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Joe Courtney
Congress of the United States
2nd District, Connecticut
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The Honorable Dr. John B. King, Jr.
Secretary
Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Secretary King:

I am submitting this statement as a comment on the proposed ESSA regulations that the Department of Education released June 1, 2016.

By way of background, I was elected to Congress in 2006 and have served as a member of the Education and Workforce Committee for eight years. One of the primary reasons I asked for that assignment was to address the widespread frustration across Connecticut's Second District with over-prescriptive, unworkable rules generated by the No Child Left Behind Act (NCLB). While it was slated for reauthorization in 2007, it unfortunately it took eight years for Congress to pass a bill updating that law. This delay served to only deepen the frustration and damage—even the belief that as a nation education policy can work at all on the federal level. As a supporter of critical funding under Title I to ensure equal educational opportunity for low income children, I believe the delay in making common sense changes to NCLB weakened the broad based public support for the Elementary and Secondary Education law.

That is why the bipartisan effort to write Every Student Succeeds Act (ESSA) was such a promising development. The final bill protects Title I funding from destructive cuts that initially passed in the House and its clear language to develop state and local defined indicators of school success and teacher performance was a definite sea change from NCLB's fixation on tests as the only valid measurement of the same. Indeed, in the wake of ESSA's enactment, the state of Connecticut has begun the collaborative process of developing indicators with stakeholders at the table who had been excluded for the prior fourteen years. The meetings have been ongoing and arduous, but at the end of the day, that approach is the best guarantee of public confidence and support in public education.

Unfortunately, the proposed regulations undermine what I believe was ESSA's clear intent - namely, to empower state and local educators in the process of developing indicators for achievement and a method for remediation that does not invoke NCLB's despised punitive regime. In particular, the proposed regulations 95% testing requirement language with disciplinary sanctions for non-compliance overrides the collaborative state process. At best, it sends a confusing message to stakeholders like those in Connecticut trying to implement a broader system with multiple measures. At worst, it undermines entirely what I believe is the

clear intent of Congress in the language of the statute as well as the floor comments made at time of passage.

Over and over again, the bill's proponents emphasized that ESSA, by word and intent, sought to modify federal involvement by providing a supportive role and not a prescriptive one. As President Obama said at the time of the ESSA bill signing, "It creates real partnerships between states which will have new flexibility to tailor their improvement plans and the federal government which will have oversight to make sure the plans are sound."

Using his words as a measuring stick, the Department of Education's proposed regulations are at odds with the law. States have not even had a chance to develop their improvement plans and yet the Department is already proposing mandates around testing, such as the 95% rule which is a far cry from the "oversight" role the President described.

Hopefully, the Department will heed the input of thousands of concerned educators and legislators from both parties that echo this comment. Restoring common sense flexibility to federal education policy with a clear focus to protect equal access to quality education was the mission of ESSA. As such, I believe that the regulations should call for states to be transparent in disclosing the methodology they employ in measuring school performance to give the Department the oversight capability called for in ESSA. The outpouring of concern that the proposed regulations have generated should be interpreted as a friendly but firm reminder that the Department needs to comport with both the spirit and letter of the law's supporters.

Sincerely,



JOE COURTNEY
Member of Congress