VERMONT

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July 27, 2016

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

Re: Comments on Proposed Rules and Regulations

Dear Secretary King,

Comment on US Education Department's Proposed Rule on the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act-Accountability and State Plans Regarding Sec. 200.30(e)

Summary of Regulation

Proposed § 200.30(e) would require the dissemination of the State report cards no later than December 31 each year, beginning with report cards based on information from the 2017-2018 school year. If a State is unable to meet this deadline for the 2017-2018 school year for some or all of the newly required information under section 1111(h)(1)(C) of the ESEA, as amended by the ESSA, proposed § 200.30(e) would allow the State to request from the Secretary a one-time, one-year extension for reporting on such required elements of the report cards. A State would be required to submit an extension request to the Secretary by July 1, 2018, and include evidence demonstrating that the State cannot meet the deadline, as well as a plan and timeline for how the State would publish the newly required information by December 31, 2019.

Issue

Preparing expenditure data for the report card cannot be accomplished by December 31 based on information from the prior year. Vermont does collect expenditure and revenue data in August after the year is completed but school district audits are not due to the state until March 31 following the close of the year. Expenditure and revenue data cannot be reconciled with the audits until after that date. A one year extension will address the problem in the first year. However, the problem would remain every year.

Recommendation:
Vermont suggests a June 30 date for financial information that must be included in the report card or the ability to use prior year data. For example, if report cards are due by December 31, 2019 for the academic year of 2018-19, the financial data included would be for 2017-18.

Comment on US Education Department's Proposed Rule on the Elementary and Secondary Education Act of 1965, As Amended by the Every Student Succeeds Act-Accountability and State Plans Regarding Sec. 200.35

Summary of Regulation
This section requires the State and its LEAs to annually report per-pupil expenditures of Federal, State, and local funds on State and LEA report cards, disaggregated by source of funds. It also requires the States to develop a single, statewide procedure that LEAs must use to calculate and report LEA-level per-pupil expenditures of Federal, State, and local funds, and a separate single, statewide procedure that LEAs must use to calculate and report school-level per-pupil expenditures of Federal, State, and local funds.

Issue
In the 2015 Acts of the Vermont General Assembly, No. 46, § 42, Vermont's Supervisory Unions were named Local Education Agencies "for purposes of determining student performance and application of consequences for failure to meet standards and for provision of compensatory and remedial services pursuant to 20 U.S.C. §§ 6311-6318" (16 VSA §43(c)." There are two types of supervisory unions in Vermont. The first is one composed of a single district (16 VSA § 11(a)(24) also called a supervisory district (16 VSA § 11(a)(24). The second type of supervisory union is composed of multiple districts, each with an independent School Board and electorate.

Vermont school governance is also in transition. Provisions in the 2015 Acts of the Vermont General Assembly, No. 46 created a two-step process for merging the state's school districts into larger governance units. The first is a voluntary process that essentially provides incentives for districts within a supervisory union to merge into one district. The second step requires the state's education secretary to submit a plan to the State Board of Education on June 1, 2018 merging districts where possible that have not already merged and that furthers the goals of the Act. On November 30, 2018 the State Board of Education must accept the Secretary's plan or amend it as it deems necessary and issue an order merging districts that have not merged and realigning supervisory unions where necessary. This process will mean that many existing districts and supervisory unions (LEAs) will end and new ones will be created.

The state is also required to create a new financial management system for school districts to be on-line by July 1, 2019. This new system, providing the state provides sufficient funding for its full implementation, will permit easier transmission of fiscal data and more robust expenditure and revenue data of the districts. The current system is lacking and our collection of expenditure data is not broken out by fund type. Tracking the student performance of LEAs during this period and any reliance on per pupil expenditure data, especially if it needs to be reported by fund type, will be impractical and not useful.

Assuming that the provision of the Act creating district mergers and the new financial management system are implemented as planned and on the dates currently established, Vermont will be in a better position to comply with this proposed regulation. However, multi district supervisory unions will still exist. Such supervisory unions will still be LEAs for accountability and federal reporting purposes. Relying on per pupil expenditure data to determine the equitable allocation of resources will still be problematic.

The districts comprising the supervisory union will remain political subdivisions of the state, will have separately elected school boards, and will have budgets adopted by the electorate of the district. The LEA (supervisory union) will not have authority to allocate state/local funds among the districts comprising the supervisory union. The component districts will be small notwithstanding mergers. Even when looked at from the supervisory union level many will be small and make statistical comparisons challenging. The Vermont student population has declined since 1997 when the K-12 public school enrollment was 103,000 and as of last fall was at 77,000.

Variations in teachers' salaries and determinations by local boards as to staffing numbers will also create significant variations in per pupil spending. The LEA will have no authority to make staffing changes among its member districts because this remains under the authority of the local board.

There are virtually no local funds in Vermont school districts. After the Vermont Supreme Court declared the state's aid to school districts unconstitutional in 1997, the State's Legislature created a system whereby all of the districts would be state funded. Vermont no longer has a local property tax or any other local tax to fund schools. All school funding taxes were made state taxes. By law the state distributes funding to its districts based on the budget proposed by the district school board and adopted by the local voters.

The mechanism in the system intended to keep spending under control is the variable homestead property tax. While still a state tax, the homestead property tax a district resident is assessed varies with the districts adopted education spending for each of its "equalized" pupils. Pupils are counted in each district using a weighting system averaged over the two prior years and the result is referred to as the equalized pupil count. All districts with the same budgeted spending per equalized pupil will have the same homestead property tax rate. As the spending goes higher the rate goes higher in a direct proportion.

The statement that follows is not true for Vermont. "The proposed requirement to include title VII (Impact Aid) funds as State and local funds, rather than Federal funds, in disaggregated reporting is appropriate because these funds compensate LEAs for the fiscal impact of Federal activities by partially replacing revenues that LEAs do not receive due to the exemption of Federal property from local property taxes." Title VII funds distort funding in Vermont because the state does not have a local property tax. The exemption of taxing Federal lands does not mean a loss of revenue to any district. Districts with federal lands are funded by the state based on the locally adopted budget as are all other districts. Any loss of tax revenue would be to the state since all property taxes for school districts are state taxes but districts with federal lands are held harmless by the state funding system

Recommendation:
Statute has placed an expectation that per pupil funding be tracked. Rules and regulations speak to this and we cannot offer a suggestion for how to address it. Vermont intends to seek a waiver of this provision given the information shared above. Other states will likely find

themselves in a similar situation as the accounting procedures and data collection required to comply do not yet exist and expending limited resources on poor data analysis is inefficient.

Sincerely,

Dr. Rebecca Holcombe
Secretary of Education
State of Vermont

cc: U.S. Senator Bernard Sanders, State of Vermont
U.S. Senator Patrick Leahy, State of Vermont
U.S. Representative Peter Welch, State of Vermont
Chris Minnich, Executive Director, Council of Chief State School Officers
Peter Zamora, Director of Federal Relations, Council of Chief State School Officers
U.S. Senator Lamar Alexander, State of Tennessee