



CCSESA

California County Superintendents Educational Services Association

1121 L Street, Suite 510, Sacramento, CA 95814 ■ P 916.446.3095 ■ F 916.448.7801 ■ www.ccsesa.org

BOARD OF DIRECTORS

President

Dr. Christine Lizardi Frazier

Kern County

President-Elect

Mr. Tom Changnon

Stanislaus County

Past President

Mr. Stan Mantooth

Ventura County

Treasurer

Dr. Al Mijares

Orange County

State & Federal Legislative Committee

Chair

Mr. Jim Vidak

Tulare County

Executive Director

Mr. Peter Birdsall

REGION CHAIRS

Region 1 Chair

Dr. Steven Herrington

Sonoma County

Region 2 Chair

Ms. Bettina Blackwell

Trinity County

Region 3 Chair

Ms. Holly Hermansen

Nevada County

Region 4 Chair

Ms. Anne Campbell

San Mateo County

Region 5 Chair

Mr. Jon Gundry

Santa Clara County

Region 6 Chair

Ms. Kathy Northington

Calaveras County

Region 7 Chair

Dr. Steven Gomes

Merced County

Region 8 Chair

Dr. Jim Brescia

San Luis Obispo County

Region 9 Chair

Dr. Randy Ward

San Diego County

Region 10 Chair

Mr. Ted Alejandre

San Bernardino County

Region 11 Chair

Dr. Debra Duardo

Los Angeles County

COMMITTEE CHAIRS

Business Partnerships

Mr. Dave Gordon

Sacramento County

Business and

Administration (BASC)

Ms. Misty Key

Ventura County

Curriculum and

Instruction (CISC)

Dr. Kathryn Catania

Fresno County

Personnel and

Administration (PASSCo)

Mr. Steven Hovey

Riverside County

Student Programs and

Services (SPSSC)

Ms. Carmen Barnhart

Kings County

Technology and

Telecommunications (TTSC)

Mr. Luis Wong

Imperial County

November 7, 2016

James Butler

U.S. Department of Education

400 Maryland Avenue, SW Room 3W246

Washington, DC 20202

RE: Docket ID ED-2016-OESE-0056

Dear Mr. Butler:

On behalf of the California County Superintendents Educational Services Association (CCSESA), a statewide association representing all California county superintendents of schools, I am writing to provide comments on the Department of Education's proposed regulations implementing the Every Student Succeeds Act (ESSA). We appreciate this opportunity to share a local perspective on the regulations that will implement this important new law.

CCSESA believes that the passage of ESSA was a substantial step towards helping California implement an aligned federal and state accountability system. By allowing states greater flexibility, the new law provides an important opportunity to avoid the unintended problems created when prescriptive federal law is superimposed on schools with diverse characteristics and needs.

While we are encouraged by the direction of ESSA, we are concerned that a number of the proposed regulations released by the Department do not comport with the spirit of flexibility intended by the legislation. Specifically, the following proposed language is of concern:

- **Section 200.72 (b)(1)(ii)(A): LEA options: Distribution of state and local funds based on characteristics of students-** The second element of this proposed option clearly contradicts legislative intent. When drafting ESSA, both Houses of Congress considered and ultimately rejected the proposed "portability" amendment which would have required LEAs to distribute Title I funds based on a strict per-student formula. This proposed regulation would have the same force and effect as the "portability" amendment and thus is an obvious and legally-challengeable violation of legislative intent.
 - o Recommendation: CCSESA recommends deleting part (b)(1)(ii)(A)(2) requiring that each Title I school receives "all of the funds to which it is entitled under the formula." CCSESA also recommends replacing "including students in poverty..." in part (b)(1)(ii)(A)(1) with "such as students in poverty..."
- **Section 200.72 (b)(1)(ii)(B): LEA options: Distribution of state and local funds based on personnel and non-personnel resources-** It appears that this regulation would require all schools within an LEA to expend the same total amount on personnel regardless of differences in teacher experience, specialty, cost of living, or additional skills. The proposed regulation is seriously problematic for county offices of education (COEs) for two reasons. First, to meet the unique needs of students' with moderate to severe disabilities, county superintendents must hire staff with additional specialized education, training, and skills. This often leads to unavoidable salary discrepancies even between teachers with the same credential and experience, which in turn may create disparate personnel expenses between school sites. Second, most COEs span more than 1000 square miles and include both urban



and rural communities with significantly disparate costs of living. For instance, the Monterey County Office of Education operates schools in both Salinas and Monterey; however, the cost of living in Monterey city is nearly 50 points higher than in Salinas. As a result, personnel expenditures often vary significantly throughout the county. This proposed compliance option is an unworkable alternative for COEs and should be significantly amended.

- Recommendation: CCSESA recommends amending this section to align with current regulations which focus on resources, not dollar amounts.
- **Section 200.72 (b)(1)(ii)(C): LEA options: Distribution of state and local funds based on an SEA-established compliance test-** CCSESA is concerned that the proposed regulations divest LEAs of the flexibility to establish their own compliance tests. Both the past and current statutes indicate that the LEA shall be responsible for developing a methodology that demonstrates compliance with supplement not supplant. However, the proposed language creates a federal peer review process, which is in direct contradiction to ESSA Section 1012(b)(4) prohibiting the Secretary from prescribing the methodology that an LEA may use to allocate state and local funds. Section 1012(b)(4) was inserted to ensure that the Department could not prescribe the specific methodologies that must be used to comply with supplement, not supplant.
 - Recommendation: CCSESA recommends deleting references to the federal peer review process in parts (b)(1)(ii)(C)(1)(ii) and (b)(1)(ii)(C)(2).

Although we appreciate that the Department's intent is to decrease the administrative burden on schools while also ensuring parity in educational resources, CCSESA strongly believes that the proposed regulation in its current form would not accomplish, and would in fact inhibit, these goals. We urge the Department to consider our suggested amendments which we believe bring the proposed regulations into closer alignment with legislative intent.

We appreciate this opportunity to provide input on these important regulations that will have a substantial impact on California's schools and students. If you have any questions regarding our concerns or would like additional information, please do not hesitate to contact me directly.

Sincerely,

Peter Birdsall
Executive Director