



NAACP | Empowerment Programs

Stephanie K. Siddens, Ph.D.  
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Ohio Department of Education  
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RE: The NAACP rejects the differential educational benchmarks in Ohio's Every Student Succeeds Act state plan

Dear Dr. Siddens,

The National Association for the Advancement of Colored People request that you eliminate differential benchmarks for student subgroups and acknowledge that equality and the total elimination of achievement gaps are the only acceptable objectives for education.

Currently, The State of Ohio's sets Performance Index Scores for Academic Achievement (See [Document](#) pgs. 17 -18), which is designed to "over the 10- year timeline, is for these gaps to be closed by at least 50 percent." However, the communities for whom these inadequate progress targets will most negatively affect do not regard these benchmarks as representative of "significant progress" in terms of achievement or graduation rates.

For this plan to conceivably be regarded as "significant progress," stakeholders would require a detailed explanation of the meaning of "significant progress". To date, the Ohio State Department has not provided this. We recognize that the goal of closing achievement and graduation rate gaps by, at least, 50 percent is laudable by some standards. However, such a goal does not account for the truly "aggressive agenda" that is required to not only combat the inequitable learning experiences and outcomes of marginalized student groups now but in the future. Setting lower expectations for marginalized students (e.g., Black and Brown students, students served under IDEA, students from socio-economically disenfranchised communities, emerging bilingual learners) sets a precedent that your state will only have to work harder to combat 10 years from now.

We desire a benchmark projection that, although focused on test scores, still comprehensively includes, through projected data, state and district efforts to raise the learning experiences and outcomes of all students by factoring in other components of ESSA accountability. It is our belief that if *even* test score benchmarks are set with this in mind, then Ohio and its districts are more likely to proceed with efforts to **close opportunity gaps (changing the language used in the document from "proficiency" to "opportunity")** in a more intentional fashion, using all levers provided through ESSA to create equitable learning and outcomes for students. These considerations are of even more importance because as the plan states, "Ohio's Performance Index



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is one of two measures that make up the Achievement component contributes fully to the rating of the Achievement component” (p. 27).

We agree that “not all children start out at the same place with their learning, but every student should learn and grow throughout the school year” (p. 29). However, we contest the idea that because students begin their learning journeys at various stages, they should be held to lower achievement benchmarks at the start. We urge the Ohio Department of Education to focus on *how* to strengthen educational practices to move students in a truly aggressive fashion rather than focusing on the unequal footing of students due, in large part, to historic and continuous inequities within our educational system.

Furthermore, and as it relates to students with disabilities, we urge the Ohio Department of Education to, more strongly, consider and articulate the needs of various “students with disabilities” groups, through a deeper disaggregation of this student subgroup, when projecting benchmarks. Examining ‘the progress component of the report based on students’ past performances’ (p. 29) is not justification for setting lower benchmarks for these students.

### **Specifics on Violation of Current Federal Law**

**(GENERAL) Civil Rights Requirements- A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. (“Title VI”):** Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives Federal funds or other Federal financial assistance. Programs that receive Federal funds cannot distinguish among individuals on the basis of race, color or national origin, either directly or indirectly, in the types, quantity, quality or timeliness of program services, aids or benefits that they provide or the manner in which they provide them. This prohibition applies to intentional discrimination as well as to procedures, criteria or methods of administration that appear neutral but have a discriminatory effect on individuals because of their race, color, or national origin. Policies and practices that have such an effect must be eliminated unless a recipient can show that they were necessary to achieve a legitimate nondiscriminatory objective. Even if there is such a reason the practice cannot continue if there are alternatives that would achieve the same objectives but that would exclude fewer minorities. Persons with limited English proficiency must be afforded a meaningful opportunity to participate in programs that receive Federal funds. Policies and practices may not deny or have the effect of denying persons with limited English proficiency equal access to Federally-funded programs for which such persons qualify.

The US Department of Education specifically states, [“Programs and activities that receive ED funds must operate in a non-discriminatory manner. These may include, but are not limited to: admissions, recruitment, financial aid, academic programs, student treatment and services,](#)



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counseling and guidance, discipline, classroom assignment, grading, vocational education, recreation, physical education, athletics, housing and employment, if it affects those who are intended to benefit from the Federal funds. **The intentional lowering of benchmarks “progress targets” for marginalized student groups in comparison to their peers may have serious implications for how funding is used by the state.** In short, intentionally setting lower expectations through progress targets sets a precedent or justification for minimizing the use of federal and state funds to support the academic and social emotional needs of students that will need these supports the most. **(The less you expect, the less you must spend...)**

Regarding the Individual with Disabilities Education Act (IDEA), the US Department of Education specifically states, "A free appropriate public education must be available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in §300.530(d)." and that "Each State must ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade." **The intentional lowering of benchmarks or “progress targets” for marginalized student groups in comparison to their peers may diminish the learning experiences of students served under IDEA by reducing their likelihood to a free and appropriate public education (FAPE) and other related factors such as least restrict environment and access to other educational and social opportunities in relation to their peers by reducing the expectations set for these students and, subsequently, the rigorous requirements to meet these expectations.**

**Interpretation of “Ambitious”** Per Section 1111(c)(4)(A) of ESSA (See screen shot below for easy reference)

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## Policy Context

### ESEA, as amended by ESSA, Section 1111(c)(4)(A)

- States must establish long-term goals consistent with the amended ESEA:
- Each State must establish ambitious long-term goals, including measurements of interim progress toward meeting such goals, for all students and separately for each subgroup of students;
  - At a minimum, each State must set goals and measurements of interim progress for:
    - Academic achievement, as measured by proficiency on statewide reading/language arts and mathematics assessments;
    - Graduation rates, including the four-year adjusted cohort graduation rate (ACGR) and, at the State's discretion, a more rigorous long-term goal for the extended-year adjusted cohort graduation rate as compared to the four-year; and
    - English language proficiency (ELP), as measured by the statewide ELP assessment.
  - The term of the academic achievement and graduation rate goals must be the same multi-year length of time for all students and for each subgroup of students; and,
  - Goals must take into account the improvement necessary for subgroups of students who are behind on the measures to make significant progress in closing statewide proficiency and graduation rate gaps.

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**The Ohio state plan states**, “the goals meet the definition to be “ambitious” based on the percentage of schools and districts currently meeting the targets” (p.18). We contend that, given the historical nature of educational inequity for underserved /marginalized student groups, these goals are not ambitious enough.

Because neither this state ESSA plan nor the ESSA itself provide a clear definition of the term, “ambitious” (See this FAQ for reference, which states, “["If the statute does not define certain terms, such as “ambitious” long-term goals, “substantial” weight of indicators, or “much greater” weight of certain indicators over others, who determines the meaning of those terms? In cases where the statute does not define a specific term, a State has significant discretion to determine how it will define that term. In accordance with the Secretary’s responsibility to review State plans, the Secretary is obligated to make a determination as to whether a State’s proposed definition, on its face, is reasonable.](#)”), we believe it is the right of educational stakeholders to weigh in on whether Ohio has met a definition of “ambitious” that reflects the current needs of all students, the contextual history of inequity in our state educational systems, and a goal setting that unequivocally affirms Ohio’s intention towards educational justice for **all** students.

Respectfully,



Ivory A. Toldson, Ph.D.  
National Director of Education Innovation and Research  
NAACP