

re:VISION

The Every Student Succeeds Act: Opportunities and Responsibilities

By Mark Johnson, State Farm Scholar and Policy Analyst



The *Every Student Succeeds Act* (ESSA) was signed into law by President Barack Obama on December 10, 2015. ESSA reauthorizes the *Elementary and Secondary Education Act* (ESEA), which was first enacted as part of President Lyndon B. Johnson's "War on Poverty." Since 1965, ESEA has represented the federal government's commitment to providing all of the nation's children with a fair, equitable, and high-quality education.

With the passage of ESSA, **responsibility for making critical decisions related to education policy is shifting away from the federal government and back to the states.** ESSA therefore presents a significant opportunity for state and local policymakers to refocus on how best to improve the nation's schools. This issue of *re:VISION* has been designed as a policymaker's introduction to this important legislation.

The Elementary and Secondary Education Act

The legislative intent of the original ESEA was to offer **equitable educational opportunities to children living in poverty.**¹ The largest financial component of the law was *Title I*, which earmarked

federal categorical aid to state governments and local education agencies "serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means."²

Over the course of its more than 50-year history, achieving educational equity for all children has remained a central objective of ESEA. Five decades of federal aid have not, however, led to the desired elimination of the gap in academic performance between students from low-income families and their more affluent peers. Moreover, as data from the 2015 National Assessment for Educational Progress (NAEP) reveal, **there continue to be significant racial and ethnic achievement gaps.**³



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As policymakers formulate plans in response to ESSA, it is imperative that they remain mindful of the need to ensure equal opportunities for every student. Expanding access to a high-quality education can play a significant role in reducing disparities in educational, social, and economic outcomes for children.⁴

Local Control, Global Competitiveness

Historically and constitutionally, education has remained the responsibility of individual states and local authorities. As a result of this decentralized and complex intergovernmental system of policymaking, state and local school systems have evolved in different ways.

Education is still largely a state and local issue. However, the shift toward a global economy means that American students are now competing with their peers across the country and around the world. It is therefore imperative that policymakers consider how to balance local control with the demand for improved educational outcomes in a global economy.

The Federal Role in Education

For much of the history of ESEA, core decisions regarding standards, curriculum, and personnel matters remained mostly delegated by the states to local government. This arrangement started to change in the 1980s when the combined effects of a poor economy, rising deficits, and underwhelming levels of student achievement gave rise to what became known as the “excellence agenda.” The excellence agenda, which was supported and driven by a broad coalition of business leaders, civil rights organizations, governors and legislators, was premised on the belief that **increased rigor in schools would serve to improve education for all students** and bolster the nation’s economy.

By the end of the 1980s, “standards-based reform” had emerged as a refinement of the excellence agenda. Standards-based reforms seek to improve education systems through the implementation of aligned standards, testing, and accountability policies. The rationale behind this approach to school improvement is that clearly-articulated, measurable learning standards are necessary for instilling collective purpose and raising expectations for all students and teachers.

The Clinton administration’s reauthorization of ESEA, titled the *Improving America’s Schools Act of 1994* (IASA), was the first version of the law to attach standards-based reform requirements to Title I funding. However, variation in the pace of implementation, as well as differences in the rigor of the standards associated with IASA, ultimately resulted in limited progress being made toward eliminating disparities between and within states.⁵

Like IASA, the Bush administration’s reauthorization of ESEA, the *No Child Left Behind Act of 2001* (NCLB), represented an attempt by the federal government to improve educational opportunities and outcomes for all students by requiring states to develop clear academic standards and aligned assessments.⁶ NCLB also denoted an effort to rectify the apparent limitations of IASA - including its lax enforcement. **NCLB required every state to set specific goals for adequate yearly progress (AYP) and attach a set of prescriptive, escalating sanctions for schools that failed to meet the expected standards.** NCLB, which passed in Congress with bipartisan support and was signed into law by President George W. Bush, helped highlight the continued existence of achievement gaps and emphasized the need to ensure that schools are held accountable for the achievement of all students.

The desire to address the pervasive issue of educational inequality was sustained by the Obama administration. As a result of the series of legislative acts and policies enacted between 2008 and 2015, including *Race to the Top* (RttT) and the ESEA Waiver program, the federal role in driving standards-based reform was further expanded.

In order to understand the intent and significance of ESSA, it is helpful to revisit the contents of the preceding federal education legislation. For that reason, the following tables highlight key provisions contained within NCLB, RttT, and the ESEA Flexibility Waivers.

No Child Left Behind Act of 2001

Under NCLB, states were required to:

- Adopt state standards and establish assessments that were aligned to these standards.
- Annually test all students in reading and mathematics in grades 3-8 and at least once in high school.
- Administer science assessments at least once during each of the following grade spans: 3-5, 6-9, and 10-12.
- Use a single accountability system to determine whether all students were making “adequate yearly progress” toward meeting state academic content standards.
- Establish a timeline for school improvement. By the 2013-14 school year, all students, across all subgroups, were expected to reach grade-level proficiency in reading and mathematics.
- Disaggregate achievement data and report by student subgroups.
- Ensure that all core content teachers met state-determined “highly-qualified teacher” criteria.

NCLB played a significant role in bringing about the adoption of comprehensive standards-based reforms across the states. However, the flexibility afforded to states meant that these **standards, testing, and accountability systems continued to vary in their scope and rigor.**

School Improvement Grants, Race to the Top, and ESEA Waivers Programs

In 2009, the federal government used funding from the *American Recovery and Reinvestment Act* (ARRA) as leverage to push for wider-ranging education reforms. Programs associated with ARRA included School Improvement Grants (SIGs), which were authorized under Title I of ESEA, and RttT competitive grants. These programs both allocated money to be used for implementing one of four federally prescribed intervention models in low-performing schools. In addition, RttT emphasized the following areas for reform:

- Developing and adopting common standards and better assessments
- Expanding the number of high-quality charter schools
- Developing data systems that linked student growth and achievement to teachers and administrators
- Raising educator and school leader effectiveness

By attaching prescriptive reform strategies to the allocation of SIG and RttT funding, and later in exchange for flexibility waivers from NCLB requirements, the federal government was able to exert significant influence over educational policy at the state and local level.

For more on the history of the law, see the [ESEA timeline](#).

Achievement Gaps

Achievement gaps occur when one subgroup of students (i.e. students grouped by race/ethnicity, gender, or socioeconomic status) persistently outperforms another group.⁷ The continued existence of achievement gaps carries significant social implications.⁸ Education and poverty are closely linked. U.S. Census Bureau data indicate that median earnings are correlated with educational attainment.⁹ Additionally, research has shown that better-educated individuals are more likely to have better health outcomes.¹⁰ It is therefore of paramount importance that policymakers continue to search for policy solutions that will close achievement gaps and afford all students equitable opportunities to lead successful and healthy lives.

Entering a New Phase of ESEA: The Every Student Succeeds Act

Federal involvement in education policy reached its zenith with NCLB, RttT, and ESEA Waivers. Together, these three policies helped build momentum for raising standards and tackling the pervasive issue of educational inequality. However, the amplified pressures of elevated expectations also led to some pushback from practitioners and stakeholders. Criticisms leveled at these federal policies included the belief that there was inadequate funding for such mandates; that schools, students and personnel were being unfairly labeled; that the focus on standardized testing narrowed the curriculum and incentivized gaming

strategies; and that state and local control was being undermined. In addition, the concurrent adoption of new academic standards with new teacher and school leader evaluation practices proved to be especially contentious.

Though ESSA is less prescriptive than NCLB, the law should not be misunderstood as granting the states *carte blanche*. **The new law continues to require adherence to certain regulations in exchange for federal monies. ESSA also maintains the longstanding legislative intent of ESEA: providing all children with a significant opportunity to receive a fair, equitable, and high-quality education and to close educational achievement gaps.**

What's in the Law?

ESSA contains nine different titles, each with its own set of implications for policymakers. Information about the contents of each of the titles may be found in the [ESSA navigator](#).

The Basics: Key Provisions and Implications for Policymakers

Given the broad scope of ESSA, policymakers will need to consider where to first focus their attention. The following section highlights the key provisions and implications associated with four overarching policy areas: *student assessment, accountability, school improvement, and teacher and school leader effectiveness.*

ESSA and Student Assessment

Like NCLB, ESSA requires that students be assessed based on state content standards for English language arts, mathematics, and science. A significant difference between NCLB and ESSA is that states are now charged with deciding how test scores should be used for accountability purposes. So what does ESSA say about testing? The law's main provisions regarding student assessments are listed below.

- Each state education agency (SEA), in consultation with local education agencies (LEAs), is required to develop and implement a set of high-quality student academic assessments in mathematics, reading or language arts, and science (see the assessment schedule table).
- **Not less than 95 percent of all test-eligible students** who are enrolled in public schools must be assessed, as well as **95 percent of all tested students in each subgroup.**
- States must annually measure all English learners' progress toward English-language proficiency.
- SEAs may choose to allow LEAs to administer a **nationally-recognized high school assessment** (such as the SAT or ACT) in place of the state assessment.
- ESSA does not preempt state or local laws regarding parental decisions on academic assessment participation. However, students who "**opt-out**" of standardized testing will still count against ESSA's 95 percent participation requirement.
- The assessments used by a state may be administered in a **single summative assessment** or through **multiple statewide interim assessments** during the course of a year.
- ESSA recognizes states' authority to develop and administer **computer adaptive tests** (CATs), provided these CATs meet the same requirements as traditional assessments.

Assessment Schedule		
<p>Reading or Language Arts and Mathematics</p> <p>In each of grades 3 - 8</p> <p>At least once in grades 9 - 12</p>	<p>Science</p> <p>At least once in grades 3 - 5</p> <p>At least once in grades 6 - 9</p> <p>At least once in grades 10 - 12</p>	<p>Any Other Subject Chosen by the State</p> <p>Administered at the discretion of the state</p>

Implications of ESSA and Assessment: Balancing Effective Data Use and Time Spent Testing

As stated in a recent report by Teach Plus, “No subject is more polarizing in education than testing.”¹¹ To some stakeholders, test data are viewed as being vital for the monitoring of student achievement, teacher effectiveness, and school and district improvement. **Indeed, many of the most vocal advocates of test-based accountability have been civil rights groups and individuals seeking to promote educational equity.** Other stakeholders, however, criticize testing for taking away too much time from instruction, narrowing the curriculum, creating undue stress for children, and being used unfairly to label students and teachers. An offshoot of the latter side of this debate has been the emergent national “opt-out” movement, in which parents are choosing to exclude their children from standardized testing.¹²

Like NCLB, ESSA mandates that 95 percent of the required test-taking students enrolled in public schools, and 95 percent of the tested students in each subgroup, must be assessed using the annual measurement of achievement. Student assessment is therefore a central element of ESSA. However, consistent with ESSA’s movement toward devolved decision-making, the law also includes a statement that prevents the federal government from determining how states and localities should respond to low participation rates. **A plan of action will therefore need to be developed by each state regarding how to address opt-outs within their accountability systems.**

As state and local leaders begin making decisions about student assessments, it is important to consider how to best balance the valuable use of data to inform decision-making and school improvement with the concerns raised by stakeholders that over-testing detracts from children’s educational experiences and stymies meaningful reform.¹³

ESSA and Student Assessment Considerations for Policymakers

- Which subjects and grade levels, beyond those required in the law, will be assessed (if any)?
- How will the state ensure that assessments align with the depth and breadth of the challenging academic standards?
- Apart from being used in the state’s system of meaningful differentiation, how will the assessments be used? Grade-level retention? Diagnosis? Placement? Educator evaluation?
- Will local education agencies be permitted to use a nationally-recognized test (e.g. the ACT or SAT) in place of the state test?
- Will assessments be administered in a single summative assessment or through multiple statewide interim assessments during the course of a year?
- How will the state attend to stakeholders’ concerns about too much time being spent on testing?
- How will the state respond to the 95% participation requirement?
- Will the state seek to develop and administer CATs?

For a more detailed discussion on student assessments, see the January 2015 issue of *re:VISION*, — [High-Quality College and Career Ready Assessments](#) — on [The Hunt Institute website](#).

ESSA and Accountability

Though ESSA has preserved annual grade-level testing, the law is **less prescriptive** than NCLB about how the test scores should be used. **ESSA affords state- and local-level policymakers greater levels of flexibility to make important decisions regarding the specific approaches associated with results-based accountability.** However, with this opportunity comes the vital responsibility for ensuring that **all** children are provided significant opportunity to receive a fair, equitable, and high-quality education. ESSA has therefore established a framework of regulations to ensure that schools are still being held accountable for preparing all students for college, career and life. The key ESSA provisions relating to accountability are listed below:

- Statewide accountability systems must be based on **challenging state academic standards.**
- The challenging state academic standards must be **aligned with entrance requirements for credit-bearing coursework** in the state’s system of public higher education and relevant state career and technical education standards.
- As was the case under NCLB, states must have academic standards for mathematics, reading/English Language Arts, and science.
- In the place of NCLB’s AYP provisions, the state is required to establish **long-term goals**, which must include the measurement of interim progress toward meeting such goals.
- The statewide accountability system shall annually measure all test-eligible students and each subgroup of students. The indicators shown in the table below will be used to establish an annual system of meaningful differentiation between all public schools.
- Though all of the indicators listed in the table below must be given “substantial weight,” when aggregated, **“much greater weight” must be given to the academic achievement, high-school graduation, and English language proficiency indicators.**
- The use of measures of **student growth**, as a component of academic achievement, **is optional.**
- The indicator of school quality or student success allows the progress of schools and students to be measured based on metrics other than standardized test scores, such as: measures of student engagement; student access to and completion of advanced coursework; or school climate and safety.
- Results must be **disaggregated** within each state, LEA, and school by subgroup.

Indicators to be measured

5 indicators
are required

All Schools

- Academic Achievement (with optional student growth) on state assessments
- English Language Proficiency
- School Quality or Student Success

Elementary Schools

- Additional Academic Measure (or student growth)

High Schools

- Four-Year Graduation Rate

Implications of ESSA and Accountability: Balancing State Flexibility and Accountability

One of the main criticisms concerning NCLB's accountability provisions was that they sought to impose uniformity on school systems around the nation. Critics argued that "one-size-fits-all" federal prescriptions took away the ability of state and local education leaders to decide upon the most appropriate supports and interventions for struggling schools.¹⁴ In view of these concerns, ESSA seeks to ensure that individual states can design their own accountability systems and then decide how to intervene in schools.

The fact that ESSA is less rigid about accountability prescriptions has raised concerns among a range of stakeholders – including civil rights organizations – that states, districts, and schools could evade responsibility for

failing to educate students of color and students from low-income families. Consequently, in March 2016, a coalition of civil rights groups and education advocates sent a letter to the then Acting Secretary of Education, John B. King Jr., stressing the need to issue regulations for enforcing and overseeing state and local implementation of ESSA.¹⁵

Since 1964, through each of its various iterations, ESEA has sought to improve educational outcomes for children of color and children from low-income families.¹⁶ Henceforth, state-level policymakers must continue to push for equity and excellence and make the closing of racial and socioeconomic achievement gaps a priority. In addition to deciding how this overarching concern about equity will be addressed, there is a range of other questions about ESSA and accountability that state and local leaders will need to consider. Some of the main considerations for policymakers are listed below.

ESSA and Accountability Considerations for Policymakers

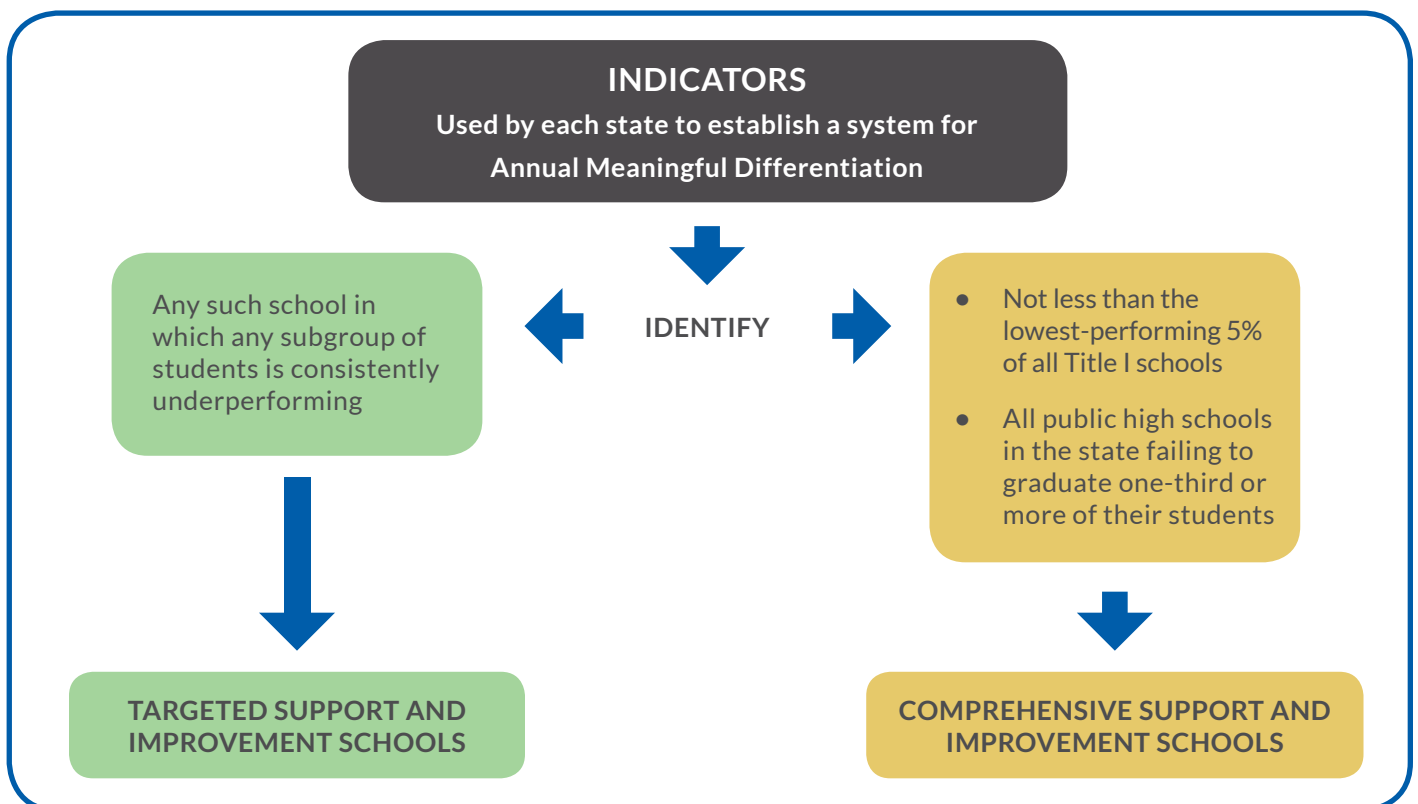
- What, if any, changes will be made to state academic standards?
- What must be done to ensure that state academic standards are aligned with entrance requirements for credit-bearing coursework in the state's system of public higher education?
- How will long-term goals be developed?
- How will the indicators used within the statewide accountability system be weighted?
- Will measures of student growth be included in the statewide accountability system?
- If so, how will growth be balanced with performance?
- How can accountability systems ensure that all students, regardless of their background, receive a great education and that achievement gaps close over time?
- How will the state respond to the English language proficiency and school quality indicator requirements?

For a more detailed discussion on school accountability, see the August 2016 issue of *re:VISION – School Accountability and The Every Student Succeeds Act*.

ESSA and School Improvement

Under ESSA, the punitive federal prescriptions for low-performing schools are gone. The federal role in ensuring school improvement has not, however, been completely eliminated. As the provisions listed below demonstrate, federal regulations still exist regarding the identification of struggling schools.

- States must establish a methodology for identifying low-performing schools based on a **system of meaningful differentiation**.
- Beginning in the 2017-18 school year, and at least once every three years thereafter, states are required to identify a statewide category of schools for **comprehensive support and improvement (CSI)**.
- Additionally, states are required to identify a statewide category of schools in which any subgroup of students is consistently underperforming for **targeted support and improvement (TSI)**.
- Each SEA is required to notify each LEA of any school identified for CSI or TSI.
- LEAs are responsible for developing and implementing an improvement plan for each school identified for CSI.
- The development of CSI plans must include local stakeholders, including school leaders, teachers, and parents.
- The CSI plan must be informed by all indicators.
- The CSI plan must also include **evidence-based interventions**, be based on a school-level needs assessment, and identify resource inequities.
- Any school identified for CSI that **fails to improve** within a state-determined number of years (not to exceed four years) shall be faced with **more rigorous state-determined action**.
- SEAs will monitor and periodically review progress made by LEAs toward improving CSI schools.
- Each school that receives notification of being identified for TSI will work in partnership with stakeholders to develop and implement a school-level TSI plan.
- The TSI plan must be informed by all indicators and include evidence-based interventions.
- The TSI plan shall be approved and monitored by the LEA.



Implications of ESSA for Improving Low-Performing Schools

Under NCLB, sanctions for low-performing schools ranged from providing the option for students to transfer to another public school and facilitating opportunities for students to receive supplemental services, to a series of more severe and escalating corrective actions, including **alternative governance arrangements**. It was NCLB that provided the foundation for the subsequent school turnaround models promoted by the Obama administration's RttT and SIG programs.

As was the case with the SIG and RttT programs, ESSA requires states to identify the **lowest-achieving five percent of Title I schools** and to intervene. The law is **far less prescriptive**, however, regarding the strategies to be used for turning schools around than the federal

intervention models associated with NCLB and the Obama administration.

As policymakers contemplate how to intervene in persistently low-performing schools, they should take stock of the growing body of research that has been conducted on existing school turnaround programs.¹⁷ Moreover, it is important for policymakers to consider how the **flexibility provided by ESSA allows states and localities to differentiate supports and interventions in order to meet the specific needs of struggling schools**. Examples of other important considerations regarding school improvement are listed in the box below.

ESSA and School Improvement Considerations for Policymakers

- What can be learned from turnaround efforts within and across the states?
- What does research say about evidence-based interventions?
- How can the state leverage expertise on evidence-based interventions?
- What can the state do to support the development of school-level needs assessments?
- What types of capacity barriers and resource inequities exist that might stymie school improvement efforts?
- What can the state do to address non-academic factors that impact student achievement in low-performing schools, such as students' social, emotional, and health needs?
- How will CSI and TSI schools be identified?
- How will the state work with LEAs to oversee the improvement of TSI schools?
- How will the state intervene in CSI schools that fail to make significant improvements within the state-determined number of years?
- What will be the criteria for schools to exit the CSI and TSI categories?
- What types of resources and supports can the state provide to help sustain turnaround efforts?

The Impact of NCLB Accountability Measures

Although the accountability provisions made within NCLB sounded severe, in practice, few students exercised their rights to school choice (approximately 1% in 2006-07) or to supplemental education.¹⁸ Furthermore, most of the low-performing schools and districts that were identified for interventions under NCLB did not apply the most severe restructuring interventions.¹⁹

ESSA and Effective Teachers and School Leaders

Research has shown that **an effective teacher is the most important school-related factor in determining student success.**²⁰ In addition, school leadership has been found by researchers to be second only to teaching in its impact on children’s learning outcomes.²¹ Policy decisions regarding school personnel are therefore essential to school improvement efforts.

ESSA has rendered the “highly-qualified teacher” requirement of NCLB a thing of the past. Federal stipulations regarding how teachers and school leaders should be evaluated have also been eliminated (states are not obligated to evaluate based on measures of student growth). ESSA does, however, still contain a range of provisions that relate to teachers and school leaders. For example:

- SEAs and LEAs are **required to report any disparities that result in low-income students and minority students being taught by ineffective, inexperienced, or out-of-field teachers at higher rates than other students.**

- State plans must also describe how such disparities will be addressed.
- ESSA makes *Title II* federal grants available for states to increase access to effective teachers and school leaders for children of color and children from low-income families.

Implications of ESSA and Ensuring Effective Teaching and School Leadership

A disproportionate number of schools serving high percentages of students from low-income families and isolated rural communities continue to have difficulty recruiting effective teachers and principals.²²

The Inequitable Distribution of Teachers

According to data from the U.S. Department of Education, teachers working in more affluent school districts are considerably more likely to have advanced degrees and more years of experience than teachers in schools with high percentages of students who qualify for free or reduced price lunches. Also, teachers who elect to work at high-need schools are far more likely to transfer out of those schools or leave the profession altogether than teachers in other schools.²³

Policy efforts seeking to address the inequitable distribution of personnel have traditionally focused on recruiting promising or proven teachers and school leaders to work in “hard-to-staff” schools. Unfortunately, these types of

programs have often neglected to develop effective systems for supporting and retaining such professionals.²⁴

Originally included (then removed) as one of the NCLB waiver renewal requirements in 2013, the U.S. Department of Education introduced its 50-state teacher equity strategy in July 2014.²⁵ Under this policy, titled the *Excellent Educators for All Initiative*, each state was asked to submit a plan to the federal government outlining a strategy for ensuring the equitable redistribution of teachers. By the end of 2015, most states had complied with this call and developed a strategy. However, because these plans are not tied to any clear enforcement mechanism, it remains to be seen whether this policy will have any meaningful impact.²⁶

The successful transformation of low-performing schools will also require a sufficient supply of school leaders with the requisite skills, knowledge and dispositions to effect meaningful change. Research has shown that frequent

turnover of principals in underperforming schools serves to create instability and undermine improvement efforts.²⁷ For that reason, it is not enough to simply prepare and hire talented leaders; policy solutions must be developed **to ensure that effective principals remain in high-need schools for the long term.**

As state and local-level policymakers search for ways to improve the lowest-performing schools, they should consider strategies for ensuring that efforts to redistribute effective teachers and leaders are sustained in such a way as to facilitate institutional stability and lasting improvement. Title II of ESSA makes grant funding available for states to engage in a range of activities to improve teacher and school leader effectiveness, including a program that would support performance-based compensation systems for high-need schools. Other significant questions for policymakers to consider, with regard to school personnel policies, are listed below.

ESSA and Effective School Personnel Considerations for Policymakers

- Absent the highly-qualified requirements, what will the state require of teachers and school leaders (in terms of licensure, qualifying assessments and effectiveness measures) to ensure that all students have an effective teacher?
- Absent the incentive to include student growth in teacher evaluation, how should the state proceed? Should student growth continue to be measured and used? If so, how?
- Should additional measures of teacher and leader effectiveness be included in the statewide evaluation model? If so, what should these measures be?
- How can the state work with educator preparation programs and take advantage of ESSA grant programs in order to improve the pipeline of quality teachers and leaders?
- How can states ensure that schools identified for CSI and TSI interventions are able to recruit, hire, coach and retain effective teachers and leaders?

Use of Student Growth Measures

In a departure from the conditions of RttT and ESEA Flexibility Waivers, ESSA does not require that student growth measures (SGMs) be included in teacher and school leader evaluations. State policymakers are therefore faced with the decision of whether to eliminate the use of SGMs partially or entirely.

Though research suggests SGMs can help more accurately measure teacher effectiveness, use of such data has also been found to result in a host of unintended consequences, including: decreasing teacher morale; deterring teachers from wanting to teach in high-need schools; and teachers gaming the system.²⁸ In recognizing the issues surrounding SGM usage in evaluation models, the Council of Chief State School Officers released a report in 2016 calling for the balancing of support and accountability systems for school personnel.²⁹

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