



ESSA OVERVIEW

NATIONAL TITLE I CONFERENCE
FEBRUARY 2017 | LONG BEACH, CALIFORNIA

OBJECTIVES

- To provide an update on key statutory requirements under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA) for:
 - State plan requirements
 - Accountability requirements
 - Assessment requirements
 - Supplement not supplant requirements
- To highlight the intersection between ESEA and IDEA including:
 - Equity requirements
 - Free and appropriate education requirements

AGENDA

- The Challenge
- The Good News: Progress To Date
- More Work To Do
- Policy Updates
 - State Plan Submission Update
 - Supplement not Supplant Requirements
 - Accountability Requirements
 - Assessment Requirements
 - ESEA and IDEA

PRESENTERS

- Patrick Rooney, Deputy Director, Office of State Support
- Roberta Miceli, Deputy Director, Office of State Support
- Kay Rigling, Deputy Assistant General Counsel, Office of the General Counsel
- Christine Pilgrim, Team Lead, Office of Special Education Programs

THE CHALLENGE

- Protecting Underserved Children & Youth
- Raising Expectations
- Closing Opportunity Gaps
- Improving Student Outcomes

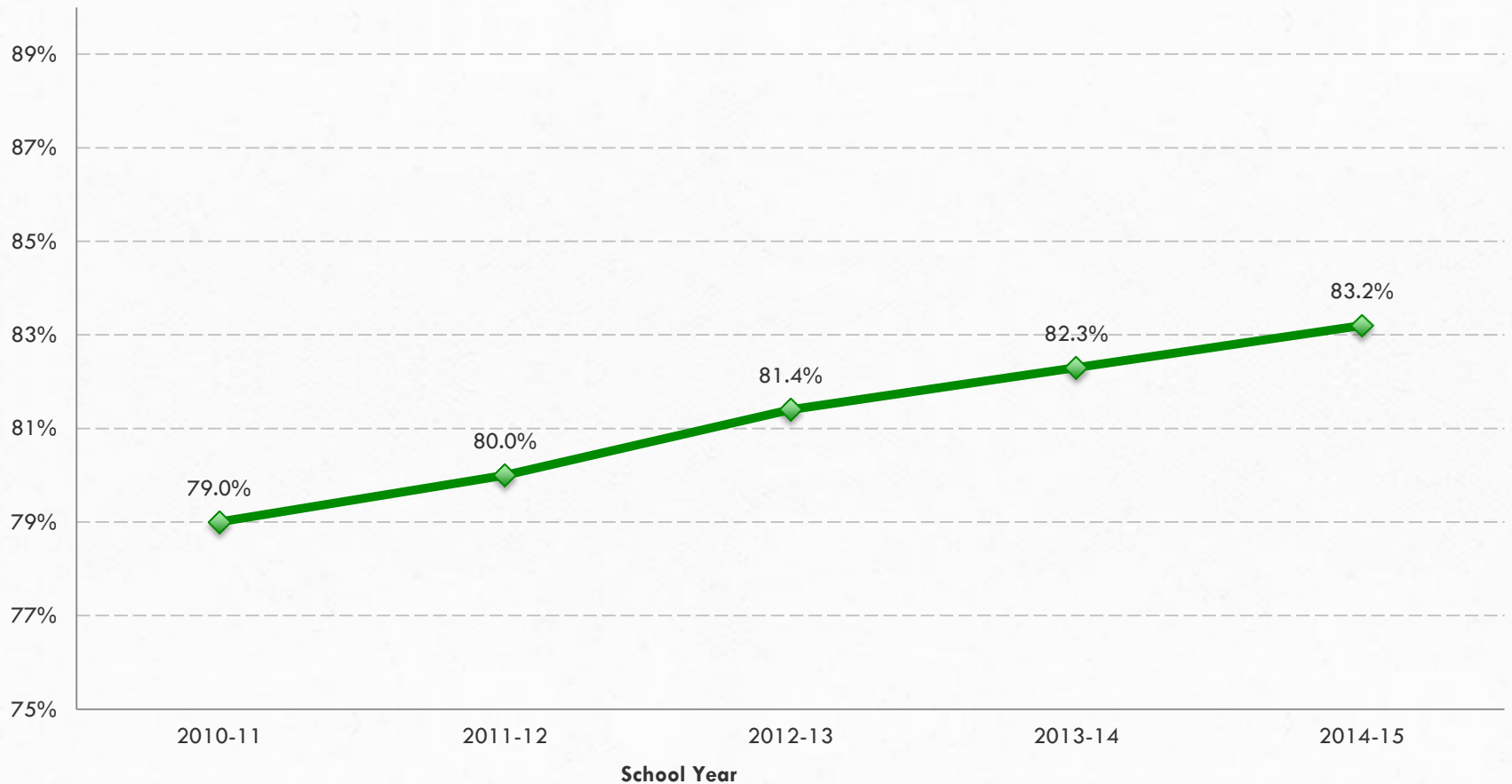


The Good News: America's Progress in Improving Education



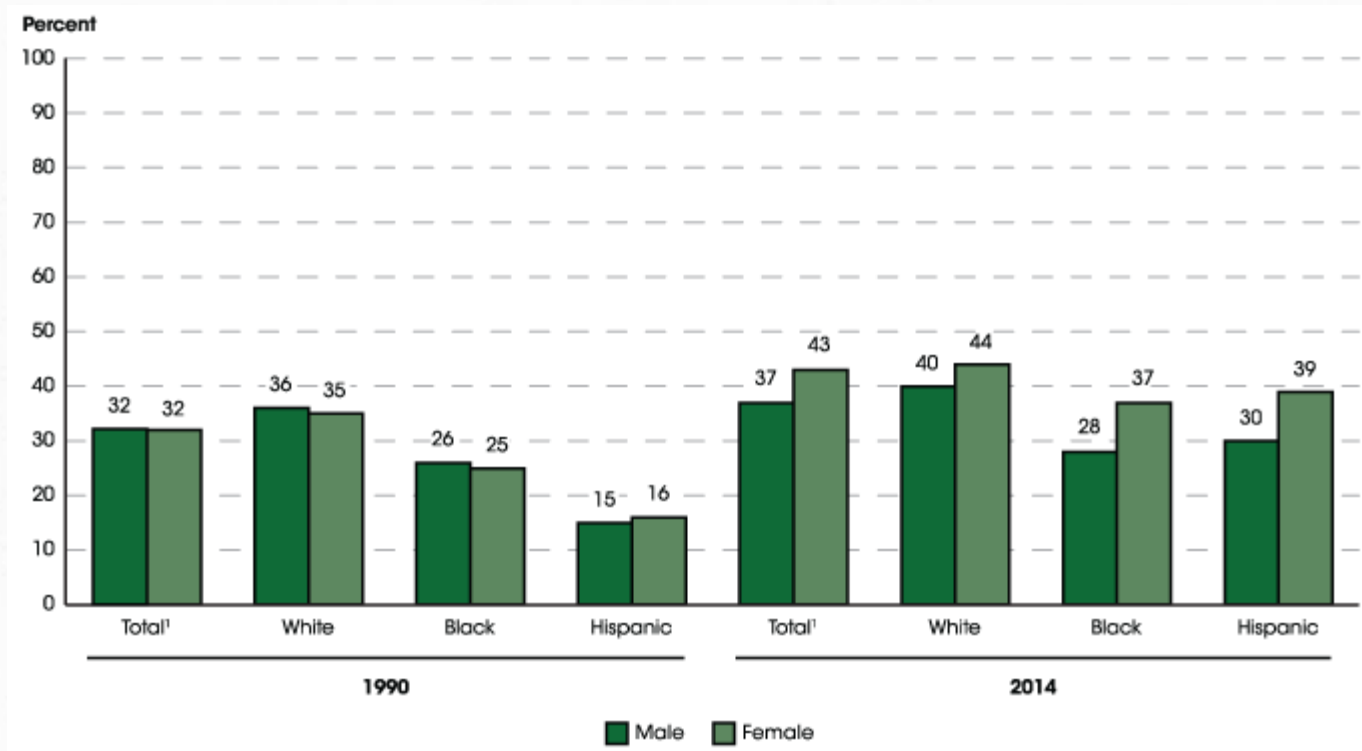
GRADUATION RATES

PROGRESS TO DATE



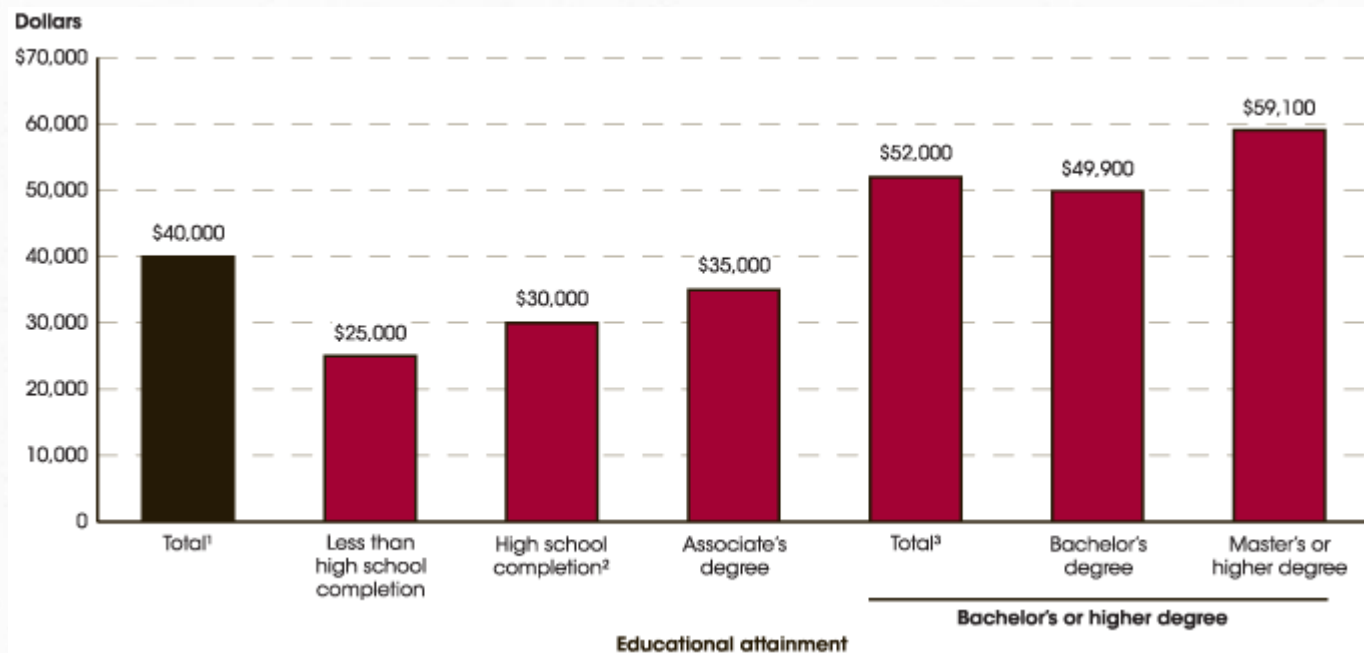
COLLEGE PLACEMENT RATES

FIGURE 4. ENROLLMENT RATES OF 18- TO 24-YEAR-OLDS IN POSTSECONDARY DEGREE-GRANTING INSTITUTIONS, BY RACE/ETHNICITY AND SEX: 1990 AND 2014



EARNINGS BY EDUCATIONAL ATTAINMENT

FIGURE 2. MEDIAN ANNUAL EARNINGS OF FULL-TIME, YEAR-ROUND WORKERS AGES 25–34, BY EDUCATIONAL ATTAINMENT: 2014

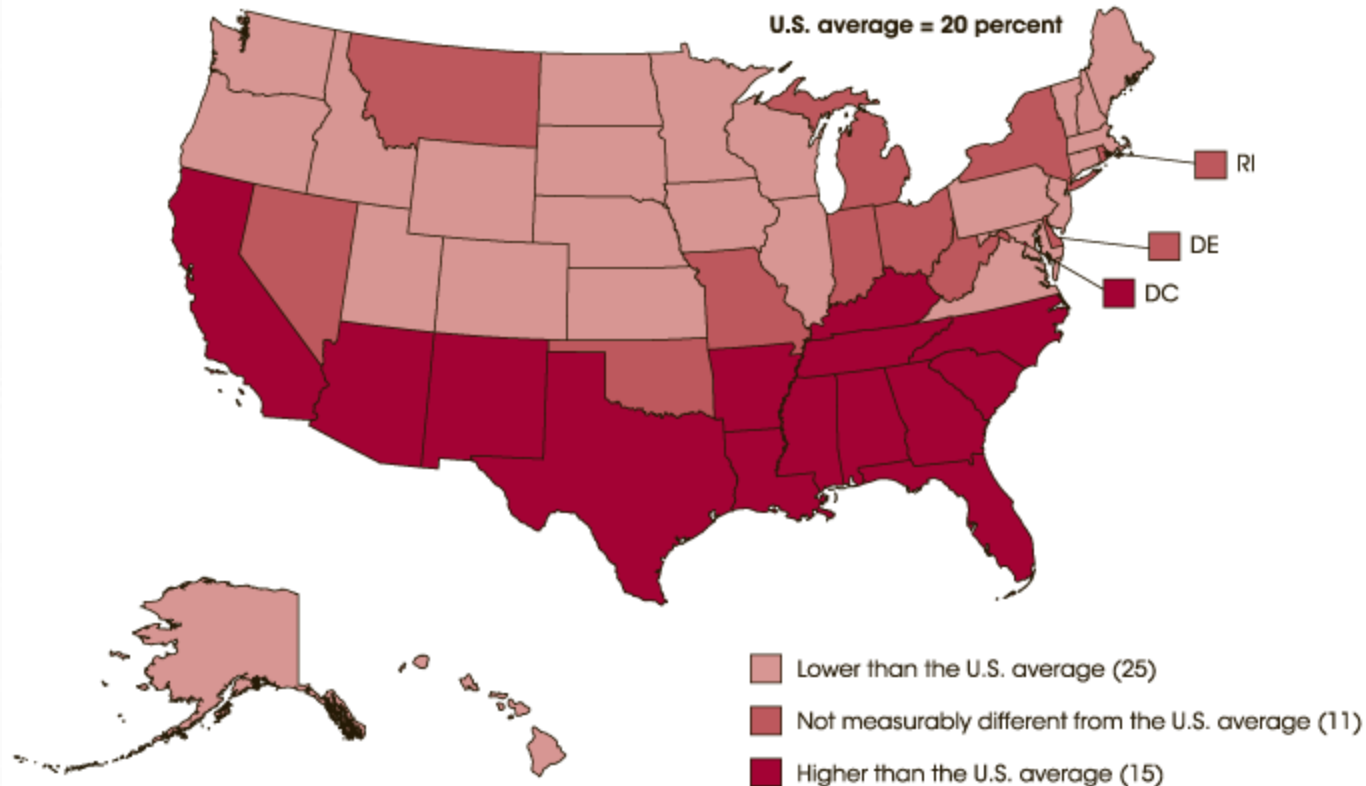




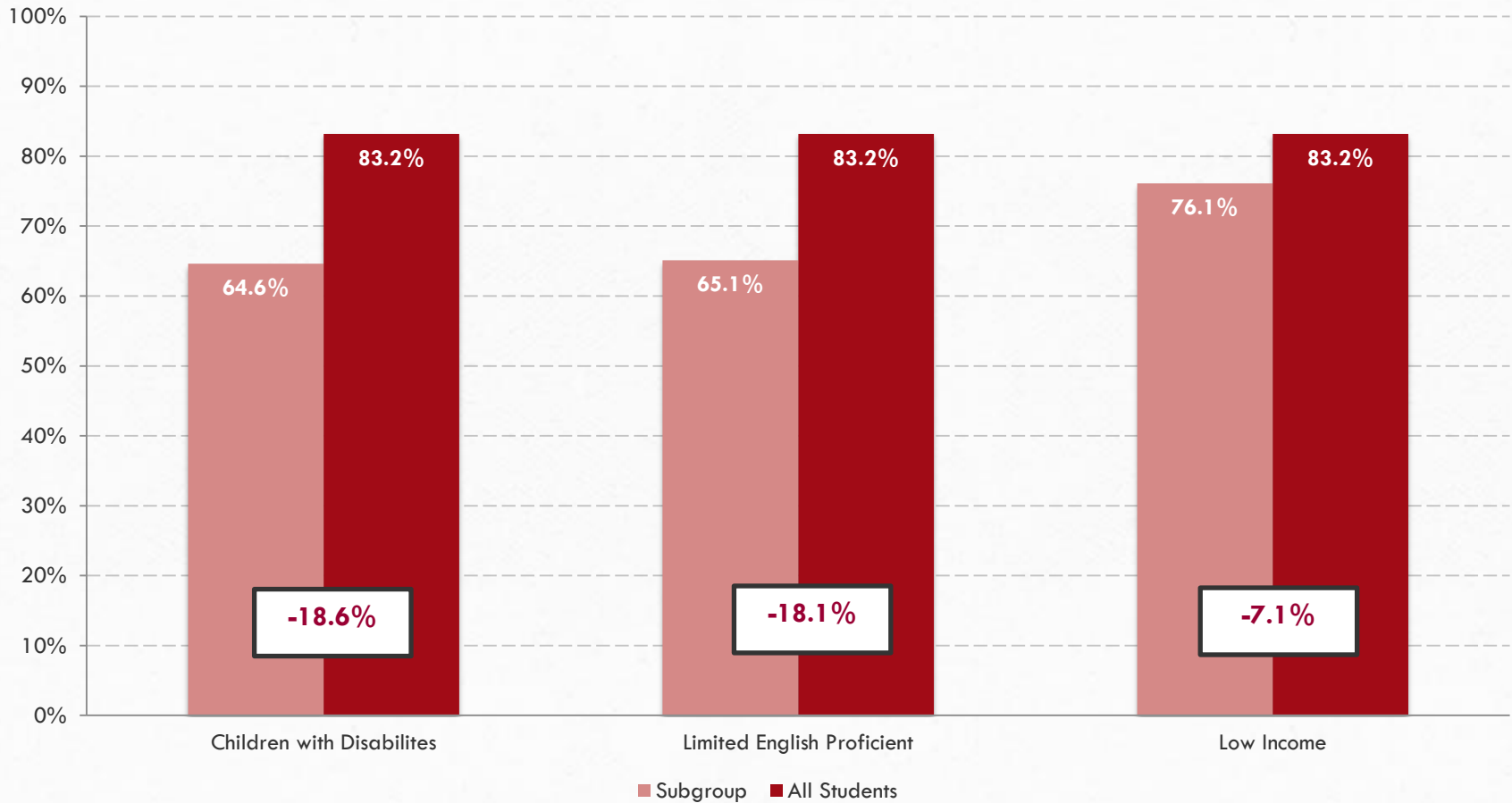
More Work to Do

CHILDREN LIVING IN POVERTY

PERCENTAGE OF 5- TO 17-YEAR-OLDS IN FAMILIES LIVING IN POVERTY BY STATE: 2014

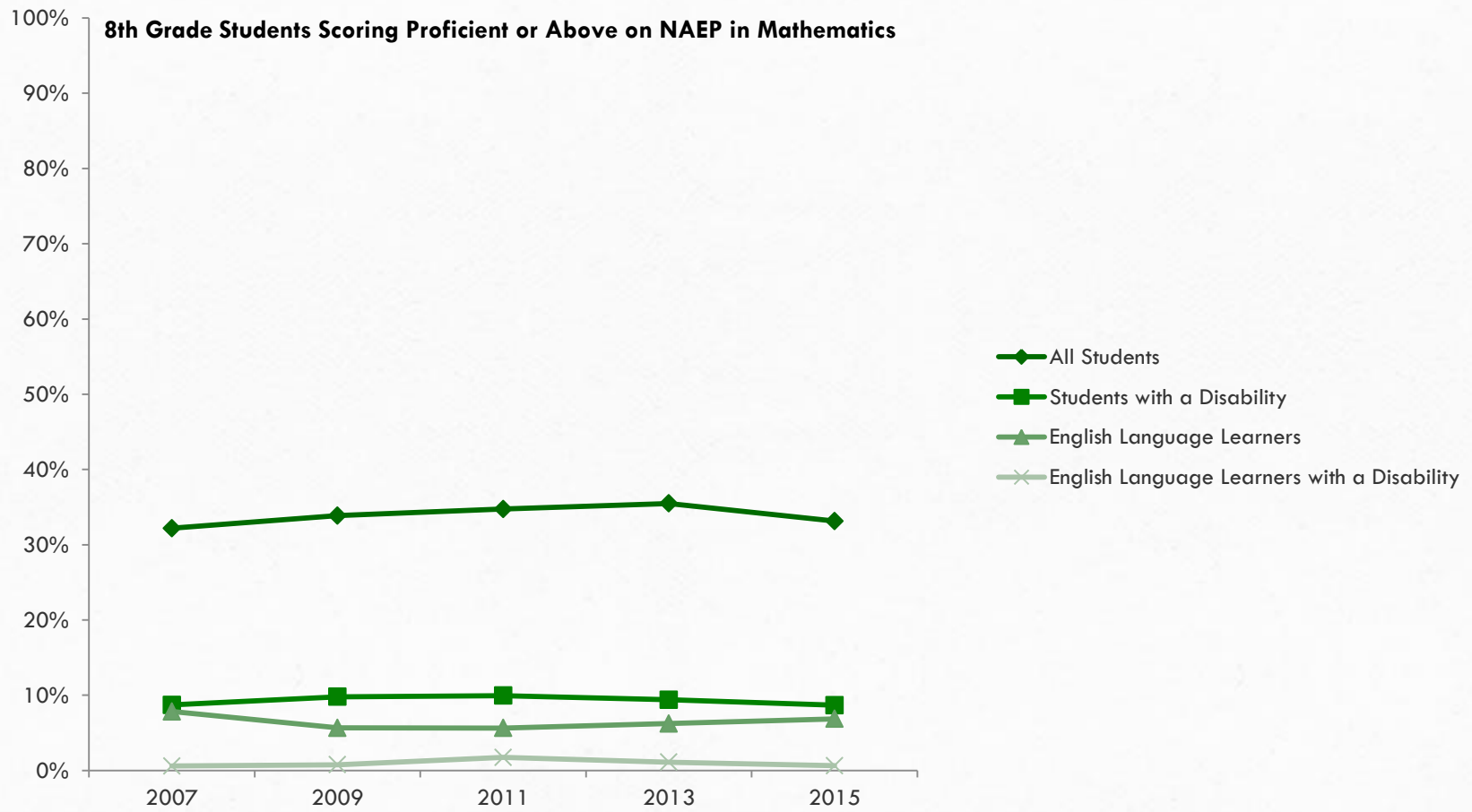


DROP-OUT RATES



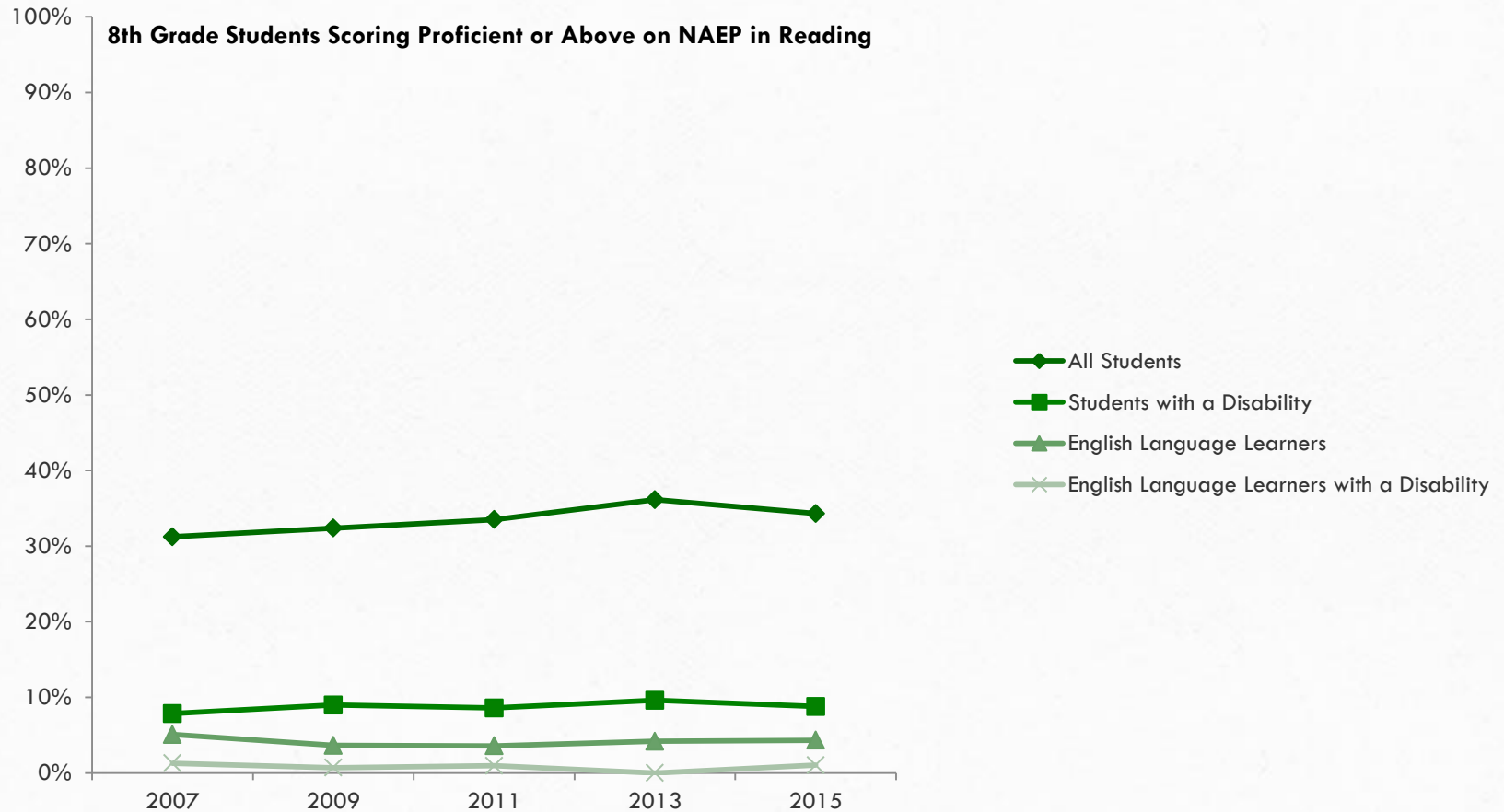
NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS (NAEP)

8TH GRADE MATHEMATICS



NAEP

8TH GRADE READING





ESSA Policy Updates

STATE PLAN UPDATES

DEAR COLLEAGUE LETTER, FEBRUARY 10, 2017

- The U.S. Department of Education (ED) is currently reviewing the requirements for consolidated State plans to ensure they require only information that is “absolutely necessary” for consideration of a State plan, consistent with section 8302(b)(3) of the ESEA.
- ED will develop a revised template for consolidated State plans by **March 13, 2017**.
- Consolidated State plan or individual program State plans must be submitted on one of two deadlines established by the Secretary:
 - **April 3, 2017**
 - **September 18, 2017**





Statewide Accountability Systems & School Improvement

ESEA Section 1111(c) and (d)

STATEWIDE ACCOUNTABILITY SYSTEMS

SECTION 1111(c) OF THE ESEA: GOALS

- Each State must establish ambitious long-term goals and measurements of interim progress for all students and each subgroup of students in two areas:
 - **Academic achievement**, as measured by proficiency on annual statewide assessments;
 - **Graduation rates**, as measured by the four-year adjusted cohort graduation rate (ACGR) and, at the State's discretion, extended-year ACGRs; and
- Each State must establish ambitious long-term goals and measurements of interim progress for English learners in one additional area:
 - Increases in the percentage of such students making **progress in achieving English language proficiency (ELP)** as measured by the statewide ELP assessment.



STATEWIDE ACCOUNTABILITY SYSTEMS

SECTION 1111(c) OF THE ESEA: INDICATORS

- Each State must establish at least five indicators that can be disaggregated by subgroup to annually measure:
 1. For all schools, **academic achievement**, as measured by proficiency on the annual assessments (and may also include growth for high schools);
 2. For elementary and secondary schools, a measure of **student growth** or **another valid and reliable statewide academic indicator**;
 3. For high schools, the **four-year ACGR** and, at the State's discretion **extended-year ACGRs**;
 4. For all schools, **progress in achieving ELP**, as defined by the State and measured by the statewide ELP assessment; and
 5. For all schools, at least one indicator of **school quality or student success**.



STATEWIDE ACCOUNTABILITY SYSTEMS

SECTION 1111(c) OF THE ESEA: ANNUAL MEANINGFUL DIFFERENTIATION

- Each State must establish a system of annual meaningful differentiation that:
 - Is **based on all indicators** in the State's system for all students and each subgroup of students;
 - Affords **substantial weight** to each of the indicators except the indicator of school quality or student success;
 - Affords **much greater weight** in the aggregate to the indicators of academic achievement, the other academic indicator, graduation rates, and progress in achieving ELP than it does to the school quality or student success indicator or indicators, in the aggregate; and
 - Includes differentiation of any school with at least one subgroup of students that is **consistently underperforming**.



STATEWIDE ACCOUNTABILITY SYSTEMS

SECTION 1111(c) OF THE ESEA: ADDITIONAL FACTORS FOR CONSIDERATION

- **Subgroups:** Each State must include economically disadvantaged students, students from major racial and ethnic groups, children with disabilities, and English learners.
- **N-Size:** States must establish a statistically sound minimum number of students that is the same for all students and each subgroup of students.
- **Participation rate:** States must factor 95% participation rate into calculating performance on the indicator of academic achievement and in the State's system of annual meaningful differentiation.
- **Partial attendance:** States may not include within the indicators students who have not attended the same school for at least half of the school year, but must include students who attended a school for less than half the year in report cards (replaces Full Academic Year consideration).



STATEWIDE ACCOUNTABILITY SYSTEMS

SECTION 1111(c) OF THE ESEA: IDENTIFICATION OF SCHOOLS

- Each State must identify schools for support and improvement based on the system of annual meaningful differentiation, including schools for **comprehensive support and improvement** and **targeted support and improvement**.
- Identified schools are eligible for funding under section 1003.
- States must identify three types of schools for **comprehensive support and improvement at least once every three years**:
 1. At least the lowest-performing five percent of all Title I schools;
 2. All public high schools with a graduation rate of 67% or less; and
 3. All Title I schools with a subgroup performing as poorly as the lowest-performing five percent of Title I schools that has not improved after implementing a targeted support and improvement plan for a State-determined number of years.



STATEWIDE ACCOUNTABILITY SYSTEMS

SECTION 1111(c) AND 1111(d) OF THE ESEA: IDENTIFICATION OF SCHOOLS

- States must continue to identify schools based on the performance of student subgroups.
- States must annually identify any school with a consistently underperforming subgroup, as defined by the State, for **targeted support and improvement**.
- States must also identify, based on statutory requirements, certain schools for **additional targeted support** (which must include a review of resource inequities).
- If a school receives Title I funds and is identified for targeted support and improvement and does not successfully implement a targeted support and improvement plan within a State-determined number of years, it must be identified for comprehensive support and improvement.



STATEWIDE ACCOUNTABILITY SYSTEMS

SECTION 1111(d) OF THE ESEA: COMPREHENSIVE SUPPORT AND IMPROVEMENT

- For each school identified for comprehensive support and improvement, the **LEA must develop and implement** a comprehensive support and improvement plan that:
 - Is informed by all the indicators;
 - Is based on a school-level needs assessment;
 - Includes **evidence-based** interventions;
 - Identifies resource inequities to be addressed through implementation of the plan;
 - Is approved by the school, LEA, and State; and
 - Is monitored and periodically reviewed by the State.
- The **State must** develop exit criteria to determine when comprehensive support and improvement schools may exit status.





Assessment Requirements

STATE RESPONSIBILITIES FOR ASSESSMENT:

GENERAL REQUIREMENTS – SECTION 1111(b)(2)

- Each State must have annual assessments that are the same for all students in the State in:
 - Reading/language arts, grades 3-8 and once in 9-12
 - Mathematics, grades 3-8 and once in 9-12
 - Science, once each in grades 3-5, 6-9, and 10-12
- Sections 1111(b)(1)(A) and (D) of the ESEA—*alignment with college and career ready expectations*
- Requires that assessments be aligned with the full breadth and depth of State academic content standards



STATE RESPONSIBILITIES FOR ASSESSMENT

DESIGN & ACCESSIBILITY – SECTION 1111(b)(2)(B) AND (J)

- Requires universal design for learning in assessment development, to the extent practicable
- Flexibility in the format and timing:
 - Including a single summative assessment or multiple interim assessments over the course of the academic year
 - Involve multiple up-to-date measures
 - May include portfolios, projects, or extended performance tasks as part of the test
- Computer-adaptive, provided that the tests measure a student's academic proficiency based on challenging State academic standards for the grade in which the student is enrolled



LOCALLY-SELECTED, NATIONALLY-RECOGNIZED HIGH SCHOOL ACADEMIC ASSESSMENTS

IN GENERAL – SECTION 1111(b)(2)(H)

- States determine whether to offer LEAs flexibility to use a nationally-recognized assessment
- If a State allows it, an LEA may apply to the State to administer **one** nationally recognized high school assessment **across the district** in lieu of the statewide assessment in high school
 - This allows for direct comparisons across schools within an LEA
 - It also ensures that the same high expectations apply to all students over time, such that students of all ability levels within a district take the same assessment, so that all students are prepared for college and career by high school graduation



LOCALLY-SELECTED, NATIONALLY-RECOGNIZED HIGH SCHOOL ACADEMIC ASSESSMENTS

DEFINITION – SECTION 1111(b)(2)(H) AND 34 C.F.R. 200.3(d)

“Nationally-recognized high school academic assessment” means an assessment of high school students’ knowledge and skills that is administered in multiple States and is recognized by institutions of higher education in those or other States for the purposes of entrance or placement into courses in postsecondary education or training programs.

LOCALLY-SELECTED, NATIONALLY-RECOGNIZED HIGH SCHOOL ACADEMIC ASSESSMENTS

STATE ROLE – SECTION 1111(b)(2)(H) AND 34 C.F.R. 200.3(b)

- If choosing to accept LEA requests under this flexibility, a State must:
 - Develop technical criteria and review an LEA application, including evidence related to the technical criteria;
 - If the LEA proposal meets the State's criteria, submit the technical evidence to ED for assessment peer review; and
 - If the proposed assessment meets ED assessment peer review requirements in addition to the State requirements, approve the LEA request
- A State must ensure that the nationally-recognized assessment does not deny a student with disabilities or an English learner:
 - Opportunity to participate
 - Any of the benefits from participation that are afforded to others



LOCALLY-SELECTED, NATIONALLY-RECOGNIZED HIGH SCHOOL ACADEMIC ASSESSMENTS

PARENTAL NOTIFICATION – SECTION 1111(b)(2)(H) AND 34 C.F.R. 200.3(c)

An LEA must:

- Before requesting approval—
 - Notify all parents that the LEA intends to make a request to use a locally-selected, nationally-recognized high school academic assessment
 - Provide parents the opportunity to offer meaningful input
 - Explain any impact on the instructional program in the LEA
- Upon approval, notify all parents of high school students it serves of the assessment the LEA will use
- In each subsequent year, notify all parents of high school students it serves of the assessment the LEA will use



ADVANCED EIGHTH GRADE MATHEMATICS IN STATES THAT GIVE END-OF-COURSE TESTS

APPLICABILITY – SECTION 1111(b)(2)(C)

This flexibility is available **IF:**

- A State administers an end-of-course test to high school students to meet the assessment requirements under Title I, part A
- Eighth-grade students are taking the course, and associated assessment, related to that specific end-of-course test (and that uses the 8th-grader's test score in the accountability system in the current year)
- The 8th-grader takes a more advanced State-administered end-of-course assessment or nationally-recognized high school assessment for high school accountability



STUDENTS WITH DISABILITIES

IN GENERAL – SECTION 1111(b)(2)(B) AND (D) AND 34 C.F.R. 200.6

- All students with disabilities must participate in State assessments
- A student with the most significant cognitive disabilities may be assessed with:
 - The general assessment with or without accommodations per section 602(3) of the IDEA, section 504 of the Rehabilitation Act of 1973, Title II of the ADA, and any other relevant Act
 - Any such student may receive accommodations in keeping with State guidelines and appropriate school-based teams' decisions, such as interoperability with and ability to use assistive technology devices
 - OR....



STUDENTS WITH DISABILITIES

SECTION 1111(b)(2)(D) AND 34 C.F.R. 200.6

- If a State has adopted alternate academic achievement standards (AAAS) for students with the most significant cognitive disabilities, it must provide an alternate assessment that must be aligned with the challenging State academic content standards for the grade in which the student is enrolled and the State's AAAS
- A State must define “students with the most significant cognitive disabilities”
- A State may not assess more than 1.0% of students on AAAS
 - LEAs may assess more than 1.0% of students on AAAS, provided they provide a justification to the State
 - A State may request a waiver to assess more than 1.0% of student on AAAS, provided they meet certain requirements



ENGLISH LEARNERS

IN GENERAL – SECTION 1111(b)(2)(B) AND (F) AND 34 C.F.R. 200.6

- States must develop accommodations that address needs of English learners and disseminate information and resources to LEAs, schools, and parents
- Use of accommodations may not deny an English learner the opportunity to participate in the assessment and any of the benefits from participation that students who are not English learners receive
- Assessments in a student's native language
 - Define “languages other than English that are present to a significant extent in the participating student population”
 - Must include the most populous non-English language
 - Must make every effort to develop assessments in the languages that meet the State-determined definition
- New exception for States to assess students in Native American language schools or programs in the language of instruction





Supplement Not Supplant

ESEA section 1118(b)



SUPPLEMENT NOT SUPPLANT

IN GENERAL

The statute requires an SEA or LEA to use Title I funds only to supplement the funds that would, in the absence of those Title I funds, be made available from State and local sources for the education of students participating in Title I programs, and not to supplant such funds.

ESEA section 1118(b)(1)

SUPPLEMENT NOT SUPPLANT

SPECIAL RULE

According to the statute, no LEA shall be required to—

- Identify that an individual cost or service supported with Title I funds is supplemental; or
- Provide Title I services through a particular instructional method or in a particular instructional setting in order to demonstrate compliance.

The special rule applies to both schoolwide programs and targeted assistance programs.

ESEA section 1118(b)(3)



SUPPLEMENT NOT SUPPLANT

DEMONSTRATION OF COMPLIANCE

Under the statute, to demonstrate compliance with the supplement not supplant requirement, an LEA must **demonstrate** that the **methodology** used to **allocate State and local funds** to its schools ensures that **each Title I school receives all of the State and local funds it would otherwise receive** if it were not receiving Title I funds.

ESEA section 1118(b)(2)

SUPPLEMENT NOT SUPPLANT

METHODOLOGIES

An LEA has significant flexibility in adopting a **methodology** to meet the new supplement not supplant requirement. The methodology must—

- Allocate **State and local funds** to schools in the LEA;
- Provide **each Title I school** the State and local funds it would receive were it not a Title I school—i.e., be **neutral** regarding a school's Title I status.

An LEA must be able to **demonstrate compliance**—i.e., that it has implemented its methodology.



SUPPLEMENT NOT SUPPLANT

A WORD OF CAUTION

Consistent with the statute, if an LEA is required by law to provide funding to schools for a specific purpose, the LEA must provide such funds to Title I schools on the same basis as it provides such funds to non-Title I schools, subject to application of the “exclusion” provision.

This includes funds needed to provide services that are required by law for students with disabilities and English learners. See, e.g., ESEA section 1114(a)(2)(B)



SUPPLEMENT NOT SUPPLANT

EXCLUSION OF SUPPLEMENTAL NON-FEDERAL FUNDS

Under the statute, an LEA may exclude from a supplanting determination *supplemental* non-federal funds expended in any school for programs that meet the intent and purposes of Title I.

ESEA section 1118(d)

SUPPLEMENT NOT SUPPLANT

“INTENT AND PURPOSES”

Under the existing Title I regulations, a program meets the intent and purposes of Title I if it either—

- Is implemented in a school with at least 40 percent poverty;
- Is designed to promote schoolwide reform and upgrade the entire educational operation of the school; is designed to meet the educational needs of all students in the school, particularly those who are not meeting State standards; and
- Uses the State’s assessment system to review the effectiveness of the program;

OR



SUPPLEMENT NOT SUPPLANT

“INTENT AND PURPOSES”

- Serves only students who are failing, or most at risk of failing, to meet State standards;
- Provides supplementary services to participating students designed to improve their achievement; and
- Uses the State’s assessment system to review the effectiveness of the program.

34 C.F.R. § 200.79(b)



SUPPLEMENT NOT SUPPLANT EXCLUSION

EXAMPLE #1

- An LEA offers after-school tutoring for any student who scores below proficient on the State's mathematics assessment.
- Paying for eligible students in a Title I school with Title I funds and eligible students in a non-Title I school with supplemental local funds would not violate the supplement not supplant requirement.
- This is true even though the Title I school would not receive its share of the supplemental local funds to provide tutoring to eligible students.
- Rather, the local funds to provide tutoring in the non-Title I school would qualify for the exclusion because they are supplemental and benefit students who, by virtue of being non-proficient in mathematics, are failing to meet the State's mathematics standards and thereby are eligible for Title I services.



SUPPLEMENT NOT SUPPLANT EXCLUSION

EXAMPLE #2

- An SEA has an “A-F” school grading system and identifies all “F” schools—both Title I and non-Title I schools—as comprehensive support and improvement schools.
- An LEA would not violate the supplement not supplant requirement if it uses Title I funds to implement interventions in its Title I “F” schools and uses supplemental non-Federal funds to provide the same interventions in its non-Title I “F” schools.

SUPPLEMENT NOT SUPPLANT EXCLUSION

EXAMPLE #3

The exclusion provision applies even if the activity is required by State or local law. For example:

- A State law requires all third-grade students to meet the State's proficient achievement standard in reading/language arts in order to be promoted to fourth grade.
- Any student who is not proficient at the start of third grade must be provided 90 minutes of supplemental services designed to improve his/her reading proficiency.

SUPPLEMENT NOT SUPPLANT EXCLUSION

EXAMPLE #3 CONT.

- An LEA would not violate the supplement not supplant requirement if it uses Title I funds to implement the required-by-law reading services in a Title I school and uses supplemental non-Federal funds to provide the same services in its non-Title I schools.
- Non-Federal funds to provide the reading services would qualify for the exclusion because they are supplemental and benefit only students who are failing to meet the State's reading/language arts standards.
- This is true even though the Title I school would not receive its share of non-Federal funds to meet the State law requirement. This example is distinguishable from the examples under “a word of caution” above because the required-by-law services are supplemental and targeted at only at-risk students — *i.e.*, those for whom Title I is intended — rather than students who do not qualify for Title I services.



SUPPLEMENT NOT SUPPLANT

TIMELINE

The statute states that, no later than December 10, 2017, an LEA must meet the compliance requirement under ESEA section 1118(b)(2).

An LEA may demonstrate compliance before December 10, 2017 using the method the LEA used prior to enactment of the ESSA.

ESEA section 1118(b)(5)



Highlights from the Office of Special Education Programs

EQUITY IN IDEA

RACIAL AND ETHNIC DISPARITIES

IDEA 618 State-reported data (LEA Maintenance of Effort (MOE)/Coordinated Early Intervening Services (CEIS) Collection):

- Roughly 2-3% of districts identified each year as having significant disproportionality (fewer than 500)
- 2013-2014 school year:
 - 75% of identified LEAs were in 8 States
 - 25 States identified no LEAs with significant disproportionality
 - Of States that identified LEAs, 10 only identified in one category of analysis (i.e., either identification, placement, or discipline)
 - Only four States and one entity identified LEAs in all three categories of analysis



EQUITY IN IDEA

RACIAL AND ETHNIC DISPARITIES

IDEA 618 State-reported data:

- Black or African American students are twice as likely to be identified as having an emotional disturbance
- Black or African American students are over two times as likely to be identified as having an intellectual disability
- Black or African American students are 1.4 times as likely to receive services in separate settings

EQUITY IN IDEA

GAO REPORT FEBRUARY 2013

Findings:

- 2% of LEAs in 2010-2011 were identified with significant disproportionality
- “the discretion that states have in defining significant disproportionality has resulted in a wide range of definitions that provides no assurance that the problem is being appropriately identified across the nation.”

GAO

United States Government Accountability Office

Report to the Chairman, Committee on Health, Education, Labor, and Pensions, U.S. Senate

February 2013

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

Standards Needed to Improve Identification of Racial and Ethnic Overrepresentation in Special Education



GAO-13-137



EQUITY IN IDEA

EFFECTIVE DATES

- Final rule is effective 30 days from publication in the Federal Register BUT
- States have 18 months to prepare, work with their stakeholders including State Advisory Panel and make decisions regarding their methodology
- States must comply by July 1, 2018

EQUITY IN IDEA

STANDARD METHODOLOGY

Statute requires States to annually collect and examine data to determine whether significant disproportionality based on race or ethnicity is occurring in the State and LEAs of the State with respect to:

- Identification of children as children with disabilities, including identification as children with particular impairments;
- Placement of children in particular educational settings; and
- Incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

EQUITY IN IDEA

STANDARD METHODOLOGY

Final rule requires States to use a standard methodology to determine if there is significant disproportionality by examining data using a risk ratio or alternate risk ratio analysis.

As part of the standard methodology, States must develop, based on advice from stakeholders (including State Advisory Panels):

- a reasonable risk ratio threshold
- a reasonable minimum cell size
- a reasonable minimum n-size

EQUITY IN IDEA

REVIEW AND REVISION OF POLICIES AND PROCEDURES

A State is required to:

- Provide for the review of policies, practices, and procedures to ensure they comply with the IDEA

LEAs are required to:

- Publicly report on revisions consistent with Family Education Rights and Privacy Act (FERPA)



EQUITY IN IDEA

COMPREHENSIVE COORDINATED EARLY INTERVENING SERVICES (CEIS)

LEAs identified with significant disproportionality:

- Are allowed to use comprehensive CEIS to serve students, ages 3 through grade 12, with and without disabilities
- Are required to identify and address the factors that may contribute to the significant disproportionality

EQUITY IN IDEA

IMPLEMENTATION

- OSEP will support implementation of the new requirements set forth by the Equity in IDEA final rule by:
 - Providing technical assistance and developing guidance to support States as they prepare to implement the new requirements, see www.osepideasthatwork.org/federal-resources-stakeholders/disproportionality-and-equity
 - Working with TA Centers such as the IDEA Data Center to support data analysis and implementation



OSEP GUIDANCE

ADDRESSING BEHAVIORAL NEEDS OF STUDENTS WITH DISABILITIES

- [Dear Colleague Letter](#) issued August 1, 2016 on the inclusion of behavioral supports in Individualized Education Programs (IEPs)
 - Divided into five sections:
 - IDEA's procedural requirements regarding evaluations, eligibility determinations, IEPs and behavioral supports;
 - IDEA's IEP content requirements related to behavioral supports;
 - Circumstances that may indicate potential denials of Free Appropriate Public Education (FAPE) or of placement in the least restrictive environment (LRE);
 - Implications for short-term disciplinary removals and other exclusionary disciplinary measures;
 - Additional information for parents and stakeholders.



OSEP GUIDANCE

ADDRESSING BEHAVIORAL NEEDS OF STUDENTS WITH DISABILITIES

- Includes two technical assistance documents:
 - Supporting and Responding to Behavior: Evidence-Based Classroom Strategies for Teachers
 - The Positive Behavioral Interventions and Supports: Implementation Blueprint and Self-Assessment

OSEP GUIDANCE

FREE AND APPROPRIATE PUBLIC EDUCATION (FAPE)

- [Dear Colleague Letter](#) issued on November 16, 2015 addressing clarification that IEPs for children with disabilities must be aligned with State academic content standards for the grade in which a child is enrolled.
 - Interpretation of “general education curriculum”
 - For children with the most significant cognitive disabilities, annual IEP goals reflect high expectations and are based on the State’s content standards for the grade in which the child is enrolled.



For additional information on OSEP-funded TA centers and resources, please see www.OSEPIdeasAtWork.org. To contact the Office of State Support, please email OESE@ed.gov.

