



Questions for Nominee for the Assistant Secretary for Elementary and Secondary Education at the U.S. Department of Education

Hearing January 25, 2018

1. ESSA requires that states not preclude students who participate in an alternate assessment from attempting to meet the requirements of a regular high school diploma. However, many schools are saying the students won't be permitted any modifications of assignments if they are on diploma track. This practice defeats the point of the statutory provision because by definition students who participate in an alternate assessment work on enrolled grade content--but with substantial supports and adaptations and different expectations for achievement. Will you provide guidance to states to ensure they do not take these students off diploma track prematurely because of needed modifications/adaptations?
2. The Title I Part A assessment regulations, which were the product of negotiated rulemaking under ESSA, provide critical implementation guidance to states to ensure the purpose of the Act is achieved: "to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps." Are you willing to advocate against the changing or repealing of these regulations in the regulatory review process in order to ensure states use ESSA funding in accordance with this purpose?
3. The regulatory review process must be transparent and engage stakeholders to avoid the confusion and outcry that was the result of the recent rescission of guidance documents. Will you commit to improving the process going forward so stakeholders have a voice in any determination of whether guidance or regulations are considered to be outdated, unnecessary or ineffective?
4. Many of the state ESSA plans that have been approved by ED do not seem to comply with certain important guardrails in the Act. Specifically, states' definitions of schools with "consistently underperforming subgroups" indicate confusion regarding the difference between these schools and schools that need additional targeted support. Would you ensure that states are provided guidance on the distinction between these two categories of schools so they can adjust their methodology in compliance with the law?

5. Few states plan to impose significant consequences for failing the ESSA's test participation requirements, which can lead us back to the pre-NCLB behavior of excluding students who are likely to perform poorly. Will you commit to upholding the test participation requirements and monitor state compliance?
6. Many of the state ESSA plans are being approved with N sizes that will likely exclude large percentages of schools (and students) from subgroup accountability for assessment results, assessment participation and graduation rate data. Will you review the data for this year and work with states to lower N sizes to address this issue?
7. Universal Design for Learning (UDL) is a scientifically valid framework for creating and sustaining educational systems that are responsive to the needs of each learner, including the students in the many subgroups that are referenced in the Every Student Succeeds Act (ESSA), by offering multiple ways of engaging students, representing information and demonstrations of mastery. ESSA recognizes UDL as a best practice in numerous sections of the law. It is the umbrella that encompasses many other strategies such as personalized learning and is the underpinning for the successful implementation of other strategies, such as multi-tiered systems of support and PBIS. What would you do to encourage states to implement UDL in a robust way to ensure that the diversity inherent in all learners is addressed?