



The Education Trust

Notice of Final Rulemaking on Accountability, Public Reporting, and State Plans

Overview of Key Issues

This summary is based on an initial read of the final rules. These rules are meant to clarify the statute and show states how to implement statutory requirements.

Again, this document reflects our first review. We will continue to dig in to the content more deeply over the coming days and weeks; please use this overview as a quick outline of the key issues.

As you consider how these proposed rules will impact your work, keep in mind that **the first window for submitting state plans is April 2017.**

Provisions in Final Rules

Accountability

Charter Schools

- Accountability for charters is overseen in accordance with state charter school law.
- If a charter authorizer decides to revoke a charter, that decision supersedes any identification of the school as a comprehensive support and improvement school or targeted support and improvement school.

Goals and Interim Targets

- The regulations reiterate the ESSA requirement that states must set long-term goals and interim progress targets for improving achievement on state assessments in at least math and reading, and for increasing graduation rates. Goals must be set for all subgroups of students using the same multi-year timeline and must expect more progress for subgroups that are further behind.
- Separate goals and targets must be set for math and reading.
- Goals for “academic achievement” are set on grade-level proficiency on state tests.
- Graduation rate goals are set based on the adjusted 4 year cohort graduation rate. States may also set goals based on extended-year graduation rates, but those goals and associated progress targets have to be more ambitious.
- The state must set goals for improving the percent of English learners making progress toward English language proficiency. States must establish uniform procedures to determine research-based student-level targets for meeting those goals, based on student characteristics. Using these uniform procedures, the state must determine the maximum number of years it should take for a student to become proficient in English. An English learner who does not attain English language proficiency within the timeline set by the state must not be exited from English learner services or status prior to attaining English language proficiency.

Indicators

- All indicators must be measured for each subgroup (students from each major racial and ethnic group, low-income students, English learners, and students with disabilities).
- The same indicators must be used statewide and must be calculated the same way in all schools.
- The Academic Achievement indicator is based on grade-level proficiency, but a state may elect to award partial credit for students who are not yet proficient or extra credit for students who are advanced, though the extra credit cannot fully compensate for students who are not proficient.
 - The regulations also reiterate the ESSA requirement that if more than 5 percent of students in any subgroup (in each school and district) did not take the state assessment, the state must count those additional untested students as failing.
- The indicator of School Quality or Student Success:
 - Can be different in different grade spans (i.e. chronic absenteeism in elementary and middle school and postsecondary readiness in high school).
 - Has to be supported by research that links it to increased student learning (e.g. grade point average, credit accumulation, performance in advanced coursework) or graduation rates, postsecondary enrollment, persistence or completion, and career readiness.
 - Must support meaningful differentiation of schools.

Assessment Participation

- Assessment participation is measured separately for Reading and Math.
- If a school misses the 95% participation requirement, the state must either lower its summative determination, give it the lowest rating on the academic achievement indicator, identify it as a targeted support and improvement school, or take another (equally rigorous) action.
- Schools missing 95% must develop an improvement plan that is approved by the LEA.
- LEAs with a significant number of schools missing the 95% rate must develop an improvement plan to be approved and monitored by the state.
- States, LEAs, and schools cannot systematically exclude students in any subgroup.

N-size

- If a state chooses an n-size that is greater than 30, it must provide justification for why it is doing so and have the Department approve it.
- States can have lower n-sizes for reporting than they do for accountability.

Ratings (Called “Determinations” in final rule)

- For each indicator (Academic Achievement, Academic Progress, Graduation Rate, Progress in Achieving English Language Proficiency, and School Quality or Student Success), states must have at least three performance levels, which must get reported on LEA report cards. For example¹, a state could have red, yellow, and green levels. You would have to be able to see that school X got a red on Achievement, a green on English Language Proficiency, etc.

¹ Here and below, this is purely an example to illustrate the concept.

- These indicators must roll up into one summative determination, which also must have at least three categories. The state can choose to have two of these ratings be Comprehensive Support and Improvement and Targeted Support and Improvement.
- The School Quality or Student Success indicator cannot keep a school from being identified for comprehensive or targeted support if it was going to be identified based on the other three (unless the school is making significant progress in one of the other areas).
- A school that is consistently underperforming for any subgroup must receive a lower rating than it would have received if it was not consistently underperforming for any subgroup.

Identification

- States must identify the following types of schools for Comprehensive Support and Improvement:
 - The lowest performing 5% of Title I schools.
 - Any high school with a graduation rate below 67% (states can set a higher threshold).
 - Any Title I school that is chronically underperforming for one or more subgroups. These are schools that are performing as badly for one or more subgroups as the lowest achieving 5% of Title I schools are for all students, and that fail to meet state-set exit criteria.
- States must identify the following types of schools for Targeted Support and Improvement:
 - Schools that are consistently underperforming for any subgroup of students. “Consistently underperforming” must be defined as
 - Not meeting at least one of the State’s measurements of interim progress for a subgroup of students, being off track at least one of the State-designed long-term goals for a subgroup or performing below a State-determined threshold for a subgroup on an indicator for which the State is not required to establish long-term goals; or
 - Another state-developed definition.
 - In identifying these schools, states must consider no more than two years of performance, unless the state can show that a longer timeframe will better support low-performing subgroups to improve.
 - Schools that are **low-performing** for any subgroup of students. “Low-performing” means doing as badly for any subgroup of students as the lowest achieving 5% of Title I schools are doing for all students.
- Comprehensive Support and Improvement schools will be identified for the first time in SY18-19 based on SY17-18 data. These schools must be identified once every three years.
- Schools that are **consistently underperforming** for any subgroup of students must be identified annually starting in SY19-20 based on SY17-18 and SY18-19 data. Schools that are **low-performing** for one or more subgroups of students must be identified every three years starting in SY18-19.

School Improvement

- Comprehensive Support and Improvement Schools
 - Parents of students in schools identified for Comprehensive Support and Improvement must be notified of the school’s status immediately.

- Must conduct, in partnership with stakeholders, a needs assessment that examines the school's academic performance and unmet needs, including student supports, school leadership and instructional staff, quality of instructional program, family and community involvement, school climate, and distribution of resources.
- Must implement a support and improvement plan, which has been approved by the school, the LEA, and the state.
- Interventions should, to the extent practicable, have been shown to work in other similar settings.
- The improvement plan must identify and address resource inequities between schools within the LEA and within the school, including at minimum disproportionate rates of ineffective, out-of-field, or inexperienced teachers and per pupil expenditures, as well as access to advanced coursework, preschool programs and full-day kindergarten programs, and specialized instructional support personnel.
- The state sets uniform exit criteria, which must require that a school a) improves student outcomes and b) no longer meets the criteria under which it was identified as a comprehensive support and improvement school.
- If any school does not meet that exit criteria, it has to do another needs assessment that also looks at why it didn't meet that criteria. It must also take on additional interventions, as determined by the state.
- There can be differentiated interventions for small high schools with low graduation rates and alternative schools.
- Targeted Support and Improvement Schools identified for **consistent underperformance** for one or more subgroups.
 - Parents of students in schools identified for Targeted Support and Improvement must be notified of the school's status immediately.
 - Must implement a support and improvement plan, which has been approved by the LEA. Plans have to address how the school will improve outcomes for the lowest-performing students.
 - Interventions should, to the extent practicable, have been shown to work in other similar settings.
 - The LEA establishes the exit criteria schools must meet. If any school does not meet that exit criteria, it must amend its support and improvement plan. The state may require LEAs to submit for review and approved the amended plan.

Additional requirements for Targeted Support and Improvement Schools identified for low performance for one or more subgroups

- Improvement plans for these schools must identify and address resource inequities between schools within the LEA and within the school, including at minimum disproportionate rates of ineffective, out-of-field, or inexperienced teachers and per pupil expenditures, as well as access to advanced coursework, full-day kindergarten programs and preschool programs, and specialized instructional support personnel.
- States must set exit criteria for these schools that must at minimum require that these schools a) improve outcomes for the low-performing subgroup(s), and b) no longer meet the criteria for identification.

- Schools that do not meet these exit criteria in a state-determined timeframe become comprehensive support and improvement schools.

State Responsibilities

- SEA must regularly review (and to the extent practicable, address) its resource allocations (including the kinds of resource inequities considered in Comprehensive Support and Improvement plans) to LEAs with high numbers or percentages of identified schools, as compared to all other LEAs in the state and in schools in those LEAs as compared to all other schools in the state.
- SEA must provide technical assistance to LEAs with significant numbers or percentages of Comprehensive or Targeted Support and Improvement schools, including increasing LEA capacity to develop tools such as needs assessments and improvement planning documents.

Funding

- Comprehensive Support and Improvement schools must be prioritized for Title I funds reserved at the State level for school improvement.
- Unless the state determines that lesser amounts are sufficient to support effective implementation of improvement plans, the minimum grant for an LEA supporting Comprehensive Support and Improvement schools is \$500K per year per school; it is \$50K per year per school for supporting Targeted Support and Improvement schools.
- If available funds are insufficient for all Comprehensive and Targeted Support and Improvement schools, the state must prioritize certain LEAs, including:
 - LEAs serving Comprehensive Support and Improvement Schools;
 - LEAs with the greatest need (based on the SEA's analysis of resource allocations, number of schools implementing improvement plans and student achievement in schools being served); and
 - LEAs with the greatest commitment to using funds to improve achievement (based on use of evidence-based interventions, and commitment to family/community engagement).

Public Reporting

Report Cards

- Overall
 - Report cards must be concise, understandable and developed in consultation with parents.
 - For report cards, data must also be disaggregated by the following subgroups: migrant students, homeless students, students in foster care, and students with an active-duty military parent.
 - All report cards must include a concise description of the state's accountability system.
- State Report Cards
 - Must include an analysis comparing – by authorizing agency - the school enrollment by subgroup and achievement levels of charter schools to other schools in their geographic area or the LEA(s) from which they draw the most students.

- Must have an overview section that clearly shows the statewide disaggregated data for accountability indicators.
- LEA Report Cards
 - Must include comparisons of LEA data to the state as a whole.
 - For each school in the LEA:
 - Its summative determination.
 - Whether it is identified as in need of Comprehensive Support and Improvement or Targeted Support and Improvement (and the reason for that identification).
 - Comparisons of data to the LEA as a whole.
- Timing
 - Report cards must be published by December 31st. If the state's per pupil expenditure data are not available by December 31st, those data can be added later (but no later than June 30th).
 - Report cards reflecting the new requirements must be released by December 31st, 2018.
- Calculating Data for all Report Cards
 - Academic Achievement
 - Must report proficiency rates both as calculated for accountability (i.e. counting most students who don't take the assessment as non-proficient) and as a percentage of students proficient out of just those who took the test.
 - Must report the percentage of students at each level of achievement.
 - Whether each subgroup of students met goals or interim progress targets.
 - Graduation rate measures include students who have received a state-defined alternative diploma for students with the most significant cognitive disabilities.
 - Per Pupil Expenditures
 - Does not include funding from private sources.
 - Must be a single statewide procedure for what to include and how to allocate costs.
 - Must report on LEA costs that are not allocated to a school site.
 - Does not include community services, capital outlay or debt service.
 - Postsecondary Matriculation
 - Must include data (if data is routinely obtainable) for all students going to any in-state public program, and – if possible – students attending in-state private programs or out-of-state programs.
 - If a state doesn't have the data, it must say on the report card what year it will have that data available.
 - Teacher Assignment
 - For the purposes of examining teacher assignment across schools, "high-poverty" is defined as in the top quartile of poverty, and "low-poverty" is in the bottom quartile of poverty.
 - Note: This definition only applies to the data reported on the report cards; for the purpose of measuring disproportional access as part of the state plans, states can define "low-income" in a different way.

- States must establish a statewide definition of “inexperienced” and “not teaching in the subject or field for which the teacher is certified or licensed” for the purposes of the report cards.

State Plans

- States may choose from two submission dates – April 3, 2017 or September 18, 2017.
- Prior to submission, state plans have to be available for public comment for at least 30 days.
- Plans must be reviewed and revised (if necessary) at least every four years.
- The groups that must be consulted was expanded to include community-based organizations, civil rights organizations, institutes of higher education, employers, representatives of private school students, early childhood educators and leaders, and the public.

Teacher Equity

- State plans must detail the state’s strategies to provide low-income students and students of color greater access to effective, experienced, and in-field teachers.
- States must define “ineffective”, “out of field”, and “inexperienced” in ways that capture different people/characteristics (i.e. you can’t define ineffective as out of field).
- States must annually calculate and report on the differences in the rates at which low-income students and students of color have ineffective, out of field, and inexperienced teachers, comparing low-income students and students of color in Title I schools to non-low-income, non-minority students in non-Title I schools.
- Where disproportionality exists, states must do a root cause analysis that reflects gaps between districts, within districts, and within schools, and develop strategies that focus on the most significant rates of disproportionality.
- SEAs can direct LEAs to use Title II funds to increase access and reduce disproportionality. They can also deny Title II dollars to an LEA if it fails to address disproportionality in its Title II application.
- SEAs must annually publish the percentage of teachers in each LEA in each category of effectiveness based on the state’s definition of effectiveness.
- SEAs must describe their timelines and interim targets for eliminating differences in the rates of ineffective, unqualified, and out-of-field teachers.