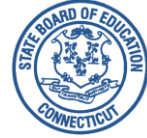




STATE OF CONNECTICUT  
STATE BOARD OF EDUCATION



November 4, 2016

Mr. James Butler  
U.S. Department of Education  
400 Maryland Avenue SW, Room 3W246  
Washington, DC 20202-2800

Dear Mr. Butler,

We submit the following comments in response to the U.S. Department of Education's (USDE) proposed regulations for the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Every Student Succeeds Act (ESSA) concerning the "Supplement, Not Supplant" (SNS) requirement of Title I, Part A (Docket #ED-2016-OESE-0056-001).

The intent and clear language of the ESSA are to ensure that federal funds be used in ways that are supplemental to state and local dollars. While the regulations are comprehensive and intend to address SNS, they lack flexibility and impose a rigid system in direct contrast to the ESSA. In addition, the SNS regulations oversimplify the true complexities of school finance and school staffing. Compliance with the proposed regulation would be based on spending thresholds; in turn, this means that school districts would have to centrally manage all decisions that affect school budgets. It takes decision-making away from those that are closest to students, forcing them to decide between ESSA compliance and meeting the needs of the students they serve. In an effort to equalize spending among Title I schools and non-Title I schools, district administration would have to override school-level decisions to ensure balance. It also imposes an extreme paperwork burden.

Some of the regulations lack clarity. Proposed 200.72(b)(1)(B)(ii) requires LEAs to allocate to schools "almost all State and local funds available to the LEA." It is unclear what this actually means. It is not apparent whether restricted revenue, costs such as pension obligations and post-retirement benefits, or support programs that are not tied to individual schools are considered in compliance with the "almost all" requirement. Without a clear definition, it will be up to individual auditors and oversight officials to set a definition which will surely lead to variable enforcement across LEAs and states. This confusion will not achieve the ultimate goal of equity for all students. Bureaucratic measures that constrict, confuse, and confound take valuable time away from educators committed to high expectations and equity among students.

The four options for demonstrating funding equity produces untold burden on LEAs and SEAs by providing four separate pathways that will be difficult to monitor for compliance and will create confusion across options. A more elegantly simple process is recommended.

The per-pupil formula option for demonstrating funding equity raises significant concerns. Again, it is unclear what it means to distribute "almost all" of an LEA's money to schools. It is also not clear what is meant by a "consistent" formula and if characteristics not based on

educational disadvantage, such as preschool, gifted and talented, or career and technical education (CTE) are allowable. Many LEAs use per-pupil formulas that provide additional funding for categories such as these. This could negatively impact specialized schools and programming where cost categories may vary. This proposed regulation puts into jeopardy programming choices such as mastery based learning, online courses, dual concurrent enrollment, language immersion programs, and advanced placement coursework due to the need to have uniform spending among Title I and non-Title I schools. This flies in the face of Title IV academic enrichment and a well-rounded education for all students. It encourages a “one-size fits all” mentality in regard to educational programming. A 21<sup>st</sup> Century, well-rounded education makes compliance with such rigid regulations difficult at best.

If an LEA selects the resource formula option for demonstrating funding equity, the proposed regulations raise considerable questions because LEAs would be required to distribute “almost all” of an LEA’s available funds through a consistent districtwide resource formula based upon personnel salary and districtwide expenditure of non-personnel resources. It is not clear whether stipends or benefits are factored in and considered to be a part of the salary calculation or whether long-term substitutes should be included in the calculation. This could potentially impact teachers as they could be forced to change schools in order to “balance the books” in order to meet federal compliance requirements. Not only is this disruptive, it could also conflict with or violate collective bargaining agreements. Also unclear is how staff members who work in multiple buildings should be accounted for. Ultimately, if the proposed rule does not clearly define how specific costs should be treated, then the implementation of the rule will vary across the country. Again, the complexities of school finance and school staffing cannot be accurately captured under the system these regulations create.

Under the resource formula option, the rule does not take into account spending on large projects, purchases, and/or capital improvements that take more than one year to implement. The proposed regulation requires LEAs to demonstrate compliance annually, but school-to-school spending may vary year to year, yet equalize in the long-term. Will local bond levies and/or maintenance of the physical plant be included in the cost calculations? The lack of clarity leaves too many questions regarding key terms and forces administrators to make assumptions that could prove faulty and further obscure the question of equity.

The proposed regulations seem to violate the very prohibitions spelled out in the SNS. Subdivision 1118(b)(4) states, “Nothing in this section shall be construed to authorize or permit the Secretary to prescribe the specific methodology a local educational agency uses to allocate state and local funds to each school receiving assistance under this part.” Furthermore, section 1605 states, “Nothing in this title shall be construed to mandate equalized spending per pupil for a state, local education agency, or school.” In this instance, regulators may be approaching the legal limits of the statute as well as the rule. We respectfully ask that the Department revisit these proposed regulations and only require demonstration that Title I schools receive as much state and local funds as they would otherwise receive if they didn’t receive Title I funds.

In closing, we offer the preceding comments in the spirit of ensuring that the final rules support both the important work and spirit of the ESSA and the Supplement, Not Supplant provision. We fully support the improvement of equitable funding for our students whether they attend Title I or non-Title I schools. However, we advise caution that we not inadvertently hurt the very students the provision was intended to benefit. We sincerely thank the USDE for the opportunity to provide feedback and thank you in advance for their thoughtful consideration of our concerns.

Sincerely,

A handwritten signature in black ink that reads "Dianna R. Wentzell". The signature is written in a cursive style with a mix of uppercase and lowercase letters.

Dr. Dianna R. Wentzell  
Commissioner of Education