



1331 H Street, NW – Suite 1001  
Washington, DC 20005  
202-785-4268  
www.nagc.org

July 29, 2016

Honorable John B. King, Jr.  
Secretary of Education  
U.S. Department of Education  
Washington, DC 20202  
RE: Docket ID ED-2016-OESE 0032

Dear Secretary King:

On behalf of the National Association for Gifted Children (NAGC), I am submitting comments in response to the May 31, 2016, *Notice of Proposed Rulemaking* on accountability and state plans under the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act (ESSA). NAGC's comments address proposed regulations 200.13, 200.14(b)(5), 200.30, and 200.31.

## **Background**

Success for the United States in the 21<sup>st</sup> century requires a commitment to developing the high levels of talent needed in every field. However, on international comparisons, the performance of top students in the U.S. lags behind other nations.<sup>1</sup> Also of great concern is that few students of color or from poverty in the U.S. are reaching advanced achievement levels.<sup>2</sup> One factor contributing to this lackluster performance is that millions of students are under-challenged by the curriculum and instruction they receive. A forthcoming paper<sup>3</sup> examining student performance on state and national assessments shows that between 15 and 45 percent of students entering late elementary classrooms each fall are already performing at least one year ahead of expectations. The failure to support our best students, including supporting those who have the ability to become high achievers and challenging those who already are above grade level, has serious implications for the nation's future. Educators' general lack of attention to the needs of high-ability students, including accountability for their learning gains, is a key factor in these failures. The proposed regulations on the accountability and state plan provisions in ESSA provide an opportunity to address what states can and must do to ensure that all districts and schools attend to the learning needs of students at or above grade-level achievement.

## **State Accountability Goals (200.13)**

Many families of high-ability students have learned that schools and districts are seemingly ill-equipped to attend concurrently to the needs of both their struggling and advanced students. In some cases the

---

<sup>1</sup> Program for International Student Assessment (PISA (2012). Approximately 510,000 15-year-olds took the exams in 62 countries. In math, the average percentage of students receiving top scores was 13%; the U.S. had 9% of its students scoring at the top. Compare to Shanghai (55%), Singapore (40%), Korea (31%) and Switzerland (21%).

<sup>2</sup> For example, while 10% of White 4<sup>th</sup> grade students scored at the advanced level on the 2015 NAEP math exam, only 1% of Black and 3% of Hispanic students did so. For low-income students, 2% of 4<sup>th</sup> graders eligible for free/reduced lunch scored at the advanced level on the NAEP math exam compared to 13% of non-eligible students. Every state reports similar "excellence" achievement gap data on state assessments.

<sup>3</sup> Makel, M. C., Matthews, M. S., Peters, S. J., RamboHernandez, K. & Plucker, J.A. (in press). *How can this many students be invisible? Large percentages of American students perform above grade level.*

lack of attention to advanced students is due to a misguided notion that these students will be fine on their own. However, national and state data show that in spite of what might be expected from top students, not all high-ability students reach advanced achievement levels. It is concerning that state and local accountability systems have – and continue to – focus on measures of proficiency, which many high-ability students achieve and surpass early in an academic year.<sup>4</sup> Establishing appropriate accountability goals for advanced students would ensure that districts take steps to address the needs of all their students – not just a subset of students – every day.

Proposed regulation 200.13 directs that long-term state goals must be based on a measure of grade-level proficiency on the state assessments. NAGC recommends that the proposed rule encourage states to see “proficiency” as a minimum rather than an end goal. To do so, NAGC recommends the addition of the phrase “at a minimum” before every mention of “grade-level proficiency” in § 200.13(a).

NAGC also urges the U.S. Department of Education to allow SEAs and LEAs to set accelerated interim progress measures for students that make growth at a faster pace. This exception to the focus on grade-level proficiency is consistent with the allowance for students with significant cognitive disabilities to access different learning standards. The Congress recognized that children do not achieve at a uniform rate by creating an exception to the required state assessment (sec. 1111(b)(2)(c)) for middle school students who are taking above grade-level mathematics coursework. Our proposed exception is also consistent with section 1111(b)(2)(J) of ESSA, which allows the use of computer adaptive assessments that utilize test “‘items above...student’s grade level,’ which may be included in addition to grade-level proficiency scores for accountability determinations.”

### **School Quality or Student Success Indicators (200.14(b)(5))**

ESSA requires each state to include at least one indicator of school quality or student success in its statewide accountability system. This requirement provides an opportunity for the Department to encourage states to add indicators that incentivize equity *and* excellence in all schools.

Currently, efforts to increase equity in our schools often do not include an emphasis on access to and success in the advanced courses needed for success in selective colleges and careers. The Office for Civil Rights’ recent report<sup>5</sup> showed that fewer high schools with high enrollment of Black and Latino students offered courses such as calculus, physics, chemistry, and Algebra II compared to all high schools. This lack of opportunity, unfortunately, may be attributable to assumptions about student ability, and is particularly damaging to high-ability students in poverty who are dependent on the public schools to meet their learning needs.

Proposed regulation 200.14(b)(5) includes student access to and completion of advanced coursework as an example of a school quality or student success indicator.

In addition to the access to advanced coursework indicator, NAGC recommends that the Department provide additional equity indicators in the proposed regulation. We suggest factors that provide meaningful differentiation of school performance, such as:

- success on advanced placement exams;
- strategies like grade-skipping or content area acceleration and compacting of instruction that match the learning pace of gifted and talented students;

---

<sup>4</sup> In a national sample of 27 school districts and 436 high-ability students in grades 2-6, 40-50% of the traditional classroom material could be eliminated without a negative impact on out-of-level (1 grade) post-achievement test results in math and language arts. See Reis, et al. (1993). Why not let high-ability students start school in January? Retrieved from <http://nrcgt.uconn.edu/wp-content/uploads/sites/953/2015/09/rm93106.pdf>

<sup>5</sup> 2013-2014 *Civil Rights Data Collection: A First Look*. Retrieved from <http://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>

- closing achievement gaps between student subgroups at the advanced performance level;
- participation in gifted education programs and services by students with disabilities, minority and low-income students, and English learners; and
- moving low-income students to above-proficient levels of achievement on the state tests.

### **Annual State and LEA Report Cards (200.30 & 200.31)**

Attention to student subgroup achievement has resulted in some progress in closing gaps at the lower end of the achievement spectrum. Unfortunately, in the No Child Left Behind era, there was little similar attention to disparities in subgroup achievement at the advanced level on state assessments. This lack of attention may be due in part to a lack of oversight of state and district report cards posted online, many of which do not include the required reporting of student performance at each achievement level, disaggregated by subgroup. Requiring states and districts to report disaggregated student achievement data – so that the public has enough information to hold schools accountable for student learning – was retained in ESSA.

Proposed regulations 200.30 and 200.31 regarding state and district report cards indicate that reporting disaggregated student achievement data is required to be included on the state and LEA report cards. NAGC strongly encourages the U.S. Department of Education to hold SEAs and LEAs accountable for implementing this element of reporting required in law and proposed regulations.

Gifted and talented students make up 6 to 10 percent of the U.S. student population. Among these 3 to 5 million children are students from all ethnic and income groups who are the nation's future innovators, artists, and entrepreneurs. However, we need to move past the narrow focus on grade-level proficiency to ensure that all our high-ability students are able to maximize their potential. NAGC believes these comments will guide rulemaking to ensure equity, consistency, and quality of gifted education so that all gifted and talented children receive the services they need, and deserve, to thrive.

Sincerely,



George Betts  
NAGC Board President