



**FIRST FOCUS**

MAKING CHILDREN & FAMILIES THE PRIORITY

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February 2, 2015

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

**RE: Docket ID ED-2014-OPE-0057, Notice for Proposed Rulemaking (NPRM) for the Higher Education Act (HEA) of 1965 and the Teacher Education Assistance for College and Higher Education (TEACH) Grant Program Under Title V of HEA.**

Dear Secretary Duncan:

As an organization committed to ensuring that every child has equal access to fully-prepared and effective educators, First Focus appreciates the opportunity to submit comments regarding the Department of Education's (ED's) Notice of Proposed Rule Making (NPRM) on the Teacher Education Assistance for College and Higher Education (TEACH) Grant Program published in the Federal Register on December 3, 2014 (Docket ID ED-2014-OPE-0057).

First Focus is a national bipartisan children's advocacy organization dedicated to making children the priority in policy and budget decisions. One way children can be prioritized in policy decisions is to ensure that they have equal access to teachers who are highly trained before they enter the classroom and who prove themselves effective once there. This access is especially critical for traditionally underserved students.

We are concerned that the proposed regulations will not increase access to highly trained and effective teachers for all students, particularly those who are currently taught at disproportionately higher rates by teachers who are untrained, unlicensed or uncertified, out-of-field, and inexperienced – namely students of color, students with disabilities, English language learners, students in rural areas, and students from low-income families.<sup>1</sup> Indeed, the proposed regulations may have the opposite effect. Our specific concerns are listed below:

### **1. Expansion of Federally Mandated Testing and Federal Accountability**

The proposed regulations would extend the federal requirements of the Department of Education's Elementary and Secondary Education Act (ESEA) waivers to states that do not have federal waivers. Should these proposed regulations be implemented, all non-ESEA waiver states would be required to assess all students in non-tested grades and subjects (NPRM, pp. 71861-71862). Currently, such extensive testing is required only in states with ESEA waivers granted by the Department or in

states that have chosen to participate in the Race to the Top program. This use of higher education policy to further expand K-12 policy sets a dangerous precedent. Worse, the proposed regulations would exacerbate issues surrounding over-testing of students, such as lost instructional time, narrowed curriculum, and increased student stress, all at high a cost to states, and all based on the dubious idea that test scores are solely the result of what teachers do in their classrooms.

In particular, student testing features in the first indicator discussed by the Department in the regulations. The NPRM states (p. 71837):

*Specifically, under this measure as defined in proposed §612.2(d), States would calculate a program's student learning outcomes for each new teacher using (1) aggregate student growth data for students taught by new teachers, (2) a teacher evaluation measure that as defined in §612.2(d) must, in significant part, include data on student growth for all students, or (3) both. Where a State has already adopted measures of student growth as part of a comprehensive teacher evaluation system, we would permit the State to build its indicators of academic content knowledge and teaching skills linked to student learning outcomes from data provided by these existing teacher evaluation systems. In this regard, we believe that comprehensive teacher evaluations provide richer and more accurate information on teacher quality than student growth data alone. Our proposed definition of "teacher evaluation measure" would ensure that these evaluations are meaningful by requiring that they (1) differentiate teachers on a regular basis using at least three performance levels, (2) use multiple valid measures in determining each teacher's performance level, and (3) include, as a significant factor, data on student growth for all students and other measures of professional practice. We recognize that not all State evaluation systems currently meet our proposed definition, and that States may prefer to use a stand-alone measure of student growth. Alternatively, or in addition, provided that a State's existing measures of student growth are part of a comprehensive teacher evaluation system, a State may use the results of its teacher evaluation system as its indicator of student learning outcomes.*

With a rating system, performance levels, and high-stakes consequences mirroring Department policy for K-12 education, these proposed regulations would extend the "test and punish" accountability model into higher education. Student achievement on standardized tests depends largely on factors outside the classroom. For example, nearly one in five children live in poverty,<sup>2</sup> over 50 percent of students qualify for free or reduced price school lunch (meaning they live below 185 percent of the federal poverty line),<sup>3</sup> and 1.3 million students are homeless.<sup>4</sup> Homelessness, poverty, and many other factors outside of school present unique challenges for students' education, and teachers and teacher preparation programs alone have little control over these contextual factors.

Similarly, teacher performance is impacted significantly by factors outside of their teacher preparation program. For example, school climate, characteristics of student population, adequacy of school resources, and teacher support systems such as induction programs all impact teaching, particularly for teachers in their first few years in the profession.

Even more troubling is the embedded use of value-added modeling (VAM) found in the determination of student growth and in teacher evaluations where student growth is among the measures used, as evidenced in the preceding language from the Department. The Department discusses VAM in the NPRM on page 71833. The research on the use of VAM-type models to evaluate teachers is mixed at best, with the American Statistical Association cautioning against tying

high stakes to VAM models.<sup>5</sup> Many states are pausing processes currently in place to re-evaluate their use of K-12 standardized test scores. Building a teacher preparation accountability system on the structure of a questionable K-12 accountability metric would perpetuate the problems, rather than informing a new system with lessons learned.

**2. Alternative route teacher preparation programs should not be held to different standards than traditional route teacher preparation programs regarding rates of teacher employment and retention.**

There are a number of factors outside of the control of teacher preparation programs that contribute to employment outcomes after graduation. This includes the new teacher's school climate and working conditions and the availability of induction or mentoring programs for new teachers. Still, compiling data that is consistent across programs regarding a program's employment outcomes is an important exercise in the interest of transparency. The rate at which a program's graduates become and remain employed as teachers can serve as an indicator of program quality for prospective students, policymakers, and the public.

Preliminary data reveal that students from low-income families are taught at disproportionately higher rates by teachers-in-training than their peers.<sup>6</sup> Unfortunately, alternative route preparation programs have an unfair and misleading advantage in the way a "new teacher" is defined in the proposed regulations, which allows alternative route preparation programs to count all of their participants as employed (as long as they are teachers of record) even while they're still enrolled in alternative route preparation programs, potentially perpetuating the disproportionate share of teachers-in-training teaching students from low-income families.

Additionally, proposed § 612.5(a)(2) allows states to record retention rates of traditional and alternative route teacher preparation programs differently. In doing so the proposed regulation allows states to distort outcomes, prevents full across-program comparisons, and undermines efforts of ensuring transparency.

As noted in the Federal Register (page 71839), "a majority of the non-Federal negotiators eventually expressed support for using the measure [teacher retention] as one of a comprehensive set of indicators of the academic content knowledge and teaching skills of a program's new teachers and recent graduates as part of a State's criteria for assessing teacher preparation program performance."

The goal is to determine which programs persistently produce teachers who fail to find jobs or, once teaching, do not remain in teaching and to use the information to improve all programs whether alternate or traditional. Using inconsistent indicators for different pathways into teaching makes little if any sense since all programs are expected to produce the same outcomes. Further, different outcome standards will not allow states to compare different pathway approaches and identify program elements that predict positive employment outcomes.

**3. The proposed regulations would have a disproportionate impact on minority-serving institutions and high-need fields. This would have potentially negative consequences K-12 students in high-need fields.**

The proposed regulations would likely have a disproportionate impact on institutions whose primary 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 states' program approval requirements. One of these requirements would be that teacher preparation programs maintain "rigorous teacher candidate entry and exit qualifications" (NPRM, p. 71835). While rigorous qualifications are important, they should be required only with the proper supports in place to ensure that candidates from disadvantaged backgrounds have the opportunity to become teachers, and to encourage the recruitment and retention of teachers of color. Since the regulations do not put such supports into place, these requirements will harm the diversity of the teaching force and programs which prepare teachers to serve high needs populations.

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

This disproportionate impact on MSIs could have a significant potential impact for K-12 students of color. The U.S. Department of Education projected that the K-12 student population in the U.S. will comprise over 50 percent black, Hispanic, Asian/Pacific Islander and American Indian or Alaska Native students by school year 2014-2015, and that percentage will continue to grow.<sup>7</sup> Yet the teaching force is not nearly as diverse as the student population. In 2014 an estimated 18 percent of the teaching profession were teachers of color.<sup>8</sup> Increasing the diversity of the teaching workforce is an important goal because it increases interaction of white students with more diverse populations, which can build social trust. Research also reveals that students of color experience improved academic outcomes when teachers of color teach them.<sup>9</sup> As Ingersoll and May state, "minority students benefit from being taught by minority teachers, because minority teachers are likely to have 'insider knowledge' due to similar life experiences and cultural backgrounds."<sup>10</sup>

Furthermore, programs preparing candidates to teach in high-need schools or high-need fields such as English as a second language would, like all other programs, be assessed in large part on the results of K-12 student standardized tests. Standardized test scores are routinely lower for certain groups of students than for others, for reasons that are often not related to teacher preparation (such as socioeconomic status, parents' education, family resources, school resources, community supports, and student health).<sup>11</sup>

Given that the student learning outcomes are weighted more heavily than any other indicator required to determine a preparation program's rating in these proposed regulations (NPRM, p. 71830), programs could seek to place their graduates in less challenging environments where test scores are higher, exacerbating existing shortages in these high-need fields. While this is not the intended consequence of the proposed regulations, it is important to consider the types of selection and placement behavior they could incentivize.

#### **4. The proposed rule undermines existing laws and ongoing activities to increase equity in education.**

The Elementary and Secondary Education Act requires that states work to ensure that students of color and students living in poverty are not taught at disproportionately higher rates by

inexperienced teachers than their peers (PL 107- 110, Section 1111(b)(8)(C)). On November 10, 2014 the Department of Education recommitted itself to this provision by requesting that states submit updated plans to ensure equitable access to experienced, qualified and in-field teachers.<sup>12</sup> Nevertheless, the proposed regulations promote inequitable distribution of experienced teachers by incentivizing preparation programs to place first-year teachers in high-need schools (NPRM, p. 71826).<sup>13</sup>

New teachers, especially those in high-need schools, benefit greatly from strong, sustained induction programs, which contribute to teachers remaining in the school and in the profession. Without funding to build and maintain induction programs, new teachers too often leave high-need schools and often the profession, and the cycle of new teachers serving in schools where students most need experienced educators continues. By encouraging teacher preparation programs to place recent graduates in high-need schools, these regulations would add to the problem of congregating the least experienced teachers in high-need schools, which is at odds with existing law and ongoing Department of Education and state educational agency activities.

### Conclusion

The proposed regulations are rooted in an over-reliance on unproven accountability measures tied to standardized test scores and an uneven collection and application of otherwise sound data, and they cause a disproportionately negative impact on high-need students and undermining ongoing efforts to increase equity. These concerns are significant enough that we request the proposed regulations be withdrawn and the process to re-write them includes substantial stakeholder engagement.

Sincerely,



Bruce Lesley  
President, First Focus

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<sup>1</sup> See: U.S. Department of Education (2014), *Civil Rights Data Collection Data Snapshot: Teacher Equity*, Office for Civil Rights, U.S. Department of Education, available:

<http://www2.ed.gov/about/offices/list/ocr/docs/crdc-teacher-equity-snapshot.pdf>; and U.S. Department of Education, Equitable Access to Excellent Educators state data, available: <http://www2.ed.gov/programs/titleiparta/resources.html>.

<sup>2</sup> U.S. Census Bureau (2014), "Income and Poverty in the United States: 2013," available: <http://www.census.gov/content/dam/Census/library/publications/2014/demo/p60-249.pdf>.

<sup>3</sup> Southern Education Foundation (2015), "A New Majority: Low Income Students Now a Majority in the Nation's Public Schools," available: <http://www.southerneducation.org/getattachment/5c53bd26-88c8-4ae2-b9ed-37a699956b1a/A-New-Majority-2015-Update-Low-Income-Students-Now.aspx>.

<sup>4</sup> National Center for Homeless Education (2014), "Education for Homeless Children and Youth," Available: <http://center.serve.org/nche/downloads/data-comp-1011-1213.pdf>.

<sup>5</sup> American Statistical Association (2014), "ASA Statement on Using Value-Added Models for Educational Assessment, available: [https://www.amstat.org/policy/pdfs/ASA\\_VAM\\_Statement.pdf](https://www.amstat.org/policy/pdfs/ASA_VAM_Statement.pdf).

<sup>6</sup> Dr. Patrick Shields (2008), Expert Declaration of Dr. Patrick Shields, *Renee v. Duncan*, United States District Court, Northern District of California. Available: [http://www.publicadvocates.org/sites/default/files/library/expertdeclaration\\_patrick\\_shields\\_cftl\\_1\\_18\\_08.pdf](http://www.publicadvocates.org/sites/default/files/library/expertdeclaration_patrick_shields_cftl_1_18_08.pdf).

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<sup>7</sup> Hussar, W.J., and Bailey, T.M. (2013). Projections of Education Statistics to 2022 (NCES 2014-051). U.S. Department of Education, National Center for Education Statistics. Washington, DC: U.S. Government Printing Office.

<sup>8</sup> Boser, U. (2014). *Teacher Diversity Revisited*, Center for American Progress, available: <http://cdn.americanprogress.org/wp-content/uploads/2014/05/TeacherDiversity.pdf>.

<sup>9</sup> Ingersoll, R., and May, H. (2011), *Recruitment, Retention and the Minority Teacher Shortage*, Consortium for Policy Research in Education, available: [http://www.cpre.org/sites/default/files/researchreport/1221\\_minorityteachershortagereportrr69septfinal.pdf](http://www.cpre.org/sites/default/files/researchreport/1221_minorityteachershortagereportrr69septfinal.pdf).

<sup>10</sup> Ibid.

<sup>11</sup> The Horace Mann League and the National Superintendents Roundtable (2015) “*School Performance in Context: The Iceberg Effect*”, available: <http://www.superintendentsforumtest.org/wp-content/uploads/2015/01/Released-Iceberg-Effect.pdf>.

<sup>12</sup> Delisle, D. (2014), Letter to Chief State School Offices, Department of Education, available: <http://www2.ed.gov/programs/titleiparta/equitable/letter11102014.html>.

<sup>13</sup> As defined in the proposed rules, “a high-need school is in the highest quartile of schools in a ranking of all schools served by a local educational agency, ranked in descending order by percentage of students from low-income families enrolled in such schools, as determined by the local educational agency based on a single or a composite of two or more of the following measures of poverty” (NPRM, P. 71834). In short, the proposed rules define a high-need school as a school with a high proportion of students living in poverty or from low-income families, precisely the students that ESEA requires not be taught at disproportionately higher rates than their peers.