



**CCSESA**

## California County Superintendents Educational Services Association

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September 8, 2016

Jessica McKinney

U.S. Department of Education

400 Maryland Avenue, SW Room 3W107

Washington, DC 20202

**RE: Docket ID ED-2016-OESE-0053**

Dear Ms. McKinney:

On behalf of the California County Superintendents Educational Services Association (CCSESA), a statewide association representing all California county superintendents of schools, I am writing to provide comments on the Department of Education's proposed regulations implementing the Every Student Succeeds Act (ESSA). We appreciate this opportunity to share a local perspective on the regulations that will implement this important new law.

CCSESA believes that the passage of ESSA was a substantial step towards helping California implement an aligned federal and state accountability system. By allowing states greater flexibility, the new law provides an important opportunity to avoid the unintended problems created when prescriptive federal law is superimposed on schools with very different characteristics.

While we are encouraged by the direction of ESSA, we are concerned that a number of the proposed regulations released by the Department do not comport with the spirit of flexibility intended by the legislation. Specifically, the following proposed regulations are of concern:

#### Alternative Assessments for Students with the Most Significant Disabilities

- IEP team discretion: The proposed regulations would require state-established guidelines that limit an IEP team's ability to make decisions based on students' individual needs. Although CCSESA recognizes that the statutorily-imposed 1% cap on alternative assessments presents a difficult problem, we strongly believe that this arbitrary cap should not dictate whether a student is eligible to take the alternative assessment. A student's IEP team is the only suitable body to determine which test is appropriate for the student and their discretion must not be circumscribed by guidelines that are enforced, without consideration for the student's abilities, to ensure that an SEA does not exceed the cap on alternative assessments. This proposed regulation would re-establish precisely the kind of measures and sanctions that the ESSA legislation sought to correct— top-down measures that limit a school's ability to serve the individual needs of students.
- Training on administration of assessments: As one of the primary educators of students with moderate to severe disabilities, county offices of education are largely responsible for administering alternative assessments in California. Although we appreciate the Department's desire to ensure that our staff is sufficiently trained in the administration of assessments and the use of accommodations, we are troubled by the mandate requiring statewide training of specific personnel. No two county offices are alike and while some county offices of education utilize paraprofessionals to administer assessments, others do



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not. CCSESA supports requiring staff who administer assessments to receive training; however, we believe that it should be left to the LEA to determine which staff members require training based on who the LEA actually utilizes to administer assessments.

- Grade-based assessments: Sections 1111(b)(2)(B) and (D) of ESSA clearly indicate that students with the most significant disabilities should be assessed according to the challenging state academic standards and the alternative academic achievement standards adopted by the state. In addition, Section 1111(b)(2)(J) on adaptive assessments explicitly states that students with the most significant cognitive disabilities are exempt from measuring proficiency based on grade-based standards. However, the proposed regulations go beyond the scope of the statute by requiring that students with the most significant cognitive disabilities take assessments that are “aligned with... the grade in which the student is enrolled.” Even with significant accommodations, grade-based assessments would be defeating and humiliating for our students with the most significant cognitive disabilities, not to mention being an ineffective measurement of a student’s actual knowledge and academic growth. CCSESA supports the administration of alternative assessments that are aligned with the challenging state academic standards; however, we believe it is inappropriate and beyond the scope of the legislation to mandate that alternative assessments are grade-based.
- Waiver applications: Given the restrictiveness of the cap on administration of alternative assessments, CCSESA anticipates that California will need to seek a waiver of the 1%. CCSESA believes that appropriate assessments (based on a student’s cognitive abilities) play a particularly important role in assisting special education teachers to measure the growth and academic potential of students with the most significant disabilities. Waiver requirements should avoid being so burdensome that they discourage SEAs from seeking flexibility to allow LEAs to test all students with the most significant cognitive disabilities.
- Reporting requirements: The proposed regulations include reporting requirements that are not found in ESSA legislation. Every year, LEAs and SEAs are required to report a huge amount of data in order to be eligible for ESSA funding. Because of the financial and administrative burden that this places on limited school resources, CCSESA opposes any data reporting requirements that go beyond the scope of congressional intent.

We appreciate this opportunity to provide input on these important regulations that will have a substantial impact on California’s schools and students. If you have any questions regarding our concerns or would like additional information, please do not hesitate to contact me directly.

Sincerely,

Peter Birdsall  
Executive Director