



Every Student Succeeds Act

Overview of the Every Student Succeeds Act

NEA Office of General Counsel

On December 10, 2015, President Obama signed the Every Student Succeeds Act (ESSA) into law, ending the No Child Left Behind (NCLB) era and reauthorizing the Elementary and Secondary Education Act of 1965 (ESEA) through fiscal year (FY) 2020. ESSA shifts greater authority for academic standards, school accountability, and education policy back to states, school districts, teachers, and parents, creating a more balanced role for the federal government in education policy. As examples, ESSA prohibits the U.S. Department of Education (ED), through regulatory or waiver processes, from setting national academic standards and makes clear that ED cannot require that teacher evaluations be tied to standardized test scores, as it had done through NCLB waivers. Collective bargaining protections remain and were strengthened by ESSA. ESSA also removes “adequate yearly progress” as a benchmark of school progress.

ESSA was a bipartisan compromise bill and there are some issues of concern as well. Most significant are the variety of federal education funds that may now be used to pay for-profit providers and the Teacher Academy provisions of Title II(j), which may allow states to lower the standards for entry to the profession by creating new academies for teachers, principals, and school leaders. Certificates issued by these academies may be treated by states as equivalent to a master’s degree in education.

Implementation of ESSA will be phased in. NCLB waivers and state accountability systems remain in place until August 1, 2016. Thereafter, the interventions mandated in the prior state systems for priority, focus, and schools identified as in need of improvement must continue until a state plan is approved or the 2017-2018 school year, whichever comes first. In addition, multi-year awards for discontinued programs will continue through the end of the current award, but no new awards will be made after September 30, 2016.

What follows details by Title the major programs authorized under ESSA and flags the key differences between ESSA and NCLB. Pages 1-5 describe Title I, which governs state plans, accountability, and school improvement plans. Pages 5-8 describe the provisions of Title II, which concerns teacher preparation and recruitment. Page 8 details Title III’s provisions on English learners. Pages 8-11 describes Title IV, which collapses much of the prior NCLB provisions from Titles IV and V and also addresses charter schools. The remainder of this overview (starting on page 11) briefly reviews Title V, which governs state innovation programs, Title VI, which governs Native American education provisions, Title VII, which governs impact aid, Title VIII, which includes ESSA general provisions, and Title IX, which addresses education for the homeless.

Title I - Improving Basic Programs Operated by State and Local Educational Agencies

State Plans

To receive Title I funds, states must submit a detailed state plan to ED for approval, which the state must develop through “timely and meaningful consultation” with stakeholders including the Governor and organizations representing teachers, principals, other school leaders, paraprofessionals, and others. The state plan must establish “challenging” academic standards, academic assessments to measure whether schools and students are meeting those standards, and an accountability system. These elements are discussed in more detail below.

ESSA requires state plans to describe how states will address a variety of issues important to effectively educating vulnerable students, including how states will support early childhood education, ensure equitable access to experienced and qualified teachers, and support local education agencies (LEAs or school districts) to reduce bullying, discipline that removes students from the classroom, and behavioral interventions that compromise student health and safety. The plans must also address how the state will support school districts to improve student transitions to middle and high school to reduce drop out risk and improve educational stability for students in foster care.

States plans must describe how a state will implement “evidence-based strategies” for improving student achievement and must provide assurances that the state will assist school districts in complying with the plan and will make public their criteria for measuring personnel effectiveness. The state plans must be made public and will be reviewed in a peer review process, in which ED may not participate, nor may ED review or approve state academic standards or accountability systems. ED ultimately determines whether or not to approve a state plan and ED can disapprove a plan if it determines that the plan does not meet federal requirements. School districts must submit aligned local plans to the state, which the districts develop through meaningful consultation with teachers and other groups.

Accountability and Testing

ESSA eliminates the NCLB school accountability system, including “adequate yearly progress” benchmarks. States and local school districts must establish and implement their own accountability system and goals by the 2017-2018 school year. Each state accountability system, which must be described in detail in the state plan, must be a single, statewide system based on challenging academic standards that are aligned to prepare students for college and career readiness. States must set goals and annually measure progress toward their academic standards using multiple measures of student success, instead of just scores on statewide standardized tests. These measures must include academic achievement, as measured by proficiency on standardized tests; high school graduation rates and another valid and reliable indicator for elementary and middle schools; progress in achieving English language proficiency; and, for the first time, at least one other valid and reliable “dashboard” indicator of school success or student support that allows for meaningful differentiation in school performance. This indicator could include student access to advanced coursework, fine arts, and physical education; school climate and safety; discipline policies; bullying prevention; and the availability of counselors or nurses. ESSA specifies that the use of student growth in state accountability systems is at each state’s discretion.

States may set alternate achievement standards for students with the most significant cognitive disabilities. States must also adopt English language proficiency standards that are aligned with

challenging state academic standards, and English learners' English language proficiency must be assessed annually.

While the standardized testing requirements from NCLB largely remain in place, States now determine how test scores are used to assess schools. Math and reading assessments, aligned with state academic standards, must still be administered in each of grades 3-8, and at least once in grades 9-12. Science assessments must still be administered at least once during grades 3-5, once during grades 6-9, and once during grades 10-12. These assessments must include at least three levels of achievement and must be state-wide, except that states now may approve the use of certain locally-selected, nationally-recognized high school academic assessments (such as the SAT or ACT) in lieu of standardized tests covering the same subject areas.

As under NCLB, assessment results must be disaggregated by school district and individual school by race, economic disadvantage, disability, English proficiency, gender, and, a new addition under ESSA, migrant status. As with NCLB, under ESSA no more than 1% of all students may take alternate assessments for cognitively disabled students, but ESSA provides school districts with new flexibility to exceed that cap upon justification of a need to do so. ESSA also permits states to use computer-adaptive tests that enable students to be assessed on content above grade level; assessments may be a single, summative assessment or multiple assessments that result in a summative score; and, in order to avoid double testing, state may exempt 8th grade students in advanced mathematics from the statewide mathematics assessment under certain conditions.

School Improvement

States must identify schools for comprehensive support and improvement starting by the 2017-2018 school year and at least every three years thereafter. These schools must include, at a minimum, the lowest-performing 5% of schools receiving Title I funds and high schools that fail to graduate a third or more of their students. Unlike in NCLB, there are no specific mandates about what must be done to support and improve the schools; instead states and school districts must create appropriate solutions as determined by them. States must notify school districts of the schools identified, and the district must then develop and implement a support and improvement plan. These plans must be developed in partnership with stakeholders (including teachers, school leaders, and parents) and approved by the school, school district, and state. The plan must include evidence-based interventions, be based on school-level needs assessments, and identify resource inequities. Such schools are eligible for comprehensive support and improvement funding for up to four years as determined by the state. If a school has not addressed challenges appropriately at the end of that period, the state may take more rigorous action. If permitted by state law, districts may allow students in such schools to transfer to another public school and may spend up to 5% of their Title I funds on transportation.

Title I schools where any subgroup of students consistently underperforms will be identified for similar, targeted support. Targeted support plans are monitored by the school district rather than the state and are in place for a district determined period; if they are unsuccessful, additional actions may be taken including the implementation of a comprehensive support plan monitored by the state.

As did NCLB, ESSA specifies that the school improvement provisions do not alter employees' rights under federal, state, or local laws or under collective bargaining or other agreements. As with state academic standards and assessments, ESSA clarifies that ED does not have authority to prescribe school improvement requirements.

State Assessment Grants

ESSA continues level funding for states for developing, refining and administering state assessments. At least 20% of these grants must be allocated to school districts to improve assessment quality. States and LEAs may also use this funding to audit state and local assessments to reduce and eliminate duplicative, low-quality, and unnecessary tests.

ESSA also creates a pilot program for a small group of states to develop innovative assessment systems, which may include competency-based assessments, instructionally embedded assessments, interim assessments, cumulative year-end assessments, and assessments administered through computer adaptive technology. For the initial three years, up to seven states and consortia may participate, after which the program will be evaluated and may be expanded.

Funding

The NCLB funding formula calculations, maintenance of effort requirements, and requirements that federal funds supplement not supplant non-federal funds are continued in ESSA. Overall funding authorizations are very similar to previous years. In addition, ESSA allows funds to be reserved for early childhood education, which was not permitted under NCLB.

ESSA creates a pilot program under which up to 50 school districts can pool federal, state and local funding and design their own allocation formula to distribute funding. The program is intended to increase funding for the neediest schools, and pooled systems must ensure that low-performing and low-income schools receive at least as much funding as they did prior to pilot program. Stakeholders including teachers must be consulted in developing pooled system.

ESSA rolls NCLB School Improvement Grants into general Title I funding, 7% of which (up from 4% in NCLB) must be set aside for school improvement activities, which can be distributed through a formula set by the state or competitive grants.

ESSA maintains NCLB's floor allowing Title I funds to be used for schoolwide programs only in schools where at least 40% of children attending are from low-income families, but allows new flexibility for States to grant waivers for schoolwide programs in schools with lower student poverty rates. Under NCLB, schools with at least 75% of low-income students were prioritized where there were funding shortfalls; ESSA lowers that threshold to 50%.

Report Cards and Disaggregated Data

ESSA maintains the NCLB requirement that states collect specific types of student achievement data and make public information about the performance of individual local school districts and the state overall. New additions to the data that must be collected and reported include data on homeless students, migrant students, those in foster care, and those who have a parent who is a member of the armed forces on active duty. The state report cards must identify public schools identified as low-performing and under a comprehensive support and improvement plan, as well as schools with consistently underperforming subgroups who are receiving targeted support and improvement.

ESSA includes new requirements that the report cards contain information on "opportunity dashboard" indicators, such as actual per-pupil expenditures; graduation rates; measures of school climate and safety including rates of suspensions, referrals to law enforcement, and violent incidents; and resource equity indicators like access to preschool and advanced coursework. The report cards also

must include information on teachers' professional qualifications, including the number and percentage of inexperienced teachers, teachers with emergency or provisional credentials, and those teaching a subject in which they are not certified. School districts must publicly disseminate an annual district report card with information mirroring the state report card.

Parents Right-to-Know and Opting Out of Assessments

As under NCLB, school districts that receive Title I funding must provide information to parents, including certain information about their children's teachers' professional qualifications and information about the students' level of achievement and growth on assessments. ESSA adds a new requirement that, if requested by a parent, school districts must inform parents about student participation in mandated assessments and how to opt out, where applicable. Districts must also make available on their website information on each required assessment (such as the subject matter, purpose, and the testing time).

Under ESSA, states can set a target limit on the aggregate amount of time that students spend taking academic assessments for each grade. ESSA also specifically notes that the bill does not preempt state or local law regarding parents' decisions to opt out of assessments. While ESSA maintains the NCLB requirement that states test at least 95% of students, including 95% of students in subgroups, specific consequences for failing to do so are eliminated. Instead the State must provide clear explanation of how this requirement is factored into a statewide accountability system.

Children and Youth Who Are Neglected, Delinquent or At-Risk

ESSA expands previous NCLB provisions intended to improve educational services for children and youth in local and state institutions for the neglected and delinquent to include youth in tribal facilities and to include family and community involvement in the system of supports. ESSA also now asks state plans to examine student transitions both to and from correctional facilities to locally-operated programs. State plans also must prioritize neglected and delinquent students' attainment of a regular high school diploma and establish procedures for timely re-enrollment of students returning from juvenile systems. The definition of "at risk" has been modified to include students at risk of either dependency or delinquency adjudication, and students who have come in contact with the child welfare system.

Miscellaneous Title I Provisions

ESSA permits states to award grants to LEAs for certain direct student services, which include academic courses not available at the school, credit recovery and academic acceleration courses that lead to a high school diploma, advanced placement programs, personalized learning (including tutoring), and transportation for students who transfer from low-performing schools as described above.

ESSA updates the funding formula for migratory children educational needs to allocate funds based on current migratory child counts. It also prioritizes services for children who are failing to meet state standards or have dropped out of school. ESSA expands school district parental involvement policies beyond parents to other family members.

Title II: Preparing, Training, and Recruiting High-Quality Teachers, Principals, and Other School Leaders

ESSA significantly rewrites Title II of ESEA, which deals with teacher training and performance, setting student achievement goals, and providing more equitable access to effective teachers and school leaders. Notably, ESSA eliminates the term “highly qualified teacher” and related requirements. New provisions regarding Teacher, Principal, or Other School Leader Preparation Academies are problematic and could open the door to lowering professional standards.

Teacher Quality Grants

The funding formula for teaching grants is gradually shifted to provide greater funding to states with higher numbers of students in poverty. The current law’s hold harmless provision is phased out over seven years. Funds still must be used to supplement not supplant federal funds.

At least 95% of funding must be used for local subgrants. States may use up to 3% of the funding for local subgrants for various specified state activities, which include:

- Reforming teacher or principal certification, licensing, or tenure systems or preparation standards and approval processes;
- Teacher, principal, and school leader evaluation systems based on multiple measures of educator performance including evidence of student achievement;
- Improving equitable access to effective teachers, principals, and school leaders;
- Establishing, expanding, or improving alternate routes of teacher certification;
- Establishing or expanding teacher and principal preparation academies;
- Improving teacher recruitment and retention, including teachers from minority backgrounds and teachers with disabilities;
- Developing differential and performance-based by systems and other incentives;
- Specified training and professional development activities.

Although funding is available for these activities, ESSA states that ED is not authorized to mandate or control evaluation systems; definitions of effectiveness; or professional standards, certification, or licensing.

State grant applications must describe their teacher and principal certification and licensing systems, how the activities funded align with state academic standards, and how they will improve student achievement and equitable personnel distribution (if applicable). States also must describe how they will improve teacher preparation programs and educators’ skills at recognizing students with specified learning needs. The applications must include assurances regarding monitoring and providing technical support to local districts as well as the use of data to update and improve activities. States are required to meaningfully consult stakeholders including teachers in developing the application.

School districts, in turn, must apply for subgrants, under requirements that largely mirror state application requirements. Subgrant applications must describe how LEAs will prioritize schools with high low-income student populations and schools needing support and intervention. Local subgrants must be used to develop, implement, and evaluate comprehensive programs and activities, which must address the needs of all students, including English learners, students with disabilities, and gifted students. Funding may support initiatives to improve recruiting, hiring, and retention, especially in low-income schools; reducing class size through recruiting and hiring effective teachers; and various types of training and professional development. States and districts must report annually to the Secretary on their

activities. As with many Title I grants, ESSA now permits grant programs to be carried out using contracts or grants with for-profit, as well as non-profit, entities.

Teacher and School Leader Incentive Program

ESSA authorizes this competitive grant program to develop, implement, improve, or expand performance-based compensation or human capital management systems. These systems must reflect clear and fair measures of performance that are based in part on student achievement, provide targeted and personalized support, and include professional development. Priority will be given to entities focusing on high-poverty schools. Grantees must provide 50% matching funds from non-federal sources.

Literacy Education for All, Results for the Nation

The Literacy Education for All provisions authorize competitive state grants for comprehensive literacy programs. The grants are for five years with the potential for two-year extensions after evaluation. State applications require a needs assessment, must prioritize the neediest students and evidence-based programs, and focus on professional development, coordination with other programs, family and other stakeholder engagement, and hiring literacy coaches. States must award local subgrants to eligible entities (which include one or more high-need districts, one or more early childhood programs, or consortium with such entities) to support high-quality literacy initiatives for birth through kindergarten, kindergarten through grade 5, and grades 6-12. Grant uses focus on professional development, provider training, and coordinating stakeholder involvement. Local applicants must specify how they will use data, how they will coordinate with literacy programs in upper grades, and how they will measure success.

USDOE may also award grants to promote innovative literacy programs that serve low-income communities, including school library programs, early literacy services, and programs that provide high-quality books to children on a regular basis.

State and Local Control

Title II includes similar provisions to Title I emphasizing state and local control, for example by reiterating that ED does not have authority to direct states' curriculum, academic standards, or personnel evaluation systems, definitions of effectiveness, or professional standards, certification, or licensing. In addition, ESSA, unlike NCLB, now includes a savings clause in Title II, which specifies that the Title's provisions do not alter employees' rights under federal, state, or local laws or under collective bargaining or other agreements, which was not included in Title II of ESEA previously.

Teacher, Principal, or Other School Leader Preparation Academies

Title II authorizes new academies for teachers, principals, and school leaders. Public, nonprofit, or higher education organizations may provide clinical and academic instruction to student teachers or alternative certification teachers, as well as principals of record. The definition of these academies specifies that a certificate from such an academy may carry the same weight as a master's degree in education for hiring, retention, promotion, and pay. States creating such academies are prohibited from imposing "unnecessary" restrictions on them including by way of requiring, for example, advanced degrees for admission to the academies, research by academy faculty, physical infrastructure requirements, credit number requirements, a particular undergraduate background for participants, or any form of accreditation for the academy. Alternative certification teachers and principals of record must be allowed to work in schools while participating in the academy.

The stated purpose for the new academies is to address hard-to-fill positions in shortage areas or high-poverty schools. Yet there is no requirement that graduates of the Academies actually serve in the high-needs schools for any prescribed period of time. There is also no requirement that graduates teach for a sufficient number of years to achieve mastery of the profession. These provisions raise concerns that states could significantly lower current educational and training requirements for new teachers by creating academies with inadequate standards and recognizing the academy certificates as equal to a master's degree.

Miscellaneous

ESSA authorizes an American history and civics education program. Grants will be awarded to establish academies for teachers and for outstanding students. This section also authorizes competitive grants to expand and disseminate “innovative, evidence-based approaches or professional development programs” in history and civics.

ESSA also authorizes a set of programs to allow teachers and principals from nontraditional backgrounds to serve in underserved school districts. One such program awards competitive grants to provide alternative certification; professional development activities for literacy, numeracy, remediation, or postsecondary coursework; professional development potentially leading to advanced credentials; and to make services and learning opportunities publicly accessible without cost. Another program awards competitive grants to improve recruitment, preparation, placement, support, and retention of principals and school leaders in high-need schools.

ESSA provides for a comprehensive national center on students at risk of not attaining full literacy due to a learning disability. The center will provide resources to assess such students, identify strategies for meeting their needs and assisting families, provide professional development for educators to identify and serve these students, and disseminate these resources to regionally diverse areas.

ESSA authorizes grants to support development of a STEM “master teacher corps” or to support effected STEM teacher professional development programs.

Title III: Language Instruction for English Learners and Immigrant Students

Title III provides formula grants for helping English learner students to achieve English proficiency and high levels of academic achievement in English, as well as to meet the same challenging state academic standards as other students. Grants may also be used to assist teachers and school leaders in establishing and sustaining effective language instruction programs and programs to prepare English learners to enter all-English instructional settings. Promoting parental and community participation in language instruction are goals as well.

Subgrants for language instruction must be used for programs that are based on high-quality research demonstrating success in increasing English proficiency and academic achievement; effective professional development ; and effective family engagement strategies. Other allowable uses of funds

include providing intensified instruction, which may include non-English learning materials, interpreters, and translators.

This grant program is similar to the NCLB program. Minor changes to the program include changing the uses of the grant funding to place greater focus on identifying English learners through standardized statewide entrance and exit procedures, providing educator training and professional development, and monitoring and evaluating the effectiveness of programs. Additionally, students who exit English learner programs must be tracked for four years, instead of two years under previous law.

Private, as well as public, entities are now eligible for Title III's National Professional Development Project competitive grants. Grants are used for professional development, capacity building, or evidence-based activities that improve classroom instruction for English learners. The eligibility for the program has been expanded to allow funds to be used to support community engagement, disseminate effective English instruction practices, and aid transition of English learner students from early childhood to K-12.

Title IV - 21st Century Schools

ESSA collapses much of NCLB Titles IV and V into Title IV and eliminates a large number of small grant programs (but creates a smaller number of more flexible new programs that may allow states and school districts to fund many of the same activities). Provisions on gun possession, transfer of disciplinary records, and tobacco smoke have been moved to Title IX.

Student Support and Academic Enrichment

ESSA creates a new grant program to increase capacity to provide a well-rounded education, including enhancing student access to technology, STEM courses, AP programs, foreign languages, and other advanced courses. Funds can also be used to improve conditions for student learning, including through programs to reduce exclusionary discipline, increase mental health awareness and services, and create a healthy and safe school environment. States must use 95% of funds to award subgrants to school districts, with the remaining funds for state costs including administrative costs, training, and assistance. One of the numerous goals of the program is "making instructional content widely available through open educational resources," which may encourage use of NEA's free and open web-based collaboration platform for teachers, EdCommunities.

As with other grant programs in ESSA, grant applications require a needs assessments and consultation with stakeholders, including educators. School districts must prioritize funds to schools with greatest need—including those targeted for improvement under Title I, and those identified as persistently dangerous under Title VIII. Districts receiving grants must split them across three activity areas, well-rounded schools, health and safety, and technology.

21st Century Community Learning Centers

Title IV authorizes grants to establish or expand community centers that provide services during non-school hours. These provisions are very similar to the same program under NCLB and funding is authorized consistent with the FY 2015 appropriation, although less than the previous authorization.

Charter Schools

ESSA eliminates one of three charter programs in NCLB (Voluntary Public School Choice Programs, which was not funded in 2015). ESSA makes charter schools for early childhood education eligible for funding. A higher proportion of overall funding is reserved for national activities (described below)—22.5% versus NCLB’s 5%. In addition, 12.5% of funding is reserved for facilities assistance, compared with NCLB’s 5%, and the remaining 65% of funds are reserved for the flagship grant program.

Notable changes to the grant program include broadening state eligibility from just “State educational agencies” to include other state entities, specifically state charter school boards, governors, and nonprofit, nongovernmental “charter school support organizations.” This change is concerning, as it opens the grant program to for-profit charter school management companies.

State entities must distribute at least 90% of funds as subgrants to open and expand charter schools. The remaining funds must be used to provide assistance to applicants and authorizers and for administrative costs. Assistance to authorizers includes developing capacity to provide financial oversight of charter schools. Unlike with NCLB, the state may contract with other governmental, nonprofit, or for-profit entities to provide technical assistance. Also new in ESSA, grants may be awarded to charters that specialize in providing “specific services for students with a demonstrated need for such services,” such as specialized instruction in reading, spelling, or writing. And ESSA adds flexibility in charter schools’ use of admissions lotteries, specifying that they may weight their lotteries to give “educationally disadvantaged students” a better chance of admission.

Most requirements for state entity applications are similar to previous law. Of some concern, these provisions seem intended to encourage more charter schools and to reward applications that promise a “high degree of autonomy” (which may translate into poor accountability) for those schools. In a positive change, applications now must specify how states will eliminate barriers to enrollment and retention of all students, including by reducing use of exclusionary discipline practices.

ESSA expands the authorized local uses of charter school funds to include hiring and compensating teachers, school leaders, and specialized support personnel; transportation start-up costs; renovating or repairing buildings (in addition to the separate, expanded per-pupil facilities aid grant program); and certain other costs related to opening or expanding a school. This is broader than NCLB, which focused on planning and opening schools and professional development for educators, but did not allow funds to be used for transportation.

Facilities funding provisions are nearly identical to NCLB’s “Credit Enhancement” and “Per-Pupil Facilities Aid” programs, but have been reorganized and now command a larger proportion of funding as noted above. The former program allows governmental and nonprofit private entities to establish “reserve accounts” to leverage financing from the private sector and establish a lasting funding source for their facilities needs. The Per-Pupil Facilities Aid program provides competitive grants to help states establish, enhance, and administer charter school facilities aid programs administered on a per-pupil basis.

The “national activities” portion of the law has been reorganized, and 80% of these funds must be used for grants to support the startup of new charter schools or to replicate or expand high-quality charters. Applicants must provide details about student achievement in existing schools, information

about any recent compliance and management issues in any of their schools, plans for ensuring that they serve disadvantaged, English learner, and disabled students, and other information.

Overall funding for charter school programs is consistent with the FY 2015 appropriation but less than authorized under NCLB.

Magnet Schools

These provisions are largely the same as previous law. They provide competitive grants to LEAs wishing to create magnet schools as part of their desegregation efforts. The only notable differences are that the new law adds language around expanding or replicating existing magnet programs and emphasizes “evidence-based” approaches. It also allows use of funds for transportation under some circumstances. The maximum grant size is increased significantly (from \$4 million to \$15 million) and the maximum duration is lengthened from three to five years, but the overall authorization of appropriations is lower.

Family Engagement in Education Programs

Title IV creates a new grant program for “statewide organizations” (which are not defined, so NEA affiliates may be eligible) to create statewide “Family Engagement Centers” that provide parent and family education, and provide training to school districts, state education agencies, and organizations encouraging family-school partnerships. Applications must describe, among other things, how organizations will target low-income students, and grantees must spend at least 65% of funds on vulnerable student populations. Priority is given to organizations that use funds on “evidence-based” activities. Grantees must establish advisory committees with specific stakeholders; a majority of the members must be parents. Grantees must commit to quality staff, geographic diversity of service, working with other centers, using 30% of funds to improve technical assistance for proven parent education programs, engaging stakeholders, and improving parent literacy and financial literacy.

National Activities

These sections create four grant programs, discussed below, some of which incorporate aspects of programs in Titles IV and V of NCLB, which ESSA eliminates.

The Education Innovation and Research program provides grants for “entrepreneurial, evidenced-based field-initiated innovations” that “improve student achievement and attainment for high-need students.” Grants are available to government entities, non-profits, or consortia (which may partner with businesses, education service agencies, or institutions of higher education).

Community Support for School Success program gives grants to entities to establish full-service community schools. The program includes a 100% matching funds requirement, some of which must come from private sources. At least three grants must be awarded to provide pipeline services to a neighborhood based on a needs analysis that requires community engagement and input. The program prohibits using early childhood funds for assessments to evaluate individual children or as the primary method for evaluating program effectiveness.

National Activities for School Safety provides funds for the Project School Emergency Response to Violence (Project SERV), and funding to be used for grants, contracts, and cooperative agreements

aimed at improving child safety and well-being such as violence prevention or restoring environments disrupted by trauma or violence.

Academic Enrichment provides grants for projects promoting arts education for disadvantaged and disabled students; school readiness through early childhood and elementary education in the form of television or digital media; and supports for high-ability learners, through grants for training in the identification of gifted students and for services, materials, and methods for educating those students.

Title V – State Innovation and Local Flexibility

This Title corresponds to NCLB Title VI, “Flexibility and Accountability.” Here, as in NCLB, this Title contains provisions for funding transferability. But whereas NCLB allowed 50% of funds from certain programs to be transferred, ESSA allows all funds of designated programs to be transferred. ESSA allows for transferability of state allotments from Supporting Effective Instruction; Student Support and Academic Enrichment; and Community Learning Centers) to most parts of Title I and also to Title III (Language Instruction). An SEA or LEA may only transfer funding to these identified Parts—the reverse is not permitted.

This Title also maintains NCLB Title VI’s Rural Educational Initiative. ESSA expands eligibility to include LEAs that are part of an education service agency that does not receive funding under this subpart, but is eligible more broadly. There is now an emphasis on meeting “challenging state academic standards” rather than (as in NCLB) meeting “specific measurable goals” such as decreased dropout rates.

Title VI – Indian, Native Hawaiian, and Alaska Native Education

This title remains similar to that under the NCLB and provides formula and competitive grants to support development of local programs for the covered groups of students. There is a new program to support Indian and Alaska Native immersion schools. In general there is greater emphasis on coordination among schools and community groups serving Native American children/families, including some requirements for “community consultation,” that may afford opportunities for parent/teacher engagement; and support for LEAs on integrating native languages and cultural into education. Provisions on educator professional development remain, although some have been reworded slightly to emphasize focus on understanding history and cultures of native students.

Title VII – IMPACT Aid

Maintains the current program, which provides funding for districts whose property tax capacity is adversely impacted by proximity to military facilities, federal lands, and Indian reservations. Removes references to NCLB accountability regime, establishes “hold harmless” for districts impacted by military facilities realignment programs. The authorization of appropriations is substantially increased for most programs.

Title VIII – General Provisions

In the definitions, some key terms that are redefined or added to include “early childhood education program,” “evidence-based” (note that this generally means at least one study has shown statistically significant effects), and “multi-tier system of supports” (“a comprehensive continuum of evidence-based, systemic practices to support a rapid response to students’ needs”).

Amends provisions for calculating graduation rates, spelling out requirements, prohibiting the counting of students who received GEDs or similar credentials, and adding a new way to calculate graduation rates for extended school years.

Defines “pay for success initiative”—an allowable use of funds in a handful of grant programs. “Pay for success” was not mentioned in NCLB.

Requires USDOE to identify the number of employees who worked on programs the new bill eliminates and reduce its workforce by that number by one year after enactment.

Overhauls the waiver provision. States, not USDOE, receive all waiver requests, and state agencies approve a school district application in a similar fashion to USDOE approving a state application. USDOE’s role is confined to determining whether waiver requests comply with the requirements of the new law. Adds new provisions giving states an opportunity for a full hearing based on written findings if USDOE seeks to disapprove a waiver.

There is substantial language emphasizing state and local control throughout this title as elsewhere in ESSA. For example, a new provision prohibits “federal mandates, direction, or control,” and specifies that ED cannot use funding or waivers to direct or control a state on a variety of topics. There is a specific bar against incentive grants that encourage recipients to implement anything specific related to instruction. Additionally, a new section clarifies that states that opt out of receiving funds under any specific ESSA programs are exempted from the requirements of that program.

Adds a non-binding “sense of Congress” asking ED to review regulations to ensure that they protect students’ personally identifiable information, which may be relevant to ongoing attempts to update the Family Educational Rights and Privacy Act.

Includes a new “prohibition on aiding and abetting sexual abuse,” which requires SEAs and LEAs to have policies in place prohibiting their employees, contractors, and agents from facilitating the transfer of school employees where there is probable cause to believe that the school employee has engaged in sexual misconduct with a student. The transfer prohibition does not apply where the school employee is exonerated, officials opt not to prosecute, or the case remains open for four years and no charges are filed. States are permitted to adopt policies that are more restrictive of transfers.

Title IX – Education for the Homeless and Other Laws

Title IX modifies the McKinney-Vento Act, which provides funding to states to support district programs that serve homeless students. Notable changes from NCLB include that USDOE has less discretion to define application requirements; use of funds is broader, including allowing states to use money to identify homeless students; opens the door to states partnering with “private child welfare

and social service” agencies, which may include churches, and also mentions law enforcement agencies as partners; and allows some of the money to go for school personnel professional development for. Adds a privacy provision to protect homeless students’ status as such.

Related to other laws, requires USDOE to issue reports within six months of ESSA enactment discussing how it will implement inspector general recommendations; including, specifically, those addressed in 2010 and 2012 reports on gaps in oversight of charter schools.

Reauthorizes the Educational Flexibility Partnership Act, which allows USDOE to institute a program whereby a state educational agency becomes empowered to waive federal statutory or regulatory requirements for certain enumerated programs (a list that does not vary substantially compared with that found in NCLB) when requested by the State’s school districts. State has to annually review the performance of any participating school district and must terminate the waiver if the school district doesn’t make substantial progress toward long-term goals under ESSA; if student performance in the district decreases; or in the case of waste, fraud, or abuse. Each state and school district applying for the program must allow for public notice and comment procedures, and must include the comments in the application.

Calls for several new reports related to high school drop out rates, digital learning resources, and a study on whether Title I formula is effective in reaching the highest poverty areas.

Creates the Preschool Development Grants program, for grants to states to facilitate collaboration and coordination among existing early childhood care and education programs for low-income and disadvantaged children; to encourage partnerships between Head Start providers, private entities, tribes, and school districts; and maximize parental choice among early childhood providers.

Alters how the term “highly qualified” is used in a raft of other laws. In some cases, the phrase “highly qualified” is removed and replaced with “meets applicable State certification and licensure requirements, including any requirement for certification obtained through alternative routes to certification.” In the Individuals with Disabilities Education Act, provides that charter school teachers need only “meet the requirements set forth in the State’s public charter school law;” rather than previous requirements that such teachers have a license on a temporary, emergency, or provisional basis; and hold at least a bachelor’s degree.