Bob Wise
Governor of West Virginia, 2001-2005

ALLIANCE FOR EXCELLENT EDUCATION
Every Child A Graduate

June 19, 2008

Mr. Zollie Stevenson, Jr.
Director, Student Achievement and School Accountability Programs
U.S. Department of Education
400 Maryland Ave, SW, Room 3W230
Washington, DC 20202-6132

RE: Notice of Proposed Rulemaking for programs administered under Part A of Title I of the Elementary Secondary Education Act: 34 CFR Part 200/Docket ID ED-2008-OESE-0003

Dear Mr. Stevenson:

The Alliance for Excellent Education (the Alliance) offers the following comments and recommendations regarding the Notice of Proposed Rulemaking (NPRM) issued April 23, 2008. The Alliance is a national policy and advocacy organization dedicated to ensuring all students graduate from high school prepared for college, work, and life. We thank you for focusing on the critical issue of graduation rate accountability in this NPRM. Our comments specifically address the proposed regulations on graduation rate reporting and accountability in section 200.19 ï Other academic indicators.

The principles of the No Child Left Behind Act (NCLB) have helped to focus the nationôs attention on the unacceptable achievement gap and the imperative of improving outcomes for all students, especially those who are most disadvantaged. However, because NCLB does not ensure that graduation rates are calculated consistently and accurately, are disaggregated, and are required to increase over time, high school students are being left behind. In implementing the law and related policy developed by the U.S. Department of Education (the Department), states have adopted many different graduation rate calculations, resulting in a lack of comparability and transparency. States have set unacceptably low growth goals because states are not required to increase graduation rates over time. In addition, under current federal policy, graduation rates do not have to be disaggregated for accountability purposes; therefore, overall graduation rates can hide graduation gaps between populations. Furthermore, because the current federal accountability toolð adequate yearly progress (AYP)ð rests primarily on assessments, there exists an incentive to lessen the impact of low-performing studentsôscores on a schoolôs overall scores. In many cases, this perverse incentive leads to a variety of unintended behaviors, including ñpushing outò low-performing and disadvantaged students before their low test scores can count in determining AYP. As a result, these students will not graduate from high school prepared for life in the twenty-first century.

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The Alliance agrees that graduation rates are a critical measure of a high schoolôs success and a critical indicator of whether the nationôs public school system is doing what it is intended to do: enroll, engage, and educate youth to be productive members of society. Graduating studentsõ with the knowledge and skills that prepare them for the challenges that come after high schoolõ should be the central purpose of any high school. The Alliance also believes strongly that if AYP is to be a meaningful tool for identifying which schools need improvement and for holding schools accountable for student outcomes, AYP must include a common, disaggregated, and meaningful measure of graduation rate accountability. As such, the Alliance believes that graduation rate accountability must include:

- consistent and accurate calculations of graduation rates to ensure comparability and transparency;
- aggressive, attainable, and uniform annual growth requirements as part of Adequate Yearly Progress to ensure a minimum, consistent increase in graduation rates;
- equal weight for both graduation rates and test scores in AYP determinations to ensure that schools have balanced incentives to both graduate their students and raise their test scores; and
- disaggregation for accountability and reporting to ensure that school improvement activities focus on all students and close achievement gaps.

§200.19(a)(1) – Definition of graduation rate and §200.19 (a)(1)(i)(C)(2)

Proposed regulation 200.19(a)(1) requires all states to uniformly and accurately calculate graduation rates consistent with the calculation developed by the National Governors Association in 2005 (NGA rate). That calculation is based on dividing the number of students who graduate within the standard number of years (commonly understood as four years for high schools beginning in grade nine) by the number of students who formed the adjusted cohort for that class. The adjusted cohort consists of those students who entered in ninth grade, plus transfers in and minus transfers out.

Proposed regulation 200.19 (a)(1)(i)(C)(2) would allow states to propose a different definition of ñstandard number of yearsò for different populations of students who ñmay take longer to graduate.ò Under this proposed regulation, this different definition of standard number of years would require Secretarial approval.

Comments

§200.19(a)(1) together with §200.19 (a)(1)(i)(C)(2) correctly recognizes that some students take more than four years to graduate. However, these proposed regulations would allow for cohort reassignment based on broad student categories that would vary from state to state, which is problematic from several perspectives.

Proposed regulation 200.19 (a)(1)(i)(C)(2) would allow states to predetermine how many years certain broadly defined categories of students will take to graduate from high school. The proposed regulation does not provide clarity on who makes such decisions, how such decisions are made, when and how often they are made, and based on what information. These categories of students, such as students with disabilities or English language learners, are diverse groups with varying academic challenges and needs. There is no evidence that *all* students in any such category would need additional time to graduate. Predetermining extended graduation dates for

such broad groups of students unnecessarily lowers expectations and undercuts graduation rate accountability for those students. This is particularly troubling given that the populations that are most likely to be defined under this provisionð and therefore the students most likely to be reassigned to later graduation datesð are the students who already suffer from reduced expectations and high academic challenges. Because students who have been held back in high school are significantly less likely to graduate, policies that allow for entire categories of students to be retained in grade or placed on longer tracks to graduation, regardless of the educational needs of individual students, are inherently damaging to individual studentsô educational outcomes.

From the calculation perspective, cohort reassignment renders graduation rate calculations more complicated and less transparent. When looking at a reported graduation rate that includes cohort reassignment, it would be difficult to understand which students and how many had been reassigned to later cohorts and to which cohorts students had been assigned. This makes the rate less useful as a tool for determining whether a school is graduating its students on time.

Lastly, this policy is inconsistent with the stated priority of a common, consistent graduation rate calculation. With states proposing their own categories and definitions of expected alternate ñstandard number of years,ò graduation rates will remain difficult, if not impossible, to compare between states.

Recommendations

Instead of attempting to address the fact that some students take longer to graduate than others through cohort reassignment, we suggest requiring schools and districts to calculate and report both a four-year and a cumulative graduation rate. Under such a system, schools and districts would be held accountable for increasing the number of students who graduate in any given year (whether the student graduates in four years, five years, or more) while maintaining the primacy of four-year graduation. Therefore, for accountability purposes, in order for the cumulative graduation rate to make the accountability target, a high and specific percentage (we recommend 90 percent) of those students counted as graduates under the cumulative rate must be four-year graduates. This requirement should apply both in the aggregate and disaggregated by subgroup.

Early college high schools and some high-quality, alternative education settingsð such as those designed for students who are over-age and under-credited, or who dropped out of high school and have returned to earn a regular high school diplomað are not designed to graduate students in four years. As a result, the four-year primacy provision would not be appropriate for a small number of schools. The regulations should allow states to define these programs and schools and provide them with a waiver on a case-by-case basis.

Further, the regulations do not recognize that some students with significant cognitive disabilities are assessed using an alternate assessment aligned to alternate achievement standards and receive an alternate credential, consistent with current regulations (34 CFR 200.6). The Alliance recommends that for such students, receipt of a regular high school diploma or a state-defined alternate credential aligned with the completion of their entitlement under the Individuals with Disabilities Education Act be counted as graduation with a regular high school diploma for purposes of calculating the graduation rate. Final regulations including this allowance should

permit no more than 1 percent of students to be counted as graduates with a regular high school diploma, consistent with current federal policy regarding the assessment of such students.

§200.19(d)(1) – Graduation rate goals and continuous and substantial improvement measures

Under proposed regulation 200.19(d)(1), states would be required to submit for Secretarial approval both graduation rate goals and improvement targets that meet the ñcontinuous and substantialò standard. To make AYP, schools and districts would have to meet either the state-set graduation rate goal or the state-set ñcontinuous and substantialò improvement target.

Comments

We agree that the current state-set graduation rate goals and growth targets are weak and meaningless. However, the proposed regulations do not actually require meaningful goals or growth targets beyond the ñcontinuous and substantialò language, which is too vague to ensure that goals or growth targets will be significant. Further, the proposed regulations do not state that the goals and growth targets will be consistent across states, which is critical for the transparency and comparability of graduation rates.

Recommendations

The Alliance recommends that the Secretary adopt specific graduation goals and growth targets that would apply consistently across states. We recommend a graduation rate goal of 90 percent in the aggregate and for each subgroup, and annual growth targets of 3 percent (or an average of 3 percent over two years) in the aggregate and for each subgroup. By setting concrete goals and annual growth targets, the Department can help ensure increased consistency, comparability, and transparency. In addition, concrete graduation rate goals and annual growth targets at both the aggregated and subgroup levels will provide for a greater focus on both increasing the number of students graduating from high school and closing graduation gaps.

If the Secretary chooses not to establish uniform graduation rate goals and annual growth targets, the regulations should indicate more clearly what standards states would be expected to meet. The regulations should also indicate that such standards would apply consistently state to state. Such standards should include high, ambitious end goals and growth targets both in the aggregate and disaggregated by subgroup.

§200.19(a)(1)(i) – Transitional use of AFGR

Under proposed regulation 200.19(a)(1)(i), states that are not capable of accurately calculating the NGA rate are required to use the averaged freshman graduation rate (AFGR). Under the proposed regulations, states may use AFGR through the 2011ï 2012 school year, after which states must use the NGA rate under §200.19(a)(1).

Comments

The proposed regulations do not require that states use the NGA rate immediately or as soon as a state has the data capacity to do so, even though most states already or soon will have the capacity to calculate the NGA rate. There are also technical concerns with AFGR that would make it less accurate at the school level, especially at the subgroup level. The proposed regulations recognize this by not requiring that graduation rates be disaggregated for

accountability purposes until use of the NGA rate is required in the 2012ï 2013 school year. We are concerned that when calculated at the school level, AFGR overestimates student outcomes, especially for poor and minority students.

Recommendations

Given that most states have or are close to having the data systems necessary to calculate the NGA rate, the regulations should specify that states that can immediately calculate the NGA rate should do so. States that currently do not have the capacity to implement the NGA rate should be required, as part of their consolidated state accountability workbooks submitted for Secretarial approval, to demonstrate why they do not have the capacity, what changes are necessary to have the capacity, and the timeline for doing so.

We recognize that some states will not be able to immediately produce and use the NGA rate. However, instead of requiring the use of AFGR while developing that capacity to calculate the NGA rate, we urge that states be allowed to propose for Secretarial approval an interim rate that meets the following calculation criteria:

- measures or estimates the number of graduates compared to the number of students in the high school's entering grade;
- does not use dropout data;
- counts the number of graduates as only those students who received a regular high school diploma;
- can be disaggregated; and
- can be used on an annual basis to determine a rate of growth.

Further, given that most states can or are close to being able to calculate the NGA rate, we urge the Secretary to move up the time frame. We urge the Secretary to require use of the NGA rate by the 2011ï 2012 school year in exchange for allowing states to use a state-determined interim rate.

Related Issues

Exit Coding

As students progress through and out of a school system, districts and states attach an exit code to each studentôs records. That code determines, among other things, how the student is counted in the graduation rate calculation and how the initial cohort of students is defined. While some states have only a few exit codes, such as ñdropout,ò ñtransfer,ò and ñgraduate,ò the National Forum on Education Statistics found that some states have nearly fifty different ways of categorizing students. In some cases, students who exit the system in ways that should make them dropouts for the intended purpose of the proposed graduation rate regulations (e.g., they have enrolled or plan to enroll in a General Education Development (GED) program, have been incarcerated, or have left without reporting a reason), are instead placed in separate categories such as ñadministrative withdrawalò or ñno data available.ò In some cases, this means that students may be miscounted in the graduation rate or sometimes not counted as either dropouts or graduates; for the purposes of the graduation rate calculation, they simply cease to exist. The use of exit codes is entirely state- and LEA-driven and varies significantly from state to state. Without transparency and common guidelines for how these codes play into graduation rate

calculations, inconsistent coding practices further undermine the accuracy of graduation rates and contribute to a lack of comparability between rates.

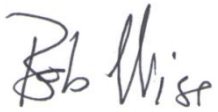
The proposed regulations do not directly address how states should reconcile existing exit code policies in the calculation of the required graduation rates. We recommend that the regulations require states to propose for Secretarial approval their plan for how exit codes will be considered in the graduation rate formula to help ensure that the use of exit codes does not undermine the accuracy, comparability, and transparency of rates.

N-Size

The proposed regulations do not specify whether the proposed n-size policy under 200.7(a) will apply to graduation rate calculations. We recommend that the regulations clarify that policies and regulations governing n-size for assessment, reporting, and accountability apply in the same way to graduation rate calculations for both reporting and accountability.

The Alliance appreciates the Secretaryôs recognition of the flaws in current graduation rate accountability policy and the attention to improving them. We look forward to working with the Secretary on this and other issues. If you have questions regarding issues covered in this letter or any other concerns, please do not hesitate to contact Bethany Little, the Allianceôs vice president for policy and federal advocacy, or Jamie Fasteau, the Allianceôs director of policy, at 202-828-0828.

Sincerely,



Bob Wise
President