



Comments to North Carolina's 3rd Draft of the Every Student Succeeds Act (ESSA) Consolidated State Plan

May 26, 2017

These comments refer to North Carolina's Draft State Plan for the ESSA dated May 1, 2017 available at <http://www.ncpublicschools.org/docs/succeeds/draft-state-plan.pdf>

The comments provided in this document focus on those issues most critical to subgroup accountability and to students with disabilities (SWDs).

Overall Comment: The NC draft plan dated May 1, 2017 lacks many of the critical elements required to be included in a state's ESSA plan. In fact, the draft is missing so much information that it makes little sense to ask for comments from the public.

The draft states, at page 5, "draft plan contains placeholders throughout for decisions that will need to be made prior to the final plan submission" and "The final plan will address all actions/decisions required by the law." These statements seem to suggest that critical details could be added to the plan without further public comment opportunities.

NC should provide all required information in its next draft so as to provide the public with an opportunity to comment in an informed and meaningful manner.

Changes made to this draft of the plan should appear in redline in the next draft to make it easier for stakeholders to provide input on the amendments.

Meaningful Stakeholder Consultation

The draft states that "The North Carolina Department of Public Instruction (NCDPI) has engaged numerous stakeholders in the development of a state plan to fully implement the requirements under the law beginning with the 2017-18 school year." We consulted several of those listed on page 111 as being members of the

“External Organizations/Associations Stakeholder Groups” who would represent the interests of students with disabilities in preparation for these comments. While some attended informational sessions, none indicated that they had been provided with an opportunity for meaningful consultation/engagement in the development of the plan.

Comments regarding state assessments.

Universal Design for Learning

States are required to develop their assessments using the principles of universal design for learning (UDL). Unfortunately, the March 2017 state plan template 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 NC plan should list the strategies the state will employ to not exceed the 1% cap on alternate assessments. Also, NC should create a process for stakeholder engagement when it develops its definition of students with the most significant cognitive disabilities, including input from parents and organizations representing these students. (See NCEO document at <https://nceo.umn.edu/docs/OnlinePubs/NCEOBrief12OnePercentCap.pdf>.)

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 – Minimum N-size (page 12)

NC proposes to use an N-size of 30 for accountability purposes (e.g. assessment proficiency and graduation rate). The draft fails to provide critical information regarding the proposed N-size, including if a different N-size will be used for reporting and/or participation. The state also provides no information regarding how the N-size was determined including how the State collaborated with teachers,

principals, other school leaders, parents, and other stakeholders when determining such minimum number.

Prior to the next draft of the plan xx should provide stakeholders with the N size analysis described above (see the Ohio Department of Education’s N size topic guide for examples of the data simulations for both assessment and graduation analysis at <https://education.ohio.gov/getattachment/Topics/Every-Student-Succeeds-Act-ESSA/Nsize-Topic-Discussion-Guide.pdf.aspx>).

Below are examples of data analysis showing how many students would be included in the accountability system by student subgroup. This type of analysis enables stakeholders to understand the impact of the n size being proposed. These data analyses should be prepared for both assessment and graduation.

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
N-Size											
10		100.0%	98.8%	99.9%	90.3%	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%	98.2%	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>

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	1,551	8.25%	16	284	5.63%

Source: NJ State Plan; n size of 20

Without this information, parents and other stakeholders cannot provide meaningful consultation regarding N-size determination.

The 2013 IES study, ([The Inclusion of Students With Disabilities in School Accountability Systems: An Update](https://ies.ed.gov/ncee/pubs/20134017/pdf/20134017.pdf) available at <https://ies.ed.gov/ncee/pubs/20134017/pdf/20134017.pdf>) found that only 29.8% of NC schools were held accountable for students with disabilities using an N-size of 40 and that just over half - 55.3% - of the state's students with disabilities attended schools accountable for the students with disabilities subgroup. Given the large number of schools and students exempt from NC's accountability system using an N-size of 40, it is essential for the state to provide detailed analyses of the impact of its proposed N-size of 30.

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>).

Long-term goals (page 13)

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.

NC provides no information on long-term goals for academic assessments, English proficiency or high school graduation. These goals are critical elements of the plan. NC must provide all information regarding long-term goals required by the ESSA plan template.

Indicators (page 15)

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.

NC provides no information regarding the academic indicators or English language proficiency.

The draft plan does indicate that NC reports a 5-year adjusted cohort graduation rate. No other information is provided.

A limited amount of information is provided regarding the School Quality or Student Success Indicator (SQSS).

Annual Meaningful Differentiation of Schools (page 18)

The draft provides no information regarding how the state's system will provide for annual meaningful differentiation of schools.

The draft provides no information regarding the weighting of each indicator in the state's system for annual meaningful differentiation of schools.

Identification of Schools (page 18)

The draft provides no information regarding the methodology NC will use to identify schools for Comprehensive (CSI) or Targeted Support and Improvement (TSI).

Consistently underperforming subgroups

The draft provides no information regarding how NC will define “consistently underperforming” subgroups to be used to identify schools for Targeted Support and Improvement.

Annual Measurement of Achievement – (At least 95% Assessment Participation Rate Requirement (page 20)

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 included in the state’s annual assessments. It is important to keep in mind the impact of the participation rate requirement on students with disabilities. States must describe how the state factors this requirement into the statewide accountability system. 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).

The NC draft plan states:

“In the statewide accountability system, if a school does not meet the 95 percent participation requirement for all students, the greater of either 95 percent of all students or the number of students participating in the assessment will, for the purposes of measuring, calculating and reporting, be the denominator.

Additionally, in the statewide accountability system, if a school does not meet the 95 percent participation requirement for any subgroup of students, the greater of either 95 percent of the subgroup or the number of students in the subgroup participating in the assessment will, for the purposes of measuring, calculating and reporting, be the denominator.”

This is a wholly inadequate response to this question. It indicates only that NC will adhere to the proficiency calculation requirement in ESSA – that once student test participation drops below 95% all non-participants must be counted as non-proficient.

NC must provide details on how it will factor the participation rate into the statewide system of accountability.

We believe the appropriate impact on the accountability system is that a school should not get a satisfactory rating for any year the participation requirement is not met for any subgroup. NC might 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 2017, they still provide excellent guidance on many difficult ESSA implementation issues.

Exit Criteria for CSI and TSI Schools (page 20)

The draft provides no information regarding the exit criteria for schools identified as needing CSI or TSI.

School Conditions (page 39)

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 NC draft plan provides information on the its “Whole School, Whole Community, Whole Child Model (WSCC)” which “encompasses much of the NCDPI’s work to address the health and academic needs of students K-12 to meet this goal.”

This does not address the specific issues contained in the question. NC should expand upon this response and give particular attention to the overuse of discipline practices given the high rate of out-of-school suspensions reported by NC districts through the Civil Rights Data Collection. The table below shows NC out-of-school suspension rates for students with disabilities in the 2011-2012 school year. National rates are shown in paras.

ELEMENTARY			SECONDARY		
% SWDs	# of SWDs	Total SWDs	% SWDs	# of SWDs	Total SWDs
6.62 (5.30)	5,465	82615	23.15 (18.14)	20,225	87,375

Children and Youth who are Neglected, Delinquent, or At-Risk (page 50)

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>) **30 %** of students served under Subpart 2 had IEPs. The NC plan should state specifically how it will ensure that students in

correctional 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 53)

We are pleased to see information on UDL implementation at page 66 of the draft plan.

The plan should also address strategies to significantly improve the capacity of educators to implement inclusive best practices.

Coordination with Other Programs

ESSA requires that the state plan coordinate with other programs, such those under the Individuals with Disabilities Education Act (IDEA). The NC plan should include information on how the state's State Systemic Improvement Plan will be incorporated w/ other ESSA activities.

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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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