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Debbie Smith
*Senate Assistant Minority Leader
Nevada
President, NCSL*

Margaret 'Peggy' Piety
*Senior Staff Attorney
Legislative Services Agency
Indiana
Staff Chair, NCSL*

William T. Pound
Executive Director

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Docket ID ED-2014-OPE-0057

The Honorable Arne Duncan
Secretary
U.S. Department of Education
400 Maryland Ave, SW
Washington, DC 20202

Dear Secretary Duncan:

The National Conference of State Legislatures (NCSL) welcomes the opportunity to comment on the Notice of Proposed Rulemaking (NPRM) governing teacher preparation institutions. State legislators are well aware of the critical importance of a well-trained and effective teacher to a student's academic growth. We know that a teacher's preparation program significantly affects the learning gains of his or her students. That is the reason state legislators have supported strengthening the training of teacher candidates through state initiatives, and we appreciate the fact that the department acknowledges that states are innovators in this area. States are strengthening the teaching profession by focusing not only teacher preparation, but induction, mentoring, professional development, and evaluation.

However, the NPRM goes beyond the statutory requirements of the Higher Education Act (HEA) and fails to recognize the authority of states and localities to govern education. These proposed rules define the indicators that states will use to assess the performance of their teacher preparation program. Furthermore, the department proposes to define "high quality" programs for the purpose of determining a program's eligibility to award TEACH grants. NCSL is very concerned about the federal overreach into state and institutional affairs and budgets. Existing accreditation systems currently allow states to identify both low and high performing programs and to facilitate and expedite the closing of ineffective teacher preparation programs. The proposed federal system of accountability would create unnecessarily duplicative parallel systems of oversight between the federal and state accreditation and evaluation processes. Energy and effort, as well as funding, would be directed toward meeting the requirements of these regulations and away from innovation and reform in teacher preparation programs and the profession.

Federal Overreach and Mandates

NCSL's biggest concern is with the federal overreach these regulations represent. Currently, Section 207(a) of the Higher Education Act states, "Levels of performance [for teacher preparation

Denver
7700 East First Place
Denver, Colorado 80230-7143
Phone 303.364.7700 Fax 303.364.7800

Washington
444 North Capitol Street, N.W. Suite 515
Washington, D.C. 20001
Phone 202.624.5400 Fax 202.737.1069



Website www.ncsl.org
Email info@ncsl.org

programs] shall be determined solely by the State,” and the HEA currently requires states and institutions of higher education (IHEs) to report measures of performance in their teacher preparation programs. By mandating that states use a federally dictated rating system and specifying the indicators by which teacher preparation programs must be rated, the proposed regulations would insert the federal government into jurisdiction now held by states and institutions of higher education. The regulations impose new requirements around state and institutional report cards, including requiring reporting at the individual program level, but do not eliminate any requirements. NCSL believes the estimates in the NPRM regarding staff time and financial resources required for compliance are understated. Currently, no state fully implements the performance rating system proposed by the regulations for teacher preparation programs.

The department estimates the cost of implementation to be \$42.1 million over 10 years, a number that the department concedes is imprecise and that many view as too low. In fact, in a recent response to the Office of Management and Budget request for feedback on the Information Collection Request, the State of California estimated its cost to implement the proposed regulations at \$232,939,000 in development costs, and \$485,272,059 in annual ongoing implementation costs.

NCSL believes that the department vastly underestimates the burden that these regulations would bring to both the states and institutions of higher education, including the need to create new policies and procedures for compliance. Here are just a few examples:

- The regulations contain a costly mandate requiring “customer satisfaction” surveys of graduates and employers.
- While the regulations allow for the exclusion from tracking of students who move out of state, it is not clear how determining how a graduate’s out-of-state residency would be determined, something likely to require a laborious tracking mechanism.
- States without an Elementary and Secondary Education Act waiver would be required to assess all students in non-tested grades and subjects as a measure of a program’s student learning outcomes for each new teacher. Currently, such extensive testing is required only in states with ESEA waivers or in states that have chosen to participate in the Race to the Top program. Even those states are still in the early phases of determining the effectiveness of various approaches to assessment. Developing and implementing requirements to assess every student in every non-tested grade and subject each year would be a significant expansion of policy representing a significant effort on the part of states, districts and teachers.

Data Requirements

As noted in the NPRM, only nine states currently link K-12 teacher data (including both teacher/administrator evaluations and information about the teacher preparation program attended) to K-12 student data. There are 25 states and territories that do not have data systems capable of linking student performance to their educators’ postsecondary preparation programs. Despite state efforts to develop State Longitudinal Data Systems, data collection will be an issue for states, even in

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the timeframe envisioned in the regulations. In some cases, privacy and confidentiality laws will be an issue. In many cases, statutory authority will be required for the state agencies—those concerned with teacher preparation and with K-12 education—to share this information.

Under these regulations, states would be required to assure that each teacher preparation program is either accredited by a specialized accrediting agency recognized by the Secretary for the accreditation of professional teacher accreditation programs, or provides teacher candidates with the content and pedagogical knowledge and quality clinical preparation. No national accrediting agency recognized by the department currently accredits at the program level, meaning the NPRM would require increases in cost and burden to the states and professional accreditation entities by requiring either accreditation at the program level or state program approval with federally mandated metrics. There are more than 11,000 existing programs that do not have specialized accreditation and as a result would require specialized evaluation either by the state or by an accrediting agency.

Equity in Education

ESEA requires that states work to change the disproportionate congregation of inexperienced teachers in high-need schools. Research suggests that having experienced teachers is especially important to children in these schools, and the department's Office of Civil Rights is expecting states, through their equity plans, to ensure that disadvantaged and minority students are not being disproportionately taught by inexperienced teachers. Yet these proposed regulations incentivize preparation programs to place first-year teachers in high-need schools. There is an apparent inconsistency between the teacher preparation regulations and state plans to ensure equitable distribution of teachers.

To further complicate matters, the regulations themselves have internal inconsistencies. On the one hand, they incentivize programs to place graduates in better performing schools (typically not high-need schools) through the mandate that student learning outcomes be given the most weight among the indicators required to create a program rating. On the other hand, the proposed regulations incentivize the placement of graduates in high-need schools, as the employment rates in high-need schools would receive the next highest weight when calculating a program rating.

These proposed regulations would likely have a disproportionate impact on institutions whose mission includes providing access to students from underrepresented groups or whose prior education has provided limited preparation for college, including many public and private minority-serving institutions (MSIs). Of particular concern is that the proposed regulations would mandate the requirements for states to approve programs. One of these requirements would be that teacher preparation programs maintain "rigorous teacher candidate entry and exit qualifications." Mandated entry requirements could compromise the mission of MSIs. These institutions welcome disadvantaged students and develop them into profession-ready teachers.

In addition, MSIs could be further harmed by connecting the eligibility of programs for TEACH grants to the programs' ratings via the mandated performance assessment system. Students attending MSIs often require financial aid, and this potential restriction would affect students' access to higher education.

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Conclusion

Please note that this list of concerns is not exhaustive, but rather the most important. Indeed there are problems with virtually every section of the NPRM. Given the depth and complexity of the shortcomings of the proposal, NCSL urges the department to withdraw it, work with the profession and with Congress to strengthen Title II and develop meaningful and valid accountability measures that will incentivize the ongoing reform work of preparation programs.

This proposal represents a major shift in higher education policy, affecting federal student financial aid, with consequences for our K-12 school system, and as such it deserves no less than the full and public deliberation of Congress. Both the Elementary and Secondary Education Act and the Higher Education Act will be considered by Congress this year for reauthorization. Engaging with Congress and the legislative process on the important discussion of the continued reform of teacher preparation across this country is what is called for now. Overall, if these proposed regulations were adopted, they would draw funding and attention away from innovative reforms, proven accountability initiatives, and overall program improvement currently under way in teacher preparation programs across the country.

By linking students' access to federal financial aid via the TEACH grant program to the effectiveness rating of their teacher preparation program, the proposed regulations set a precedent of altering federal financial aid policy through regulation rather than through the legislative process. In fact, following the release of the proposed regulation, the administration announced a plan for a college rating system.

NCSL urges the department to continue to rely on each state to establish, implement, and report on its own criteria and indicators for determining the effectiveness of teacher preparation programs in that state and for identifying and improving low-performing teacher preparation programs. States are best placed to make decisions about admissions requirements, particularly in regard to institutions with specialized missions.

NCSL would be pleased to respond to any questions that you or your staff may have or to provide any additional information regarding this response to the proposed regulations on teacher preparation programs. Please contact Lee Posey, Senior Committee Director at (202) 624-8196 or via e-mail at lee.posey@ncsl.org.

Sincerely,



Representative Sharon Tomiko Santos
Washington
Co-Chair, NCSL Education Committee



Senator Howard Stephenson
Utah
Co-Chair, NCSL Education Committee