



Analysis of California's First Draft of the Every Student Succeeds Act (ESSA) Consolidated State Plan

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California (CA) released a draft of its plan dated April 29, 2017 at <https://assets.documentcloud.org/documents/3680547/ESSA-CA-DRAFT-PLAN-MAY2017.pdf>. Questions **and comments should be submitted to ESSA@cde.ca.gov as soon as possible since another draft is expected to be released around May 22, 2017.** Changes made to this draft of the plan should appear in redline in the second draft to make it easier for stakeholders to provide input on the amendments.

The analysis that we provide in this document focuses on those issues most critical to subgroup accountability and to students with disabilities (SWDs). The page numbers referenced in this document are the page numbers noted on the bottom of the pages of the draft plan (not the page numbers displayed in the Adobe Reader). **It is important to note that CA educates 11% of the students with disabilities in the country, which means its ESSA plan has national significance.**

PLAN TEMPLATE. On March 13, 2017, the Secretary of Education released a new template for states to use to submit their ESSA plan applications. The new template can be found on this webpage, along with other explanatory materials <https://www2.ed.gov/admins/lead/account/stateplan17/plans.html>.

This draft of the CA ESSA plan is missing many critical components required by the template. In addition, on page 7, there is the following statement: "Given the new federal approach to collect only what is "absolutely necessary," and at the request of the SBE, California's State Plan has been written to meet, not exceed, federal requirements." Considering the fact that federal laws represent the minimum required of states, it is unfortunate and very concerning that CA intends to provide only the information that is absolutely necessary in its ESSA plan, an approach which greatly limits transparency and the opportunity for meaningful stakeholder consultation.

Meaningful Stakeholder Consultation (Attachment 2-at the end of the draft plan)

ESSA requires the state to conduct outreach and get input from stakeholders, including parents, for the development of this draft plan. This recent template from ED does not require a description of how the stakeholder consultation was achieved. However, CA provided an attachment describing outreach in the months leading up to the release of this draft. There is no mention of consultation with any organization representing the disability community. **The CA Down syndrome Advocacy Coalition (CDAC) sent written requests to state department of education officials asking to be included in ESSA plan development meetings. CDAC never received a satisfactory response. CA should meaningfully include CDAC and other state disability organization in the remainder of the plan development.**

Assessments (page 23)

States are required to develop their assessments using the principles of universal design for learning (UDL). Unfortunately, the March 2017 state plan templates provided by the U.S. Department of Education (ED) does not require a discussion on how the state is meeting this requirement. However, that does not absolve the state from its responsibility to meet the UDL requirements in the law as it develops its assessments.

Alternate Assessments

ESSA requires states to define “students with the most significant cognitive disabilities.” This definition is to be used in IEP team guidance regarding which students meet the criteria for participation in the state’s alternate assessment aligned with alternate academic achievement standards. Also, ESSA sets a cap on the number of students who may participate in an alternate assessment in the state at 1% of all students in the assessed grades (combined). While not a required part of the state plan, the CA plan should address the definition of students with the most significant cognitive disabilities and list the strategies the state will employ to not exceed the 1% cap on alternate assessments. Addressing these issues in the state plan encourages stakeholder input on these provisions.

It is critically important to ensure that the alternate assessment is used only for those students for whom the test was designed and field-tested and does not inappropriately lower achievement expectations for students who should take the general assessment. It is also important for the definition of students with the most significant cognitive disabilities to acknowledge that these students are working on the grade level content standards, even though the achievement expectations are not the same as for students taking the general assessment.

Subgroups (page 27)

In CA, the racial/ethnic student groups are the following:

- Black or African American

- Asian
- Filipino
- Hispanic or Latino • American Indian or Alaska Native
- Native Hawaiian or Pacific Islander
- Two or More Races
- White

CA also includes the following student groups in its accountability system:

- Socioeconomically Disadvantaged
- English Learners
- Students with Disabilities
- Foster Youth
- Homeless

It should be noted that although ESSA requires data reporting for the Foster Youth and Homeless subgroups, it does not require these subgroups to be included in the accountability system, as proposed by CA.

N Size (page 28)

CA will use an N size of 30 for accountability purposes and an N size of 11 for reporting data. **The plan is required to describe how the N size was determined by the state in collaboration with teachers, principals, other school leaders, parents, and other stakeholders. There is no mention of parents in CA's response to this question.**

N size is critically important. If it is set too high many schools will not be held accountable for the disability subgroup because there are not enough students with disabilities at the school, in the assessed grades, to equal or exceed the n-size.

In July 2016 Policy Analysis for California Education (PACE), as part of its work with the CORE districts, did an analysis of the impact of an N size of 20 versus 30 on accountability for the disability subgroup with respect to assessment performance. http://edpolicyinca.org/sites/default/files/PACE_PolicyMemo_1602B.pdf. **The report states that only 52% of schools will be held accountable for the disability subgroup with an N size of 30 as compared to 73% of schools with an N size of 20.** The percentage of students with disabilities in the CORE districts is very close to the state average (13% vs. 12%), so the population in the CORE districts is similar enough to the state to extrapolate the findings. Even an N size of 20 excludes 21% of schools from assessment accountability for the disability subgroup. Studies show that an N size of 10 is appropriate and other states have N sizes under 20 (<http://all4ed.org/reports-factsheets/n-size> and <https://nces.ed.gov/pubs2011/2011603.pdf>).

This N size data is particularly concerning when you consider that CA educates 11% of the country's students with disabilities. CA should be transparent about the impact of N size on subgroup accountability for graduation, which was not part of the CORE report. In addition to providing stakeholders information on how many schools would not be held accountable for the disability subgroup, CA should provide an analysis on how many students in the state would not be part of the accountability system for both assessment and graduation with an N size of 30 (see the Ohio Department of Education's N size topic guide for examples of the data simulations for both assessment and graduation <https://education.ohio.gov/getattachment/Topics/Every-Student-Succeeds-Act-ESSA/Nsize-Topic-Discussion-Guide.pdf.aspx>). Without this information parents and other stakeholders cannot provide meaningful consultation on N size determination, a requirement that is specifically referenced in the plan template

Long-term goals (page 29)

ESSA requires that states set long-term goals and interim measures for all students and for each student subgroup (e.g. disability subgroup) for academic achievement, graduation rate and English language proficiency. 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.

CA has not yet established goals for all schools and student groups, nor has it established a timeline for reaching the goals. The plan says that all student groups will have the same long-term goals. That is preferable to the method some states use that results in different subgroup goals. For graduation, CA plans to use a 5-year graduation rate, in addition to the 4-year graduation rate. Extended graduation rate goals are permitted by ESSA, but take the emphasis off of on-time graduation. Once the goals are set CA should 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 targets render the long-term goal meaningless.

Indicators (page 34)

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. Most of the indicators and their measures are required by ESSA, others are left to state discretion. These distinctions are critically important. States are required to add at least one indicator of School Quality or Student Success to the indicators defined by ESSA. These are referred to as the non- academic indicators. Although they are supposed to be linked by evidence to improved academic

outcomes, they are not direct academic indicators like those required by the statute, which measure achievement, growth, graduation rate and English language proficiency.

Academic Achievement: CA plans to use scale scores instead of proficiency for the academic achievement indicator. This is problematic because ESSA requires that reporting of academic proficiency be based on performance on state assessments, which is a measure of how students perform on the state content standards. Scale scores, which report the full range of performance, could be used in addition to proficiency rates but not in lieu of. In addition, CA is considering the addition of a student growth component in this indicator.

Other academic indicator: CA is planning to use chronic absenteeism for this indicator, which is not acceptable. Chronic absenteeism can impact academics and could be an additional indicator of school quality and student success. However, this “other academic indicator” is supposed to be an additional measure of academic performance, e.g. a measure of student growth or another valid and reliable statewide academic indicator that allows for meaningful differentiation in school performance.)

Graduation Rate: CA plans to use a 5-year graduation rate, in addition to the 4-year graduation rate. Extended graduation rates are permitted by ESSA, but take the emphasis off of on-time graduation. The plan makes the statement that currently students with the most significant cognitive disabilities are held to the same graduation requirements as all other students. The use of the word “currently” indicates that CA is leaving the door open to developing the alternate diploma described in ESSA for these students, which would count as if it were a regular high school diploma for purposes of calculating graduate rate.

School Quality or Student Success Indicator: Suspension rate data will be used for this indicator. There are no details in the plan about whether both in-school and out-of-school suspensions will be included. If CA wishes to include chronic absenteeism in its accountability system, then it should include it as an indicator of school quality/student success.

Annual Meaningful Differentiation of Schools (page 37)

This refers to the method the state will use to provide information on how schools are doing relative to the indicators for purposes of identifying certain schools for targeted or comprehensive support and improvement plans. CA is using a confusing grid with 5 colored levels based on Status (from very low to high) and Change (from “declined significantly” to “increased significantly”) for each indicator. This method will make it difficult for families to understand how their schools measure up. It is also unclear how subgroup performance is factored into the levels.

Weighting of indicators (page 39)

The plan says that each indicator has equal weight and, within each indicator, Status and Change are given equal weight. **We believe that achievement on assessments and graduation rates should be weighted more heavily than other indicators since they are the academic indicators most directly aligned to positive post-school outcomes.**

Different Methodology for Certain Types of Schools (page 39)

CA plans to use different indicators for certain schools based on their school mission, including alternate schools. We are concerned because separate schools for students with disabilities may fall in this category. In addition, many students with disabilities end up in alternate schools for at-risk students. If CA is proposing the use of different indicators for certain schools, these indicators must be fully described in the state plan so the public can provide further input.

Identification of Schools (page 40)

Comprehensive Support and Improvement (page 40)

ESSA requires states to identify for Comprehensive Support and Improvement (CSI):

- The bottom 5% of Title I schools. If the state elects to identify additional (non-title I) schools, it must ensure that the bottom 5% of title I schools are included in those identified.
- High schools that fail to graduate a third or more of their students. The regulations that were repealed in March 2017 required that the 4-year Adjusted Cohort Graduation Rate be used for this purpose. Without the regulations states are permitted to use longer graduation rates (e.g. 5 year), but it should be discouraged because it removes the emphasis on on-time graduation.
- Chronically Low-Performing Subgroup. Any Title I school identified for targeted support and improvement because of low performing subgroup(s) that did not improve over a state-determine number of years.

Lowest 5% of Title I Schools: The CA draft plan says the methodology for identifying the lowest 5% of schools has not been determined but it will be based on the color coded performance levels.

Public high schools failing to graduate at least one-third of its students: The CA draft plan states that three years of graduation rate data will be used. Any school with a graduation rate of less than 67% in all three years will be identified for comprehensive assistance. **This is unacceptable. Students in schools with such a low graduation rate should not wait three years or more before their school gets a CSI plan.**

Frequency of Identification: ESSA states that schools must be identified for CSI at least once every three years. CA has decided to adhere to this minimum

requirement whereas some other states are electing to identify schools more frequently. The combination of requiring three years of graduation data and only identifying schools for CSI once every three years can leave very low-performing schools without the necessary interventions for a long time.

Targeted Support and Improvement (page 42)

ESSA requires states to identify for Targeted Support and Improvement (TSI):

- Any school with one or more consistently underperforming subgroups
- Any school in which one or more subgroups of students are performing at or below the performance of all students in the lowest performing schools (referred to as low-performing subgroups).

Consistently underperforming subgroups: The CA draft plan’s description of schools with consistently underperforming subgroups indicates a lack of understanding of the statutory requirements. The plan says CA will use the same methodology that is used to identify schools for comprehensive support as the lowest-performing 5 % of Title I schools. This language does not address the requirement that identification for TSI is based on subgroup performance, not whole school performance, nor does it address how many years must pass before a subgroup is considered “consistently” underperforming. The law states that even one consistently underperforming subgroup can trigger identification of a school for TSI.

In addition, consistently underperforming subgroups are not supposed to perform as poorly as subgroups that are considered low-performing. Therefore, there should be no relationship between consistently underperforming subgroups and the criteria used for identifying the lowest 5% of schools. We recommend that a consistently underperforming subgroup be defined as a subgroup that has not met, or is not on track to meet, all of the state defined long-term goals or interim measures for that subgroup for two consecutive years.

Additional Targeted Support (schools with a low-performing subgroup or subgroups): Once again the CA plan refers to the methodology for identifying the lowest 5% of Title I schools for CSI. Schools identified for TSI due to a low performing subgroup or subgroups are identified based on subgroup performance, not on how the whole school performs.

Annual Measurement of Achievement –At least 95% Participation Rate Requirement (page 42)

ESSA requires that at least 95% of all students in the assessed grades (and at least 95% of each subgroup - including the disability subgroup) must be assessed annually. It is important to keep in mind the impact of the participation rate requirement on students with disabilities. A “non-punitive” approach would likely led 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).

CA's draft plan states that they will use an icon, specific to performance rate, to report whether schools have met the participation rate requirement. However **California has not yet established how failure to meet this requirement will factor into the statewide accountability system. We do not believe that a school should get a satisfactory rating if this requirement is not met.** For CA's color coded system, this may mean that a school should get a red performance level for the academic achievement indicator regardless of the actual assessment scores. **CA should also consider the options in the ESSA accountability regulations regarding how to factor the failure of schools to meet the participation rate requirement into the accountability system. Even though Congress repealed these regulations in March, they still provide excellent guidance on many difficult ESSA implementation issues.**

The draft plan also states that assistance specific to meeting the 95% participation rate will be offered to schools that fail to meet the requirement. **We recommend that these schools be required to develop a plan to improve the participation rate. Parents of students in the subgroup or subgroups for whom the requirement was not met should be included in the plan development process.**

School Conditions (page 47)

State plans are required to describe strategies to reduce

- Incidents of bullying and harassment;
- The overuse of discipline practices that remove students from the classroom; and
- The use of aversive behavioral interventions that compromise student health and safety

The CA plan does not recognize the disproportionate impact of these conditions on students with disabilities. In fact, it does not discuss strategies to reduce aversive behavioral interventions at all. This section of the plan should be built up with strategies that improve school conditions for students learning for ALL students, such as inclusive best practices and Universal Design for Learning (UDL). This is just one of the many ways UDL can be used to improve CA's state plan so that it supports an fair, equitable and high quality education for all students. For more information on UDL and ESSA state plans see <http://www.udlcci.org/policytwo-pagerdraft-2-3-17-update2/>.

Children and Youth who are Neglected, Delinquent, or At-Risk (page 54)

In the section on Title I, Part D (Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk) there is no mention of students with disabilities. According to data from the National Technical Assistance

Center for the Education of Neglected or Delinquent Children and Youth (<http://www.neglected-delinquent.org>) 11% of students served under Subpart 1 in CA have IEPs and 19% of students served under Subpart 2 have IEPs. The CA plan should state specifically how it will ensure that students in such facilities are provided with special education and related services as needed, as well as how child find will be carried out.

Supporting Effective Instruction (page 55)

The plan makes the following statement: “In keeping with California’s deep commitment to educational equity, Title II, Part A resources will be used to build the capacity of California educators to successfully implement state academic content standards while emphasizing the importance of meeting the specific, and often multiple, learning needs of diverse students, including, but not limited to, English learners, students with disabilities, foster youth, and low-income students.”

However, the plan does not provide any specific strategies such as promoting UDL implementation or improving the capacity of educators to implement inclusive best practices.

This part of the plan needs to include detailed discussions of specific initiatives and strategies instead of merely making general statements that CA will provide professional development opportunities or technical assistance or provide statewide support resources. This is especially true in the section on page 58 called Improving Skills of Educators, which is where the state is expected 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. The plan includes a screenshot of the table of contents from an access and equity chapter in the English language arts curriculum framework. The chapter does include a couple of pages on UDL, on accommodations and modifications and on students with significant cognitive disabilities, which is nice as far as it goes. However, the existence of a chapter like this does not mean students are receiving access and equity.

On page 61 of the plan there is a discussion of a CA initiative “to provide additional preparation to general educators so they can better serve the needs of students with disabilities” as well as an initiative “to allow special educators to serve general education students.” The plan says: “These efforts to recognize the needs of students with disabilities in general education classrooms, and the challenges of the teachers who serve them, were inspired by the groundbreaking work of California’s Statewide Special Education Task Force and their summary report, “One System: Reforming Education to Serve All Students,” available at <http://www.smcoe.org/about-smcoe/statewide-specialeducation-task-force/>. It will be up to CA parents/advocates to determine whether these initiatives apply to

all students, including those with the most significant cognitive disabilities, and are sufficient to provide a significant opportunity for a fair, equitable and high quality education, as promised by ESSA.

Student Support and Academic Enrichment Grants (page 66)

As the CA draft plan states, the purpose of this program is to improve students' academic achievement by increasing the capacity of states, local educational agencies (LEAs), schools, and local communities to:

- Provide all students with access to a well-rounded education;
- Improve school conditions for student learning; and
- Improve the use of technology in order to improve the academic achievement and digital literacy of all students.

The draft plan's response to how it will use these funds to achieve the purpose above is very vague.

“California plans to use Title IV, Part A, Subpart 1 state-level activity funds to build the capacity of California educators to successfully implement state academic content standards while emphasizing the importance of meeting the specific, and often multiple, learning needs of diverse students, including, but not limited to, English learners, students with disabilities, foster youth, and low-income students. Specific activities and strategies are described in more detail in the Title II, Part A section of this plan.”

This statement refers to specific activities and strategies described in an earlier section of the plan. However, as we already discussed that section also lacked sufficient specificity.

In this section of the plan CA should provide a thorough description of how it will implement critical strategies such as UDL and inclusive best practices, as well as any other strategies/activities that will provide all students (especially the specified student subgroups) with access to a well-rounded education; improve school conditions for student learning; and improve the use of technology in order to improve the academic achievement and digital literacy of all student.

Coordination with Other Programs

ESSA requires that the state plans coordinate with other programs, such those under the Individuals with Disabilities Education Act. CA has a State Systemic Improvement Plan (SSIP) for students with disabilities. As part of its SSIP CA identified a State Identified Measureable Result (SiMR) to “increase assessment proficiency results for the subgroups of special education students who are also ELs; low-income, defined by student's eligibility for free and reduced-price meals (FRPM); and foster youths.” This draft ESSA plan does not mention the SSIP or SiMR.

The next draft should specifically address how the ESSA plan will support the implementation of the SSIP.

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See ESSA resources at <https://www.ndscenter.org/political-advocacy> (click on policy documents and webinar archives)

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