to diversify our workforce.

Our state legislature is so dedicated to this cause that it has actually passed a law that we are to provide loan forgiveness for teachers who will go into the lowest performing schools, and they will be rewarded for taking that step.

Ms. SPEARMAN. One of the things that we are doing on the reality of finding bodies to go to some of these neglected communities, South Carolina runs a virtual school program where it is the fifth largest in the country. It is offered free to all of our schools, private and also homeschooled students with really high quality instruction. All of the A.P. courses are offered. So wherever you live, you can get high quality instruction.

The other thing that we are doing and taking very seriously in our four tiered level of support to the fourth tier, which is management of school districts. We are currently managing three districts.

For us, it was not just the quality teacher, but it was actually having school boards that were doing the right thing for children and supporting the leadership in the community to the point where I had to go in and take the authority away from those school board members. We are running those districts with folks on the ground and appointing new leadership in those communities.

It is a system and if one part of the system is broken, if the people do not select really good leadership at the school board level, it will not work either. So it goes down to that level for us.

Senator BENNET. Mr. Jeffries, I have 15 seconds left. Was there anything you would like to add on this equity point?

Mr. JEFFRIES. Well, I would just add that this is not an area where you get an "A" for effort. So it is great that many states have a variety of initiatives, but that is precisely why the accountability mandate is so important, that the evidence has to actually show that these subgroups of kids actually are being prepared for their future.

Senator BENNET. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Bennet.

Senator Murphy.

Senator MURPHY. Thank you very much, Mr. Chairman.

Thank you all for being here today. Thank you for your commitment to America's children. Thank you for your very straightforward answer to Senator Bennet's question regarding the efficacy of arming our teachers.

It will not surprise you to know that I disagree with Senator Alexander with respect to the ability that the Secretary has to allow Title IV funds to be used to arm teachers. There is, in fact, in Title IV a specific permissive use of those funds for violence prevention.

In that section of the statute, it allows for those funds to be used under Title IV for violence prevention so long as they are used to build weapons for these schools. That, to me, would suggest that it was the clear intent of those who wrote the bill on this Committee to deny the use of those funds to arm our teachers.

Notwithstanding, as Senator Alexander notes, that there are certainly armed security officers in these schools, as has been the practice for a long time. I frankly wish that we had the Secretary of Education here or at least a representative of the Secretary of Education so we could have a conversation about how and why they are interpreting that statute in the way that they are.

I look forward to continuing that discussion.

I only have one additional question on this topic and I think I can probably guess the answer given your response to Senator Bennett's question.

Are any of you aware of any data that suggest arming our teachers makes our schools safer?

Ms. SPEARMAN. I am not aware of any data.

Dr. BUNTING. I am not aware of it either.

Dr. BLOMSTEDT. Nor am I. I am not aware of it.

Senator MURPHY. Mr. Jeffries, you work with a lot of schools that are located in areas where there are high rates of gun violence.

Is the problem in those neighborhoods, and in the places around those schools, that there are not enough guns?

Mr. JEFFRIES. Absolutely not, Senator. Absolutely not.

Senator MURPHY. I will put this topic to bed because I like the place that we are on this panel, and I appreciate your answers to the question.

I also agree with Senator Murray's concerns around the way in which this administration is failing to enforce many of the accountability metrics. I do not think we would have written four different subgroups; I know we would not have written four different subgroups into the accountability title in the law if we did not expect schools to actually measure and report on all four of those subgroup categories.

But we also required that to the extent that whether in the subgroups or in the schools writ large if schools are not meeting the expectations that you set, that you will provide for evidence-based strategies to turn those schools around.

One of the other concerns that we have is that Secretary DeVos has not required that states show that they are investing in evidence-based measures. And that was a really important phrase in that law to make sure that you are not just repainting the walls in the school and claiming that it is an intervention. That you are actually using what works to turn around performance for disabled kids, or for minority kids, or for English language learners.

Let me just leave this as the last question.

What do evidence-based interventions mean to you as school chiefs? What do you use to draw upon to make sure that you are not just doing something that sounds good, but that you are actually doing something that works when you are trying to serve these populations of kids?

Dr. BUNTING. We like to experiment with something, pilot a program, for example, and keep the data to show that it is making a difference at reducing the gap between our groups.

We have also case formed our department and have a student support team that truly concentrates on just such supports. We are there providing that to go out to schools.

I also meet with each superintendent from our districts and look at subgroup data and ask about what they are doing for the various subgroups, and I do that several times a year.

Senator MURPHY. Can I press you on that for a moment because you said that you like to experiment? But would not the language of the statute which requires you to use evidence-based interventions mean that you are not free to experiment? You actually have to use interventions that have proof of concept already.

Dr. BUNTING. Correct. And then we pilot them in certain districts and follow-up. If it works, then we hopefully have tried them in districts that are diverse within the state and we can actually then make statements, "This is a very worthwhile effort. We would like to see you implement it in your school."

We do have local control, but we also have a menu of evidence-based practices to recommend.

Senator MURPHY. Ten seconds, Mr. Blomstedt.

Dr. BLOMSTEDT. Yes, so thanks. We put something in there we call an evidence-based analysis in our school improvement process, and we are going to include that as part of our ongoing school improvement and accreditation process in addition to the accountability side. So that is our approach.

Senator MURPHY. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Ms. Spearman, did you want to answer his question?

Ms. SPEARMAN. For us, it means that we do not just say, "Tell us how you are going to fix yourself," anymore. There are strings attached to the funding.

We do have, in fact, we are finding that a very concrete, research-based system for most of these school districts is very simply that we need to tell them, "This is how you need to do it."

The CHAIRMAN. Thank you, Senator Murphy.

Senator Cassidy.

Senator CASSIDY. Hello to you all.

Ms. Spearman, my mother is from Camden, South Carolina and I am just listening to you speak, and I am just thinking of my Aunt Lucille. So thank you for bringing a great memory.

Folks on this panel know that I am very interested in dyslexia. It affects one in five of our students. Here is an article from "The Journal of Pediatrics," again showing that the problem of dyslexia can be found as early as first grade.

If you do not screen, if we do, "Wait a second, they cannot read by third," well then, it is lost because you learn to read by Grade 4 and then you read to learn, but by that time, you have not learned to read.

Let me just ask, not you, Mr. Jeffries because you are the advocate, if I will, but of those who are the educational directors, what are you all specifically doing to screen for dyslexia? At what age

do you begin to screen? And then after having screened, what is your approach to address the issue?

Mr. Blomstedt.

Dr. BLOMSTEDT. Yes, thank you. Actually we just had a pretty thorough discussion with our legislature this past legislative session on something we are calling the Nebraska Reading Improvement Act and actually implementing some assessments, kindergarten through Second Grade and then into Third Grade.

Looking at what gaps there are in assessing a student's ability to read and where they are at, and addressing dyslexia among other things. Making sure that we have a fairly sweeping opportunity to analyze where every student is and really working with school districts to do that.

Senator CASSIDY. How are you screening?

Dr. BLOMSTEDT. Yes, I am probably not going to do good on the various tests, but there are different tests that we are looking at, and actually some that we are having to recommend across the state. So we will actually have a set of recommended assessments.

Senator CASSIDY. This is a work in progress.

Dr. BLOMSTEDT. Yes, it is. It is, right.

Senator CASSIDY. If a child screens positively for at risk for dyslexia, what then is done?

Dr. BLOMSTEDT. The expectation is that any student that would actually screen for dyslexia, there would be appropriate strategies put in place for that individual.

Senator CASSIDY. Any elaboration on what that strategy is?

Dr. BLOMSTEDT. I probably will not do as well at the specific strategies, but that is the intent that every school would have a strategy behind it.

Senator CASSIDY. Ms. Bunting.

Dr. BUNTING. That is true in Delaware as well, and it depends on the student's exact strengths and weaknesses as we test for the dyslexia.

Senator CASSIDY. What grade level do you screen and is that screening universal?

Dr. BUNTING. It is universal. We have an observational set of efforts first and then beyond that, in kindergarten, for example.

Senator CASSIDY. Now, let me ask because most kindergarteners do not read.

Dr. BUNTING. Correct.

Senator CASSIDY. When you say "observational," what is being observed?

Dr. BUNTING. There are certain habits, certain practices, reversal of letters and things of that nature that begin to make you question if there might be some dyslexia involved.

There is great conversation between the reading specialist, and most schools have a reading specialist. They also have reading interventionists.

Senator CASSIDY. Is it more the observation than it is a formal screening process?

Dr. BUNTING. As you become first graders and second graders, it becomes more formal as far as the identification.

Senator CASSIDY. Can I ask what that formal process is?

Dr. BUNTING. There are tests that are used and I am not, at this moment, able to tell you the exact name of the test that is used in each case, but our reading specialists in the schools have a variety.

Senator CASSIDY. Now, if a child screens positively—I have limited time, I do not mean to be rude—if a child screens positive for being at risk, what is then done with she or he?

Dr. BUNTING. The reading interventionist may be working with that child. We also have a multi-tiered system of support that we provide.

Senator CASSIDY. Now, is this the so-called R.T.I.? Or is this something which is more—

Dr. BUNTING. It is much broader than that, and then we actually, as I mentioned, have reading specialists in each of our schools who will either directly provide services to students or they may give certain tactics to be used in the classroom depending on the child's degree of need.

Senator CASSIDY. Ms. Spearman?

Ms. SPEARMAN. In South Carolina, we are in our fourth year of legislation called Read to Succeed, which means that every teacher, including P.E. and music teachers, have to have an additional add-on certificate in their tools of how to teach reading.

Just last year, we passed dyslexia legislation that does require screening in K and first grade. It is done three times.

Senator CASSIDY. What grades is this?

Ms. SPEARMAN. Kindergarten and first grade.

Senator CASSIDY. That is great.

Ms. SPEARMAN. We do—

Senator CASSIDY. That is universal?

Ms. SPEARMAN. Yes, sir. And we have training modules for our teachers where they are now—

Senator CASSIDY. Can you share the results? Do you have those at the top of your head, if you will, what percent of your children are screening at risk?

Ms. SPEARMAN. This is our first year going into that.

Senator CASSIDY. Got it.

Ms. SPEARMAN. But I can get you any other information that we might have, but we have really been working to make sure. Because our teachers were neither equipped with the tools needed to address dyslexia nor other reading problems as well.

Senator CASSIDY. I may have questions for the record. I am out of time.

Ms. SPEARMAN. Yes, sir.

Senator CASSIDY. A real shout out. My wife has started a public charter school for children with dyslexia, but has worked with a school near Clemson, which is also a public charter school in South Carolina, for those with dyslexia.

Ms. SPEARMAN. If I may, we also have a tax credit that families can take advantage of called Exceptional SC where children, if you are not being served in the public school, and if there is a private school that can help your child, those children can go tuition-free.

We have a dyslexia focused school, private schools across the state where families can attend those as well.

Senator CASSIDY. Thank you all.

The CHAIRMAN. Thank you, Senator Cassidy.

Senator Warren.

Senator WARREN. Thank you, Mr. Chairman.

First, I just want to join my colleagues who have expressed concern with allowing school districts to use Federal education dollars to buy guns for their teachers.

Now, many public schools in this country cannot afford school nurses, guidance counselors, or basic classroom supplies for their students.

Allowing schools to use scarce Federal dollars to put guns in classrooms is an idea that is dangerous and dumb, and it clearly was not our intent when we wrote ESSA.

I want to thank all the moms and friends of moms who are here this morning to remind Congress that we do not work for the N.R.A. We work for the people.

I am here to talk about how states are implementing ESSA, and I am going to submit questions for the record on accountability provisions in the law.

But last week, we marked the one-year anniversary of Hurricanes Maria and Irma, which absolutely devastated Puerto Rico and the U.S. Virgin Islands.

The Puerto Rican government recently revised its death toll to 2,975 American citizens who lost their lives due to Maria and its aftermath. That makes it the deadliest natural disaster in modern American history.

We also know that this storm had ripple effects all across the country, displacing tens of thousands of children and families, sending many students who were not able to stay on the island to new schools all across the country.

Just by a show of hands, how many of you absorbed students from Puerto Rico or the U.S. Virgin Islands into your school systems last year?

[Hands raised by Dr. Bunting and Ms. Spearman.]

Senator WARREN. Secretary Bunting, how many displaced students did Delaware take in?

Dr. BUNTING. Approximately 100.

Senator WARREN. About 100.

Dr. BUNTING. About 100.

Senator WARREN. Superintendent Spearman, how about South Carolina, about how many students?

Ms. SPEARMAN. Fifty.

Senator WARREN. You had about 50.

Superintendent Spearman, do you expect more students this year because of Hurricane Florence?

Ms. SPEARMAN. We do. In fact, today is not a good day in some of our school districts in South Carolina because the floodwaters of Hurricane Florence are arriving in the Horry school district, Georgetown school district as we speak.

We anticipate a much larger number with our sister State of North Carolina being hurt so badly.

Senator WARREN. Well, and this is exactly the point. When disasters hit, they do not affect only the communities that are directly hit by the eye of the storm.

In Massachusetts, we took over 3,200 students who were displaced by Maria. We did that because that is what we do in a disaster. We reach out. We take care of people who need help for as long as they need it. I know that in most of our states including Tennessee, the same thing has happened.

On the first day of school in Puerto Rico last month, more than 250 schools were permanently shuttered. In the first week of the school year, more than 56,000 enrolled students, students who the Puerto Rican Department of Education expected to be in school, were missing from classes because they have not come back. That does not even include the decrease of approximately 42,000 students in enrollment since last year.

Mr. Jeffries, these are profound numbers. Do you think Congress should hold hearings on Hurricane Maria and its devastating impacts on the educational system to figure out what lessons we can learn before the next disaster strikes?

Mr. JEFFRIES. Absolutely, absolutely.

As the Senator pointed out, we have had well over 250 schools closed, well over 40,000 children displaced. There are all types of questions in terms of schools being overcrowded, whether kids are getting their mental health services and special education services, as well as just broader questions about whether or not basic educational opportunities are available to those kids.

Senator WARREN. Thank you.

Commissioner Blomstedt, do you know how many hearings the Senate has held on how the education and health systems in Puerto Rico were affected by Hurricane Maria, the deadliest storm in modern American history?

Dr. BLOMSTEDT. I am guessing zero, but I did not know there would be a test.

Senator WARREN. Well, but you got the right answer.

Dr. BLOMSTEDT. All right.

Senator WARREN. Because the answer is none, zero.

Hurricane Maria killed about 3,000 American citizens, had a crippling impact on health and education systems in Puerto Rico and the U.S. Virgin Islands, had an impact all around the country, and yet, there has not been a single hearing.

Three months after Hurricane Maria, a bipartisan group of nine Members of this Committee wrote to the Chairman to ask for a hearing on Hurricane Maria's impact on health and education systems. A month later, 186 organizations sent the Chairman a letter echoing this request.

Mr. Chairman, I have spoken to you privately about this multiple times. I believe you when you say you are looking into it. I want to respect your hearing selection process.

This morning, I sent you another letter asking for a hearing. I have seven of my colleagues who have joined me in this request.

We hope you will consider this latest request and that we will have a hearing on the impact, the devastating impact on Puerto Rico, the U.S. Virgin Islands, and the rest of the country because of this deadly hurricane.

The CHAIRMAN. Thank you, Senator Warren. I have the letter right in front of me and I thank you for giving it to me before the hearing.

Senator Hassan.

Senator HASSAN. Well, thank you, Mr. Chairman and Ranking Member Murray.

Good morning to the panelists. Thank you for being here. Thank you for your expertise and your passion for educating our kids.

I want to start off just by echoing my colleagues' concerns about any Federal dollars being used to arm teachers. It is a dangerous proposal. It goes against congressional intent and Secretary DeVos has full authority to deny that any education funding be used in this way.

But today we are here to talk about the implementation of ESSA. This law has been lauded as opening the door to more flexibility for states to be innovative, something that my own State of New Hampshire knows a great deal about.

New Hampshire's Performance Assessment of Competency Education, or what we call PACE, executed through a Federal waiver, helped pave the way to the creation of ESSA's innovative assessment pilot, a pilot that New Hampshire has since applied to.

Schools participating in PACE replaced standardized testing with locally developed common performance assessments that are integrated into a student's day to day work while giving the statewide assessment to those students just once per grade span.

As we innovate, I think as we all know, we discover things like kids learn better with hands-on education, and some kids learn better with a combination of hands-on and reading and writing and the like.

We know that innovation is important, but first and foremost, we need to ensure that all students have the tools that they need to succeed, that that innovation actually works, and that is where accountability comes in.

To Mr. Jeffries, the Every Student Succeeds Act is a civil rights law that was designed to ensure that all students have the opportunity to excel regardless of personal circumstances. And I agree with you, you do not get an "A" for effort here. We really have to do things that work.

The law includes specific guardrails to protect students who have been historically underserved including requiring that states factor the performance of student subgroups into their accountability systems.

Specifically, the law requires states to establish a system of meaningful differentiation on an annual basis of all public schools in the state which shall be, and this the language in the law, which shall be based on all indicators in the state's accountability system for all students and for each subgroup of students.

According to analysis conducted by the Alliance for Excellent Education, only 17 states include the performance of subgroups in their ratings as required by ESSA and many more states risk under-identifying students for support.

I am very concerned that the U.S. Department of Education has approved state accountability plans that are not in compliance with the law.

Mr. Jeffries, do you think the Department of Education should require states to amend their plans to bring them into full compliance with ESSA?

Mr. JEFFRIES. Absolutely, not only should the Department do that, the Department must do that because the bargain that this Congress made with the states was that in exchange for these dollars, you must implement the subgroup accountability mandate. So there really is no discretion for her not to require amendment in those circumstances.

Senator HASSAN. Well, thank you for that.

I am going to ask a question to the state chiefs and directors who are here. We may have to ask the specifics of it for the record, but ESSA presents an opportunity to make important strides for the Nation's students, particularly those who have been continually underserved.

I am particularly concerned about students with disabilities, children who have tremendous potential, but often need additional support to achieve it. nationwide, less than 67 percent of students who experience disabilities graduate from high school with their peers, and in 12 states, over one-third of students who fail to graduate are students who experience disabilities.

In a forthcoming report, the National Council for Learning Disabilities identifies ways in which states, through their ESSA state plans, could better meet the needs of students who experience disabilities.

The report states that while some states have strong plans to use ESSA to help meet the needs of students with disabilities, far too many states are squandering this opportunity. We have heard some concern about raising the number of waivers allowed to school districts for children with disabilities.

I will tell you that, from a personal perspective, my adult son has very severe cerebral palsy. He is nonverbal, but he is very cognitively able. It was not until his school district was required to assess how he was doing and figure out how they could communicate with him and he could communicate with them that he actually began to make progress. Because the school district, the teachers kept saying, "We are doing all these things." And we kept saying as parents, "But how do you know they are working?"

It was not until a regular education teacher said, "You have a very smart son." And I said, "Well, we think he is smart, but how do you know?" And this is a really good regular education teacher in a busy classroom. She said, "Because he laughs whenever the other kids get the wrong answer."

[Laughter.]

Senator HASSAN. Which told me that my child was very mean, too, but.

[Laughter.]

Senator HASSAN. But the point of this story is that from that experience, they developed a way in which they realized that Ben could raise his hand to say, "Yes." And they developed a variation of multiple choice testing to see how he was doing. And he began to score regularly above 90 percent on testing. He began to be accepted in his community, and develop friendships, and develop the kind of community we all want our children to have in school.

That is why it is so important that we do more than just try. We do know that there are methods that work. We have to drill down. We have to get the resources there.

That is why I will follow-up with all of you about what your districts are doing to really identify what these kids in different subgroups need and how we can improve, because I think that is the future, not only of education for kids with disabilities who we need to empower and we need to employ. But it is also the future for making sure we have the kind of education system that really speaks to each child's potential regardless of whether they are coded for disability or not.

Senator HASSAN. Thank you, Mr. Chairman, for allowing me to go over.

The CHAIRMAN. Thank you, Senator Hassan.

Senator Smith.

Senator SMITH. Thank you, Mr. Chairman.

Senator Hassan, you are reminding me, again, of how grateful I am to have you as a colleague along with all of my others around.

I also just want to add my thanks to the moms and the friends of moms in the room who are standing up for commonsense approaches to keeping our kids safe and our teachers safe in schools. Thank you so much. And though it is not the specific topic of this discussion, I want to add my voice of opposition to using these scarce Federal resources to buy guns.

I am very interested in this particular Title IV of ESSA and let me explain what my interest is right now.

I have visited so many schools and teachers across Minnesota, and I always ask teachers what keeps them up at night. Inevitably what they will say to me, it is the mental health of their students that causes the most worry and the most concern.

Just last week, I was visiting with teachers, and students, and counselors at Roosevelt High School in Minneapolis, and just a moment ago, I was visiting with administrators from the schools in northern Minnesota, particularly schools in Indian country in Minnesota; same concern.

It is not surprising given the enormous issues that young people face and the particular challenges we are seeing particularly related to the opioid crisis, of course, and problems with addiction as well. So many kids are struggling with difficult family situations, with trauma, historic trauma often, violence, substance abuse.

Estimates are that one in five teens have a mental health challenge, which is severe enough to cause them significant impairment in their day to day lives, and then we expect them to come into our classrooms and be ready to take tests and do well.

I would like to ask about this specifically, and I would like to start with you, Mr. Jeffries. The Title IV-A block grant allows schools to provide mental health services as a use of those dollars.

Could you talk to us a little bit about how that works, and how you see the relationship between the need for greater mental health services in schools and our efforts to address inequities in our educational system?

Mr. JEFFRIES. Thank you, Senator.

This is a critical area. We have, particularly in our Title 1 schools, we have young people who bring in trauma with them into the classroom. We have young people bringing trauma associated with housing insecurity. We have homeless kids. We have kids who

see domestic violence in their homes. We have kids who have lost family members.

We have kids, then, with a range of issues and too many of our schools simply do not have the resources and are simply not equipped to meet those challenges.

Senator SMITH. Often, these are treated as discipline challenges——

Mr. JEFFRIES. That is correct.

Senator SMITH. ——Rather than health challenges.

Mr. JEFFRIES. That is exactly right. So rather than treating these as health challenges, we are quick to suspend and expel kids, and that helps to fuel the school to prison pipeline, as well.

This is a critical issue and frankly even reinforces even more the absurdity of diverting scarce Title IV dollars to arming educators.

Senator SMITH. Would others on the panel like to address this issue? Yes, Ms. Spearman.

Ms. SPEARMAN. Thank you, Senator.

Senator SMITH. Thank you very much, Mr. Jeffries.

Mr. JEFFRIES. Thank you.

Ms. SPEARMAN. You are right on target. I hear the same thing from principals who say, “We need help in mental health issues.”

We have set a goal in South Carolina. Currently, we have mental health counselors in about half of our schools. We have a goal that by 2022, we will have mental health, access to mental health and tele-psychiatry. We are doing this through virtual psychiatry. We are putting boxes in schools with nurses who are equipped to know how to set an appointment up with a student. So we are very, very proud of this.

The other thing that we are doing is to have pre-crisis intervention teams in every school. We want, if a child, or a student, or a faculty member reports something, we want it handled before a tragedy occurs so these students would be referred.

Senator SMITH. What we are seeing in Minnesota is that if you link body health with mental health that you reduce some of the stigma and some of the barriers that even students in middle school and high school feel toward seeing the care that they need, the services that they need.

Have you seen that as well in your experience?

Dr. BUNTING. We have, but we are doing direct action not only with adding personnel, because this is a great need in Delaware as well. But we are also training full staffs to be alert to adverse childhood experience signals, to look for signs of mental health.

We are piloting responsible classrooms. We are doing compassionate school training, and we are doing this in conjunction with our teachers union, which is a really interesting partnership.

Senator SMITH. That is good.

I am just about out of time, so I would love to talk more with you about this. I am working on two bills that will expand mental health services in schools, including a bill that is in the big opioid package that this Committee passed out with, I think, unanimous support. I am very eager to see that additional work in schools. So thank you for all of your work on this.

The CHAIRMAN. Thank you, Senator Smith.

Senator Jones.

Senator JONES. Thank you, Mr. Chairman.

Thank you, ladies and gentlemen, for your service today and for your testimony.

Like at least everyone else on this side of the dais, I want to express my support for all the red, I see. I was not sure if I was coming to a hearing or a University of Alabama pep rally when I walked in.

[Laughter.]

Senator JONES. But I have publicly talked about the fact that I felt like arming teachers was the dumbest idea that I think I have ever heard in the educational field. And I still have seen nothing to change my mind on that. With that said, I would like to talk about reading a little bit.

It seems to me, based on 2015 data that I have seen from the National Assessment of Educational Progress, the Nation's report card, showed that 46 percent of white twelfth graders were proficient or above in reading. Only 17 percent of African American students scored at the same level.

Now, aside from the fact that if you really think about it, those figures alone are pretty stunning, that 46 percent and 17 percent, but the gap between 46 percent and 17 percent, a 29 percent gap is not just stunning, it is a national disgrace.

ESSA is, in my view, as much of a civil rights law as it is an educational law, but 64 years after "Brown v. Board of Education," we are still seeing tremendous gaps between white students and African American students. So I would like to hear from each of you because I think this can be tied—

That was 2015, hopefully, that has changed somewhat, but it cannot be too dramatic over the course of 3 years.

I would like to hear from each of you just briefly what steps are being taken because I think the subgroup accountability is going to not help that situation if we are conflating things. But what in each of your states, and Mr. Jeffries, you can address this too, what is being done? What can we do to narrow that gap on reading with kids in America?

Ms. SPEARMAN. We believe focused instruction for those young people who are underperforming. In our Read to Succeed legislation, we are measuring whether you are reading on grade level by third grade. But the really strong schools are doing that in kindergarten and first grade, not waiting until third grade. We have summer reading camps.

We used the ability this year to set aside some of our Title funding; 3 percent set aside that went to the neediest areas, many of them used that for additional interventions in reading.

Senator JONES. All right. Let us go all the way this way. We will get to you, Mr. Jeffries, last. Let us go to Nebraska.

Dr. BLOMSTEDT. Yes, from my perspective, one of the critical equity issues of our day is early childhood. The ability for states and local school districts to ensure that there is quality educational opportunities at the early childhood level.

When children enter our schools in the K-12 environment and they come in with a significant opportunity gap around reading that is a gap that is going to be hard to close.

We have really looked in Nebraska about how we are going to do that and made sure among other things, but ensure that on the early childhood front, there is a significant opportunity for all students to be able to be in that setting or in a setting that is going to advance them.

Senator JONES. Thank you.

Dr. BUNTING. We find that that is a root cause of our third graders not being proficient in reading as well. So we are working very closely with our early childhood community to link what they are doing with what is expected for that child by the time he enters kindergarten.

As I mentioned earlier, we also have put reading interventionists in our schools. We have reading teachers, reading specialists always trying to analyze the problem as it occurs early and letting us have that opportunity to make a difference.

Senator JONES. Mr. Jeffries.

Mr. JEFFRIES. Four quick pieces, I would say one, absolutely, early childhood is absolutely critical. Oftentimes, these efforts already begin when kids hit kindergarten. In many states, kids do not have access to high quality preschool programs.

Second, making sure that we get our best teachers into the most high need schools, and part of that, there needs to be differentials in pay, so we can actually pay teachers more to go to the most high need schools.

Third, reimagining teacher prep; many of our programs of teacher preparation are very antiquated and there is very little data showing that many of the programs actually are producing graduates who are actually driving achievement in classrooms.

Then fourth, unpacking bias; sadly, when it comes to some of the issues of racial inequity, we have too many teachers who come into the classroom and frankly just think less of kids of color. Think kids of color do not have the same capacity to learn to the same degree that white students have, and that is precisely why the accountability provision is so critical.

For too long, folks have said, "We tried to do it. We are doing the best we can. We do not know what else to do." But oftentimes underneath that are a set of biases that we have seen for a long period of time, unfortunately, in our country.

Those are the type of initiatives we think we ought to pursue.

Senator JONES. All right. Thank you all.

I am going to submit a question for the record that I would like each of you to answer because the next thing we are going to be taking up, I think next year, is likely the Higher Education Act and the reauthorization. And I would like to submit a question for each of you.

What are the lessons from ESSA that we can maybe apply on accountability and issues for the Higher Education Act?

Senator JONES. Thank you, again, Mr. Chairman.

Thank you all for being here today.

The CHAIRMAN. Thank you, Senator Jones.

Senator Casey.

Senator CASEY. Thank you, Mr. Chairman.

I want to thank the panel for being here today and for your work on these issues.

I will start with Dr. Bunting for a question which involves the issue of what we do on school property with regard to firearms. I know it has been asked and referred to several different times. I think there is one part of this question which I am not sure has been asked.

As many of you know, the two leading unions in the country for teachers are the American Federation of Teachers and the National Education Association. Both have certainly opposed arming teachers and have jointly called proposals to do so, "astounding and disturbing." I will read a much longer quotation from both unions.

"We must do everything we can to reduce the possibility of any gunfire in schools and concentrate on ways to keep all guns off school property, and ensure the safety of children and school employees." That is directly from both organizations.

Dr. Bunting, I would ask you the first question, which is, do you agree with the assessment of the American Federation of Teachers and the National Education Association?

Dr. BUNTING. I think they adhere to the policy that the best way to prevent an emergency is to prevent it. That is the best way to deal with it.

Senator CASEY. The second question is about alternatives. What are some alternatives to purchasing weapons that might help to make schools, in fact, safer?

Dr. BUNTING. In the vein of prevention, there is much that can be done. We actually are working in Delaware with our Homeland Security group that has additional measures put into place in schools.

With our emergency management organization, we are looking at schools and assessing what additional features must increase their safety and security in buildings.

Our legislature has actually created a school safety and security fund to provide funding for things that could help in schools, not people necessarily. But the choice is a local decision as to what might be needed: secured entrances, panic buttons, any kind of signaling device, trainings, and so forth. So we are looking at it from the perspective of preventing anything that might happen.

We also do have in many of our schools safety officers, many of them are constables. We also have school resource officers. So we are trying to make sure that we accent the security of our staff and our students, but we are not looking at something that involves purchasing firearms with Title IV moneys.

We also go at it from the mental health perspective, thinking that that is contributing to the problem as well and trying to prevent that.

Senator CASEY. Dr. Bunting, thank you very much.

The next question I will ask is with regard to disaggregating data by subgroup. I will lay down a foundation for the question first.

The Elementary and Secondary Education Act includes a number of important provisions to ensure that states are able to identify and address persistent achievement gaps and provide all children with high quality public education. And in particular, states identify schools that have consistently underperforming subgroups, as well as schools that have the lowest performing subgroups.

The law requires the different categories of underperforming schools are identified and targeted for support. Reporting data disaggregated by subgroup is meant to help shine a light on achievement gaps and help states and local districts to target resources where they are needed most.

Professor Jeffries, I will start with you and I may be out of time by the time we get to your answer. But we have seen a number of instances in which the Department has approved state plans that do not clearly define when a school will be identified for additional support to improve their students' academic achievement.

Can you please describe problems that a vague criteria for receiving additional support definition could cause with particular emphasis on the impact on students with disabilities? Sorry for the long question.

Mr. JEFFRIES. Well, the first step is the failure to differentiate by subgroup by the children with disabilities. Subgroup would mean in the first instance, that any state plan on the remedial side that the plan will not be tailored to the nature of the problems because the state would not have a precise sense of what those problems are. So that is number one.

Then if on top of that states are submitting to the Department a very vague, very ambiguous plan about how they are going to meet those challenges, which at some level, they are going to be vague and ambiguous because there is not the subgroup differentiation.

Then that is going to mean that the very objective that Congress had in enacting ESSA to provide a fair, equitable, high quality education to close achievement gaps, for those students with disabilities, they are not going to receive what Congress promised, which is an equitable education.

This is absolutely paramount and is absolutely critical for this Congress to hold the Department accountable to do what Congress said it must do in exchange for the money, differentiate by subgroup and then have evidence-based remedies to address any deficits that exist.

Senator CASEY. Great.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Casey.

Senator Kaine.

Senator KAINE. Thank you, Mr. Chairman; an important hearing.

Thank you all for being here. I want to ask about gaps of a different kind. I want to talk to you about discipline.

One of the requirements in ESSA was that states would have to describe how the state will support local educational agencies receiving assistance to improve school conditions for student learning, including through reducing, quote, "The overuse of discipline practices that removes students from the classroom."

Often, discipline practices have been utilized in ways that are highly discriminatory, especially against minority students. And kids then absorb that lesson and they think they are going to get into trouble more likely than their peers, and that affects their learning.

I would hope that you might each take a minute, if you would, and tell me in your states just what you are trying to do to review

and utilize data on school discipline to make sure that we are not penalizing historically underserved students? And then maybe Mr. Jefferies, you could talk about it from the perspective of a national perspective. Do you think D.O.E. and the states are doing enough to reduce disparate uses of discipline?

Thank you.

Ms. SPEARMAN. I am very proud of the work that we have done in South Carolina. In my first year of office, we held a taskforce to look at our student discipline templates, the training of resource officers, and to really address the issue of the pipeline to prison. I think we have adequately made some changes.

Then this past year, our General Assembly also passed new legislation on disrupting schools to clarify that. We are working now to get those into regulation. I am very pleased with the progress that we have made.

Again, we also in our ESSA plan from our stakeholders heard that parents wanted to know about student climate and that is why we have included that as one of our indicators where students will be telling us how they feel about the safety inside their schools.

We are looking forward to that information being on our report card.

Senator KAINE. Great, thank you.

Ms. Bunting.

Dr. BUNTING. Again, I can echo much of what has been said, but I will add to it that we are very concerned about some of the disproportionate figures that we have analyzed. We do watch data very closely in Delaware and then we have full conversations and expect actions to reduce gaps or to remove the disparities.

But I think our efforts this year—and I am very proud, as I mentioned—of our staffs moving forward with such training as ACES for Adverse Childhood Experiences and understanding what an impact that would make in a classroom, and for trying such things as responsive classroom techniques and compassionate schools.

We are working at it from the understand perspective as well in offering alternatives that are not ones that involves suspension and expulsion at times. We cannot teach students if they are not there with us.

Senator KAINE. Absolutely.

Mr. Blomstedt.

Dr. BLOMSTEDT. Yes, so in Nebraska, we have had, I think, really serious conversations about how to do this. And we actually had a couple of instances where we were enforcing the prior—even before ESSA passed—the prior law and how that was addressed. I was not in a position necessarily.

We entered in a battle with a particular school district. I said, “What in the lay out of plans is going to make a particular difference for your students?” Let us think about trauma informed. Let us think about culturally responsive practices within your schools.

I have walked hallways in some of our schools where kids are outside the classroom for something as simple as crinkling a water bottle or something like this. And I am going, “This is absurd.”

We need to be ensuring that our students are in our classrooms, that the discipline should not be removing their opportunity to learn. It should be a conversation about creating that climate and culture that is appropriate.

Our efforts have really turned to that approach, different than the traditional compliance. Bang somebody over the head with their numbers, but more about what are our strategies that are going to really make a difference, and then track the numbers on accountability.

Senator KAINE. Excellent.

Mr. Jeffries, address it from the national level in things that we should pay attention to as we are exercising oversight over the D.O.E.'s efforts in this regard.

Mr. JEFFRIES. Thank you, Senator.

We think it is critical for Congress to, again, demand the data. Folks are very well intentioned throughout the country. They are really trying to do the right thing, but the proof is in the pudding.

We continue to see throughout this country, particularly with low income kids and even more so particularly low income kids of color, we continue to see disproportionate discipline, disproportionate suspensions, disproportionate expulsions for the same types of activities that white students, upper income students are receiving different sort of reactions to.

We have gotten reports, even recently, of African American students in certain school districts being sent home because they did not have a belt on and there was a certain uniform policy.

These sort of practices fundamentally contravene the equity mandates of ESSA. We absolutely need more of the trauma informed and restored justice practices. The absolute last resort for any school district, particularly a school district that receive Title 1 funds, should be to send a baby home. So if a child makes a mistake, kids are going to make mistakes. I have two kids. I could never imagine, if my kids make a mistake—

Senator KAINE. Do not get me started.

[Laughter.]

Mr. JEFFRIES. —Say, “I am going to kick you out the house.” Right? “You did not do your homework. You did not do what me and your mom asked you to do. We are going to kick you out the house. Go outside and then we will figure out when we are going to let you back in.”

The idea that we would kick babies out and send them back into the community is simply ridiculous. And, in fact, we just saw a study of a kid who was sent home who actually was murdered on the way back home. And so particularly when we have kids coming from communities filled with difficulty and trauma, and the school is their oasis to get away from that.

Clearly, we need Congress to demand data to make sure that schools and states are doing the right thing.

Senator KAINE. Well, thank you for that.

Mr. Chairman, I think I will ask a follow-up for the record as well about some of the best practices that you mentioned from legislation, compassionate schools, to some of the programs that you mentioned and get some best practices from you that might be helpful for the Committee.

Thank you.

The CHAIRMAN. Thank you, Senator Kaine.

Senator Murray.

Senator MURRAY. Thank you very much, Mr. Chairman.

I wanted to go back to one issue I talked about in my opening statement and that is my concern with Secretary DeVos' decision to waive the 1 percent testing cap for 23 states now, because I really do worry about too many children with disabilities suffering from low expectations.

I am very deeply troubled that despite requests from my staff, the Department has not made these waiver requests, and the supporting documentation, public. Instead, they are posting boilerplate approval letters on their Website, which really makes me wonder, what are they hiding?

Mr. Jeffries, quickly, can you think of any good reason why a state would want to hide the information from the public?

Mr. JEFFRIES. Absolutely not. I mean, the public is entitled to the information. Parents, families, policymakers cannot act if they do not have access to the information.

Senator MURRAY. In fact, part of our goal in ESSA was to ensure parents had more information.

Mr. JEFFRIES. Absolutely.

Senator MURRAY. They could make good decisions.

Dr. Bunting, Dr. Blomstedt, both of your states actually requested and received a 1 percent waiver. Will you share your request letter and the supporting documents with this Committee?

Dr. BLOMSTEDT. Yes, I believe we can. That would be no problem. I will tell you, ours gets into the notions of traps within those figures, but I would be happy to talk more about that.

Senator MURRAY. But you are willing to release that, then.

Ms. Bunting.

Dr. BUNTING. Yes, we would also. Ours is slightly over by a couple of hundreds.

Senator MURRAY. Okay.

Dr. BUNTING. But we would be glad to share that correspondence.

Senator MURRAY. Thank you. And in the interest of public transparency in our education system, would you be willing to make those documents public?

Dr. BLOMSTEDT. I am, yes.

Dr. BUNTING. I am as well.

Senator MURRAY. Okay, thank you very much. I appreciate that.

Just let me ask, as a condition of getting those waivers, you are required to take steps intending to reduce the number of students who are taking the alternate assessments in your state so you get below that 1 percent? I just wanted to ask each one of you what your states are doing?

Mr. Blomstedt, if could you tell us?

Dr. BLOMSTEDT. Yes, I think in our particular case, we have actually had quite a transition on our state assessment system. So at high school, we have gone from a state assessment to A.C.T. That was required by our state legislature.

We have actually just implemented a new 3 through 8 assessment system as well, and at that same point in time, a new alter-

nate assessment with three different vendors. So a lot of ours is kind of in that approach in looking at where we can set some targets to get those numbers appropriately in place.

Dr. BUNTING. That is also true for us. We have a fairly new alternative assessment. We are looking at the data and then we take steps to assure that we are meeting the requirement next time.

Senator MURRAY. You are addressing the disproportion based on race in those requests on who takes it?

Dr. BUNTING. Yes.

Senator MURRAY. That is one of the requirements of the law is that you address it.

Dr. BLOMSTEDT. Yes, I would have to look at the specifics, but I believe so. Yes.

Senator MURRAY. All right. And then there are a number of others. If we could have your documentation, that would be very helpful. I appreciate it.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Murray.

On the waiver issue, the waiver is in the law. There have been 23 waivers granted, most are for 1 year for implementation. There is a Website that has the application letter and the approval or declining letter.

I am told that it is standard practice not to release the preliminary conversations. The last two administrations at least did not do that. I am not sure what the argument is for and against. I see that the states might not object to that, so I will take a look at that myself and see what I think about it.

But I thought the fact that the Website contains the application and the denial and the reason or approval for it has been sufficient for prior administrations and this administration seemed to think the same.

I wanted to ask one other question. I suppose when we started our discussions on No Child Left Behind and fixing it, that the one thing we heard the most about was testing.

At first, my recommendation was that we eliminate the 17 federally required tests and let states decide what tests there ought to be, as well as decide what to do about the tests. Others had a different view and so, our compromise in the end was we would keep the 17 tests, but then allow the states to decide what to do about the results of the tests. Looking back on it, think that was a good compromise, the result of a good discussion among Senators on the Committee. But we heard a lot about over-testing.

Now tell me, if you will, in your states—and Mr. Jeffries, I would be interested in your opinion as well—what other factors you are looking at to measure a school's performance and quality other than test scores?

Mr. Blomstedt.

Dr. BLOMSTEDT. Yes, in part, of course, assessments are extremely important. I will tell you that Nebraska law also requires us to have essentially the same set of tests that ESSA does. And so, there is really some agreement on that side of the equation.

But when we try to look at other things that matter to our students, levels of student engagement really matter. I mean, if students and parents are not engaged, we do not have everything—

The CHAIRMAN. What do you mean by student engagement?

Dr. BLOMSTEDT. Student engagement, that they actually feel like there is someone in the school setting that, number one, is keeping them engaged and not just being in a position where, "They do not care about me." They cannot identify an adult in that school that cares and knows about them.

Things like that are actually important. Now, I would not include that necessarily in our accountability system per se, but it is part of what we are talking about is how do you measure that type of engagement? How do you understand the positive partnerships and relationships that students need to be successful, and our schools are providing that as well.

We are also looking at, certainly, things like absenteeism as one particular measure. So we have included chronic absenteeism, but it is really kind of a proxy for other engagement. Are they engaged? Do they have other difficulties? Are we addressing that with each of our students?

That gives you a couple of examples.

The CHAIRMAN. Ms. Bunting.

Dr. BUNTING. If we are looking at our official Delaware school success framework, we do include things such as chronic absenteeism. We are looking at science and social studies as well.

We are very concerned about students who are prepared for whatever they choose to do once they leave us: career, college, work, military. We measure that.

We are also concerned about watching our high schoolers so that we are assessing whether or not someone is on track for graduation because we realize the value of that diploma and what it means for, again, whatever choice that student may make as he or she leaves us.

The English language proficiency progress is very important to us in Delaware because we have an extremely rapidly growing Hispanic population. We care deeply about those students and want to make sure that that gap does not exist.

We are working on that one.

The CHAIRMAN. Mr. Jeffries.

Mr. JEFFRIES. We see some states looking at teacher retention, attendance rates, administrative retention, the ultimate graduation rates of the young people, the extent to which young people graduate. They may have a diploma, but then do they need remediation when they get to college, particularly community colleges?

We see some charter schools in particular and some innovative schools experimenting with student satisfaction surveys where the students can weigh-in on their experience at the school, and we even see some also in the charter school space as well. That will bring in independent entities to evaluate pedagogy instruction in classroom and school practice.

The CHAIRMAN. Thank you.

Ms. Spearman.

Ms. SPEARMAN. Yes, sir.

In South Carolina, I think we did our best job at the high school level with all of our multiple measures I mentioned earlier. We have the student climate survey that we are using in 3 through 12 grades.

But I think we have some work to do in South Carolina on our elementary and middle school ratings. We are still too heavily based on just test scores. I think the arts, I think leadership development programs that are given in the school should be considered because that is a big, important part of what we do in those schools. We are not measuring those yet. So that is something we are working on. We will probably be coming for some amendments to our plan.

The CHAIRMAN. Thank you very much.

Thanks to all of the witnesses. Thanks to the Senators. We have had good participation by Senators today.

You witnesses know better than anybody else how filled with different opinions and discussions about education can be. It is like a University of Tennessee football game with 100,000 people in the stands all knowing exactly what the next play ought to be. So we all are experts on it.

We were very proud of the fact that we were able to come to a conclusion in 2015 on Every Student Succeeds Act and hope it is education policy for a good while. We will look forward to continuing to learning the implementation that you will make.


I want to also thank our guests, the people who have come today. We welcome you. This is your right to be here and I hope you have seen that while we had some real differences of opinion on a Committee this large that we try to do it in a civil and respectful way. We appreciate the fact that you have done the same. So we hope you will come back some time.

The hearing record will remain open for 10 days. Members may submit additional information for the record within that time.

The next meeting hearing entitled, "Health Care in Rural America: Examining Experience and Costs," will occur this afternoon at 3:30 p.m. Senator Enzi is chairing that effort.

Thank you for being here today.

The Committee will stand adjourned.



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December 19, 2017

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Dear Mr. Lewis and Ms. Mitchell:

The *Every Student Succeeds Act (ESSA)* amended the provision of Title I of the Elementary and Secondary Education Act of 1965 related to students participating in alternate assessments of each State Education Agency's (SEA's) statewide assessment. The ESSA requires SEAs to submit waiver requests to the United States Department of Education in the event they have more than 1% of their students participating in the alternate assessment.

The Nebraska Department of Education (NDE) has conducted a review of data from Nebraska's statewide assessment for the school year 2016-17. The purpose of the review was to determine the participation rates of students taking the alternate assessments aligned to Nebraska's College and Career Ready Academic Standards with Extended Indicators.

The data revealed that just over one percent of Nebraska students participated in each of the content areas included in Nebraska's Alternate Assessment (Table 1). Based on this data, the state anticipates exceeding the one percent threshold enacted by the ESSA for school year 2017-18.

To lead and support the preparation of all Nebraskans for learning, earning, and living.

Table 1: Participation in Alternate Assessment by Content

Subject	Number of Alternate Assessments Given	Number of all Assessments Given	Percent Participation
English Language Arts (3 – 8, 11)	2,054	161,149	1.27%
Math (3 – 8, 11)	2,058	161,998	1.27%
Science (3 – 8, 11)	892	68,749	1.30%

Pursuant to 34 C.F.R. §200.6(c)(4), the Nebraska Department of Education (NDE) is seeking a waiver for all subject areas for the 2017-2018 school year from the Secretary for the United States Department of Education. Nebraska has one testing window during the spring of each year. The start date for each subject is scheduled for March 19, 2018. Submission of the NDE waiver request comes 90 days prior to the start of the first testing window.

The NDE sought public comment on its request for a waiver on the number of students who participate in Nebraska Student-Centered Assessment System Alternate Assessment (NSCAS-AA). The NDE accepted public input from December 4-18, 2017 on the waiver request. The public input was gathered through NDE's website, shared on listservs for district assessment coordinators and directors of special education, and disseminated via email to other stakeholders. The notice was posted for two weeks, the usual amount of time the agency posts such notices for public comment.

During the public comment period the NDE received a total of nine comments. The documents are included in the following attachments:

- Attachment 1 includes NDE release of the public notice and comment period.
- Attachment 2 includes the public notice of waiver request posted for public comment.
- Attachment 3 includes public comments received by the NDE.

Nebraska follows the federal participation requirements for assessment and requires all students enrolled in public K-12 schools be assessed with accommodations, without accommodations or with alternate assessment.

To date, Nebraska has consistently exceeded the federal guidelines set at 95% participation rate of all students. For the 2016-17 school year Nebraska's

participation rate for all students and for students with disabilities exceeded 99% for all content areas.

Local district data were reviewed and analyzed. There were 134 of 244 districts that assessed more than one percent of its assessed students with NeSA Alternate Assessment during the 2016-17 school year. (<http://nep.education.ne.gov/>)

NDE will reach out to each district with a participation rate greater than one percent and request written assurances that each Individual Education Program (IEP) Team, is following the criteria for determining participation in the NSCAS-AA when making assessment participation decisions.

The NDE will develop and implement procedures to ensure appropriate oversight of each local school district that exceeds the one percent cap. The NDE will develop a plan and timeline for:

- Reviewing and revising (as necessary) the state's guidelines for participation in alternate assessment, including the state's definition of students with the most significant cognitive disabilities;
- Describing the steps the state will take in providing appropriate oversight to each district that the state anticipates will assess more than 1.0 percent of its assessed students in a given subject in a school year using an alternate assessment;
- Addressing any disproportionality in the percentage of students taking an alternate assessment;
- Developing and distributing resources for parents that include information on Nebraska's alternate assessment participation guidelines, and accommodations that enable students to participate in the general assessment to the maximum extent possible; and
- Reporting assessment data publicly.

Statewide technical assistance will be available to all districts. Topics may include the following implementation requirements set forth in the ESSA:

- Using the alternate assessment participation guidelines (developed by NDE to determine if a student will take part in NSCAS-AA) to make appropriate assessment participation decisions;
- Selecting, implementing, and evaluating accessibility features and accommodations for instruction and assessments;
- Differentiating instruction and providing better access to academic content;
- Having high expectations for all students regardless of the category of their disability;
- Reviewing implications of student participation in the alternate assessment as it applies to completing requirements for a regular high school diploma;
- Reviewing the state's definition of students with the most significant cognitive disabilities;

- Assist LEA in informing and engaging parents in the conversations and decisions around participating in NSCAS-AA; and
- Addressing any disproportionality in the percentage of students taking NSCAS-AA.

An annual review of disaggregated district data on participation rates in each subject of the alternate assessment will be conducted by the NDE. Districts that exceed the one percent participation rate will be required to provide NDE with a detailed justification for exceeding the one percent cap.

Districts with unusual patterns or higher participation rates will require additional examination by the NDE to determine the reasons for higher percentages of students participating in NSCAS-AA.

The NDE will provide support to districts to ensure they are utilizing the criteria for determining participation in the NSCAS-AA to make appropriate decisions for students who are participating in NSCAS-AA. For districts that continue to exceed the one percent threshold, a more intensive approach will be taken. The NDE will provide ongoing training, coaching, and support to ensure appropriate assessment of all students.

Districts will be required to address disproportionality among subgroups of students participating in NSCAS-AA beginning in the fall of 2018.

To determine if disproportionality among subgroups of students participating in the NSCAS-AA of Nebraska's statewide assessments existed, the NDE used the risk ratio methodology. Data were analyzed to determine risk ratios for the following subgroups: 1) seven race/ethnicity categories, 2) socio-economic status (determined by free or reduced lunch), 3) English Language Learners, 4) homelessness, and 5) gender. The SEA will also examine the percentage by disability category participating in the NSCAS-AA (when data are available). These data analysis techniques provide the NDE the information on student subgroups to focus initiatives on reducing the percentage of students participating in the NSCAS-AA.

To determine risk ratios for the subgroups listed above, the NDE ascertained the risk of each subgroup participating in the 2016-2017 NSCAS-AA, compared to the risk of assessed students not in a given subgroup. The risk ratio analysis identified subgroups that are more likely to participate in NSCAS-AA. For example, a risk ratio of 1.0 represents an equal likelihood of participation in the NSCAS-AA between students in a particular subgroup and students not in that subgroup. Moreover, a risk ratio of 2.0 indicates students in a subgroup are twice as likely to participate in the NSCAS-AA as students not in that subgroup. Any risk ratio above 1.5 indicates disproportionality; the higher the risk ratio, the greater the degree of disproportionality.

Seen in the Table 2 below, the risk ratio analysis identified disproportionality in four (4) subgroups: Male, American Indian/Alaska Native, Black/African American, Two or More Races (Science only), Socio-economic status, and Homeless.

Table 2: Disproportionality by Sub-Groups of Students Participating the NE Alternate Summative Assessments: SY 2017

SUB-GROUP	ELA (Grades 3-8 & 11)	MATHEMATICS (Grades 3-8 & 11)	SCIENCE (Grades 5, 8, & 11)
All Students	1.27	1.27	1.30
Female	0.94	0.94	0.96
Male	1.59	1.58	1.62
American Indian or Alaska Native	1.99	2.03	1.60
Asian	1.19	1.11	1.25
Black or African American	1.97	1.94	2.21
Hispanic	1.32	1.31	1.27
Native Hawaiian or Other Pacific Islander	0.43	0.44	0.00
White	1.17	1.18	1.20
Two Or More Races	1.44	1.44	1.52
English Learners	0.38	0.38	0.28
Socio-Economic Status	1.67	1.65	1.71
Homeless	1.95	1.82	2.38

Note: Red print denotes values that exceed Nebraska's established threshold.

The NDE believes its plan of:

- Identifying districts with more than 1% of its students participating in NSCAS-AA;
- Providing technical assistance to districts to ensure appropriate decisions for participation in NSCAS-AA are made by IEP teams;
- Identifying districts with subgroups that disproportionately participate in NSCAS-AA;
- Providing support to districts with more than 1% of their students participating in NSCAS-AA; and
- Monitoring districts with more than 1% of their students participating in the NSCAS-AA;

will act to reduce the percentage of Nebraska students participating in NSCAS-AA to the 1% limit required by ESSA.

Please contact Jeremy Heneger, jeremy.heneger@nebraska.gov to discuss the content of this waiver request or address questions. We look forward to working with U.S. Department of Education staff to achieve a positive response to the request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matthew Blomstedt", with a stylized flourish at the end.

Matthew L. Blomstedt Ph.D.
Commissioner of Education

NEBRASKA DEPARTMENT OF EDUCATION
PUBLIC NOTICE AND COMMENT PERIOD
WAIVER REQUEST PURSUANT TO 34 C.F.R. §200.6(c)(4)
DECEMBER, 2017

Pursuant to 34 C.F.R. §200.6(c)(4), the Nebraska Department of Education (“NDE”) will seek a waiver for the 2017-2018 school year from the Secretary for the United States Department of Education. The regulation in question, found at 34 C.F.R. 200.6(c)(2), requires State Education Agencies such as the NDE to limit the total number of students assessed in a subject area using an alternate assessment. The limit on the percentage of students assessed by the alternate assessment is set by the federal regulation, stating there shall be no more than one (1) percent of the total number of students taking the alternate assessment assessed in each subject area.

Specifically, 34 C.F.R. 200.6(c)(2) provides:

For each subject for which assessments are administered under § 200.2(a)(1), the total number of students assessed in that subject using an alternate assessment with alternate academic achievement standards under paragraph (c)(1) of this section may not exceed 1.0 percent of the total number of students in the State who are assessed in that subject.

NOTICE OF PUBLIC COMMENT PERIOD: Any individual or organization may submit written comments on the proposed waiver pursuant to 34 C.F.R. §200.6(c)(4). Written comments shall be accepted through Monday, December 18, 2017.

You may send written comments on the proposed waiver to: Jeremy Heneger, Assistant Director of Statewide Assessment, Nebraska Department of Education, 301 Centennial Mall South P.O. Box 94987 Lincoln, NE 68509-4987. Comments may be sent by fax at 402-742-2319 or through email at nde.stateassessment@nebraska.gov.

The requirements for a State Education Agency to seek a waiver are set forth at 34 C.F.R. §200.6(c)(4) and reproduced below. The NDE is requesting a waiver in response to the requirements set forth at 34 C.F.R. §200.6(c)(4) because its most recent data on the percentage of students taking Nebraska’s alternate assessments in all subject areas stands at 1.3%. The waiver requirements are in **bold** lettering below.

If a State anticipates that it will exceed the cap under paragraph (c)(2) of this section with respect to any subject for which assessments are administered under § 200.2(a)(1) in any school year, the State may request that the Secretary waive the cap for the relevant subject, pursuant to section 8401 of the Act, for one year. Such request must—
(i) Be submitted at least 90 days prior to the start of the State's testing window for the relevant subject;

The NDE will submit a waiver request to the U.S. Department of Education 90 days prior to the start of Nebraska’s testing window for its alternate assessment. The subject areas are:

English Language Arts, Mathematics, and Science. The start date for each subject will be March 19, 2018.

***(ii) Provide State-level data, from the current or previous school year, to show—
(A) The number and percentage of students in each subgroup of students defined in section 1111(c)(2)(A), (B), and (D) of the Act who took the alternate assessment aligned with alternate academic achievement standards; and***

The NDE will gather district data on the current and previous years' participation rates in each subject of the alternate assessment. It is important for the NDE to identify whether students taking Nebraska's alternate assessment are students clustered in "subgroups," such as category of disability under the Individuals with Disabilities Education Act (IDEA); racial/ethnic groups; gender; English Learners; or eligible for free or reduced price school meals. These data will help NDE understand whether there are:

- Districts in which the numbers of students participating in alternate assessments are higher than expected;
- Certain grades in which participation in the alternate assessment is higher than expected; and
- Potential disproportionality in specific subgroups and grade levels of students taking alternate assessments.

The NDE will gather data on the characteristics of students participating in the alternate assessment to provide a standard for determining whether students are participating who do not have significant cognitive disabilities.

Districts or schools with unusual patterns or higher rates than other districts may require additional investigation to determine if there are unique reasons for higher percentages of students participating in the alternate assessment. The NDE will share the data collected with districts. This will allow districts to compare the percentage of their students participating in the alternate assessment with students in other districts in the state participating in the same assessment. After sharing the data, the NDE will provide training to the districts that exceed the one percent cap set forth at 34 C.F.R. §200.6(c)(2).

(B) The State has measured the achievement of at least 95 percent of all students and 95 percent of students in the children with disabilities subgroup under section 1111(c)(2)(C) of the Act who are enrolled in grades for which the assessment is required under § 200.5(a);

Nebraska requires all students enrolled in public K-12 schools be assessed with accommodations, without accommodations or with an alternate assessment. The only exception to participation for *any* student is for students who receive a medical or extraordinary circumstances non-participation waiver. Nebraska follows the federal participation requirement and, to date has met or exceeded the federal guidelines set at 95% participation.

(iii) Include assurances from the State that it has verified each LEA that the State anticipates will assess more than 1.0 percent of its assessed students in any subject for which assessments are administered under § 200.2(a)(1) in that school year using an alternate assessment aligned with alternate academic achievement standards—

(A) Followed each of the State's guidelines under paragraph (d) of this section, except paragraph (d)(6); and

The NDE utilized the Special Education Advisory Council to examine the state definition of “students with the most significant cognitive disabilities” who qualify for alternate assessments. The focus of the definition is based on factors related to cognitive functioning and adaptive behavior. The advisory council recommend revisions to the NDE’s Alternate Assessment Participation Guidelines used to determine if a student meets the standard to participate in the alternate assessment. The advisory group met on November 15, 2017.

The NDE will request justification from districts which exceed the one percent cap. The NDE will continue to provide professional learning opportunities for IEP team members and other educators, particularly on the nature of the alternate assessment and the students who are eligible to participate under the revised Participation Guidelines.

(B) Will address any disproportionality in the percentage of students in any subgroup under section 1111(c)(2)(A), (B), or (D) of the Act taking an alternate assessment aligned with alternate academic achievement standards;

The NDE will address any disproportionality in the percentage of students taking the alternate assessment by undertaking the following activities. The NDE will:

- monitor alternate assessment data
- require justification from districts that exceed the one percent cap
- provide guidance to districts on Participation Guidelines for student alternate assessments
- gather district data on current and previous years’ alternate assessment participation rates in each subject area tested
- analyze the data by subgroup, such as race/ethnicity, gender, English learner and students eligible for free or reduced price school meals, to determine whether disproportionality exists for students participating in the alternate assessment
- address disproportionality with districts through training on the Participation Guidelines

(iv) Include a plan and timeline by which—

(A) The State will improve the implementation of its guidelines under paragraph (d) of this section, including by reviewing and, if necessary, revising its definition under paragraph (d)(1), so that the State meets the cap in paragraph (c)(2) of this section in each subject for which assessments are administered under § 200.2(a)(1) in future school years;

As noted in (iii) above, the NDE asked the Special Education Advisory Council to examine the state definition of “students with the most significant cognitive disabilities” who participate in alternate assessments. The focus of the definition is on factors related to cognitive functioning and adaptive behavior. The advisory council will continue to provide feedback about the NDE’s Participation Guidelines used to determine if a student meets the standard to participate in the alternate assessment. The advisory group met on November 15, 2017. NDE will also seek regular feedback from the state’s Assessment and Accountability Advisory Committee.

The NDE will monitor alternate assessment data and request justification from districts which exceed the one percent cap. The NDE will continue to provide professional learning opportunities for IEP team members and other educators, particularly on the nature of the alternate assessment and the students who are eligible to participate under the revised Alternate Assessment Participation Guidelines.

(B) The State will take additional steps to support and provide appropriate oversight to each LEA that the State anticipates will assess more than 1.0 percent of its assessed students in a given subject in a school year using an alternate assessment aligned with alternate academic achievement standards to ensure that only students with the most significant cognitive disabilities take an alternate assessment aligned with alternate academic achievement standards. The State must describe how it will monitor and regularly evaluate each such LEA to ensure that the LEA provides sufficient training such that school staff who participate as members of an IEP team or other placement team understand and implement the guidelines established by the State under paragraph (d) of this section so that all students are appropriately assessed; and

The NDE will continue to provide professional learning opportunities for IEP team members and other educators. The training will be on the purpose of the alternate assessment and the characteristics of students who are eligible to participate in the alternate assessment, based on the revised Alternate Assessment Participation Guidelines.

All educators, including those who are not members of IEP teams, must have a solid understanding of how to make appropriate instruction and assessment decisions for all students, including students who may be candidates to participate in alternate assessment. The NDE will provide technical assistance on the accessibility features and accommodations available for the general assessment, as those features and accommodations enable most students with disabilities to meaningfully participate in the general assessment.

Technical Assistance will include:

- Using the Participation Guidelines to make assessment participation decisions;
- Selecting, implementing and evaluating accessibility features and accommodations for instruction and assessments;
- Differentiating instruction and providing better access to academic content; and
- Having high expectations for all students regardless of the category of their disability.

The NDE will make informational resources available to parents of students with disabilities so parents can contribute in the IEP decision making process regarding the assessment in which their child participates. Parent informational resources will include:

- Explanation of the Alternate Assessment Participation Guidelines;
- Requirements of the alternate assessment; and
- Accommodations that enable students to participate in the general assessment.

(C) The State will address any disproportionality in the percentage of students taking an alternate assessment aligned with alternate academic achievement standards as identified through the data provided in accordance with paragraph (c)(4)(ii)(A) of this section;

The NDE will gather district data on current and previous years' alternate assessment participation rates in each subject area and will analyze the data by subgroup to determine whether disproportionality exists for students participating in the alternate assessment.

In the event the data reveal any disproportionality in the percentage of students taking the alternate assessment, the NDE will address the issue as follows:

- The NDE will provide technical assistance on Participation Guidelines to districts and schools with disproportionality.
- In districts whose data indicate disproportionality in the percentage of students taking the alternate assessment, the NDE will monitor districts with the highest rates of disproportionality. The NDE will achieve this by reviewing individual student files of students in the affected subgroup, to determine whether decisions to place students in the alternate assessment were made according to law.
- In the event the decision to place the student on the alternate assessment was not made pursuant to the applicable regulations and the Participation Guidelines, the NDE will direct the district to reconsider the student's eligibility for the alternate assessment.

Notice of Intent to Apply for a Waiver of Federal Requirement Related to the Percent of Students Who Participate in Statewide Assessments and Opportunity for Comment

To: Public

From: Nebraska Department of Education

Date: December 4, 2017

The Nebraska Department of Education intends to seek a waiver for the 2017-2018 school year of the federal requirement that would limit the number of students in the state who take alternate assessments. The purpose of this notice is to provide you with an opportunity to comment on this intended waiver request.

Under the requirements of the reauthorized Elementary and Secondary Education Act, known as the Every Student Succeeds Act (ESSA), Nebraska would need to limit the total number of students who could be designated to participate in NSCAS Alternate Assessment (NSCAS-AA) to 1.0 percent of the students who are required to participate in NSCAS. The aim of the legislation is to prevent an excessive number of students with disabilities from being designated for alternate assessments. Participation in an alternate assessment may limit their access to the full range of academic content standards and could, as a result, delay or prevent them from eventually meeting the state's graduation requirements. Generally, students with significant cognitive disabilities are given alternate assessments because they cannot participate in standard assessments, even with accommodations.

The 1.0 percent cap is applied uniformly across all states, regardless of the relative frequency of students with disabilities in the school-age population. It is worth noting that Nebraska currently assesses 1.3 percent of its eligible students on the NSCAS-AA. We anticipate making some progress in the next year to lower the percentage of students taking the NSCAS-AA, but reaching the target set by ESSA would likely take Nebraska several years. In pursuit of this goal, the Department recently shared information and guidance on this topic, and will continue to promote awareness of the need for appropriate assessment of students with disabilities by providing technical assistance.

The U.S. Department of Education is allowing states to apply for a waiver of this requirement for the coming school year (2017-2018). The waiver, if granted, will permit Nebraska to gradually reduce the number of students participating in the NSCAS-AA while continuing to provide technical assistance to schools and districts to assist IEP teams to make informed assessment decisions for students with disabilities.

Additional information about the **waiver request is available in pdf.**

NDE **welcomes your comments** regarding the intent to apply for this waiver. Comments will be accepted until December 18, 2017.

Questions may be submitted via email jeremy.heneger@nebraska.gov.

Number	Timestamp	Comments:
1	12/4/2017 13:35:58	Well written proposal.
2	12/4/2017 16:44:22	Districts and the state of Nebraska do not have any control over the number of students who qualify for, and need to have, alternate assessments. In our district, we are judicious in our use of this assessment, and it is truly limited to only those students who are in a life skills curriculum due to significant conditions that require such an alternate curriculum. In our district, all of those students that require an alternate assessment are in the public school setting rather than being served in our local private schools. Due to our total student population being reduced by the presence of private education, our 1% cap seems arbitrary. So, I would favor a waiver of the 1% cap as a state, and would ask that, should there be a question about the need for more than 1% of the public school population to have alternate assessments, federal officials should create an audit procedure to insure that students are appropriately in an alternate curriculum.
3	12/5/2017 9:02:06	In small rural schools 1 student in a grade being assessed would but you over the 1% rule. It is unrealistic to think that a small rural school could not have a student that needs alternate testing. I have had classes that have had as many as 3 students in a class of 25, which would put the district at 12% of that class needing alternate testing. These are students that will not be able to live on their own and will be dependent on someone else their entire lives. The waiver is a must for small rural schools with small testing numbers and possibility of having students with qualifying disabilities.
4	12/5/2017 10:18:46	Students who have disabilities do not come to us in increments that work with required numbers. Many years we do not have any students with disabilities. Other years we have one or two students that have disabilities and that would put our small school over the 1% allotment for students with verified disabilities. The federal government has strict procedures for determining if students qualify for special education. They need to trust that educators know their student's needs and are following the guidelines in place.
5	12/5/2017 15:25:36	I absolutely agree that we need to apply for the waiver. I think it is also important how you have outlined the steps the state department has taken to assist in the decision-making process. Something to consider seeking:
6	12/7/2017 9:25:16	We will have 4 students taking the Alt. assessment this year for grades 3-8 and 11th. As of right now, next year we will have 3 students who will need to take the Alt. Assessments. It looks like we will continue exceeding the 1% with students coming up and I do not see any of these students moving out of our district in the near future.
7	12/7/2017 14:12:59	I think for all districts to be under 1% is impossible.
8	12/8/2017 8:42:11	When you think of what is best for students you must have the ability to have the waivers beyond 1% if needed. I do believe there needs to be tight parameters who takes the alt assessment but some districts may meet those tight parameters and be beyond the 1%.
9	12/11/2017 16:28:58	The waiver on the one percent cap on the total number of students allowed to take the Alternate Assessment should be allowed. Our district is the largest in the area, so several parents choose our district to provide their child with the most access to the resources available in the rural area. Students with high needs demand school and community resources to be independently successful to the best of their ability. Due to our community resources more families choose our community as their home to provide for their children the best education and supports.

The term “significant cognitive disability” is not a separate category of disability. It is a designation given to a small number of students with disabilities for purposes of their participation in the statewide student alternate assessment program who are (1) within one or more of the existing categories of disability under the IDEA and (2) whose cognitive impairments may prevent them from attaining grade-level achievement standards, even with systematic instruction.

For a student to be determined as having a most significant cognitive disability for the purpose of participation in the alternate assessment system, the IEP team must consider all of the following guidelines when determining the appropriateness of a curriculum based on Nebraska College and Career Ready Academic Standards with Extended Indicators and the use of the Nebraska Student-Centered Assessment System - Alternate Assessment. (NSCAS – AA)

- **The student requires extensive, pervasive, and frequent supports in order to acquire, maintain, and demonstrate performance of knowledge and skills.**
- **The student’s cognitive functioning is significantly below age expectations and has an impact on his/her ability to function in multiple environments (school, home and community).**
- **The student’s demonstrated cognitive ability and adaptive functioning prevent completion of the general academic curriculum, even with appropriately designed and implemented modifications and accommodations. (* *Adaptive behavior is defined as essential for someone to live independently and to function safely in daily life.*)**
- **The student’s curriculum and instruction is aligned to the Nebraska College and Career Ready Academic Standards with Extended Indicators.**
- **The student may have accompanying communication, motor, sensory, or other impairments.**



Alternate Assessment Criteria

Student Name: _____

If it is determined that there is sufficient information to support ALL of the criteria below and all of the IEP team agrees, the IEP team should document this decision on the student's current IEP. Students who do not meet all of the criteria will participate in the general statewide assessment with/without accommodations.

Participation Criteria	Criteria Descriptors	Yes or No
1. The student has a most significant cognitive disability.	Review of student records indicates a disability or multiple disabilities that significantly impacts the intellectual functioning and adaptive behavior so that extensive modifications are required in order to access the general curriculum. * Adaptive behavior is defined as essential for someone to live independently and to function safely in daily life.	Yes / No
2. The student's course of study is aligned to the Extended Indicators of the Nebraska College and Career Academic Standards.	Goals and instruction documented in the IEP for this student are aligned to the enrolled grade level Extended Indicators and address knowledge and skills that are appropriate and challenging for this student.	Yes / No
3. The student requires extensive, direct individualized instruction and substantial supports to achieve measurable gains on the Nebraska College and Career Academic Standards for the grade they are enrolled.	The student (a) requires frequent and extensive, repeated instruction presented in individualized incremental steps (that is not of a temporary nature) in order to apply and transfer skills across settings and (b) uses substantially adapted materials and individualized methods of accessing information in alternative ways to acquire, maintain, generalize, demonstrate and transfer skills across multiple settings, including school, workplace, community and home and (c) uses educational support systems such as: assistive technology, personal care issues, and/or health/medical services.	Yes / No
4. The decision to participate in the Alternate Assessment is NOT BASED on:	<div>1. Specific disability or label</div> <div>2. Excessive or extended absence</div> <div>3. Native language/social/cultural or economic differences</div> <div>4. Educational environment or setting</div> <div>5. Percent of time receiving special education</div> <div>6. English Learner status</div> <div>7. Low reading level</div> <div>8. Disruptive behavior</div> <div>9. Administrator decision</div> <div>10. Impact of student scores for accountability system</div> <div>11. Expected poor performance on the general education assessment</div>	Yes / No

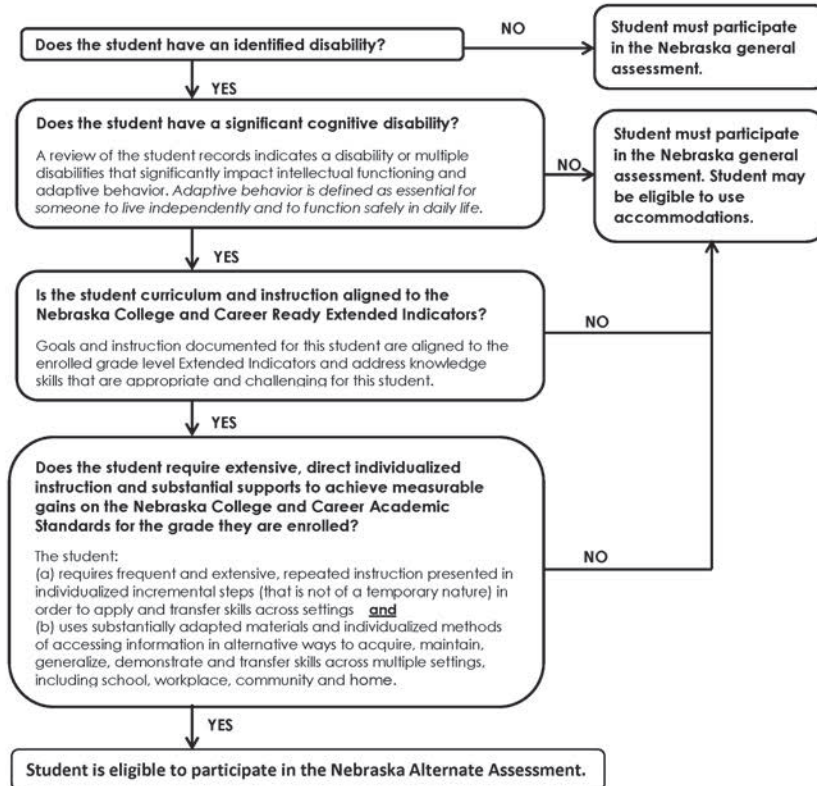
IEP team members: In order for the student to participate in the alternate assessment, which is based on Nebraska's College and Career Ready Extended Indicators, ALL four criteria listed above have been met. (Signature's optional.)

_____	_____
(Parent/guardian)	(Date)
_____	_____
(Student)	(Date)
_____	_____
(Administrator/designee)	(Date)
_____	_____
(Teacher)	(Date)
_____	_____
(Other – please specify name and position)	(Date)



**IEP Team Decision Making Flow Chart
Nebraska Statewide Alternate Assessment
For Students with the Most Significant Cognitive Disabilities**

The student is eligible to participate in the Alternate Assessment for Students with the most significant cognitive disabilities if all responses are YES.



In addition, evidence for the decision for participation in the alternate assessment is NOT BASED on:

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. A disability or label 2. Poor attendance or extended absences 3. Native language/social/cultural or economic differences 4. Expected poor performance on the general education assessment 5. Educational environment or instructional setting 6. Percent of time receiving special education 7. English Learner status | <ol style="list-style-type: none"> 8. Low reading level/achievement level 9. Anticipated disruptive behavior 10. Anticipated emotional distress during testing 11. Administrator decision 12. Impact of student scores for accountability system 13. Need for accommodations (e.g. assistive technology) to be able to participate in assessment process |
|---|--|

Nebraska Department of Education
Assessment and Accountability Office
Special Education Office
P.O. Box 94987
Lincoln, Nebraska 68509-4987

NDE #06-098
December 5, 2017

**JUSTIFICATION FOR EXCEPTION TO THE 1.0 PERCENT "PARTICIPATION" ON
NSCAS ALTERNATE ASSESSMENT FOR THE 2017-2018 SCHOOL YEAR**

1.

District Name and Number	County
Name of District Superintendent	Telephone (Include Area Code)
E-Mail	FAX (Include Area Code)

2.

The number of students at the state level who are reported as "participating" on the NSCAS Alternate Assessments may not exceed 1.0 percent of all students assessed in grades 3-8 and 11 per subject area. Does your district anticipate that the students participating on the NSCAS Alternate Assessments will exceed the 1.0 percent in grades 3 – 8 and 11 per subject area?

- ☐ YES – please complete questions 3 and 4 below, sign and return this form.
- ☐ NO – sign and return this form.

3.

Provide a brief description with supporting evidence that identifies specific programs or circumstances within the district that may contribute to higher enrollments of students with significant cognitive disabilities that would result in a participation rate in excess of 1.0 percent. Evidence may include elements such as descriptions of the program, number of contracted-in students with significant cognitive disabilities resulting from these programs, and/or other circumstances resulting from these programs, small overall student population or any other variables that may also contribute to higher numbers of students identified. Attach additional pages if necessary. (Please include the process that is followed to determine which students are administered the Alternate Assessment).

4.

The district ensures that it is fully and effectively addressing the requirements of 34 CFR § 200.6. Please initial each box that pertains to your district.

- ☐ The district uses appropriate guidelines when IEP teams determine the student's significant cognitive disability justifies taking NSCAS alternate assessments. These guidelines are consistent with the Nebraska Department of Education's *IEP Team Decision Making Flow Chart: Nebraska Statewide Alternate Assessment for Students with the Most Significant Cognitive Disabilities, Alternate Assessment Criteria and IEP Team Decision Making Guidelines for NSCAS Assessments* posted on the Department's website. <http://www.education.ne.gov/sped/assessment.html>
- ☐ The student's IEP meets the requirements in **Rule 51 007.07A3, 007.07A7, 007.07.A7a and 007.07A7b.**
- ☐ Students with most significant cognitive disabilities (taking NSCAS Alternate Assessments) are included in the general education curriculum to the maximum extent possible. Curriculum is based on extended indicators for grade level content.
- ☐ The district ensures the use of appropriate accommodations throughout the district.
- IEP teams select accommodations based on the individual student's needs.
 - General education and special education teachers collaborate to determine appropriate accommodations that ensure access to the general education curriculum at grade level.
 - Accommodations are disseminated to all appropriate staff to ensure accommodations are provided as outlined in the IEP.
- ☐ The district takes steps to ensure that parents participate in the IEP team meeting. Through the IEP process, parents are knowledgeable about their child's curriculum is based on extended indicators. Parents understand the NSCAS system and their child's participation in the alternate assessments.

Date of Submission

Signature of District Superintendent

Any district submitting a justification may be subject to further review by the Department to obtain additional clarification on the submitted information.



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

FEB 28 2018

The Honorable Susan S. Bunting
Secretary of Education
Delaware Department of Education
The Townsend Building
401 Federal Street, Suite 2
Dover, DE 19901-3639

Dear Superintendent Bunting:

I am writing in response to the Delaware Department of Education (DDOE) request on December 12, 2017, for a waiver of section 1111(b)(2)(D)(i)(I) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), of the requirement that a State may not assess using an alternate assessment aligned with alternate academic achievement standards (AA-AAAS) more than 1.0 percent of the total number of students in the State. DDOE requested this waiver because, based on State data for the 2016–2017 school year, the DDOE has concluded that it will need to assess more than 1.0 percent of students using an AA-AAAS in the 2017–2018 school year.

After reviewing Delaware's request, I am granting, pursuant to my authority under section 8401(b) of the ESEA, the following waiver for school year (SY) 2017–2018:

- A waiver of section 1111(b)(2)(D)(i)(I) of the ESEA so that the State may assess with an AA-AAAS more than 1.0 percent of the total number of students in the State who are assessed in a reading/language arts, mathematics and science.

As part of this waiver, DDOE assured that the State educational agency:

- Will continue to meet all other requirements of section 1111 of the ESEA and implementing regulations with respect to all State-determined academic standards and assessments, including reporting student achievement and school performance, disaggregated by subgroups, to parents and the public.
- Assessed in the prior school year (2016–2017) at least 95 percent of all students and 95 percent of students with disabilities who are enrolled in grades for which an assessment is required.
- Will require that a local educational agency (LEA) submit information justifying the need of the LEA to assess more than 1.0 percent of its assessed students in any such subject with an AA-AAAS.
- Will provide appropriate oversight of an LEA that is required to submit such information to the State, and it will make such information publicly available.

400 MARYLAND AVE., SW, WASHINGTON, DC 20202
<http://www.ed.gov/>

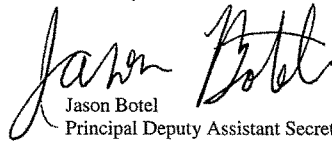
The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Page 2 – The Honorable State Chief School Officer Name

- Will verify that each LEA that is required to submit such information to the State is following all State guidelines in 34 CFR 200.6(d) (with the exception of incorporating principles of universal design) and will address any subgroup disproportionality in the percentage of students taking an AA-AAAS.
- Will implement, consistent with the plan submitted in Delaware's waiver request, the system improvements and monitor future administrations to avoid exceeding the 1.0 percent cap.

I appreciate the work you are doing to improve your schools and provide a high-quality education for your students. If you have any questions, please contact Dr. Tiffany T. Forrester of my staff at QSS.Delaware@ed.gov.

Sincerely,



Jason Botel
Principal Deputy Assistant Secretary,
Delegated the Authority to Perform the Functions and
Duties of the Position of Assistant Secretary of Elementary
and Secondary Education

cc: Theresa Bennett, Director, Office of Assessment, Delaware Department of Education



Delaware Department of Education
One Percent Waiver Request

Exceeding one percent student participation in state alternate assessments
Pursuant to ESEA 1111(b)(2)(D) and 34 C.F.R. §200.6(c) and (d)

Office of Assessment and Exceptional Children Resources
Carolyn.Lazar@doe.k12.de.us

**Delaware Department of Education
One Percent Waiver Request
Pursuant to ESEA 1111(b)(2)(D) and 34 C.F.R. §200.6(c) and (d)
November 10, 2017**

Introduction

New requirements found in the Every Student Succeeds Act (ESSA) provide additional specifications and clarification of expectations related to students identified as those with the most significant cognitive disabilities. States exceeding one percent student participation in state alternate assessments are required to submit a waiver request, along with additional data, a state plan, and a timeline to address the reduction of participation in alternate assessments.

The Delaware Department of Education (DDOE) will seek a waiver from the United States Department of Education for the 2017-2018 school year, pursuant to the regulation found at 34 C.F.R. §200.6(c)(4) requiring State Education Agencies (SEAs) to limit the number of students participating in state alternate assessments in required subject areas to be at or below one percent of the total number of all students taking the state level assessment.

34 C.F.R. §200.6(c)(2) states:

For each subject for which assessments are administered under §200.2(a)(1), the total number of students assessed in that subject using an alternate assessment with alternate academic achievement standards under paragraph (c)(1) of this section may not exceed 1.0 percent of the total number of students in the State who are assessed in that subject.

Spring 2017 state level alternate assessment participation data reflects a participation of greater than one percent in ELA, mathematics, and science, as reflected in Table 1.

Table 1: Alternate Assessment Participation Rates by Content Area

Content Area	Total Number of Students Testing	Number of Students Participating in the Alternate Assessment	Percentage of Students Participating in the Alternate Assessment
ELA	73597	1055	1.4
Mathematics	73940	1055	1.4
Science	31982	489	1.5

The number of students participating in the alternate assessments show alternate participation in spring 2017 to be at 1.4% for ELA, 1.4% for mathematics, and 1.5% for science. Therefore, DDOE is requesting a waiver for the anticipated greater than one percent alternate assessment participation in accordance with waiver requirements.

State Education Agencies requesting a waiver are also required to adhere to the requirements stipulated at 34 C.F.R. §200.6(c)(4) and may be found below.

If a State anticipates that it will exceed the cap under paragraph (c)(2) of this section with respect to any subject for which assessments are administered under §200.2(a)(1) in any school year, the State may request that the Secretary waive the cap for the relevant subject, pursuant to section 8401 of the Act, for one year. Such request must—
(i) Be submitted at least 90 days prior to the start of the State's testing window for the relevant subject;

Delaware's alternate assessment window runs from March 12, 2018 through May 18, 2018. In accordance with the 90 day requirement for waiver requests, Delaware will submit the waiver request and any public comments received during the public notification of waiver application period to the US Department of Education by December 12, 2017.

34 C.F.R. §200.6(c)(4)(ii)(A) requests subgroup data, as stated below:

The number and percentage of students in each subgroup of students defined in 1111(c)(2)(A), (B), and (D) of the Act who took the alternate assessment aligned with alternate academic achievement standards...

A summary of subgroup data for Delaware's state level alternate assessment participation by content area may be found below. For purposes of public state level reporting, the following business rules are utilized:

o If a group or subgroup count of "number tested" is between one (1) and fifteen (15), the number of students is represented by "<=15" and the percentages and averages are reported for that group.

o If a group or subgroup count of "number tested" is zero (0), the number of students is reported as zero (0) and an asterisk (*) appears in the columns where a percentage or average would otherwise appear.

Additional review and analyses of these data will be conducted, as well as local level data for districts exceeding the 1% threshold, will be conducted at both the state and local levels to identify any possible trends and potential areas of subgroup disproportionality at specific grade levels.

Table 2: ELA Alternate Assessment Participation Rates by Subgroup

Sub Group	Total Number Alternate Assessment Participants per Content	Total Number in Subgroup	Percentage Alternate Assessment Participants in Subgroup
Female	1055	340	32.2
Male	1055	715	67.8
Hispanic	1055	140	13.3
American Indian	1055	<= 15	0.7
African American	1055	411	39.0
White	1055	442	41.9
Asian American	1055	28	2.7
Hawaiian/Pacific Islander	1055	<= 15	0.2

Sub Group	Total Number Alternate Assessment Participants per Content	Total Number in Subgroup	Percentage Alternate Assessment Participants in Subgroup
Multiracial	1055	25	2.4
Low-Income	1055	435	41.2
ELL	1055	79	7.5
Homeless	1055	42	4.0

Table 3: Mathematics Alternate Assessment Participation Rates by Subgroup

Sub Group	Total Number of Alternate Assessment Participants per Content	Total Number in Subgroup	Percentage of Alternate Assessment Participants in Subgroup
Female	1055	340	32.2
Male	1055	715	67.8
Hispanic	1055	140	13.3
American Indian	1055	<=15	0.7
African American	1055	411	39.0
White	1055	442	41.9
Asian American	1055	28	2.7
Hawaiian/Pacific Islander	1055	<=15	0.2
Multiracial	1055	25	2.4
Low-Income	1055	435	41.2
ELL	1055	79	7.5
Homeless	1055	42	3.9

Table 4: Science Alternate Assessment Participation Rates by Subgroup

Sub Group	Total Number of Alternate Assessment Participants per Content	Total Number in Subgroup	Percentage of Alternate Assessment Participants in Subgroup
Female	489	158	32.3
Male	489	331	67.7
Hispanic	489	67	13.7
American Indian	489	<=15	0.8
African American	489	183	37.4
White	489	216	44.2
Asian American	489	<=15	2.9
Hawaiian/Pacific Islander	489	0	*
Multiracial	489	<=15	1.0
Low-Income	489	215	44.0
ELL	489	43	8.8
Homeless	489	20	4.1

34 C.F.R. §200.6(c)(4)(ii)(B) requests information in relation to overall participation rates, as stated below:

The State has measured the achievement of at least 95 percent of all students and 95 percent of students in the children with disabilities subgroup under section 1111(c)(2)(C) of the Act who are enrolled in grades for which the assessment is required under §200.5(a)...

The expectation is that all students participate in the state assessments in grades 3- 8 and 11 for ELA and mathematics, as well as those in grades 5, 8, and 10 for science. Students participate in the general education assessments with or without accommodations or participate in the alternate assessment (Table 5).

Table 5: Children with Disabilities Assessment Participation Rates by Content Area

Math 2015-2016 Participation		
Type of Assessment	Total Number	Percentage
Reg with out Accom	2630	24.35
Reg with Accom	7130	66.02
Alt with Alt stds	1039	9.62
	10799	
ELA 2015-2016 Participation		
Reg with out Accom	3435	31.97
Reg with Accom	6281	58.47
Alt with Alt stds	1027	9.56
	10743	
Science 2015-2016 Participation		
Reg with out Accom	1797	39.09
Reg with Accom	2306	51.02
Alt with Alt stds	447	9.89
	4520	

Participation specifically in alternate assessments meets and exceeds the 95% expectation in all three content areas. ELA and mathematics alternate assessment participation was at 96% in each content area, with the rate of participation at 95% in grades 5, 8, and 10 alternate science assessment (Table 6).

Table 6: Alternate Assessment Participation Rates by Content Area

Content Area	Number Eligible for Alternate Assessment	Number Participating in Alternate Assessment	Participation Rate
ELA	1055	1015	96.2
MATH	1055	1009	95.6
SCI	489	466	95.3

The combined participation in the general education assessments and the alternate assessments demonstrates Delaware students participation exceeded the 95% expectation, with 98% overall participation in ELA and mathematics and 96% overall participation in science, as shown in Table 7.

Table 7: Assessment Overall Participation Rates for All Students by Content Area

Content Area	Total Number Eligible for Alt. and Gen. Ed. State Assessments	Number Participating	Participation Rate
ELA	73597	71900	97.7
MATH	73940	72139	97.6
SCI	31982	30804	96.3

Assurances and Justification

DDOE assures that LEAs anticipating greater than one percent participation in the alternate assessments utilized State guidelines for alternate assessment participation, as described below.

(iii) Include assurances from the State that it has verified each LEA that the State anticipates will assess more than 1.0 percent of its assessed students in any subject for which assessments are administered under § 200.2(a)(1) in that school year using an alternate assessment aligned with alternate academic achievement standards—

In addition to the aforementioned state level compiled data, LEAs compiled and self-reported local level participation in alternate assessments and projections for the spring 2018 assessment via the Delaware Department of Education Alternate Assessment Justification Form (attached). LEAs submitted this form, with those exceeding the one percent threshold also completing the justification section. Assurances were provided by LEAs and attested to at the local level by the affixing of the Superintendent signature on the form below the following notation on the form.

"By submitting this application, the district verifies that all students participating in the DeSSA-Alt meet the Delaware Department of Education's participation criteria (available online at <http://www.doe.k12.de.us/Page/21238>)."

DDOE will provide additional guidance and technical assistance to analyze trends, potential disproportionality concerns, and address supports needed for LEAs identified exceeding the one percent threshold. The Delaware plan describing these activities follows.

Delaware's Plan

The state will continue to meet all other requirements of section 1111 of ESEA and implementing regulations with respect to all State-determined academic standards and assessments, including reporting student achievement and school performance, disaggregated by subgroups, to parents and the public.

The state plan and timeline intended to address the reduction of percentages exceeding the one percent cap of alternate assessment participation will be included, pursuant to the additional federal requirements detailed in 34 C.F.R. §200.6(c)(4). This plan will also include State guidelines clarification, professional development, oversight, and support for identified areas of need. Consistent with the plan submitted in this waiver request, DDOE will implement system improvements and monitor future administrations to avoid exceeding the 1% cap.

DDOE will provide three levels of support:

Level 1

At this universal level, the State will address overall trends and overarching needs by participating in and/or providing the following:

- Data collection, analyses, and reporting of overall data and subgroup data
- Defining oversight for LEAs exceeding one percent
- Clarifying the state definition of "students with the most significant cognitive disabilities"
- Updating the State Guidelines, as needed, for participation in alternate assessments
- Launching a webinar specific to the State Guidelines
- Highlight the updated Accessibility Guidelines manual (attached) and the accompanying training available via Schoology
- Provide additional IEP and accommodations training for staff and families
- Increase awareness and solicit feedback related to the one percent threshold for alternate assessments, the state plan, along with related state and LEA level data stakeholder groups including
 - *Access to General Curriculum committee*
 - *Governor's Advisory Council for Exceptional Citizens (GACEC)*
(state advisory council)
- Provide monthly training and updates related to the definition, participation guidelines, and one percent topics to cadres, coalitions, and coordinator meetings
- Provide one percent data collection and justification forms to LEAs
- Publicly post justification forms, state waiver request, and plan with timeline
- Ensure support and guidance for all LEAs

Level 2

At level 2, the State will address more specific trends and LEA needs in support of a reduction of the percentage of students participating in alternate assessments. DDOE will review the implementation of state participation guidelines, provide technical support, evaluate professional development needs, and provide ongoing oversight for level 2 LEAs. LEAs exceeding one percent participation in alternate assessments falling into two justification areas will fall into this level of support and guidance. LEAs with special schools or programs or with a test population under 300 with 3 or fewer students participating in alternate assessments will be included at this level of support and guidance.

Technical Assistance and Professional Development

- Targeted assistance to LEAs
- Professional development related to inclusion of students with cognitive disorders within sending districts and program development
- Professional development in accordance with identified LEA needs related to eligibility, knowledge, and selection of available and appropriate accommodations

Level 3

LEAs with level 3 support and guidance will initially be identified via the self-reported LEA-level alternate assessment participation data collected on the Delaware Department of Education Alternate Assessment Justification Form. These LEAs will receive the level 1 and level 2 guidance and assistance, along with additional supports. Direct monitoring and support will be ongoing.

DDOE will provide a more in-depth structured level of technical support. Areas of focus will include

Technical Assistance, Professional Development and Support

- Targeted training on the identification process and State Participation Guidelines
- Documentation and triangulation of data review
- IEP team decision-making process
- Tools and strategies for instruction and student support
- Selection of accommodations for instruction and assessment purposes
- Deeper data dive
 - Focus on disability categories
 - Appropriateness of participation
- Targeted training on the identification process and State Participation Guidelines

The LEA will also develop a goal to appropriately decrease the percent of students participating in Delaware alternate assessments and submit a written plan to the DDOE identifying next steps.

Delaware's Timeline

Timeframe	Task
January- May, 2017	State and LEA monthly communications
May-June 2017	LEA waiver and justification form communication and gathering of data from spring 2016 participation data
June- July 2017	DDOE review of state-level one percent data
August 2017	Release of updated Accessibility Guidelines manual including updated Alternate assessment participation guidelines
August 2017	Release of Accessibility Guidelines manual webinar
August-October 31, 2017	Receive and compile LEA self-reported one percent data and justification documentation (see appendix _sample form)
November 21, 2017	Waiver discussion with stakeholder group
November 27- December 8, 2017	Posting of waiver notification for public comment
November 28, 2017	Communication with Special Education Directors and District Test Coordinators regarding waiver request and request for comments via email memo
December 4, 2017	Communication with superintendents via Chiefs memo regarding waiver request and request for comments
December 10, 2017	DDOE submits waiver to USED, including comments received
March 12- May 18, 2018	Delaware alternate assessment window (DLM)
June 2018	Begin data review
December 1, 2017- July 1, 2018	Ongoing bi-weekly one percent timeline and plan update meetings

Notification of One Percent Waiver Request

On November 27, 2017, the Delaware Department of Education (DDOE) posted the 1% Cap notification and draft waiver request for 10 business days, on the *Announcements* webpage of the DDOE website, for public comment. DDOE shared the waiver information with stakeholder groups, such as the Access to General Curriculum committee and the Governor's Advisory Council for Exceptional Citizens (GACEC). DDOE also shared the waiver information with superintendents, special education directors, and district test coordinators. Public comments specifically related to the waiver were positive; comments included, "I don't see any issues with the waiver request. It seems appropriate" and "The waiver looks thorough." In addition, DDOE received feedback related to the Delaware plan; stakeholders are interested in more information about technical assistance for LEAs. Delaware DOE will continue to solicit feedback from stakeholder groups to guide and shape the final plan and timeline. The stakeholder feedback and plan will guide DDOE's commitment to support the appropriate reduction of the number of students participating in the alternate assessments. Delaware respectfully submits this waiver request.

Delaware Department of Education
Alternate Assessment Justification Form

Name of District: _____

District Code: _____

Person Completing Form: _____

Contact information: _____

Calculate Alt assessment rates for each content:	ELA/Language Arts Literacy 2015-2016	ELA/Language Arts Literacy 2016-2017	ELA/Language Arts Literacy 2017-2018 Projection
1. Total number of DeSSA-Alt/DCPS students at in grades 3, 4, 5, 6, 7, 8, and 11. Residential students with disabilities in in- and out-of-district placements should also be included.			
2. Total number of special education and general education students taking a state assessment during the 2016 spring window (Smarter, DeSSA-Alt/DCPS, SAT gr 11)			
3. Divide the line 1 number by the line 2 number.			
4. Multiply the line 3 number by 100 to determine the Districtwide anticipated Alternate participation rate for each content.			
Calculate Alt assessment rates for each content:	Mathematics 2015-2016	Mathematics 2016-2017	Mathematics 2017-2018 Projection
5. Total number of DeSSA-Alt/DCPS students at in grades 3, 4, 5, 6, 7, 8, and 11. Residential students with disabilities in in- and out-of-district placements should also be included.			
6. Total number of special education and general education students taking a state assessment during the 2016 spring window (Smarter, DeSSA-Alt/DCPS, SAT gr 11)			
7. Divide the line 1 number by the line 2 number.			
8. Multiply the line 3 number by 100 to determine the Districtwide anticipated Alternate participation rate for each content.			

After completing 1-8, if percentages in lines 4 and/or 8 are equal to or less than 1 percent; **please sign form below and submit.** If the percent is **greater than 1** in either subject area (lines 4 or 8), the additional information for justification below also needs to be completed. Please submit to Carolyn Lazar (Carolyn.lazar@doe.k12.de.us) at the Delaware Department of Education, by October 31, 2017.

Justification: (to be completed if above 1% in any column above)	2015-2016	2016-2017	2017-2018 Projection
There is a school, community or health program in the district that draws large numbers of students with significant intellectual disabilities.			
The total test population is less than 300 and the total number of students participating in DeSSA-Alt/DCPS is 3 or less.			
There is a high incidence of students with disabilities in the district.			
*Other			

*Other (Please elaborate)

By submitting this application, the district verifies that all students participating in the DeSSA-Alt/DCPS meet the Delaware Department of Education's participation criteria (available online at: <http://www.doe.k12.de.us/Page/2138>).

Signature of Superintendent or Charter School Lead

Delaware Department of Education
Public Notice and Comment Period
Waiver Request- Pursuant to 34 C.F.R. §200.6(c)(4)
November 27, 2017

The Delaware Department of Education (DDOE) Office of Assessment is seeking comments on the following waiver request. DDOE will request a waiver from the United States Department of Education for the 2017-2018 school year, pursuant to the regulation found at 34 C.F.R. §200.6(c)(4) requiring State Education Agencies (SEAs) to limit the number of students participating in state alternate assessment in a required subject area to be at or below one percent of the total number of all students taking the state level assessment.

34 C.F.R. §200.6(c)(2) states:

For each subject for which assessments are administered under §200.2(a)(1), the total number of students assessed in that subject using an alternate assessment with alternate academic achievement standards under paragraph (c)(1) of this section may not exceed 1.0 percent of the total number of students in the State who are assessed in that subject.

State Education Agencies requesting a waiver are required to adhere to the requirements stipulated at 34 C.F.R. §200.6(c)(4) and may be found below. Recent data on the numbers of students participating in the alternate assessments shows alternate participation in spring 2017 to be at 1.4% for ELA, 1.4% for mathematics, and 1.5% for science. DDOE is requesting a waiver for the anticipated greater than one percent alternate assessment participation in accordance with waiver requirements below.

If a State anticipates that it will exceed the cap under paragraph (c)(2) of this section with respect to any subject for which assessments are administered under §200.2(a)(1) in any school year, the State may request that the Secretary waive the cap for the relevant subject, pursuant to section 8401 of the Act, for one year. Such request must—(i) Be submitted at least 90 days prior to the start of the State's testing window for the relevant subject;

Pursuant to the stated federal requirements, DDOE will submit a one-year waiver request, along with a plan and timeline intended to begin to address the reduction of percentages exceeding the one percent cap of alternate assessment participation. The following information, as detailed in 34 C.F.R. §200.6(c)(4), will be included in the waiver:

- Delaware state-level data including
 - subgroup counts and percentages
 - participation rates in alternate assessments
- State assurances that LEAs exceeding the one percent cap followed State guidelines in determining eligibility for participation in alternate assessments
- A statewide plan and timeline including
 - Clarification of State guidelines, in conjunction with professional development, to expand understanding and implementation of the guidelines and the identification process
 - Support and oversight for LEAs exceeding the one percent cap, as well as addressing any identified areas of disproportionality

NOTIFICATION OF PUBLIC COMMENT PERIOD

Prior to the submission of this waiver request to exceed one percent alternate assessment participation, the DDOE is providing notification and requesting public comment. Comments on this proposed Delaware waiver pursuant to 34 C.F.R. §200.6(c)(4) may be submitted in writing from November 27, 2017 through December 8, 2017.

Notification of this waiver request submission is being posted publicly on the DDOE OoA website. Additionally, this information will be disseminated to LEA superintendents, district and charter leadership and coordinators, special education leadership, parent advisory and stakeholder groups, as well as educators. Comments received will be attached to the waiver request submission being sent to the US Department of Education.

Dr. Matthew Blomstedt, Commissioner, Nebraska Department of Education
U.S. Senate Committee on Health, Education, Labor and Pensions

Questions for the Record
October 9, 2018

Questions from Senator Todd Young

1. I was pleased to vote in support of the Every Student Succeeds Act (ESSA) when I was in the House of Representatives, and am encouraged to hear of the innovative and responsible implementation efforts by many states. Under ESSA, every state is able to select an additional indicator of student success and school quality. Dr. Blomstedt, I understand that in Nebraska, one indicator you have decided to focus on is chronic absenteeism, which is commonly defined as student absence of at least 10% of school days. 37 states including Indiana have also decided to measure this in their accountability and improvement systems. In Indiana, data is provided to schools so they can effectively intervene if a student's attendance declines. My state has also sought to streamline definitions so schools have a uniform understanding of how to monitor attendance.
 - a. Please explain the importance of honing in on this specific indicator of chronic absenteeism. Indiana, along with many others, recognizes the value of promoting school attendance. How will this effort help states to support students who may be at risk of dropping out?

Mr. Blomstedt: Chronic absence closely correlates to student disengagement and reduced academic performance. As such, Nebraska selected a chronic absenteeism measure as it fits well with the State's accountability framework (Accountability for a Quality Education System Today and Tomorrow or AQUESTT). Nebraska for several years has been attentive to the link between student attendance and engagement as well as the ultimate academic results. The opportunity to use such a measure under ESSA also further highlights the importance of attendance and draws attention to tools designed to track student data in a meaningful way. Nebraska has been working diligently to build near real time data systems and dashboards for school level use and we imagine this will be an important driver to consistency across the state and concern about solutions to student and family engagement in the importance to attendance.

- b. How does ESSA seek to aid states in tackling the challenges with chronic absenteeism?

Mr. Blomstedt: ESSA itself allowed a potentially broad set of measures of student success and school quality. ESSA draws attention to chronic absence by bringing the measure into accountability, and thus elevating the issue. ESSA also allows states to innovate around chronic absence and solutions rather than prescribe. Nebraska constructed a creative approach to school quality indicators

in AQuESTT and we will continue to align those systems between ESSA and AQuESTT. ESSA conversations across the county around chronic absenteeism helped Nebraska elevate that as an important measure because there were good conversations among states on how they could implement policies on chronic absenteeism.

Questions from Senator Patty Murray

1. **The Every Student Succeeds Act includes new provisions designed to improve educational stability and student outcomes for children and youth in foster care. These provisions include designating a state point of contact, and ensuring that all children in foster care are able to stay in their school of origin when in their best interest. In order to do so, LEAs must collaborate with state or local child welfare agencies to develop and implement clear written procedures to ensure that when transportation is necessary, such transportation is provided, arranged and funded. Please describe the steps you have taken to ensure that your state, and all LEAs in the state, are in compliance with these important requirements, including having a way to resolve disputes if they arise between LEAs and child welfare agencies.**

Mr. Blomstedt: In Nebraska, I created an ongoing advisory committee four years ago for the education of “systems involved students” that works with several partners in other collaborations around children and families and includes such agencies as Nebraska’s Department of Health and Human Services, probation and the courts, and foster care services. These partnerships and conversations have assisted in creating both a consistent understanding of responsibilities but also a mechanism to respond to concerns and disputes.

2. **I have been very focused on ensuring we are creating good government programs by adopting evidence-based policies. ESSA includes such a focus on adopting evidence-based policies. Under ESSA, school districts will no longer have to comply with No Child Left Behind’s prescriptive intervention scheme, but instead can design school interventions that work for their districts so long as they meet the law’s requirements to be evidence based. What are you doing in your states to ensure school districts plan to take advantage of this new flexibility to adopt locally-designed strategies that will really move the needle for students based on evidence and comply with the law’s evidence-based requirements?**

Mr. Blomstedt: The Nebraska Department of Education has been communicating the evidence-based requirements since the approval of our plan to school administrators. Additionally, our needs assessment, developed collaboratively with REL, is designed to prompt schools at the onset towards evidenced-based solutions to discovered issues. Our application for improvements funds also requires explicit connections to the evidence base. Finally, NDE will provide extensive coaching and technical assistance in the development of progress plans that will include identification and implementation of evidence-based interventions. Nebraska’s state and federal accountability plans are designed to intersect with other key policies within Nebraska including the state accreditation system. Nebraska’s State Board of Education and I are engaged in revisions and further alignment of rules and regulations at a state level to move accountability from “knowing something” to “doing something.” Those efforts are part of the theory of action embedded in state interactions with all school districts that require evidence-based approaches to school improvement aligned with our tenets of AQuESTT. Schools that will receive CSI or TSI supports will have to align their approaches with evidence-based

approaches aligned with Nebraska's Evidence Based Analysis (EBA) which highlights key potential strategies with a research basis. Additionally, Nebraska continues to monitor progress to demonstrate how state and local achievement goals are met to further establish local examples of evidence based practices within Nebraska.

3. **With the passage of ESSA and changes to school report cards, lawmakers, parents, and advocates will now have new information that can paint a fuller picture of education in states, including information about: resource inequities, school discipline practices, postsecondary enrollment, per-pupil expenditures, and academic achievement for at-risk groups of students, like foster, homeless, and military-connected students. Can you provide an update in each of your states about your states' compliance with these reporting requirements and whether or not you will experience in any delays in complying with any of the reporting requirements in Section 1111(h) of the Elementary and Secondary Education Act?**

Mr. Blomstedt: Nebraska continues to build a more robust data system for analysis, reporting, and improving data sharing. This data system continues to be a major investment and Nebraska, like other states, has sought to build a system with limited resources. However, the new data reporting requirements under ESSA as well as the design of the underlying mechanics of our data collection and reporting systems have culminated in an approach that is improving reporting through the Nebraska Educational Profile. The new reporting requirements under ESSA such as the move to a school level detail of financial information that is also critical to our state goals but present some challenges as we transition. Also and substantially for Nebraska the reporting requirement in Sec 1111(h)(1)(C)(ix) for the professional qualifications of teachers on the number & percentage of inexperienced teachers, principals, and other school leaders; teachers teaching with emergency or provisional credentials; and teachers who are not teaching in the subject or field for which the teacher is certified or licensed. The NDE does not collect experience data for each educator by position, but simply for the educator. This confounds the ability to accurately report. For example, it is difficult in our system to report the experience for teachers who later become principals and/or other school leaders. The NDE is still working through the nuances of reporting out-of-field teachers, taking into account unique circumstances such as co-teachers, classroom facilitators, multiple special education teachers, and teachers determined out-of-field per course or per student in a course. However, the majority of other expectations in reporting requirements are already in place.

4. **Thank you for committing to share the Committee the 1-percent waiver request and the supporting documents, and for committing to make this information public. Please provide a copy of this information along with your responses to these questions. Please also provide the location where this information can be publicly accessed.**

Mr. Blomstedt: A copy of the documentation is provided as requested and will be available on the Nebraska's Department of Education website under our ESSA information. (<https://www.education.ne.gov/essa/>)

Questions from Senator Bernard Sanders

1. **Federal law requires that states provide a quality education for all students, but school conditions are not equal across communities or even within school districts. How does Nebraska ensure that each and every student, regardless of income, race or community has equitable access to well-trained teachers, updated and modern facilities, and a welcoming and inclusive learning environment?**

Mr. Blomstedt: The State Board of Education and I have specifically identified our equity commitments and highlighted a set of critical goals that are equity based. We have asked our educational leaders, elected board members and the state as a whole to be “champions for equity.” There are several such examples in our recent work to align key elements of ESSA. We do this in part by explicitly requiring schools to identify how they embody equity, and how their goals are written to ensure equity for all children within our consolidated application for funds. Nebraska generally has a high functioning set of local and state elected board members that have the responsibility to provide equitable opportunities across the state of Nebraska. Nebraska has a high bar for teacher certification compared to many states and continues to look for ways to support educators in their practice. In Nebraska, it is a balance between compliance and support and the State Board of Education and Nebraska Department of Education set standards for school improvement, accreditation and accountability. Additionally, our state system has been developed to identify schools with various struggles or concerns so those issues might better be addressed. ESSA has contributed to an improved focus on equity and assists in leveraging existing state policies and practices that seek the same equity goal.

2. **ESSA ensures that states provide all children with equal access to a high-quality education. In that regard, successful implementation of ESSA means that schools are improving educational equity and protecting vulnerable students. How does Nebraska satisfy ESSA’s equity requirements, identify schools that need improvement and ensure that identified students receive the resources they need to improve?**

Mr. Blomstedt: As a result of ongoing efforts to ensure Nebraska’s commitment to equity the Nebraska Department of Education has defined equity and established a set of commitments. The equity definition reads, “Educational equity means all students have meaningful access to the educational resources they need at the right moment, at the right level, and with the right intensity. Educational equity means high expectations for learning and student achievement. Educational equity allows students to discover and explore their passions and make meaningful connections within the context of their postsecondary interests. Equity requires that these opportunities and outcomes exist for all Nebraskans, including but not limited to, and unrestricted by race, color, ethnicity, national origin, sex, pregnancy, sexual orientation, gender identity, religion, disability, age, genetic information, veteran status, marital status, or political affiliation.” Nebraska’s AQuESTT system is also designed to take a set of expectations and establish a framework of accountability and support for schools. Based on multiple measures Nebraska’s system establishes performance categories based on these six tenets. Schools

that fall into the lowest performance category may be identified as a “priority school” under Nebraska law. In similar fashion, schools may also be identified for comprehensive support and improvement (CSI) or targeted support and improvement (TSI) based on ESSA. Ultimately, these systems are designed to interact to help identify concerns about given schools and identify customized supports in Nebraska. The following statements are a driving force of the Nebraska approach and more information can be found at www.aquestt.com.

Accountability for a Quality Education System, Today and Tomorrow

Great things happen when we work together.

A quality education system helps make our state and communities strong. By collaborating and focusing on AQuESTT’s six investment areas, we can help enhance the education system, positively impact our children and schools, and create a better Nebraska.

Positive Partnerships, Relationships, and Success

The State Board believes that student engagement through positive partnerships and relationships is fundamental to successful schools and districts. The State Board seeks to support schools and districts to implement best practices in student, family, and community engagement to enhance educational experiences and opportunities.

- Individualized or Personalized Learning Plans
- Attendance and Participation
- Family Engagement
- Community and Support Services

Transitions

The State Board believes that quality educational opportunities focus on supports for students transitioning between grade levels, programs, schools, districts, and ultimately, college and careers.

- Early Childhood–Elementary
- Elementary–Middle School
- Middle School–High School
- High School–Post High School

Educational Opportunities and Access

The State Board believes that all students should have access to comprehensive instructional opportunities to be prepared for postsecondary education and career goals.

- Early Childhood Education
- Comprehensive Learning Opportunities
- Expanded Learning Opportunities
- Blended Learning Opportunities

College, Career, and Civic Ready

The State Board of Education believes that every student upon completion of secondary education shall be prepared for postsecondary educational opportunities and to pursue his or her career goals.

- Rigorous College and Career Ready Standards for All Content Areas

- Technological and Digital Readiness
- Support for Career Awareness and Career/College Goals

Assessment

The State Board believes the results of multiple assessment sources (national, state, and classroom-based) should be used to measure student achievement of college and career ready standards and be used as an integral part of the instructional process.

- Individualized/Adaptive Assessments
- Classroom-Based Assessments
- State Assessments
- National/International Assessments

Educator Effectiveness

The State Board believes that students should be surrounded by effective educators throughout their learning experiences, such that schools and districts develop effective teachers and leaders who establish a culture of success.

- Nebraska Teacher and Principal Performance Framework
- Professional Development
- Building Leadership Supports
- Effective Local Policy Makers and Superintendents

3. **It is shocking that the Department of Education would propose using federal funds to arm teachers when Congress' intent is clear. Title IV funds are authorized for the purposes of providing students with a well-rounded education, supporting safe and health students, and supporting the effective use of technology. The first of these mentioned categories lists "career counseling" as a possible use of funds. The American School Counselor Association recommends a student-to-counselor ratio of 250-to-1. Based on your experience, do you support additional school counselors to prepare students for success in college and career? How is Nebraska using federal funds to improve educational outcomes for all students?**

Mr. Blomstedt: Nebraska's intention and plan is to use federal funds to support the tenets of AQuESTT and support the development of leaders and teachers in implementing school improvement plans. Nebraska has sought to build systemic supports that are designed to scale-up data systems, improve assessment systems, use evidence-based practices for all areas of school improvement, and engage students, families, and communities. There are several examples of the important leveraging of these funds for school and community partnerships and partnerships with businesses to enhance career education across the state. Any one funding source is insufficient for the task, but all of Nebraska's Title IV funds will be aligned with this approach to support students aligned with that original intent ESSA.

Questions from Senator Elizabeth Warren

1. **A key part of ESSA is making sure that states are improving education for all students, including for subgroups of students. Nebraska plans on labeling schools annually with the categories “Excellent,” “Great,” “Good,” or “Needs Improvement.” Nebraska does not include subgroup performance in this rating system. This means that if a subset of students has very low graduation rates the school can still receive a score of “Excellent.”**
 - a. **How is this compliant with ESSA’s requirement under section 1111(c)(4)(C)(i) to base the state’s system of meaningful differentiation on the performance of each subgroup of students?**

Mr. Blomstedt: Nebraska’s system of accountability at a federal level is an additional step that meets the requirements of ESSA. Nebraska’s annual classification of schools is enhanced by our ESSA plan that uses a system to also identify schools that are eligible for Comprehensive Support and Targeted Support which uses a “filter” system similar to a couple other states. This additional layer of accountability meets the requirements of ESSA and state accountability will recognize those additional elements critical to equity. In the meantime, the approach bridges the requirements of federal and state law and meets those requirements of both ESSA and Nebraska law. Nebraska has committed to not allowing any school that is TSI or ATSI to be an “excellent” school beginning in 2019.
 - b. **How will you ensure that schools with large achievement/graduation rate gaps or low performing subgroups do not receive high ratings?**

Mr. Blomstedt: Nebraska’s system includes a cap on the classification based on graduation rate. Any high school with graduation rates of less than 67% will be identified as CSI. Also any school with one or more consistently low-performing subgroups many not be classified as “Excellent.”
 - c. **How will you ensure that subgroup performance is transparent to schools and to the public?**

Mr. Blomstedt: Nebraska is using a reporting system through the Nebraska Educational Profile to report on subgroup performance. Schools that are not meeting sub-group performance marks will be indicated as eligible for CSI and/or TSI. The ESSA plan includes long-term goals aligned with established strategic plan goals that demonstrate commitment to closing gaps. There will also be regular reporting of those overall goals as part of the Nebraska Education Vision strategic plan.
 - d. **What is your plan for holding accountable those schools that do not improve subgroup performance but have high overall performance year over year?**

Mr. Blomstedt: Specifically, schools that have subgroup performance issues will have that noted as eligible for TSI and will be monitored for progress. Nebraska reduced subgroup n-size to 10 but still have many small schools that may have subgroup results that are difficult to publicly report. Nonetheless the overall measures of school quality and overall performance will be attentive to all students who are not meeting proficiency marks.

2. **Arming teachers is a dangerous strategy that is likely to make children and school staff less safe. Would your department use Title IV-A Student Support and Academic Enrichment (SSAE) grants to purchase firearms for teachers or provide firearms training in schools? Do you believe the Department of Education should issue guidance that this funding should not be used for these purposes?**

Mr. Blomstedt: As I stated on the record during the hearing, Nebraska has not had any serious conversations of using federal funds for that purpose, nor would I support that. I would prefer that any guidance should be based on the original intent of the law. I have not seen any evidence that the original intent of law including the purchase of firearms or firearms training.

Questions from Senator Tim Kaine

- 1. What best practices is your state using to improve conditions for student learning and ensure that our school systems are not penalizing historically underserved students and contributing to disproportionate discipline practices across lines of race and ability?**

Mr. Blomstedt: Nebraska took a holistic, system approach in the design of and conversations around school improvement, accreditation, accountability, assessment, and supports for schools. This whole system approach includes a framework for accountability that is also a framework for future efforts on building supports. We have also championed the mission to lead and support the preparation of ALL Nebraskans for learning, earning, and living. Some of the key work around the equity commitments include: efforts to prepare and support diverse and learner ready teachers; participation in a national ESSA Leadership and Learning Consortium; efforts to ensure equitable use of quality materials through Nebraska Materials Matter; community and school engagement in career education planning through Nebraska's reVISION process; and the continued efforts of the State Board of Education to reinforce this effort through a recent resolution on equity. The combined efforts have created a common expectation and language in Nebraska that equity MUST be a key driver. I outlined a series of equity commitments in Nebraska at the beginning of this school year, which can be found in whole on the Nebraska Department of Education website. The following is my introduction to that document:

“The Strategic Vision and Direction of the State Board of Education and of the Nebraska Department of Education outlines five roles that describe our work and how we approach achieving our strategic priorities. Those roles are Champion, Regulator, Capacity Builder, Connector, and Change Agent. The Champion role stands out to me this year as we engage in unprecedented activities as a state education agency. As we move from an agency that is traditionally focused on regulation and compliance, to one that is focused on leadership, innovation, and learning, we will naturally engage in ways we have not before. One of the areas we are taking a more active role is related to equity, which led us to this year's NDE theme: Champions for Equity in Education.

My call to action is that Nebraska will lead the way in addressing inequities of the past by focusing on opportunities to learn for all students and by adopting a relentless focus on outcomes that ensure all stakeholders deliver on the promise of equity. This statement is supported by our strategic priorities, in particular the one that declares, “Ensure all Nebraskans, across all backgrounds and circumstances, have equitable access and opportunities for success.”

Educational equity means that all students have access to the educational resources they need at the right moment, at the right level, and with the right intensity, to not only reach high expectations for learning, but also to discover and explore their passions and make meaningful connections within the context of their postsecondary interests. Equity requires that

these opportunities and outcomes exist across race, gender, ethnicity, language, disability, sexual orientation, family background, adverse events, and/or family income. Equity efforts will ensure that all students are known, heard, and supported while having access to the opportunities and resources needed to be ready for success in their post-secondary learning experiences, careers, and civic lives.

I know that schools and other educational partners are already doing exceptional work with respect to equity in education. We hope to support you through more evident and intentional approaches. For example, we are part of a national conversation on equity in education through our work with the Wallace Foundation and statewide partners in the ESSA Leadership Learning Community (ELLC). Our state team is actively working on a definition of equity that I intend to release soon. Additionally, we are partnering with other statewide education organizations in the release of a statement of principle related to human dignity, including common beliefs about how all people should be treated and specific actions to ensure we implement what we say we believe. I also intend for our agency to examine our rules to ensure that our commitment to equity is reflected, namely in Rule 10, which outlines provisions for the accreditation of schools.

Thank you for embarking on this journey with us as we fulfill our duties to provide leadership for our statewide education system. We are at a point in history where the statement “all students” has to mean what we say and we must be explicit in defining that all means all. The State Board of Education and I will champion that conversation and keep it at the forefront of our mission, to lead and support the preparation of all Nebraskans for learning, earning, and living.”(see: <https://cdn.education.ne.gov/wp-content/uploads/2018/07/2018EquityCommitments.pdf>)

Questions from Senator Maggie Hassan

1. **During the recent HELP hearing, “The Every Student Succeeds Act: States Leading The Way”, I shared my own story of the tools and support that made it possible for my son Ben who experiences disabilities to be fully included in his school. I took time to tell you Ben’s story, because I think it is important to have real examples of why your work to ensure that students who experience disabilities get the supports they need matters. I continue to be very concerned about how states are implementing the Every Student Succeeds Act as it pertains to students who experience disabilities, and look forward to hearing more about how your own state is approaching this issue. Can you please explain how your state plan measures the performance of students who experience disabilities within your state’s school rating system?**

Mr. Blomstedt: Personally, I was very moved by your son’s story, so thank you for sharing that during the hearing. I’m am regularly impressed by the level of commitment in Nebraska to creating equitable opportunities and outcomes for all of our students and especially students with disabilities. In particular, I recently spent time with para educators in Nebraska who are very committed to the equity of educational opportunities for students. Nebraska seeks to include all students in the accountability system and not to set standards/expectations lower for any students. Nebraska has also invested in a much more robust assessment vision to ensure that not only are students assessed on state summative assessments but that interim assessments that can be more readily adapted for students with disabilities can further ensure the best strategies are used for each student. Nebraska is pleased to work with NWEA, DRC and ACT as state assessment vendors but also as partners in best practices for assessment of all students. We’ll continue to refine our assessment for learning system to ensure it is student-centered and alternate assessments are used appropriately to ensure every student’s growth can be measured.

2. **In your rating system, what percentage of a school’s grade is based on the performance of students with disabilities?**

Mr. Blomstedt: Although I’m not able to respond to a specific percentage impact at this time, there is an impact based on subgroup performance and overall performance based on the specific inclusion of a subgroup for students with disabilities.

3. **If students with disabilities only have a 60 percent graduation rate, can a school still get an A rating?**

Mr. Blomstedt: Any School with one or more consistently low-performing subgroups may not be classified as “Excellent” which includes “students with disabilities” as a subgroup. The State Board of Education and I also are committed, through our state strategic plan, to close achievement gaps for all sub-groups and will continue to consider revisions to the state accountability system that account for students with disabilities as part of the Nebraska AQuESTT system.

4. **If half of the students who experience disabilities at an otherwise high performing are not reading at grade level, will they be identified as a consistently underperforming subgroup and receive additional support?**

Mr. Blomstedt: If the subgroup is identified in the last stage (lowest 5%) of the filter, then they would be identified as TSI and be eligible for additional supports.

5. **Once schools are identified as needing targeted support for students who experience disabilities, what are the interventions available?**

Mr. Blomstedt: Specific and appropriate interventions are still being determined, but in the case of students with disabilities, we will involve appropriate staff from the NDE Special Education department or in determining the best strategies for the specific group of students. In particular, efforts to improve supports for students are currently highlighted by work in statewide MTSS, PBIS, and instructional materials to improve services and equity for students with disabilities.

Questions from Senator Doug Jones

1. **I was not in office when ESSA was signed into law but commend my colleagues for passing this robust bill. The HELP Committee is hopeful to reauthorize the Higher Education Act next Congress. With HEA on the horizon, what are the accountability lessons from K-12 that we should consider in the higher education context?**

Mr. Blomstedt: I believe there are several elements to be modeled including robust state and local stakeholder input, flexibility in plan design, and a few key indicators that matter at a national level. I would recommend that thoughtful consideration be given to the timeframe for implementation including sufficient time between passage and implementation for the planning, engagement, and ultimate local implementation. I think a substantial lesson from ESSA is to encourage more time for state to state dialog.

Molly Spearman, Superintendent, South Carolina Department of Education
 U.S. Senate Committee on Health, Education, Labor and Pensions
 Questions for the Record
 October 9, 2018

Questions from Senator Patty Murray

1. **The Every Student Succeeds Act includes new provisions designed to improve educational stability and student outcomes for children and youth in foster care. These provisions include designating a state point of contact, and ensuring that all children in foster care are able to stay in their school of origin when in their best interest. In order to do so, LEAs must collaborate with state or local child welfare agencies to develop and implement clear written procedures to ensure that when transportation is necessary, such transportation is provided, arranged and funded. Please describe the steps you have taken to ensure that your state, and all LEAs in the state, are in compliance with these important requirements, including having a way to resolve disputes if they arise between LEAs and child welfare agencies.**

Ms. Spearman: The South Carolina Department of Education's Office of Federal and State Accountability (OFSA) provides foster care support and guidance related to ESSA federal requirements to South Carolina schools and districts. This office keeps a list of foster care contacts/liaisons for each district and updates those yearly. The South Carolina Department of Education's OFSA, in conjunction with the South Carolina Department of Social Services, provides professional development related to foster care to district foster care contacts, and a guidance document is distributed to assist districts with meeting federal requirements. Additionally, the SCDE Title I foster care contact person works with DSS contacts and with districts to provide ongoing support as districts encounter individual situations and needs.

2. **I have been very focused on ensuring we are creating good government programs by adopting evidence-based policies. ESSA includes such a focus on adopting evidence-based policies. Under ESSA, school districts will no longer have to comply with No Child Left Behind's prescriptive intervention scheme, but instead can design school interventions that work for their districts so long as they meet the law's requirements to be evidence based. What are you doing in your states to ensure school districts plan to take advantage of this new flexibility to adopt locally-designed strategies that will really move the needle for students based on evidence and comply with the law's evidence-based requirements?**

Ms. Spearman: The purpose of the South Carolina School Improvement Model is to provide a high quality and systematic approach to continuous improvement for all school districts. We believe that the implementation of this model can improve the practices of educators, build collective efficacy across our state, and help address academic achievement in our lowest-performing schools. To do this, we support schools and districts in precisely diagnosing and prioritizing their areas for improvement, and then selecting and implementing relevant evidence-based interventions, practices and/or

strategies that are considerate of their local context. Based on the areas of needed improvement, low performing schools in South Carolina are categorized via the use of tiers ranging from tier one to tier four. Tier one schools are those in need of a lesser amount of improvement while tier four schools are those who have been declared to be in a state of emergency by our Superintendent and are in grave need of comprehensive and widespread improvement. Using the schools academic profile, accreditation status, the district's financial risk rating, and considering the amount of time the school has been in improvement status, tiers are assigned. The level of evidence required in each school's improvement efforts as documented by their School Renewal Plans is directly aligned with each school's assigned tier. For more information see the *South Carolina Tiered Support and Improvement Matrix* below for further information.

Additionally, the [South Carolina Evidence-based Interventions and Practices Guide](#) is a tool to support schools with their continuous improvement process and ensure compliance with the evidence-based guidance required under ESSA. This document is a companion document to the [South Carolina School Improvement Framework](#) and provides the processes and structure for identifying evidence-based interventions, practices, and strategies that have been proven effective through empirical research and evaluations. The following evidence-based resources are approved in our [South Carolina State Consolidated Every Student Succeeds Act \(ESSA\) plan](#):

- [What Works Clearinghouse](#).
- [Evidence for ESSA](#).
- [Results First Clearinghouse Database](#).
- [Best Evidence Encyclopedia](#).
- [The Center on Instruction](#).
- [Center for Comprehensive School Reform and Improvement](#).
- [Roadmap to Evidence-Based Reform for Low Graduation Rate High Schools](#).
- [RAND report on school leadership interventions under ESSA](#).
- [Using Evidence to Create Next Generation High Schools](#).
- [An LEA or School Guide for Identifying Evidence-Based Interventions for School Improvement](#).

The South Carolina Tiered Support and Intervention Matrix

	Tier 1	Tier 2	Tier 3	Tier 4
School Improvement Planning	School Renewal Planning- strategies closely aligned with diagnostic review improvement priorities; monitored by Transformation Coach	School Renewal Planning- strategies closely aligned with diagnostic review improvement priorities; monitored by quarterly Transformation Coach	School Renewal Planning- strategies closely aligned with diagnostic review improvement priorities; monitored by monthly Transformation Coach	School Renewal Planning- strategies mutually agreed upon by SCDE and school/district and aligned with diagnostic review improvement priorities; monitored at least weekly by Transformation Coach
Selection of Evidence Based Interventions & Technical Assistance Funds	Autonomy to select strategies for improvement and use of technical assistance funds	Mild guidance to select strategies for improvement and use of technical assistance funds	Strong guidance to select strategies for improvement and use of technical assistance funds	SCDE directed/control of selection of strategies for improvement and use of technical assistance funds
Evidence Based Intervention Strategies Tier Requirements	Evidence based strategies must be at the "rationale level" at a minimum (positive evaluation that the strategy is likely to improve student outcomes) with ongoing examination of efforts	Evidence based intervention at "promising level" at a minimum with a correlational or quasi-experimental study to demonstrate statistically significant effect on student outcomes	Evidence based interventions must be at "moderate level" at a minimum and demonstrate statistically significant effect on student outcomes	Evidenced-based interventions must be at "strong level" with a randomized control group or at "moderate level" at a minimum and demonstrate statistically significant effect on student outcomes

3. With the passage of ESSA and changes to school report cards, lawmakers, parents, and advocates will now have new information that can paint a fuller picture of education in states, including information about: resource inequities, school discipline practices, postsecondary enrollment, per-pupil expenditures, and academic achievement for at-risk groups of students, like foster, homeless, and military-connected students. Can you provide an update in each of your state's about your states' compliance with these reporting requirements and whether or not you will experience in any delays in complying with any of the reporting requirements in Section 1111(h) of the Elementary and Secondary Education Act?

Ms. Spearman: South Carolina's report cards will be released on November 15, 2018 and will fully comply with reporting requirements.

Questions from Senator Bernard Sanders

1. **Federal law requires that states provide a quality education for all students, but school conditions are not equal across communities or even within school districts. How does South Carolina ensure that each and every student, regardless of income, race or community has equitable access to well-trained teachers, updated and modern facilities, and a welcoming and inclusive learning environment?**

Ms. Spearman: With regard to ensuring that each and every student has equitable access to well-trained teachers, the SCDE will publish minimum standards for reporting teacher data that will apply to all South Carolina public schools and districts. These standards will ensure a baseline of comparable, accurate, and transparent reporting from all schools and districts in the state. The SCDE will annually publish the Access to Educators Report, detailing the yearly progress of the state in ensuring that all students are not served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers. The report will contain that year's data, progress compared to previous years' data, evaluation of strategies implemented by the SCDE that year, and plans for future SCDE strategies based on data analysis and evaluation.

2. **ESSA ensures that states provide all children with equal access to a high-quality education. In that regard, successful implementation of ESSA means that schools are improving educational equity and protecting vulnerable students. How does South Carolina satisfy ESSA's equity requirements, identify schools that need improvement and ensure that identified students receive the resources they need to improve?**

Ms. Spearman: South Carolina will comply with ESSA identifying our lowest performing Title I Schools who score in the bottom 5% based on their overall weighted point index across all accountability metrics. Additionally, Targeted Support and Improvement schools will be identified based on those same measures being analyzed for historically underperforming subgroups. We are fortunate in South Carolina that in addition to Federal School Improvement funds, the South Carolina General Assembly has committed to providing state technical assistance to these schools identified as in need of improvement. Our CSI schools will also have the opportunity to be supported with daily, side by side, support of state transformation coaches who are focused on improving the practices of educators to positively impact learner outcomes. All of our schools will have access to participate in our Community of Practice school improvement professional development model which focuses on providing high quality professional learning, continuous support, and implementation of evidence-based practices, strategies, and interventions.

3. **It is shocking that the Department of Education would propose using federal funds to arm teachers when Congress' intent is clear. Title IV funds are authorized for the purposes of providing students with a well-rounded education, supporting safe and health students, and supporting the effective use of technology. The first of these mentioned categories lists "career counseling" as a possible use of funds. The**

American School Counselor Association recommends a student-to-counselor ratio of 250-to-1. Based on your experience, do you support additional school counselors to prepare students for success in college and career?

Ms. Spearman: Since 2005, the South Carolina General Assembly has appropriated funds, specifically, for additional school counseling personnel (counselors and career specialists) in middle and high schools. Since that time, the average student-to-school counseling personnel ratio is 300:1. The SCDE will continue to support efforts to increase the number of school counseling personnel available to prepare students for success in college and career.

4. How is South Carolina using federal funds to improve educational outcomes for all students?

Ms. Spearman: South Carolina strives to use every tax dollar in the most efficient and effective ways possible to ensure that we meet our vision that every graduate is equipped with the knowledge, skills, and life and career characteristics needed to be successful in college, career, and citizenship.

Questions from Senator Elizabeth Warren

1. **A key part of ESSA is making sure that states are improving education for all students, including for subgroups of students. South Carolina does not include subgroup performance in your rating system. This means that if a subset of students has very low graduation rates the school can still receive a high overall performance score. How is this compliant with ESSA's requirement under section 1111(c)(4)(C)(i) to base the state's system of meaningful differentiation on the performance of each subgroup of students?**

Ms. Spearman: If the performance of these students is at or below the performance of the all student group in the highest performing CSI school across all accountability metrics, this subgroup will be identified for targeted support and improvement. This methodology aligns with what is written in ESSA compliance regulations.

2. **How will you ensure that schools with large achievement/graduation rate gaps or low performing subgroups do not receive high ratings?**

Ms. Spearman: The graduation rate metric is included as a stand alone indicator and also incorporated in our college and career readiness metric for high schools.

3. **How will you ensure that subgroup performance is transparent to schools and to the public?**

Ms. Spearman: Our school report card dashboard will provide information to parents and stakeholders in a transparent format.

4. **What is your plan for holding accountable those schools that do not improve subgroup performance but have high overall performance year over year?**

Ms. Spearman: We are committed to revisiting our accountability system to ensure we are holding schools accountable for all students. In addition, if these schools are identified as having one or more low performing subgroups and do not improve over the course of two identification cycles, those schools will then be identified for comprehensive support and improvement.

5. **Educating students requires active student engagement. You have included a school quality indicator focused on student engagement. You are also deploying a student engagement survey. How will this information be shared with schools and families? What types of interventions do you anticipate schools will use to improve performance?**

Ms. Spearman: The results of the survey will be transparently reported to the public via school report cards. Stakeholders will be able to note the percentage of students whose survey responses meet the commitment level. We anticipate that schools will, in turn, utilize this data to support their efforts to improve or enhance their school climate and

culture, social-emotional support of students, and further assist them as they work to create opportunities for every student to be connected, engaged, and committed to their individual school communities.

6. **Arming teachers is a dangerous strategy that is likely to make children and school staff less safe. Would your department use Title IV-A Student Support and Academic Enrichment (SSAE) grants to purchase firearms for teachers or provide firearms training in schools? Do you believe the Department of Education should issue guidance that this funding should not be used for these purposes?**

Ms. Spearman: South Carolina leaders in education, mental health, and law enforcement have developed a common school safety vision that will provide a trained law enforcement school resource officer in every school, a mental health counselor and telepsychiatry in every school, as well as the training tools for students, teachers, and community members to identify potential threats and troublesome behavior and work with pre-crisis intervention teams to report it properly. South Carolina would welcome federal funding to help assist in this effort.

Questions from Senator Tim Kaine

- 1. What best practices is your state using to improve conditions for student learning and ensure that our school systems are not penalizing historically underserved students and contributing to disproportionate discipline practices across lines of race and ability?**

Ms. Spearman: The South Carolina School Safety Task Force, chaired by State Superintendent of Education Molly Spearman and former State Board of Education member, Traci Young-Cooper, developed a Student Code of Conduct Matrix, designed to assist administrators in identifying student offenses and, subsequently, imposing interventions and consequences in a more uniform manner statewide. Several times annually, the SCDE provides local, regional, or statewide training related to discipline intervention strategies and discipline data collection. During these activities, districts are encouraged to adopt practices that will reduce disparities in school discipline practices.

Questions from Senator Maggie Hassan

1. **During the recent HELP hearing, “The Every Student Succeeds Act: States Leading The Way”, I shared my own story of the tools and support that made it possible for my son Ben who experiences disabilities to be fully included in his school. I took time to tell you Ben’s story, because I think it is important to have real examples of why your work to ensure that students who experience disabilities get the supports they need matters. I continue to be very concerned about how states are implementing the Every Student Succeeds Act as it pertains to students who experience disabilities, and look forward to hearing more about how your own state is approaching this issue. Can you please explain how your state plan measures the performance of students who experience disabilities within your state’s school rating system? In your rating system, what percentage of a school’s grade is based on the performance of students with disabilities?**

Ms. Spearman: As you are aware, under the Individuals with Disabilities Education Act, each state must have an approved State Performance Plan (SPP), Annual Performance Report (APR), State Systemic Improvement Plan and Report. In addition, each state must make determinations annually about the performance of each local educational agency with respect to the implementation of programs and services for students with disabilities. South Carolina has a strong, measurable system for determining compliance with these federal requirements, and uses these data when determining how the state will support local educational agencies in their work with students with disabilities.

2. **If students with disabilities only have a 60 percent graduation rate, can a school still get an A rating?**

Ms. Spearman: Our state is using descriptors to measure overall school performance. It is not likely that a school with a graduation rate of 60% for its disabled students would be rated as Excellent. The graduation rate metric is included as a stand alone indicator and also incorporated in our college and career readiness metric.

3. **If half of the students who experience disabilities at an otherwise high performing are not reading at grade level, will they be identified as a consistently underperforming subgroup and receive additional support?**

Ms. Spearman: If the performance of these students is at or below the performance of the all student group in the highest performing CSI school across all accountability metrics, this subgroup will be identified for targeted support and improvement.

4. **Once schools are identified as needing targeted support for students who experience disabilities, what are the interventions available?**

Ms. Spearman: Our state plans to braid and blend funds to provide additional resources and support to these schools. Additionally, we will provide targeted and specific

professional learning opportunities for educators who are working with these students from various offices within our agency.

Questions from Senator Doug Jones

1. **I was not in office when ESSA was signed into law but commend my colleagues for passing this robust bill. The HELP Committee is hopeful to reauthorize the Higher Education Act next Congress. With HEA on the horizon, what are the accountability lessons from K-12 that we should consider in the higher education context?**

Ms. Spearman: As part of Educator Preparation, the South Carolina national accreditor of colleges and universities, the Council for the Accreditation of Educator Preparation, requires educator preparation providers (EPPs) to measure program impact. This standard, also used by State-approved institutions, requires EPPs in South Carolina to contribute to an expected level of student-learning growth at the school level. EPPs in South Carolina use this requirement to ensure teacher training effectiveness and thus increase student achievement for all student subgroups.

Shavar Jeffries, President, Education Reform Now
U.S. Senate Committee on Health, Education, Labor and Pensions

Questions for the Record
October 9, 2018

Questions from Senator Patty Murray

1. ESSA contains many federal guardrails that states must comply with to receive Title I funding. To help ensure states meet these guardrails, the U.S. Department of Education must engage in robust monitoring of states' implementation of their ESSA plans. What do you think are the most important things for the Department to look at as they undertake this monitoring in order to ensure states are meeting their obligations under federal law?

Mr. Jeffries: To be candid, it's not clear that this Department of Education is all that worried about whether they enforce the law or not. They have in some instances, but in far too many, they have not. The U.S. Department of Education has approved plans that violate clear statutory guidelines on policies such as using subgroup performance to differentiate schools and identify those in need of support and improvement; the inclusion of student attainment of proficiency – in addition to “growth”- in English/language arts and math in state accountability systems; and, ensuring that all assessments are statewide such that all students take the same assessments.

I think monitoring and oversight will by both this Committee and its House counterpart is very important when it comes to the types of interventions states, districts, and schools themselves must mount under the various categories of support and improvement under the law. ESSA is clear that the federal government has little or no role in making those determinations whatsoever beyond provisions in the statute that such interventions, at least in part, be “evidence-based.” History indicates that those decisions will often be made based not on what is in the best interests of students but rather what the path of least resistance is for those charged with carrying them out, despite whatever good intentions they, and I'm sure my fellow panel members, have. For example, as schools try to put the human capital together they will need to close achievement gaps, I hope Congress will seriously consider ways we can help attract and qualified and diverse teaching force to schools and students that most need those teachers.

Questions from Senator Bernard Sanders

1. **Federal law requires that states provide a quality education for all students, but school conditions are not equal across communities or even within school districts. How should states ensure that each and every student, regardless of income, race or community has equitable access to well-trained teachers, updated and modern facilities, and a welcoming and inclusive learning environment?**

Mr. Jeffries: There are a number of ways that states can help ensure equitable access to well-trained teachers. Two policies contained in ESSA can help guide and support these efforts.

Equitable Access to Well-Trained Teachers

First, under ESSA, Congress retained and actually strengthened one key provision in federal law around equitable access to high-quality teachers. As under the old law, states must address and remedy disparities in the rates at which low-income and minority students are taught by inexperienced and out-of-field teachers. Under the new law, state plans must also address inequities in the assignment of teachers deemed ineffective. State plans vary in terms of how aggressively they plan to fulfill this requirement and this is something I recommend Congress monitor closely

Second, pursuant to new requirements under ESSA, states are required to publicly report actual per-pupil spending for each and every school. In the past, most districts have reported misleading numbers on school-level spending that use district-wide data that mask real school-by-school teacher salary differences and, in turn, real and inequitable per-pupil spending disparities driven by seniority-based compensation and placement policies. Most states will report that data by the end of this school year. The hope is that this transparency will lead to changes in how resources are distributed to schools for the purpose of hiring and retaining great teachers, especially for low-income students and students of color who are being shortchanged under the current system.

There are additional ways the federal government could help. Senate Democratic Leader Chuck Schumer and House Democratic Leader Nancy Pelosi, for example, have proposed a plan that would take the tax cuts Congress gave away last year to the top 1% of all earners and repurpose the funds to boost teacher salaries. This is arguably the boldest K-12 education proposal we've seen from Congressional leaders in years.

If these funds were targeted at salary differentials to attract and retain teachers at high-need schools, which the vast majority of school districts lack now, they could be a highly effective tool for equalizing the distribution of great teachers. We would also like to see those funds be used to diversify the teaching force. The most recent available data indicate that 82 percent of public school teachers are white while about half of all U.S. students are now non-white. Despite evidence showing clear benefits when students and teachers are matched on race and ethnicity, 16 percent of U.S. students are black while

only 7 percent of public school teachers are. Likewise, while 24 percent of students are Hispanic, only 8 percent of teachers are Hispanic. Professionals of color are even more under-represented, relative to the general population, in the field of teaching than they are among professions requiring a B.A. overall, almost all of which pay more than teaching, so there are strong arguments for bringing pay incentives to bear in this area.

Updated and Modern Facilities

Democrats have long sought to bring federal resources to bear in upgrading and modernizing school infrastructure. Historically, those efforts have been unsuccessful as this is an area where most Republicans have firmly refused to support any federal role in ensuring every child attends a school with ample classroom space, safe and healthy facilities, and up-to-date telecommunications and technology systems.

President Trump has promised, from the beginning of his term, to spearhead a major infrastructure initiative and a group of Democratic Senators, along with Senator Lisa Murkowski, wrote to him at the beginning of this year asking that the infrastructure package include funds for public schools. So far, however, there has been no action on infrastructure, with or without funding for schools. This is something we hope will change next year especially if there are changes to Congressional leadership as a result of the November elections.

A Welcoming and Inclusive Learning Environment

It is hard for the federal or even state government to ensure that each and every school has a welcoming environment. This is something that takes attention to a great many details at the district and school level.

We do know that for school environments to be welcoming and inclusive, all children need to feel safe and be treated equally by principals, teachers, and other school staff and that there are ways federal and state governments can have an impact here. One big problem is that some schools overuse suspension and this overuse disproportionately affects children of color. Feeling alienated from school means kids are more likely to disengage or drop out. This cycle perpetuates the school-to-prison pipeline.

A restorative justice, trauma-informed approach to school climate will help reduce the exclusionary discipline practices that alienate so many of our young people of color. There are an array of effective interventions ranging from the positive behavioral interventions and supports (PBIS) system to collaboration with mental health professionals. Shared definitions, improved data tracking and transparency, and additional resources -- in the form of funding, training, and pilot programs -- make a real difference for students while changing practice at the school level.

In its 2015 Resource Guide for Superintendent Action, the US Department of Education offers six suggested action items for superintendents and districts considering state or district-wide policy change. These recommendations include engaging parents and

educators, increasing data and transparency, setting goals and targets for decreasing suspensions, and supporting schools through trainings and pilot programs. A recurring theme throughout this report, as well as in other guidance released by the Department of Education, is the need to provide educators with resources and create communities of practice to implement effective alternatives to suspension.

2. **ESSA ensures that states provide all children with equal access to a high-quality education. In that regard, successful implementation of ESSA means that schools are improving educational equity and protecting vulnerable students. What is the impact on historically underserved subgroups of students when schools do not satisfy ESSA's equity requirements, identify schools that need improvement and ensure that identified students receive the resources they need to improve?**

Mr. Jeffries: When schools do not satisfy ESSA's equity requirements, this means, in some cases, that some schools may not get the attention, funding, and technical support they need when certain subgroups are not making progress. What it means in other cases is that parents and policymakers will get inaccurate, incomplete, or misleading information. Parents can't engage with schools if they don't have data on how their child is doing or how their child's school is doing.

Also, as I stated in response to Senator Murray's question, ESSA is clear that the federal government has little or no role in making determinations about which interventions are chosen for school improvement beyond provisions in the statute that such interventions, at least in part, be "evidence-based." Still, I think this is something you and other Senators should monitor closely because history indicates that those decisions will often be made based not on what is in the best interests of students but rather what the path of least resistance is for those charged with carrying them out. It is my hope that you and other members of this Committee consider providing additional support to ensure every school meets its responsibilities to its students regardless of family income, race, ethnicity, zip code, disability, or country of origin. And, again, I think one way Congress could do this is to make substantial investments in attracting a qualified and diverse teaching force to schools and to students who most need those teachers.

3. **It is shocking that the Department of Education would propose using federal funds to arm teachers when Congress' intent is clear. Title IV funds are authorized for the purposes of providing students with a well-rounded education, supporting safe and health students, and supporting the effective use of technology. The first of these mentioned categories lists "career counseling" as a possible use of funds. The American School Counselor Association recommends a student-to-counselor ratio of 250-to-1. Based on your experience, do you support additional school counselors to prepare students for success in college and career? How is New Jersey using federal funds to improve educational outcomes for all students?**

Mr. Jeffries: We are not experts on mental health services in schools, but we believe there should be adequate mental health providers such as guidance counselors and school psychologists. Often the one guidance counselor at a school has a caseload of students that is far too large to manage and serve the needs of each student. In schools where students suffer from Adverse Childhood Experiences (ACEs) at higher than normal rates - such as Title I schools - additional mental health staff is a must because we know that effects of chronic poverty negatively impact a child's ability to absorb and retain information.

New Jersey allows school districts to use Title IV-A funding for a wide variety of purposes including: college and career guidance and counseling programs; accelerated learning approaches such as competency-based crediting; building technological capacity and infrastructure; blended learning projects; providing students in rural, remote, and underserved areas with access and resources to high quality digital learning experiences; drug and violence prevention activities; and, school based mental health services and partnership programs, just to name a few. To the best of my knowledge, the state does not monitor or oversee how each district uses its Title IV-A funds.

Questions from Senator Tim Kaine

1. **What best practices have you seen being used to improve conditions for student learning and ensure that our school systems are not penalizing historically underserved students and contributing to disproportionate discipline practices across lines of race and ability?**

Mr. Jeffries: This topic is near and dear to my heart and one that I am very familiar with because I recently submitted testimony to the school board here in DC on behalf of our local chapter regarding efforts to reduce suspension rates.

As I noted in my response to Senator Sanders, in order for our children to learn, they must feel safe. On the topic of exclusionary discipline practices, we know that some schools overuse suspension, and that this overuse disproportionately affects children of color. Feeling alienated from school means kids are more likely to disengage or drop out. This cycle perpetuates the school-to-prison pipeline.

A restorative justice, trauma-informed approach to school climate will help reduce the exclusionary discipline practices that alienate so many of our young people of color. There are an array of effective interventions ranging from the positive behavioral interventions and supports (PBIS) system to collaboration with mental health professionals. Shared definitions, improved data tracking and transparency, and additional resources -- in the form of funding, training, and pilot programs -- make a real difference for students while changing practice at the school level.

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Questions from Senator Doug Jones

1. **I was not in office when ESSA was signed into law but commend my colleagues for passing this robust bill. The HELP Committee is hopeful to reauthorize the Higher Education Act next Congress. With HEA on the horizon, what are the accountability lessons from K-12 that we should consider in the higher education context?**

Mr. Jeffries: In general, we've learned that: (1) some schools with resources need a serious push from outside forces to get beyond racial diversity in enrollment to make a meaningful commitment to diversity and equitable service; and (2) some schools need help - real resources to improve - and are more than willing to take on accountability for student outcomes in exchange. With attention and help, schools can do it in both K-12 and higher ed. That's why we think the bipartisan ASPIRE bill – co-authored by Senators Chris Coons and Johnny Isakson - is such a good idea. Here are two key reasons:

(1) Accountability overall and accountability for subgroup performance is critical.

- Florida State and Michigan State have the same median SAT scores, same incoming student high school GPA, and yet generate wildly different results. At Florida State, there is no degree completion gap between white and under-represented minority students. At Michigan State, there is a 41 percent degree gap between white and Black students. Only 3 in 20 Michigan State Black males graduates on time. At Florida State, it's three times higher.

(2) The right recipe for improvement is "resources coupled with reform;" that's what gets you better results.

- Places like Florida State, Georgia State, CUNY's Lehman College have all improved completion rates and markedly reduced gaps among subgroups with a combination of leadership, additional resources, and data-driven reform. Like Florida State, Georgia State has no completion gap among subgroups. CUNY's ASAP program has doubled completion rates there.
- Leaders like Walter Kimbrough now at Drexel University and Michael Sorrell at Paul Quinn College have moved the dial in boosting completion rates as well with a combination of leadership, resources, and data-driven reform. We need to help them and others at historically under resourced institutions do more. You can't do education reform on the cheap at the K-12 or higher ed level. But you can do it well when you couple resources and reform.

**Dr. Susan Bunting, Secretary, Delaware Department of Education
U.S. Senate Committee on Health, Education, Labor and Pensions**

**Questions for the Record
October 9, 2018**

Senator Patty Murray

1. The Every Student Succeeds Act includes new provisions designed to improve educational stability and student outcomes for children and youth in foster care. These provisions include designating a state point of contact, and ensuring that all children in foster care are able to stay in their school of origin when in their best interest. In order to do so, LEAs must collaborate with state or local child welfare agencies to develop and implement clear written procedures to ensure that when transportation is necessary, such transportation is provided, arranged and funded. Please describe the steps you have taken to ensure that your state, and all LEAs in the state, are in compliance with these important requirements, including having a way to resolve disputes if they arise between LEAs and child welfare agencies.

ESSA required Delaware to eliminate the provision “awaiting foster care placement” under 14 Del.C., § 202(c) in accordance with the federal McKinney Vento Homeless Assistance Act by December 10, 2017, and to instead create a distinct provision that youth in foster care remain entitled to attend their school of origin if it is in their best interests to do so, or to be eligible for immediate enrollment in a new school. In Delaware legislation was signed on 7/21/17 which accomplished this requirement. Additionally, the DDOE has appointed the state point of contact for children in foster care. The point person has worked collaboratively with the Department of Children, Youth and their Families (DSCYF) and the LEAs on revisions to the Memorandum of Understanding (MOU) between the Department of Children, Youth and Their Families, Department of Education and the LEAs to align with ESSA and the provisions of Code, including the transportation requirements. The MOU has been signed by all parties and is currently being implemented.

Federal funds in the state of Delaware are used to support homeless student enrollment, attendance, and success, increase parent and family engagement in educational activities, and improve school-wide academic programs to redress long-standing achievement gaps. The funds are employed in a number of ways depending on LEA-specific contexts, priorities, and needs, but must still adhere to federal and state requirements. For the Title I program specifically, Delaware LEA's have budgeted over \$340,000 to support homeless student education, approximately \$825,000 to facilitate parent and family involvement, and more than \$37 million for K-12 instructional interventions. With regard to instructional spending, these funds often support supplemental teachers, paraprofessionals, reading and math specialists, and school leaders. To this point in fiscal year 2019, the DDoE has approved federal funds to be used to: purchase software to identify and track the progress of at-risk students, distribute uniforms to homeless or low-

income students, obtain additional instructional supplies, secure translation services in support of students and parents for which English is not the first language, offer afterschool tutoring services, provide professional development opportunities for teachers, and fund special interventions for EL and special education students as a just a few examples. In addition, the DDoE is committed to evaluating the efficacy of our federal programs in an effort to provide students with the resources they need to reach their full potential. This will entail tracking outcomes and making program modifications as needed to ensure statewide supports align with the needs and values of students and families.

2. I have been very focused on ensuring we are creating good government programs by adopting evidence-based policies. ESSA includes such a focus on adopting evidence-based policies. Under ESSA, school districts will no longer have to comply with No Child Left Behind's prescriptive intervention scheme, but instead can design school interventions that work for their districts so long as they meet the law's requirements to be evidence based. What are you doing in your states to ensure school districts plan to take advantage of this new flexibility to adopt locally-designed strategies that will really move the needle for students based on evidence and comply with the law's evidence-based requirements?

DDOE meets monthly with district/charter curriculum supervisors/directors to discuss state wide initiatives related to ESSA. This year's agenda includes work with identifying and implementing evidence-based policies and programs. The Secretary as well as members of her Cabinet and staff schedule regular official and unofficial visits to schools to observe best practices and then share across the state. Consolidated grant applications are also being used to share best practices in utilizing federal funding for evidence-based policies and practices. DDOE is creating support documents and website resources for districts/charters related to evidence-based policies and programming.

3. With the passage of ESSA and changes to school report cards, lawmakers, parents, and advocates will now have new information that can paint a fuller picture of education in states, including information about: resource inequities, school discipline practices, postsecondary enrollment, per-pupil expenditures, and academic achievement for at-risk groups of students, like foster, homeless, and military-connected students. Can you provide an update in each of your states about your states' compliance with these reporting requirements and whether or not you will experience in any delays in complying with any of the reporting requirements in Section 1111(h) of the Elementary and Secondary Education Act?

Delaware has engaged with its stakeholder at various times during the development of the report card over the past year. During early engagement sessions, the focus was on the importance of understanding what stakeholders find most valuable when reviewing educational data. We took those recommendations and designed the report card to highlight data that stakeholders deemed most valuable.

Although Delaware will release the public report card in December with all required reporting elements from both ESSA and Delaware Code, the state plans to continue development of the report card to further enhance the user experience.

Student Support Team Response: Delaware has in place processes and procedures for the collection of foster, homeless and military connected students. These data are included in the pupil accounting system. Delaware had been collecting military connected information prior to ESSA because of a State law put signed into law on August 4, 2015. Additionally, all students in foster care had been identified as homeless for many years prior to ESSA so separating these data is not an issue.

4. Thank you for committing to share the Committee the 1-percent waiver request and the supporting documents, and for committing to make this information public. Please provide a copy of this information along with your responses to these questions. Please also provide the location where this information can be publicly accessed.

Please find the copy of 1% waiver request [linked here](#). This information can be found on the Assessment website here: <https://www.doe.k12.de.us/Page/3616> and under Alternate Assessments on the Delaware Department of Education Assessment website.

Senator Bernard Sanders

1. Federal law requires that states provide a quality education for all students, but school conditions are not equal across communities or even within school districts. How does Delaware ensure that each and every student, regardless of income, race or community has equitable access to well-trained teachers, updated and modern facilities, and a welcoming and inclusive learning environment?

As a result of the geographic proximity between stakeholder groups within the state, Delaware remains uniquely poised to tackle the pervasive problem of inequitable access to excellent teachers and leaders in a coordinated way. Delaware's commitment to improving educator effectiveness started with building the data systems and analytic capacity to better understand the state's landscape and workforce. Delaware has taken initiative in developing data infrastructure, systems, strategies, and initiatives to improve educator effectiveness. During recent years, Delaware has made significant investments in its workforce—from pre-service preparation, to recruitment and selection, to evaluation, and professional learning systems. Often these investments, financial and otherwise, have been directed toward ensuring equitable access to excellent educators for students in our highest-need schools. Examples of this work include the creation and implementation of a comprehensive strategic plan for providing the necessary supports and resources to both novice and experienced school leaders; a renewed focus on ensuring LEAs fully leverage the state's educator evaluation system, not only for educator accountability, but also as a driver of educator professional growth; making funds available to LEAs for the development and/or delivery of innovative induction program models for new educators; and offering funding to LEAs to strengthen partnerships between districts/charters and Delaware's in-state Educator Preparation Programs.

2. ESSA ensures that states provide all children with equal access to a high-quality education. In that regard, successful implementation of ESSA means that schools are improving educational equity and protecting vulnerable students. How does Delaware satisfy ESSA's equity requirements, identify schools that need improvement and ensure that identified students receive the resources they need to improve?

The Delaware School Success Framework is used to differentiate performance of all public schools in Delaware and to identify varying levels of supports based on an individual school's needs. To help the public in understanding school performance, ratings are assigned to each of the major components of the accountability system (Academic Achievement, Academic Progress, School Quality/Student Success, Graduation Rates, and Progress toward English Language Proficiency) and an overall rating is also provided at the school level. All Delaware schools receive continuous improvement support from the state. Some schools with low student performance based on state measures may be identified as qualifying for comprehensive support and improvement (CSI) or targeted support and improvement (TSI), which can provide additional program and funding support. TSI-2 schools will be identified yearly to serve as a "watch list" for sub-group performance.

Student Support Team Response: Delaware has implemented several programs that support improving educational equity and protecting vulnerable students. One program is the

Opportunity Grant program. Through the state's FY19 Appropriations bill \$6 million was provided by formula to 46 schools. The formula was based on the schools with high percentages of English Learners and/or low income. Applications were provided by these schools to the DOE for approval and monitoring of the funds to ensure the funds were being used to provide needs supports and services for these students. Additionally, the Student Success Block Grant (SSBG) in the FY19 Appropriations bill provided a 10 month Reading Interventionist to schools with high percentages of English Learners and/or low income to support reading in kindergarten through 4th grade. Additional funds through the SSBG provided added funds to support basic special education in grades kindergarten through grade 3.

3. It is shocking that the Department of Education would propose using federal funds to arm teachers when Congress' intent is clear. Title IV funds are authorized for the purposes of providing students with a well-rounded education, supporting safe and health students, and supporting the effective use of technology. The first of these mentioned categories lists "career counseling" as a possible use of funds. The American School Counselor Association recommends a student-to-counselor ratio of 250-to-1. Based on your experience, do you support additional school counselors to prepare students for success in college and career? How is Delaware using federal funds to improve educational outcomes for all students?

Based on my forty years of experience in the field of education, I believe school counselors are invaluable in preparing students for college and career. Consequently, I support the investment of Title IV funds in additional counselors. Furthermore, I support the use of funds for behavioral and emotional health counselors, who can highly contribute to students' safety and health.

Delaware's data for the student to counselor ratio from the American School Counselor Association has Delaware at 422 to 1 for the 2015-16 school year (latest data). This is even misleading because there are some schools without school counselors and some with a ratio of 800 to 1. (The reported ratio was based on the number of students enrolled divided by the number of school counselors 134,847 students and 320 school counselors.) We support additional school counselors from Title IV for many students supports from assessing for mental health concerns, providing support and instruction on social emotional learning to career counseling. Delaware's schools are required to have school counseling programs that meet the American School Counseling Association (ASCA) national model. "ASCA National Model" means a framework for implementing a comprehensive, data driven school counseling program. The model identifies K-12 College- and Career- Readiness Standards for every student in the domains of academic, career and social/emotional development. The model is made up of four components: Foundation, Delivery, Management and Accountability.

Delaware is using a portion of the State's Title IV funds to provide statewide training on trauma. The goal is for our schools to move through the developmental framework of becoming trauma aware, trauma sensitive, trauma responsive and trauma informed.

Senator Elizabeth Warren

1. A key part of ESSA is making sure that states are improving education for all students, including for subgroups of students. Delaware does not include subgroup performance in your rating system. This means that if a subset of students has very low graduation rates the school can still receive a high overall performance score.

- a. How is this compliant with ESSA's requirement under section 1111(c)(4)(C)(i) to base the state's system of meaningful differentiation on the performance of each subgroup of students?

The law requires that the state's annual system of meaningful differentiation be based on all the indicators, with academic indicators carrying substantial weight, and the ability to differentiate consistent subgroup underperformance on all indicators. Delaware's system meets these requirements. Academic indicators weigh 80% of the overall score for Elementary and Middle Schools, and 65% of the overall score for High Schools. Schools are differentiated by assigning a text-based descriptor of Exceeds Expectations, Meets Expectations, Approaching Expectations, or Well-Below Expectations. These ratings are based on student performance in all indicators including Academic Achievement, Academic Progress, School Quality and Student Success, Graduation Rate (4-, 5- and 6-year), and Progress Toward English Language Proficiency. Subgroup performance on all indicators is also calculated and reported annually to identify schools for additional support. Delaware reduced its n-size from 30 to 15 to include a greater number of subgroups in its accountability calculations. This ultimately translates into the identification of schools for Targeted Support and Improvement.

- b. How will you ensure that schools with large achievement/graduation rate gaps or low performing subgroups do not receive high ratings?

While the overall rating is determined using an index system, performance ratings are also provided at the indicator level for both Academic Achievement (grades 3-8 and 11) and Graduation Rate for high schools. Results for achievement and graduation rate will be disaggregated by subgroup and reported publicly. It is not possible to demonstrate low proficiency and achieve a high rating for the Academic Achievement indicator, and the same can be said for the Graduation Rate indicator. Schools with large achievement gaps and/or graduation rate gaps will be identifiable.

- c. How will you ensure that subgroup performance is transparent to schools and to the public?

The Delaware report card will show performance by subgroup; we have worked diligently to provide all performance data for all subgroups while still protecting PII. We also use subgroup performance to identify supports for each of our schools, not just schools identified for additional support and improvement.

- d. What is your plan for holding accountable those schools that do not improve subgroup performance but have high overall performance year over year

Underperforming subgroups will be identified on an annual basis, and schools/districts will be made aware that interventions need to be put in place to improve achievement for these identified subgroups. Each subgroup's performance will be transparent to all our stakeholders and used internally to identify supports for each of our schools, not just schools identified for targeted support and improvement.

2. It is important that data is used as a tool to improve education. How are your data systems, including any data warehouses that you maintain, supporting you with identifying schools and supporting them to improve performance?

Delaware's education data systems support the Department's efforts to improve education in several ways. The longitudinal data warehouse collects the LEA operational data in various areas including academic performance, language proficiency, attendance, and graduation rate. The business rules that govern accountability and school identification are then programmed into the Department's data systems. When combined with the operational data, schools are identified for varying levels of support. These data are reviewed by both SEA and LEA data stewards to help ensure the appropriate data were collected, and the business rules were properly applied. Once schools are identified, additional data are gathered to help provide a more comprehensive view. These data are provided to LEAs for review and used in conjunction with their own data to help improve performance. Validation and check points occur at multiple stages and throughout various groups of our department to ensure that after import, during outward reporting, and through business rules or program area knowledge data is being reviewed for quality.

3. Arming teachers is a dangerous strategy that is likely to make children and school staff less safe. Would your department use Title IV-A Student Support and Academic Enrichment (SSAE) grants to purchase firearms for teachers or provide firearms training in schools? Do you believe the Department of Education should issue guidance that this funding should not be used for these purposes?

Delaware's Department of Education does not and will not use Title IV-A grants to purchase firearms for teachers or provide firearms training in schools. Regarding the issuance of a guidance, if you are referencing the US Department of Education, I personally believe that such a document would ensure that Title IV monies are being invested in support services for students rather than in firearm-related objects or activities.

Senator Tim Kaine Questions

1. Ratings data is embargoed as of Friday, October 19th. Information on school's CSI/TSI/TSI-2 status will be shared during the week of October 22nd. Superintendents and curriculum supervisors will be notified first and then personal calls will be made to school principals after discussing with district level personnel.

Delaware's Governor has prioritized the implementation of "trauma informed" and restorative based practices within our public schools. At the same time, the Delaware General Assembly passed legislation requiring a deeper data review of all public school disciplinary practices in an effort to identify schools that may require additional guidance or support due to disproportionate exclusionary disciplinary practices. The DDOE Office of School Climate created a "School Climate Advisory Group" made up of key stakeholders from school as well as outside groups who work with school climate issues. The group is tasked with creating a user-friendly, student-centered best practices "toolbox" that will help schools in the First State to improve overall school climate and improve student outcomes while reducing the utilization of exclusionary discipline practices. The group has already identified several best practices, such as Peer Court and trauma awareness training for school climate teams. The group is developing tools to communicate these practices and provide coaching opportunities for schools which need a higher level of support as they attempt to change their overall school climate and disciplinary practices for the better.

Senator Maggie Hassan

1. During the recent HELP hearing, “The Every Student Succeeds Act: States Leading The Way”, I shared my own story of the tools and support that made it possible for my son Ben who experiences disabilities to be fully included in his school. I took time to tell you Ben’s story, because I think it is important to have real examples of why your work to ensure that students who experience disabilities get the supports they need matters. I continue to be very concerned about how states are implementing the Every Student Succeeds Act as it pertains to students who experience disabilities, and look forward to hearing more about how your own state is approaching this issue. Can you please explain how your state plan measures the performance of students who experience disabilities within your state’s school rating system?

Delaware reduced its n-size from 30 to 15 to include more subgroups in its school-level accountability system. As such, more schools will generate performance data for subgroups that may not have been included in the past. This is also true for students with disabilities. Annually, performance data across multiple indicators and measures will be calculated and reported for all subgroups. This means that we will measure and report performance for students with disabilities across the following measures: proficiency in English language arts, math, science and social studies in elementary, middle and high school, growth in elementary and middle school, chronic absenteeism, on track in 9th grade, college and/or career preparedness, graduation rate, and for English Learners, progress toward English language proficiency. With such a rich, comprehensive picture of student performance, areas of need can be identified at the school level, and supports and interventions can be targeted at the classroom level to improve student achievement.

2. In your rating system, what percentage of a school’s grade is based on the performance of students with disabilities?

Students with disabilities are included in the All Students subgroup to determine a school’s rating. However, subgroup performance is disaggregated for each school and will be reported on the school-level report card.

3. If students with disabilities only have a 60 percent graduation rate, can a school still get an A rating?

Our rating system and accountability system index were informed by extensive stakeholder engagement. If a school’s overall graduation rate is below 69%, the school will receive a Well-Below Expectations rating at the indicator level. The Graduation Rate indicator accounts for 20% of a school’s overall rating; therefore, it may be possible for a school to receive an overall rating that is not Well-Below Expectations. Graduation rate for students with disabilities is calculated and reported annually.

4. If half of the students who experience disabilities at an otherwise high performing are not reading at grade level, will they be identified as a consistently underperforming subgroup and receive additional support?

Through Delaware's accountability system, the performance of students with disabilities will be disaggregated. They could be identified as a consistently underperforming subgroup, subsequently receiving an array of additional supports that align with each individual's unique needs.

5. Once schools are identified as needing targeted support for students who experience disabilities, what are the interventions available?

The Delaware Department of Education (DOE) will provide support and assistance to schools in the form of:

- Needs assessment assistance;
- Evidence-based interventions and strategies;
- Thought partnerships;
- Professional learning opportunities;
- Online resources; and
- Connections to experts, partners and networks.

Districts and charters are not required to use the DOE-identified tools and resources; however, locally developed templates must meet DOE approval and ESSA needs assessment, planning, and budgeting requirements.

Senator Doug Jones

1. I was not in office when ESSA was signed into law but commend my colleagues for passing this robust bill. The HELP Committee is hopeful to reauthorize the Higher Education Act next Congress. With HEA on the horizon, what are the accountability lessons from K-12 that we should consider in the higher education context?

ESSA incorporates a focus on equity by expanding the students included in reporting to homeless, foster care and English Learners. It also allows flexibility in target setting for all student groups to close the achievement gap. Often at the higher education level the focus is solely on income disparities such as performance for Pell eligible students. Colleges should examine their ability to support students to degree completion across different segments of the student population. Additionally, ESSA expands the focus on college and career readiness. Are there ways to look at persistence and reduction in remediation rates in addition to degree completion that is already monitored?

[Whereupon, at 12:03 p.m., the hearing was adjourned.]

