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INSTITUTE

# Every Student Succeeds Act (ESSA)

## State Plan Review Guide & Advocacy Tips

*Paving the Way to Equity for  
Students with Disabilities*

June 2017

# Every Student Succeeds Act (ESSA) State Plan Review Guide & Advocacy Tips

## Background

At the end of 2015, the Every Student Succeeds Act (ESSA) replaced the No Child Left Behind Act (NCLB) as the federal law governing the education of all students, including those with disabilities. ESSA funding is provided to states in exchange for which they must follow the law's requirements and meet its purposes: to provide all children a significant opportunity for a fair, equitable and high-quality education and to close educational achievement gaps.

ESSA requires each state to develop a plan that describes the goals, indicators and other components of the state accountability system that will be used to identify schools that need targeted or comprehensive support and improvement and describes what the state will do to help schools improve.

A strong ESSA plan will help encourage meaningful IDEA implementation to support the disability subgroup.

## State ESSA Plan Submission Information

Title I Part A is the section of ESSA that contains the provisions describing how states are required to hold districts and schools accountable for the academic performance, English language proficiency and graduation rate of students, especially certain subgroups such as students with disabilities, and the details that must be described in the state ESSA plans. States may submit a separate Title I Part A plan to the U.S. Department of Education (ED) for approval or they may submit a consolidated plan that addresses requirements for Title I Part A, as well as requirements from other parts of the law (e.g. requirements to support teachers and students).

Sixteen states and the District of Columbia submitted plans to ED for approval in the April submission window. Those plans are available at <https://www2.ed.gov/admins/lead/account/stateplan17/statesubmission.html>.

The next submission date is September 18, 2017. So far, all the states that have developed plans are submitting them in consolidated form. There are two options for submitting consolidated plans. One option is to use the template (application) released by ED on March 13, 2017, which can be found under Templates at <https://www2.ed.gov/admins/lead/account/stateplan17/plans.html>. Another option is to use an alternate template that the state has developed with the help of the Council

of Chief State School Officers. Many of the states that submitted plans in April did not use the template released in March, but instead used the ED template from November 30, 2016. That template is preferable because it asks for more details than the more recent template. The November 2016 template is available at <https://www2.ed.gov/policy/elsec/leg/essa/essa-consolidated-state-plan-final.docx>

### **Tools to Help You Find ESSA Information for Your State**

The National Down Syndrome Congress (NDSC) has created a document in which plan development and stakeholder input information is provided for your state. If your state has posted a draft or final plan, you will find a link to the most recent version at [https://docs.google.com/document/d/1eKUcLDdsZwSwVbOsm\\_0C5YEsNapZB\\_oWBoQgnGhHMkA/edit](https://docs.google.com/document/d/1eKUcLDdsZwSwVbOsm_0C5YEsNapZB_oWBoQgnGhHMkA/edit).

In addition, NDSC and The Advocacy Institute (AI) have reviewed several state ESSA draft and final plans. Our analyses are posted at <https://www.advocacyinstitute.org/ESSA/ESSA-StateDraftPlanAnalysis.shtml>. Even if the analysis for your state is not for the most recent version of the plan, the analysis can be used to help you determine whether the problems discussed by NDSC and AI have been addressed in later versions.

### **State Plan Review Guide and Advocacy Tips**

This state plan review guide and advocacy tips are based on the most recent plan template released March 13, 2017. This NDSC and AI Plan Review Guide and Advocacy Tips document does not cover every part of the template. Instead, it focuses on those sections that have the greatest impact on students with disabilities.

States submitting plans to ED in September 2017 are likely to use the March template. However, you should encourage your state to include the additional information required in the November 2016 template, which covers the same main topics as the more recent template, but in much greater detail. The section numbers and letters in the discussion below correspond to the parts of the March template. In order to help you determine the most important parts of your state ESSA plan, we have highlighted certain sections of the template and in some cases certain tips, in **yellow**.

#### **A. Title I, Part A Improving Basic Programs Operated by Local Educational Agencies (LEAs)**

**Stakeholder Consultation.** It should be noted that the March 2017 template does not contain a section on Meaningful Stakeholder Consultation. It is critically important that your state plan discuss how it met the requirement in the law that state accountability plans be “developed with timely and meaningful consultation with teachers, principals, other school leaders, paraprofessionals, specialized instructional support personnel,

charter school leaders (in a local educational agency that has charter schools), administrators (including administrators of programs described in other parts of this title), other appropriate school personnel, and **with parents of children in schools served under this part.** Advocates should specifically request information on consultation with parents of students with disabilities and/or the organizations that represent them. Too often states have not engaged disability organizations such as the Parent Training and Information Training Centers ([www.parentcenterhub.org](http://www.parentcenterhub.org)) and groups representing disability organizations in the plan development process.

## 1. Challenging State Academic Standards and Assessments

This section of the template does not ask for much information on assessments, but advocates should encourage their state to provide additional information regarding statutory requirements. For example, the statute (the ESSA law) requires assessments to be developed, to the extent practicable, using the principles of universal design for learning (UDL) (ESEA section 1111 (b)(2)(B) (xiii)) and also requires states to describe in the ESSA plan the steps it has taken to incorporate UDL, to the extent feasible, in alternate assessments.

ESSA also places a cap (limit) on the number of students with the most significant cognitive disabilities who can take an alternate assessment that is equal to 1% of all students assessed. The alternate assessments are only to be used for students with the most significant cognitive disabilities—a term that each state must define for IEP team decision-making. This and other requirements of alternate assessments are covered in the Federal regulations on Assessments available at <https://www.gpo.gov/fdsys/pkg/FR-2016-12-08/pdf/2016-29128.pdf>. It is important to remember that Congress did NOT repeal these regulations, as is the case with the Federal regulations on Accountability, Reporting and State Plans. Therefore, states must comply with all aspects of the Assessment regulations.

### Advocacy Tips:

- Request that information about UDL and assessment be added to the state plan, at least with respect to the alternate assessments since that description is required to be in the plan.
- Request that the plan describe the steps the state will take to ensure it does not exceed the 1% cap. Additional information on this is available in this NCEO document at <https://nceo.umn.edu/docs/OnlinePubs/NCEOBrief12OnePercentCap.pdf>. According to NCEO, half of all states have been administering Alternate Assessments to more than 1% of students with disabilities.
- Although this will not likely be part of the state plan, ensure that any state discussion about the definition of “student with the most significant cognitive disability” includes input from the parents of students with disabilities. Make sure the definition reflects the fact that these students should be receiving instruction based on the academic content for the grade in which they are enrolled (even if

accommodations, adaptations etc. are needed). Otherwise, there is no way to know if a student is “a student with the most significant cognitive disability” or is simply not receiving adequate instruction.

#### **4. Statewide Accountability System and School Support and Improvement Activities**

##### i. Subgroups of Students:

ESSA contains many provisions that specifically apply to “subgroups,” including the reporting of data by subgroups (called “disaggregation”). These rules are very important because they apply equally to all of the student subgroups listed in ESSA, including the disability subgroup. The disability subgroup in ESSA is limited to students identified under the IDEA. Students covered only under Section 504 are not included in this subgroup.

In addition to students with disabilities, the subgroups that must be reported are economically disadvantaged students, students from major racial and ethnic groups and English learners. Fortunately, ESSA does not permit super-subgroups (where a number of subgroups are combined), which was permitted in many ESEA waivers approved by ED in the past few years. ESSA voided these waivers in August of 2016. However, some states are still trying to combine subgroups saying it helps meet the N-size (see N-size discussion below). However, the solution is to lower the N-size, not combine subgroups.

##### **Advocacy Tips:**

- To advocate on the many issues that affect all the subgroups, consider collaborating with organizations at the state and local levels that represent students in the other subgroups and students with other types of disabilities. Together you can have more influence and be more powerful!
- Look at the plan to see if the state is combining subgroups and advocate against this, especially if the N-size is higher than 10.
- Make sure the state plan does not include former students with disabilities in the disability subgroup. This practice was permitted under the ESSA accountability regulations that were repealed by Congress on March 9, 2017. However, some states are not removing this provision from their plans even though it is not permitted under the statute. This change is the only positive result of the repeal of the regulations.

##### **ii. Minimum N-Size:**

In order for data to be reported and counted in the accountability system for any subgroup (called “disaggregated” data), the combined number of students in the subgroup in the assessed grades at a school (e.g. grades 3 and up in an elementary school) has to consist of enough students to meet or exceed the N-size. Therefore, if the N-size the state selects is 30 and your child’s school only has 29 students with disabilities in the assessed grades (combined), the disability subgroup assessment performance will not be considered for accountability purposes and the school will not be identified for

targeted support and improvement, even if it would have received those supports had there been one more student in the subgroup. For graduation rate accountability there must be enough students with disabilities in the graduating class to meet the N-size. **It is important to note that the statute requires state plans to describe how this N-size was determined in collaboration with educators AND other stakeholders (e.g. parents).**

The N-size requirement is intended to protect the confidentiality of subgroup members (e.g. reporting assessment scores for students with disabilities if only two students with disabilities attend the school would likely reveal the identity of those students). In certain circumstances, the statistical reliability of the data is affected if the subgroup is too small (e.g. when determining the percent of students who are proficient on state assessments). Unfortunately, states have a tendency to select an N-size that is higher than necessary for these purposes, thereby excluding many schools from accountability for the disability subgroup and excluding many students with disabilities in the state from systemic accountability for their academic performance.

Over the years, the N-size used for accountability purposes (assessment data and graduation rate) has varied, depending on the state, from 5 to 200. There is no statistical reason why N-sizes should be this different across states; setting a high N-size is a way to avoid accountability for the performance of student subgroups. A 2006 study demonstrated that in states with an N-size over 20-30, significant percentages of students with disabilities are excluded from the accountability calculations.<sup>1</sup> A 2013 study using data from the 2008-2009 school year found that across 40 states, slightly more than a third (35 percent) of public schools were accountable for the performance of the students with disabilities subgroup, representing just over half (58 percent) of tested students with disabilities in those states.<sup>2</sup> Another study recommended a minimum N-size of 10 for purposes of confidentiality<sup>3</sup> (which is the only issue for reporting data on assessment, participation rate and graduation rate; minimum subgroup size for assessment accountability involves both confidentiality and statistical reliability so that N-size may be slightly higher).

### **Advocacy Tips:**

- Find out what your state is proposing for its N-size for the purposes of assessment performance, participation rate and graduation rate. All of this information should be included in the state plan.

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<sup>1</sup> The study can be found at <http://www.cehd.umn.edu/NCEO/onlinepubs/Synthesis61.pdf>. See first paragraph on page 12

<sup>2</sup> Institute for Education Sciences (2013), U.S. Department of Education, *The Inclusion of Students with Disabilities in School Accountability Systems*, retrieved at <http://ies.ed.gov/ncee/pubs/20134017/>

<sup>3</sup>Institute for Education Sciences, (2010), U.S. Department of Education, *Statistical Methods for Protecting Personally Identifiable Information in Aggregate Reporting* retrieved at: <https://nces.ed.gov/pubs2011/2011603.pdf>

- If the N-size exceeds 10, point out that a minimum subgroup size of 10 is recommended by the IES study for confidentiality purposes, and therefore should be no higher for reporting participation rate and graduation rate. For assessment performance purposes, you should raise concerns if the N size exceeds 20.
- Ask for information on the number and percentage of students who would be included (or excluded) from school-level accountability determinations due to this N-size, as well as the number and percentage of schools in the state that would not have to use the disability subgroup for accountability determinations due to this N-size. You should get this information for both assessment and graduation rate accountability. It is important data for transparency and for informed stakeholder involvement in the decision about N-size.

Examples of such information are presented below.

### Analysis of percentage of students included in accountability system at various N-sizes

**EXAMPLE**

	Sub-group	All Students	Students with disabilities	Econ. Disadvantaged	English learners	White	Black	Hispanic	Multiracial	Asian-PI	American Indian
	Total Tested	875503	128821	422402	21495	645361	130733	40161	39914	18265	1069
<b>N-Size</b>											
10		100.0%	98.8%	99.9%	80.3%	99.8%	96.8%	82.6%	81.6%	73.7%	2.8%
15		99.9%	96.1%	99.7%	71.9%	99.7%	95.0%	72.6%	68.6%	62.8%	1.5%
20		99.9%	91.9%	99.3%	64.1%	99.6%	93.1%	64.3%	56.4%	54.7%	0.0%
25		99.9%	85.6%	98.9%	58.4%	99.5%	91.3%	57.1%	45.0%	48.7%	0.0%
30		99.8%	78.3%	96.2%	51.8%	99.2%	89.7%	51.5%	37.6%	43.6%	0.0%

Using a benchmark of 95 percent of students statewide included in their schools' subgroup analysis, we can demonstrate how different N-sizes have different impacts. The **Green** shows if/where the 95 percent threshold is met (or the highest simulated base for this analysis). **Red** cells are percentages based on current policy that do not meet that threshold.

Source: <http://education.ohio.gov/Topics/Every-Student-Succeeds-Act-ESSA/ESSA-Stakeholder-Engagement/ESSA-Past-Webinars-and-Stakeholder-Meetings>



**Analysis of percentage of students and schools included in graduation rate accountability at various N-sizes**

**EXAMPLE**

**FIGURE 4.8: Graduation Rate Indicator**

Subgroup	Students Included	Total Students	Percent Included	Schools Included	Total Schools	Percent Included
All Students	210,889	210,914	99.99%	417	418	99.76%
Economically Disadvantaged	66,796	68,340	97.74%	358	413	86.68%
Students with Disabilities	30,518	32,286	94.52%	351	409	85.82%
English Learners	5,344	7,782	68.67%	101	337	29.97%
American Indian or Alaska Native	0	312	0.00%	0	157	0.00%
Asian	15,400	18,611	82.75%	190	386	49.22%
Black or African American	31,588	34,658	91.14%	270	414	65.22%
Hispanic/Latino	42,103	45,691	92.15%	346	418	82.78%
Native Hawaiian/Other Pacific Islander	20	433	4.62%	1	182	0.55%
White	108,654	109,658	99.08%	341	398	85.68%
Two or more races	128	1551	8.25%	16	284	5.63%

Source: NJ State Plan; n size of 20

iii. Establishment of Long-Term Goals: States must establish long-term goals with measurements of interim progress (like short-term objectives on IEPs) for all students, and separately for each subgroup, to improve, at a minimum --

- Academic achievement measured by reading/language arts and mathematics assessments in grades 3-8 and once in high school;
- High school graduation rates for the 4-year adjusted cohort graduation rate (ACGR). The state may also set goals for extended-year graduation rates (for students who take longer than 4 years to graduate), but those goals must be more rigorous than the goals for the 4-year ACGR;
- English Language Proficiency

The number of years in which the goals should be met must be the same for the “all students” group and for each subgroup and take into account the improvement needed to make significant progress in closing statewide proficiency and graduation rate gaps for subgroups who are behind on these measures.



The state plan must provide baseline data for each goal, the number of years in which the goals are to be met and the measures used for the long-term goals and measures of interim progress for each subgroup.

**Advocacy Tips:**

- Consider whether the number of years your state uses is unreasonably long to wait for the goals to be met. Some states have long-term goal periods that last up to 20 years.
- Check whether your state's goals close the gap between where students are now (baseline) and 100% proficiency or graduation rate. A gap-closing method for setting goals usually doesn't help students with disabilities that much because of how far behind they already are. For example improving the percentage of non-proficient students with disabilities by 50% when a state starts out with a 20% proficiency rate for these students, will only get them to 60% proficiency (20 plus 50% of 80) at the end of the long-term goal period). It is much more meaningful if there is a concrete goal (e.g. 90% proficiency) set for all students and all subgroups by the end of the long-term goal period. See examples below.
- Encourage your state to make a commitment to hold all goals and interim targets steady; and not reset downward when/if actual performance falls short of the targets. Constantly re-setting of targets renders the long-term goal meaningless.
- Check whether the goals, as required by law, take into account the improvement needed to make **significant progress** in closing proficiency (measured by assessment scores) and graduation rate gaps for subgroups who are behind on these measures.
- If the state uses extended-year graduation rates, check to see if the goals are more rigorous than for the 4-year ACGR.

Examples of such information are presented below.

## Example of Setting Same Proficiency Goal for All Subgroups

**EXAMPLE**

FIGURE 1.1: Baseline and Long-term Academic Proficiency Goals (Percent Meeting or Exceeding Expectations)

Subgroups	PARCC/DLM English Language Arts: 2016 Baseline Data	PARCC/DLM English Languages Arts: Long-term Goal	PARCC/DLM Mathematics: 2016 Baseline Data	PARCC/DLM Mathematics: Long-term Goal
All students	50.39 %	80 %	41.23 %	80 %
Economically disadvantaged students	32.36 %	80 %	23.65 %	80 %
Students with disabilities	15.82 %	80 %	14.01 %	80 %
English learners	11.34 %	80 %	14.34 %	80 %
American Indian or Alaska Native	47.83 %	80 %	38.53 %	80 %
Asian	78.31 %	80 %	74.96 %	80 %
Black or African American	30.44 %	80 %	20.05 %	80 %
Hispanic or Latino	36.29 %	80 %	26.34 %	80 %
Native Hawaiian or Other Pacific Islander	65.81 %	80 %	56.93 %	80 %
White	58.21 %	80 %	48.90 %	80 %
Two or More Races	57.58 %	80 %	49.01 %	80 %

Source: NJ State Plan submitted May 3, 2017. Long-term goal reached in school year 2029-2030.

**Example of Reducing Gap in Proficiency by Subgroup**

**EXAMPLE**

Subgroups	ELA Starting Point (2015-2016)	ELA Long-Term Goal (2030)	Mathematics Starting Point (2015-2016)	Mathematics Long-Term Goal (2030)
All students	52.09%	76.05%	40.49%	70.25%
Economically disadvantaged students*	35.60%	67.80%	25.42%	62.71%
Children with disabilities*	13.48%	56.74%	10.36%	55.18%
English learners	15.14%	57.57%	18.10%	59.05%
African American	36.19%	68.10%	23.39%	61.70%
American Indian or Alaska Native	56.90%	78.45%	40.74%	70.37%
Asian	76.92%	88.46%	73.40%	86.70%
Native Hawaiian/ Other Pacific Islander	50.00%	75.00%	42.86%	71.43%
Hispanic or Latino	40.69%	70.35%	29.73%	64.87%
White	64.43%	82.22%	52.87%	76.44%

Source: Delaware State Plan submitted May 3, 2017 page 3

## Example of Setting Same Graduation Rate for All Subgroups

**EXAMPLE**

FIGURE 1.2: Baseline and Long-term Graduation Rate Goals (Four-year Adjusted Cohort)

Subgroup	Baseline 2015 – 2016	Long-term Goal 2029 – 2030
All students	90.06 %	95 %
Economically disadvantaged students	82.71 %	95 %
Students with disabilities	78.80 %	95 %
English learners	74.65 %	95 %
American Indian or Alaska Native	83.22 %	95 %
Asian	96.74 %	95 %
Black or African American	82.14 %	95 %
Hispanic or Latino	83.35 %	95 %
Native Hawaiian or Other Pacific Islander	93.67 %	95 %
White	94.24 %	95 %
Two or More Races	91.67 %	95 %

Source: NJ State Plan submitted May 3, 2017. Long-term goal reached in school year 2029-2030.

### iv. Indicators to be Measured in State Accountability System:

ESSA requires states to use the following indicators (for the types of schools described in bold). Performance on these indicators will be used by the state to identify which schools are low performing and in need of support and improvement. **The indicators must be tied to the long-term goals set by the state (discussed above).**

#### **Elementary & Secondary Schools that are not High Schools**

- Academic Achievement Indicator: measured by proficiency on the required reading/language arts and mathematics annual state assessments;
- Other Academic Indicator: another measure of academic performance, which can be a measure of student growth.

#### **High Schools**

- Academic Achievement Indicator: measured by proficiency on the required reading/language arts and mathematics annual state assessments;
- Graduation Rate Indicator: the 4-year ACGR is required, and the state can also use extended-year graduation rates;
- Optional: Another measure of academic performance such as student growth.

#### **All Schools (Elementary, Secondary, High Schools)**

- Progress in achieving English Language Proficiency (ELP)
- No less than one state-defined indicator of school quality or student success that is valid, comparable, and statewide; and may include measures of the following indicators (all public schools):
  - student engagement

- educator engagement
- student access to and completion of advanced coursework
- postsecondary readiness
- school climate and safety
- any other indicator the state chooses

### Advocacy Tips:

- Make sure the Academic Achievement Indicator in your state plan is based ONLY on proficiency on the reading/language arts and mathematics annual state assessments. Some states are adding other measures into the Academic Achievement indicator that are not permitted by law (e.g. proficiency on assessments for other subjects, such as science, or growth). These extra measures dilute the importance of this indicator. Reporting academic achievement using scale scores rather than proficiency rates does not comply with ESSA. States may report scale scores in addition to proficiency rates but not in lieu of.
- Check to see whether your state is using student growth percentiles (SPG) to measure academic growth. SGPs describe a student's academic progress from one year to the next compared to other students with similar prior test scores (called academic peers), when the state assessments are actually designed for comparing students to the state's achievement standards in a specific subject area. Use of SGPs is highly questionable as reported in the research brief, *Why We Should Abandon Student Growth Percentiles*, by the Center for Educational Assessment at the University of Massachusetts Amherst ([https://www.umass.edu/rempp/pdf/CEAResearchBrief-16-1\\_WhyWeShouldAbandonSGPs.pdf](https://www.umass.edu/rempp/pdf/CEAResearchBrief-16-1_WhyWeShouldAbandonSGPs.pdf).) Growth towards the standard is a preferable measure for public reporting and as a metric in the state's accountability system regarding student growth.
- If the state is counting students who take alternate assessments as having graduated because they received a state-developed alternate diploma as defined by ESSA, make sure they provide details in the plan on how the alternate diploma is standards-based and aligned to the regular high school graduation requirements (these are the state-defined alternate diploma criteria in the law).
- Although states can use extended-year graduation rates for the graduation rate indicator, encourage your state to place an emphasis on the 4-year ACGR, so schools feel the imperative to help students graduate on time.
- Check to see whether the additional indicator or indicators of school quality or student success that your state selects are meaningful, able to be measured objectively and able to be disaggregated within each school by subgroup (which means there is data about this indicator for students with disabilities, as well as for the other subgroups in ESSA). Teacher qualifications, chronic absenteeism, and the rate of suspensions/expulsions are good examples of strong indicators, as opposed to indicators like teacher/student satisfaction or school climate that are measured with unreliable surveys. These indicators may differ across grade spans but must be

the same for all students within a grade span. For example, elementary/middle schools and high schools can have different indicator(s).

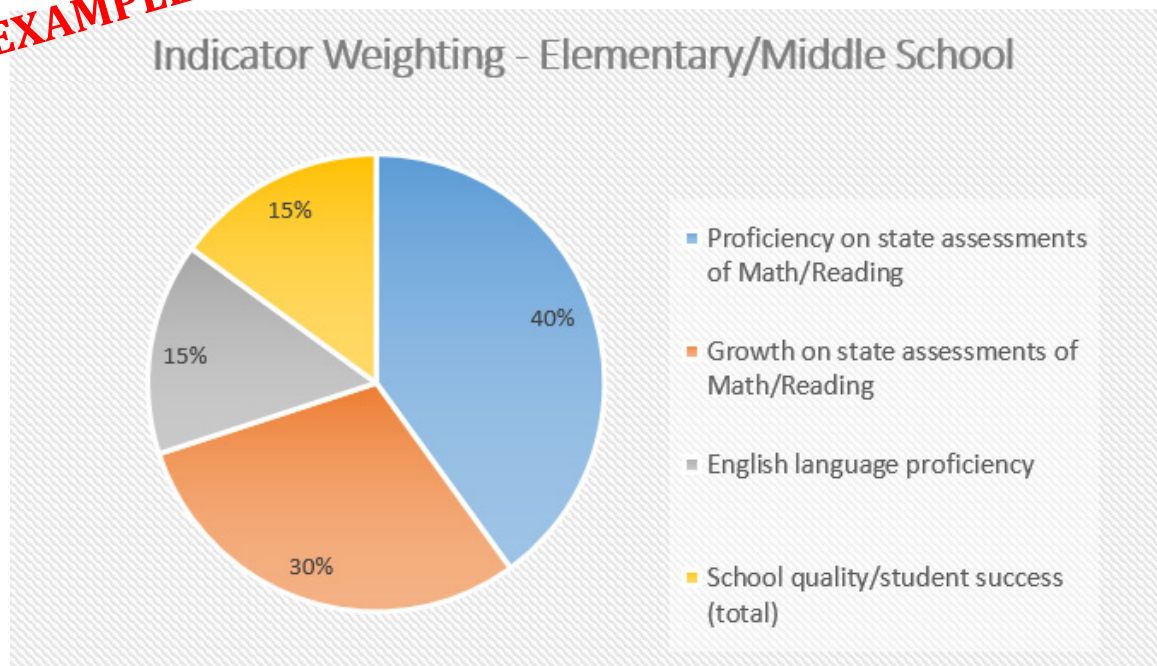
v. Annual Meaningful Differentiation Between Schools (e.g. statewide school rating system):

The state must establish a system to show how each public school is doing for an aggregate of all its students, based on all the indicators described earlier. The system must also include a way to show how each student subgroup at a school is performing based on all the indicators. This system will be used to identify which schools need targeted or comprehensive support and improvement plans.

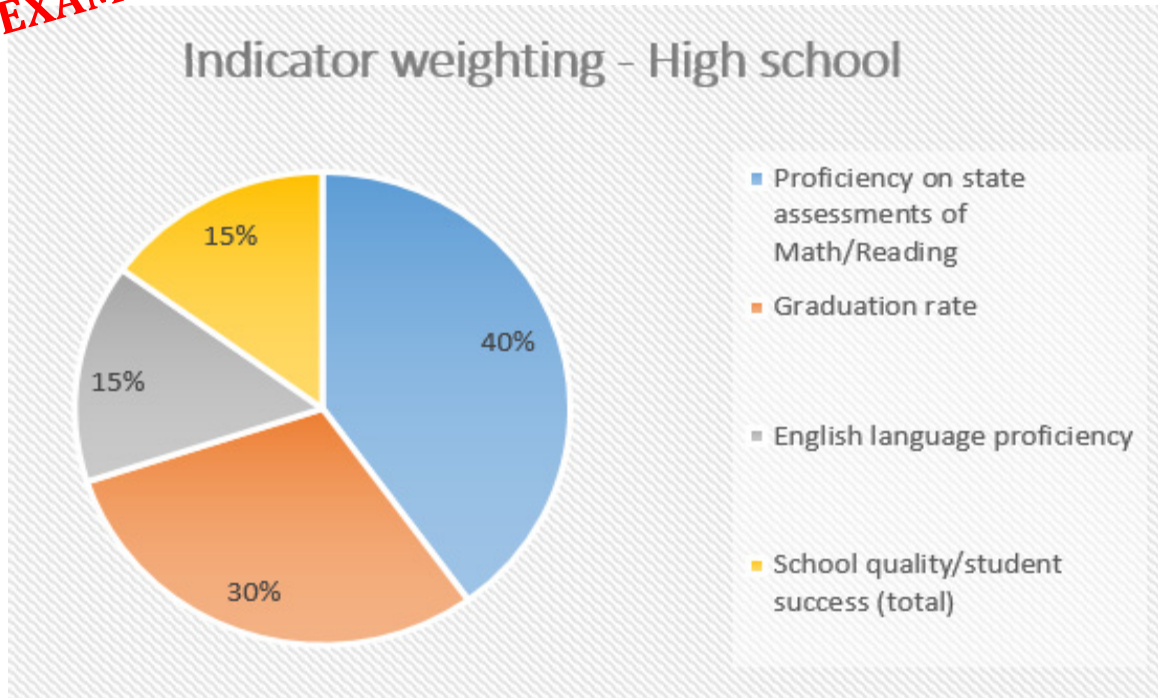
As part of the development of this system, the state has the discretion to determine how much weight is given to each of the required indicators. For example, states will determine how much student achievement on their state assessment will count, as compared to other indicators, when rating schools within the state. However, there are two requirements that limit the state's discretion regarding weighting of indicators:

- the indicators described in the first four bullets (student achievement, graduation rate, other academic indicator (e.g. student growth), and English language proficiency) – all academic in nature - are each to be given substantial weight;
- these four academic indicators *taken together* must have much greater weight than the indicator(s) used in the fifth bullet (the indicator(s) on school quality or student success selected by the state).

**EXAMPLE**



**EXAMPLE**



The state plan must also provide information on circumstances in which a different methodology will be used for certain types of schools to ensure ALL public schools are included in the accountability system. Schools for special populations may fall in this category. The November 2016 template specifically mentioned schools for special populations but the March 2017 template does not.

**Advocacy Tips:**

- Ensure that the combined weight of the four ESSA required academic indicators have “much greater weight” in the aggregate than other indicators in the accountability calculation as shown in the examples above).
- Advocate for proficiency on assessments (and graduation rate in high school) to weigh more than the growth indicator since the ultimate goal of ESSA is to get all students to meet the standards and graduate, not just to improve performance.
- Ensure that the academic achievement of students with disabilities has an impact on the method used to determine whether schools are the lowest performing 5% of Title I schools
- Check the plan to see whether there are methodologies stated for including schools that serve special populations such as special education students and alternative schools in the state accountability system that provide meaningful accountability for such schools.



## vi. Identification of Schools

### a-c. Identification of Schools for Comprehensive Support and Improvement (CSI)

#### d. Frequency of Identification

At least once every three years a statewide category of schools needing comprehensive support and improvement must be identified, which must include the following three categories of schools. *However, the state may use its discretion, to make additional statewide categories of schools eligible for comprehensive support and improvement.*

1. Not less than the lowest-performing 5% of all schools receiving Title I funding (those with high levels of economically disadvantaged students)
2. All public high schools failing to graduate one-third or more of their students (e.g. graduation rate of 67% or less)
3. Certain other Title I public schools, which have a subgroup or subgroups performing as poorly as the “all student group” in bullet #1, have been identified for targeted support and improvement, and have not exited that category for a state determined number of years (“low-performing” subgroups that are now considered “chronically low-performing” subgroups).

#### **Advocacy Tips:**

- Ensure that your state plan follows the rules described above for identifying schools for CSI.
- Check how often your state intends to identify these schools (ESSA says at least every three years so they can do it in a shorter timeframe).
- Check to see how many years the state determines it will take for a school with one or more low-performing subgroup(s) to be considered a school with one or more chronically low-performing subgroup(s). This determination will move the school (if it is a Title I school) from a Targeted Support and Improvement Plan to a CSI Plan.

### e. Identification of Schools for Targeted Support and Improvement (TSI) Plan

ESSA requires states to identify schools for a TSI plan. TSI identified schools must include any schools (whether or not they receive Title I funding) that have:

1. Annually: One of more subgroups (e.g. disability subgroup) that are “**consistently underperforming,**” as that term is defined in the state plan, or
2. At least once every three years: One or more subgroups that are “**low-performing,**” which means they are performing as poorly as the “all student” group in the lowest performing 5% of Title I schools.

### Advocacy Tips:

- Ensure that the words “consistently” and “underperforming” are defined by your state in a way that will trigger targeted supports and improvement in a timely manner before students are so far behind they will never catch up.
- Our recommendation is that “consistently underperforming” should be defined in your state plan to refer to any subgroup that has not met (or is not on track to meet) the state long-term goals and interim measures of progress for two consecutive years.

#### f. Additional Targeted Support

As described earlier, schools with low-performing subgroups of students must be identified for TSI. The state must not place a limit (such as a percentage of schools) on the schools that are identified for TSI. Additionally, the state must set the number of years for these schools to exit TSI by no longer having low-performing subgroups. If they do not exit TSI within this time frame and if they are Title I schools they must be identified for a CSI plan for having chronically underperforming subgroup(s)

### Advocacy Tips:

- Ensure that these low-performing schools do not linger for too many years before they move from TSI plans to CSI plans.
- The law requires these schools to have a TSI plan that identifies resource inequities (which may include a review of local educational agency and school level budgeting). Advocate for this to be mentioned in the state ESSA plan.

#### g. Additional Statewide Categories of School

Your state is permitted to identify other categories of schools for TSI and CSI plans and also to include additional statewide categories of schools such as high performing schools

### Advocacy Tip:

- Consider recommending that schools with consistently underperforming subgroups be eligible for or required to move to CSI plans after a certain period of time of continued underperformance while implementing TSI plans.

#### vii. Annual Measurement of Achievement

**ESSA maintains the requirement that at least 95% of all students, including at least 95% of the students in each student subgroup in a school, must participate in annual state assessments. (Keep in mind that the IDEA also requires that students with disabilities be included in all state assessments.) ESSA requires states to factor this requirement into the accountability system.** This requirement is extremely important

for students with disabilities. It was first incorporated into No Child Left Behind. In large part, the 95% participation requirement was a reaction to schools discouraging students with disabilities—and other students who historically performed poorly on state assessments—from participating in the state assessments in order to understate low performance. Under ESSA, states will be penalized once student participation drops below 95% of all students or any student subgroup in the tested grades. Students not tested will be counted as non-proficient students. In other words, states must not remove non-tested students from the proficiency calculation.

**Example:** School A was expected to test 100 students, but instead they only tested 90 or 90%. Of those 90 students, 45 passed the assessment. School A needed 5 more students to test (95 – 90) to meet the 95% student participation. Those 5 students are now added to their denominator for the adjustment.

$$\begin{aligned}\text{Proficiency} &= 45 \text{ (students who passed the assessment)} / 90 \text{ (number of students tested)} + 5 \text{ (number} \\ &\text{of students who needed to test to meet the 95\% student participation)} \\ &= 45 / 95 \\ &= 47\%\end{aligned}$$

For schools who meet the 95 percent student participation, no adjustment is done.

**Example:** School B was expected to test 100 students and they tested 97 or 97%. Of those 97 students, 75 passed.

$$\begin{aligned}\text{Proficiency} &= 75 / 97 \\ &= 77\%\end{aligned}$$

Source: Arizona ESSA Plan submitted May 2017 page 29

It is important to encourage parents to have their students participate in state assessments. This includes students with the most significant cognitive disabilities taking the state's alternate assessment. High participation is important to ensure the integrity of the data from the assessments. If large numbers of students with disabilities are not tested, either because their parents refuse or "opt-out," assessment results will not be representative of the students in a school, district or state. A student's IEP must indicate how the student will participate in the state assessments, i.e., the general assessment, the general assessment with accommodations, or the alternate assessment. It is not appropriate for a school to suggest that a student not participate in the state assessment. ESSA requires that students with disabilities participate in the assessment for their enrolled grade. Testing a student with a test designed for students in a lower grade is not allowed.

Unfortunately, states have another way to undermine the 95% participation requirement. Under NCLB, failure to meet this requirement had severe consequences because it was a requirement for making adequate yearly progress or AYP. However, ESSA allows each state to determine the degree of impact the failure to meet the 95% participation rule will have in its accountability system beyond the required proficiency

calculation described above. For example, in a system where schools are rated using a “letter grade,” if failure to meet the 95% participation requirement only drops the school from an A+ or B+ to an A or B, there is not much to deter the school from encouraging students with disabilities, and other low performing students, to not participate in the state assessment.

### **Advocacy Tips**

- Ensure that the N-size for determining participation rate data for school subgroups is small enough that this rule can be applied in nearly every school (e.g. N-size of 10).
- Ensure that your state factors the failure of schools to meet the 95% participation rate requirement into the accountability system in a significant way.
- We recommend that unless the 95% participation rate is achieved or exceeded (for the whole school and EACH subgroup), the school/district should not be rated as satisfactory or above in the state accountability system (based on whatever “rating” the state uses). Missing 95% participation for even one subgroup should trigger this consequence.
- Encourage your state to require schools to develop a plan to improve their participation rate in the future if they fail to meet this requirement. Such a plan should be targeted specifically to the subgroup(s) of students that failed to be tested at or above 95%.

### viii. Continued Support for School and LEA Improvement

#### a.-b. Exit criteria for CSI and TSI schools

The state is required to determine exit criteria for schools identified as needing comprehensive support and improvement and targeted support and improvement. More rigorous interventions are required for CSI schools that don’t meet the exit criteria after a state-determined number of years (not to exceed four).

### **Advocacy Tips:**

- Check the state plan to see your state’s proposal for allowing schools to exit CSI status; including the criteria that must be met and the number of years the improvement must be sustained.
- Our recommendation is that a school should not exit CSI (or TSI) unless it has NOT met the identification criteria for two consecutive years.
- Advocate for your state to move to more rigorous state-determined action after two years if the school still has not yet exited CSI.

e. Technical Assistance  
f. Additional Optional action

The state plan must describe the technical assistance and any additional optional action the state will provide to each Local Educational Agency (LEA= school district) serving a significant number or percentage of schools identified for comprehensive or targeted support and improvement.

**Advocacy Tips:**

- Ensure that your state defines “significant number or percentage of schools” in a way that the LEAs needing technical assistance get it, instead of setting the bar too high.
- Ensure that the technical assistance and any optional additional action that your state describes in these sections are designed to improve the academic performance of ALL students, including those with disabilities in these LEAs (e.g. UDL and inclusive best practices).

**6. School Conditions**

ESSA requires the state plan to describe how the state will support LEAs receiving assistance under Title I, Part A (those with high numbers or high percentages of children from low-income families) to improve school conditions for student learning, including through reducing:

- (i) incidences of bullying and harassment;
- (ii) the overuse of discipline practices that remove students from the classroom; and
- (iii) the use of aversive behavioral interventions that compromise student health and safety.

**Advocacy Tips:**

- Ensure that these issues are addressed in the plan and there is a focus on students with disabilities – who are disproportionately subjected to these practices
- Advocate for your state to specifically mention strategies that will reduce restraint and seclusion, which fall under aversive behavioral interventions.
- Advocate for the state plan to mention Universal Design for Learning (UDL) and inclusive best practices as strategies that will improve school conditions for student learning.

**C. Title I Part D: Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-risk**

**Advocacy Tip:**

Considering the percentage of students with disabilities in the programs covered by Title I Part D. Frequently students with disabilities are over-represented in juvenile detention and correctional facilities. Although the percentage of youth in juvenile detention with a

history of special education services varies across states, typically more than 50 percent of youth in detention are eligible for special education services. The information provided in this part of the state plan should specifically address these students. You can get this information for your state at <http://www.neglected-delinquent.org/>.

## D. Title II, Part A: Supporting Effective Instruction

### 4. Improving Skills of Educators

In this section of the plan the state is required to describe how it will improve the skills of teachers, principals, or other school leaders in order to enable them to identify students with specific learning needs, particularly **children with disabilities**, English learners, students who are gifted and talented, and students with low literacy levels, and provide instruction based on the needs of such students. This section falls under the Supporting Excellent Educators part of the earlier ESSA template, which some states are still using.

#### Advocacy Tips:

- Ensure that the strategies discussed in this section of the plan are designed to address all students with specific learning needs, including those with disabilities.
- Advocate for capacity building strategies for UDL and inclusive best practices to be added to this section of the plan, if these are not already discussed. UDL should be discussed in many places throughout the plan, but especially in this section where UDL implementation initiatives would have the most impact for all students. A document that discusses in greater detail how UDL can be included in ESSA state plans can be found at [http://www.udlcci.org/policy-two-pagerdraft-2-4-17\\_vers41/](http://www.udlcci.org/policy-two-pagerdraft-2-4-17_vers41/)

## F. Title IV Part A: Student Support and Academic Enrichment Grants

This section of the March 2017 template is a very scaled back version of the Supporting All Students part of the earlier template, which asks states many important questions. The March template solely focuses on two very general questions about how the funds will be used, which do not convey the purpose of this subpart of the law. Section 4101 of ESSA Title IV, Part A, Subpart 1 states:

“The purpose of this subpart is to improve students’ academic achievement by increasing the capacity of States, local educational agencies, schools, and local communities to—

- (1) provide all students with access to a well-rounded education;
- (2) improve school conditions for student learning; and
- (3) improve the use of technology in order to improve the academic achievement and digital literacy of all students.”

The law also requires “equitable access” for all students to the activities supported under this subpart, including aligning those activities with the requirements of other Federal laws.

**Advocacy Tips:**

- Urge your state to address how it will meet each part of the purpose of this subpart and provide equitable access for all students to the activities described, including aligning those activities with the requirements of other Federal laws.
- Advocate for UDL and inclusive best practices to be discussed in this section.
- If your state plan does not discuss how the ESSA plan will coordinate with its State Systemic Improvement Plan (SSIP) under IDEA, request that this information be added. There is a tool to help states align their ESSA plan and their SSIP at <https://ncsi.wested.org/news-events/tool-checking-for-alignment-in-every-student-succeeds-act-plans-and-state-systemic-improvement-plans/>.

**ADDITIONAL ESSA RESOURCES**

Stakeholder Guide to ESSA

[www.parentcenterhub.org/repository/stakeholder-guide-essa/](http://www.parentcenterhub.org/repository/stakeholder-guide-essa/)

[www.AdvocacyInstitute.org/ESSA](http://www.AdvocacyInstitute.org/ESSA)

[www.ndscenter.org/political-advocacy](http://www.ndscenter.org/political-advocacy)

(click on policy documents and webinar archives)

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