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Our Students. Their Moment.

For Emergency Action: Proposed Draft Commissioner's Regulations Related to New York's Approved ESSA Plan

**Presented to the Board of Regents
September 17, 2018**

To craft its ESSA plan, including accountability proposals, NYSED engaged with many stakeholders

- Includes representatives from over 100 organizations, including district leaders, teachers, parents, community members, and students
- Met at least monthly between June 2016 and July 2017

- Linda Darling-Hammond (Learning Policy Institute)
- Scott F. Marion (National Center for the Improvement of Educational Assessment)
- Pete Goldschmidt, Council of Chief State School Officers

- Across the state in coordination with the state's 37 BOCES and five largest city school districts
- 4,000+ students, parents, teachers, school and district leaders, school board members, and other stakeholders participated

Established an ESSA Think Tank

Engaged in extensive research and meetings

Consulted with national education experts

Met with the Title I Committee of Practitioners

Held 120+ fall and winter regional in-person meetings

Posted online survey stakeholder surveys

Including, but not limited to:

- U.S. Department of Education (USDE)
- Brustein & Manasevit law firm
- Experts made available through the Council of Chief State School Officers (CCSSO)

- Includes teachers, school and district leaders, school board members, parents, and representatives of other educational stakeholders
- Met 10+ times

- 2,400+ responses for the potential indicators of school quality and student success survey
- Survey collecting additional feedback on regional meeting topics

ESSA Regulations Timeline, To Date

January 2018

- USDE approves New York's ESSA Plan.

April

- At the April meeting, the Board of Regents approved posting the draft regulations for public comment.

June

- The Department presented the Board of Regents with a summary of the comments received through June 4, 2018 and resulting revisions to the regulations. The Board of Regents took Emergency Action on ESSA regulations.
- A subsequent 30-day public comment period for a revised rulemaking was concluded on August 17, 2018.
- NYSED began conducting regional 1.5 day trainings on the new ESSA Accountability system and the regulations adopted on an emergency basis in June, which continued through August. Representatives of almost 450 districts, including nearly 300 Superintendents, attended the trainings.

September

- Board of Regents presented with revised regulations, based upon public comment.
- The Department requests that the Board of Regents take Emergency Action to implement the revised regulations.

Overview of Public Comments

- **From May 9, 2018 through August 17, 2018, the Department received approximately 1,900 comments on the regulations.**
- **More than 1,400 of the comments were submitted as part of four form letter campaigns:**
 - ❑ Two of the form letters were submitted primarily by parents who underscored their right to opt their children out of participation in state assessments and their desire that schools and districts not be subject to accountability consequences because of opt outs.
 - ❑ A smaller third letter writing campaign was based on a form letter submitted primarily by teachers, who also wrote about opting out as well as regarding issues they believe should be addressed in collective bargaining agreements, not in regulations.
 - ❑ The fourth set of letters was the result of several stakeholder groups collaborating on a set of common comments.
- **The remainder of the comments came from individuals and additional stakeholder groups that frequently commented on very specific aspects of the regulations.**

Summary of Changes to Regulations: Participation Rate Requirements

- **Removed:** Provision that Commissioner could require districts to set aside a portion of their Title I funds to implement the recommendations of a state participation rate audit in schools that have failed to meet the 95% participation rate and show improvement for five years. Instead, the district must address findings of the state participation rate audit.
- **Revision:** A Targeted Support and Improvement (TSI) School or Comprehensive Support and Improvement (CSI) School that is implementing a participation rate improvement plan will be eligible for removal, as long as the accountability group(s) for which a plan is required is not performing at Level 1 on the Weighted Average Achievement Index.
- **Revision:** If an accountability group has a Weighted Average Achievement Index that is above the state average (Level 3 or 4), a school is not required to develop a participation rate improvement plan for that group, regardless of the group's participation rate.
- **Clarification:** If a school is implementing a participation rate improvement plan and has made progress in regard to meeting the 95% participation rate requirement, the school need only update its participation rate plan, not create a new annual plan.
- **Removed:** The Department has removed the provision allowing a school to be placed under preliminary registration review where excessive percentages of students fail to fully participate in the State assessment program

Summary of Changes to Regulations: N-size

- **N-size for Core Subject Performance Index**
 - **Revision:** A Core Subject Performance Index will be computed if an accountability group has for the current year and prior year combined a minimum of 15 results for continuously enrolled students and these results equal at least 50% of the results for the subgroup on the Weighted Average Achievement Index.
 - Previously, 30 results were required.
- **N-size for Graduation Rate Indicator**
 - **Revision:** If the number of Composite Performance results for a high school accountability group is equal to or greater than 30, a graduation rate level shall be computed, as long as there is a minimum of 15 students in that group's graduation cohort.
 - Previously, 30 students in the graduation cohort were required.

Summary of Changes to Regulations: Out-of-School Suspensions

- **Out-of-School Suspensions timeline clarified:**
 - 2017-18 school year results used as the baseline.
 - 2018-19 school year results used to report a Level 1-4 performance for each accountability group.
 - 2019-20 school year results used by districts to address in their consolidated application any schools that have an accountability group that performs at Level 1.
 - 2020-21 school year results incorporated into the methodology used to determine the accountability status of schools and districts.
 - Previously, the regulations were not specific regarding how this indicator will be phased in.

Summary of Changes to Regulations: School Interventions

- **Definition of School-level evidence-based intervention**
 - **Removal:** “Promising practice” provision has been removed as a result of USDE guidance to states.
- **Required Parental and Student Involvement in School Improvement Plan**
 - **Revision:** Strengthened language to make clear that the Department shall reject CSI plans that do not demonstrate meaningful participation from parents and secondary students in the process. Previously, the language said that the Department may reject plans and only referred to high school students.

Summary of Changes to Regulations: School Interventions

- **Principal Support Report and Principal Needs Assessment for CSI Schools**
 - **Revision:** Districts will create a principal support report to identify the needs of the school leadership team, not just the principal. The principal needs assessment will be a comprehensive review of how the district will support its school leaders.
- **Annual Achievement Progression (used to determine whether more rigorous interventions are needed in CSI schools)**
 - **Revision:** For elementary and middle schools, one way to make progress is to show improvement on both the Core Subject Performance Index and the Weighted Average Achievement Index. Previously only progress on the Core Subject Index was required.

Summary of Changes to Regulations: Participatory Budgeting

- **Requirements for Participatory Budgeting**

- **Revision:** Districts now have the option to implement the Participatory Budgeting Process or select from a list determined by the Commissioner of alternative forms of increasing parent and student engagement. Previously participatory budgeting was mandated.
- **Clarification:** The regulations have been clarified to specify that the additional amount to be spent on Participatory Budgeting is based on the school's first year allocation for Participatory Budgeting and does not continue to double or triple each year.

Summary of Changes to Regulations

- **District Report Cards**

- **Revised:** Examples provided of other appropriate information that districts and charter schools may add to their report cards including, but not limited to: school climate and safety; access to specific learning opportunities, such as physical education; and teacher turnover.
- **Revised:** To clarify that report cards and other information must, to the extent practicable, be translated into the languages most frequently spoken in the district.

- **Translations of Notifications**

- **Revised:** To clarify that districts must, to the extent practicable, translate parent notifications regarding identified schools into the languages most frequently spoken in the district.

Summary of Changes to Regulations

- **Accountability for New York City High Schools**
 - **Removed:** Provision that would make counties the unit for high school accountability, so that community school districts continue to be accountable for high schools that operate within their boundaries, as is currently the case.
- **Enrollment of Youth Released or Conditionally Released from Residential Facilities**
 - **Revised:** Juvenile detention facilities, as authorized by Executive Law Section 503, added to the list of facilities for the purpose of facilitating a student's effective educational transition into, between, and out of such facilities to ensure that each student receives appropriate supports, services, and opportunities.
- **Required Actions for Certain Schools under Registration Review (including schools in Receivership) that do not make progress.**
 - **Revised:** Provision removed that allows the Commissioner to direct the district to submit a plan to convert the school to a charter school.

ESSA Regulations Will Evolve

- As we have indicated all along, we will consider changes to the ESSA regulations as we move into implementation.
- Some comments and suggestions we have received will be considered for future action.

Next Steps

September

- If adopted by the Board of Regents, the proposed amendment as revised will become effective as an emergency measure on September 18, 2018.

October/
November

- Notice of Emergency Adoption and Revised Rulemaking to be published in the State Register on October 3, 2018.
- Public Comment on the revised rule will be open from October 3 through November 2, 2018.

December

- Proposed amendment, with any revisions necessary based on public comment, will be presented for permanent adoption at December Board of Regents Meeting.
- If adopted by the Board of Regents, the proposed amendment will be effective as a permanent rule on December 26, 2018.

Commenting Organizations

The Department received comments from organizations including, but not limited to, the following:

- Advocates for Children of New York
- Alliance for A Healthy Generation
- Bassett Research Institute for Rural Community Health
- Better Schools, Better Neighborhoods
- Buffalo Urban League
- Business Council of New York State
- Committee for Hispanic Children and Families
- Community Action Organization of Western NY
- Capital Region Chamber
- Democrats for Education Reform
- Educators 4 Excellence
- Good Shepherd Services
- Healthier School Campaign
- High Achievement New York
- Generation Citizen NYC
- Long Island President's Council
- New York Immigrant Coalition
- New York State School Boards Association
- New York State Allies for Public Education
- New York State Association of Career and Technical Educators
- New York State United Teachers
- NYC Save our Schools
- School Administrators Association of NYS (SAANYS)
- The Education Trust
- The Center for Educational Equity
- The Committee for Hispanic Children and Families
- The New York City Department of Education
- The New York Immigration Coalition
- The New York State Parent Teacher Association
- The Urban League of Rochester
- The United Way of NYC