

ED's Proposed Changes to SFSF Data Collection and Reporting Requirements: DQC's Submitted Comments

October 24, 2011

On October 24, 2011, the Data Quality Campaign (DQC) submitted the following comments to the Administration on its proposed revisions to data collection and reporting requirements for the State Fiscal Stabilization Fund (SFSF).

This letter is submitted to comment on the U.S. Department of Education's (ED) above-captioned proposed revisions to the American Recovery and Reinvestment Act's (ARRA) State Fiscal Stabilization Fund (SFSF), as published in the September 23, 2011, [Federal Register](#). Overall, the Data Quality Campaign believes the proposed changes strike a sensible balance: they maintain a commitment to advancing states' efforts to collect and use data for continuous improvement and richer accountability while making adjustments that reflect states' realities on the ground. The proposed changes would give states the flexibility and time to ensure their data systems and reported metrics are high quality and useful to stakeholders. They also provide an opportunity for federal policymakers to further align federal policies, and for states to further leverage federal funding opportunities to address critical data capacity needs.

In [its initial analysis](#) of ED's proposed changes to the SFSF data collection and reporting requirements, DQC observed the following:

- ✓ Statewide longitudinal data systems that collect, share, and use data from across the early childhood, elementary, secondary, and postsecondary education, and workforce (P20W) sectors are critical to decisions that will improve student achievement.
- ✓ Over the last six years, states have made substantial progress putting in place the basic infrastructure for statewide longitudinal data systems—progress that is expected to continue.
- ✓ Extending the requirement deadlines, as proposed, provides states with necessary time to ensure their SLDS are designed *for use* and that the COMPETES elements are implemented with *quality*—instead of as a purely compliance-oriented, box-checking exercise.
- ✓ Extending the requirement deadlines to December 2012, as proposed, is necessary for states to efficiently and effectively produce the indicators that require matching student records and sharing information across K–12 and higher education within and across states.
- ✓ The proposed changes provide states with multiple options for meeting the existing requirement, reflecting the reality that implementation looks different in every state.
- ✓ The proposed changes provide a strategic opportunity for states to further leverage federal funding to address critical data capacity needs.

To strengthen ED's proposed revisions to SFSF data collection and reporting requirements, DQC recommends the following:

Regarding proposed requirements for requests for extensions of deadlines for indicators (b)(1), (c)(11), or (c)(12) to December 31, 2012:

1. ***Require states, as part of their requests to extend the deadline for developing and implementing an SLDS under Indicator (b)(1) that includes the 12 elements required by the America COMPETES Act, to describe the challenges that cause the need for extension.***

The proposed language would require states to identify implemented elements and within 60 days of submission of the requests, provide a revised plan for implementing the remaining elements by December 31, 2012. ED should also require states to articulate the challenges faced in implementing the remaining elements to provide transparency around states efforts and to support the development of multi-state solutions to difficult implementation issues.

2. *Make public states revised plans for indicators (b)(1), (c)(11), or (c)(12).*

The proposed language would require states to provide plans for implementing the revised requirements by extended deadline. To provide transparency around states efforts, ED should make these plans public.

Regarding proposed requirements for requests for use of the Indicator (c)(11) Alternative Standard:

3. *Require states to report whether the state has regulatory or other authority over private, in-state institutions of higher education (IHEs).*

The proposed revisions would require states to demonstrate it has increased its current capacity to collect and report student enrollment data for high school graduates who enroll *in-state private IHEs* by publicly reporting for each in-State private IHE, whether the state provides funding to the IHE, whether the state has a data-sharing agreement in place, and if that agreement enables the state to track its recent high school graduates. To help provide transparency around the extent to which improving this capacity is under state control, ED should also require states to report whether the state has regulatory or other authority over these IHEs.

4. *Require states to report the percent of their students that enroll in in-state IHEs.*

The proposed revisions would require states to demonstrate it has increased its current capacity to collect and report student enrollment data for high school graduates who enroll *out-of-state private or out-of-state public IHEs*, by publicly reporting, for each such institution with which the state has a data-sharing agreement, whether the state provides funding to the IHE, whether the state has a data-sharing agreement in place, and if that agreement enables the state to track its recent high school graduates. States face significant challenges following students across state lines. Yet, some states graduate a significant number of students that subsequently enroll in institutions of higher education in other states. For these states, the inability to share data across lines means that they cannot effectively measure the postsecondary success of too many of their students. To help provide transparency around the extent of states' needs to share data across state lines, as well as drive conversations within and across states about these challenges and potential solutions, ED should also require states to report the percent of their students that enroll in in-state IHEs. Given states' current progress and SFSF requirements, states should already have this data.

Regarding critical and related issues outside the scope of the proposed changes to the SFSF regulations:

5. *ED should finalize FERPA regulations prior to the deadline for state submission of requests to give states time to plan and efficiently and effectively execute strategies to meet the proposed requirements and deadlines.*

The delayed issuing of final regulations from ED regarding the federal Family Educational Rights and Privacy Act (FERPA) has deep implications for state efforts to meet the SFSF requirements. FERPA was passed in 1974 to protect the privacy of student education records and imposed limits on the disclosure of student records by educational agencies and institutions that receive funds from the U.S. Department of Education. In the thirty years since FERPA was enacted, however, the data landscape and the state role in data collection, sharing, and use has expanded, which has raised new issues about how states' sharing and use of longitudinal data relates to student privacy protections. This is particularly true in relationship to the SFSF requirements: a lack of clarity and consistency in the interpretation of FERPA has created some uncertainty to appropriate ways to share data across early childhood, K-12, higher education, and workforce agencies and entities. A lack of clarity and consistency in the interpretation of FERPA has created some uncertainty, and to entities and individuals being denied appropriate access to educational data under the sometimes mistaken assertion that sharing the information would be "in violation of FERPA." ED's piecemeal guidance in response to specific questions raised by states has forced many states to continue to spend scarce resources of time, energy and money to seek clarification on FERPA's application in their state. In some states, the governance structure and legal interpretation of FERPA's application has led to the successful sharing of critical information across their P-20 and/or workforce system. As a result, these states are better poised to understand and develop effective solutions to critical policy issues like college and career readiness, dropout prevention, and teacher effectiveness.

However, many states continue to report lack of clarification around FERPA as a barrier to implementing policies to share data in pursuit of state policy goals and to meet their ARRA and SFSF policy obligations. To successfully,

effectively, and efficiently meet even extended SFSF deadlines, states need clear, consistent final guidance which has been promised since 2009. In April 2011, ED made significant progress in proposing draft regulations that would clearly permit the limited sharing of appropriate data for answering critical questions and address some of the outstanding questions raised. However, ED has not yet finalized these regulations, leaving many states in difficult positions. In the absence of clarity, states are implementing solutions for compliance-sake, instead of strategies that will support the long-term effective use of appropriate data to meet critical state information needs.

ED needs to prioritize finalizing FERPA regulatory changes in the very short term. In the notice of final regulations, the ED will establish a deadline for states to submit an extension request or a request to use the alternative standard. To provide states the clarity they need to plan accordingly and submit such requests, ED must publish final FERPA regulations prior to that deadline.

See: [DQC and Partners Submit Comments to Proposed FERPA Regulations](#) (5/2011)

6. ED should facilitate cross-state conversations that will lead to state-led solutions for cross-state data sharing.

[In its comments on the proposed regulations ED published in 2009 around the initial implementation of SFSF](#), DQC applauded the inclusion of metrics providing postsecondary feedback to high schools because this information is “critical to the college and career readiness agenda that many states have embraced.” DQC also commended ED’s commitment to the goal of following students across sectors, districts, and state lines and cited DQC’s core belief that we cannot “allow traditional barriers to block the ability of an individual’s information to follow him or her through the knowledge supply chain.” However, in 2009, it was also clear that states would face significant challenges linking K–12 and postsecondary data, both within states and across state lines, to comply with the law. We noted that these efforts are “an enormous undertaking and should not be underestimated.” DQC and its partners that signed the letter were rightly concerned that the short timeline would have unintended consequences:

The DQC feels that states will most likely employ existing data-matching services to report against this metric, which provides less rich and robust information than if infrastructure changes were made to ensure state data systems were interoperable. The existing data-matching services capture only enrollment, persistence, and completion in postsecondary education; the inability to collect and link course taking and results does not make it possible for states to report on . . . the metrics.

These concerns were harbingers of the future: for many states, this continues to serve as the only possible way they can comply with the law. Moreover, existing solutions are proving to be expensive, and states report challenges securing data that are high-quality, complete, usable, and useful. These short-term solutions for federal compliance do not meet states’ long-term information needs.

ED should work with partners to facilitate a cross-state conversation that will lead to state-led solutions for cross-state data sharing.

DQC is available to provide additional information.
