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DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED-2015-OESE-0130]

Implementing Programs under Title I of the Elementary and Secondary Education Act

AGENCY: Department of Education (Department).

ACTION: Request for information and notice of meetings.

SUMMARY: The Secretary of Education (Secretary) is soliciting advice and recommendations from interested parties prior to publishing proposed regulations to implement programs under title I of the Elementary and Secondary Education Act of 1965, as amended (title I). Programs under title I are designed to help disadvantaged children meet high academic standards. The Secretary invites advice and recommendations concerning topics for which regulations may be helpful to assist States, school districts, and schools to implement the new law. In addition, we will convene two regional meetings at which interested parties may provide additional advice and recommendations.

DATES: We must receive your written comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The dates, times, and locations of the

regional meetings are listed under the SUPPLEMENTARY INFORMATION section of this document.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or email. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket is available on the site under the "Help" tab.

- Postal Mail, Commercial Delivery, or Hand Delivery: If you mail or deliver your comments in response to this request, address them to Deborah Spitz, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E306, Washington, DC 20202.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only

information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Deborah Spitz, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E306, Washington, DC 20202. Telephone: (202) 260-3793 or by email: ESSA.publichearing@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Background:

On December 10, 2015, the President signed into law the "Every Student Succeeds Act" (ESSA), amending the Elementary and Secondary Education Act of 1965 (ESEA). The ESSA reauthorizes the ESEA and advances the ESEA's legacy of equity and opportunity by, among other things, requiring States to hold all students to high academic standards that prepare them for success in college and careers. The ESSA also requires that, if students fall behind in meeting these standards, States and local educational agencies (LEAs) implement evidence-based interventions to help them and their schools improve, with a particular focus on the lowest-performing schools, high schools with low graduation rates, and schools in which subgroups of students are underperforming.

The programs included in title I are designed to help disadvantaged children meet high academic standards. These programs include: Improving Basic Programs Operated by State and Local Educational Agencies (part A); State Assessment Grants (part B); Education of Migratory Children (part C); Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk (part D); and Flexibility for Equitable Per-Pupil Funding (part E).

The ESSA maintained a number of requirements for, and made a number of significant changes to, the title I programs, including the following:

- Maintaining the requirement for statewide assessments in at least reading/language arts and mathematics in each of grades 3-8 and once in high school; and in science in each of three grade spans (3-5, 6-9, and 10-12), while adding flexibility related to locally selected high school assessments and innovative assessment systems.

- Eliminating the requirement to calculate adequate yearly progress (AYP) and replacing it with a requirement for each State educational agency to develop an accountability system that-

- Includes State-designed, long-term goals and measurements of interim progress for all students and separately for each subgroup of students, on academic achievement and graduation rate, that expect greater progress from groups that are further behind;

- Annually measures, for all students and separately for each subgroup of students, the following indicators: academic achievement (which, for high schools, may include a measure of student growth, at the State's discretion); for elementary and middle schools, a measure of student growth, if determined appropriate by the State, or another valid and reliable statewide academic indicator; for high schools, the four-year adjusted cohort graduation rate and, at the State's discretion, the extended-year adjusted cohort graduation rate; progress in achieving English language proficiency for English learners; and at least one valid, reliable, comparable, statewide indicator of school quality or student success; and

- Establishes a system of meaningfully differentiating all public schools on an annual basis that is based on all indicators in the State's accountability system and that, with respect to achievement, growth or the other academic indicator

for elementary and middle schools, graduation rate, and progress in achieving English language proficiency, affords: substantial weight to each such indicator; and, in the aggregate, much greater weight than is afforded to the indicator or indicators of school quality or student success.

- Eliminating the requirement to identify schools for improvement, corrective action, or restructuring based on missing AYP over a number of years and instead requiring--

- Identification of, and comprehensive, evidence-based intervention in, the lowest-performing five percent of title I schools, all public high schools with a graduation rate below 67 percent, and public schools in which one or more subgroups of students are performing at a level similar to the performance of the lowest-performing five percent of title I schools and have not improved after receiving targeted interventions for a State-determined number of years; and

- Identification of, and targeted, evidence-based intervention and support in, schools in which any subgroup of students consistently underperforms.

- Maintaining and updating the requirement that State title I plans describe how low-income and minority children

enrolled in title I schools are not served at disproportionate rates by ineffective (this term was “unqualified” in the prior version of the ESEA), out-of-field, or inexperienced teachers.

- Expanding the list of elements that must be included in State and district report cards (e.g., adding a requirement to report per-pupil expenditures of Federal, State, and local funds).

- Maintaining the requirement that title I, part A funds be used to supplement, and not supplant, non-Federal funds, but revising the manner in which an LEA must demonstrate compliance with this requirement by requiring an LEA to demonstrate that the methodology it uses to allocate State and local funds to each title I school ensures that the school receives all the State and local funds it would receive in the absence of participation in title I.

This list is not exhaustive. Interested parties should review the statute (available at: <https://www.gpo.gov/fdsys/pkg/BILLS-114s1177enr/pdf/BILLS-114s1177enr.pdf>) for complete information on the amendments made to the ESEA by the ESSA. Please also note that this list is not intended to restrict the topics or issues that

commenters may address when providing advice and recommendations in response to this document.

Advice and Recommendations

The Secretary invites advice and recommendations from interested parties involved with the implementation and operation of programs under title I concerning topics for which regulations or nonregulatory guidance may be necessary or helpful as States and LEAs transition from NCLB and implement the ESSA. The Secretary specifically invites advice and recommendations from State and local education administrators, parents, teachers and teacher organizations, principals, other school leaders (including charter school leaders), paraprofessionals, members of local boards of education, civil rights and other organizations representing the interests of students (including historically underserved students), representatives of the business community, and other organizations involved with the implementation and operation of title I programs.

Under the ESSA, prior to issuing proposed rules under title I on standards, assessments under section 1111(b)(2), and the requirement under section 1118 that funds be used to supplement, and not supplant, State and local funds, the Department must establish a negotiated rulemaking process.

Negotiated rulemaking can improve the substance of regulations; increase understanding of, and support for, those regulations; encourage affected parties to communicate with each other and share information, knowledge, expertise, and analysis; and discourage expensive and time-consuming litigation concerning the regulations.

The Secretary is considering conducting negotiated rulemaking on academic assessments and the requirement that funds under title I, part A be used to supplement, and not supplant, State and local funds. The Secretary specifically invites comments on these issues.

If the Secretary determines to proceed with negotiated rulemaking, the Secretary will select individuals to participate in this process from among the individuals or groups providing advice and recommendations on title I regulatory issues. The Secretary will publish a separate document in the Federal Register announcing our intent to establish a negotiated rulemaking committee, soliciting nominations of potential negotiators, and providing details about the negotiated rulemaking process.

In addition to inviting specific comments on the issues on which the Secretary is considering conducting negotiated rulemaking, the Secretary invites comments on

other regulatory issues concerning provisions under title I, including suggestions that regulations are not needed to resolve a particular issue.

The Secretary requests that each commenter identify his or her interest in education or organizational affiliation, if applicable (e.g., a representative of an association, agency, or school; an individual teacher, student, or parent). The Secretary urges each commenter to be specific regarding his or her recommendations.

During and after the comment period, you may inspect all public comments in response to this document by accessing Regulations.gov. You may also inspect the comments in person at U.S. Department of Education, 400 Maryland Avenue, SW., room 3E306, Washington, DC, between 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays. Please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Regional Meetings:

In addition to the invitation to provide written comments in response to this document, the Secretary is offering an opportunity at two regional meetings for the public to provide advice and recommendations concerning issues for which regulations may be helpful to clarify

statutory ambiguities or to provide appropriate flexibility.

The regional meetings will be held, from 9:00 a.m. to 5:00 p.m., local time, on the following dates at the following locations:

1. January 11, 2016, at the U.S. Department of Education, 400 Maryland Avenue, SW., Barnard Auditorium, Washington, DC.

2. January 19, 2016, at the University of California, Los Angeles (UCLA), Carnesale Commons, 251 Charles E. Young Drive West, Palisades Room, Los Angeles, CA.

Individuals who would like to present comments at the regional meetings must register by sending an email to ESSA.publichearing@ed.gov no later than 5:00 p.m. local time on January 5, 2016, for the Washington, DC meeting, and no later than 5:00 p.m. local time on January 12, 2016, for the Los Angeles meeting. The email should include the name of the presenter along with the name of the organization the presenter represents (if any), as well as the regional meeting at which the individual would like to speak. Note that it is likely that each participant will be limited to five minutes.

The Department will notify registrants whether they have been selected to present comments at a regional

meeting. An individual may make only one presentation at the regional meetings. If we receive more registrations than we are able to accommodate, the Department reserves the right to reject the registration of an entity or individual that is affiliated with an entity or individual that is already scheduled to present comments, and to select among registrants to ensure that a broad range of entities and individuals is allowed to present.

We will accept walk-in registrations on the day of the meeting for any remaining time slots on a first-come, first-served basis, beginning at 8:30 a.m.

The regional meetings are open to the public. Registration is not required to observe the regional meetings. However, due to capacity limitations, space may be limited. Admission to observe the meetings will be provided on a first-come, first-served basis. Space for speakers will be reserved. The regional meeting in Washington, DC will be streamed live at:

<http://edstream.ed.gov/webcast/Play/7592f68fb7404eedb2b89ea72032188c1d>.

If you need a sign language interpreter or any other accommodation for the regional meeting, please notify the program contact person listed under FOR FURTHER INFORMATION CONTACT at least seven days prior to the meeting you plan

to attend, and indicate in your request which meeting you plan to attend.

The Department will post transcriptions of the hearings on the Department's Web site. The Department will be livestreaming the meeting in Washington, DC, but will not be filming the meeting in Los Angeles. As these are both public meetings, speakers should be aware that they may be filmed or recorded by members of the public.

Speakers, including any prospective presenter whose request to speak is rejected due to time limitations or other considerations, may also submit written comments at the regional meetings. In addition, the Department will accept written comments through [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. See the ADDRESSES sections of this document for more information on how to submit comments.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of

the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the Federal Register by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.
Dated: December 16, 2015.

Arne Duncan,
Secretary of Education.

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