



# THE EVERY STUDENT SUCCEEDS ACT:

## FINAL REGULATIONS

### *ACCOUNTABILITY REPORTING & STATE PLANS ASSESSMENTS*

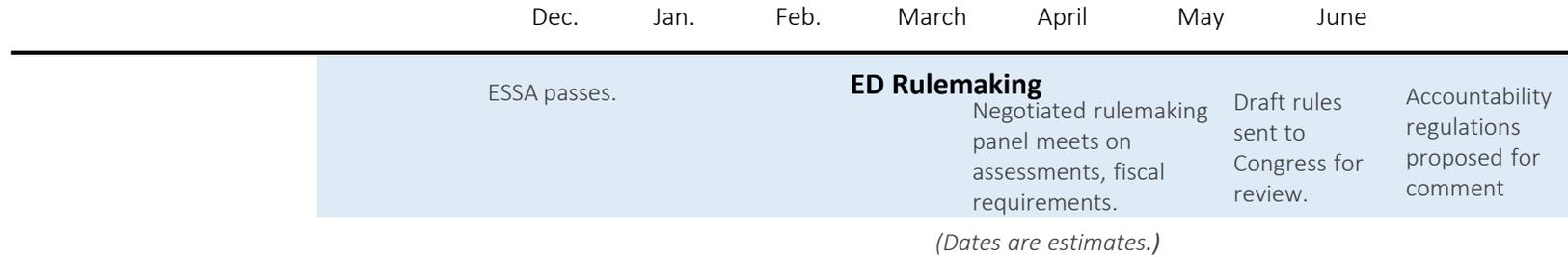
January 10, 2016

*Christy Wolfe, Senior Policy Advisor  
Lindsey Fryer, Vice President, Penn Hill Group  
Tom Corwin, Penn Hill Group*

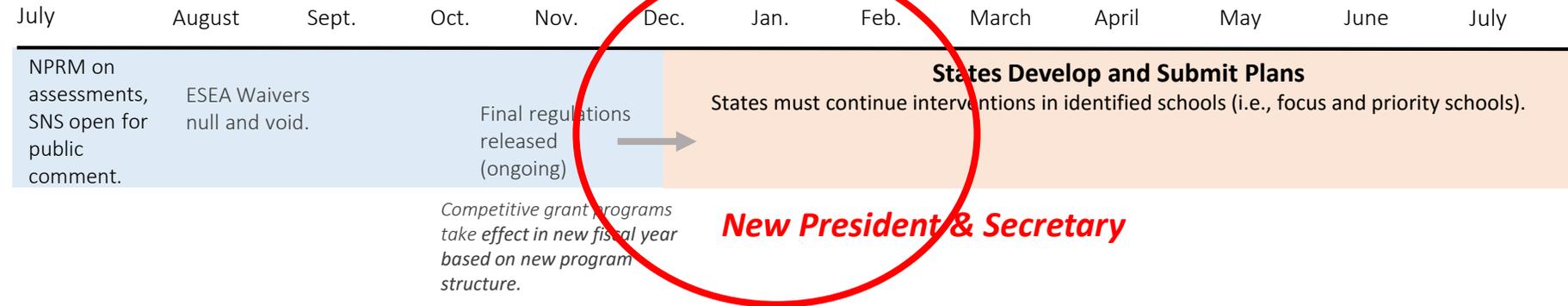
# TIMELINE: 2017-18 FIRST YEAR ESSA RULES IN EFFECT



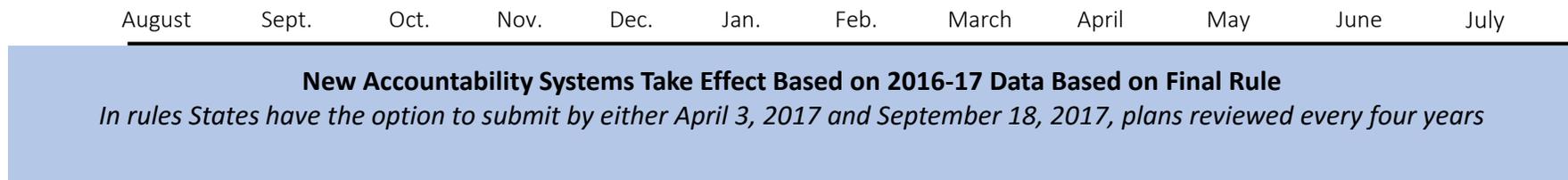
## 2015-16 School Year: Bill Passage and Initial Rulemaking



## 2016-17 School Year: Transition



## 2017-18 School Year: Transition



## 2018-19 School Year: New Systems in Place

# FINAL RULE: Accountability and State Plans



The U.S. Department of Education (ED) officially published a [Final Rulemaking](#) in the Federal Register on November 29, 2016

- Covers accountability provisions included in Title I and consolidated state plan requirements in the Every Student Succeeds Act (ESSA)
- Represents a complete rewrite of many existing regulations – reflective of the new requirements resulting from ESSA
- The rule is effective on January 28, 2017.
- The effective date of this regulation could subject to delay under the incoming Administration or the regulation could be subject to repeal under the Congressional Review Act.

# The Future of ESSA Regulations?: Uncertain



Trump Administration	Congress
<p>The new administration can decide to</p> <ol style="list-style-type: none"><li>1. Keep these regulations in place and<ul style="list-style-type: none"><li>• Re-regulation through a new NPRM certain portions, and/or</li><li>• Choose not to enforce certain provisions and prioritize others.</li></ul></li><li>2. Rescind the final regulations<ul style="list-style-type: none"><li>• Start over from the beginning with new regulations, public comment.</li><li>• Significantly scale back the scope of rules</li></ul></li></ol>	<p>The Congressional Review Act (CRA) gives Congress 60 session days to repeal an entire rule (all or nothing)</p> <p>While it only requires a simple majority, it has only been used once, by President Bush in 2001.</p>

# Major Changes: NPRM versus Final Rule



Issue	NPRM	Final Rule
Identification Start Date	States start identification of schools using new accountability system requirements before the start of the 2017-2018 school year	States start identification of schools using new accountability system requirements before the start of the 2018-2019 school year
Plan Submission Dates	Two windows of submission – March 6, 2017 and July 5, 2017	Two submission windows maintained with delayed dates – April 3, 2017 and September 18, 2017
Academic Achievement and 5 <sup>th</sup> Indicator	States required to select indicators that are supported by research that shows connection to student achievement.	Expands NPRM requirement to include research showing student learning, such as grades, advance coursework, persistence, etc.
95% Assessment Participation	State option to be “equally” rigorous to options spelled out in the regulation	State option to be “sufficiently rigorous” to options spelled out in regulation
Years needed to identify consistently underperforming subgroups	States must base determinations of consistently underperforming subgroups on 2 years worth of data	States may use more than 2 years worth of data based on demonstration of how longer timeframe will support low-performing students
Options for how to define consistently underperforming subgroups	5 options for how to define consistently underperforming subgroups, including state option that met certain requirements, comparing subgroups performance to average student performance, and subgroups performance on one indicator	3 options, including state option with no requirements and subgroup performance below a State-determined threshold for an indicator with no goals
School Improvement minimum grant amounts	States required to make grants of \$500,000 to comprehensive support schools and \$50,000 to targeted support schools	States permitted to adjust grant sizes based on school’s size, identified needs, and selected interventions

# Accountability Metrics



Indicator	Regulatory Requirement(s)
Academic proficiency as measured through assessments	<ul style="list-style-type: none"> <li>• Must equally weight reading or ELA and math</li> </ul>
High school graduation rate	<ul style="list-style-type: none"> <li>• 4 year cohort rate/or extended rate based on state discretion</li> </ul>
Elementary/Middle school indicator	<ul style="list-style-type: none"> <li>• Growth or another academic measure</li> </ul>
Progress towards English language proficiency (ELP)	<ul style="list-style-type: none"> <li>• Must use objective and reliable measure of progress;</li> <li>• Not included for schools with number of English learner students below state's N size</li> </ul>
School quality or student success	<ul style="list-style-type: none"> <li>• Does not have to be different from other indicators in state's accountability system;</li> <li>• Cannot change the status of identified schools w/o significant progress on at least one other indicator (mechanism for ensuring other indicators have "much greater weight," as required in statute);</li> <li>• Progress must be likely to increase student learning;</li> <li>• Must aid in the meaningful differentiation of schools.</li> </ul>

# Student Subgroups



- “Super subgroups” are not permitted to replace use of individual subgroups;
- N size must be less than 30 or must be approved by ED. Lower N sizes are permitted for reporting purposes;
- Students formerly identified as students with disabilities may be counted in such subgroup for up to 2 years; and,
- Former EL students and students with disabilities who continue to be counted in the EL subgroup must be included as part of subgroup N size.



# Test Participation



States may use one of four methods to respond to test participation rates that fall below the **95 percent threshold** for all students or for a subgroup:

1. Lower summative performance rating
2. Lowest performance level on academic achievement indicator
3. Identified for targeted support and improvement
4. State determined action that is rigorous and described in the state's plan

Schools not meeting the 95 percent participation requirement are required to develop an improvement plan that is approved and monitored by the LEA.

# School Improvement Requirements



- All schools must receive a single, summative determination among at least 3 categories.
- Identification under new accountability structure must take place for 2018-19 school year, based data available in 2016-2017 and 2017-2018 school year
- States must identify schools and provide support and intervention to at least 2 categories of schools:

## Comprehensive Support and Improvement

- Data can be averaged over a period of up to 3 years
- Identification must take place at least once every 3 years
- Requires that states use four-year adjusted cohort graduation rate except that there is flexibility for certain types of schools.

## Targeted Support and Improvement

- Requires the establishment of a uniform, statewide methodology for identification of consistently underperforming subgroups that meets all of the following:
  - Considers performance among the subgroup for no more than 2 years, or longer timeframe if State demonstrates this will enable attainment of State's long term goals;
  - Is based on all the accountability indicators, consistent with weighting requirements.
  - Defines such subgroups in a uniform manner across all LEAs in the State through **a statewide definition**, or whether the subgroup is (1) meeting at least on of the State's interim progress measures, (2) not on track to meet at least one of the long-term goals, or (3) is performing below a State determined threshold on an indicator without long-terms goals.



## Components

Consultation and Performance Management

Academic Assessments

Accountability, Support, and Improvement for Schools

Supporting Excellent Educators

Supporting All Students

## Submission and Review

States have the option to submit by either April 3 or September 18, 2017

Review (and any necessary revision) of state plans is required to take place at least every four years



# CHARTER SCHOOL ACCOUNTABILITY ISSUES

# WINS: SEA role in Charter Accountability



## New language defining SEA role in charter accountability

200.12(c)

(c)(1) The accountability provisions under this section must be overseen for public charter schools in accordance with State charter school law.

**(2) In meeting the requirements of this section, if an authorized public chartering agency, consistent with State charter school law, acts to decline to renew or to revoke a charter for a particular charter school, the decision of the agency to do so supersedes any notification from the State that such a school must implement a comprehensive support and improvement plan or targeted support and improvement plan under §§ 200.21 or 200.22, respectively.**

# WINS: SEA role in Charter Accountability



Improved language addressing charter school conversions and intervening in low-performing charter schools (§200.21 and 200.23)

## **200.21 Comprehensive support and improvement**

(d) Comprehensive support and improvement plan. Each LEA must, with respect to each school identified by the state for comprehensive support and improvement, develop and implement a comprehensive support and improvement plan for the school to improve student outcomes that-

\*\*\*\*

(3) Includes one or more interventions (e.g., .... **converting the school to a public charter school**; changing school governance; closing the school; and, in the case of a public charter school, **working in coordination with the applicable authorized public chartering agency, revoking or non-renewing the school's charter by its authorized public chartering agency consistent with State charter school law and the terms of such a school's charter**) to improve student outcomes in the school..."

# Accountability Technical Changes



Charter schools are subject to the same single accountability system as public schools.

(5) Be the same accountability system the State uses to annually meaningfully differentiate all public schools, **including public charter schools**, in the State under § 200.18, and to identify schools for comprehensive and targeted support and improvement under § 200.19; and

(6) Include the process the State will use to ensure effective development and implementation of school support and improvement plans, including evidence-based interventions, to hold all public schools, **including public charter schools**, accountable for student academic achievement and school success consistent with §§ 200.21 through 200.24.



## Partial Progress: Accountability and graduation rates

In our comments we strongly objected to proposed §200.19(a), which requires that a state identify, for comprehensive support and improvement, any high school with less than a 67 percent graduation rate based exclusively on the school's four-year adjusted cohort graduation rate.

***The Department did not change this language, but it removed a cap on extended-year graduation rates and offered additional flexibility elsewhere in the regulation to develop appropriate accountability metrics for certain types of schools:***

Comments and Responses:, 86137: We have revised § 200.18(d)(1)(iii) to clarify that States have flexibility to develop and implement alternate accountability **methods—which may include the use of extended-year graduation rates**—for schools designed to serve special student populations, including alternative schools, dropout recovery programs, and schools for neglected and delinquent youth. Under this provision, a State could, for example, propose through its State plan to use a five- or six-year adjusted cohort graduation rate to determine if an alternative or dropout recovery school's graduation rate was 67 percent or less for the purposes of identifying those schools.



## Concerns Not Addressed: Accountability, support, and improvement

In our comment letter we raised concerns about the language treating authorizers as LEAs - operators of schools – should they have a significant number of schools identified for improvement. The final rule still includes this language.

**200.23(d)(1)** includes, an authorization for the SEA to take action to initiate additional improvement:

*“in any LEA, or in any authorized public chartering agency consistent with State law, with a significant number of schools that are consistently identified for support and improvement under §200.19(a) and are not meeting exit criteria established under §200.21(f) of a significant number of schools identified for targeted support and improvement under §200.19(b)...”* (emphasis added)

In addition, section **299.17(e)(3)** would require that a state’s ESEA consolidated plan must describe:

*“Any additional improvement actions that State may take consistent with §200.23(c), including additional supports or interventions in LEAs, or in any authorized public chartering agency consistent with State law, with a significant number of schools identified for comprehensive support and improvement that are not meeting exit criteria or a significant number of schools identified for targeted support or improvement.”* (emphasis added)



## Concerns Not Addressed: Accountability, support, and improvement

**Section 200.23(c)** Additional improvement actions. Consistent with State law, the State may—

- (1) Take action to initiate additional improvement in any LEA, or in any authorized public chartering agency consistent with State charter school law, that serves a significant number or percentage of schools that are identified for comprehensive support and improvement under § 200.19(a) and are not meeting exit criteria established under § 200.21(f) or a significant number or percentage of schools identified for targeted support and improvement under § 200.19(b), which may include—
  - (i) LEA-level actions such as reducing the LEA’s operational or budgetary autonomy; removing one or more schools from the jurisdiction of the LEA; or restructuring the LEA, including changing its governance or initiating State takeover of the LEA;
  - (ii) In the case of an authorized public chartering agency, monitoring, limiting, or revoking the authority of the agency to issue, renew, and revoke school charters; and
  - (iii) School-level actions such as reorganizing a school to implement a new instructional model; replacing school leadership with leaders who are trained for or have a record of success in low-performing schools; converting a school to a public charter school; changing school governance; closing a school; or, in the case of a public charter school, working in coordination with the applicable authorized public chartering agency, revoking or nonrenewing the school’s charter consistent with State charter school law and the terms of the school’s charter;

## Concerns Not Addressed: Charter-specific reporting requirements



Section 200.30(a)(2)(ii) requires that the Title I state report card include, in addition to the numerous data items mandated in the statute, information for each authorized public chartering agency in the state on:

- (1) how the percentage of students in each student subgroup for each charter school authorized by the agency compares to the percentage for the LEA or LEAs from which the school draws a significant portion of its students, or the geographic community within the LEA from which the charter school is located, as determined by the state; and
- (2) how the achievement of students in each school authorized by the agency compares to the achievement of the students in the LEA or LEAs from which the school draws a significant portion of its students, or the geographic community within the LEA in which the school is located, as determined by the state.

# Unclear Implications: Supporting excellent educators



- Section 299.18(c) sets regulations for the implementation of the statutory requirement that a state's Title I plan describe how low-income and minority children enrolled in Title I schools are not served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers.
- States must describe the measures the SEA will use to evaluate and publicly report on the SEA's progress in this area.
- In our comments we requested that the final regulations include language clarifying that the SEAs must carry out these requirements in a manner consistent with state charter schools law and all other state laws and regulations governing public school teacher evaluation.
- The Department did not make this change in their final rule, but they did state in their response to our comments that there is sufficient latitude to define these terms consistent with state law governing charter school teacher credentials.
- We anticipate that this could be provided to states in the form of accountability guidance.

# FINAL RULE: Assessments



The U.S. Department of Education (ED) officially published a [Final Rulemaking](#) in the Federal Register on December 8, 2016

- Describes the general state responsibilities for assessment under Title I in the Every Student Succeeds Act (ESSA)
- Differ only slightly from the final negotiated rules

# What do we want changed in the regulations?



## Priorities for Charter Schools

1. Eliminate reporting requirement that only applies to charter school authorizers
2. Eliminate references to authorizers as school operators (LEAs)
3. Clarify that ESSA does not override state law governing teacher credentials with respect to state definitions of ineffective or out of field teachers
4. Clarify in regs or via letter to states that Title I does not require states to create a charter school license in the absence of HQT. Whatever is on the books (or not) for charter school teachers it what applies for purposes of Title I. State law governs.
5. Further clarifications to ensure that schools serving at risk populations are not penalized by graduation rate requirements.
6. Clear statement in regulations or guidance that funds for comprehensive support and improvement can be used for the replication and expansion of charter schools to serve students attending schools identified for comprehensive support and improvement.

# Nationally Recognized High School Assessment Option



- A state may permit its LEAs (including charter LEAs) to select a nationally recognized high school assessment to administer **instead of** the state high school assessment.
- We obtained language that requires school districts to consult with their charter schools if they decide to request this flexibility.
- Charter LEAs must consult with their authorizers to ensure such an assessment is consistent with charter.

# REFERENCE AND RESOURCES



- [PUBLICCHARTERS.ORG/ESSA](https://PUBLICCHARTERS.ORG/ESSA)
- [Every Student Succeeds Act](#)
- [ED.GOV/ESSA](https://ED.GOV/ESSA)
- [Sign up for email updates and news about ESSA](#)
- Send questions to [essa.questions@ed.gov](mailto:essa.questions@ed.gov)

# QUESTIONS





*More Information...*

*Christy Wolfe, Senior Policy Advisor*

[christy@publiccharters.org](mailto:christy@publiccharters.org)