

Matthew G. Bevin  
Governor



Hal Heiner  
Secretary  
Education and  
Workforce Development Cabinet

Stephen L. Pruitt, Ph.D.  
Commissioner of Education

**KENTUCKY DEPARTMENT OF EDUCATION**

May 16, 2016

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Secretary John King  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

Dear Secretary King:

Because of the historic opportunity afforded to states under the Every Student Succeeds Act (ESSA), I have just completed a five-week town hall tour of Kentucky. With more than 3,000 attending, I listened to hundreds of Kentuckians, including students, speak (and sign) about what they value in their schools. This feedback is already being used by the Kentucky Department of Education as we start to work this month with our new accountability steering committee. The committee is comprised of representatives from all of Kentucky's P-12 education partners, teachers, administrators, community members and members of the Kentucky General Assembly. Since ESSA became law, I have been very clear that Kentucky will be guided by three principles – equity, achievement and integrity – as we design a new assessment and accountability system that is tailored to the needs of our state. The new system is on an aggressive timeline and will be presented to the Kentucky Board of Education in January and ready for regulatory review by the Kentucky General Assembly in spring of 2017. We are excited that ESSA makes the 2017-18 school year the beginning of a new era in school accountability and student success in Kentucky.

Unfortunately, my excitement about the possibilities that await Kentucky and our children as a result of ESSA has been stifled by a recent telephone call with United States Department of Education (USED) staff. On May 5 during a call with Ann Whalen and staff regarding USED's insistence that Kentucky implement science assessments and performance levels that do not measure Kentucky's actual science standards, I was informed that Kentucky's new accountability system, or disconnected portions of it, must be in place in 2016-17 in order to identify the lowest performing schools to receive turnaround supports in the following school year (2017-18).

As recently as the day before, May 4, 2016, USED issued an FAQ implying the exact opposite opinion. On Page 11, "Options A and B" are discussed around identifying the bottom schools for support and assistance. Furthermore, on January 29, 2016 and as required by USED, Kentucky communicated "Option B" to USED considering that we have already identified schools for support and assistance during the 2016-17 school year, including public reporting of those

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schools. All communications from USED up and until the call on May 5 indicated that the timeframe required to create Kentucky regulations and/or any state statutes implementing new accountability systems under ESSA have guided Kentucky to plan for a new system to begin in the 2017-18 school year. The new system will report new data calculations/measures using test results and other data from the 2017-18 school year. The May 5 phone conversation implied that USED is contemplating a new interpretation, but yet not an interpretation that has been included in previous communications or the FAQ issued the day before. USED should immediately issue a clarification that ESSA accountability measures will not go into effect until 2017-18 as intended by Congress.

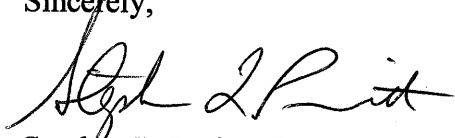
I doubt that the majority of states are aware that this new timeline is being contemplated by USED and I can only assume that Ms. Whalen let slip what is being discussed behind closed doors at USED. While chief state school officers like me took the words and the intent of ESSA to heart and have been traveling our states conscientiously planning for a new accountability system that meets the needs of our children, USED appears to be mired in a bureaucratic checkbox mentality without thought as to the impossible task of states meeting such a timeline if new and more meaningful systems, as envisioned by ESSA, are to be built. Implementing a new system in 2017-18 is already a monumental task on an aggressive timeline, but one that is obtainable for most states. No state will be able to implement a new system that takes full advantage of ESSA by the 2016-17 school year as implied by USED staff. If this is the true intent of USED, you will be forcing states to continue the status quo of their current systems, or giving states no option but to only implement minor tweaks to existing systems. To use a Kentucky expression, existing state systems are already being held together with "duct tape and baling wire" as a result of the failings of NCLB and the resulting USED waiver system. If we are forced to implement an inferior accountability system, it will strike a devastating blow against the integrity of this agency and our state as a whole. Our schools will suffer and stay mired in compliance rather than accepting the shared responsibility for educating the students of the Commonwealth. I am a firm believer in accountability, but I will not allow the new system in our state to reflect anything other than Kentucky's values and what is best for our students.

If ESSA is truly a new day for education in America, states must have the support to do what is best for their students and move away from a one-size fits all mentality. Making changes to a state assessment and accountability system is a deliberate and often slow process, particularly when you provide schools the necessary time to understand and implement change. The conversation I heard on May 5 with USED staff is not consistent with my understanding of the intent of Congress, and it is certainly not consistent with what I know to be in the best interest of Kentucky and its students. My fear is that I have been given a preview as to what states can expect from the USED regulations this fall. The pillars of equity, achievement and integrity will not be realized in Kentucky or in any other state until USED affords us the freedom to adequately plan, design and implement systems with students as the main focus.

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Constant bureaucratic tinkering, pontification and dictatorial edicts by USED are frustrating our ability to fully realize the Congressional intent of ESSA and will result in mediocre status quo systems in all states. Our children deserve better. As a result, while I respect the regulatory authority of USED, I am requesting that your staff cease and desist immediately from obfuscating our state's best intentions and efforts to realize the promise of every student succeeding.

Sincerely,



Stephen L. Pruitt, Ph.D.  
Commissioner of Education

Cc: Senator Mitch McConnell  
Senator Rand Paul  
Representative John Yarmuth  
Representative Brett Guthrie  
Representative Ed Whitfield  
Secretary Hal Heiner  
Senator Mike Wilson  
Representative Derrick Graham  
CCSSO President Tony Evers  
KDE Planning Committee

Senator Lamar Alexander  
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Senator Robert Stivers  
Representative Greg Stumbo  
Chris Minnich, CCSSO  
Kentucky Board of Education Members

SLP:KCB:mam