# Analysis of Tennessee's First Draft ESSA Plan

This document provides an analysis of Tennessee's first draft of the Every Student Succeeds Act (ESSA) consolidated state plan to be submitted to the U.S. Department. of Education (USEd) in 2017. The draft plan was released on December 19, 2016 and is available at https://tn.gov/assets/entities/education/attachments/ESSA_Draft_Plan_Full.pdf.

There are two ESSA town hall meetings scheduled for January 6th (Chattanooga) and 11th (Bristol). You can register for them at https://tnedu.wufoo.com/forms/r18ww87006vikvf/?mc_cid=a5ddd715cc&mc_eid=%5BUNIQID%5D

An online feedback form is available at: https://stateoftennessee.formstack.com/forms/essa_draft_plan_feedback. **Feedback on the draft plan will be accepted until January 31, 2017.**

ESSA questions and comments may also be submitted via email to Eve Carney, Deputy Director, Consolidated Planning and Monitoring at eve.carney@tn.gov.

Comments on this draft plan will inform the final plan. It appears that Tennessee intends to submit the plan to the USEd in April after it is reviewed and approved by the Tennessee Department of Education (TDOE) between February and March 2017. The state must provide for a comment period of at least 30 days prior to submitting the final plan to USEd (§299.13). You should request that any changes made to this draft plan appear in redline in a version of the final plan (or subsequent draft plan) to be shared with the public. You should also request that TDOE use the Consolidated State Plan Template provided by the USEd to make it easier for the public to find required information. The template is available at http://www2.ed.gov/policy/elsec/leg/essa/essa-consolidated-state-plan-final.docx.

States have two possible submission dates for their ESSA plans – **April 3, 2017** or **September 18, 2017**. The U.S. Department of Education has asked that each state notify its Office of State Support (OSS) program officer via the state mailbox by **January 10, 2017**, indicating the date the state will submit its consolidated state

plan or individual state plans. You should ask TDOE the date that it will submit its plan to USEd.

The analysis and recommendations in this document focus on those issues most critical to subgroup accountability and to students with disabilities. The page numbers referred to in this document reflect the page number noted on the bottom of the pages of the draft plan, not the pdf page number.

Citations are to Final Regulation: Accountability, State Plans, and Data Reporting and Final Regulation: Assessments under Title I, Part A.

**Tennessee's Opportunities under ESSA (pages 5-6):**
It is a positive approach that TDOE has chosen to highlight the opportunity to address the needs of ALL students. It will be important to ensure that TDOE's actions match these words on page 6:

"**Opportunity Two: Attend to the needs of all students in pre-K–12—especially historically disadvantaged students—so they can experience success after high school.**
It is our responsibility to close our achievement gaps so each child—regardless of their race, gender, socioeconomic status, or zip code—receives a world-class education. Through supporting the whole child and the environment in which he or she learns, we will promote equity and excellence for all of our students, including students with disabilities, racial and ethnic minorities, English learners, and economically disadvantaged students." This is an admirable goal which seems seriously compromised by TDOE's declaration that certain schools will not be included in the accountability system (more about this under School Accountability)

**Consultation and Stakeholder Engagement (pages 6-10)**
The draft plan indicates there have been extensive opportunities for stakeholders, including those from the disability community, to provide input on the plan development. **If you don't agree that TDOE has engaged your organizations in meaningful consultation, you should let them know and request greater involvement.**

**State Plan Coordination (page 11)**
It is promising that TDOE recognizes in the plan that divisions, such as Federal Programs and Special Education, should no longer work separately in silos. The State Systemic Improvement Plan (SSIP), which every state must have under IDEA, is discussed in the Students with Disabilities section of the draft plan (beginning on page 169), but there is no explanation for how it fits in with the rest of the ESSA plan. ESSA requires the state to assure that it has coordinated its ESSA plan with the IDEA and many other federal statutes (§299.14 (c) (1)).

**Alternate Achievement Standards (page 21 and page 32)**
Under alternate achievement standards the draft plan acknowledges that all students must be assessed on their mastery of grade-level standards. This is important. It would be even better if the language referred to enrolled grade-level standards, which is language from the federal regulations, to be clear this doesn't refer to a lower grade.

The draft plan also states the following: "Students who participate in the alternate assessment system receive core instruction which is modified to provide students the opportunity to access and participate in rigorous instruction—based on a student's IEP." The language "based on a student's IEP" raises a concern. If "based on the IEP" is referring solely to accommodations and modifications/adapted materials that are written into the IEP, there is no problem. However, this language should not be interpreted to limit the curriculum for these students to subjects addressed in IEP goals. The IEP goals serve to help students be included in and participate in the same enrolled grade curriculum used for all other students—in every subject area.

**Alternate Academic Diploma, Occupational Diploma and Special Education Diploma (pages 25-26)**
The draft plan states that TDOE plans to develop an alternate diploma for students who take alternate assessments and to count students who receive this diploma as if they graduated from high school with a regular diploma for purposes of calculating graduation rate. The plan describes the requirements for such a diploma as set forth in ESSA. It is critically important to ensure that this diploma meets the rigor required by the statutory description. It is also important to note that under ESSA students who take alternate assessments cannot be precluded from attempting to complete the requirements of a <u>regular</u> high school diploma and should not be tracked into an alternate diploma too soon. The same is true for the occupational and special education diploma. An alternate diploma also doesn't end eligibility for IDEA services the way a regular high school diploma does, if received before the end of the year in which the student turns 22. This distinction from a regular diploma is acknowledged in the section on special education diplomas but should also be mentioned in the sections on occupational and alternate academic diplomas.

TDOE also discusses an occupational diploma and a special education diploma available to students with disabilities (page 25). Neither of these "diplomas" should be counted as a regular diploma for graduation rate purposes (neither in the adjusted cohort graduation rate (ACGR) nor the exiting data that states are required to report under Section 618 of IDEA. However, the Tennessee graduation rate for students with disabilities – reported to be 71.8 percent in 2015-16 (page 44) – seems quite high if the state is only counting students with disabilities who satisfy the requirements and are awarded the state's *regular* high school diploma. It would be helpful to know the graduation rates for each of the diplomas available to students with disabilities (regular, occupational, special education) in order to ensure the state's reporting is accurate and does not reflect students who are awarded an occupational diploma. Alabama was recently cited for reporting

occupational diplomas in its ACGR – see
http://www.al.com/news/index.ssf/2016/12/alabamas_graduation_rates_3rd.html

**Universal Design for Learning and Assessments**
ESSA and its regulations require that all assessments under the Act be developed, to the extent practicable, using the principles of universal design for learning (UDL). The draft plan does not directly address this requirement at all and TDOE should be asked to do so in the next version with respect to all required state assessments. On page 27 the plan says that Tennessee is using the Multi-State Alternate Assessment (MSAA) to assess students with the most significant cognitive disabilities in math English language arts. MSAA was developed using UDL principles.

**Alternate Assessment (page 32-33)**
There is a confusing sentence in the plan, which says: **"**Tennessee's assessment program will provide for alternate assessments based on grade-level academic achievement standards and alternate assessments based on alternate assessment targets for students with the most significant cognitive disabilities, consistent with 34 C.F.R. § 200.6(a)(2)." This sentence makes it sound like there are two different types of alternate assessments. Tennessee has never developed an alternate assessment on grade-level academic achievement standards, has not indicated its intent to do so in the future nor includes such an assessment in the decision flowchart on page 270. Advocates should ask for clarification of this statement and for the reference to alternate assessments based on grade-level academic achievement standards to be eliminated.

The plan says alternate assessments are designed for students with significant cognitive disabilities. However, the law states that they are designed for students with the MOST significant cognitive disabilities**.** This distinction is very important to ensure that an alternate assessment is not used for the wrong students.

Your state is required to define the term "most significant cognitive disabilities" in its guidelines for IEP teams. There is no requirement to discuss this definition in the ESSA plan. However, some states have done so and that provides an opportunity for public input. See recommendations for this definition on page 6 of the NDSC State Plan Advocacy Guide http://www.ndsccenter.org/wp-content/uploads/ESSA-State-Plan-Advocacy-Guide.pdf. This guide also will help you understand a wide array of issues related to ESSA state plan development.

Parameters in the federal ESSA regulations for the state definition of students with the most significant cognitive disabilities are pasted below:
(The connection to grade-level state academic content standards is highlighted in bold).

> "…a State definition of 'students with the most significant cognitive disabilities' that would address factors related to cognitive functioning and adaptive behavior, such that

(i) The identification of a student as having a particular disability as defined in the IDEA or as an English learner must not determine whether a student is a student with the most significant cognitive disabilities;

(ii) A student with the most significant cognitive disabilities must not be identified solely on the basis of the student's previous low academic achievement, or status as an English learner, or the student's previous need for accommodations to participate in general state or districtwide assessments; and

**(iii)** Students with the most significant cognitive disabilities require extensive, direct individualized instruction and substantial supports **to achieve measurable gains on the challenging state academic content standards for the grade in which the student is enrolled."**

Although the alternate achievement standards on which the alternate assessment is based are supposed to provide "access" to the general education curriculum, ESSA also requires states that have an alternate assessment to promote involvement in and progress in the general education curriculum and not preclude students who take an alternate assessment from attempting to meet the requirements of a regular high school diploma. **This language that goes beyond "access" is very important and is a significant change from the past regulations on the alternate assessments.**

Another important point regarding alternate assessments is that ESSA limits the number of students who can take an alternate assessment to 1% of all students assessed (approximately 10% of students with disabilities). An appropriate definition of "students with the most significant cognitive disabilities" and strategies/accommodations policies to ensure the cap is not exceeded are important. You should request that these issues get addressed in the next version of the plan.

**State Report Card (page 45) (§200.30)**
ESSA requirements for the annual state report card greatly expand upon prior requirements. On top of the required information, TDOE plans to add a significant amount of data (articulated in the table appearing on pages 45-47). This additional data will make the TDOE state report card extremely lengthy and make it difficult for parents to understand the relative importance of its elements.

**Minimum Subgroup ('n') Size (page 47)(§200.17)**
ESSA requires states to establish the minimum subgroup size for two purposes: accountability and reporting. While ESSA requires the minimum subgroup size to be the same for all student subgroups and for all purposes of the statewide accountability system, it allows states to set a lower 'n' sizes for purposes of reporting.

***Accountability:*** For accountability purposes, TDOE says it will continue to use the minimum 'n' size of 30 students.

The accountability 'n' size determines how many schools in the state will **not** be held accountable for the disability subgroup, and how many individual students with disabilities will be **left out** of the accountability system.

For accountability in achievement on state assessments, if a school does not have a number of students with disabilities equal to or greater than the 'n' size in the assessed grades, many requirements of ESSA for the disability subgroup won't apply. For example, if the 'n' size is 30 and the number of students with disabilities in the combined grades being assessed at a school is 29, the school will not be identified for a targeted support and improvement plan even if the subgroup is consistently underperforming (as would be required in schools where the 'n' size has been met or exceeded). For accountability in graduation, if a high school does not have the number of students with disabilities in the graduating class, the school will not be held accountable for the graduation rate of these students.

To fully understand the impact of the proposed 'n' size of 30 you should ask for data on the number of schools that won't have to include the disability subgroup in the accountability system at various 'n' sizes (such as, 10, 15, 25, 30) as well as the number and percentage of all students and students in each subgroup who will be left out of accountability for both assessment and graduation (this information is required to be submitted in the state plan by federal regulation §200.17). See the Ohio Department of Education's Topic Discussion Guide for examples of the data simulations for both assessment and graduation. TDOE should provide similar simulations. Decisions regarding 'n' size should be guided by these simulations and the state must attempt to use an 'n' size that will result in the most schools being held accountable, as directed by the federal regulations §200.17(a)(1)(ii).

All this data will help you argue that TDOE should lower its 'n' size for all purposes to 10 or lower. There are studies supporting this recommendation at https://nces.ed.gov/pubs2011/2011603.pdf and http://all4ed.org/wpcontent/uploads/2016/06/NSize.pdf.

TDOE also states: "This (n size) is also considered a best practice from a statistical basis to minimalize potential sampling errors." This statement should be challenged since results are not derived from "samples" but rather from the entire student population, hence the requirement for at least 95 percent participation in assessments. The only method for determining reliability is test measurement error (see *Confidentiality and Reliability Rules for Reporting Education Data* at http://www.espsolutionsgroup.com/espweb/assets/files/ESP_Confidentiality_Reliability_ORG.pdf for further discussion)

***Reporting:*** TN states: "for reporting purposes, it will reduce 'n' size to 10 students." Reporting is just that – reporting for informational purposes with no linkage to accountability. Advocates should question why TN feels that an 'n' size of 10 is appropriate (i.e., statistically reliable and protects confidentiality) for reporting purposes but not for accountability purposes.

In conclusion, setting minimum subgroup size is a highly consequential decision, particularly as it relates to the students with disabilities subgroup. Inclusion in this subgroup is driven by subjective decisions regarding special education eligibility. It has been documented that the potential exists for schools to manipulate their special education population in order to keep the subgroup under the 'n' size, thus avoiding accountability for this group of students. Thus, advocates are encouraged to make the setting of minimum subgroup size a top priority in ESSA state planning.

**Long-term goals and interim measures for accountability (§200.13)**

Long-term goals and interim measures must include, at a minimum:

- academic achievement measured by the percentage of students attaining grade-level proficiency on the state assessments required by ESSA in math and English language arts,
- graduation rate must be based on the four-year adjusted cohort graduation rate (ACGR). **A state MAY establish long-term goals and interim progress for extended-year cohort graduation rates such as five-year cohorts (to capture students who take longer to graduate) as long as such goals are more rigorous than the goals set for the four-year adjusted cohort graduation rate.**
- English language proficiency.

Except for English language proficiency, the goals and interim measures must be set for all students and separately for each subgroup of students (including the disability subgroup).

ESSA also states that for students who are behind, the goals and interim measures of progress must take into account the improvement necessary to make **significant progress** on closing statewide proficiency and graduation rate gaps. See this paper for information on goal setting: https://edtrust.org/students-cant-wait/setting-goals-accountability.

**Subgroups (page 54)**:
The subgroups listed in the draft plan are:

- All students
- Black/Hispanic/Native American students (BHN)
- English learners (EL)
- Students with disabilities (SWD)
- Economically disadvantaged students (ED)

- Super subgroup (refers to BHN, EL, SWD, and ED as a combined group, counting any student only once)

TDOE's plan to use the combined performance of Black/Hispanic/Native American students (BHN) for **accountability purposes** is not permitted under ESSA. While this may have been approved under Tennessee's ESEA waiver, it is clearly not allowable under ESSA.

ESSA requires the state's long-term goals and measurements of interim progress, measuring performance on each indicator, and annually meaningfully differentiating schools and identifying schools in need of comprehensive and targeted support and improvement must include (§200.16):

- all public school students
- economically disadvantaged students
- students from each major racial and ethnic group
- children with disabilities as defined by IDEA
- English learners

TDOE provides extensive data on why it proposes to combine Black/Hispanic/Native American students, noting that a significant number and percentage of schools would not have the requisite number of students in *each* of these racial/ethnic groups to be held accountable. However, another solution to this problem would be to lower the 'n' size to 10. The state should be asked to provide similar information as that provided at the top of page 48 if the 'n' size was lowered to 10.

TDOE's plan to use a "super subgroup," which will include any student who is a member of any one of the four focus subgroups—ED, SWD, EL, and BHN in lieu of the required subgroups – is also not permitted under ESSA for accountability purposes. Use of "super subgroups" was allowed in some state waiver and subsequently found to mask the performance of individual student subgroups. For this reason, Congress expressly prohibited the use of super subgroups in ESSA for accountability purposes. As with the use of a combined Black/Hispanic/Native American subgroup stated above, the problem that the use of a super subgroup is intended to address ("in instances when schools do not meet the threshold n-count for any one of the four aforementioned subgroups, they will be accountable for student performance in that subgroup through the "super subgroup", which will include any student who is a member of any one of the four focus subgroups—ED, SWD, EL, and BHN" at page 47) is more appropriately addressed by lowering the accountability 'n' size.

TDOE's approach to goal setting for assessments (pages 41-42)"By 2024-25, Tennessee will achieve a 50 percent reduction in the number of students not meeting the on track or mastered level on the state's annual assessment" takes an

approach very similar to that allowed under ESEA Flexibility. Except in this case, the 50 percent reduction in non-proficient students takes 9 years. It is important to ask TDOE to commit to **maintaining** the goals and **refrain** from reformulating subgroup goals based on the subgroup's actual performance year to year. The practice of reformulating goals based on actual performance that fails far short of the goals serves essentially to make the goals meaningless.

The same holds true for the student subgroup goals for graduation. It should be noted that Tennessee's four-year ACGR for students with disabilities increased by a mere 3 percentage points over 5 years (67 percent in 2010-2011 to 70 percent in 2014-2015). Therefore the goals laid out for Tennessee's students with disabilities are extremely aggressive – another reason why the goals must be maintained instead of reformulating year after year based on actuals. (See http://www.advocacyinstitute.org/resources/SWD.ACGR2010-11-2014-15.pdf for five years of ACGR data by state.)

Counting Exited Students with Disabilities: If Tennessee plans to include former special education students in the disability subgroup for purposes of calculating the academic achievement indicator it must be noted in the plan (§299.17 (b)(2)(i)). Since the topic is not discussed, we are assuming that these students will **not** be included, which is a good decision. In the next version it will be important to check whether a section on including former students with disabilities is added.

**Reporting** (page 47): The TDOE draft plan states that "For transparency purposes, Tennessee will be reporting at the level of individual racial and ethnic groups, as well as lowering n-count to 10 for the purposes of reporting. The state report card will include the progress of all subgroups, including each racial/ethnic subgroup, and data will be disaggregated including progress against subgroup Annual Measurable Objective targets. We believe this addresses any concern that the performance of an individual racial or ethnic group could be masked by the performance of another in the aggregated group."

ESSA requires Annual State and Local Educational Agency (LEA) Report cards to report the results of the state assessments disaggregated by:

- each major racial and ethnic group;
- economically disadvantaged students as compared to students who are not economically disadvantaged;
- children with disabilities as compared to children without disabilities;
- English proficiency status;
- gender;
- migrant status
- Homeless status
- Status as a child in foster care

- Student with a parent who is a member of the Armed Forces on active duty or serves full-time in the National Guard

**District Accountability (Pages 52-58)**
ESSA neither requires nor encourages states to establish a district accountability system and to use that system to identify/grade district performance. Therefore, the purpose of TDOE's very complex district accountability plan is difficult to understand. While many aspects of the district accountability system raise questions, an analysis of the proposal is outside the scope of this document.

We would, however, add that the complexity of the TDOE district accountability plan is likely to stymie many parents, seriously limiting their ability to have meaningful family/parent engagement with schools. Parents made to feel that they lack the capacity to understand what is being proposed/implemented by a state educational agency will hesitate to engage with schools to avoid being embarrassed by school officials. In fact, parents of historically under-performing students – the students ESSA is intended to help – are likely those who will be most challenged to understand TDOE's district accountability plan. TDOE might consider holding some focus groups comprised of parents representing all student subgroups to test the level of understanding the district accountability plan will garner and the amount of intimidation parents are likely to experience in the process.

**School Accountability (Pages 58-62)**
The TDOE plan sets up a framework for meaningful differentiation of schools, but says it doesn't apply to "schools that only serve K–2 students, or adult high schools, or schools that only serve students with special needs and/or disabilities, or alternative schools, or CTE schools." Excluding any public schools (including charter schools) in the statewide accountability system is not permitted under ESSA (§200.12).

Just as each school must access at least 95 percent of all students and every student subgroup, all schools regardless of the population served must be included in the accountability system. Both of these provisions work to ensure that neither schools nor students can be systematically excluded in order to improve overall performance. Equally important to advocates for students with disabilities is the potential for students with disabilities to be funneled into schools that are excluded from the state's accountability system. Excluding "schools that only serve students with special needs and/or disabilities" would likely violate Section 504 of the Rehabilitation Act since doing so would deny students with disabilities in the excluded schools the same benefits as those that confer to students in the schools included in the accountability system, such as improved performance resulting from required improvement plans. ESSA does permit a state to develop a different methodology for use in annual meaningful differentiation of certain types of schools (see §200.18 (d)(1)(iii)) in order to include all public schools. Ensuring that ALL public schools are included in the Tennessee statewide accountability system must be a top priority as ESSA planning moves forward.

**Safe Harbor (page 60)**
TDOE intends to incorporate a "safe harbor" provision based on the Tennessee Value Added Assessment System in its system of differentiating schools. Safe harbor was a component of Adequate Yearly Progress (AYP) under the No Child Left Behind Act (NCLB) and was also incorporated into Tennessee's ESEA waiver (available at https://www.tn.gov/education/article/esea-waiver). However, ESSA's requirements for annual meaningful differentiation of school performance (§200.18) do not allow for a "safe harbor" provision.

**Test Participation (§200.15)**
The TDOE draft plan indicates that test participation is one of the factors for differentiation (bottom of page 60) stated as "Consequences for failing to meet **95 percent participation rate** requirement." However, the school accountability framework that follows (page 59) makes no mention of the requirement to assess at least 95 percent of all students and every student subgroup, nor does it put forward the consequences that will be applied to schools that miss the participation requirement (known as annual measurement of achievement under ESSA). ESSA federal regulations lay out several actions that can be taken in this case. States can adopt one of the actions or create another action that is sufficiently rigorous (See §200.15 (b)(2)) TDOE must be asked to articulate the "consequences" to be used when schools miss the participation requirement for all students and/or any student subgroup. The TDOE plan should also make clear that once a school falls below the 95 percent participation rate, students not assessed must be counted as non-proficient (§200.15 (b)(1)(i)-(ii)).

We do not believe that a school should get a *satisfactory* rating in the accountability system if this requirement is not met (rather than preventing the highest performance level). Advocates should keep in mind the impact of the participation rate requirement on students with disabilities. An approach that involves few consequences for failing this requirement would likely lead to widespread exclusion of historically underperforming subgroups-similar to the situation that existed prior to the No Child Left Behind Act (which was replaced by the Every Student Succeeds Act).

**Indicators for School Accountability (pages 61-62)**

**Importance of indicators used to meaningfully differentiate between schools:**
Certain indicators will be used to provide meaningful differentiation between schools for the accountability system. How well or poorly schools do on the measures for these indicators (for all students and each subgroup) will determine if they are identified for comprehensive or targeted support and improvement. The indicators will also be the basis for the information that is reported for each school, including a summative score. Most of the indicators and their measures are required by ESSA. Others are left to state discretion (states are required to add at least one

indicator of School Quality or Student Success). These distinctions are critically important.

The indicators to be used by TDOE to differentiate schools do not align with the requirements of ESSA. Issues include:

- **Achievement –** ESSA requires a measure of student performance on annual reading/language arts and mathematics assessments. The TDOE plan provides for two pathways for the achievement indicator, which conflicts with this ESSA requirement.
- **Graduation –** The graduation indicator is not included. ESSA requires one accountability indicator to be graduation as measured by the four-year adjusted cohort graduation rate (ACGR).
- **School Quality or Student Success** – TDOE proposes to use two indicators to satisfy the ESSA requirement for at least one indicator of school quality or student success:
    - **Readiness** - TDOE's plan states this indicator as "percent of Ready Graduates (who demonstrate the necessary skills for postsecondary and workforce readiness) meeting either ACT or EPSO (early postsecondary opportunities) criteria." If this indicator is intended to also satisfy the graduation indicator required above, it does not achieve such.
    - **Opportunity to Learn** indicator – This metric proposed for chronic absenteeism is difficult to understand, as no Annual Measurable Objective for this indicator has been included in the draft plan.

    ESSA requires that data for the indicators of school quality or student success must be able to be disaggregated for each required student subgroup.

    Advocates for students with disabilities should also pursue the use of disciplinary removals as an indicator since students with disabilities are disciplined at a much higher rate than their non-disabled peers. Data on out-of-school suspension rates by state are available at http//www.AdvocacyInstitute.org/resources/SWDOut-of-SchoolSuspension2011-2012.pdf. The TDOE draft plan indicates that discipline is under consideration for use *in the future* (page 65). Advocates should push for this to happen sooner rather than later!

    (For more information on the intricacies of selecting indicators of School Quality or Student Success please see: In Search of Unicorns: Conceptualizing and Validating the "Fifth Indicator" in ESSA Accountability Systems.)

The TDOE draft plan states: "Once grades are calculated for each indicator for each subgroup, those grades will be averaged for a subgroup grade for that indicator. The subgroup grades for each indicator will be combined to create the all subgroup average. The all student grade for each indicator will be combined to create the overall all student average. Combining all students and all subgroup averages will

determine the final overall school grade (A–D)" (page 61). ESSA permits states to average data across school years and/or across grades (§200.20) but **does not** allow averaging of subgroup performance for purposes of differentiation and identification of schools. Such a practice will invariably lead to a masking of the performance of individual subgroups and will not lead to focusing needed attention on the lowest performing subgroups.

The TDOE draft plan provides no information on the **weighting** of each of the accountability indicators. However, ESSA is quite clear and specific that academic accountability indicators must afford *substantial weight* to the following indicators and, in the aggregate, must afford *much greater weight* to the following indicators than to the indicator of school quality or student success (§200.08 (b)(1)):

- Academic achievement
- Academic progress
- Graduation rate
- Progress in achieving English Language Proficiency

The state's plan must articulate the **weighting** of the indicators. To leave out this critical information in a draft plan makes it impossible for stakeholders to evaluate the proposed accountability system.

We recommend that schools that would otherwise be identified for targeted or comprehensive support and improvement on the basis of indicators defined in ESSA, should not escape such identification as a result of the state-defined School Quality and Student Success indicators. The concern is that these indicators may not be sufficiently connected to academic achievement. It also is important that growth not count for more than academic achievement in the overall academic indicators. Growth that does not result in significant improvements in proficiency will not close achievement gaps. TDOE appears to be counting proficiency and growth equally.

**Identification of Schools for Comprehensive Support and Improvement (CSI) (pages 65-66)**

TDOE indicates that it will "continue to categorize our lowest performing five percent of *all schools* as "Priority schools" identified for comprehensive support." ESSA requires identification of the lowest performing 5 percent of *Title I* schools in the state. So, while it is admirable that Tennessee will expand its identification of schools for comprehensive support to all schools, the state must ensure that it identifies the lowest performing 5 percent of *Title I* schools.

**Identification of Schools for Targeted Support and Improvement (TSI) (page 65-66)**

TDOE states that it will continue to refer to the schools identified for targeted support and improvement as "Focus schools." "The Focus school list will be determined by reviewing the data for each of the four accountability subgroups—students with disabilities, economically disadvantaged students, students in

racial/ethnic groups currently performing below the state average (Black/Hispanic/Native American student), and English learners—**across all schools meeting the minimum n size**. In order for Focus schools to represent historically underserved student groups across all eligible schools, the Focus school list will be comprised from each subgroup proportionally. The department will review each school's subgroup average from the A-F framework indicators."

The impact of the state's proposed 'n' size becomes particularly critical in the identification of schools for targeted support and improvement and highlights the importance of having data revealing the number and percentage of schools that will not be held accountable for each student subgroup.

Additionally, the meaning of "In order for Focus schools to represent historically underserved student groups across all eligible schools, the Focus school list will be comprised from **each subgroup proportionally**" is unclear and deserves an explanation in order to understand the impact.

There is no provision in the law requiring the identification of a school for CSI after being identified for targeted support and improvement for multiple years due to one or more consistently underperforming subgroup(s). It would be helpful to suggest that TDOE add these schools (e.g. schools that have had one or more consistently underperforming subgroup(s) for 3 years) onto the list of schools that should be identified for CSI. ESSA certainly allows states to expand upon the schools identified for improvement. The TDOE plan says all focus schools (those needing TSI) can be identified for CSI if still underperforming after three years. It is not clear if that applies to schools with consistently underperforming subgroups (as opposed to TSI schools with chronically low-performing subgroups which do get CSI under the law). Hopefully it applies to all TSI schools. The plan creates some confusion by referring to consistently underperforming schools instead of schools with consistently underperforming subgroups.

Schools are supposed to be identified for TSI under ESSA if <u>even one subgroup is consistently underperforming or low-performing</u> (low-performing means the subgroup is performing as low as students in the lowest 5% of schools,). We recommend that a school be considered "consistently underperforming" if it has not met the state's long-term goals and interim measures for the subgroup for two consecutive years. The draft plan does not define the term "consistently underperforming." Advocates should push for a definition while there still is an opportunity for public input.

Schools should remain identified for TSI until they no longer meet the criteria for which they were identified (the draft plan seems to be in line with this recommendation) or until they get identified for CSI, as was recommended previously.

**School Support Strategies**

All the strategies in the plan for school support seem to be aimed at schools identified for CSI. There should also be consideration of how to support schools identified for TSI BEFORE they are in as dire condition as schools identified for CSI. The plan talks about effective and engaging instruction, which is something that can be achieved by UDL implementation.

**Personalized Learning (starting page 95)/UDL/Inclusive Education**
There are many pages about pilots associated with personalized learning and other ways to support excellent educators. However, nowhere in all these pages is there a mention of UDL implementation, which is the umbrella under which all these pilots should fall. Tennessee has UDL expertise at Vanderbilt University. See http://iris.peabody.vanderbilt.edu/module/udl/. Also, none of these pilots address building educator capacity for the successful inclusion of students with disabilities in general education classrooms, including those who take alternate assessments, in spite of decades of research on the importance of inclusive education on student outcomes. UDL and inclusive education best practices should be part of teacher preparation and professional development.

**School climate (page 118)**
The plan says: "School Climate refers to aspects of the school environment that make students feel valued, academically challenged, physically and emotionally safe, and connected to their school settings all of which are part of a well-rounded education." Inclusive education and the elimination of restraints and seclusion should be included in this section.

**Family and Community Engagement (pages 121-124)**
It is good to see that TDOE values family and community engagement. There are many activities listed in the four pages dedicated to this topic. Advocates should consider whether they meet the needs of the disability community.

**Response to Intervention (pages 124-127)**
RTI can be a valuable tool, but it needs to be done in the context of UDL. UDL implementation will ensure that students are not being evaluated as needing greater intervention when the instruction or assessment is not designed in a way that they can access the content and show what they know.

**Title I, Part D: Prevention & Intervention Program for Children & Youth who are Neglected, Delinquent, or At-Risk (page 154)**
TDOE indicates its intent to shift responsibility for the provision of educational services to children and youth in youth development centers and correctional institutions from the Tennessee Alliance for Children and Families (TACF) to school districts, requiring districts to align and integrate services to students in neglected and delinquent facilities with other students in the district.

Students with IEPs are overrepresented in juvenile justice facilities (see the National Technical Assistance Center for the Education of Neglected or Delinquent Children

and Youth at www.neglected-delinquent.org/ for state level data. Advocates should closely follow the shift in the entity responsible for delivery of services to students in TN's youth development center and correctional institutions in order to ensure that such students are getting the required services and are not experiencing limitations of services. More information available at http://www2.ed.gov/policy/gen/guid/correctional-education/index.html.

**Students with Disabilities (starting on page 169)**
This section indicates there is a lot of focus on students with specific learning disabilities. It is important to determine the degree to which the work being done is also used to benefit all students with disabilities. Also, it is important that initiatives for students with disabilities are coordinated with initiatives that are supposed to benefit all students and that they do not limit access to the general education classroom.

**Student Access to Highly Effective Teachers (starting on page 183)**
ESSA eliminated the "highly qualified" teacher requirements in IDEA for special educators. The statute only requires them to have a Bachelor's degree, which can be in any subject. To address this issue "special education teachers" who are not prepared for such roles with research-based instructional strategies in special education teacher preparation programs should be considered "out of field teachers." This should be addressed in the definition of the term on page 185. Also, there should be data collected on the degree to which students with disabilities are taught by ineffective, out of field, or novice teachers. Under the draft plan this will only be done for poor and minority students because that is what is federally required. Tennessee can and should do more. On page 186 TDOE says that the department is identifying and developing ways to better collect and share data to measure equity gaps for students with disabilities, which is a promising statement.

**High School & Bridge to Postsecondary (beginning page 235)**
There are 12 pages of initiatives to improve transition to postsecondary education or employment. ESSA is clear that students with disabilities, including those who take alternate assessments, are supposed to be on track to pursue these goals. Consider whether all the initiatives listed in the draft plan include students with disabilities and comment accordingly. The same goes for the pages of early learning initiatives and literacy programs.

Ricki Sabia
Senior Education Policy Advisor
National Down Syndrome Congress
PH: 301-452-0811
Email: ricki@ndsccenter.org
See ESSA resources at https://www.ndsccenter.org/political-advocacy (click on policy documents and webinar archives)

Candace Cortiella
Director
The Advocacy Institute
PH: 540-364-0051
Email: Candace@advocacyinstitute.org
See ESSA resources at www.advocacyinstitute.org/ESSA

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