# When Language Matters: Determining How States Define Equity Under Race to the Top Grant Applications and Every Student Succeeds Act Implementation Plans

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## I. INTRODUCTION

In the last 40 years, key shifts in politics and policy have impacted the public-school system in America, moving the focus from minimum skills competency to global proficiency.[1]  Many education policy scholars cite the publication of *A Nation at Risk*[2] as the impetus for the shifts.[3]  This publication warned that the economic security of the country would be compromised if we did not make sweeping changes in our education system.[4]  The panic created by the report was the catalyst for the current assessment and accountability culture in American education.[5]

No Child Left Behind (NCLB)[6]—the 2002 reauthorization of the Elementary and Secondary Education Act (ESEA)[7]—was drafted with the intent to put a spotlight on the student groups (such as black students) that had been traditionally underserved by state accountability measures[8] and promised to increase educational equity and opportunity for these student groups by increasing funding and support.[9]  Education stakeholders and scholars soon realized that NCLB's primary strategy for increased equity and opportunity was through a system of

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1.     *See* Paul T. O'Neill, *High Stakes Testing Law and Litigation*, 2003 BYU EDUC. & L.J., 623 (2003).

2.     *See A Nation at Risk*, NAT'L COMM'N ON EXCELLENCE IN EDUC (1983), https://www2.ed.gov/pubs/NatAtRisk/risk.html.

3.     *See* Sharon L. Nichols et al., *High-Stakes Testing and Student Achievement: Does Accountability Pressure Increase Student Learning?*, 14 EDUC. POL'Y ANALYSIS ARCHIVES 1, 3 (2012).

4.     *See id.*

5.     *See* Michael R. Heise, *Courting Trouble: Litigation, High-Stakes Testing, and Education Policy*, 42 IND. L. REV. 327 (2009).

6.     *See* No Child Left Behind Act of 2001, 20 U.S.C. § 6319 (repealed 2015).

7.     *See* Elementary and Secondary Education Act, Pub. L. No. 89-10, 79 Stat. 27 (1965).

8.     *See* Douglas Lee Lauen & S. Michael Gaddis, *Shining a Light or Fumbling in the Dark? The Effects of NCLB's Subgroup-Specific Accountability on Student Achievement*, 34 EDUC. EVALUATION AND POL'Y ANALYSIS 185 (2012).

9.     *See* WILLIAM J. MATHIS & TINA M. TRUJILLO, NAT'L EDUC. POLICY CTR., LESSONS FROM NCLB FOR THE EVERY STUDENT SUCCEEDS ACT 3 (2016); Michael Heise, *From No Child Left Behind to Every Student Succeeds: Back to a Future for Education Federalism*, 117 COLUM. L. REV. 1859, 1865 (2017).

punitive testing accountability measures.[10]   By promising sanctions when schools and students continued to underperform, policymakers hoped that states, local education agencies (LEA's), and schools would feel pressured to improve.[11]   For example, "the federal government became increasingly involved in the nuts and bolts of schooling . . . by implementing a series of top-down command and control measures such as performance reporting and outcomes-based assessments."[12] When states attempted to implement NCLB's mandates, they found the accountability measures to be unrealistic and unattainable.[13]   NCLB waivers were requested by most states, indicating that the federal government had overreached with NCLB accountability policies,[14] not understanding the needs and limitations of each state.  These reauthorizations of the ESEA, including NCLB and the current iteration the Every Student Succeeds Act (ESSA),[15] were designed to repair educational inequities and close the achievement gap[16] for black students, students

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10.     *See* Derek W. Black, *Abandoning the Federal Role in Education: The Every Student Succeeds Act*, 105 CALIF. L. REV. 1309 (2017).

11.     *See* Lauen & Gaddis, *supra* note 8.

12.     Anna J. Egalite et al., *Will Decentralization Affect Educational Inequity? The Every Student Succeeds Act*, 53 EDUC. ADMIN. QUARTERLY 757, 761 (2017).

13.     *See* LINDA DARLING-HAMMOND ET AL., PATHWAYS TO NEW ACCOUNTABILITY THROUGH THE EVERY STUDENT SUCCEEDS ACT, LEARNING POL'Y INSTIT., (2016); *see also* Laura Adler-Greene, *Every Student Succeeds Act: Are Schools Making Sure Every Student Succeeds?*, 1 TOURO L. REV. 11 (2019).

14.     *See* Carrie Sampson & Sonya D. Horsford, *Putting the Public Back in Public Education: Community Advocacy and Education Leadership Under the Every Student Succeeds Act,* 27 J. SCH. LEADERSHIP 725 (2017); *see also* MATHIS & TRUJILLO, *supra* note 9; see also Egalite, *supra* note 12; DARLING-HAMMOND, *supra* note 13.

15.     *See* Every Student Succeeds Act (ESSA), Pub. L. No. 114-95 (2015).

16.     *See* Andrew Saultz et al., *Teacher Quality, Distribution, and Equity in ESSA,* 27 J. SCH. LEADERSHIP 652 (2017) (examining inequitable access to teachers under ESSA); Souhila El Moussaoui, *The Every Student Succeeds Act and Its Impact on Vulnerable Children*, 46 J. LAW & EDUC. 407 (2017); Egalite, *supra* note 12.

living in poverty, and students with disabilities.[17]  The strategies contained in education policy since *A Nation at Risk* brought issues to the policy arena that had not been addressed in this way before.[18]

This Essay analyzes the Every Student Succeeds Act (ESSA) to determine its impact on equitable outcomes for black students in urban areas.  In this Essay, we examine the Race to the Top (RTTT) applications of the twelve states that won the competitive grant that encouraged massive education reform law and policies alongside submitted ESSA plans of these same states to identify strategies used to combat barriers to success for urban, black students.  Part II provides an explanation of why the search terms were chosen and how they connect to the concept of equity.  Part III outlines policy history and the tenets of ESSA that speak to the concept of equity.  It also provides a review of existing literature and research on equity in current education reform policies.  Using corpus linguistics as a research method in Part IV, we conduct a critical discourse analysis of the ways in which the states' plans shape the meanings of equity, discipline, urban schools, and accountability.  ESSA and RTTT plans are searched for how frequently the terms are mentioned, any themes that emerge among state plans, and the alignment or misalignment between the use of the terms in ESSA plans and RTTT applications.  The frequency of mention and emerging themes are important because both can demonstrate how states prioritize these concepts.

## II.  THE IMPORTANCE OF EQUITY, DISCIPLINE, URBAN SCHOOLS, AND ACCOUNTABILITY

While education reform policies claim to be designed with equity in mind,[19] critical analysis is necessary[20] to determine if claims of

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17.    *See* Gail L. Thompson & Tawannah G. Allen, *Four Effects of the High-Stakes Testing Movement on African American K-12 Students*, 81 J. NEGRO EDUC. 218 (2012); Lauen & Gaddis, *supra* note 8.

18.    *See* Erica L. DeCuir, *The Louisiana Educational Assessment Program: Implications for Students and Schools*, 16 CURRICULUM AND TEACHING DIALOGUE 31 (2014); Heise, *supra* note 5; Nichols, *supra* note 3.

19.    *See* Every Student Succeeds Act, *supra* note 16; No Child Left Behind Act, *supra* note 6.

20.    *See* Gisele A. Waters, *Critical Evaluation for Education Reform*, 6 EDUC. POL'Y ANALYSIS ARCHIVES 2–3 (1998).

closing the achievement gap are hollow rhetoric or rooted in concrete action. We must take a closer look at how policy addresses key issues that affect equitable outcomes, such as: (a) discipline practices that disproportionately remove black students from educational settings, (b) the unique challenges and needs of urban schools, and (c) high-stakes accountability measures with punitive consequences that adversely impact black students in urban schools. The search terms were chosen because of the authors' belief that discipline, urban schools, and accountability are the aspects of education policy where equitable practices are needed most. Equitable schooling cannot take place if exclusionary discipline policies are disproportionately applied to black students. Equitable schooling cannot take place if urban schools are not valued and supported according to their individual needs. Equitable schooling cannot take place if accountability practices result in punitive actions rather than supports for urban schools and students. Taking a critical look at the language of reform policies helps to highlight how policy makers prioritize the issues stated above and clarifies how they intend to implement practices that improve outcomes for black students in urban areas.

Educational outcomes are substantially impacted by non-educational factors[21] such as poverty, abuse, and the influence of urban life. To provide equitable educational experiences for black students, policy makers must consider the source of these inequities. State-structured school segregation during Reconstruction and Jim Crow created the foundation for today's inequities.[22] During the early 1900's, this segregation system was designed to emphasize trades and skilled labor for black students to limit their economic mobility while subsequently securing prime educational opportunities for white students, solidifying economic disparities.[23] Despite the dismantling of de jure segregation

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21.    *See* DANIEL M. KORETZ, THE TESTING CHARADE: PRETENDING TO MAKE SCHOOLS BETTER (2017).

22.    *See* Rachelle J. Brunn-Bevel, W. Carson Byrd, Louise Seamster, & Kasey Henricks, *The Foundation of Racial Disparities in the Standardized Testing Era: The Impact of School Segregation and the Assault on Public Education in Virginia*, 39 HUMAN. & SOC'Y 419, 425–430 (2015); Michael J. Dumas, *Against the Dark: Antiblackness in Education Policy and Discourse*, 55 THEORY INTO PRAC. 11, 16 (2016).

23.    *See* Brunn-Bevel & Byrd, *supra* note 22, at 425–26.

in schooling through *Brown v. Board of Education*,[24] the inequities persisted in more discrete ways:[25] funding gaps in schools with predominately minority populations, disproportionate use of exclusionary discipline, inequitable access to highly effective school leaders and teachers, inequitable access to high-quality resources and facilities, and inequitable access to advanced coursework pervade our system today.[26]

Too often black students are the recipients of exclusionary discipline practices.[27] Research confirms that black boys and girls are expelled and suspended from school at much higher rates than their white counterparts.[28] Discipline disparities based on race negatively impact academic achievement,[29] and low academic achievement puts students at greater risk for exclusionary discipline practices.[30] In other words, when looking at misbehavior, schools find it easier to enact exclusionary consequences if the student is not performing well academically.[31]

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24.    *See Brown v. Board of Education*, 347 U.S. 483, 495 (1954).

25.    *See* Ladson-Billings, *From the Achievement Gap to the Education Debt: Understanding Achievement in U.S. Schools*, 35 EDUC. RESEARCHER 3, 5 (2006).

26.    *See* THE ASPEN INSTITUTE: EDUCATION & SOCIETY PROGRAM, ADVANCING EQUITY THROUGH ESSA: STRATEGIES FOR STATE LEADERS 1 (2016). *See generally* Charles Clotfelter, Helen F. Ladd, Jacob Vigdor, & Justin Wheeler, *High-Poverty Schools and the Distribution of Teachers and Principals*, 85 N.C. L. REV. 1345 (2007) (discussing inequitable access to quality teachers); Saultz et al., *supra* note 16; Ayana Kee Campoli, *Supportive Principals and Black Teacher Turnover: ESSA as an Opportunity to Improve Retention*, 27 J. SCH. LEADERSHIP 675 (2017) (analyzing inequitable access to teachers of color).

27.    *See* THE ASPEN INSTITUTE: EDUCATION & SOCIETY PROGRAM, *supra* note 26, at 22.

28.    *See* Anne Gregory, Russell J. Skiba, & Pedro A. Noguera, *The Achievement Gap and the Discipline Gap: Two Sides of the Same Coin?*, 39 EDUC. RESEARCHER 59, 59–60 (2010); Matthew L. Mizel, Jeremy N. V. Miles, Eric R. Pedersen, Joan S. Tucker, Brett Ewing, & Elizabeth J. D'Amico, *To Educate or Incarcerate: Factors in Disproportionality in School Discipline*, 70 CHILD. & YOUTH SERVICES REV. 102, 103 (2016).

29.    *See* Gregory et al., *supra* note 28, at 60; Scott W. Duxbury & Dana L. Haynie, *School Suspension and Social Selection: Labeling, Network Change, and Adolescent, Academic Achievement*, 85 SOC. SCI. RES. 1, 11 (2020).

30.    *See* Thompson & Allen, *supra* note 17, at 219.

31.    Thompson & Allen's study determined that high-stakes testing policies cause black students to be pushed out of schools through punitive discipline policies. They explain that some schools use low academic performance as a determining factor in the severity and frequency of punitive discipline. *See id.* at 221-22.

Schools often fail to consider the impact of non-academic factors such as poverty, abuse,[32] and the influences of life in urban neighborhoods. These non-academic factors can cause black students to reject race—and gender—normative behavior expectations within schools, making them the target of exclusionary discipline more frequently.[33]

Many problems facing urban schools in America appear resistant to most education reform,[34] likely due to a disconnect between education policymakers and the challenges faced by urban schools.[35] Although education reform policies—particularly accountability policies—are aimed at shining a light on the inequities that most urban schools encounter,[36] the accountability expectations do not match the inadequate support given to struggling schools.[37] Urban areas lack an equitable distribution of resources, such as access to highly qualified teachers,[38] which has a direct impact on the achievement of the students in urban areas.[39] The problems in urban schools are rooted in systemic racism and poverty, creating a cycle of inequity[40] that cannot be overcome by top-down accountability policy.

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32. *See* Mizel et al., *supra* note 28, at 103.

33. *See* Anthony A. Peguero, Ann Marie Popp & Zahra Shekarkhar, *Breaking Stereotypes and School Punishment: Family Socioeconomic Status, Test Scores, Academic and Sport Activities, Backlash, and Racial and Ethnic Discipline Disparities*, 13 J. ETHNICITY CRIM. JUST. 59, 60 (2015); Quaylan Allen, *"They Write Me Off and Don't Give Me a Chance to Learn Anything": Positioning, Discipline, and Black Masculinities in School*, 48 ANTHROPOLOGY & EDUC. Q. 269, 279 (2017); Edward W. Morris, *"Ladies" or "Loudies"? Perceptions and Experiences of Black Girls in Classrooms*, 70 CHILD. & YOUTH SERVICES REV. 490, 506–09 (2007).

34. *See* Charles M. Payne & Mariame Kaba, *So Much Reform, So Little Change: Building-level Obstacles to Urban School Reform*, 37 SOC. POL'Y 30, 30 (2007).

35. *See id.*

36. *See* Lauen & Gaddis, *supra* note 8, at 185–86.

37. *See* T. Anthony Walker, *Recasting the Vision for Achieving Equity: A Historical Analysis of Testing and Impediments to Process-Based Accountability*, 49 EDUC. & URB. SOC'Y 297, 306 (2016).

38. *See id.* at 309–10; Saultz et al., *supra* note 16, at 654; Clotfelter, Ladd, Vigdor, & Wheeler, *supra* note 26, at 1356.

39. Clotfelter, Ladd, Vigdor, & Wheeler, *supra* note 26, at 1373–74.

40. Mark R. Warren, *Building a Political Constituency for Urban School Reform*, 36 URB. EDUC. 484, 486–87 (2011).

Accountability measures from education policy often exacerbate inequitable education practices.[41]  Most accountability measures are tied to state-level standardized tests, which measure school, teacher, and student success.[42]  This practice, known as high stakes testing, can have negative effects on black students.[43]  While accountability measures brought attention to reading and math achievement disparities, they have not resulted in drastic improvement in educational outcomes for black students.  Instead, this testing has produced negative effects such as increased dropout, more black youth in the school-to-prison pipeline, and increased student apathy.[44]  High-stakes testing has created a "narcissistic school system [where] damage is done to the most vulnerable:  children who cannot defend or protect themselves from destructive policies or practices."[45]  Often, the stigma of failure and test anxiety negatively impacts students. The top-down pressures of high-stakes testing can increase negative behaviors, especially for

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41.    *See* Martin J. Wasserberg, *High-Achieving African American Elementary Students' Perspectives on Standardized Testing and Stereotypes*, 86 J. NEGRO EDUC. 40 (2017); Jennifer L. Jennings & Jonathan Marc Bearak, *"Teaching to the Test" in the NCLB Era: How Test Predictability Affects Our Understanding of Student Performance*, 43 EDUC. RESEARCHER 381 (2014); Thompson & Allen, *supra* note 17; Lauen & Gaddis, *supra* note 8; John B. Holbein & Helen F. Ladd, *Accountability Pressure: Regression Discontinuity Estimates of How No Child Left Behind Influenced Student Behavior*, 58 ECON. OF EDUC. REV. 55 (2017).

42.    *See* George Madaus, Michael Russell, & Jennifer Higgins, THE PARADOXES OF HIGH STAKES TESTING: HOW THEY AFFECT STUDENTS, THEIR PARENTS, TEACHERS, PRINCIPALS, SCHOOLS, AND SOCIETY (2009); KORETZ, *supra* note 21; Heise, *supra* note 5; Thompson & Allen, *supra* note 17; Lauen & Gaddis, *supra* note 8.

43.    *See* Sheryl J. Croft, Mari Ann Roberts, & Vera L. Stenhouse, *The Perfect Storm of Education Reform: High Stakes Testing and Teacher Evaluation*, 42 SOC. JUST. 70 (2016); David J. Deming & David Figlio, *Accountability in US Education: Applying Lessons from K-12 Experience to Higher Education*, 30 J. ECON. PERSPECTIVES 33 (2016); Wayne Au, *Can We Test for Liberation? Moving From Retributive to Restorative and Transformative Assessment in Schools*, 8 CRITICAL EDUC. 1 (2017); Thompson & Allen, *supra* note 17.

44.    *See* Thompson & Allen, *supra* note 17.

45.    *Id.* at 223.

minority students.[46]  This calls into question the validity, reliability, and fairness of using high stakes tests as a measure of student success.[47]

## III. Reform Designed with Equity in Mind

Policy makers have professed that the goals of educational policy are aimed at creating equitable practices and improving educational outcomes for students of color, students from low socio-economic environments, and students with disabilities.[48]  We hypothesize that if education policy is geared towards equity, then it should contain clear provision by which to achieve said equity.  The most recent reauthorization of the ESEA—ESSA—is the flagship for the goals of educational policy.[49]  ESSA allows each state to craft its own plan for improving educational outcomes and develop some of the measures that define student success.[50]  In this analysis, we will examine the ESSA plans for 12 states; the states that won Race to the Top (RTTT) grants.  The RTTT grant awardees were the states that demonstrated innovation in improving education in their states.[51]  Therefore, it should follow

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46.     *See* Holbein & Ladd, *supra* note 41.  Holbein & Ladd's research indicates that the pressures associated with high-stakes testing at the school level is transferred down to students, creating intense anti-social behavior, with the most pronounced response reported among minority students.

47.     *See* Susan Fread Albrecht & Candace Joles, *Accountability and Access to Opportunity: Mutually Exclusive Tenets Under a High-stakes Testing Mandate,* 47 Preventing Sch. Failure 86 (2003).

48.     *See* David S. Knight, *Are School Districts Allocating Resources Equitably? The Every Student Succeeds Act, Teacher Experience Gaps, and Equitable Resource Allocation,* 33 Educ. Pol'y 615 (2019); Sonya D. Hosford et al., *Special Issue Introduction: School Leadership and the Every Student Succeeds Act: Dilemmas and Possibilities in an Era of Inequality,* 27 J. Sch. Leadership 618 (2017).

49.     *See generally* Every Student Succeeds Act (ESSA), Pub. L. No. 114-95, § 1001, 129 Stat. 1802 (2015) ("The purpose of this title is to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.").

50.     *See* i*d.* § 1005.

51.     *See* Saultz et al., *supra* note 16, at 658 ("In response to the Great Recession of 2008, the Obama administration, as part of the American Recovery and Reinvestment Act of 2009, introduced its Race to the Top (RTTT) grant competition to 'reward States that are creating the conditions for educational innovation and reform.'" (citation omitted)).

that their ESSA plans should demonstrate consistent innovation in improving equity, eliminating disparate discipline, understanding the challenges of urban schools, and developing fair and comprehensive accountability measures.  The analysis will begin with an overview of ESSA, including the historical context of the policy's development from No Child Left Behind, its goals and aims, and a review of the existing literature on both ESSA and RTTT.

## A.   The Build-Up to ESSA

No Child Left Behind (NCLB) was arguably the most discussed reform policy for public schools in the United States.[52]  NCLB was criticized for its level of federal government involvement in state and local education and for its stringent accountability measures based mostly on high-stakes testing.[53]  Although NCLB was presented as a broad approach to education reform, it became notorious for a laser focus on high-stakes testing accountability.[54]  This system of punitive testing accountability measures[55] hit states, districts, teachers, and schools hard and fast, with claims that these measures were needed to increase equitable education outcomes and provide financial support and other resources where most needed.[56]

As NCLB implementation rolled out, however, states and local education agencies (LEA's) found that the policy set unrealistic accountability targets.[57]  Then-Secretary of Education Arne Duncan allowed states to request waivers from some of the NCLB mandates[58] in exchange for developing their own plans for improvement. Granting of

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52. *See* CATHERINE BROWN, ULRICH BOSER, SCOTT SARGRAD, & MAX MARCHITELLO, IMPLEMENTING THE EVERY STUDENT SUCCEEDS ACT: TOWARDS A COHERENT, ALIGNED ASSESSMENT SYSTEM (Ctr. for Am. Progress ed., 2016), https://files.eric.ed.gov/fulltext/ED568079.pdf.

53.    *See* Egalite et al., *supra* note 12.

54.    *See* Thompson & Allen, *supra* note 17.

55.    *See* Black, *supra* note 10.

56.    *See* Heise, *supra* note 5; MATHIS & TRUJILLO, *supra* note 14.

57.    *See* DARLING-HAMMOND ET AL., *supra* note 13; Adler-Greene, *supra* note 13.

58.    *See* MORGAN S. POLIKOFF, ANDREW MCEACHIN, STEPHANI WRABEL, & MATTHEW DUQUE, GRADING THE NO CHILD LEFT BEHIND WAIVERS (American Enterprise Institute for Public Policy Research ed., 2014), https://www.aei.org/wp-content/uploads/2014/02/-education-outlook-214_140305366436.pdf.

waivers became commonplace, and by October 2013, the Department of Education had approved waivers in forty-three states.[59] Policy analysts began to argue that the federal government had implemented accountability targets that were impossible to reach, then granted waivers[60] in an attempt to fix the problem. One of the waiver requirements was that states adopt a set of college and career standards by which to measure student success, which was seen by education stakeholders as a federal government push for Common Core Standards.[61] This increased the already strong discontent over federal government intrusion into state education decisions[62] and made conditions ripe for the development of ESSA.

A reauthorization of ESEA was due in 2015, and by this time, it was clear that it needed to be a radical departure from NCLB.[63] ESSA promised this departure, touting a repeal of NCLB's practice of federally enforced accountability measures.[64] Hailed as a bi-partisan effort under the Obama Administration, ESSA's primary goal was to provide a more flexible system of accountability, comprised of multiple measures.[65] ESSA allowed State Education Agencies (SEA's) to draft their own accountability plans that were based on their unique needs,[66]

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59.    *See id.*

60.    *See* MATHIS & TRUJILLO, *supra* note 14; Egalite et al., *supra* note 12.

61.    *See* Kimberly Jenkins Robinson, *Restructuring the Elementary and Secondary Education Act's Approach to Equity*, 103 MINN. L. REV. 915 (2018). Common Core Standards are a set of academic standards developed by assessment specialists and educators in response to requests from governors and state departments of education. The adoption of these stringent standards resulted in more schools failing to meet NCLB's accountability requirements.

62.    *See id.* at 932.

63.    *See* Maria Ferguson, *Still Trying to Get Equity Right,* 98 THE PHI DELTA KAPPAN 74 (2016); MATHIS & TRUJILLO, *supra* note 9, at 6–7; Adler-Greene, *supra* note 13.

64.    *See* Heise, *supra* note 5.

65.    *See* Egalite et al., *supra* note 12, at 758–59.

66.    *See* WILLIAM PENUEL ET AL., *Making the Most of the Every Student Succeeds Act (ESSA): Helping States Focus on School Equity, Quality, and Climate*, NAT'L    EDUC    POLICY    CTR.    (Nov.    2016) https://files.eric.ed.gov/fulltext/ED578780.pdf; Egalite et al., *supra* note 12, at 758–59; BROWN ET AL., *supra* note 52, at 12; DARLING-HAMMOND ET AL., *supra* note 13, at 2.

reverting power back to the states, as it had been pre-NCLB.[67]   While the state plans under ESSA accomplished the same goal as NCLB waivers, the Obama Administration highlighted states' freedom to create their own plans in the new policy to quell growing concern among education stakeholders that NCLB accountability measures amounted to federal abuse of power in educational decision-making.[68]   This presented an opportunity for states to design radically different approaches to equity and educational quality.[69]   In fact, ESSA, like its predecessors, sought to advance the goals of equity and excellence in education,[70] but it does not do enough to reverse the high-stakes testing and punitive accountability practices of the previous policy.[71]

## B.   *ESSA's Goals and Outcomes*

ESSA supports state and local control over three aspects of education:  Standards, Accountability, and Assessment.[72]   States have the option to adopt new standards and shift away NCLB's attempt to devise a unified national system of standards, the Common Core State Standards.[73]   With the adoption of new standards, states could develop their own assessments.  Under ESSA, states can also include non-test-based factors into school accountability measures, such as school climate, attendance, and access to advanced placement coursework.[74]   The policy also requires states to provide interventions for struggling

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67.   *See* Black, *supra* note 10, at 1312.

68.   *See* Egalite et al., *supra* note 12, at 758.

69.   *See* DARLING-HAMMOND ET AL., *supra* note 13 at 1; Egalite et al., *supra* note 12, at 767; BROWN ET AL., *supra* note 52 at 16; MATHIS & TRUJILLO, *supra* note 9, at 12–13.

70.   *See* Egalite et al., *supra* note 12, at 766–67.

71.   *See* Adler-Greene, *supra* note 13, at 16; BROWN, ET AL., *supra* note 52; MATHIS & TRUJILLO, *supra* note 9, at 6.

72.   *See* RANJANA DAMLE, ET AL., ESSA PHASE II STAKEHOLDER FEEDBACK REPORT 1 (Univ. of New Mexico Ctr. for Educ. Policy Research ed., 2017), http://learningalliancenm.org/wp-content/uploads/2017/03/ESSA-Feedback-Report-Final.pdf.

73.   *See* CHAD ALDEMAN ET AL., AN INDEPENDENT REVIEW OF ESSA STATE PLANS 1 (Bellwether Educ. Partners ed., 2017), https://bellwethereducation.org/sites/default/files/Bellwether_ESSAReview_ExecSumm_1217_Final.pdf.

74.   *See id.*

schools,[75] instead of sanctions. Although ESSA does not eliminate the threat of school closure or state takeover, it allows states to put plans in place to support these schools-and the federal government cannot mandate how the support looks.[76] States submitted their accountability plans to the Department of Education, and plan implementation began in the 2017–2018 school year.[77]

Since ESSA is still relatively new (in its third year of implementation), there is little research on the effectiveness or outcomes of the policy. Most analyze the policy and its provisions, compare it to previous education policy, and express hope about the policy's potential effects.[78] The inclusion of improved English language acquisition in the policy suggests that ESSA will make good on its promise of equity for minority students.[79] The policy's provisions for the development of assessments with input from community stakeholders elicits hope that new accountability measures will be more equitable for vulnerable children.[80] There is also hope that ESSA will facilitate more equitable distribution of Title 1 funds and strengthen its *supplement, not supplant* provision.[81] If states depart from NCLB's accountability norms and take advantage of the opportunity to create more flexible accountability measures and consider all factors that impact student success, it is possible that ESSA can make room for LEA's to advocate for equity.[82]

Although there is hope that ESSA will result in more equitable practices, there is also doubt and criticism of the policy. Analysis of individual state plans reveals that ESSA, for all its good intentions, is

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75. *See* Alyson Klein, *Vulnerable Students: Equity and Excellence ESSA Report Cards*, EDUCATION WEEK (Apr. 16, 2019) https://www.edweek.org/ew/articles/2019/04/17/vulnerable-students.html.

76. *See* Egalite et al., *supra* note 12, at 759–60.

77. *See* ALDEMAN ET AL., *supra* note 73.

78. *See id.*

79. *See* Adler-Greene, *supra* note 13.

80. *See* Sampson & Horsford, *supra* note 14.

81. *See* Ferguson, *supra* note 63.

82. *See* Shaneka M. Williams & Richard O. Welsh, *ESSA and School Improvement: Principal Preparation and Professional Development in a New Era of Education Policy*, 27 J. SCH. LEADERSHIP 701, 718 (2017); El Moussaoui, supra note 16; Sampson & Horsford, *supra* note 14; Black, *supra* note 10; BROWN ET AL., *supra* note 52; MATHIS & TRUJILLO, *supra* note 9.

still a primarily test-based policy.[83]   Questions quickly arise about whether student learning is front and center in state plans, since most still use assessment as the primary indicator of student success.[84]   A 2017 review of the initial state plans and characterizes them as mostly uncreative, unambitious, unclear, or unfinished.[85]   States' failure to depart from high-stakes testing is attributed to a lack of clear guidance around accountability,[86] no clear definitions of equity,[87] and no specific means by which to enforce equitable practices.[88]   This abrupt release of federal government control back to the states has the potential to undermine ESSA's promises of equity[89] because policy makers have "a lack of knowledge and understanding of the issues that students, advocates and teachers face on a daily basis."[90]

Analysis of ESSA state plans and RTTT applications identifies the equitable distribution of qualified teachers as barrier for equity.[91] Shifts in the definition of teacher quality contributes to the problem. RTTT allowed states to focus on evaluations and student test scores rather than teacher credentials,[92]  facilitating the expansion of alternative teacher certification programs,[93] which affected the distribution of effective teachers.  RTTT awardees won grants by promising to link teacher effectiveness to student test scores.[94]  For example, Tennessee, one of the first-round RTTT awardees, was chosen because their application included a value-added measure of teacher effectiveness in

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83.    *See* FREDERICK M. HESS & MAX EDEN, THE EVERY STUDENT SUCCEEDS ACT (ESSA): WHAT IT MEANS FOR SCHOOLS, SYSTEMS, AND STATES (2017); Egalite, et al., *supra* note 12; Black, *supra* note 10; ALDEMAN, ET AL., *supra* note 73.

84.    *See* NATASHA USHOMIRSKY ET AL., TRENDS IN STATE ESSA PLANS: EQUITY ADVOCATES STILL HAVE WORK TO DO 4 (The Educ. Trust ed, 2017), https://files.eric.ed.gov/fulltext/ED587197.pdf.

85.    *See* ALDEMAN ET AL., *supra* note 73, at 2.

86.    *See* MATHIS & TRUJILLO, *supra* note 14 at 3–4.

87.    *See* Adler-Greene, *supra* note 13

88.    *See* Black, *supra* note 10.

89.    *See* Peter Piazza, *Antidote or Antagonist? The Role of Education Reform Advocacy Organizations in Educational Policymaking* 60 CRITICAL STUDIES IN EDUC. 302 (2019); Black, *supra* note 10.

90.    Adler-Greene, *supra* note 13, at 22.

91.    *See generally* Saultz et al., *supra* note 16.

92.    *See generally id.*

93.    *See generally id.*

94.    *See generally id.*

which test scores were heavily weighted.[95]   Only half to the RTTT awardees allotted a significant portion of their grant budgets (between 4% and 14%) to equitable distribution of effective teachers.[96]   This lack of commitment to equitable distribution of teachers speaks to the level of commitment to equity in the RTTT program.   Equity cannot be attained if policy does not contain provisions for the equitable distribution of teachers.

## IV. ANALYSIS OF KEY TERMS

In the first part of the analysis, ESSA state plans were searched for the key terms:  equity, discipline, urban/urban schools, and accountability.  The number of times the term is mentioned is noted.[97]   Next, the analysis identifies any emerging themes that develop around the term (i.e., whether the term is mentioned in the same context in many of the state plans).  Finally, any other notable discoveries are described if they lend themselves to the discussion of equity.  In the second part of the analysis, the RTTT plans are analyzed in the same way.  Additionally, the second part of the analysis examines how the frequency and emerging themes align to the same factors in each state's ESSA plan.

### *A.   ESSA State Plans*

In the state ESSA plans, our analysis revealed several commonalities among states with respect to the search terms.  There was consistency among the states as to which term was mentioned most, and which term was mentioned least.  Table 1 above shows the number of times each search term (or a close derivative) was mentioned in each document.  In addition to the frequency, the analysis revealed thematic

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95.    *See* Charisse A. Gulosino, *Evaluating the Tennessee Higher Education Commission's Report Card on Value-added Estimates of Teacher Preparation Programs* 26 EDUC. POLICY ANALYSIS ARCHIVES 1, 1–2 (2018).

96.    *See* Saultz et al, *supra* note 16, at 658.

97.    Part of Corpus Linguistics is the quantitative measure of a word or group of words.  The frequency with which a term is mentioned enables analysis of how the term is prioritized. Gerlinde Mautner. Checks and balances: How corpus linguistics can contribute to CDA, Methods of critical discourse studies 3 (2016).

trends among the search terms. The discussion will focus on each term separately.

### 1. Equity

Every state mentions the term equity at least once in its ESSA plan. Tennessee mentions equity the most, with 82 mentions, while Florida's plan mentions equity only 8 times. Most state plans mention equity between 20–35 times (Georgia, Hawaii, Maryland, Massachusetts, North Carolina, and Ohio); New York's plan has fifty-seven equity mentions; and DC and Rhode Island plans have less than fifteen mentions. Regardless of the frequency of mentions, there are two common themes that emerged among state plans with respect to equity: equitable distribution of effective teachers and achievement gaps.[98]

All state plans indicate that equitable distribution of effective teachers is a problem.[99] The plans point to several factors that contribute to the issue. First, problematic hiring processes, such as late teacher placements and difficulty in removing ineffective teachers,[100] make it difficult to ensure the equitable distribution of effective teachers. Next, lack of new teacher support for teachers in hard-to-fill schools[101] contributes to high turnover in schools with the most need. Finally lack of teacher development at every career stage contributes to the lack of effective teachers because teachers do not grow and improve.[102] State

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98. *See* David S. Knight, *Are School Districts Allocating Resources Equitably? The Every Student Succeeds Act, Teacher Experience Gaps, and Equitable Resource Allocation*, 33 EDUC. POLICY 615, 618–22 (2019).

99. Teacher effectiveness is measured by the teacher's ability to raise reading and math scores. *See* Brian A. Jacob & Lars Lefgren, *Can Principals Identify Effective Teachers? Evidence on Subjective Performance Evaluation in Education*, 26 J. LABOR ECON. 101, 101–36 (2008).

100. *See* U.S. DEP'T OF EDUC., STATE TEMPLATE FOR THE CONSOLIDATED STATE PLAN UNDER THE EVERY STUDENT SUCCEEDS ACT DELAWARE STATE ESSA PLAN, 90 (2019), [hereinafter DEL. STATE ESSA PLAN], https://www2.ed.gov/admins/lead/account/stateplan17/deconsolidatedstateplanfinal.pdf.

101. *See* U.S. DEP'T OF EDUC., HAWAII CONSOLIDATED STATE PLAN, 88 (2017), [hereinafter HAW. STATE ESSA PLAN], https://www2.ed.gov/admins/lead/account/stateplan17/hiconsolidatedstateplanfinal.pdf.

102. *See* U.S. DEP'T OF EDUC., EDUCATING GEORGIA'S FUTURE: GEORGIA'S STATE PLAN FOR THE EVERY STUDENT SUCCEEDS ACT, 72 (2017), [hereinafter GA.

plans recognize the disparate distribution of ineffective teachers in high-poverty schools and urban areas. For example, Rhode Island's plan specifically pledges to address the fact that high poverty and high minority schools are more likely to have inexperienced teachers, leaders, and support staff.[103] Massachusetts's state plan captures the problem in a root cause analysis that identifies three reasons for the teacher equity problem: the experience gap, the preparation gap, and the effectiveness gap.[104] Its plan also specifically discusses an initiative to address equity gaps in the teaching of English Language Learners.[105]

While all plans acknowledge educator equity as an issue, many do not outline a clear plan for addressing the problem. Rhode Island's plan includes data reporting on five educator equity categories: inexperienced teacher, inexperienced building administrator, out of field teacher, ineffective teacher, and chronically absent teacher.[106] Ohio's plan calls for steps to address the educator equity issue in four areas: educator preparation, hiring and deployment, teaching and learning (for teachers), and data use and access.[107] Other state plans make mention

STATE ESSA PLAN], https://www2.ed.gov/admins/lead/account/stateplan17/gaconsolidatedstateplanfinal.pdf.

103.     *See* U.S. DEP'T OF EDUC., RHODE ISLAND'S EVERY STUDENT SUCCEEDS ACT STATE PLAN, 60 (2018) [hereinafter R.I. STATE ESSA PLAN], https://www2.ed.gov/admins/lead/account/stateplan17/riconsolidatedstateplanfinal.pdf.

104.     *See* U.S. DEP'T. OF EDUC., MASSACHUSETTS: CONSOLIDATED STATE PLAN UNDER THE EVERY STUDENT SUCCEEDS ACT, 78 (2017) [hereinafter MASS. STATE ESSA PLAN], https://www2.ed.gov/admins/lead/account/stateplan17/maconsolidatedstateplan.pdf.

105.     *See id.* at 41.

106.     *See* R.I. STATE ESSA PLAN, *supra* note 103, at 61.

107.     *See* U.S. DEP'T. OF EDUC., OHIO: REVISED STATE TEMPLATE FOR THE CONSOLIDATED STATE PLAN, THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965, AS AMENDED BY THE EVERY STUDENT SUCCEEDS ACT 57 (2017) [hereinafter OHIO STATE ESSA PLAN], https://www2.ed.gov/admins/lead/account/stateplan17/ohconsolidatedstateplanfinal.pdf.

of teacher recruitment and retention practices as a root cause of education inequity as well. North Carolina[108], Georgia[109], Hawaii[110], Massachusetts[111], New York[112], and Tennessee[113] also communicate the need for strengthened recruitment, retention, and support in order to facilitate a more equitable distribution of teachers; however, none provide a definitive plan.

Another theme that emerged was equity in educational attainment. Many plans discuss equity in terms of achievement gaps for the ESSA subgroups, including black students. Hawaii's plan proposes the construction of an Equity Support Team to support LEAs in improving outcomes for subgroups,[114] Georgia's plan promises an online Equity Dashboard at the Department of Education ("DOE") level to support LEA's,[115] and Ohio's plan presents the concept of Equity Labs comprised of stakeholder teams that will collaborate with LEA personnel to provide professional development, data analysis support, and root cause analysis.[116]

## 2.  Discipline

Some states outline plans to shift to restorative discipline practices through Positive Behavior Interventions and Supports ("PBIS")

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108.     *See* U.S. Dep't of Educ. & N.C. Dep't of Pub. Instruction, Consolidated State Plan, 80 (2017) [hereinafter N.C. State ESSA Plan], https://www2.ed.gov/admins/lead/account/stateplan17/ncconsolidatedstateplanfinal.pdf.

109.     *See* Ga. State ESSA Plan, *supra* note 102, at 72.

110.     *See* Haw. State ESSA Plan, *supra* note 101, at 96.

111.     *See* Mass. State ESSA Plan, *supra* note 104, at 79.

112.     *See* U.S. Dep't. of Educ., New York: The Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act 6 (2018) [hereinafter N.Y. State ESSA Plan], https://www2.ed.gov/admins/lead/account/stateplan17/nyconsolidatedstateplanfinal.pdf.

113.     *See* U.S. Dep't. of Educ., Tennessee: Every Student Succeeds Act: Building on Success in Tennessee 240 (2018) [hereinafter TN State ESSA Plan], https://www2.ed.gov/admins/lead/account/stateplan17/tnessastateplan122018.pdf.

114.     *See* Haw. State ESSA Plan, *supra* note 110, at 59.

115.     *See* Ga. State ESSA Plan, *supra* note 102, at 82.

116.     *See* Ohio State ESSA Plan, *supra* note 107, at 83.

or Response to Intervention-Behavior.[117]  For example, to support this shift, Tennessee's plan promises that the State DOE will maintain a comprehensive school discipline website with resources to help LEAs and schools replace exclusionary discipline with restorative practices.[118]  Some state plans indicate an awareness of the impact of exclusionary discipline on chronic absenteeism and student achievement.[119]  For example, Massachusetts's plan requires reporting of students who are chronically absent due to discipline; Florida's plan calls for LEAs to analyze discipline data to support improved student outcomes and captures discipline data as a part of progress monitoring for turnaround schools.[120]  Ohio's plan includes a review of discipline practices that remove students with disabilities from classroom instruction.[121]

### 3.   Urban/Urban Schools[122]

Of the four search terms, "urban" has the fewest mentions in the ESSA state plans. Numbers range from seventeen at the high end (Massachusetts) to zero mentions (Delaware and Florida).  Of the states with

117.    *See* TN STATE ESSA PLAN, *supra* note 113, at 183.; U.S. DEP'T OF EDUC. & D.C. STATE BD. OF EDUC., DISTRICT OF COLUMBIA REVISED STATE TEMPLATE FOR THE CONSOLIDATED STATE PLAN, 42 (2017) [hereinafter D.C. STATE ESSA PLAN], https://www2.ed.gov/admins/lead/account/stateplan17/dcconsolidatedstateplan.pdf; *See* GA. STATE ESSA PLAN, *supra* note 102, at 55; U.S. DEP'T OF EDUC., MARYLAND EVERY STUDENT SUCCEEDS ACT (ESSA) CONSOLIDATED STATE PLAN, 51 (2018) [hereinafter MD. STATE ESSA PLAN], https://www2.ed.gov/admins/lead/account/stateplan17/mdconsolidatedstateplanfinal.pdf ; N.Y. STATE ESSA PLAN, *supra* note 112, at 117; N.C. STATE ESSA PLAN, *supra* note 108, at 117; OHIO STATE ESSA PLAN, *supra* note 107, at 63; R.I. STATE ESSA PLAN, *supra* note 103, at 64.

118.    *See* TN STATE ESSA PLAN, *supra* note 113, at 183.

119.    *See* TN STATE ESSA PLAN, *supra* note 113, at 183; OHIO STATE ESSA PLAN, *supra* note 107, at 37; MASS. STATE ESSA PLAN, *supra* note 104, at 87.

120.    *See* U.S. DEP'T OF EDUC., EVERY STUDENT SUCCEEDS ACT (ESSA) STATE PLAN, 27 (2018) [hereinafter FLA. STATE ESSA PLAN], https://www2.ed.gov/admins/lead/account/stateplan17/flconsolidatedstateplanfinal.pdf.

121.    *See* OHIO STATE ESSA PLAN, *supra* note 107, at 63.

122.    It is important to note that for some of the states that have one or two mentions of urban or urban schools, the mentions are merely the names of community stakeholders that were consulted in the planning process—i.e., the Baltimore Urban League or the Charlotte Urban Institute.  There is no specific explanation of the input provided by these organizations.

the most mentions—Massachusetts, Tennessee, New York, and DC—the mentions revolve around the different challenges faced by urban and rural school districts. DC makes specific reference to its unique geographic makeup of 100% urban schools and recognizes that historically, urban districts lag in achievement.[123]  Massachusetts presents several initiatives to combat this urban lag:  The America's Promise Grant for urban districts;[124] the Urban Leaders' Network for wraparound services in urban districts;[125] and Urban ELL coordinators.[126] Massachusetts's plan also connects teacher hiring practices in urban areas to the equity gap.[127]  Tennessee's plan underscores this connection by proposing teacher residency programs to promote diversity in urban school districts.[128]  New York's plan also makes this connection, proposing the creation of pilot programs for the recruitment and selection of "teachers who are committed to and appreciate the needs of urban and rural school communities."[129]

### 4.  Accountability

The accountability search term was by far the most frequently mentioned of the four, with thirty-nine mentions on the low end (Florida) and 296 mentions on the high end (Tennessee).  All state plans discuss a detailed accountability plan that includes achievement and growth measures based on standardized test scores, school culture and climate measures, graduation rates, and the federally required subgroups:

- All students;
- American Indian/Alaskan Native;
- Asian/Pacific Islander;
- Black, Non-Hispanic;
- Multiracial;
- White, Non-Hispanic;
- Economically Disadvantaged;

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123. *See* D.C. ESSA PLAN, *supra* note 117, at 38.
124. *See* MASS. STATE ESSA PLAN, *supra* note 104, at 87.
125. *See id.* at 92.
126. *See id.* at 118.
127. *See id.* at 78.
128. *See* TENN. STATE ESSA PLAN, *supra* note 113, at 271.
129. N.Y. STATE ESSA PLAN, *supra* note 112, at 153.

- Students with Disabilities;
- English Learners.[130]

Some state plans include additional subgroups or alternative subgroup configurations. For example, Florida's plan includes the lowest-performing 25% in ELA and math as an additional subgroup.[131] Hawaii subgroups are unique due to the ethnic makeup of the state including Native Hawaiian, Filipino, and Pacific Islander as subgroups.[132] Ohio includes gifted students as a separate subgroup.[133] Per ESSA requirements, states must specify the minimum number of students in a subgroup in order for that subgroup to be reported in the school's accountability measure.[134] The minimum numbers range from ten to thirty. Several state plans also discuss collecting data for some groups for reporting purposes only, not accountability. For example, Ohio's plan reports growth and achievement data on students in foster care, military dependents, adjudicated youth, and homeless students.[135] Delaware's plan also reports data on homeless, foster care, and military dependent students.[136] Ohio also includes a gifted subgroup in a separate achievement indicator, as well as a separate graded Value-Added Measure.[137] Maryland's plan states an intention to add gifted students to the accountability measure as well.[138]

In addition to standardized test growth and achievement, many of the state plans include language that indicates a desire to shift from accountability measures as punitive, using them instead as the basis for broader systems of support for struggling schools. The term differentiated accountability is used in some state plans to describe this system of supports. Ohio, Delaware, Florida, and New York plans all reference a system of differentiated accountability or differentiated supports

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130. *See* Every Student Succeeds Act (ESSA) Pub. L No. 114-95 §1111(c), 129 Stat. 1802, 1834-38 (2015).

131. *See* FLA. STATE ESSA PLAN, *supra* note 120, at 9.

132. *See* HAW. STATE ESSA PLAN, *supra* note 110, at 27.

133. *See* OHIO STATE ESSA PLAN, *supra* note 107, at 29.

134. ESSA §1111(c)(3)(A)(i).

135. *See* OHIO STATE ESSA PLAN, *supra* note 107, at 13.

136. *See* DEL. STATE ESSA PLAN, *supra* note 100, at 44.

137. *See* OHIO STATE ESSA PLAN, *supra* note 107, at 12.

138. *See* MD. STATE ESSA PLAN, *supra* note 117, at 10.

that will be implemented to support struggling schools.[139] Georgia's plan indicates a shift in the accountability mindset as well:

> Recently, the culture of the Georgia Department of Education (GaDOE) began the shift from one rooted in compliance to a more balanced approach that is focused on closing the achievement gap through high-quality service and support with a powerful focus on pinpointing what impacts schools and what are barriers to academic success.[140]

This does not mean, however, that all states are ready to do away with high-stakes testing as the cornerstone of accountability. Massachusetts's state plan makes it clear that "[i]n our proposed new accountability system, student achievement and growth and graduation data remain core measures of school and district results."[141]

Other commonalities among state plans with respect to accountability include accountability in teacher/principal preparation programs, charter school accountability, and ninth grade on-track measures. Overall, this analysis reveals little innovation in state accountability plans. This is consistent with prior analysis of ESSA State plans, which reveals a "continued shift towards normative accountability systems."[142] Stakeholder feedback on the state plans expresses sentiment that accountability should shift away from testing and focus more on teaching and learning.[143]

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139.   *See* OHIO STATE ESSA PLAN, *supra* note 107, at 54; DEL. STATE ESSA PLAN, *supra* note 100, at 64; FLA. STATE ESSA PLAN, *supra* note 120, at 56; N.Y. STATE ESSA PLAN, *supra* note 112, at 79.

140.   MASS. STATE ESSA PLAN, *supra* note 104, at 48.

141.   *Id.* at 24.

142.   ALDEMAN ET AL., *supra* note 73 at 6.

143.   *See* DAMLE ET AL., *supra* note 72.

*Table 1-ESSA State Plan Search Term Frequency*

| State | Equity | Discipline | Urban | Accountability |
|---|---|---|---|---|
| District of Columbia | 11 mentions | 2 mentions | 5 mentions | 90 Mentions |
| Delaware | 49 mentions | 8 mentions | 0 mentions | 100 mentions |
| Florida | 8 mentions (6 equitable) | 13 mentions | 0 mentions | 39 mentions |
| Georgia | 26 mentions | 8 mentions (5 disciplinary) | 2 mentions | 72 mentions |
| Hawaii | 35 mentions | 3 mentions | 1 mention | 122 mentions |
| Maryland | 23 mentions | 5 mentions | 2 mentions | 98 mentions |
| Massachusetts | 26 mentions | 5 mentions | 17 mentions | 138 mentions |
| New York | 57 mentions | 9 mentions | 6 mentions | 125 mentions |
| North Carolina | 20 mentions | 12 mentions | 2 mentions | 99 mentions |
| Ohio | 23 mentions | 17 mentions | 5 mentions | 73 mentions |
| Rhode Island | 10 mentions | 6 mentions (3 disciplinary) | 2 mentions | 55 mentions |
| Tennessee | 82 mentions | 24 mentions | 14 mentions | 296 mentions |

## B. RTTT Applications

Analysis of the Race to the Top Applications yielded similar results with respect to the frequency or infrequency of search terms and common themes. Table 2 outlines the frequency of mention for each search term or its close derivatives. The analysis captured thematic trends among the RTTT applications for each search term. As with the

ESSA plans, each search term will be discussed separately in the next sections.

### 1.  Equity

In the RTTT applications, equity is mentioned less frequently than it is mentioned in state ESSA plans.  Again, Tennessee mentions equity most frequently (sixteen times) in its application, and Ohio mentions equity sixteen times as well.  Massachusetts only mentions equity once; Florida, twice; and Georgia, three times.  New York and D.C. fall in the middle with eight mentions.  It is important to note that in the analysis of the term equity, it was necessary to include the term "equitable" to get a clear picture of the themes around this concept.  As is the case in the state ESSA plans, inequitable distribution of high-quality teachers is the common theme among the RTTT applications.  In the applications, states discussed strategies that were already in place and strategies they planned to implement in the future to combat effective teacher inequities.[144]  Ohio's application promises to improve its Teacher Distribution Data Analysis Tool to identify patterns of inequity and develop equity plans.[145]  Tennessee's application identifies the six districts in the state with the largest teacher inequities and outlines initiatives in those districts aimed at improving teacher effectiveness—such as the Memphis Teacher Effectiveness Initiative.[146]  Massachusetts outlined plans to create positions at the state level to oversee recruitment and equitable distribution initiatives.

In the RTTT applications, equitable distribution of funding and resources emerged as a common theme.  Rhode Island's application notes that the state provides approximately $2,850 more per pupil in

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144.  *See generally* Race to the Top Fund, U.S. DEP'T EDUC., https://www2.ed.gov/programs/racetothetop/index.html (last visited Apr. 15, 2020).

145*.  See* U.S. DEP'T OF EDUC., OHIO: RACE TO THE TOP APPLICATION ASSURANCES (2010), at D-3 [hereinafter OHIO STATE RTTT APPLICATION], https://www2.ed.gov/programs/racetothetop/phase2-applications/ohio.pdf.

146*.  See* U.S. DEP'T OF EDUC., TENNESSEE: RACE TO THE TOP APPLICATION ASSURANCES (2010), at 84 [hereinafter TENN. STATE RTTT APPLICATION], https://www2.ed.gov/programs/racetothetop/phase1-applications/tennessee.pdf.

state funding to the highest-need LEAs.[147] Maryland's application proposes a wealth-equalization plan to ensure that "per-pupil State aid in less-wealthy jurisdictions is greater than per-pupil State aid in wealthier jurisdictions."[148] Hawaii's application also speaks to the concept of wealth-equalization in its discussion of horizontal equity,[149] a process of allocating school funding from the State General fund rather than relying on county taxes or property taxes. This plan outlines a weighted formula designed to ensure equitable allocation of funding based on student needs. Inside the theme of equitable funding, a sub-theme of charter school funding was identified. DC, Georgia, Florida, Maryland, and Rhode Island all discuss ensuring equitable funding of charter schools in addition to traditional public schools.[150]

In addition to equitable distribution of teachers, funding, and resources, equity in terms of achievement gaps was mentioned in two applications.[151] Two state applications had unique inclusions in their equity mentions that are worth noting. North Carolina's application discusses the challenges with access to STEM courses as a barrier to

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147. *See* U.S. DEP'T OF EDUC., RHODE ISLAND: RACE TO THE TOP APPLICATION ASSURANCES (2010), at F-3 [hereinafter R.I. STATE RTTT APPLICATION], https://www2.ed.gov/programs/racetothetop/phase2-applications/appendixes/rhode-island.pdf.

148. U.S. DEP'T OF EDUC., MARYLAND: RACE TO THE TOP APPLICATION ASSURANCES (2010), at 277 [hereinafter MD. STATE RTTT APPLICATION], https://www2.ed.gov/programs/racetothetop/phase2-applications/maryland.pdf.

149. *See* U.S. DEP'T OF EDUC., HAWAII: RACE TO THE TOP APPLICATION ASSURANCES (2010), at 180 [hereinafter HAW. STATE RTTT APPLICATION], https://www2.ed.gov/programs/racetothetop/phase2-applications/hawaii.pdf.

150. *See generally* U.S. DEP'T OF EDUC., MASSACHUSETTS: RACE TO THE TOP APPLICATION ASSURANCES (2010) [hereinafter MASS. STATE RTTT APPLICATION], https://www2.ed.gov/programs/racetothetop/phase2-applications/massachusetts.pdf; U.S. DEP'T OF EDUC., DISTRICT OF COLUMBIA: RACE TO THE TOP APPLICATION ASSURANCES (2010) [hereinafter D.C. STATE RTTT APPLICATION], https://www2.ed.gov/programs/racetothetop/phase2-applications/district-of-columbia.pdf; U.S. DEP'T OF EDUC., GEORGIA: RACE TO THE TOP APPLICATION ASSURANCES (2010) [hereinafter GA. STATE RTTT APPLICATION], https://www2.ed.gov/programs/racetothetop/phase2-applications/georgia.pdf; MARYLAND: RACE TO THE TOP APPLICATION ASSURANCES, *supra* note 148, at 275; RHODE ISLAND: RACE TO THE TOP APPLICATION ASSURANCES, *supra* note 147, at F-16.

151. *See* HAW. STATE RTTT APPLICATION, *supra* note 149, at 6; D.C. STATE RTTT APPLICATION, *supra* note 149 at, 163.

equity for students in high-needs schools.[152] Florida's plan specifically outlines equitable funding for students who are in the state's Department of Juvenile Justice.[153]

## 2. Discipline

In the RTTT applications, the discussion of discipline is less frequent than in the ESSA plans—even when expanding to include "disciplinary" to the search. The number of mentions in the Maryland application is the highest at fourteen. Two state applications—Massachusetts,[154] and Tennessee[155]—mention discipline only once, and in the case of Massachusetts, the single mention is in reference to the STEM disciplines.[156] One of Georgia's two mentions also references the STEM disciplines,[157] and all four of Florida's uses of the term refer to content disciplines,[158] as do North Carolina's two mentions.[159] One of Ohio's mentions refers to STEM disciplines;[160] the other refers to financial discipline.[161]

In contrast to the ESSA plan, there is no mention of exclusionary discipline practices or the overuse thereof. In its discussion of discipline, Maryland's application outlines the state's use of funds to sup-

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152. *See* U.S. DEP'T OF EDUC., NORTH CAROLINA: RACE TO THE TOP APPLICATION ASSURANCES (2010), at 150–51 [hereinafter N.C. STATE RTTT APPLICATION], https://www2.ed.gov/programs/racetothetop/phase2-applications/north-carolina.pdf.NC State RTTT.

153. *See* U.S. DEP'T OF EDUC., FLORIDA: RACE TO THE TOP APPLICATION ASSURANCES (2010), at 56 [hereinafter FLA. STATE RTTT APPLICATION], https://www2.ed.gov/programs/racetothetop/phase2-applications/florida.pdf.

154. *See* MASS. STATE RTTT APPLICATION, supra note 150, at 94–95.

155. *See* TENN. STATE RTTT APPLICATION, *supra* note 146, at 10.

156. *See* MASS. STATE RTTT APPLICATION, *supra* note 150, at 94–95.

157. *See* GA. STATE RTTT APPLICATION, *supra* note 150, at 130, 150–51, 169, 176, 196–97, 199-201.

158. *See* FLA. STATE RTTT APPLICATION, *supra* note 153, at 98, 169, 174, 179, 214–16, 218–19, 253–57, 273–75, 304–05, 333–34, 336, 340, 342.

159. *See* N.C. STATE RTTT APPLICATION, *supra* note 152, at 165, 188, 208, 210, 221–24, 226–27, 242–43, 249–55.

160. *See* OHIO STATE RTTT APPLICATION, *supra* note 145, at C1-2, C2-7, C3-4, C3-9, D3-5.

161. *See id.* at A2-10.

port PBIS programs, and a professional development program that offers training in classroom management, de-escalation skills, and cooperative discipline.[162] The program also offers behavior management training for families. In addition, Maryland's plan mentions an innovative residential public boarding school for at risk youth, where chronic discipline is one of the four criteria for attendance.[163]

Other state mentions of discipline do so in reference to tracking discipline data, either for accountability purposes or to identify at-risk students (DC[164], Delaware[165], Hawaii[166], New York[167], Rhode Island[168], and Tennessee[169]). Other notable discussions of discipline include: Rhode Island's application states that teachers should use engaging instruction as a strategy to lessen disciplinary issues;[170] Ohio's plan mentions charter school compliance with disciplinary interventions;[171] DC's school turnaround plan strategy to stabilize cultural factors such as discipline in the first year;[172] and Georgia's Pre-K to Kindergarten transition support for parents that includes discipline training.[173]

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162. *See* MD. STATE RTTT APPLICATION, *supra* note 148, at 55.

163. *See id.* at 296–97. The other criteria for the boarding school are living in poverty; chronic absenteeism; not proficient in reading or math; having a disability; single-parent household; or having a family member in prison. *Id.* at 300.

164. *See* D.C. STATE RTTT APPLICATION, *supra* note 150, at 83, 155, 183, 197.

165. *See* U.S. DEP'T OF EDUC., DELAWARE: RACE TO THE TOP APPLICATION ASSURANCES (2010), at C-27, P-1–5 [hereinafter DEL. STATE RTTT APPLICATION], https://www2.ed.gov/programs/racetothetop/phase1-applications/delaware.pdf.

166. *See* HAW. STATE RTTT APPLICATION, *supra* note 149, at 207

167. *See* U.S. DEP'T OF EDUC., NEW YORK: RACE TO THE TOP APPLICATION ASSURANCES (2010), at 111 [hereinafter N.Y. STATE RTTT APPLICATION], https://www2.ed.gov/programs/racetothetop/phase2-applications/new-york.pdf.

168. *See* R.I. STATE RTTT APPLICATION, *supra* note 148, at C-23.

169. *See* TENN. STATE RTTT APPLICATION, *supra* note 146, at 153.

170. *See* R.I. STATE RTTT APPLICATION, *supra* note 148, at E-25. Research supports the idea that when students are engaged in academic activities, there are fewer behavior issues that require disciplinary action. Kathleen Lynne Lane et al., *Instructional Choice: An Effective, Efficient, Low-Intensity Strategy to Support Student Success*, 27(3) BEYOND BEHAV. 160, 162 (2018); Kristine Jolivette et al., *Making Choices–Improving Behavior–Engaging in Learning*, 34 TEACHING EXCEPTIONAL CHILD. 24, 25 (2002).

171. *See* OHIO STATE RTTT APPLICATION, *supra* note 145, at F 2-2.

172. *See* D.C. STATE RTTT APPLICATION, *supra* note 150, at 140.

173. *See* GA. STATE RTTT APPLICATION, *supra* note 150, at 192.

### 3.   Urban/Urban Schools

In the discussion of urban schools, the analysis of RTTT applications reveals the biggest departure from the ESSA plans.  The terms "urban" and "urban schools" appeared more times than "equity" or "discipline," and there was a wide disparity among application mentions.  Rhode Island's application contained 48 mentions,[174] in stark contrast to only two mentions in its ESSA plan.[175] Delaware's RTTT application[176] has the fewest mentions of "urban."  This is consistent with Delaware's ESSA plan, which also had the fewest mentions of the term.[177] Massachusetts's ESSA plan mentioned "urban" more than the other ESSA plans, [178] but the mentions of the term in its RTTT application falls in the middle of the pack.[179]

Rhode Island's frequent discussion of urban schooling centers around initiatives aimed at supporting urban communities within the state—namely Providence, Pawtucket, Woonsocket, and Central Falls.[180]  The application characterizes Rhode Island as having the second highest population density in the country.[181]  While the application does not give population density numbers, it does state the saturation of minority and economically disadvantaged students in its most heavily populated areas.[182]  For example, the application describes Central Falls as "a city of one square mile with a student population that is 70% Hispanic and 75% eligible for free- and reduced-price lunch".[183]  The plan mentions an Urban Education Task Force that was in place ahead of the RTTT application to create policy aimed at fortifying educational opportunities in urban areas like Central Falls.[184]  Examples of urban initiatives discussed include:  establishment of high-performing charter

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174.    *See generally* R.I. STATE RTTT APPLICATION, *supra* note 148

175.    *See generally* R.I. STATE ESSA PLAN, *supra* note 103.

176.    *See* DEL. STATE RTTT APPLICATION, *supra* note 165, at A-35.

177.    *See generally* DEL. STATE ESSA PLAN, *supra* note 100.

178.    *See generally* MASS. STATE ESSA PLAN, *supra* note 104.

179.    *See* MASS. STATE RTTT APPLICATION, *supra* note 150. See Table 3 for a side-by side comparison of the mentions.

180.    *See* R.I. STATE RTTT APPLICATION, *supra* note 148, at F-8.

181.    *See id.* at A-13.

182.    *See id.* at A-13.

183.    *Id.* at A-13.

184.    *See id.* at A-39.

schools in the urban areas; an urban Pre-K program; deployment of The New Teacher Project in the four previously named urban areas; and a state DOE focus on supporting high-poverty urban districts within the state.[185]

For other states, the discussion of urban schools revolves around a theme of the challenges each state faces with schools in urban areas. DC's application describes its unique position as a 100% urban district, the District's ambitious goals for reading and math achievement on the National Assessment of Educational Progress, and its pledge to become "the nation's first urban education system to fully eliminate the achievement gap."[186] Hawaii's application describes the contrasting nature of its "dense urban areas characterized by concentrated poverty and its accompanying social and educational impacts" and its rural communities with "schools in some of the wealthiest areas of the country."[187] Georgia's application also describes the state's diverse mix of urban and rural areas and the challenges of declining urban school enrollment.[188] New York's application describes similar challenges,[189] as does Maryland's;[190] both states identify large urban districts as the location of the majority of low-performing schools. In fact, much of the discussion around urban schools includes high-poverty, high-minority, and low-performing schools in the same breath. D.C.,[191] Florida,[192] Hawaii,[193] Maryland,[194] Massachusetts,[195] North Carolina,[196] Ohio,[197] Rhode Island,[198] and Tennessee[199] applications discuss urban schools

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185.  *See id.* at D-3.
186.  D.C. STATE RTTT APPLICATION, *supra* note 150, at 21.
187.  HAW. STATE RTTT APPLICATION, *supra* note 149, at 4.
188.  *See* GA. STATE RTTT APPLICATION, *supra* note 150, at 24.
189.  *See* N.Y. STATE RTTT APPLICATION, *supra* note 167, at 218.
190.  *See* MD. STATE RTTT APPLICATION, *supra* note 148, at 5.
191.  *See* D.C. STATE RTTT APPLICATION, *supra* note 150, at 21; 117.
192.  *See* FLA. STATE RTTT APPLICATION, *supra* note 153, at 222.
193.  *See* HAW. STATE RTTT APPLICATION, *supra* note 149, at 4.
194.  *See* MD. STATE RTTT APPLICATION, *supra* note 148, at 13.
195.  *See* MASS. STATE RTTT APPLICATION, *supra* note 150, at 126.
196.  *See* N.C. STATE RTTT APPLICATION, *supra* note 152, at 160.
197.  *See* OHIO STATE RTTT APPLICATION, *supra* note 145, at E 2-7.
198.  *See* R.I. STATE RTTT APPLICATION, *supra* note 148, at D-4.
199.  *See* TENN. STATE RTTT APPLICATION, *supra* note 146, at 107

in tandem with high-poverty schools, high-minority schools, low-performing schools, or a combination of the three. These plans also outline strategies to support urban districts, including: (a) improving equitable distribution of teachers, (b) granting funds for programs aimed at increasing math and reading scores in urban districts, and (c) partnering with colleges and outside agencies to recruit and prepare highly qualified teachers in urban areas. The only application that does not discuss challenges in urban schools is Delaware,[200] where the single mention of the word "urban" is a reference to the Wilmington Urban League as a stakeholder in the state education system.

### 4. Accountability

Just like the state ESSA plans, the state RTTT applications mention accountability with the most frequency. At the low end, DC's twenty-seven mentions almost exceeds the number of times it mentions the other terms combined.[201] Maryland, whose application led in discipline mentions, also leads in accountability mentions, with 113.[202] New York's plan is second with ninety-three,[203] and Ohio's plan has eighty-six mentions.[204] The heavy accountability discussion in the application centers around two common themes: student growth and achievement and charter school accountability.[205] Other discussion around accountability was not thematic across a majority of the plans, but those that are worth mentioning will be discussed later in this section.

Many of the applications discuss their current measures for accountability through student growth and achievement, primarily using standardized test scores. Some states, like Delaware,[206] advance the notion that accountability based on test scores is the best way to identify the schools in most need of intervention (turnaround). Again, the term "differentiated accountability" is used to signal states' intentions to implement a system of supports and accountability for schools that

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200.    *See* Del. State ESSA Plan, *supra* note 100, at A-35.

201.    *See* D.C. State RTTT Application, *supra* note 150.

202.    *See* Md. State RTTT Application, *supra* note 148.

203.    *See* N.Y. State RTTT Application, *supra* note 167.

204.    *See* Ohio State RTTT Application, *supra* note 145.

205.    *See id.*

206.    *See* Del. State ESSA Plan, *supra* note 100, at E-22

consistently fall short of student growth and achievement goals. Florida,[207] DC,[208] Delaware,[209] Georgia,[210] Hawaii,[211] Ohio,[212] Rhode Island,[213] and Tennessee[214] applications all detail some type of plan to intervene in schools and districts that struggle to meet student growth and accountability measures. The plans are typically multi-year processes with layers of support for schools such as additional funding, teacher and principal development/recruitment, and curriculum initiatives. All the state plans include school closure as an option for consistently underperforming schools under the turnaround/differentiated support model.

Student growth and achievement measures are also tied to teacher accountability through value-added measures.[215] Several state plans (D.C.,[216] Delaware,[217] Hawaii,[218] Florida,[219] Georgia,[220] Maryland,[221] North Carolina,[222] Tennessee,[223] New York,[224] Ohio,[225] and Rhode Island[226]) discuss an existing value-added model or outline plans to implement a value-added model as a part of teacher accountability.

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207.    *See* FLA. STATE RTTT APPLICATION, *supra* note 153, at 225.

208.    *See* D.C. STATE RTTT APPLICATION, *supra* note 150, at 5.

209.    *See* DEL. STATE ESSA PLAN, *supra* note 100, at A-4.

210.    *See* GA. STATE RTTT APPLICATION, *supra* note 150, at 56.

211.    *See* HAW. STATE RTTT APPLICATION, *supra* note 149, at 37.

212.    *See* OHIO STATE RTTT APPLICATION, *supra* note 145, at A 1-3.

213.    *See* R.I. STATE RTTT APPLICATION, *supra* note 148, at E-2.

214.    *See* TENN. STATE RTTT APPLICATION, *supra* note 146, at 119.

215.    *See generally* Charisse A. Gulosino, *Evaluating the Tennessee Higher Education Commission's Report Card on Value-added Estimates of Teacher Preparation Programs*, 26 EDUCATION POLICY ANALYSIS ARCHIVES 1 (Mar.12, 2017) (Value added measures use data from standardized tests to estimate the effect that a teacher has on a student's educational progress).

216.    *See* D.C. STATE RTTT APPLICATION, *supra* note 150, at 91.

217.    *See* DEL. STATE ESSA PLAN, *supra* note 100, at D-12

218.    *See* HAW. STATE RTTT APPLICATION, *supra* note 149, at 107.

219.    *See* FLA. STATE RTTT APPLICATION, *supra* note 153, at 118.

220.    *See* GA. STATE RTTT APPLICATION, *supra* note 150, at 89.

221.    *See* MD. STATE RTTT APPLICATION, *supra* note 148, at 490.

222.    *See* N.C. STATE RTTT APPLICATION, *supra* note 152, at 33.

223.    *See* TENN. STATE RTTT APPLICATION, *supra* note 146, at 124.

224.    *See* N.Y. STATE RTTT APPLICATION, *supra* note 167, at 6.

225.    *See* OHIO STATE RTTT APPLICATION, *supra* note 145, at C 2-3.

226.    *See* R.I. STATE RTTT APPLICATION, *supra* note 148, at D-12.

Subgroups were also referenced as part of student growth and achievement measures. Florida's application presents the idea that subgroup accountability must be a focus for education reform as well as whole group accountability.[227] Georgia,[228] North Carolina,[229] New York,[230] and Tennessee[231] applications also mention subgroup accountability as a part of their education reform plans.

Discussion of charter school accountability arises because it is a question on the RTTT application; therefore, all plans include a description of the process for charter school application, authorization, oversight, and accountability. D.C.'s application discusses the state's Performance Management Framework for charter school management and support.[232] In addition to the basic descriptions, some applications discuss charter schools as a part of the turnaround process: public schools can be close and reinvented as charters. In other applications, such as Massachusetts[233] and Georgia,[234] the states talk of charter schools having more flexibility or funding support in exchange for increased accountability. The hope is that the flexibility will drive charter schools to produce innovations that improve student achievement on standardized tests.

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227. *See* FLA. STATE RTTT APPLICATION, *supra* note 153, at 12.

228. *See* GA. STATE RTTT APPLICATION, *supra* note 150, at 48.

229. *See* N.C. STATE RTTT APPLICATION, *supra* note 152, at 36.

230. *See* N.Y. STATE RTTT APPLICATION, *supra* note 167, at 65.

231. *See* TENN. STATE RTTT APPLICATION, *supra* note 146, at 20.

232. *See* D.C. STATE RTTT APPLICATION, *supra* note 150, at 93.

233. *See* MASS. STATE RTTT APPLICATION, *supra* note 150, at 155.

234. *See* GA. STATE RTTT APPLICATION, *supra* note 150, at 172.

*Table 2-RTTT Application Search Term Frequency*

| State | Equity | Discipline | Urban | Accountability |
|---|---|---|---|---|
| District of Columbia | 8 mentions | 4 mentions | 18 mentions | 27 mentions |
| Delaware | 4 mentions | 8 mentions | 1 mention | 27 mentions |
| Florida | 2 mentions | 4 mentions | 11 mentions | 76 mentions |
| Georgia | 3 mentions | 1 mention | 2 mentions | 57 mentions |
| Hawaii | 10 mentions | 2 mentions | 2 mentions | 40 mentions |
| Maryland | 9 mentions | 14 mentions | 17 mentions | 113 mentions |
| Massachusetts | 1 mention | 1 mention | 19 mentions | 39 mentions |
| New York | 8 mentions | 3 mentions | 23 mentions | 93 mentions |
| North Carolina | 6 mentions | 2 mentions | 30 mentions | 45 mentions |
| Ohio | 16 mentions | 3 mentions | 17 mentions | 86 mentions |
| Rhode Island | 11 mentions | 4 mentions | 48 mentions | 50 mentions |
| Tennessee | 16 mentions | 1 mention | 14 mentions | 55 mentions |

*Table 3-Side by Side Comparison of ESSA and RTTT analysis*

| State | Equity | | Discipline | | Urban | | Accountability | |
|---|---|---|---|---|---|---|---|---|
| | ESSA | RTTT | ESSA | RTTT | ESSA | RTTT | ESSA | RTTT |
| District of Columbia | 11 mentions | 8 mentions | 2 mentions | 4 mentions | 5 mentions | 18 mentions | 90 mentions | 27 mentions |
| Delaware | 49 mentions | 4 mentions | 8 mentions | 8 mentions | 0 mentions | 1 mention | 100 mentions | 27 mentions |
| Florida | 8 mentions* | 2 mentions | 13 mentions | 4 mentions | 0 mentions | 11 mentions | 39 mentions | 76 mentions |
| Georgia | 26 mentions | 3 mentions | 8 mentions* | 1 mention | 2 mentions | 2 mentions | 72 mentions | 57 mentions |
| Hawaii | 35 mentions | 10 mentions | 3 mentions | 2 mentions | 1 mention | 2 mentions | 122 mentions | 40 mentions |
| Maryland | 23 mentions | 9 mentions | 5 mentions | 14 mentions | 2 mentions | 17 mentions | 98 mentions | 113 mentions |
| Massachusetts | 26 mentions | 1 mention | 5 mentions | 1 mention | 17 mentions | 19 mentions | 138 mentions | 39 mentions |
| New York | 57 mentions | 8 mentions | 9 mentions | 3 mentions | 6 mentions | 23 mentions | 125 mentions | 93 mentions |
| North Carolina | 20 mentions | 6 mentions | 12 mentions | 2 mentions | 2 mentions | 30 mentions | 99 mentions | 45 mentions |
| Ohio | 23 mentions | 16 mentions | 17 mentions | 3 mentions | 5 mentions | 17 mentions | 73 mentions | 86 mentions |
| Rhode Island | 11 mentions | 11 mentions | 6 mentions* | 4 mentions | 2 mentions | 48 mentions | 55 mentions | 50 mentions |
| Tennessee | 16 mentions | 16 mentions | 24 mentions | 1 mention | 14 mentions | 14 mentions | 296 mentions | 55 mentions |

## V. CONCLUSION

The analysis of the ESSA plans and RTTT applications for the awardee states reveals a how policymakers define and prioritize equity. RTTT was presented as a competitive grant program designed to spur

innovative thinking about school improvement.[235]  If this is the case, then the winning states—those that are the subject of this analysis—represent what our federal government believes to be the best and brightest our country has to offer in the education reform arena.  In other words, those states presented ideas in their applications that satisfied those reviewing them in the federal government.  Consequently, by studying their RTTT applications and their ESSA state plans, the nation's educational priorities and intentions towards equitable outcomes for subgroups, including black students, become observable.  This analysis suggests that the concepts of equity, discipline, urban schools, and accountability are prioritized in a very specific way in American education policy.

### A.  How States Define the Key Terms in their ESSA Plans

In their ESSA plans, states primarily define *equity* in terms of access to qualified teachers and leaders, and the achievement gap.[236]  The analysis of the state plans indicates that access to highly qualified teachers is a problem in urban, low-income, and low-performing schools.[237]  The ESSA plans contain root-cause analysis that identifies several factors for the inequitable distribution of teachers and school leaders, including a disproportionate number of inexperienced or ineffective teachers, in the aforementioned schools.[238]  To combat the problem, states such as North Carolina, Georgia, Massachusetts, New York, and Tennessee call for stronger recruitment, retention, and support strategies to reduce the disparity.[239]  State plans also define equity in terms of disparate academic achievement.[240]  States acknowledge that there is a disparity in academic achievement rates among schools with high-poverty populations, high-minority populations, or both.[241]  Hawaii and Ohio's plans propose the establishment of ESSA support

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235.    *See generally* U.S. DEP'T OF EDUC., RACE TO THE TOP FUND (2016), https://www2.ed.gov/programs/racetothetop/phase2-applications/index.html.

236.    *See supra* Part I.

237.    *See supra* Part II.

238.    *See supra* Part II.

239.    *See supra* Section IV.A.1.

240.    *See supra* Section IV.A.1.

241.    *See supra* Section IV.A.1.

teams to support LEA's in reducing the achievement gap.[242] This analysis supports existing research which acknowledges a persistent disparity in education quality for black students.[243] Literature supports the idea that inequitable access to highly effective school leaders and teachers has a negative effect on the outcomes of minority students and students living in poverty.[244] If states implement effective strategies to ensure equitable access to the best teachers, there is an opportunity to improve the academic achievement for black students and other subgroups in high-needs schools.

The disparate use of exclusionary *discipline* on students from poverty, students of color, and students with disabilities is acknowledged in all state plans (except for Hawaii); however, not all plans offer strategies to combat the problem. Tennessee's plan outlines the state's intent to replace exclusionary discipline with restorative practices.[245] Massachusetts's plan makes a connection between discipline and chronic absenteeism, and Ohio's plan includes a review of exclusionary discipline use with for students with disabilities.[246] Discipline policies must shift from punitive discipline practices to restorative discipline and engagement strategies if black students and other students of color are to have a fighting chance at equitable academic attainment.[247] The fact that the states did not provide clear policies aimed at the reduction of exclusionary discipline means that the issue is not a true priority.

The fact that *urban* is the least-mentioned of the four search terms belies the challenges states face with schools in urban areas. The DC plan calls out the fact that historically, urban districts lag in achievement. In the analysis of the other search terms, particularly equity, it is evident that education reformists understand that urban areas are prevalent sites of poverty and high-minority populations, which ex-

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242. *See* Haw. State ESSA Plan, *supra* note 110; Ohio State ESSA Plan, *supra* note116.

243. *See* Brunn-Bevel et al., *supra* note 22.

244. *See* Clotfelter et al., *supra* note 26; Saultz et al., *supra* note 26; Campoli, *supra* note 26.

245. *See supra* Section IV.A.2.

246. *See supra* Section IV.A.2.

247. Mizel, et. al., *supra* note 28, at 102; Gregory et al., *supra* note 28, at 59.

acerbate factors such as inequitable distribution of teachers and re-sources.[248] The causes and effects of low student achievement are mag-nified in urban areas.[249] Even when presented alongside impoverished rural areas, the state ESSA plans recognize that urban schools present a unique set of challenges that must be addressed in unique ways.

The focus on *accountability* in the state ESSA plans underscores the direction that education reform has taken since *A Nation at Risk* was released, painting a dire picture of the state of education in Amer-ica.[250] In an attempt to shine a light on the inequities in achievement, education reformers resorted to a system of standardized test-based measures that brought punitive accountability for states, schools, and teachers.[251] Although ESSA was hailed as a shift in education policy, an opportunity to move away from the high stakes testing accountabil-ity of NCLB, the fact that accountability is mentioned in one state ESSA plan (Tennessee) more times than equity is mentioned in all of the twelve states combined supports the idea that ESSA has not moved away from the NCLB notion of high-stakes accountability.[252] Alt-hough the state plans indicate a desire to move away from high-stakes accountability measures to a broader, more supportive system of ac-countability, the accountability plans contained within ESSA demon-strate that reformers at the state level are unsure of how to do this.[253] Existing literature tells us that if there is any hope for states to advocate for and achieve equitable outcomes for students of color and students from poverty and urban areas, policy makers must move away from the current accountability culture based largely on standardized test

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248. *See* Frank Adamson & Linda Darling-Hammond, *Funding Disparities and the Inequitable Distribution of Teachers: Evaluating Sources and Solutions*, 20 EDUC. POL'Y ANALYSIS ARCHIVES 37, 4 (2012).

249. *See* Walker, *supra* note 37 at 309.

250. *See* Heise, *supra* note 5, at 1867; DeCuir, *supra* note 18, at 38; Nichols et. al. *supra* note 3, at 3.

251. *See* Lauen & Gaddis, *supra* note 8, at 188–89.

252. *See* TENN. DEP'T OF EDUC., EVERY STUDENT SUCCEEDS ACT: BUILDING ON SUCCESS IN TENN. (2018), https://www2.ed.gov/admins/lead/ac-count/stateplan17/tnessastateplan122018.pdf; HESS & EDEN, *supra* note 83; Black, *supra* note 10, at 1333; ALDEMAN ET AL., *supra* note 73, at 1; USHOMIRSKY ET AL., *supra* note 84, at 3.

253. *See* MATHIS & TRUJILLO, 2016, *supra* note 9, at 12.

scores.[254]   Instead, policy makers should implement systems where other indicators are measured with the same weight—indicators such as school climate and safety, teacher retention, and access to rigorous coursework.

### B.   How States Define Key Terms in RTTT Applications

In the RTTT applications, *equity* is mentioned less than in the state ESSA plans, yet one common theme still emerges:  equitable distribution of effective teachers.  RTTT applications contained recruitment, retention, and effectiveness initiatives designed to equalize the distribution of effective teachers, yet seven years later, the problem remained.  Since the problem is addressed in the ESSA state plans, it stands to reason that RTTT grant awardees were not successful in combating the problem during the period between RTTT and ESSA.[255]  A 2017 analysis of RTTT and ESSA indicates that this is probably because RTTT's expansion of alternative certification programs exacerbated the problem of inequitable effective teacher distribution.[256]

The analysis of RTTT applications revealed more discussion around the equitable distribution of funding and resources than did the ESSA plans.  Based on the purpose for the RTTT applications (to receive competitive federal grants in exchange for implementing innovative education reforms), it is likely that this focus on equitable distribution of resources was an attempt on the part of states to demonstrate how they would effectively utilize RTTT funds to reduce the achievement gap.

Exclusionary *discipline* practices are disproportionately used on black boys and girls,[257] yet in their RTTT applications, states shy away from any acknowledging the problem.  Only Maryland's application

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254.     El Moussaoui, *supra* note 82, at 410; Williams & Welsh, *supra* note 82, at 718, MATHIS & TRUJILLO, *supra* note 9, at 4.

255.     For example, in 2010, Delaware won the RTTT grant, resulting in nearly $119 million in funding from the federal stimulus package.  *Delaware's Progress on Race to the Top*, WHYY (Feb. 1, 2013), https://whyy.org/articles/delawares-progress-on-race-to-the-top/.  Yet, Delaware's ESSA state plan still addresses the equitable distribution of effective teachers. *See* U.S. DEP'T OF EDUC., STATE TEMPLATE FOR THE CONSOLIDATED STATE PLAN UNDER THE EVERY STUDENT SUCCEEDS ACT 43 (2017).

256.     *See* Saultz et al., *supra* note 16, at 654.

257.     *See* Gregory et al., *supra* 8, at 59; Mizel et al., *supra* note 28, at 103

proposes to use grant funds to support PBIS programs and PD aimed at cooperative discipline. While several state applications outline plans to track discipline data for accountability purposes and the identification of at-risk youth, there is no widespread acknowledgement of the impact of low student achievement and lack of access to high quality educators on behavior and discipline for any students, let alone black students. Rhode Island's application is the only one that makes any link to classroom instruction and negative behaviors.[258]

The discussion of *urban* in RTTT applications presents the biggest departure from the discussion in the ESSA plans. *Urban* and *urban schools* appear more frequently in the RTTT applications than did *equity* or *discipline*. The maximum number of mentions in the ESSA plans is seventeen; in the RTTT plans, that number is almost tripled. Rhode Island, the state with the most mentions in its RTTT application, may be using the term loosely, referring to a town whose size is one square mile to an urban city based on the saturation of minority and economically disadvantaged students. This characterization is telling. While neither the ESSA plans nor the RTTT applications specifically define urban areas/cities/schools in terms of a specific geographical size or population density, the term is frequently paired with "high-poverty" or "high-minority," indicating that these labels are proxies for urban schools, especially when used together. Regardless of how an area is deemed as "urban," the RTTT applications recognize that there are equity challenges in urban schools that are different than those in rural or suburban areas. These challenges must be addressed in different ways to improve outcomes for the students they serve.

Like the ESSA plans, the RTTT applications are saturated with mentions of *accountability*. Knowing that the RTTT applications were composed in the NCLB era, it is not surprising that they have a heavy accountability focus. The RTTT applications describe, in great detail, how states plan to roll out (if not already in place) accountability agencies at the state level, along with technology platforms by which they can collect, share, and evaluate accountability data.[259] While the stated intent of accountability practices in education policy is to call out per-

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258. *See* R.I. STATE RTTT APPLICATION, *supra* note 148 at D-14.

259. *See* U.S. DEP'T OF EDUC., ARKANSAS: RACE TO THE TOP APPLICATION ASSURANCES (2010), https://www2.ed.gov/programs/racetothetop/phase2-applications/arkansas.pdf.

sistent failure to adequately educate black students and other sub-
groups, the actual implementation of accountability practices often
contribute to that failure.[260]

Student growth and achievement, measured by value-added
computations of standardized test scores, are the primary focus of ac-
countability in the RTTT applications, but the theme of differentiated
accountability is present as well. This is a nod toward using accounta-
bility data in a way that in more supportive and less punitive. Also,
charter school accountability is a common topic. Some states explain
that they have granted charter schools greater operational flexibility
and the freedom to implement innovative instructional practices in ex-
change for stricter accountability.[261] This approach seems counterin-
tuitive: the pressure from SEA's to meet strict accountability measures
serves to move the focus of charter schools away from innovation.[262]

Even though the RTTT applications and the ESSA state plans
show some desire on the part of SEA's to move to a more supportive
accountability process, the sheer volume of accountability discussion
in the ESSA plans and RTTT applications is further evidence of the
heavy accountability focus of education policy.[263] When the most in-
novative states in the nation—as evidenced by their RTTT awardee sta-
tus[264]—place accountability at the forefront of their plans to reform

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260.   *See* Thompson & Allen, *supra* note 17, at 218; Wasserberg, *supra* note 41.
For a list of the states' RTTT applications, *see* U.S. DEP'T OF EDUC., ESSA STATE
PLAN SUBMISSION, https://www2.ed.gov/admins/lead/account/stateplan17/statesub-
mission.html.

261.   *See* D.C. STATE RTTT APPLICATION, *supra* note 150, at 33; DEL. STATE
ESSA PLAN, *supra* note 100, at F-9; FLA. STATE RTTT APPLICATION, *supra* note 153,
at 220; GA. STATE RTTT APPLICATION, *supra* note 150, at 172; MD. STATE RTTT
APPLICATION, *supra* note 148, at 284.

262.   *See* PAUL T. HILL, ROBIN J. LAKE & MARY BETH CELIO, CHARTER
SCHOOLS AND ACCOUNTABILITY IN PUBLIC EDUCATION 22 (2002).

263.   For example, California's ESSA plan mentions "accountability" or "ac-
countable" 75 times. CAL. DEP'T OF EDUC., CAL. ESSA CONSOLIDATED ST. PLAN
(2017),          https://www2.ed.gov/admins/lead/account/stateplan17/caconsolidated-
stateplanfinal.pdf.

264.   RTTT award selection criteria included: (a) a clear reform vision; (b) a
prior record of reform success; (c) college and career readiness success; (d) LEA pol-
icy and infrastructure; (e) a record of continuous improvement; and (f) fiscal sustain-
ability. U.S. DEP'T OF EDUC., FY 2013 RACE TO THE TOP—DISTRICT EXECUTIVE
SUMMARY (2013), https://www2.ed.gov/programs/racetothetop-district/webinar-sep-
4.pdf.

public education and reduce inequities for students of color and students living in poverty, logic dictates that the rest of the country will follow their lead. This demonstrates that the push towards equitable practices in education reform policies is merely rhetorical.

## C. *Limitations and Future Implications*

This analysis examines the concepts of equity, discipline, urban schools, and accountability individually to create a picture of what equity in education might look like in America. Further analysis of these concepts as a collective whole in educational policy could provide more insights on the equity problem and the disparate outcomes for black students and students in poverty. An analysis that pinpoints places where education policy recognizes the relationship that accountability, discipline, and urban school factors impact educational equity for black students would be useful in shaping future policy. In addition, further research is needed to determine whether ESSA has impacted equitable outcomes for black students in a positive way. Research and analyses in these areas may provide insights on how to balance the concepts of equity and accountability in a way that has meaningful, sustainable impact on the education of black students.

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