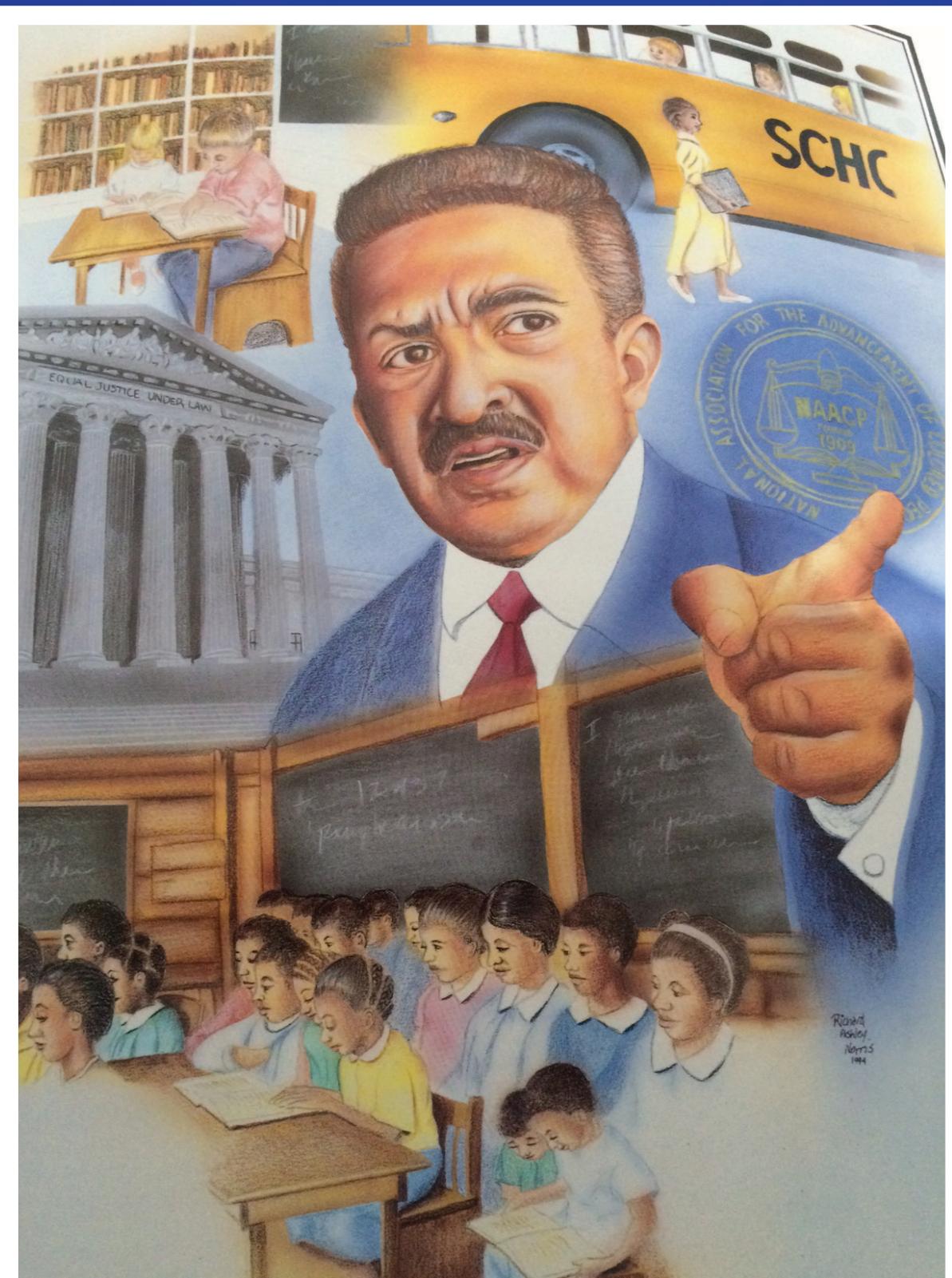


A TOOLKIT ON THE
EVERY STUDENT SUCCEEDS ACT



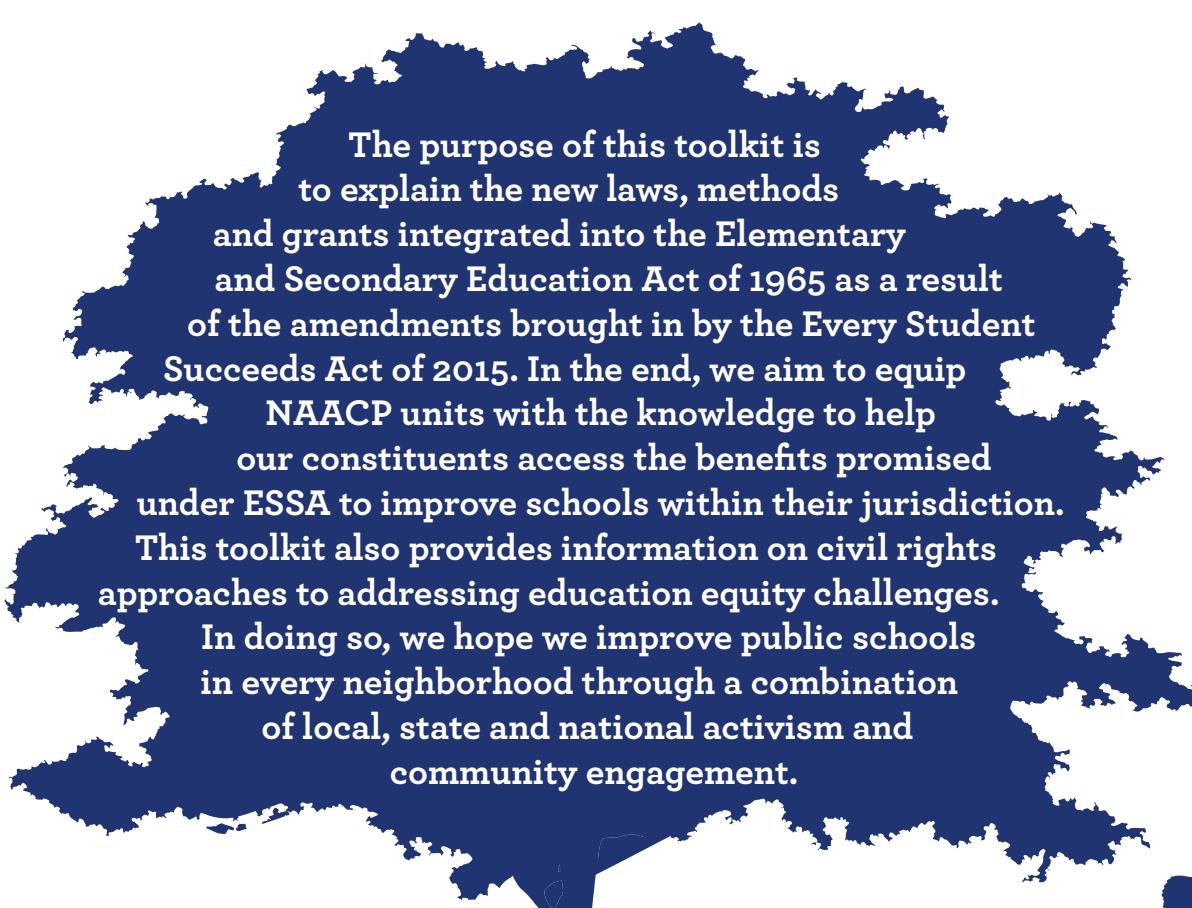
*"Separate and Unequal" 1954-1994 by Richard Ashley Norris
Commemorating the 40th Anniversary of the
Brown v. Board of Education Supreme Court Decision.*

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foreword

In the world of education law and policy, we are constantly chasing a moving target. Administrations and legislation may change, but those of us working as advocates for our constituents must continue to promote equitable, effective public education for all students, including students of color and low-income students. This is by no means an easy task, but with concerted, coordinated, strategic and faithful efforts, we can achieve a more perfect educational system for the generations incoming and currently matriculating American public education.



The purpose of this toolkit is to explain the new laws, methods and grants integrated into the Elementary and Secondary Education Act of 1965 as a result of the amendments brought in by the Every Student Succeeds Act of 2015. In the end, we aim to equip NAACP units with the knowledge to help our constituents access the benefits promised under ESSA to improve schools within their jurisdiction. This toolkit also provides information on civil rights approaches to addressing education equity challenges.

In doing so, we hope we improve public schools in every neighborhood through a combination of local, state and national activism and community engagement.

We thank you for your incredible, hard work in the last year, as states developed the state ESSA plans, and implore you to keep it up. We greatly appreciate the support of the Helmsley Trust and Helmsley Trust Program Officer Mary Blanusa.

We may have an uphill battle ahead of us, but it is one that we can—and for the sake of the future—must win.

*Victor Goode, Esq.
Interim Education Director
NAACP National Headquarters
Baltimore, Maryland*



introduction



In 2015, Congress reauthorized the Elementary and Secondary Education Act, amending its provisions with the Every Student Succeeds Act (ESSA) and replacing the provisions of No Child Left Behind (NCLB).¹ Though the original bill was passed with bipartisan consensus, Republicans later disapproved of the Obama-era Department regulations on state plans, accountability, and data reporting and introduced resolutions under the Congressional Review Act to repeal them.² The Trump Administration signed Joint Resolution 25 on March 27, 2017, rendering those regulations defunct.³ Regulations regarding assessments are still in place.⁴

Since then, the Department of Education (ED) has issued new guidelines, including revised consolidated state plan templates.⁵ The current state plan submission deadlines are April 3, 2017 and September 18, 2017.⁶ It's important to keep an eye on the Department of Education website's page on ESSA and particularly on the "Key ESSA Resources, Including Guidance and Regulatory Information" page for new Dear Colleague Letters and Guidance.⁷

The Trump Administration's first full budget proposal, released in May, reflects a narrow and misguided view of education priorities. The budget proposal would slash \$9.2 billion, or 13.5 percent, of funding for the Department of Education for Fiscal Year 2018. A sample letter is included in this toolkit to send to your congressional representatives on education funding.⁸

The NAACP has established internal policy objectives for education reform. A number of those policy objectives coincide with aspects of ESSA. The chart below outlines the policy or issue area, the connection to ESSA and some considerations one should note in developing an advocacy plan around these policy or issue areas:

THE NAACP WANTS...	ESSA...	CONSIDERATIONS
High quality pre-K	Requires SEAs/LEAs to include collaboration on their Pre-K plans. ⁹ Various grants for pre-K.	But ESSA only requires testing after the 3rd grade.
Expanded learning	Allocates funds to activities that support enrichment and engaging academic activities. ¹⁰	The current budget proposal cuts ED funding by 13.5%. Funding to support literacy programs for high-need students and after school programs were eliminated under the proposed Trump 2018 Education budget.
Effective teaching	Gives title II grants for teacher improvement. Bolsters the Teach to Lead program.	The supplement, not supplant rule was never finalized, but the requirement in ESSA, the statute, remains. The interpretation of that rule is still up in the air.
Targeted, adequate spending	Requires a breakdown of how student need is met with a focus on equitable over equal distribution for funding.	There are also non-ESSA approaches to spending, e.g., Title VI of the Civil Rights Act comparable resources requirements. ¹¹
Fair discipline and avoiding the school to prison pipeline	Requires assurances from SEAs/LEAs in their plans and in report cards on fair discipline practices.	Community and parent vigilance and engagement is key, as with every other issue in this states' rights environment. ¹²
Diversity	Makes efforts to encourage diversity through prioritizing grants to charter and magnet schools that have a racially and socioeconomically diverse student body. ¹³	The Trump administration withdrew a \$2 million grant to plan for increased diversity. ¹⁴ But there are a number of civil rights approaches to nevertheless promote more integrated schools and communities. ¹⁵

THE NAACP WANTS...	ESSA...	CONSIDERATIONS
Parent/ community engagement	<p>Requires Title I schools to support parent engagement.</p> <p>Funding is reserved for parent and family engagement with a priority on high-need schools.</p>	<p>Regulations requiring reporting on stakeholder engagements were repealed and removed from state plan assessments. Ask Title I Principals to organize Title I parent organizations and/or NAACP units may choose to establish their own Title I parent subcommittee of their Education Committee.</p> <p>Unit Education Committees, in partnership with our unit Political Action Committees, must also register parents and other members of the community to vote. This is a critical aspect of our parent/ community engagement advocacy and must begin now. It is part of our broader voter empowerment work (Voter Registration; Voter Education; Get Out the Vote; Election Protection; Redistricting).</p>
High expectations for all students	<p>Requires standard academic achievements across student subgroups.</p> <p>Expects more progress for subgroups who are behind based on ratings.</p>	<p>Some plans have been approved though they utilize super subgroup. Read more below about the problems with aggregating subgroups.</p> <p>This ESSA accountability requirement should be viewed within the context of the NAACP's longtime work to increase minority student access to gifted and talented programs, including Advanced Placement courses. Title VI of the Civil Rights Act provides a potential additional tool to address this challenge.</p>
Key resources for meeting standards set	<p>Targets funding towards the schools with the greatest need.</p> <p>Requires reporting on per pupil expenditures.</p>	<p>Funding concerns extend to this goal as well. A substantially diminished budget make formula grants smaller and competitive grants less effective.¹⁶</p> <p>See also the earlier points made in the considerations section of the targeted and adequate spending point.</p>

THE NAACP WANTS...	ESSA...	CONSIDERATIONS
Actions taken when any school, or group of students falls off track	<p>Requires state plans to set standards for placing schools and districts under support and improvement.</p> <p>Encourages disaggregated student subgroups so that struggling groups are more easily identifiable.</p>	<p>States may delay identifications of schools and districts or groups of students within them that are off track until 2018-19.</p>
Timely support for struggling students	<p>Requires annual reports for schools in need of support and improvement that will pick up on subgroups most in need of assistance.</p> <p>Allows ED to disaggregate subgroups in graduation rates at any time in their cohorts.</p>	<p>Guidance has delayed the requirement for states to identify schools for support and improvement for another school year which will adversely affect currently struggling students.</p> <p>In the meantime, while we wait for state-imposed interventions, and the accompanying resources, to kick in, what about <i>individual</i> struggling students who need extra help now?</p> <p>Exactly how do state and local ESSA plans, or other protocols, address those more immediate needs for support? Are they working?</p> <p>Whatever the policy answers are from education officials, it is important for NAACP units to be able to identify <i>individual students</i>, if any, who need, and are not receiving, additional support. Or if receiving additional support, identify particular students for whom the additional support provided is not effective, why, what is needed and the reason(s) supporting this conclusion. Documentation continues to be an essential part of our Education Committees' advocacy work.</p>
Support for public education	Provides funding for public schools, but also has commensurate opportunities for funding for charter schools. ¹⁷	The Trump Administration has indicated that it will focus on supporting "school choice." ¹⁸



ESSA provisions

state plans

An ESSA state plan describes a state's system for holding schools accountable for the performance of students. States are required to establish multiple-indicator accountability systems further discussed in the accountability section of this toolkit. Accountability systems are tested annually through report cards, but the state plan is fairly static once it is submitted and approved by the ED. The state plan ensures accountability through developing four things:

- **Long term goals:** States must determine goals measuring achievement and graduation rates over time. Plans that set ambitious goals are more likely to produce equitable results.
- **Disaggregation of student subgroups:** States must breakdown results of assessments by the most specific subgroup without revealing any personally identifying information of specific students. The greater detail that is put into subgroups, the better schools may address needs within specific communities.
- **Targeted support and improvement:** States must set a standard for annual review of whether a school needs support and improvement. Consistency is key for equity-focused plans.
- **Notation of subgroup performance in school ratings:** States must rate schools and districts annually and should account for the performances of struggling subgroups. This encourages districts and schools with lagging subgroups to devote more resources towards students that have higher needs.

State plans are currently on track to be submitted at the latest on September 18, 2017. The Leadership Conference on Civil and Human Rights has a list of letters to individual state educational agencies and government officials in charge of developing the state plan.¹⁹ The NAACP, a charter member of the Leadership Conference, has signed on to these letters to state officials. The letters are worth reviewing in order to advocate consistently.



As much work as can be done on your state's plan should be attempted, but for states with finalized plans, it is more important to focus on how those state and local school systems will implement NAACP priority concerns, noted previously, and including annual assessments and accountability mechanisms.



assessments

STANDARDS

Under ESSA, states are required to adopt challenging academic content standards and demonstrate that those standards align with entrance requirements for credit-bearing course work in the state's public system of higher education and with relevant state career and technical education (CTE) standards. By adopting challenging academic standards that ask students to think critically and analyze complex problems, states can help develop deeper learning.²⁰

TESTING

States have a fairly wide berth to determine their testing requirements. Specifically, for high schools, states can choose to let their districts give a nationally recognized assessment (e.g. ACT or SAT) so long as the test comports with state education goals.²¹ The U.S. Secretary of Education can establish a pilot program for up to seven states that want to develop new assessment systems (i.e. tests based on competency or performance).²² The Act encourages states to get rid of low quality or duplicative tests.²³

NOTE: The Opt-Out Provision requires that at least 95 percent of students and 95 percent of each group of traditionally underserved students must be assessed. This provision aims to ensure that students will participate in annual statewide assessments.²⁴

ESSA includes several assessment provisions that support deeper learning:

- Assessments must include measures that assess higher order thinking skills and understanding. States may deliver assessments, in part, in the form of portfolios, projects, or extended-performance tasks designed to encourage students to think critically and solve complex problems.
- The state may administer assessments through either a single summative assessment or multiple interim assessments provided during an academic year. Those interim assessments result in a single summative score.²⁵

Statewide, Annual Assessment

Tests must provide valid, reliable and comparable information on whether all students are meeting state standards on each subject.²⁶ The frequency of testing on subjects is as follows:

SUBJECT	ELEM. (3-5)	MID. (6-8)	HIGH (9-12)
Reading/Language	Yearly	Yearly	Once
Math	Yearly	Yearly	Once
Science	Once	Once (6-9)	Once (10-12)



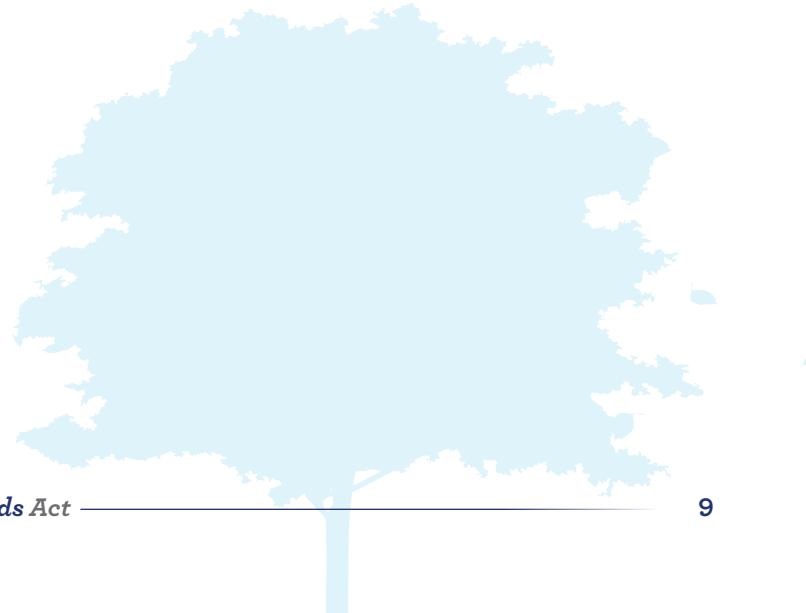
Assessment of English Learners²⁷

Tests must be administered annually to all English learners.²⁸ States have to give English proficiency and math assessments to English learners starting in their first year in U.S. schools.

YEAR	TESTING
1st	May be excused from reading/language arts assessments.
2nd	Must participate, but may have native language translation.
Up to 5th	Native language translation for tests.

Alternate Standards for Students with Disabilities

States can develop alternate assessments aligned with alternate achievement standards for students with the most significant cognitive disabilities, but can administer these assessments to no more than 1% of all students statewide.²⁹





RATINGS



States must set goals for increasing the percentage of students who reach state standards in reading and math and for raising graduation rates. These goals have to be set for all students, and for low-income students, students from major racial/ethnic groups, students with disabilities and English learners, respectively.

They must require improvement for all groups and faster improvement for the groups that have been behind, meaning that, if the goals are met, gaps between groups will narrow.

Each state must then rate schools based on how they perform on these goals and other indicators, for all students and for each student group. If any group of students in a school is consistently underperforming, the school's rating has to reflect that fact.³⁰

States will determine exactly how much each indicator will count in school accountability ratings, but the first three indicators (academic achievement, another academic indicator, and English proficiency) must each carry substantial weight, and together, carry much more weight than the additional measure of school quality.³¹

accountability

PUBLIC REPORTING

The Act requires the publication of state and district report cards. District report cards must have data on the district as a whole and on each individual school in the district.³² Report cards must have³³:

- (1) Details of the state accountability system, including schools identified for support and improvement.
- (2) Disaggregated results on all accountability indicators, including state assessments and graduation rates.
- (3) Disaggregated assessment participation rates.
- (4) Disaggregated results on the indicators that the state and its districts are already reporting to the Civil Rights Data Collection, including but not limited to:
 - a. Access to advanced coursework
 - b. Exclusionary discipline rates
 - c. Chronic absenteeism.
- (5) The professional qualifications of educators, including the number and percentage of:
 - a. Inexperienced teachers, principals and other school leaders
 - b. Teachers teaching with emergency credentials
 - c. Teachers who are out of field
- (6) State, local, and federal per-pupil expenditures, by funding source, including actual personnel expenditures for each school and not just district averages.³⁴
- (7) The number and percentage of students with the most significant cognitive disabilities taking the alternate assessment.
- (8) At the state level, results of the National Assessment of Educational Progress, as compared with national averages.
- (9) Disaggregated rates at which high school graduates enroll in higher education.

AS OF THE PUBLICATION OF THIS DOCUMENT IN AUGUST 2017: ED has published guidance on report cards. On July 28, 2017, a Dear Colleague letter extended the deadline to report on per-pupil expenditures until the 2018-19 school year.³⁵ In omitting this information from the annual report card, State and Local Education Agencies must detail the steps taken to ensure that the information will be included in the next report cards.³⁶

ED has also funded short term assistance from the Building State Capacity and Productivity Center (BSCPC) in developing financial transparency efforts that is discussed in a webinar.³⁷ To access more individualized help, SEAs and LEAs may receive information from the State Support Network.³⁸



PARENT AND COMMUNITY ENGAGEMENT

Funding is provided to encourage meaningful parent and community engagement. Grants may be used for:

- (1) Training school staff in engagement strategies;
- (2) Creating programs that reach families at home, in the community, and at school;
- (3) Providing information on best practices on engagement;
- (4) Collaborating with community-based organizations or businesses that have a track record of improving family engagement; and

(5) Engaging in other activities that, at the discretion of the district, are appropriate in increasing engagement.³⁹

Grants may also be awarded to establish statewide family engagement centers. Statewide organizations may receive funding to develop centers that can assist parents in participating effectively in their children's education and develop policies for SEAs, LEAs, and schools that fulfill and exceed the ESSA requirements.⁴⁰

In order to receive any Title I grants, schools and districts must conduct outreach to parents and family members and implement programs for parent involvement.⁴¹

SUBGROUPS & N-SIZE

Excerpts of *Ensuring Equity in ESSA*

By Jessica Cardichon, EdD⁴²



Prior to NCLB, the overall performance of a school often masked the performance of student subgroups, hiding gaps in academic achievement and high school graduation rates for historically underserved students. The recently passed Every Student Succeeds Act (ESSA) of 2015 requires states, districts, and schools to identify low-performing subgroups of students, report on their progress and provide targeted intervention and support when they consistently demonstrate low performance.

The key term in this requirement is “subgroups of students,” which refers to student groups based on racial/ethnic status, socioeconomic status, English-language ability, and disability status. Under ESSA, as under NCLB, states set the minimum number of students required to create a subgroup of students at the school, district, and state levels. This state-set number, commonly referred to as the “n-size,” must not reveal personally identifiable information about the student and must yield statistically reliable information. However, a significant number of states set their n-size higher than necessary to meet the requirements originally set under NCLB and maintained under ESSA.

Additionally, setting the n-size too high interferes with the state’s ability to meet the student subgroup accountability requirements under ESSA. ESSA requires states to identify schools with consistently underperforming subgroups of students and implement evidence-based, targeted intervention in these schools.

However, if a school does not have enough students from a particular subgroup to reach the state-set n-size, then the school does not have to report the academic performance or high school graduation rates of students in that subgroup and ESSA does not require interventions and support for those students...

If states set the n-size higher than necessary to be statistically sound and protect student privacy, they are less likely to reveal the low performance of student subgroups. Consequently, they are more likely to overlook a number of student subgroups for both reporting and accountability purposes and under-identify schools needing and receiving targeted intervention and support.

For federal accountability and improvement purposes 13 states set an n-size at 10 or lower; 9 states and California’s CORE Districts set an n-size between 11 and 20; 28 states & D.C. set the n-size at 21 or more. A number of states have demonstrated that by lowering their n-size, they are able to identify and support substantially more schools and students. By setting an n-size at 10 or fewer students, state accountability systems effectively can identify and support the nation’s underserved students and realize the civil rights imperative inherent within the law.

DISAGGREGATION OF STUDENT SUBGROUPS

Under ESSA, the performance of each student subgroup must be included in each indicator. ESSA defines a subgroup of students as economically disadvantaged students, students from major racial and ethnic groups, children with disabilities, and English learners. Each subgroup must count for accountability, which means that the performance of Latino students, African American students, and other groups must each count individually in state systems – the overall performance of students is no longer sufficient for accountability purposes.

Moreover, supersubgroups are not permitted. In the past, some states have chosen to aggregate student subgroup performance together to create “supersubgroups.” So rather than having the performance of each subgroup reported individually, the performance of all students of color were averaged together to form a supersubgroup.

At any time, ED may require the disaggregation of graduation rates for subgroups to avoid significant undercounting of students.⁴³

This is a very important change in federal policy, one that the civil rights community is eager to see implemented. States that are focused on equity in their state plans will not use super-subgroups or use them only in addition to disaggregated subgroups for school ratings and/or identifying schools for support.



EXAMPLE LETTER OF A REQUEST TO DISAGGREGATE SUPER SUBGROUPS

By the NAACP Colorado State Conference



Post Office Box 15583 Colorado Springs, Colorado 80935

March 24, 2017

Commissioner Katy Anthes, PhD
Colorado Department of Education
201 E. Colfax Ave.
Denver, CO 80203

Dear Commissioner Anthes:

In this communication to you, the **NAACP Colorado State Conference** -- on behalf of our NAACP Units & Leaders in Pueblo, Colorado Springs, Aurora, Denver, Boulder and Fort Collins -- write to follow-up on the March 13, 2017 letter regarding ESSA that the NAACP signed along with numerous civil rights and other organizations. **Specifically, we want to make clear that the NAACP believes individual groups of students must each count in accountability systems and that the use of “super-subgroups” should not be allowed.¹** Further, we want to state our view on the need for discipline measures school ratings and the need for aggressive pursuit of full school desegregation.

The NAACP is concerned that the use of “super-subgroups” allows states to mask the performance of some subgroups that really need extra help now. These students cannot wait for state timeframes in which interventions will kick-in eventually. This is an issue which centers on transparency and accountability, both of which are essential under ESSA, and it's a franchise issue in a democracy: the issue of equity for Black students and other students of color.

The “super-subgroups” challenge is one that actually goes back to NCLB waivers. The NAACP and other civil rights groups expressed concern with their use through the Campaign for High School Equity² -- and those concerns remain. In addition, by setting an n-size of 10 or fewer students, Colorado’s accountability system can identify and support the underserved students and realize the civil rights imperative inherent in the law. An n-size set higher than necessary to protect student information and be statistically sound is actually counterproductive to identifying and closing gaps.

Additionally, with respect to accountability under ESSA, the NAACP believes Colorado’s ESSA Plan should include discipline measures in school ratings. School discipline indicators measure the percentage of students subjected to different types of disciplinary actions. Research shows that exclusionary and unequally meted discipline practices place students at greater risk for numerous academic and personal consequences, including lower achievement, disengagement from school, and increased risk of dropping out.

Further, on school desegregation, while targeted resource allocation is a critically important strategy to better support students of color, another key challenge is that our schools still remain largely segregated. The ESSA Plan should, consequently, also aggressively and simultaneously support approaches to voluntary desegregation of schools by both race and socioeconomic status.

Thank you for the opportunity to clarify our concerns regarding these issues.

Sincerely,

Rosemary Lytle
NAACP State President

Terrie Blackwell
NAACP Co-Education Chair

Kevin C. Mitchell
NAACP State Chief of Staff

¹ <http://www.civilrights.org/press/2016/essa-accountability-regs.html>

² http://lulac.org/assets/pdfs/WaiversReport_R8.pdf

teachers & school leaders

TEACHER EFFECTIVENESS



ESSA eliminates the highly qualified teacher (HQT) provision that existed under the No Child Left Behind Act requiring that students from low-income families and students of color not be taught by ineffective, inexperienced, unqualified, or out-of-field teachers at higher rates than their peers. The bill does not set a minimum bar of entry into the teaching profession.⁴⁴

ESSA replaces the HQT provision with the following requirements:

- School districts must describe how they will identify and address any disparities that result in students from low income families and students of color being taught by ineffective, inexperienced, unqualified, or out-of-field teachers at higher rates than other students.*
- States must collect and publicly report data on these disparities.*
- State plans must describe how students from low-income families and students of color will not be served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers.*
- School districts must have mechanisms to notify parents regarding the professional qualifications of their child's teacher.
- States may use federal professional development funds to increase access to effective

teachers for students from low income families and students of color.

* Does not apply to students with disabilities and English language learners.⁴⁵

Additionally, the Department of Education has strived to work with outside organizations to provide the most comprehensive training for teachers to improve general school effectiveness. The Teach to Lead program is a joint initiative between ED, National Board for Professional Teaching Standards, and the Association for Supervision and Curriculum Development that aims to increase teacher effectiveness by providing more opportunities for teacher leadership.⁴⁶ In order to achieve these aims, Teach to Lead provides resources, facilitates stakeholder consultation, and encourages professional collaborations to develop and amplify the work of teacher leaders.⁴⁷

It is important to remember that this "teacher equity" concern in ESSA was also a concern in the predecessor to ESSA. Indeed, states were required to develop and file teacher or educator equity plans with the U.S. Department of Education. Those plans are available at the following link: <https://www2.ed.gov/programs/titleiparta/resources.html>. Advocates should use those plans, as appropriate, in advocating that students of color and low-income students not be served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers. Advocates should also use those plans, where the plans are helpful, in advocating for increased teacher and administrator diversity, including more black teachers and administrators.



PUBLIC REPORTING

As noted previously, states and districts must ensure that low-income students and students of color are not taught at disproportionate rates by ineffective, out-of-field, or inexperienced teachers, and must measure and report on progress towards eliminating inequities. Teacher experience must be reported on the state and district report cards comparing high-income schools to low-income schools.

Reports must be published annually.⁴⁸

TITLE II IMPROVEMENT GRANTS

Title II provides grants to states and districts that can be used on activities that improve access to strong teachers and leaders for low-income students and students of color. These funds can be used to, among other things, address inequities in access to effective teachers, provide professional development, improve teacher recruitment and retention and develop and implement evaluation systems.⁴⁹

ESSA grants states and districts considerable latitude in determining how to target Title II funds so long as their efforts increase and/or improve educator effectiveness and access to effective teachers for students from low-income families and students of color.

States can also apply for additional competitive grants for programs designed to improve teacher and school leader effectiveness, recruitment and retention.⁵⁰

- Literacy State Development Grants, which may be used to strengthen and enhance courses for teacher candidates in explicit, systemic, and intensive instruction in evidence-based literacy methods;
- Supporting Effective Educator Development Grants, which may be used to create nontraditional preparation pathways to serve traditionally underserved school districts; and
- STEM Master Teacher Corps program, which provides federal funds to recognize, reward, attract, and retain outstanding science, technology, engineering, and math (STEM) teachers, particularly in high-need and rural schools.⁵¹

support and improvement schools

TYPES OF SUPPORT AND IMPROVEMENT SCHOOLS

There are three categories schools in need of support and improvement.⁵²



COMPREHENSIVE	TARGETED	OTHER
<ul style="list-style-type: none">Schools within the lowest performing 5% of Title I schoolsHigh schools with graduation rates at or below 67%. <p>Recieves locally-determined, evidence-based, comprehensive intervention.</p> <p>If schools do not improve in 4 years, the state implements plans and students may transfer out.</p>	<p>Schools with student subgroups consistently underperforming on all indicators on the state accountability system.</p> <p>Recieves targeted, locally-determined, evidence-based intervention.</p> <p>If student subgroups do not improve in a time allotted by the district, additional action may be taken.</p>	<ul style="list-style-type: none">Schools with a student subgroup performing at the level of the lowest-performing 5% of all Title I-receiving schools, based on the state accountability system. <p>Recieves targeted support.</p> <p>School must identify and fix resource inequities.</p> <p>If subgroups don't improve in a time allotted by the state, the school becomes a comprehensive school for improvement and support.</p>

NOTE: The Act does not require federally-determined interventions in low-performing schools unlike its predecessor NCLB.⁵³

IDENTIFICATION OF SUPPORT AND IMPROVEMENT SCHOOLS



Under ESSA, states must set goals in three areas (at least): student achievement, high school graduation rates and English language proficiency.⁵⁴ States must identify high schools in which one-third or more of students do not graduate for comprehensive intervention and support.⁵⁵

NOTE: Obama-era regulations governing acceptable school quality indicators were repealed by Joint Resolution in 2017.⁵⁶ Thus, states have total control over how they measure their progress so long as they fulfill the text of the statute.

ESSA requires states to establish multiple-measure accountability systems that include:^{57 58}

MEASURE	ELEM. (3-8)	HIGH (9-12)
Scores on assessments	Scores, alone	Scores plus student growth
English language proficiency	Test, alone	
School quality indicator(s)	Student growth	Graduation rates
Another quality indicator	Indicator that allows for meaningful differentiation among student performance.	

Measuring the progress of state education goals is used, then, in determining which schools are low-performing and which groups of students are traditionally underserved and thus demonstrate consistently low academic performance. Identification of schools must occur every three years.



funding

PER-PUPIL EXPENDITURES

A key element of ESSA is the targeting of funds to the highest poverty schools and districts.

SCHOOL IMPROVEMENT

The Title I formula allocates Title I funds in a way that benefits the highest poverty districts and schools in each state.⁵⁹ The ESSA includes requirements to push states to maintain their investment in education:

- **Maintenance of effort:** States cannot reduce their investment in education by more than 10 percent from year to year. If they do, they may lose some of their federal funding.
- **Comparability:** Districts must demonstrate that schools that receive Title I funds got at least as much state and local funding as schools that do not receive Title I dollars.⁶⁰

States must use 7% of their Title I allocations for school improvement activities.⁶¹

States may use 3% of their Title I allocations for “direct student services,” including advanced coursework;⁶² career and technical education that leads to an industry-recognized credential; credit recovery; and personalized learning.⁶³

Under ESSA, state plans must describe how the state will work with school districts to transition students from middle school to high school and from high school to postsecondary education effectively. District plans may use Title I funds to support experiential and work-based learning opportunities that provide students with in-depth interactions with industry professionals and academic credit.⁶⁴

DROPOUT PREVENTION AND REENGAGEMENT OF OUT-OF-SCHOOL YOUTH

ESSA maintains Title I, Part D, of the No Child Left Behind Act, the previous authorization of the Elementary and Secondary Education Act. This section of ESSA includes the following provisions to address the needs of “neglected, delinquent, or at-risk children and youth”:⁶⁵

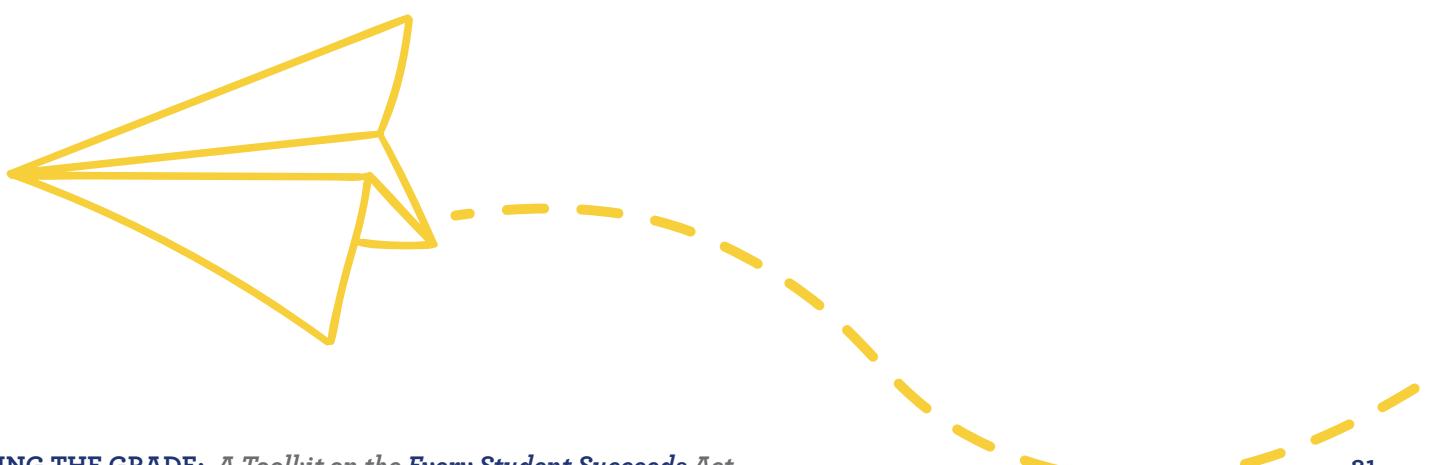
- **Reenrollment of court-involved youth:** State plans must provide assurances that the state educational agency (SEA) has established procedures to ensure students placed in the juvenile justice system reenroll in secondary school or in a reentry program that best meets the needs of the individual student. This may include the transfer of credits that such students earn during placement in the juvenile justice system and opportunities for such students to participate in credit-bearing course work while in secondary school, postsecondary education, or CTE programming.
- **Delivery of evidence-based interventions:** States receiving funds under Title I, Part D, must describe how the SEA will, to the extent feasible, note when a youth comes into contact with both the child welfare and juvenile justice systems. Funds may be used to provide services and evidence-based interventions designed to keep such youth

in school. Such evidence-based interventions could include coordination with probation officers to eliminate unnecessary absences from school or family therapy models such as Family Integrated Transitions.

- **Support for Native students:** States may use federal funding to support projects that facilitate the transition of children and youth between state-operated juvenile justice institutions, or institutions in the state operated by the U.S. Secretary of the Interior, and schools served by local educational agencies (LEAs) or schools operated or funded by the Bureau of Indian Education.

Federal funds also are available to schools to coordinate efforts to address aspects of school climate that contribute to students leaving school, such as school-based violence and excessive use of exclusionary discipline (e.g., suspensions and expulsions). States can use funding under the federal Safe and Healthy Schools Grant to establish or improve high school dropout prevention, recovery, and reentry programs.

The U.S. Department of Education also has two issue briefs on the subject of high school student retention.





Excerpt of Case Management in High Schools

By the U.S. Dept. of Education

Overall, 41 percent of high schools reported using case management for at least some students; about nine percent of high school students nationwide participated in some type of case management, according to school principals.

Low-graduation rate schools were more likely than high-graduation rate schools to use case management; large schools were more likely than small schools to use case management; and more city and suburban schools used case management than rural schools.

Among high schools offering case management, the most common type of case management activity was preventing at-risk behavior through techniques such as coaching and behavioral

support (87 percent), followed by monitoring student's progress to help them stay on track academically (86 percent), modeling positive and respectful behavior (86 percent), and improving student engagement in school (82 percent).

Among high schools offering case management, schools most commonly targeted students on the basis of their academic performance (55 percent), followed by discipline or behavioral issues (49 percent), staff referrals (47 percent), and attendance problems (42 percent).

Of the schools that used case management, 65 percent reported that students were expected to meet with their case managers daily or weekly, 11 percent reported that students were expected to meet with their case manager every other week, and 17 percent reported that students were expected to meet with their case manager monthly or less frequently.

Excerpt of Social Services

By the U.S. Dept. of Education

This brief describes the prevalence of providing social services as a high school dropout prevention strategy. It does not measure the effectiveness of social services but instead describes the types of social services offered to students, the prevalence of this strategy in high schools, and the agencies that offered these services if students were referred to outside organizations. All findings are based on self-reported data from school principals....

In 2014-15, almost all high schools (96 percent) offered at least one social service to their students. About 20 percent of high school students nationwide received at least one social service during the school year, according to school principals.

High-poverty schools were more likely than low-poverty schools to offer students at least one social service; large schools were more likely than small schools to offer students at least one social service; and more city and suburban schools than rural schools offered students at least one social service.

The most common type of social service offered to students was mental health services (87 percent), followed by health services (70 percent) and assistance to address material needs such as transportation, shelter, or clothing (68 percent).

Among high schools that offered at least one social service, 78 percent of schools offered students at least one social service on campus, while 87 percent of schools referred students to at least one social service outside the school. High schools typically offered more than one social service (averaging two social services on campus and three social services off campus) and could decide whether to offer a social service on and/or off campus. Where a student receives a social

service can depend on the resources available at the school, the nature of student needs, and the relationship to outside providers.

When high schools offered students at least one social service on campus, the most common type offered was mental health services (49 percent), followed by parent/family engagement (47 percent) and assistance to address material needs (42 percent).

When high schools referred students to a social service outside the school, the most common type offered was mental health services (94 percent), followed by health services (68 percent), and assistance to address material needs (63 percent). The most common agency for referrals was a social services agency (79 percent), followed by a community mental health agency (77 percent) and a public health agency (64 percent). What is the prevalence of social services in high schools? In 2014-15, almost all high schools (96 percent) offered at least one social service to their students. About 20 percent of high school students nationwide received at least one social service during the school year, according to school principals. The prevalence of social services varied by school size, school poverty level, and school locale (Exhibit 1). There were no significant differences by graduation rate.



PILOT PROGRAMS

The U.S. Secretary of Education can set up a pilot program that would allow up to 50 districts to combine funding from multiple federal sources, as well as state and local sources, to create a weighted student funding formula. To be approved for this opportunity, districts will need to show that their formula allocates more money per low-income child, and at least as much money per English learner, to each high-poverty school than that school received before the pilot. If the pilot is successful, the secretary may expand the program to all districts.⁶⁶

DIGITAL LEARNING

ESSA eliminates the Enhancing Education through Technology (EdTech) State Program, but allocates grants distributed to states through formulas that may be used to improve student academic achievement and digital literacy through the effective use of technology.

Trump Is Undermining Students' Civil Rights. Let's Fight Back

By Adam Fernandez (Jun. 30, 2017)⁶⁷

With headlines from Washington dominated by health care and Trump administration controversies, an education resolution already signed by the president has not received the attention it is due. More than three months ago, President Donald Trump signed House Joint Resolution 57, gutting important accountability regulations issued by the Obama administration to protect students' civil rights under the 2015 Every Student Succeeds Act.

The Elementary and Secondary Education Act, the law reauthorized with the passage of ESSA, has been around since 1965. It is a civil rights law, enacted to encourage states to increase educational opportunities for students of color. The law was an important part of the federal government's attempt to force states to abandon the "separate but equal" school systems that were banned by the landmark 1954 U.S. Supreme Court decision in *Brown v. Board of Education*.

When the Elementary and Secondary Education Act was drafted more than 50 years ago, a majority of students in the nation's public schools were white, and the law was set up to protect students in the minority. Today, however, according to the U.S. Department of Education's National Center for Education Statistics, students of color represent more than half of K-12 public school enrollment nationwide.

Implicit in the bipartisan passage of ESSA in 2015 was a compromise between the parties: Republicans would get a loosening of the rigid federal control contained in the law's previous version, the No Child Left Behind Act, and Democrats would get a commitment to protecting the rights of children of color.

The rollback of Obama-era accountability rules betrayed that compromise and was passed along partisan lines (no Democrat in either the House or the Senate voted in favor of the resolution). Trump and the congressional Republicans chose to show again that they dogmatically prioritize states' rights and deregulation over the rights of students of color.

The protections they revoked were an effort of the Obama administration to implement the provisions of ESSA that ensure schools, districts, and states have an incentive not only to continually improve the performance of their students as a whole, but also to require

"subgroups" to continue to improve as well: Latinos, African-Americans, Asian-Americans, Native Americans, English-language learners, students with disabilities, and the economically disadvantaged.

When signing House Joint Resolution 57, Trump said that removing those protections would "encourage more freedom" and remove "harmful burdens on state and local taxes on school systems." In blocking those protections, Trump attempted to give states the "freedom" to disregard the educational needs of their students of color. Instead of expanding educational opportunities, Trump and the majorities in the House and the Senate have chosen to start down the dangerous road of returning America to a system of separate and unequal schools.

The confusion and chaos they have created on the state and local levels by passing the resolution could lead some states to believe they succeeded in removing all of the rules that protect children of color within ESSA. They did not. Despite their efforts, many civil rights protections for children in schools remain within ESSA, and elsewhere within civil rights law.

As parents, students, teachers, activists, and attorneys, we must work together to resist efforts to dismantle the public education system and to further weaken the civil rights laws intended to protect our nation's children. We must challenge our state leaders to ensure all children have the resources they need to receive a quality education and are provided the full opportunity to succeed to their greatest potential. We must insist that local school boards work to improve poorly performing schools, especially where there are major performance gaps between schools or between student groups within the same district. We must also insist that schools have the same equal and high standards for all of their students, regardless of their race, economic status, gender,

English proficiency, disability status, foster-care status, or housing situation. And if one of those groups is left behind, we must actively work to help those students succeed.

The future is up to us. If there is one thing we should learn from campaigns like the women's marches across the country and the flood of telephone calls placed during the nomination process for Secretary of Education Betsy DeVos (who then became the first Cabinet official in history to require a tie-breaking vote from the vice president for confirmation), it is that our elected officials can and will be motivated by the passion of their constituents.

So call your members of Congress. Reach out to education leaders in your state. Tell them that educating America's new demographic majority of children of color is more than a moral duty—it is vital to training a 21st-century workforce and ensuring the economic and social health of our nation. Let them know we will fight against any policy that will create an apartheid nation where the diverse demographic majority is segregated by both race and education. Let's get out there and show them what kind of America we can and must be, for the future of our children and for the future of America.



SAMPLE LETTER TO CONGRESS ON TRUMP PROPOSED 2018 BUDGET

Dear [NAME OF YOUR CONGRESSIONAL REPRESENTATIVE],

I support quality public education. However, the Trump Administration's first full budget proposal, released in May, reflects a narrow and misguided view of education priorities. The budget proposal would slash \$9.2 billion, or 13.5 percent, of funding for the Department of Education for Fiscal Year 2018.

Title I funding for disadvantaged students was cut by \$578 million and special education funding was cut by over \$110 million. Title II funding to support teacher professional development was eliminated entirely, as was funding to support literacy programs for high-need students and after school programs. Even the new Student Support and Academic Enrichment Grant program, which was created under ESSA to support a well-rounded education for students, a safe and healthy school climate, and the effective use of technology was eliminated from the budget.

One of the very few programs to see an increase under the Trump Administration's proposed budget is a program to start new charter schools or expand and replicate existing high-performing charter schools. This program received an increase of nearly 50 percent. Trump also proposed \$1 billion to create a new program to support public school choice, called the Furthering Options for Children to Unlock Success, or FOCUS, grants. FOCUS grants would be awarded to school districts that allow federal, state, and local funds to follow students to a public school of their choice. Disadvantaged students would be provided with more funding on a per-pupil basis than other students. The NAACP opposed "portability" during ESEA reauthorization in 2015 and **we oppose it now** because it undermines already underfunded school districts and provides public funding to many schools that lack the same accountability and transparency required of traditional public schools.

Further, a program intended to support innovation and research received a \$250 million increase in funding to award scholarships to students from low-income families to attend a private school of their choice. We also oppose public funding of vouchers to attend private schools. Please **reject** the \$1.5 billion for "school choice" which the President referred to as a "down payment" on his campaign goal of spending \$20 billion on public and private school choice.

Finally, in your oversight capacity, please demand that U.S. Department of Education Secretary De Vos enforce federal anti-discrimination protections (e.g., Title VI of the Civil Rights Act, Section 504 off the Rehabilitation Act) for students in schools that receive federal financial assistance, and, in your appropriations capacity, please also fund the Department of Education Office of Civil Rights at a level so that its staff can effectively carry out its statutory responsibilities.

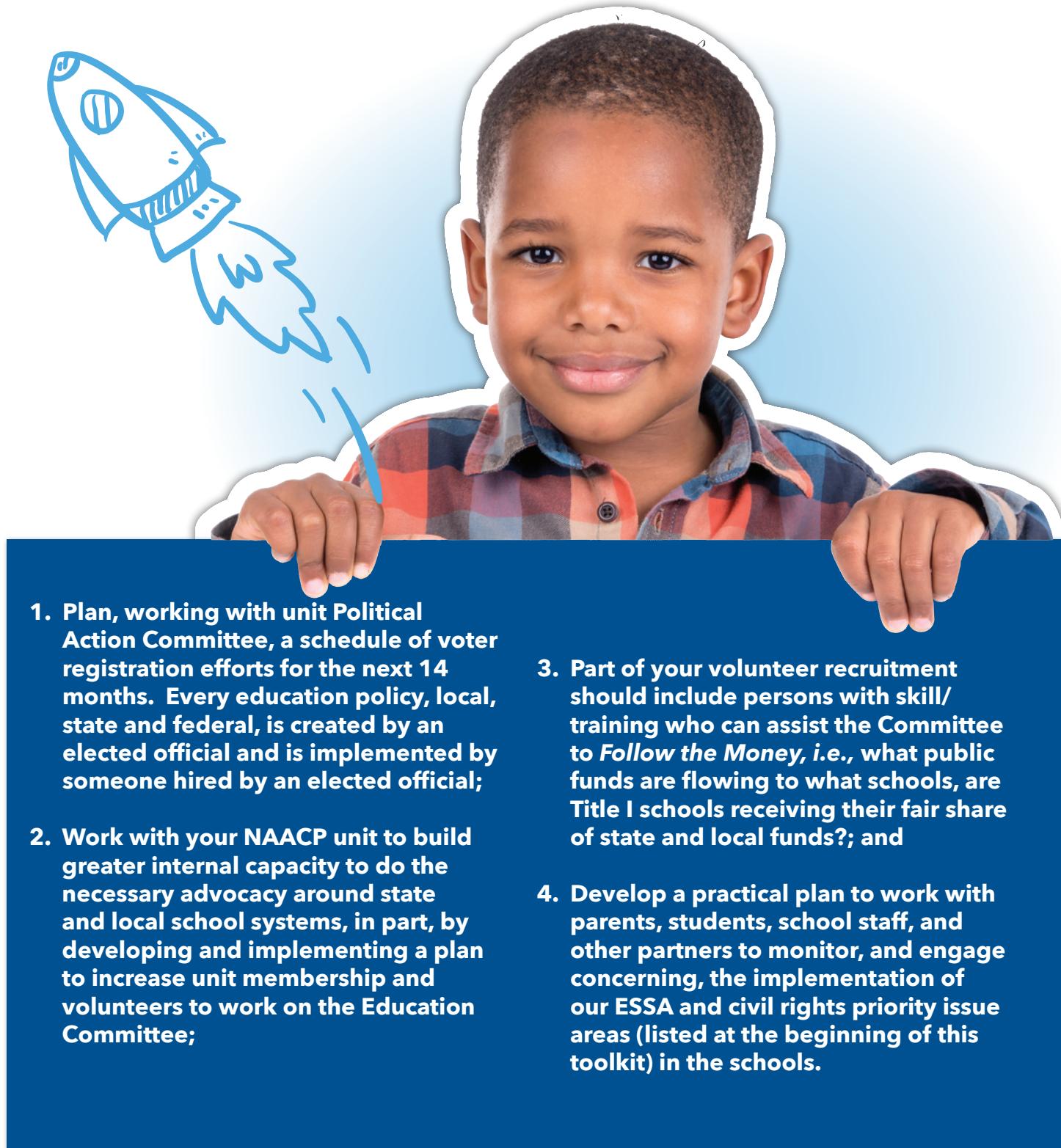
Sincerely,
[YOUR NAME]
[YOUR COUNTY, ZIP CODE]



4 next steps for NAACP

FOUR NEXT STEPS FOR NAACP

Here are 4 things that our Education Committees should begin doing now:

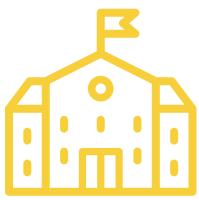
A young African American boy with short hair, wearing a red, white, and blue plaid shirt, is smiling and holding a large blue rectangular sign. He is positioned behind the sign, which has a white scalloped edge. On the left side of the sign, there is a blue line drawing of a rocket ship launching upwards, leaving a trail of blue smoke. The sign contains four numbered steps in white text.

- 1. Plan, working with unit Political Action Committee, a schedule of voter registration efforts for the next 14 months. Every education policy, local, state and federal, is created by an elected official and is implemented by someone hired by an elected official;**
- 2. Work with your NAACP unit to build greater internal capacity to do the necessary advocacy around state and local school systems, in part, by developing and implementing a plan to increase unit membership and volunteers to work on the Education Committee;**
- 3. Part of your volunteer recruitment should include persons with skill/training who can assist the Committee to *Follow the Money*, i.e., what public funds are flowing to what schools, are Title I schools receiving their fair share of state and local funds?; and**
- 4. Develop a practical plan to work with parents, students, school staff, and other partners to monitor, and engage concerning, the implementation of our ESSA and civil rights priority issue areas (listed at the beginning of this toolkit) in the schools.**



appendix

POTENTIAL CIVIL RIGHTS STRATEGIES



In 2013 the Lee County, Alabama School District and the U.S. Department of Education's Office of Civil Rights reached a settlement with the district to bolster equal opportunity and equal access to African American students for Advanced Placement courses. They achieved this important victory before recent ESSA amendments to ESEA/NCLB encouraged school systems to provide increased access to rigorous curriculum. This case is an example of how the use of Title VI of the Civil Rights Act can, under the right circumstances, help to achieve some educational priorities not otherwise adequately covered, funded, and/or provided to students of color. Title VI prohibits entities that receive federal financial assistance from discriminating against beneficiaries of that funding on the basis of race, color or national origin.

U.S. Education Department Reaches Agreement with Lee County, Ala., School District on Equal Access to Advanced Placement Courses, High-Level Learning Opportunities for African American Students

By the Press Office, Dept. of Education
(Sept. 10, 2013)⁶⁸

The U.S. Department of Education's Office for Civil Rights (OCR) announced today that it has entered into a first-of-its-kind resolution agreement in Alabama. The Lee County School District entered into an agreement to ensure that all students, including African American students, are provided an equal opportunity and equal access to Advanced Placement (AP) courses and other higher-level learning opportunities that will provide students with the skills necessary for success in college and careers.

Under the agreement, the district will:

- Develop a comprehensive district-wide plan for addressing the underrepresentation of African American students in AP and higher level courses;

- Identify any barriers to African American students' participation in AP and higher level courses, and ensure that African American students have an equal opportunity for participation in the courses;
- Permit students to participate in distance learning opportunities at schools providing more AP and higher level options;
- Establish dual-enrollment courses with the local community college for students at the predominantly African American high school and provide transportation for all students who elect to take dual-enrollment courses;
- Encourage students at all of the district's elementary, middle, and high schools to aspire to attend college, and to participate in AP and higher level courses.

The district's comprehensive plan will be based on recommendations from an expert consultant, feedback from students, parents and staff, and a comprehensive self-assessment.

"We look forward to working with the Lee County School District administrators to ensure that all students have equal access to a quality

education, and are pleased that the district has taken positive steps to increase college-ready access through raising the enrollment of black students in AP and other higher level courses," said Catherine E. Lhamon, assistant secretary for the Office for Civil Rights. "The Lee County School District has been a partner throughout this process and I applaud the steps the District is taking to help ensure their compliance with our civil rights laws to serve all students."

OCR initiated a compliance review under Title VI of the Civil Rights Act of 1964 to address whether the district is providing African American students with equal access to AP courses and other higher-level learning opportunities.

OCR's investigation focused on African American students' access to advanced courses, especially in math, in the district's middle schools and on the availability of advanced, honors, and AP courses at the high school level.

Students must receive adequate preparation in earlier grades in order to succeed in AP and higher level courses in high school—access to advanced courses at least by the time students are in middle school is essential in preparing students to take rigorous courses in high school and to provide them with the skills necessary for success in college and career.

From the inception of the review, the district worked collaboratively with OCR. The district voluntarily entered into a resolution agreement prior to OCR's making a finding.

The investigation revealed, however, that a disproportionately low number of African American students were enrolled in eighth-grade algebra, which sets students on the course path for completion of the district's highest level

course offerings in math and science, including AP courses. Also, advanced math was offered in the seventh grade at the district's predominantly white middle schools; it was not offered at the predominantly African American middle school.

The investigation also showed, during school year 2010-2011, African American students were underrepresented district-wide in AP and high level courses, including in all higher level mathematics courses, where the underrepresentation was particularly pronounced in calculus and statistics courses.

The district's predominantly white high schools offered a large overall number of higher level and AP courses; either regular or AP calculus, higher level courses in the social sciences, an advanced foreign language, and a wider range of AP courses. There were significantly fewer higher level and AP courses offered at the district's predominantly African American high school, and only online AP courses were offered at that high school.

OCR will monitor this agreement until OCR has determined that the district has fulfilled the terms of the agreement and is in compliance with the regulation implementing Title VI.

A copy of the resolution letter is posted [here](#)⁶⁹ and the agreement [here](#).⁷⁰

OCR's mission is to ensure equal access to education and promote educational excellence throughout the nation through the vigorous enforcement of civil rights. OCR is responsible for enforcing federal civil rights laws that prohibit discrimination by educational institutions on the basis of race, color, national origin, disability, sex, and age, as well as the Boy Scouts of America Equal Access Act of 2001.



HOW TO FILE A DISCRIMINATION COMPLAINT WITH THE OFFICE FOR CIVIL RIGHTS

Office for Civil Rights, Dept. of Education⁷¹

Introduction

The Office for Civil Rights (OCR) enforces federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the Department of Education (ED).

Discrimination on the basis of race, color, and national origin is prohibited by Title VI of the Civil Rights Act of 1964. This includes discrimination based on a person's limited English proficiency or English learner status; and actual or perceived shared ancestry or ethnic characteristics, including membership in a religion that may be perceived to exhibit such characteristics (such as Hindu, Jewish, Muslim, and Sikh individuals).

Discrimination on the basis of sex is prohibited by Title IX of the Education Amendments of 1972. The Trump Administration revoked the Obama Administration guidelines specifying that transgender students have a right to use public school restrooms that match their gender identity.⁷²

Discrimination against persons with disabilities is prohibited by Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990 (Title II prohibits discrimination on the basis of disability by public entities, whether or not they receive federal financial assistance). This includes discrimination against individuals currently without an impairment that substantially limits a major life activity, but who have a record of or are regarded as having a disability.

Discrimination on the basis of age is prohibited by Age Discrimination Act of 1975.

These civil rights laws extend to all state education agencies, elementary and secondary school systems, colleges and universities, vocational schools, proprietary schools, state vocational rehabilitation agencies, libraries and museums that receive federal financial assistance from ED. These include all public schools and most public and private colleges and universities.

Programs or activities that receive ED funds must provide aids, benefits or services in a nondiscriminatory manner in an environment free from discriminatory harassment that limits educational opportunities. Such aids, benefits or services may include, but are not limited to, admissions, recruitment, financial aid, academic programs, student treatment and services, counseling and guidance, discipline, classroom assignment, grading, vocational education, recreation, physical education, athletics, and housing. Some of the civil rights laws enforced by OCR also extend to employment.

OCR also enforces the Boy Scouts of America Equal Access Act. Under this Act, OCR can investigate complaints involving the denial of equal access or a fair opportunity to meet to, or discrimination against, any youth group officially affiliated with a group or organization listed in title 36 of the United States Code (as a patriotic society) that is intended to serve young people under the age of 21 that requests to conduct a meeting at a public elementary school, a public secondary school, or a state or local education agency that receives funds from ED.

Who Can File a Discrimination Complaint

Anyone may file a complaint. The person or organization filing the complaint need not be a victim of the alleged discrimination but may complain on behalf of another person or group. A complainant filing on behalf of or pertaining to another person(s) is responsible for securing any necessary written consent from that individual, including when a parent files for a student over the age of 18.

Timeliness

A complaint must ordinarily be filed within 180 days of the last act of discrimination. If your complaint involves matters that occurred longer ago than this and you are requesting a waiver, you will be asked to show good cause why you did not file your complaint within the 180-day period.

Institutional Grievance Procedures

Prior to filing a complaint with OCR against an institution, a potential complainant may want to find out about the institution's grievance process and use that process to have the complaint resolved. However, a complainant is not required by law to use the institutional grievance process before filing a complaint with OCR. If a complainant uses an institutional grievance process and also chooses to file the complaint with OCR, the complaint must be filed with OCR within 60 days after completion of the institutional grievance process.



How to File a Complaint

Online: You may file a complaint with OCR using OCR's electronic complaint form at the following website: <http://www.ed.gov/about/offices/list/ocr/complaintintro.html>.

Mail or Facsimile: You may mail or send by facsimile information to the address or phone number provided on the following pages. You may use OCR's **Discrimination Complaint Form** or write your own letter. If you write your own letter, please include:

- The complainant's name, address and, if possible (although not required), a telephone number where the complainant may be reached during business hours;
- Information about the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required);
- The name and location (city and state) of the institution that committed the alleged discriminatory act(s); and

- A description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination.
- **Email:** You may email OCR's **Discrimination Complaint Form** or your own signed letter to ocr@ed.gov. If you write your own letter, please include the information identified above.

For those without current email accounts, Internet access may be freely available from your local public library, and free email accounts are available from several large providers.

NOTE: A recipient of federal financial assistance may not retaliate against any person who has made a complaint, testified, assisted or participated in any manner in an OCR matter or to interfere with any right or privilege protected by the laws enforced by OCR. If you believe that you have been retaliated against for any of these reasons, you also may file a complaint with OCR.

Where to Write or Call for Further Information

U.S. Department of Education, Headquarters
Office for Civil Rights
Lyndon Baines Johnson Department
of Education Bldg
400 Maryland Avenue, SW
Washington, DC 20202-1100

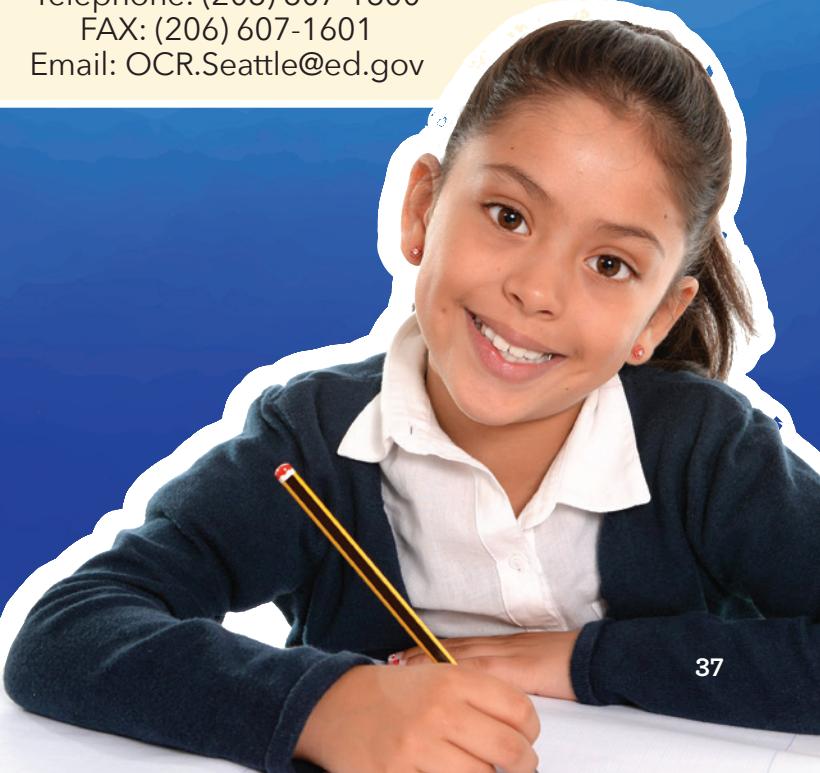
Telephone: 800-421-3481
FAX: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov

Regional Offices:

COVERED STATES	CONTACT INFORMATION
Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	<p>Boston Office U.S. Department of Education 5 Post Office Square, 8th Floor Boston, MA 02109-3921 Telephone: (617) 289-0111 FAX: (617) 289-0150 Email: OCR.Boston@ed.gov</p>
New Jersey, New York, Puerto Rico, Virgin Islands	<p>New York Office U.S. Department of Education 32 Old Slip, 26th Floor New York, NY 10005-2500 Telephone: (646) 428-3800 FAX: (646) 428-3843 Email: OCR.NewYork@ed.gov</p>
Illinois, Indiana, Iowa, Minnesota, North Dakota, Wisconsin	<p>Chicago Office U.S. Department of Education Citigroup Center, Suite 1475 500 W. Madison Street Chicago, IL 60661-4544 Telephone: (312) 730-1560 FAX: (312) 730-1576 Email: OCR.Chicago@ed.gov</p>

COVERED STATES	CONTACT INFORMATION
Michigan, Ohio	<p>Cleveland Office U.S. Department of Education 1350 Euclid Avenue, Suite 325 Cleveland, OH 44115 Telephone: (216) 522-4970 FAX: (216) 522-2573 Email: OCR.Cleveland@ed.gov</p>
Delaware, Maryland, Kentucky, Pennsylvania, West Virginia	<p>Philadelphia Office U.S. Department of Education The Wanamaker Building 100 Penn Square East, Suite 515 Philadelphia, PA 19107-3323 Telephone: (215) 656-8541 FAX: (215) 656-8605 Email: OCR.Philadelphia@ed.gov</p>
Kansas, Missouri, Nebraska, Oklahoma, South Dakota	<p>Kansas City Office U.S. Department of Education One Petticoat Lane, Suite 320 1010 Walnut Street Kansas City, MO 64106 Telephone: (816) 268-0550 FAX: (816) 268-0559 Email: OCR.KansasCity@ed.gov</p>
Alabama, Florida, Georgia, Tennessee	<p>Atlanta Office U.S. Department of Education 61 Forsyth ST. SW, Suite 19T10 Atlanta, GA 30303-8927 Telephone: (404) 974-9406 FAX: (404) 974-9471 Email: OCR.Atlanta@ed.gov</p>
Arizona, , New Mexico, Utah, Wyoming	<p>Denver Office U.S. Department of Education Cesar E. Chavez Memorial Building 1244 Speer Building, Suite 310 Denver, CO 80204-3582 Telephone: (303) 844-5695 FAX: (303) 844-4303 Email: OCR.Devener@ed.gov</p>

COVERED STATES	CONTACT INFORMATION
Arkansas, Louisiana, Mississippi, Texas	<p>Dallas Office U.S. Department of Education 1999 Bryan Street, Suite 1620 Dallas, TX 75201-6810 Telephone: (214) 661-9600 FAX: (214) 661-9587 Email: OCR.Dallas@ed.gov</p>
California	<p>San Francisco Office U.S. Department of Education 50 United Nations Plaza San Francisco, CA 94102 Telephone: (415) 486-5555 FAX: (415) 486-5570 Email: OCR.SanFrancisco@ed.gov</p>
North Carolina, South Carolina, Virginia, Washington D.C.	<p>District of Columbia Office U.S. Department of Education 400 Maryland Avenue, S.W. Washington, DC 20202-1475 Telephone: (202) 453-6020 FAX: (202) 453-6021 Email: OCR.DC@ed.gov</p>
Alaska, American Samoa, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Washington and the Northern Mariana Islands	<p>Seattle Office U.S. Department of Education 915 Second Avenue, Room 3310 Seattle, WA 98174-1099 Telephone: (206) 607-1600 FAX: (206) 607-1601 Email: OCR.Seattle@ed.gov</p>





FREQUENTLY ASKED QUESTIONS ABOUT RACIAL HARASSMENT

By the Office for Civil Rights, Dept. of Education⁷³

What is racial and national origin harassment?

Racial and national origin harassment is unwelcome conduct based on a student's actual or perceived race or national origin. Harassers can be students, school staff, or even someone visiting the school, such as a student or employee from another school. Racial and national origin harassment can take many forms, including slurs, taunts, stereotypes, or name-calling, as well as racially-motivated physical threats, attacks, or other hateful conduct. Although none of the laws OCR enforces expressly address religious

discrimination, OCR can investigate complaints that students were subjected to ethnic or ancestral slurs; harassed for how they look, dress, or speak in ways linked to ethnicity or ancestry (e.g. skin color, religious attire, language spoken); or stereotyped based on perceived shared ancestral or ethnic characteristics. Hindu, Jewish, Muslim, and Sikh students are examples of individuals who may be harassed for being viewed as part of a group perceived to exhibit both ethnic and religious characteristics.

What are the responsibilities of school districts, colleges, and universities under Title VI to address racial and national origin harassment?

Title VI requires an educational institution to respond to racial or national origin harassment that is sufficiently serious to deny or limit a

student's ability to participate in or benefit from the recipient's education programs and activities (i.e., creates a hostile environment).

When an educational institution knows or reasonably should know of possible racial or national origin harassment, it must take immediate and appropriate steps to investigate or otherwise determine what occurred. If an investigation reveals that the harassment created a hostile environment, the educational institution must take prompt and effective steps reasonably calculated to end the harassment, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.

How do educational institutions balance their Title VI obligations with individuals' First Amendment rights?

OCR has consistently reaffirmed that the Federal civil rights laws it enforces protect students from prohibited discrimination, and are not intended to restrict expressive activities or speech protected under the U.S. Constitution's First Amendment.

The fact that discriminatory harassment involves speech, however, does not relieve the school of its obligation to respond if the speech contributes to a hostile environment. Schools can protect students from such harassment without running afoul of students' and staff First Amendment rights. For instance, in a situation where the First Amendment prohibits a public university from restricting the right of students to express persistent and pervasive derogatory opinions about a particular ethnic group, the university can instead meet its obligation by, among other steps, communicating a rejection of stereotypical, derogatory opinions and ensuring that competing views are heard. Similarly, educational institutions can establish a campus culture that is welcoming and respectful of the

diverse linguistic, cultural, racial, and ethnic backgrounds of all students and institute campus climate checks to assess the effectiveness of the school's efforts to ensure that it is free from harassment. Schools can also encourage students on all sides of an issue to express disagreement over ideas or beliefs in a respectful manner. Schools should be alert to take more targeted responsive action when speech crosses over into direct threats or actionable speech or conduct.

How does OCR address racial and national origin harassment against students?

OCR investigates and resolves allegations that educational institutions that are recipients of federal funds have failed to protect students from harassment based on race, color or national origin. Where OCR identifies concerns or violations, educational institutions often resolve them with agreements requiring the educational institutions to adopt effective anti-harassment policies and procedures, train staff and students, address the incidents in question, and take other steps to restore a nondiscriminatory environment.

In addition to resolving investigations, OCR takes steps to inform schools of their obligation to provide a nondiscriminatory environment.

OCR's field offices also engage in a variety of technical assistance activities in collaboration with state and local education and law enforcement agencies to encourage educational institutions to improve their anti-harassment policies and procedures and to assist students and their parents to work with schools to enhance the schools' anti-harassment capability.

SCHOOL DESEGREGATION

As we work on ESSA implementation, the major challenge of segregated schools (and communities) remains and we must also address this challenge. We must continue to work with school systems and communities to support approaches to voluntary school desegregation by race and socioeconomic status. The percentage of all K-12 public schools that had high population of poor and black or Hispanic students has grown from 9-16%.⁷⁴ In comparison to other schools, these schools offered disproportionately fewer math, science and college prep courses and had disproportionately higher rates of students held back in the 9th grade, suspended or expelled.⁷⁵ The GAO study found different contributing factors in the three districts they reviewed for the case study:

- Expending funds on a magnet school intended to attract minority students and increase diversity, but under-funding traditional schools
- Magnet schools limiting the acceptances of minority students in order to maintain a ratio between minority and non-minority students.
- Public charter schools would take minority and poor students from more diverse public schools and enroll them into less diverse schools.

In advocating for voluntary school desegregation, consider:

- Site selection for new schools;
- Student assignment zones;
- Consulting with transportation, housing authorities and housing development agencies when engaging in school site planning.

Tips for Advocating School Desegregation

By Victor L. Goode, Esq.

1. Monitor cases in your community: there are numerous school desegregation orders remaining and the units should monitor the school's compliance with those court orders.
2. Explore state agencies willing to assist: some states may have human rights or other agencies willing to address discrimination in schools.
3. Use Equity Assistance Centers (EACs): regional offices are funded through the ED Office of Elementary and Secondary Education under the Civil Rights Act of 1964 to provide technical assistance. They focus on civil rights implications in public education.
4. Increase racial understanding in schools: explore tools to promote racial understanding (e.g. anti-racist, multicultural education, metro resource sharing of teachers).
5. Ensure that public money is not used to promote segregation: local and state governments and landlords share a responsibility to ensure that their policies and practices promote fair housing.⁷⁶ Identify redevelopment policies that disfavor minorities and lower income residents.
6. Do NAACP voter empowerment work: work with NAACP political action committee on voter registration, voter education, Get Out the Vote, election protection and redistricting. This can improve the environment for school desegregation and other policies.

EAC OFFICE CONTACT INFORMATION

REGION	CONTACT INFORMATION
Region I, Mid-Atlantic Equity Consortium: serves Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands, West Virginia	5272 River Road, Suite 340 Bethesda, MD 20816 Ms. Susan Shaffer, Director PH: 301-657-7741 F: 301-657-8742
Region II, South Central Collaborative for Equity: serves Alabama, Arkansas, District of Columbia, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia	Intercultural Development Research Association 5815 Callaghan Road, Suite 101 San Antonio, TX 78228-1102 David Hinojosa, Director PH: 210-444-1710 F: 210-444-1714
Region III, Great Lakes Equity Center: serves Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Wisconsin	902 West New York Street Indianapolis, IN 46202-5167 Dr. Seena M. Skelton PH: 317-278-6832 F: 317-274-6864
Region IV, Metropolitan State University of Denver: serves Alaska, American Samoa, Arizona, California, Colorado, Commonwealth of the Northern Mariana Islands, Guam, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming	P.O. Box 173362, Campus Box 63 Denver, CO 80217-3362 Dr. Jan Perry Evenstad, Director PH: 303-556-6065 F: 303-556-3912

In January 2017, the National Coalition on School Diversity published a report on the Obama Administration’s support of school integration.⁷⁷ It references administrative documents and grant programs that can help support the desegregation of schools, but it is currently unknown how long many of these documents will be in effect. In March 2017 the Trump Administration withdrew a \$12 million, Obama-era grant program to districts to promote socioeconomic diversity within their schools.⁷⁸

FAIR HOUSING ADVOCACY



Engagement in strategic fair housing advocacy can help in school desegregation.

Some racially segregated schools exist in part because of housing and community development practices that unnecessarily create and/or foster more segregated communities. Here are some examples of fair housing issues:

- Public subsidies supporting the building of one-bedroom elderly apartments, but not towards building three or more bedroom apartments for families.
- Concentrating multifamily subsidized units in predominantly minority areas and not providing equal opportunities for low income residents who desire to live in high-opportunity areas.
- Using community development money to repair streets and sidewalks in white residential communities, but not in minority residential communities.

The NAACP has worked hard on attaining educational opportunity and equity for students of color and in 2016, the Department of Housing and Urban Development announced a settlement agreement with Baltimore County, Maryland to expand housing opportunities in higher opportunity areas.⁷⁹

HUD Announces Landmark Settlement to Expand Affordable Housing and Opportunity in Baltimore County

By Heather Fluit, U.S. Dept. of Housing and Urban Development (Mar. 15, 2016)⁸⁰

The U.S. Department of Housing and Urban Development (HUD) today announced a settlement agreement with Baltimore County, Maryland to expand affordable housing in higher opportunity areas throughout the County. The settlement will serve as a catalyst to promote housing mobility and to assist the County and its surrounding areas in developing comprehensive affordable housing planning and strategies that address residential segregation.

The groundbreaking agreement commits \$30 million over 10 years to develop at least 1,000 affordable housing units for low- and very low-income residents. In addition, the County will provide 2,000 Housing Choice Vouchers through a housing mobility program to assist families to gain access to higher opportunity neighborhoods. At least one-third of the affordable units created under the agreement will be accessible and made available to people with disabilities. The agreement also calls for the introduction of a county ordinance that would support source of income legislation. Read the full agreement.

Today's agreement is the result of a complaint filed with HUD in November 2011 by the Baltimore County Branch of the NAACP, Baltimore Neighborhoods, Inc., a private non-profit fair housing organization, and three individuals, claiming that the County: 1) had not developed



affordable housing in areas other than those that were concentrated by race and poverty; 2) focused only on providing rental housing for seniors rather than families; 3) adequate numbers of accessible units were unavailable to people with disabilities; and 4) its actions had failed to affirmatively further fair housing.

"Every person deserves a fair shot at opportunity and that starts with a decent, safe, and affordable place to call home," said Secretary Julián Castro. "This agreement sets Baltimore County on a path to stronger, more inclusive communities where everyone can enjoy equal access to opportunity. Many thanks to all involved for coming together to expand housing choice in the County."

Under the terms of the agreement announced today, Baltimore County will:

- Invest \$3 million annually for 10 years to create 1,000 affordable housing units through new construction or rehabilitation. The units will be geographically dispersed in neighborhoods that provide access to opportunity. At least 500 of the units will have three or more bedrooms to accommodate families with children and at least one-third of the units will be accessible and made available to people with disabilities. The units must be completed over a period of 12 years.
- Provide Housing Choice Vouchers to at least 2,000 families that will increase access to affordable housing across the county.
- Ensure all of its units comply with the accessibility requirements of the Fair Housing Act, and will provide an additional \$300,000 annually for 10 years to finance structural modifications to make other affordable housing units in Baltimore County accessible.
- Proactively market the units to potential tenants who are least likely to apply, including African Americans families and families with a member who has a disability. The County will also run a mobility counseling program to offer expanded housing opportunities to families.
- Seek the enactment of legislation that prohibits discrimination based on source of income.
- Pay the three individual claimants \$150,000 in monetary relief.

People who believe they have experienced discrimination may file a complaint by contacting HUD's Office of Fair Housing and Equal Opportunity at (800) 669-9777 (voice) or (800) 927-9275 (TTY). Housing discrimination complaints may also be filed at www.hud.gov/fairhousing or by downloading HUD's free housing discrimination mobile application, which can be accessed through Apple and Android devices.

VOTER EMPOWERMENT



Voter empowerment work also improves the environment for school desegregation and other policies regarding public schools. Paying attention to redistricting, voter turnout and voter registration can help voting age citizens elect representatives of their choice. The NAACP has been involved with voting rights cases across the country wherein the state, or a subsidiary of the state, was found to have diminished African American voting power.

- In Ferguson, Missouri, constituents won a challenge against the manner in which elections for school board were held. In Ferguson-Florissant County, school board officials were elected at-large in the county rather than by ward or sub-district, which made it more difficult for black candidates to win any seats. The district judge determined that this practice was in violation of the Voting Rights Act and requires the county to change the system.⁸¹
- In Texas, constituents won a challenge against stringent voter ID laws when the 5th Circuit Court of Appeals found that the laws had been enacted with discriminatory intent and had a discriminatory effect.⁸²

- In North Carolina, voter ID laws were challenged and struck down in favor of our North Carolina NAACP State Conference when the court found that they targeted African American voters "with almost surgical precision."⁸³
- In Georgia, a federal district court ruled that lawsuits can be brought by a coalition of plaintiffs representing multiple minority groups denied or discriminated against in the voting process.⁸⁴
- In Texas, constituents won a challenge against three congressional districts in the state drawn to intentionally discriminate against black and Latino voters.⁸⁵
- In Georgia, constituents settled a case challenging a voter registration law that required an exact match between state and voting records in order to vote, which consequently invalidated many registrations sent in by minority voters.⁸⁶

Paying attention to these voting changes and fighting laws that discriminatorily target or disproportionately impact minority communities is designed to ensure that minorities can have a fair opportunity as voters for influence in the election of candidates and, thus, the platforms they endorse.



FUNDING HBCUs



Funding for HBCUs must also be guarded and increased, at least in part, to protect a major pipeline for black education majors to fill public school teaching positions across the country and to help address the teacher diversity problem.⁸⁷ Public HBCUs have also faced a long history of discrimination by their respective State governments.⁸⁸

Recently, President Trump raised a question whether the HBCU capital financing program that helps HBCUs repair, renovate and build new facilities is consistent with equal protection laws.⁸⁹ While the United Negro College Fund (UNCF) has reached out to the Trump Administration to clarify whether this meant a total policy change towards HBCUs, officials have only offered informal assurances.⁹⁰

REGULATORY REVIEWS



On April 26, 2017, consistent with his states' rights philosophy, President Trump issued an Executive Order entitled “Enforcing Statutory Prohibitions on Federal Control of Education.”⁹¹ The Executive Order seeks to protect and preserve State and local control over the curriculum, program of instruction, administration and personnel of educational institutions, schools and school systems, consistent with applicable law, including ESSA.

The Executive Order thus requires the Secretary of Education to review all Departmental regulations and guidance documents related to ESSA and several other laws to ensure that there is no federal overreach. If the Secretary determines that any regulation(s) or guidelines are inconsistent with statutory prohibitions, the Secretary is to withdraw or modify such regulation(s) or guidelines, first publishing the required notice (and opportunity for public comment) of such intent to withdraw or modify such regulation(s) and/or guidelines. All of this must be done within 300 days of the date of the Executive Order (issued on April 26, 2017).

The Secretary of Education is simultaneously engaged in another regulatory review, this one in response to another Executive Order, EO 13777, Enforcing the Regulatory Reform Agenda, issued

Feb. 24, 2017.⁹² In order to “alleviate unnecessary regulatory burdens placed on the American people,” the order directs the appointment of a Regulatory Reform Officer and the establishment of a Regulatory Reform Task Force to oversee the implementation of the Department’s regulatory reform initiatives.⁹³

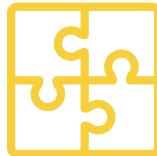
This Executive Order requires the Regulatory Reform Task Force to identify regulations that (i) eliminate jobs or inhibit job creation; (ii) are outdated, ineffective or unnecessary; (iii) impose costs that exceed benefits; (iv) create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies; (v) are inconsistent with section 515 of the Treasury and General Appropriations Act, 2001 (44 U.S.C. 3516 note) or the guidance issued pursuant to that provision (especially those regulations that rely in whole or in part on data, information or methods that are not publicly available or that are insufficiently transparent to meet the standard for reproducibility; (vi) or derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.

As required by the Order, the Regulatory Reform Task Force provided a Progress Report to the Secretary, by May 25, 2017. In addition to over 150 Departmental regulations, there are numerous policy-oriented guidance documents across the Department, including Dear Colleague Letters, Questions and Answers or Frequently-Asked Questions, policy memos and the like. There are 84 such policy-oriented guidance documents in the Office for Civil Rights (OCR).

College



AFFIRMATIVE ACTION



The Trump Administration has recently expressed intent to investigate affirmative action programs at educational institutions for the racially discriminatory effects they have on students. While the Department of Justice claims that it has an “obligation to fight racial discrimination in all its forms,” it is anticipated that this strategy is focused on dismantling affirmative action programs that have increased diversity on college campuses nationwide, though much work remains.

Excerpts of Justice Dept. to Take On Affirmative Action in College Admissions

By Charlie Savage (Aug. 1, 2017)⁹⁴

The Trump administration is preparing to redirect resources of the Justice Department’s civil rights division toward investigating and suing universities over affirmative action admissions policies deemed to discriminate against white applicants, according to a document obtained by The New York Times.

The document, an internal announcement to the civil rights division, seeks current lawyers interested in working for a new project on “investigations and possible litigation related

to intentional race-based discrimination in college and university admissions."

The announcement suggests that the project will be run out of the division's front office, where the Trump administration's political appointees work, rather than its Educational Opportunities Section, which is run by career civil servants and normally handles work involving schools and universities.

The document does not explicitly identify whom the Justice Department considers at risk of discrimination because of affirmative action admissions policies. But the phrasing it uses, "intentional race-based discrimination," cuts to the heart of programs designed to bring more minority students to university campuses.

Supporters and critics of the project said it was clearly targeting admissions programs that can give members of generally disadvantaged groups, like black and Latino students, an edge over other applicants with comparable or higher test scores.

The project is another sign that the civil rights division is taking on a conservative tilt under President Trump and Attorney General Jeff Sessions. It follows other changes in Justice Department policy on voting rights, gay rights and police reforms.

Roger Clegg, a former top official in the civil rights division during the Reagan administration and the first Bush administration who is now the president of the conservative Center for Equal

"This is deeply disturbing," she said. "It would be a dog whistle that could invite a lot of chaos and unnecessarily create hysteria among colleges and universities who may fear that the government may come down on them for their efforts to maintain diversity on their campuses."

Opportunity, called the project a "welcome" and "long overdue" development as the United States becomes increasingly multiracial.

"The civil rights laws were deliberately written to protect everyone from discrimination, and it is frequently the case that not only are whites discriminated against now, but frequently Asian-Americans are as well," he said.

But Kristen Clarke, the president of the liberal Lawyers' Committee for Civil Rights Under Law, criticized the affirmative action project as "misaligned with the division's longstanding priorities." She noted that the civil rights division was "created and launched to deal with the unique problem of discrimination faced by our nation's most oppressed minority groups," performing work that often no one else has the resources or expertise to do.

"This is deeply disturbing," she said. "It would be a dog whistle that could invite a lot of chaos and unnecessarily create hysteria among colleges and universities who may fear that the government may come down on them for their efforts to maintain diversity on their campuses."

The Justice Department declined to provide more details about its plans or to make the acting head of the civil rights division, John Gore, available for an interview.

The Supreme Court has ruled that the educational benefits that flow from having a diverse student body can justify using race as one factor among many in a “holistic” evaluation, while rejecting blunt racial quotas or race-based point systems. But what that permits in actual practice by universities – public ones as well as private ones that receive federal funding – is often murky....

The Supreme Court most recently addressed affirmative action admissions policies in a 2016 case, voting 4 to 3 to uphold a race-conscious program at the University of Texas at Austin. But there are several pending lawsuits challenging such practices at other high-profile institutions, including Harvard University and the University of North Carolina. The Justice Department has not taken a position in those cases.

The pending start of the affirmative action project – division lawyers who want to work on it must submit their résumés by Aug. 9, the announcement said – joins a series of changes involving civil rights law since Mr. Trump’s inauguration.

“The fact that the position is in the political front office, and not in the career section that enforces antidiscrimination laws for education, suggests that this person will be carrying out an agenda aimed at undermining diversity in higher education without needing to say it,” Ms. Gupta said.

Excerpts of *What We Must Do to Promote Increased Racial and Ethnic Diversity and Equal Opportunity in Public Schools After Parents Involved*

By Victor L. Goode, Esq.

I want to commend communities and school systems that are working to increase racial and ethnic diversity in public schools after the recent Supreme Court decision on K-12 student assignment plans to promote voluntary desegregation. Louisville and Jefferson County, Kentucky have done something we think other places around the country should consider modeling. They’ve created a countywide district (though they had a little help from a Court that ordered an inter-district remedy). More communities should consider **political remedies focusing on metropolitan regionalism** – the coordination of public policies and sharing of fiscal resources across municipalities that has the potential to breach continuing trends toward minority (and white) racial isolation.

In addition to its policy of metropolitan regionalism, I commend the newly combined district for adopting a **pro-integration policy**. Such policies, of which voluntary student assignment plans are one form, are critically important because U.S. schools are becoming more segregated in all regions for African American and Latino students; because most minority students attending intensely segregated schools experience concentrated poverty and unequal educational opportunities; and because racial diversity in the school system is important to helping to ensure that students are prepared to enter a multiracial, multiethnic workforce.

Decades of research has established the educational benefits that accrue to children of different races and cultural backgrounds when they are educated together. **With respect to complying with Parents Involved**, the Supreme Court's recent opinion on the use of race in K-12 student assignments, **Justice Kennedy's plurality opinion provides a roadmap** for school districts and communities...

- We know what the Supreme Court plurality *didn't* like about the Seattle and Jefferson County plans: race was a decisive factor, rather than being one of many; the plans employed limited notion of diversity, viewing race exclusively in white/nonwhite terms in Seattle & black/"other" terms in Jefferson County; minimal effect classifications have on student assignments (though we're not told how large those effects must be to avoid this problem); districts' "end" too amorphous; failed to try race-neutral first.
- Justice Kennedy's central disagreement... was that [the plurality was] too dismissive of legitimate interest government has in ensuring all people have equal opportunity regardless of race.
- Justice Kennedy is OK with general race conscious measures, e.g., strategic site selection of new schools, drawing attendance zones with eye to neighborhood demographics, allocating resources for special programs, targeted recruiting students/faculty, tracking enrollments, performance & other statistics by race.
- Justice Kennedy says avoid treating each student in different fashion solely on basis of a systematic, individual typing by race. Instead, consider the "Controlled Choice" approach of Dr. Charles V. Willie [at Harvard, which] is a new way of assigning students to schools.

- Justice Kennedy encourages school districts to not be dissuaded "from continuing the important work of bringing together students of different racial, ethnic, and economic backgrounds." He considers this a compelling interest, a major point in constitutional equal protection analysis.

For advocates in districts *not* under a federal desegregation order, redouble efforts to document past intentional discrimination, and get more official findings of such intent on the record. We often discuss desegregation, especially voluntary desegregation, in a way that artificially separates what we're really trying to accomplish (equal opportunity) from the broader civil rights enforcement framework. We must do a better job of influencing the Supreme Court selection process and the regulatory processes (both on the civil rights enforcement side and on the *funding side*) with respect to equal education opportunity.

Part of this work will require increased attention to voter registration, voter education, Get Out the Vote, election protection and **redistricting**. It will also require plain old organizing, including between election cycles, and working to get parts of bureaucracies, local, state and federal, that do not normally talk to one another to begin to have conversations about the synergistic possibilities that come with thoughtful coordination of strategies.

NAACP units, I hope this is helpful as you work with your school district and community to increase racial and ethnic diversity and equal opportunity for all students.



appendix

SCHOOL TO PRISON PIPELINE

SCHOOL TO PRISON PIPELINE

ESSA does provide support to combat the school to prison pipeline.

State Plans and Assurances

States must describe in the State ESSA Plan Submission how SEAs will prioritize prevention and intervention programs for children and youth who are neglected, delinquent, or at-risk so that such children are able to obtain a regular high school diploma, to the extent possible.⁹⁵

States are asked to provide assurances that the SEA has established procedures to ensure the timely re-enrollment of each student who has been placed in the juvenile justice system in secondary school or in a re-entry program. The decision between returning to secondary school and a reentry program depends on what best meets the needs of the student, including the transfer of credits that such student earns during placement.

States are asked to facilitate the transition of such children and youth between the correctional facility and the LEA or alternative education program. States should share relevant and appropriate academic records and plans regarding the continuation of educational services for such children or youth jointly between the state agency operating the institution or program and the LEA. States are asked to describe how state agencies, to the extent feasible, will note when a youth has come into contact with both the child welfare and juvenile justice system and deliver services and evidence-based (if reasonable) interventions designed to keep such youth in school.

Funding

ESSA provides funding (Student Support and Academic Enrichment Grants)⁹⁶ to support designing and implementing locally-tailored plans to reduce exclusionary practices in elementary and secondary schools.⁹⁷ Funding may be directed towards strategies aligned with long-term goal of prison reduction via opportunities, mentoring, intervention support, and other education services.⁹⁸ Grants may also fund implementation of school-wide positive behavioral interventions and supports, such as IDEA (i.e. special education services).⁹⁹

States are also asked to provide assurances that the SEA has established opportunities for such students to participate in credit-bearing coursework while in secondary school for postsecondary education, or career and technical education programming.¹⁰⁰

Additional Resources

The Civil Rights Data Collection measures student access to courses, programs, instructional and other staff, and resources. The Office for Civil Rights at the Department of Education maintains this database and also notes school climate factors, such as discipline and bullying and harassment and how they impact education equity and opportunity for students.¹⁰¹ More detailed and/or recent student discipline data may be available by filing a public information request with local and/or state officials. This information from the Civil Rights Data Collection, used in conjunction with other more recent data and individual student complaints filed with NAACP units, should be used to create locally-tailored plans to address the school to prison pipeline.



Excerpts of 10 Things NAACP Units Can Do to Investigate & Challenge School Zero Tolerance & “School to Prison Pipeline” Student Discipline Practices

By Victor Goode, Esq.¹⁰²

Talk with students about their experiences with school discipline practices. Be sure to also inquire about any different treatment based on race or national origin. Get specifics so that you are comparing “apples with apples.”

Review complaint filed with the NAACP about school discipline problems.

Interview school staff, but recognize that some may only speak privately.

Talk with Police that have a presence in the school, and inquire as to their experiences or perceptions with school discipline issues.

Ask what the Juvenile Public Defender is doing to address the issue of school staff increasingly filing charges against students. If nothing is being done, why not? Interview the administrator and Chief Judge of the Juvenile Court about school-based charges in the Court. If the Juvenile Court feels that the high school(s) should be handling more of these minor cases in-house, you may have an ally in the Court regarding this issue. When interviewing the Juvenile Court and Juvenile Public Defender, see if they are willing to provide any data, disaggregated by race, national origin, and gender, on their School-based cases.

Once you have completed your analysis of the information you have collected, write a short report summarizing what you found and what you think it means.

Schedule a meeting with the school principle to discuss your concerns, after completion of the report. If you are not satisfied with the results of the meeting, work your way up the chain of command.

SAMPLE LETTER FOR A PUBLIC RECORDS REQUEST

Name of Superintendent
Name of School District
Address

Dear _____:

I am interested in learning more about the district's discipline of students. As a starting point,

I respectfully make the following public information requests:

1. I request a copy of all Incident Reports for all buildings for the current and preceding school year.
2. If your Security Office compiles statistical reports, I would be interested in receiving a copy of a directory or index of such reports.
3. If your district has data indicating average length of suspension by race and national origin group, I would appreciate receiving a copy of that data for the last three school years.
4. If the district has suspension data requested in item 3, disaggregated by school, that would be helpful. I request a copy.
5. If your district employs both "in-school suspension" and out of school suspension, I request a copy of data, for the last three school years, indicating the number of each type of suspension by race and national origin of the student suspended. Besides district-wide data, if you also have this data by school, I would appreciate receiving a copy.

Because I do not know how voluminous—and thus, how expensive—such an information request might be, I ask that you call me with a cost estimate before fulfilling this request. Any information that you can provide in digital format is preferable. I would appreciate receiving a sample Incident Report so that I can get an idea of the type of information that we might expect to find on such reports. I can be reached at my phone number at _____ and at my email address, which is _____.

I appreciate your assistance and look forward to hearing from you.

Sincerely,

NAACP Education Committee Chair



appendix

EXPANDED LEARNING

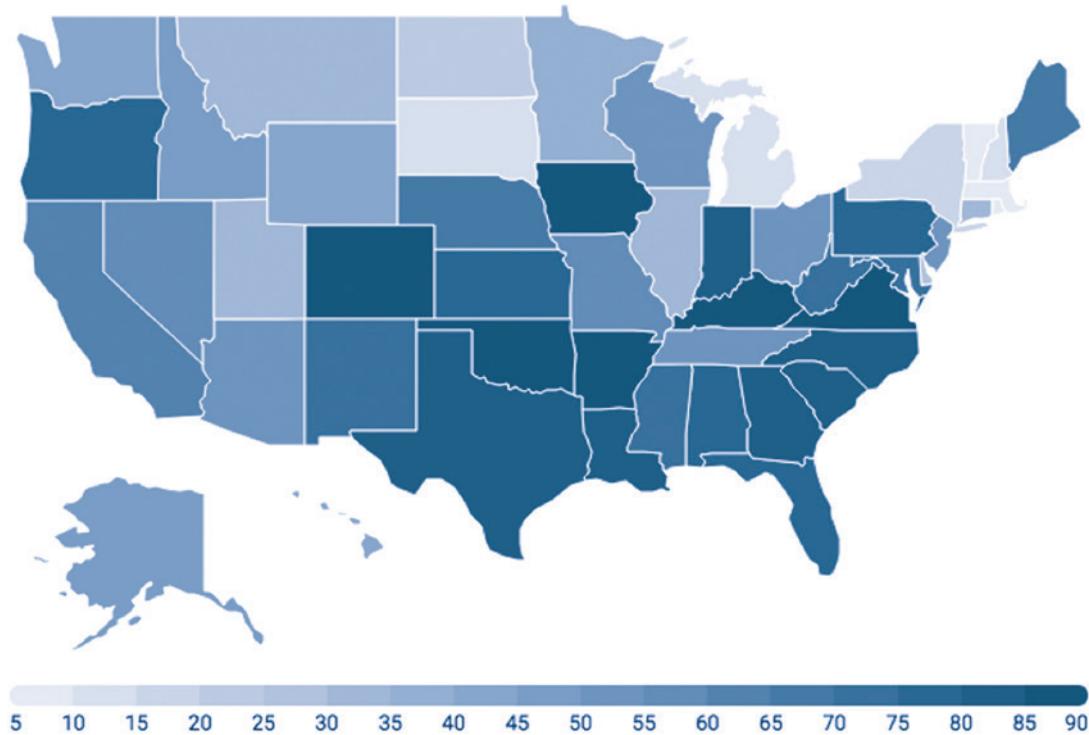
EXPANDED LEARNING

How Accessible Is Gifted Education in Your State?

By Sarah D. Sparks, Education Week (July 6, 2016)

Nationwide, less than 7 percent of U.S. students participate in gifted education programs, according to an analysis of the most recent 2014 federal civil rights data.

In part, that's because states and districts use different tests and criteria to identify students as gifted or talented. But it's also because some states have a far greater percentage of schools that even offer gifted education programs than do others, as the chart below shows.¹⁰³



That's based on an Education Week Research Center analysis of the 2014 federal Civil Rights Data Collection. The data are state-reported to the U.S. Department of Education for K-12 public school grades, though gifted programs tend to focus on grades 3-8, and the office for civil rights asks separate questions about high school Advanced Placement and International Baccalaureate programs. (This analysis does not include juvenile justice facilities.)

According to a 2015 study by the National Center for Gifted Education, 23 out of the 42 states studied required schools to serve gifted students in at least some grade levels, but oversight of those programs ranged from audits and accountability report cards to basic program reports or nothing at all.

In schools that do have gifted education, black and Latino students and those who are English-language learners are disproportionately less likely to be tapped for the programs than white or Asian students.

States and districts may soon have more incentive to support gifted education in all schools. Starting in the 2017-18 school year, the Every Student Succeeds Act requires schools to report the number of their students performing at the advanced academic level, not just those who are academically proficient and below, and to include advanced-achievement data for specific student groups.

As New York gifted educator Angela Abend recently wrote for Education Week:

"The need for gifted education programs in our public schools ... far surpasses the need for our gifted children to just be challenged academically. Gifted children do deserve stimulating school work that offers opportunities for them to stretch beyond what they already know and/or can learn very quickly. Their ability to think divergently needs to be celebrated while gifted students must also be challenged to develop appropriate growth mindsets at an early stage of their scholastic developments."

See also Appendix: English Language Learners, Excerpts of *Too Few ELL Students Land in Gifted Classes*.

Additional Programs

Under part B, schools may apply for competitive grants to support enrichment and engagement academic activities.¹⁰⁴ Here are other types of programs eligible for funding:

- (1) Programs that are included as part of an expanded learning program that provides students at least 300 additional program hours before, during, or after the traditional school day;
- (2) Programs that supplement, but do not supplant regular school day requirements; and

Applications to receive sub-grant funding must be submitted to the SEA (State Education Agency) for approval with a list of required information found in ESEA § 4204(b).¹⁰⁵



appendix

CHARTER SCHOOLS

CHARTER SCHOOLS

NAACP Task Force on Quality Public Education



The NAACP National Board Task Force on Quality Public Education consists of twelve board members selected to determine what the NAACP's stance on charter schools should be. They conducted forums in several cities across the United States and received testimony from proponents and opponents of charter schools. The following is an excerpt from that report.

Excerpt on Findings of NAACP Task Force on Quality Education Hearing Report

By the NAACP National Board Task Force on Quality Education (July 2017)¹⁰⁶

Charter schools were created with more flexibility because they were expected to innovate and infuse new ideas and creativity into the traditional public school system. However, this aspect of the promise never materialized.

Many traditional inner city public schools are failing the children who attend them, thus causing parents with limited resources to search for a funded, quality educational alternative for their children. Forty-three states and the District of Columbia have different approaches for overseeing charter schools, varying in who can serve as authorizers of charter schools,

how they fund charters, and how they govern charter schools. Charter schools are publicly funded, but they are privately operated under a written contract (or charter) with a state, school district or other authorizers depending on the state. With the expansion of charter schools and their concentration in low-income communities, concerns have been raised within the African American community about the quality, accessibility and accountability of some charters, as well as their broader effects on the funding and management of school districts that serve most students of color. State charter laws are different and unique to each state. For example, in Tennessee, for-profit charters are not allowed. While in Michigan, for-profit charters are expanding. Charter schools generally have flexibility from many laws and regulations that govern traditional public schools. There are many types of charter schools. Some charters are closely affiliated with school districts, others operate independently, and many are part of a network of schools that may span many school districts. Some are for-profit, run by education management organizations (or EMO's), which can be nonprofit or for-profit. For some, charter schools provide the answer to persistently failing traditional public schools in their community. To others, charter schools drain their community of limited resources and harm their children because many cannot attend the charter schools in their own neighborhood.

There were pros and cons on charters versus traditional schools in every hearing. The Task Force heard testimony that accused charters schools of "cherry-picking" students, counseling out the difficult students, manipulating funds related to average daily attendance (ADA) once students were no longer in attendance,



and re-segregating the public school system. Conversely, charter school advocates criticized the traditional school system for its poor record in educating students. In every hearing, many people agreed that the current education system fails too many children because of the lack of investment in people, policies and programs that support high quality educational opportunities. Consequently, each hearing's participants emphasized the need to protect students from failing schools and create more high quality schools, regardless of the school's structure.

A school leader at the Los Angeles hearing captured the sentiment, "we must celebrate success wherever it is happening and we must remain vigilant to guard against abuses of the public trust wherever they occur. A bad school is our common enemy."

Hearing presenters in Detroit and New York warned that having too many charter schools in some communities, while neighborhood schools are shut down, contribute to a chaotic educational system for many families of color living in low income areas.

In Memphis and New Orleans, local elected school leaders stressed the importance of the state playing a strong role in authorizing, funding and governing charter schools so that ALL students, families and schools receive the necessary resources to educate the community's children.

Furthermore, while high quality, accountable and accessible charters can contribute to educational opportunity, by themselves, even the best charters are not a substitute for more stable, adequate and equitable investments in public education in the communities that serve our children.

Multiple parents and community members described the need for the state or district to govern all schools—traditional and charter—so that there's one system of democratically-accountable, high-quality schools.

Excerpt on Recommendations of NAACP Task Force on Quality Education Hearing Report

By the NAACP National Board Task Force on Quality Education (July 2017)¹⁰⁷

More equitable and adequate funding for all schools serving students of color.

Education funding has been inadequate and unequal for students of color for hundreds of years. The United States has one of the most unequal school funding systems of any country in the industrialized world. Resources are highly unequal across states, across districts, and across schools, and they have declined in many communities over the last decade. In 36 states, public school funding has not yet returned to pre-2008 levels-before the great recession, and in many states, inner city schools have experienced the deepest cuts. Federal funds have also declined in real dollar terms for both Title I and for special education expenditures over the last decade.

School finance reform is needed.

To solve the quality education problems that are at the root of many of the issues, school finance reform is essential to ensure that resources are allocated according to student needs. States should undertake the kinds of weighted student formula reforms that Massachusetts and California have pursued, and the federal government should fully enforce the funding-equity provisions in Every Student Succeeds Act (ESSA).

Invest in low-performing schools and schools with significant opportunity to close the achievement gap.

Students learn in safe, supportive, and challenging learning environments under the tutelage of well-prepared, caring adults. Participants in every hearing stressed the importance of the type of classroom investments that have consistently been shown to raise student achievement. To ensure that all students receive a high-quality education, federal, state, and local policies need to sufficiently invest in: (1) incentives that attract and retain fully qualified educators, (2) improvements in instructional quality that include creating challenging and inclusive learning environments; and (3) wraparound services for young people, including early childhood education, health and mental health services, extended learning time, and social supports.

Mandate a rigorous authoring and renewal process for charters.

One way that states and districts can maintain accountability for charter schools is through their regulation of the organizations that authorize charter schools. States with the fewest authorizers have been found to have the strongest charter school outcomes. To do this, states should allow only districts to serve as authorizers, empower those districts to reject applications that do not meet standards, and establish policies for serious and consistent oversight.

Eliminate for-profit charter schools.

No federal, state, or local taxpayer dollars should be used to fund for-profit charter schools, nor should public funding be sent from nonprofit charters to for-profit charter management companies. The widespread findings of misconduct and poor student performance in for-profit charter schools demand the elimination of these schools. Moreover, allowing for-profit entities to operate schools creates an inherent conflict of interest.

Funding and Resources

ESSA provides additional resources to increase the number of high-quality charter schools in the U.S. and to improve on existing ones.¹⁰⁸ ESSA provides financial assistance for the planning, program design, and initial implementation of high-quality charter schools.¹⁰⁹ Additionally, ESSA encourages states to provide support to charter schools for facilities financing in an amount more commensurate to the amount typically given to public schools.¹¹⁰ The Act also aims to expand opportunities for children with disabilities, English learners, and other traditionally underserved students to attend charter schools while also meeting challenging State academic standards.¹¹¹

Dropout Prevention

Under ESSA's Grants to Support High-Quality Charter Schools program, states receive federal funding for charter schools. In awarding these grants to schools, states must prioritize charter schools that serve "at-risk" students through activities such as dropout prevention, dropout recovery, or comprehensive career counseling services. States also must prioritize proposals for high-quality charter schools that focus on dropout recovery and academic reentry.¹¹²

Pre-Kindergarten Education

Charter schools can receive support under the ESEA for early childhood education so long as they also provide elementary and secondary education.¹¹³





appendix

STUDENT SUBGROUPS



student subgroups

ENGLISH LANGUAGE LEARNERS

An important difference between ESSA and its predecessor NCLB is how significantly the former retracts some federal administration from state education decisions. Indeed, as noted previously, one of the President's Executive Orders specifically requires the Secretary of Education to make a determination whether any of her Department's regulations or guidelines related to ESSA exceed the Department's statutory authority. If the Secretary determines that such guidelines or regulations exceed her statutory authority, she is to modify or eliminate such guidelines or regulations. This Executive Order is a way to make it clear that the President supports state and local control and believes that was the intent of Congress in passing ESSA. Still, the Department has already received (and responded to) criticism because of negative feedback it provided some States who filed their State Plans early.

This preliminary suggests that states may have some leverage with the Administration. To the extent that advocates and states (or advocates and school districts or advocates and school boards) share strong, common interests, there may be an increased opportunity for mutually beneficial, coordinated activities between the two, e.g., with respect to the proposed Trump 2018 Education Budget.

English language learners, for example, must be provided the right resources, and are also expected to excel.¹¹⁴ English language learners are defined as "an individual who, among other things, has difficulties in speaking, reading, writing, or understanding the English language that may be sufficient to deny the individual the ability to meet challenging state academic standards."¹¹⁵

STANDARDS & INDICATORS

Under ESSA, states are not required to submit their standards on what they determine to be sufficient English language proficiency to ED.¹¹⁶ However, the standards set by SEAs in a state plan are applicable to students generally and are expected to be ambitious among standard student subgroups.

States are then required to administer annual assessments to determine the progress of students and the efficacy of the state's accountability system.¹¹⁷ A yearly report card is then released to the general public that must show progress on a multi-factor basis that must include English proficiency for ELLs.

TESTING & ASSESSMENTS

ESSA requires ELL students to participate in all assessments after the second year of school attendance, with an exemption from the English/reading assessment in their first year only.¹¹⁸ For five years after arrival (or subject to the state's determination), ELL students must be allowed access to language accommodations during assessments.

In order to attain an exemption from the first year English/reading assessment, a state must:

- (1) exclude his or her assessment results from the school's accountability determinations in his/her first year;
- (2) include a measure of his or her academic growth in those determinations, in his/her second year; and
- (3) include a measure of his or her proficiency in those determinations, in his/her third year.¹¹⁹

States may include EL students in that greater student subgroup for up to four years after they are determined to be English proficient.¹²⁰

ESSA adds a new requirement that states establish and implement, after consultation with LEAs representing the geographic diversity of the state, standardized English learner entrance and exit procedures, which must include a requirement that all students who might be ELs are assessed for that status within 30 days of enrollment in a school within the state. SEAs may use the 5 percent of Title III funds that is set-aside for state-level activities to support this endeavor.¹²¹

Excerpts of Too Few ELL Students Land in Gifted Classes

By Sarah D. Sparks and Alex Harwin (Jul. 20, 2017)¹²²

Linnea Van Eman, the gifted education coordinator for the Tulsa school district, sees too many gifted students who simply don't have the language skills to show what they can do.

The 36,000-student Oklahoma district has been pushing hard to bring more students from traditionally underrepresented groups—and English-language learners in particular—into its gifted program. Using a combination of more-diverse testing, greater parent outreach, and closer observation, Van Eman and her teachers are working to fill equity gaps in the district's advanced programs.

"Any child who can translate for their parents and is decoding in two languages all the time, that's huge," Van Eman said. "We need to push back against this perception that giftedness has to look a certain way."

Beginning next school year, the Every Student Succeeds Act, the main federal education law, requires states and districts to report the number of their students performing at the advanced academic level, not just those who are academically proficient and below, and to include advanced-achievement data for specific student groups, including English-language learners.

Oklahoma is one of the most expansive states in the country when it comes to gifted education, with 14 percent of its K-12 students participating in advanced academic programs. Yet federal data suggest that it, like most states, is still behind the curve when it comes to identifying and nurturing diverse students at the highest academic levels, and English-learners are among the groups most frequently overlooked.

An analysis by the Education Week Research Center found that while nearly 1 in 10 U.S. students is learning English as a second language, this group represents less than 3 percent of the students in gifted and talented education nationwide. That's only 101,000 of the more than 3.4 million students in gifted programs.

"A lot of the programs we test for [in gifted education] are language-based," said Dina Brulles, a gifted education coordinator at Paradise Valley, a well-off district outside Phoenix, and a consultant with the National Association for Gifted Children. "We can see they make good connections, have insights, ... but the school is often still looking at them as being not linguistically up to par, and they want to treat them through a deficit model rather than looking at these kids' strengths."



By the Numbers

Gifted education generally includes the 3 percent to 5 percent highest-scoring students on academic tests, as well as those who show significant leadership, creativity, or strengths in particular subjects. But programs vary significantly from state to state. According to a study by the Education Commission of the States conducted last November, 37 states define giftedness, and only 32 require districts to identify and serve gifted students.

Some studies suggest that children who grow up bilingual have greater cognitive flexibility and problem-solving skills than monolingual children, but English-learners in the United States often don't get a chance to show their skills. Nationwide in 2014, within schools that have gifted programs, English-learners were underrepresented by more than 5 percent, with gaps between the share of students who are English-learners and the percentage of ELLs in gifted education that were as large as 19 percent in California and 18 percent in Nevada.

ELLs are underrepresented in gifted programs in 49 states and the District of Columbia. While they are not technically underrepresented in West Virginia, only 1 in 100 students in the state had limited English skills, and less than 1 in 100 of those English-learners actually attended a school that offered gifted education in the first place, the Education Week analysis found.

In a University of Connecticut study of gifted identification in three states, researchers found that a student's high achievement on state tests didn't always guarantee them a slot in gifted education.

"As students' achievement increases, their chance of being identified as gifted increases, but much slower if you are an English-language learner,

poor or from a underrepresented minority than if you are non-ELL and white or Asian," said D. Betsy McCoach, a co-author of the study and a professor of education measurement and evaluation. "Districts make policies [on gifted education], but those policies don't necessarily translate to equal opportunities across schools in those districts."

In Oklahoma, ELLs made up 7 percent of the population at schools that offered gifted programs in 2014 but only 2 percent of gifted enrollment. Tulsa had double the percentage of English-learners but only 2 percent in gifted programs.

In 2016, McBee and Michael Matthews, the program director for the academically and intellectually gifted graduate program at the University of North Carolina at Charlotte, co-authored a study that found school systems that relied on teachers and parents to nominate students to be tested for giftedness missed more than 60 percent of gifted students, compared with systems that screened all students at least once.

That frustration drove the district to overhaul its gifted education from top to bottom. Tulsa now requires every 2nd grader to take the CogAT, a four-part test of verbal and nonverbal ability; and in schools like Mitchell, gifted and ELL teachers have partnered to translate the test for students who do not speak English well enough to read it. The district also added other tests, including the Naglieri Nonverbal Ability Test, which was developed specifically to identify potentially talented children with lower-level English-language skills.

Starting next year, Tulsa will also target English-learners who show faster-than-average growth on the state English-language-proficiency test. According to Matthews, that's a strategy that

shows strong potential as a way of identifying gifted students, as they often learn languages more quickly than other students.

The district still asks teachers and parents to recommend students with potential, but they have become more systematic.

"If you look at individual domains [to identify gifted students], you would capture a lot more [English-learner] students, particularly if you could bypass some of the language barriers we put up," Mun said. "If you have students who are gifted in math or science, ... you should really be working to serve them in that area, while still working on the areas where they aren't as advanced."

The increased outreach has infused more life into the district's gifted program overall. After Tulsa's gifted enrollment fell from more than 5,400 in 2014 to 4,100 in 2016, in keeping with falling overall enrollment, it had risen again to 4,500 by this spring. For the first time this year, every elementary and middle school had at least a part-time gifted education instructor, Van Eman said.

In Mitchell, the program has grown from fewer than 20 students in 2014 to more than 50 today, with a majority of them English-learners.

The future of gifted education in general is uncertain, though. Most states are still in the early stages of reaching for equity in gifted education. President Donald Trump rolled back Obama administration regulations fleshing out how states should implement the federal education law's accountability changes, and his fiscal 2018 budget proposal would eliminate \$12 million in federal gifted education grants.

Civil Rights Strategies

Under Title IV of the Civil Rights Act of 1964, school districts are required to identify and provide assistance to ELLs.¹²³

EARLY CHILDHOOD EDUCATION

Grant support for pre-Kindergarten education is codified in Title IX, Part B § 9212.¹²⁴ There is \$250 million of competitive grant money that is disbursed annually for one year and may be renewed.¹²⁵ Grants may be used for the following:¹²⁶

- Conduct an assessment of the state's need for pre-K systems (i.e. on the basis of quality, availability, etc.);
- Develop strategic plans for the collaboration and improvement;
- Provide better information on pre-K options to parents;
- Share best practices; and
- Improve quality through improving professional development for providers, so long as the needs assessment and strategic plan have been completed.

Renewals can be used to fulfill the inequities revealed in the needs assessments and strategic plans, expand access to pre-K programs and develop new programs.¹²⁷

The Early Development Grant Program focuses on "improved collaboration among providers and regulators in a 'mixed delivery' system—including Head Start, Public Schools, Private Schools, etc.—and effective transition from Pre-K to Elementary Programs."¹²⁸ High quality teachers, small class sizes and teacher-child interactions are just some of the qualities that lend to better pre-K education and ESSA intends to cultivate preschools with

these qualities in mind as well as expand access to such services to more communities.¹²⁹

ESSA provides Title I, Part A funding for LEAs to provide more public early education programs as well as to collaborate with community-based preschool programs.¹³⁰ The ESEA also provides funding in Title IV, Part X for charter schools as preschool providers.¹³¹

HEAD START

LEA Coordination with Head Start and Other Early Childhood Programs

Each LEA receiving Title I funds, regardless of whether it operates a Title I preschool program, must develop agreements and carry out the following coordination activities with Head Start and, if feasible, other early childhood programs:

- Developing and implementing a systematic procedure for receiving records of preschool children
- Establishing channels of communication between school staff and their counterparts to facilitate coordination
- Conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start teachers to discuss the developmental and other needs of children
- Organizing and participating in joint transition related training of school, Head Start, and where appropriate, other early childhood education program staff
- Linking the educational services provided by the LEA with those provided by Head Start agencies¹³²

VERTICAL ALIGNMENT FROM PRE-K TO THIRD GRADE

ESSA promotes vertical alignment from preschool to third grade. This means that schools should offer fairly well aligned standards, curricula, instruction and assessments throughout these early years.¹³³ Vertical alignment "provides greater continuity and better organization of student services and school-family partnerships" as well as "the ability to link individual student preschool data to K-12 data allows elementary teachers to have more complete information about students' learning trajectories and better tailor instruction to meet students' needs."¹³⁴

While there is no requirement in the law for states to create vertically aligned educational systems, the annual assessment requirements and use of indicators can be incorporated into the accountability structure of ESSA. Furthermore, building a strong continuum from early education through elementary school should be very effective towards improving student performance across the board.¹³⁵

Additional Resources

Specific information on early education resources for student subgroups can be found within this appendix at different sections.

STUDENTS WITH DISABILITIES

For young people with disabilities, who are more than twice as likely to drop out of high school as peers without disabilities, school districts may leverage their efforts under ESSA with related efforts under WIOA (Workforce Innovation and Opportunity Act) to support students' successful transitions to postsecondary education and the workforce.¹³⁶



EARLY CHILDHOOD EDUCATION

Excerpt of ESSA Early Learning Guidance

By U.S. Dept. of Education (Oct. 20, 2016)¹³⁷

One area in particular for States and LEAs to consider is how to promote greater coordination and collaboration for children with disabilities receiving services under the IDEA. Research and experience have demonstrated the developmental, learning, and social benefits of inclusion for children with and without disabilities.¹³⁸ As LEAs plan to expand the availability of high-quality preschool programs, special attention should be paid to how preschool children with disabilities will be identified and meaningfully included. Children with disabilities and their families continue to face significant barriers to accessing inclusive high-quality preschool,¹³⁹ despite the fact that under IDEA, children with disabilities ages 3-5 are entitled to a free appropriate public education.

The Department and HHS' joint Policy Statement on Inclusion of Children with Disabilities in Early Childhood Programs states that all young children with disabilities should have access to inclusive high-quality early childhood programs with individualized and appropriate support in meeting high expectations. For inclusion programs to be successful, staff need to intentionally promote children's participation across all learning and social activities, facilitated by individualized accommodations. Therefore, LEAs should examine their policies, procedures, and practices in supporting preschool children with disabilities in their systems, and consider how ESEA funding can be used to ensure access and participation in inclusive preschool classrooms. This could include providing professional development to increase preschool teachers' competencies in instructing children with disabilities; ensuring that appropriate accommodations are in place, such as assistive technology, so that children can access the curriculum or participate in assessments; implementing school wide models of positive interventions and supports to promote healthy social, emotional, and behavioral development; and supporting the universal design of the environment or instructional materials.

HOMELESS STUDENTS

ESSA requires school districts to allow homeless students to remain enrolled in their “school of origin” when it is in a student’s best interests and to provide transportation for such students. School systems and state child welfare agencies must collaborate to ensure the educational stability of homeless students.

In addition, school districts must have a “liaison” to identify homeless students, support their educational needs, and connect them to comprehensive services. In order to access any Title I funding, states must describe the services they will provide to support homeless children and youth.

Each school district must set aside Title I funds to support homeless students and may receive additional federal funding for these purposes.¹⁴⁰

McKinney-Vento Education for Homeless Children and Youth (EHCY) Program

Though the McKinney-Vento EHCY program exists under a separate statute, it is a vital resource that demands SEAs ensure that each homeless child and youth has equal access to the same free, appropriate public education, including a public preschool education, as other children and youths.¹⁴¹ ESSA has amended the McKinney-Vento Act by changing and creating new requirements focused on:

- Identification of homeless children and youths;
- Preschool-aged homeless children;
- Collaboration and coordination with other service providers;
- Professional development and technical assistance at state and local levels;

- Removing enrollment barriers, including barriers related to missed application or enrollment deadlines, fines, or fees; records required for enrollment; or academic records;
- School stability, including the expansion of school of origin to include preschools and the provision of transportation until the end of the school year, even if a student becomes permanently housed;
- Privacy of student records, including information about a homeless child or youth’s living situation; and
- The dispute resolution process.¹⁴²

Furthermore, ESSA has narrowed the definition of “homeless children and youths” and created new resources for children awaiting placement in foster care in order to ensure more focused resources for both groups.¹⁴³

SEAs and LEAs must begin implementing the new McKinney-Vento Act requirements by October 1, 2016.¹⁴⁴

Excerpts of Federal Education Law Adds Critical Supports for Homeless Students

By Amanda Litvinov (Mar. 13, 2017)¹⁴⁵

Public schools have made progress in how they support students experiencing homelessness, since the McKinney-Vento Act was passed 30 years ago. Today, every school district has a homeless liaison to arrange academic supports for homeless students and assistance for their families—shelter, food, and transportation—meant to help keep their children in school.

But the first step of identifying homeless students is still difficult, because a child’s instinct is usually to hide an unstable living arrangement, says Jonathan Houston, a homeless liaison for the Tukwila School District in Tukwila, Wash.

"They feel the judgment our society has about people living in poverty, and they don't want anyone to think their family has done something wrong," said Houston.

The good news: Federal lawmakers took significant steps to provide more support for homeless students during the reauthorization of the federal education law, the Every Student Succeeds Act (ESSA).

Now, thanks to ESSA, districts that have more than 10 unaccompanied youth must identify a staff contact in every school, which Houston can attest provides a better network for handling heavy caseloads.

Also, states must now report achievement markers and graduation rates specifically for homeless students, which will "shine a spotlight on the impact of homelessness and create a baseline from which to assess state and national progress for helping these most vulnerable students," wrote Barbara Duffield, policy director for the National Association for the Education of Homeless Children and Youth.

Washington is one of only five states that currently reports those rates separately for homeless students. The graduation rate for homeless students was 30 percentage points lower than the rate for all of the state's students in 2014, and 20 points lower than the graduation rate of other economically disadvantaged students who did not experience homelessness.

Although his district is recognized for its service to students who are unstably housed, Jonathan Houston worries about the kids who have not yet been identified. And he is haunted by the ones who disappear.

Student are dropped from enrollment after 20 consecutive absences. Tukwila has enrolled 248 homeless students so far this school year, but that number is now down to 210.

"When a student leaves, I wonder where they ended up and can't help but ask, 'Did I do a good job?'" says Houston. "I just wish we would have had one last chance to talk to their families before they went, to see if there was anything else at all that we could do to keep their kids here."

Additional Resources

Visit the National Association for the Education of Homeless Children and Youth for a wealth of guidance and sample policies to improve schooling experience for students in homelessness.¹⁴⁶



YOUTH IN FOSTER CARE

Children and youth in foster care represent one of the most vulnerable student subgroups in this country.¹⁴⁷ Studies find that children in foster care are much more likely than their peers to struggle academically and fall behind in school. Students in foster care at age 17 are also less likely to graduate from high school, with only 65 percent graduating by age 21 compared to 86 percent among all youth ages 18 to 24.¹⁴⁸

Children in foster care experience much higher levels of residential and school instability than their peers; one study showed that 75 percent of children in foster care made an unscheduled school change in one school year, compared to less than 40 percent for children not in foster care.¹⁴⁹

The passage of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections Act) was a significant step towards supporting the importance of school stability for children in foster care in Federal law.¹⁵⁰ ESSA is the next progression in this goal.

NOTE: ESSA amendments include the adjustment of the definition of homeless status so that children awaiting placement in foster care do not fall within the homelessness category.¹⁵¹

School of Origin

Guidance from the U.S. Department of Education defines "school of origin" as "the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled."¹⁵²

Graduation Rates

Due to the extremely high rates of non-graduation rates among children and youth in foster care, ESSA grants ED the power to disaggregate subgroups at any time during the cohort period to avoid significant undercounting of homeless and youth in foster care students.¹⁵³

Transportation

States must provide assurances that each LEA will collaborate with the local child welfare agency to designate a point of contact and develop and implement clear written procedures governing the arrangement and funding of transportation to allow youth in foster care to remain enrolled in their "school of origin."

Finalized rules from ED only require transportation procedures to be implemented only when doing so would be in a child's best interest and the LEA agrees to pay some or all of the costs with potential reimbursement from the relevant child welfare agency.¹⁵⁴ There are no clear presumptions regarding what agencies are responsible for additional transportation costs in the event of a dispute.¹⁵⁵ However, the final rules are premised on the overall ESSA requirement to address problems at local levels. Thus, states cannot impose a uniform transportation procedure for LEAs; these plans have to be developed between LEAs and child welfare agencies.¹⁵⁶

CONSOLIDATED STATE PLANS

A state's McKinney-Vento program may be submitted as a part of a state's consolidated plan or as an individual program state plan.¹⁵⁷ This eases the burden on states who already have a good framework in place to help youth in foster care. More than that however, ESSA requires the state to detail how it will ensure all children meet the challenging academic standards set in their state plan.¹⁵⁸

Additional Resources

The ABA's Legal Center for Foster Care and Education provides contact information for many helpful resources in this area.¹⁵⁹ Further study on the provisions of the McKinney-Vento Act may also help in developing policies to help youth in foster care with school fees, required medical records, student information privacy and other issues. The National Association for the Education of Homeless Children and Youth provide some materials on these issues.

AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN STUDENTS

ESSA authorizes the Bureau of Indian Education (BIE) to exercise greater autonomy over its schools. It authorizes the U.S. Secretary of Interior to determine the standards, assessments, and accountability system for BIE-funded schools, accounting for the unique circumstances and needs of students attending these schools.¹⁶⁰

If the tribe or school board operating a BIE-funded school determines that requirements established by the U.S. Secretary of Interior for standards, assessments, and the accountability system are inappropriate for students attending that school, the tribe or school board may waive part or all of those requirements. In order to waive some or all of the requirements, the tribe or school board must submit to the U.S. Secretary of Interior a proposal for alternative standards, assessments, and/or accountability system that accounts for the unique circumstances and needs of students attending the school.¹⁶¹

Through the State Tribal Education Partnership (STEP) program, ESSA promotes tribal self-determination in the education of Native students by authorizing coordination and collaboration of

tribal education agencies (TEAs) with state education agencies (SEAs) to meet the unique culturally-related academic needs of Indian students. ESSA also provides a one-time, one-year funding opportunity for tribes to plan and develop a TEA. TEAs must have a written agreement with the co-ordinating SEA and/or local education agency (LEA) within the territorial jurisdiction to apply for the STEP program.¹⁶²

ESSA requires states to engage in meaningful consultation with tribes in the development of state plans for Title I grants submitted to the U.S. Secretary of Education in a timely manner. ESSA also requires LEAs to consult with appropriate officials from tribes or tribal organizations located in the area served by the LEA before submitting a required plan or application for a covered program under ESSA or an application for a program under Title VI. LEAs must provide to the SEA a written affirmation signed by the appropriate officials of the participating tribes or tribal organizations that the required consultation has occurred.¹⁶³

ESSA supports Native American and Alaska Native languages as primary languages of instruction and supports the rights of Native American and Alaska Native students to use, practice, and maintain Native languages in public schools.¹⁶⁴

States may use grant funds awarded under Title III of ESSA to provide effective teacher preparation related to meeting the educational needs of English learners. Title VI of ESSA provides funds to support the recruitment, preparation, and professional development of American Indian teachers in districts that serve a high proportion of American Indian students. Grantees, which include districts, Indian tribes and organizations, and consortia of these groups, or Indian community-based organizations, may use funds to prepare teachers so that they understand and appreciate Alaska Native history, cultures, values, and ways of knowing and learning.¹⁶⁵



Alaskan Natives

The Alaska Native Education (ANE) program in ESSA increases the opportunities for leadership and participation by Alaska Natives in the planning and management of this federal grant program. Eligible entities must now have either direct experience working with Alaska Native students or work in partnership with or be sanctioned by an Alaska Native organization or tribe.¹⁶⁶

Native Hawaiians

ESSA increases the opportunities for participation and coordination from Native Hawaiians, focusing on language and culture to improve student

outcomes. ESSA requires the Native Hawaiian Education Council (NHEC) to coordinate, assess, and provide guidance and direction on the education and related services and programs available to Native Hawaiians.¹⁶⁷

ESSA revises the composition of the NHEC to fifteen named government and Native Hawaiian organization leaders instead of the previous twenty-one Native Hawaiian, island community based providers, and consumers of education services. The named government or organization leader may designate someone who has experience in Native Hawaiian education or cultural activities with traditional cultural experience given due consideration.¹⁶⁸



appendix

RURAL SCHOOLS

ESSA directs the U.S. Department of Education (ED) to review how it is serving the nation's rural schools within eighteen months of the enactment of ESSA. The study will assess the methods and means in which ED addresses the needs of rural schools and rural local education agencies (LEAs). ED also will develop an action plan detailing ways to increase participation by rural schools and LEAs in the development of federal policies and regulations.¹⁶⁹

Schools in rural and remote areas can use federal funding to expand access to high quality digital learning opportunities. States also may use other federal funds authorized to support the effective use of technology to provide students in rural, remote, and underserved areas with digital resources, high-quality digital learning experiences, and access to online courses taught by effective educators.¹⁷⁰

Excerpts of Transforming Rural Schools Under the Every Student Succeeds Act: Learning from the Past

By Caitlin Scott (May 18, 2016)¹⁷¹

The Every Student Succeeds Act (ESSA) has loosened many of the federal requirements governing school improvement efforts, but the imperative to improve low-performing schools remains. Education leaders now have the opportunity to reshape school improvement efforts, especially in rural areas that – because of their remote locations – don't have easy access to school improvement support. To assist in these revisions, our new REL Northwest study, gathered lessons learned from 135 rural school principals in the first cohort of schools implementing federal School Improvement Grants and using the "transformation model."

Our study confirmed the challenges of implementing the transformation model in rural schools but also pointed to technical assistance as a way to help schools fully implement the strategies. Key findings include:

Few rural schools fully implemented the SIG transformation model...

- *More schools reported facing implementation challenges related to ensuring high-quality staff and engaging families and communities than challenges related to improving instruction...*
- *Almost all schools received technical assistance from at least one provider...*
- *The more strategies for which principals reported receiving technical assistance, the more strategies they reported their schools had fully implemented.* When principals reported receiving technical assistance for more than 7 strategies, they also reported their schools fully implemented an average of 7.2 strategies. In contrast, when principals reported receiving technical assistance for 7 or fewer strategies, they reported their schools had fully implemented an average of only 5.7 strategies

For 7 of the 12 strategies, when principals reported receiving technical assistance, they were significantly more likely to report full implementation of that strategy.

That strategy of using data to identify and implement a new research-based curriculum is especially important because approaches to improving Title I schools under ESSA must be "evidence-based." The 135 SIG schools in our study had federal funds to do this work, yet only

74 percent were able to implement this fully. Those that did fully implement were likely to have support from their state, their district, or other providers of technical assistance.

Our big take away from this study is that rural schools cannot do this work alone. As leaders reshape rural school improvement efforts under ESSA, technical assistance can make a difference. State and district leaders should consider strengthening their supports to rural schools, as well as engaging universities, nonprofits, and other entities to work with rural schools to implement improvement strategies.

Excerpts of Every Student Succeeds Act: Title V—Flexibility and Accountability—Rural Education and Achievement Program

By the National Association of Secondary School Principals¹⁷²

Title V of ESEA as amended by ESSA created the Rural Education Initiative. It is designed to help states and districts meet the unique needs of rural school districts that frequently lack the personnel and resources needed to compete effectively for federal grants and receive formula funds in amounts too small to be effective in meeting their intended purposes.

Title V offers and supports access to what may be otherwise out-of-reach funding opportunities. Because rural districts often lack the capacity to apply for competitive grants, ESSA helps rural districts by:

- Requiring the secretary of education to conduct outreach to rural districts about competitive grant opportunities
- Reducing the paperwork and compliance burden

- Allowing districts to seek technical assistance on Title V grant applications or pre-applications
- Allowing districts to work together or with educational service agencies to submit joint applications for federal funding

Schools and districts that are eligible for both SRSA and RLIS funds can apply for the funding stream that meets their unique needs; this was not the case in No Child Left Behind. Additionally, districts that receive RLIS funding can use funds for a broader range of activities. RLIS funding can now be applied toward any allowable use of funds under ESSA Title I Part A, Title II Part A, Title III, or Title IV Part A or B.

There are two programs under Title V, Part B:

1. The Small Rural School Achievement Program (SRSA) provides funds targeted and designed for schools with small populations in lower density areas. Funds are given directly to districts with designation by the National Center for Education Statistics (NCES).
2. The Rural and Low Income Schools Program (RLIS) provides funds for states to subgrant to districts with NCES designation. RLIS funds apply more broadly and can be used for a number of purposes related to other titles of ESSA.



appendix

CURRENT CONCERNS

CURRENT CONCERNS

Five Big Tasks for Betsy DeVos

By Alyson Klein (June 10, 2017)

U.S. Secretary of Education Betsy DeVos may not have much time for the beach this summer. She and her skeletal political staff will be spending the summer implementing the Every Student Succeeds Act, looking for regulations to cut, and more.

Here's a quick look at what's on the secretary's plate:

Hire staff

The secretary has been in office for more than four months, but the political ranks at the department are still really, really thin. So far, the White House has nominated just two people to fill Senate-confirmable slots. Plus, Jim Blew, the executive director of Student Success California, is expected to be tapped as assistant secretary of planning, evaluation, and policy analysis.

But generally, the department has had bad luck with recruitment. Allan Hubbard, the former George W. Bush administration economic adviser who was slated to serve as deputy secretary, dropped out because of financial considerations. So did Claude Pressnell, president of the Tennessee Independent Colleges and Universities Association, who was expected to be named assistant secretary for postsecondary education.

And GOP hands with experience at the state and federal level simply don't want to put in the long hours for a controversial secretary who doesn't seem to have much of an agenda beyond school choice.

That problem doesn't seem to be going away, particularly as potential hires get more info about where the Trump administration wants to take K-12 policy. One former state leader who was considering a post balked after seeing the president's budget request, which would eliminate money for teacher training and slash career and technical education funding.

For now, a lot of roles are being filled in an "acting" capacity, without official Senate sign-off. That includes Jason Botel, who is the acting assistant secretary of elementary and secondary education, and Candice Jackson, who is acting assistant secretary for civil rights.

Approve ESSA plans

DeVos gets final say over whether state ESSA plans fly or not. So far, 16 states and the District of Columbia have submitted plans to implement the law. (The rest will file in September.) The department legally has just 120 days to get back to those early filing states with a final yay or nay. That means that, technically, DeVos is supposed to provide answers early fall for this first batch.

DeVos spent her first three months hitting the theme of local control hard, so most state officials expected it would be easy to get their plans approved. But then, in the first round of feedback letters, DeVos' team told states that their goals for student achievement weren't ambitious enough, and questioned whether



states could use Advanced Placement tests and dual enrollment to figure out whether kids are ready for college and the workforce. (Her team didn't bring those things up in subsequent letters to five other states, but there was still plenty of scrutiny.)

Chris Minnich, the executive director of the Council of Chief State School Officers, thought some of the department's critiques went beyond the bounds of the law. And Sen. Lamar Alexander, R-Tenn., a big fan of local control, said he'd be reviewing DeVos' feedback closely, a sign that he may not have been so thrilled with how the secretary handled things. DeVos and her team sought to soothe worried states, making it clear they don't have to change their plans based on the feedback. Now, many are confused about what to expect from DeVos and company when it comes to ESSA.

Sell school choice and big budget cuts to Congress

The Trump administration pitched tying some federal funding for disadvantaged kids to school choice. And the president has sought to create a new, \$250 million private-school voucher program. There's also been some hint of a possibility of a federal tax credit scholarship. But we have few details about how these things would work, even though Congress is slated to start considering the spending bills for the U.S. Department of Education this summer.

Complicating matters: The voucher program and a big proposed increase for charter schools included in the president's budget would be paid for in part by big cuts to popular programs, like after-school funding and teacher quality, and a 13 percent cut to the department's overall bottom-line. That hasn't been an easy sell for DeVos—even in a Congress controlled by Republicans.

Cut red tape and downsize the department

DeVos and her team are working to comply with not one, not two, but three different executive orders aimed at slimming down the department, slashing regulations, and just generally shrinking the federal footprint. The first, signed by President Donald Trump on Feb. 22, called on agencies to take a hard look at regulations and get rid of those that are redundant, expensive, or burdensome.

DeVos and her team sent out a progress update on that work recently, outlining plans to meet with advocates and giving names of staff members on a regulatory relief task force. Another executive order, signed in March, calls on federal agencies to eliminate offices and programs that are redundant, unnecessary, or doing something that's best left to the private sector. And in April, the department got its very own executive order, which called on DeVos to get rid of regulations that step on local control in education.

Hold a press conference

Okay, that may not be on the secretary's to-do list. But we wish it was, if only so we can hear from her what kind of progress she's making on all these different fronts.

Trump Signs Executive Order on Apprenticeships

By Ian Kullgren and Marianne Levine (June 15, 2017)¹⁷³

President Donald Trump signed an executive order Thursday that will cut back the federal government's role in creating and monitoring apprenticeship programs, a move that the White House says will help fill vacant jobs.

The executive order, which Trump was expected to sign in conjunction with an 11 a.m. speech, is another anti-regulatory victory for business interests. It will move the role of developing

government-funded apprenticeship programs from the Labor Department to third-party private entities – including trade groups, labor unions and businesses. The third parties will set their own bar for success and submit their metrics to the Labor Department for approval.

The order will also double the amount of money for apprenticeship grants, from \$90 million to nearly \$200 million a year. That's in stark contrast to the president's proposed budget, which would impose a 36 percent cut to Labor Department job training programs overall.

In a White House speech Thursday about the executive order, Trump said federal regulations "have prevented many different industries from creating apprenticeship programs" and boasted that "in history nobody has gotten rid of so many regulations as the Trump administration."

Trump said that his executive order would empower companies, unions, industry groups and federal agencies to "create apprenticeships for millions of our citizens."

Trump used the speech as an opportunity to tout economic growth, telling his audience that "some very good numbers are going to be announced by the way in the very near future as to GDP." The Commerce Department will release on June 29 its third and final estimate of GDP growth during the first quarter of 2017. Its second estimate put first-quarter GDP growth at a somewhat disappointing 1.2 percent.

Trump also said "a lot of plants are being expanded and big ones are going to be announced very soon."

Trump's aides said the executive order will make it easier for businesses to operate their own unique apprenticeship programs, cutting back red tape. But it will also hand over tens of millions of public dollars to businesses while reducing the government's role in setting accountability standards.



"The Department of Labor to date has been very prescriptive and very restrictive on the apprenticeship programs, but the Department of Labor is not an expert as to various individual sectors and what the qualifications are," a senior White House official said. "So we're going to let the industry put forth its proposals as to what should make up a high-quality apprenticeship program. But the Department of Labor still sits over and above it and still adjudicates it at the end of the day."

But Chris Lu, former deputy Labor secretary under former President Barack Obama, said on Twitter that the executive order "will remove gov't oversight of apprenticeship standards, which will reduce quality." Lu also said that the doubling of apprenticeship grants would require "a funding shift from other training programs" because the presidents 2018 funding request "is flat."

"As Trump discusses job training," Lu added, "consider his last foray into this area: Trump University. That worked out well." During the transition Trump paid \$25 million to settle fraud claims against the venture while maintaining his innocence.

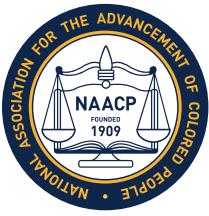
Today's executive order will direct agencies to review their job training programs, an administration official said, with the possible result that ineffective programs will be cut and the funds redirected toward apprenticeships.

White House officials also said they are working with Congress to allow students to use federal student aid for apprenticeship programs in addition to four-year universities.

"This is not in any way a negative comment on traditional four-year university education," the White House official said. "What this is about is choice – that there shouldn't be a one-size-fits-all education for the American worker, that there should be multiple pathways for workers to decide what is the best answer for them."

NAACP Washington D.C. Bureau Issue Updates

Frequently the Washington Bureau releases policy updates on specific issues. These are two issue updates specifically related to ESSA.



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ISSUE UPDATE

DATE: August 31, 2017
TO: Concerned Parties
FROM: Hilary O. Shelton, Director, Washington Bureau

President Obama Signs Every Student Succeeds Act Into Law

NEW LAW REAUTHORIZES CRUCIAL ELEMENTARY AND SECONDARY EDUCATION ACT
THROUGH FISCAL YEAR 2020

THE ISSUE:

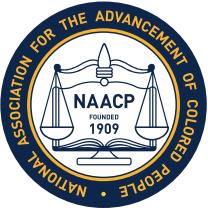
On 12/10/2015, at a White House ceremony, President Obama signed into law the final version of S. 1177, the *Every Student Succeeds Act*, otherwise known as the reauthorization (or updating) of the Elementary and Secondary Education Act (ESEA) or No Child Left Behind. President Obama's signature follows passage of the final version of the bill by the U.S. House on 12/2/2015 and on 12/9/2015 the U.S. Senate passed the same bill.

Although the *Every Student Succeeds Act* does not fully meet all of the goals promoted by the NAACP in some areas, including a strong federal role or sufficient resources being authorized to educate our children, this bill is an improvement on the legislation that passed the House and Senate and will better serve the most vulnerable students than current law.

The original ESEA was signed into law in 1965 by President Johnson, who stated that "full educational opportunity" should be "our first national goal." As originally envisioned, the ESEA provided federal grants to state educational agencies to improve the quality of elementary and secondary education. In 2002 Congress reauthorized ESEA and President George W. Bush signed the law, giving it a new name: No Child Left Behind (NCLB). While NCLB put in place measures that exposed achievement gaps among traditionally underserved and vulnerable students and their peers, the law is long overdue to be updated.

The *Every Student Succeeds Act of 2015* builds on past versions of the ESEA / NCLB law while addressing some of the key challenges currently being faced. Included in the final version of the legislation are provisions which:

- Puts in place new assessments, accountability, and improvement systems that will close achievement gaps with evidence-based strategies that meet the unique needs of students and schools;
- Requires states to set high standards for all children;
- Requires meaningful state and local action in every school where students - or any subgroup of students - aren't learning. It requires that any action taken to support school improvement is driven by student outcomes - and that poverty can't be used as an excuse for not stepping up to better serve students;
- Supports teachers and school leaders with resources and professional development;
- Provides dedicated funding to improve student access to critical support and community services and improved technology in our nation's most disadvantaged schools;
- Helps states and school districts reduce the overuse of exclusionary discipline practices by allowing funding to be used for Youth PROMISE plans;
- Drives federal dollars to the schools and communities that need them the most. It requires transparent reporting of data to ensure schools are responsible for not only the achievement of all their students, but also for the equitable allocation of resources to support student learning. States and districts will be required, for the first time, to address resource inequities in school improvement;
- Recognizes the importance of early learning by authorizing a program to ensure our nation's most vulnerable students aren't starting kindergarten late;
- Ensures the federal government maintains authority to implement the law and to hold bad actors accountable for not complying with federal law.



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ISSUE UPDATE

DATE: August 31, 2017
TO: Concerned Parties
FROM: Hilary O. Shelton, Director, Washington Bureau

Crucial NAACP-Supported Youth Promise Act Provisions Included In New Elementary And Secondary Education Act (ESEA) Law

THE ESEA REAUTHORIZATION, THE EVERY STUDENT SUCCEEDS ACT, ALLOWS FUNDING FOR
PROGRAMS TO HELP VULNERABLE AND AT-RISK YOUTH

THE ISSUE:

On December 10, 2015, President Obama signed the *Every Student Succeeds Act* (*ESSA*) into law. This legislation reauthorizes (or updates) the *Elementary and Secondary Education Act* (*ESEA*), more recently known as *No Child Left Behind* (*NCLB*).

Although there are areas of the *ESSA* that fall short of the goals promoted by the NAACP including a stronger federal role and sufficient resources being authorized to educate our children, this bill is an improvement on the legislation that passed the House and Senate and will better serve the most vulnerable students than current law. One provision of the *ESSA* which was strongly supported by the NAACP was that the new law helps states and school districts reduce the overuse of exclusionary and often discriminatory discipline practices by allowing funding to be used for Youth PROMISE plans.

Specifically, provisions in the *ESSA* will help improve the success of youth involved in the juvenile justice system and strengthen reentry outcomes by providing increased access to education and supports upon reentry. Under the law, states receiving funding for prevention and intervention programs for children and youth who are neglected, delinquent or at risk, must promote:

- Smoother transitions into juvenile justice facilities, including records transfer, better planning and coordination of education between facilities and local education agencies, and educational assessment upon entry into a correctional facility, when practicable;
- Strengthened reentry to the community, including requiring education planning, credit transfer, and timely re-enrollment in appropriate educational placements for youth transitioning between correctional facilities and local educational agencies and programs, and requiring correctional facilities receiving funds under the law to coordinate educational services with local educational agencies so as to minimize education disruption;
- Opportunities to earn credits in secondary, postsecondary, or career/technical programming, and requiring transfer of secondary credits to the home school district upon reentry;
- A prioritizing achievement of a regular high school diploma; and
- Services for youth who have had contact with both the juvenile justice and child welfare systems.

These provisions were originally contained in the Youth PROMISE Act, legislation which was strongly supported by the NAACP and has, for years, been introduced and championed by Congressman Robert "Bobby" Scott (VA-3), who in the 114th Congress is the Ranking Minority Member on the House Education and the Workforce Committee. The Youth PROMISE Act allows communities facing the greatest youth gang and crime challenges to develop evidence-based responses to the elements which lead to youth problems and help stop them before they take hold.

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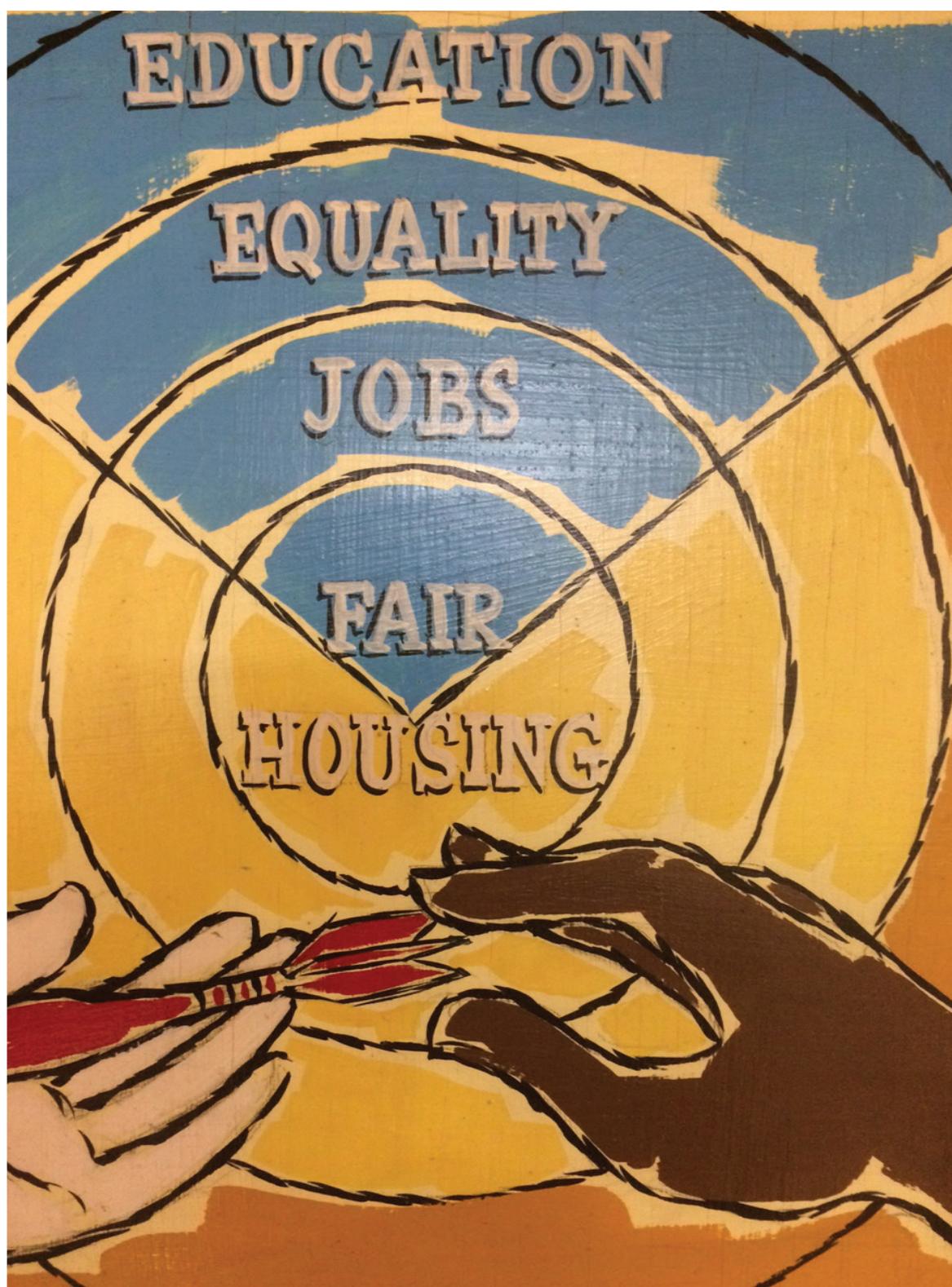
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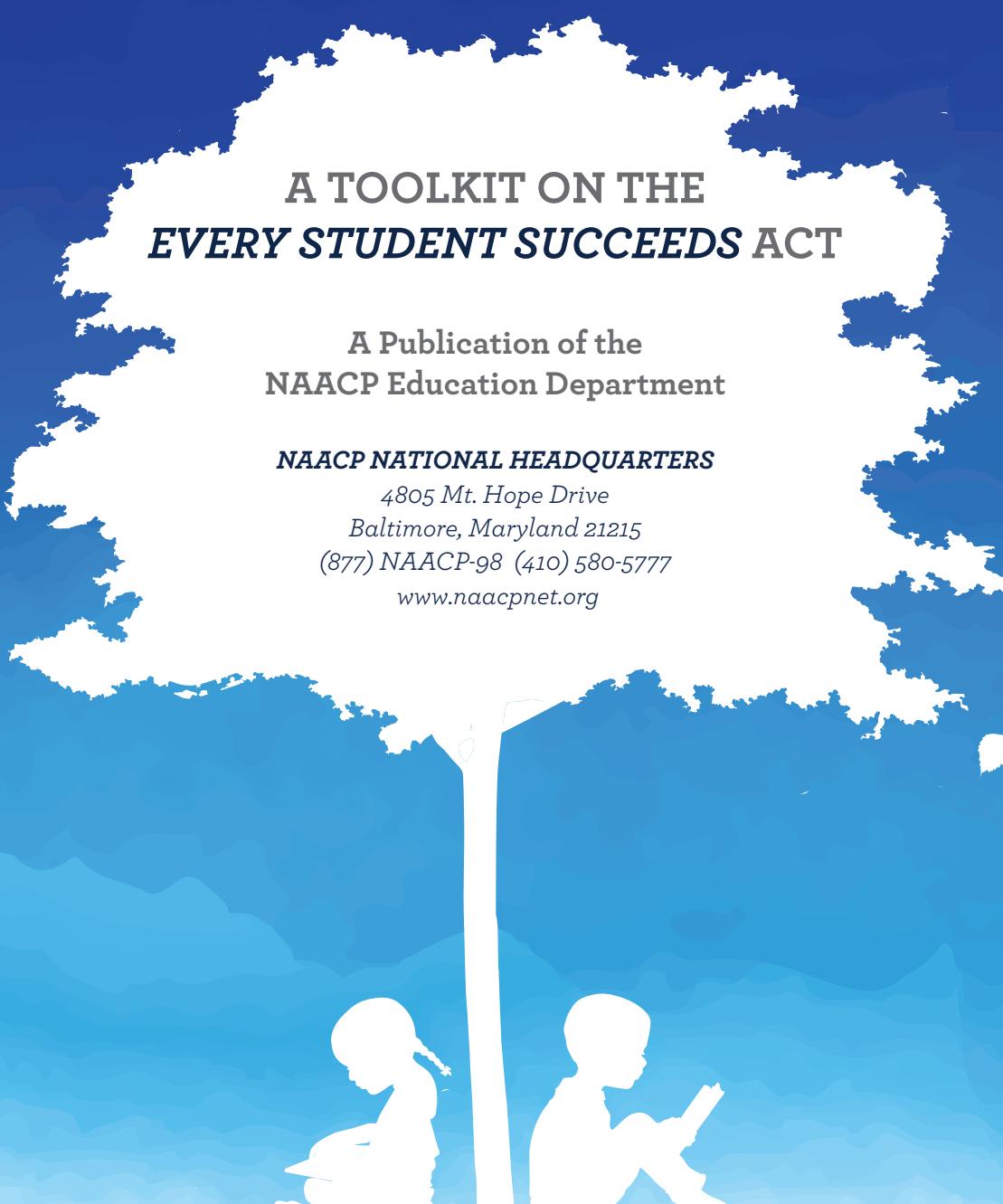
NOTES



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