



August 1, 2017

Ms. MaryEllen Elia  
State Commissioner of Education  
New York State Education Building  
89 Washington Ave.  
Albany, NY 12234

Dear Ms. Elia,

On behalf of The Leadership Conference on Civil and Human Rights and the organizations listed below, we urge you to ensure that children receive the support and attention they deserve through the implementation of the Every Student Succeeds Act (ESSA) in New York. As you prepare to submit your plan to the U.S Department of Education for review and approval before the September 18, 2017 deadline, it is critical that your plan meets the letter and purpose of the law to provide, “all children significant opportunity to receive a fair, equitable, and high-quality education, and close educational achievement gaps.” Given your role as a state leader and educator, you have a responsibility to students and taxpayers and we wanted to call your attention to the following state plan elements that are critical for realizing the promise of the law to support the education of all children in your state.

Your ESSA plan is a declaration of your commitment to the education of all children. This plan should set meaningful, aggressive, consistent, and achievable goals for ensuring children are prepared for future success and explain how the state will hold schools and districts responsible for educating *all* students. Parents and communities send children to school every day with the expectation that that school is doing its job and preparing their children for future success. They have the right to know that their state is committed to their children’s education and has a plan for what to do when a school is not educating well and needs help. The ESSA state plan is one way your state can demonstrate a serious commitment to the future success of all children, by creating a plan that explains how you will identify schools and districts that are not doing well and what you will do to help them improve.

Your state plan for ensuring all schools and districts are educating children well is only as good as the goals your plan sets for schools to improve and the degree to which goals drive the accountability system. Making sure that all children have a high-quality education that prepares them for the future is a responsibility that we all share—parents, grandparents, teachers, neighbors, advocates and state officials—we urge to you hold schools and districts accountable for their vital roles in ensuring all children can succeed.

Every child, no matter their unique challenges, their unique needs, or where they come from, should have the opportunity to grow up to be what they dream. The chances a child has to pursue their dreams should not depend on their zip code or their background. ***An ESSA plan that allows schools to shirk their responsibility to all children, especially groups of children who have been shortchanged for too long, fails to meet the intent of the law.***

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We urge you to include the following elements in your ESSA plan:

**Demonstrate that schools will be held accountable for disaggregated student achievement.** Data about African-American students, Latino students, Asian American students, Native students, White students, low-income students, English learners, and students with disabilities should each be included separately in your state accountability system and so-called “super-subgroups” should not be included as they contradict the purpose of disaggregated student data. N-sizes should be sufficiently small so as to include as many individual student groups as possible. School ratings should reflect the performance of each group of students and not simply the average of all students. Your plan should meaningfully define the term “consistently underperforming” and identify schools to receive targeted support and improvement when any group of students is consistently underperforming. You have a responsibility to ensure that data on how well schools are serving all groups of students is not obscured.

**Indicators in school ratings should be consistent across the state, disaggregated for each group of students, and focused on student achievement.** A statewide accountability system will only be statewide if the indicators used to measure school quality are the same (across a grade span) for all schools and districts. Data must also be provided for each subgroup of students in a school and therefore measures that are only available at the school or classroom level should not be used. While there is value in multiple measures of school quality, the focus on college- and career-readiness for students should not be obscured by other data that do not align to that goal of student success. Your state plan should include indicators in accountability systems that align to the purposes of ESSA’s accountability requirements and high achievement for students.

**Include evidence of parent and community engagement and tribal consultation in the plan’s development and an ongoing plan to engage and consult these crucial stakeholders.** Besides a student herself, no one has more to gain or lose from the quality of a school than a child’s parents and communities. Your state should include parents, including parents who do not speak English and parents with disabilities, at all steps along the development of the plan and should demonstrate an intention to continue engaging parents and communities, especially for marginalized students. Similarly, your state is obligated to consult with tribal leaders in the development of the plan to ensure that their children and citizens are supported and their needs are addressed. Your state plan should show that parents, communities, and tribes are being heard in the implementation of ESSA.

**Emphasize the four-year graduation rate in the accountability system.** The goal of K-12 education is for students to graduate from high school college and career ready. It is therefore critical that your state plan uses an accurate four-year adjusted cohort rate to hold schools accountable for student success. The four-year rate should be used when setting goals, as an indicator in state ratings, and when identifying high schools with a graduation rate below 67 percent for comprehensive support. Your state plan could use an extended year graduation rate to support students who take longer than four years to graduate from high school; however, it should emphasize graduation within four years. Your state plan should include a four-year adjusted cohort graduation rate as an indicator in the state accountability system.

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**Include a separate measure of English language proficiency for English learners in the accountability system.**

The inclusion of English language acquisition in ESSA's accountability requirements was one of the most important changes made to this reauthorization of the law. The new attention to whether or not students are making progress toward English fluency will help to ensure that English learners receive the supports and services to which they are entitled. Your state plan must include an English language proficiency indicator and long-term goals for English language proficiency.

**Meaningfully hold schools accountable in the accountability system if fewer than 95 percent of all students or of any subgroup of students were not included in the state's assessment.**

Inclusion in the state's assessment is important to ensuring that a student's learning matters to a school and that the school is attending to the educational needs of that student. Weak or meaningless consequences for failing to meet the participation rate requirement, or loopholes created by other policies, could lead to a repeat of past practice in which historically marginalized students were purposefully excluded from the assessment in order to obscure student outcomes. Transparency and validity of assessment data are also at risk. Your plan should hold schools accountable for including all students in assessments.

**Include effective strategies for supporting districts to improve conditions for student learning.**

ESSA requires states to describe how they will assist districts to reduce: bullying and harassment, the overuse of exclusionary discipline practices (e.g. suspensions, expulsions), school-based arrests, and seclusion and restraint. Marginalized students, including students of color, students with disabilities, and LGBTQ students, are disproportionately affected by bullying and harassment and exclusionary or overly punitive discipline, which can negatively impact academic progress. Your state should take meaningful steps to address these issues by providing districts with funding and other resources. Your state plan must describe the specific actions that will be taken to support positive conditions for student learning, especially for historically marginalized students.

The Every Student Succeeds Act is, as the latest reauthorization of the Elementary and Secondary Education Act of 1965, rooted in civil rights principles of equal opportunity in education. It is designed to help ensure that all children, no matter who they are or where they come from, have the opportunity to succeed. Failing to comply with the law or developing state policies counter to the success of all students only keeps children trapped and disadvantaged at a time when policymakers and educators should be working to build and support schools that nurture and empower our children to become their best selves. This is what our nation's children deserve.

Children go to school every day with the assumption that schools are prepared and invested in seeing them succeed. Your state has a responsibility to build and support the kind of schools that enable all children to reach their fullest potential. Your role is more critical than ever and you must take responsibility for the future of our children.

As your state proceeds with its weighty task of developing your ESSA plan, you must determine whether or not your plan will advance educational equity and serve the interests of all children. Low-income children, children of color, children with disabilities, English learners, and Native children have been left behind for far too long and deserve no less than robust and thorough state policy to ensure an excellent

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and equitable education. We appreciate your attention to our concerns. Please do not hesitate to contact Liz King, Leadership Conference director of education policy, at [king@civilrights.org](mailto:king@civilrights.org) or (202)466-0087.

Sincerely,

The Leadership Conference on Civil and Human Rights  
American Civil Liberties Union  
American-Arab Anti-Discrimination Committee  
The Arc of the United States  
Council of Parent Attorneys and Advocates  
Democrats for Education Reform  
Disability Rights Education & Defense Fund  
The Education Trust  
Educators for Excellence  
Judge David L. Bazelon Center for Mental Health Law  
Lawyers' Committee for Civil Rights Under Law  
League of United Latin American Citizens  
NAACP  
National Center for Learning Disabilities  
National Down Syndrome Congress  
National Indian Education Association  
National Urban League  
New Leaders  
Southeast Asia Resource Action Center  
Southern Poverty Law Center  
Teach Plus  
TNTF  
UnidosUS (formerly NCLR)