National School Boards Association

Implementation of the Every Student Succeeds Act (ESSA)

National School Boards Association

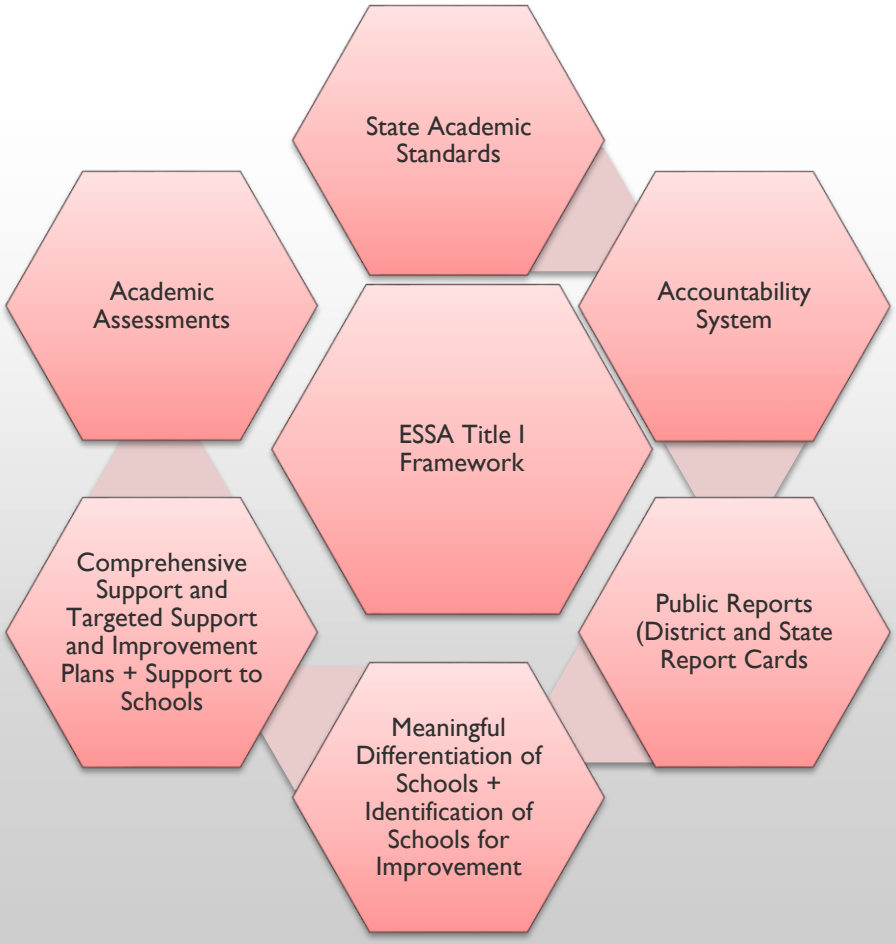
National School Boards Association

ESSA Update

- Title I Statutory Framework
- Proposed Regulations
  - Accountability
  - Assessments
  - S/NS

National School Boards Association

ESSA: Title I Framework



National School Boards Association

State Plan

- Plan must be developed "with timely and meaningful consultation" with local education agencies . . . . Administrators, staff, paraprofessionals, support personnel. . .
  - The State…shall provide an assurance that public comments were taken into account in the development of the State plan
- Each State shall make the State plan available for public comment for a period of not less than 30 days…prior to submission to the Secretary for approval…
- State plan submission to ED for approval:
  - Peer reviewed
  - Secretarial/political appointee prohibition
  - ED must take action on the application within 120 days

nsba National School Boards Association

State Plan

- Secretarial disapproval of the State plan
  - Plan fails to meet requirements of the law
  - "Immediately" provides State, in writing, of the reason(s) for the disapproval
  - Offers State opportunity to revise and resubmit
  - Provides the State technical assistance, peer review comments, suggestions and/or recommendations, and an opportunity for a hearing
  - May result in delay of implementation in new State plan
- New State Plan, once approved, will become effective in the 2017-2018 school year
- ED Has Announced Two Application Periods for States:
  - March 6, 2017
  - July 5, 2017
- Secretary may withhold funds until requirements are met

nsba National School Boards Association

State Academic Standards

- Each State shall provide an assurance that the state has adopted "challenging academic standards" in mathematics, reading or language arts, and science.
  - Not less than three levels of achievement
  - Academic standards must be "aligned with entrance requirements for credit-bearing coursework in the system of public higher education in the State and relevant State career and technical education standards"
- Secretary shall not have the authority to "mandate, direct, control, coerce, or exercise any discretion or supervision" over the standards adopted or implemented by a State.

nsba
National School Boards Association

State Academic Standards

- State may adopt alternate academic achievement standards for students with the most significant cognitive disabilities.
  - Aligned to state's challenging academic standards
  - Reflect personal judgment as to highest level possible standards achievable
  - Must promote access to general education curriculum consistent with IDEA
  - Designated in the IEP as standards used for the student
  - Aligned to ensure student is on track to pursue post-secondary education or employment
- State must demonstrate that it has adopted English language proficiency standards.
  - Aligned to state academic standards
  - Address different proficiency levels of English learners
  - Derived from four recognized domains

nsba
National School Boards Association

Assessments

- Maintains requirements in Title I for assessments that are aligned to the State's challenging academic standards:

Subject	Grade Tested
Reading/English language arts	Grades 3-8 and once in high school
Mathematics	Grades 3-8 and once in high school
Science	Once in grades 3-5, 6-9 and 10-12

nsba
National School Boards Association

Assessments

- ESSA retains the requirement that states annually measure the achievement of not less than 95% of all students and 95% of all students in each subgroup.
  - Defers to local and state policies regarding opting out of assessments
- Districts must notify parents at the beginning of each year that upon request, the district will provide information on any State or district policy on student participation in assessments, including a policy, procedure or parental right to opt out, where applicable.
- Districts must publicly post information on all required assessments, including time spent on assessments, for each grade.

nsba
National School Boards Association

Assessments

- Flexibility in use of assessments
  - Allows use of computer adaptive assessments (CAT's)
  - Allows districts to choose to use a nationally recognized assessment in lieu of state-mandated high school assessments
  - Allows States to limit the aggregate amount of time spent on assessments
  - Allows States to use a single, summative assessment or multiple statewide assessments throughout the year that result in the calculation of one summative score
  - States may set a target limit on the aggregate amount of time devoted to the administration of assessments, for each grade
  - Innovative assessment demonstration authority ("Innovative assessment pilot program")

nsba National School Boards Association

Accountability System

- ESSA eliminates AYP and the 100% proficiency requirement.
  - Replaced with a state defined index system, that includes certain federally-required components (Outlined in state plan submitted to the U.S. Department of Education)
- Must include "ambitious State-designed long term goals" with "measurements of interim progress".
- System includes index factors
  - Performance and progress on certain academic indicators
  - Measure of School Quality and Student Success (non-academic factor)
- States must annually identify and differentiate schools based on indicators and factors in the accountability system.
  - "Substantial weight" given to academic factors
  - "Much greater weight"

nsba
National School Boards Association

Accountability System

- Every 3 years, States must identify schools for "Comprehensive Support and Improvement"
  - Includes:
    - 5% lowest performing in the State;
    - High schools that fail to graduate one-third or more of its students;
    - Schools with a consistently underperforming subgroup that, on its own, is performing as poorly as all students in the lowest performing-five percent of Title I schools and that has failed to improve after implementation of a Targeted Support and Improvement Plan
- Annually, States must identify schools for "Targeted Support and Improvement"
  - Includes:
    - Schools that have a "consistently underperforming" subgroup, as defined by the State
- Improvement Plan- specific requirements

nsba National School Boards Association

School Improvement

- Every school identified by the State shall locally develop and implement a **Comprehensive Support and Improvement plan** for the school to improve student outcomes.
  - Must be developed in partnership with stakeholders: principals, other school leaders, teachers, parents.
  - Must be informed by all indicators in the state accountability system.
  - Must be based on a school-level needs assessment.
  - Must include evidence-based interventions.
  - Must identify resource inequities.
  - Approved by the school, the district, and the State.
  - State will periodically monitor.
  - Requires more rigorous State action if school does not improve within four years.

- Every school identified by the State shall locally develop and implement a **Targeted Support and Improvement plan** for the school to improve student outcomes for each underperforming subgroup.
  - Must be developed in partnership with stakeholders: Principals, other school leaders, teachers, and parents.
  - Must be informed by all indicators in the state accountability system.
  - Must include evidence-based interventions.
  - Must be approved by the district prior to implementation.
  - State does not approve. District monitors.
  - Results in additional action following unsuccessful implementation.
  - District may have to identify resource inequities.
  - Requires more rigorous state action if school does not improve within State determined # of years

nsba
National School Boards Association

School Improvement

- Districts may allow students in underperforming schools to transfer to another public school, if permitted by State
- Secretary of Education may not prescribe specific supports or improvement plans/strategies
- Districts must use evidence-based strategies for school improvement
- State has authority to develop approved list of evidence-based improvement strategies

nsba
National School Boards Association

ED's Implementation of ESSA

- Proposed Accountability Regulations
  - Published May 31, 2016
  - Public comment closed August 1, 2016
- Proposed Assessment Regulations
  - Negotiated rulemaking committee reached consensus
  - Posted on June 11, 2016
  - Public Comment closed September 9, 2016
- Supplement, Not Supplant Regulatory Language
  - Published September 6, 2016
  - Public comment period closes November 7, 2016

nsba
National School Boards Association

National School Boards Association

ED's Implementation of ESSA:

Accountability Regulations

National School Boards Association

Accountability: Draft Regulations

- Notice published in Federal Register on May 31, 2016
- Public Comment period closed August 1, 2016

- State accountability systems
- Accountability indicators (Requirements for indicator selection)
- Sub-groups of students
- Disaggregation of data
- Specific State Plan requirements
- Report card requirements
- Long-term goals
- Meaningful differentiation/identification of schools
- Comprehensive support and Improvement
- Identification and plan requirements (+Data procedures)
- Targeted support and Improvement (+Data procedures)
- Identification and plan requirements
- Per-pupil expenditure reporting
- H.S. Graduation rate calculations
- Support excellent educators
- Supporting all students

nsba
National School Boards Association

Accountability: Draft Regulations

- NSBA Submitted Comments on July 29, 2016

- Prescriptive nature of proposed rules
- Overly prescriptive federal regulations strip state/local leaders of authority granted by ESSA
  - Annual differentiation of public schools
    - Requires States to utilize a "single summative score" in annual meaningful differentiations
  - Disaggregation of Data and the establishment of N-Size
    - Requires States to justify an N-size of 30 or more
  - State responsibilities for continued support
    - Limitations on the evidence-based strategy chosen and implemented by the district

nsba
National School Boards Association

Accountability: Draft Regulations

- NSBA Submitted Comments on July 29, 2016
- General concerns
  - Foster care transportation costs
    - Regulations require districts to assume costs of transportation to school of origin if district and local child welfare agency can't agree
  - "Meaningful consultation" with stakeholders
    - More emphasis
  - Implementation timeline
    - More time for districts/States to implement requirements

nsba
National School Boards Association

Accountability: Draft Regulations

- Participation Rate: Must Assess 95% of Students
  - Applies to both all students enrolled in the school – and to all students within each subgroup
  - Participation rates will be calculated separately on the R/LA and mathematics assessments
  - A State will be required to take one of the following actions for a school that misses the 95% participation rate requirement for all students or for one or more subgroups
    - Assign a lower summative rating to the school
    - Assign the lowest performance level on the State's Academic Achievement Indicator
    - Identify the school for Targeted Support and Improvement
    - Another equally rigorous State-determined action that will result in a similar outcome for the school in the system of annual meaningful differentiation
  - District and Site Improvement Plans (Required)
    - If District has "significant number" of schools not meeting requirement
    - Site = District Approves
    - District = State Approves

nsba National School Boards Association

Meaningful Consultation of State Plan

- § 299.13
  - Requires timely and meaningful consultation with stakeholders in the development of the State plan
    - Provide public notice, format and language
    - Conduct outreach to, and solicit input from, individuals and entities [listed in law], of the SEA's processes and procedures for developing and adopting the plan
      - During the design and development of the plan
      - Prior to the 30 day public comment period
      - Prior to the submission of revisions or amendments
    - Describe how consultation and public comment were taken into account
    - How the SEA addressed issues and concerns

nsba National School Boards Association

Meaningful Consultation of State Plan

- June 23, 2016
  - U.S. Department of Education issued Non-Regulatory Guidance on stakeholder engagement
    - http://www2.ed.gov/policy/elsec/guid/secletter/160622.html
    - Highlights the importance and utility of stakeholder engagement
    - Department recommends, as a starting point, designing engagement strategies to include representatives of the many stakeholders affected by the law, including local school board members and other local elected officials
    - Highlights ways to remove barriers to "genuine stakeholder engagement"
      - Transparency, conveniently scheduled meetings, allowing for substantive input, etc.

nsba National School Boards Association

National School Boards Association

ED's Implementation of ESSA:

Assessment Regulations

National School Boards Association

Assessment: Draft Regulations

- The negotiated rulemaking committee reached a consensus on the proposed assessment regulations
  - ED bound to the consensus-based language
  - Proposed regulations published June 11, 2016
  - Public Comment period ended September 9, 2016

- Proposed assessment regulations include provisions governing Innovative Assessment Pilot Authority

nsba
National School Boards Association

Assessment: Draft Regulations

- NSBA Submitted Comments on September 9, 2016
- Proposed rules create federal/administrative requirements that are unnecessary
- Rules don't fully utilize the flexibility ESSA intended
  - Nationally recognized assessment in lieu of State assessment
    - Require State educational agencies to conduct technical reviews of locally selected, nationally recognized assessments in an open, transparent process
    - Implementation period of 2 years
  - Languages other than English
    - Don't prescribe the criteria a State must use in identifying
  - "*Fair*" Assessments
    - Statute requires valid and reliable

nsba National School Boards Association

Assessment: Draft Regulations

- Locally Selected Nationally Recognized HS Assessment
  - State determines participation (Certain requirements must be met)
    - Assessment must allow for *all* appropriate accommodations
    - Appropriate alignment w/ standards
    - Peer Review Process/Meets requirements of section
  - Assessment administered to all students in the district
    - Exception for students with the most significant cognitive disabilities
  - Includes definition of "nationally recognized academic assessment"
  - District must submit application to State
  - Parental notification requirements

nsba National School Boards Association

Assessment: Draft Regulations

- Students with the most significant cognitive disabilities
  - Does not include a definition, but each state must develop a definition that meets specific criteria *
  - Alternate Assessments
    - Aligned to State alternate academic achievement standards
    - Does include 1% cap on *administration of alternate achievement assessment*
      - The State cannot prohibit an LEA from assessing more than 1%
      - The State CAN require a district to submit information justifying the need to assess more than 1%
      - State must provide appropriate oversight of districts required to submit information (Previous bullet)
      - State must make information publicly available (Previous bullet)

nsba National School Boards Association

Assessment: Draft Regulations

- A State may request a waiver of the 1% Cap
  - Applies to any assessment
  - Waiver valid for 1 year
  - The request must be submitted 90 days *prior* to the start of the 1st testing window
    - State-level data from previous and current school year "to show":
      - That the State measured the achievement of 95% of all students *and* students with disabilities
      - Assurance that State has verified that each LEA that will exceed the cap "or will significantly contribute" to the State exceeding the cap has:
      - Will address disproportionality in number/ percentage in any particular subgroup

nsba National School Boards Association

National School Boards Association

ED's Implementation of ESSA:

Supplement, Not Supplant

National School Boards Association

SNS/ Proposed Regulations

- Negotiated rulemaking committee was unable to reach a consensus on ED's proposed regulations
  - ED may proceed with regulations in *any form*
  - ED not bound by negotiations

- Proposed regulations published September 6, 2016
  - Public comment period ends on November 7, 2016

nsba
National School Boards Association

Supplement, Not Supplant

- Three primary fiscal accountability requirements in the Elementary and Secondary Education Act (ESEA)
  - Maintenance of Effort (MOE)
  - Supplement, not Supplant (SNS)
  - Comparability
- What is supplement, not supplant? (SNS)
  - "A State educational agency or a local educational agency shall use Federal funds received under this part only to supplement the funds that would, in the absence of such Federal funds, be made available from State and local sources for the education of students participating in the programs assisted under this part, and not to supplant such funds." (ESSA, Section 1012, 20 U.S. § 6576)

nsba National School Boards Association

Supplement, Not Supplant

- "(2) COMPLIANCE.—To demonstrate compliance with paragraph (1), a local educational agency shall demonstrate that the methodology used to allocate State and local funds to each school receiving assistance under this part ensures that such school receives all of the State and local funds it would otherwise receive if it were not receiving assistance under this part."
  (ESSA, Section 1012, 20 U.S. § 6576)

- Title I "neutrality"

National School Boards Association

SNS/ Proposed Regulations

- ESSA changes to supplement, not supplant requirements:
  - Eliminates previously used conditions for determining violations in non-schoolwide programs
  - Applies more flexible "schoolwide program" requirements to all Title I schools
  - Districts are no longer required to identify that a specific service or cost is supplemental
  - District demonstrates compliance through district-determined methodology
  - ESSA incorporates NCLB language: "Nothing in this title shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school."
  - Methodology must ensure that Title I schools receive all of the State and local funds it would have received if it had received no Title I funds

nsba
National School Boards Association

SNS/ Proposed Regulations

- District chooses methodology
  - Districts are not required to identify that an individual cost or service supported with Title I funds is supplemental
  - Districts are not required to provide services through a particular instructional method or in a particular instructional setting

- Secretary is prohibited from prescribing the methodology districts use to demonstrate compliance

nsba
National School Boards Association

Assessment: Draft Regulations

- Rule includes specific methodologies for districts to choose

1) Option #1: District can distribute State and local funds to schools according to a per-pupil formula "based on characteristics of students in each school"

National School Boards Association

Assessment: Draft Regulations

2) Option #2: District can distribute State and local funds to schools according to a "consistent districtwide personnel and non-personnel resource formula," such that sum of:
   - Average districtwide salary for each category of school personnel, multiplied by the number of school personnel in each category assigned by the districtwide formula; and
   - Average districtwide per-pupil expenditure for non-personnel resources, multiplied by the number of students in school

3) Option #3: State-determined "equally rigorous" options
   - Certain criteria

nsba
National School Boards Association

SNS/Proposed Regulations

- Fourth potential option for districts: "Special Rule"
  - A district may distribute State and local funds using any methodology that results in the district spending an amount of State and local funds per pupil in each Title I school "that is equal to or greater than the average amount of State and local funds spent per-pupil in non-Title I schools."
- Rules of Construction
  - Nothing in the rule shall be construed to require forced or involuntary transfer of school personnel
- Flexibilities
  - Districts may calculate on a district-wide basis or by grade span

nsba
National School Boards Association

SNS Proposed Regulation

- Implementation Timeline
  - No later than December 17, 2017, a district must:
    - Demonstrate to the State that it has a methodology for allocating State and local funds to schools that meets the requirements of the rule
      - District will use no later than the 2018-2019 school year;

      or
    - Submit a plan to the State for how it will "*fully implement a methodology*" that meets the requirements [of the rule] no later than the 2019-2020 school year
  - Prior to the 2018-19 or 2019-20 school year, a district can either meet the requirements of the rule, or use the method of compliance in effect on December 9, 2015

nsba National School Boards Association

National School Boards Association

What *Could* Happen Next?

National School Boards Association

Congress v. the Administration on ESSA Implementation

- Congressional Review Act (5 U.S.C. § 801-808)
- Empowers Congress to disapprove certain rules issued by federal agencies through adoption of a joint resolution of disapproval
  - Rule submitted to Congress
  - Expedited procedure in Senate ("fast track")
  - 60 days to act
  - "Major rules": OMB determines that it will have economic effects of a certain level of significance
  - President must approve

nsba National School Boards Association

Congress v. the Administration on ESSA Implementation

- CRA possible result
  - No Congressional action
  - Rejection by either house
  - Passage by both houses; no veto
  - Passage; veto; no attempt to override
  - Passage; veto sustained by either house
  - Passage; veto overridden

- Use of appropriations process
  - Policy provisions

nsba
National School Boards Association

National School Boards Association

What Can We Do Now?

National School Boards Association

Current Activities

- State-level focus: drafting state plans
  - Statutory authority
  - Initial efforts to engage in stakeholders
    - Town hall meetings
    - Focus groups
    - Seminars/Webinars
    - E-mail accounts dedicated to submission of ESSA-implementation feedback
    - Meetings with education stakeholders
  - Substantive/collaborative meetings with stakeholders
  - State examples

nsba
National School Boards Association

The Role of Local School Boards

ESSA District-Level Planning
Development of State Plan – GET INVOLVED!
Plan for required notifications and required services
Development of district plan (For submission to SEA)
Plan for reporting
Plan for improvement, if applicable

nsba
National School Boards Association

National School Boards Association

Questions?

National School Boards Association

National School Boards Association

Working with and through our State Associations, to advocate for equity and excellence in public education through school board leadership.

www.nsba.org

© National School Boards Association

National School Boards Association