

On December 10, 2015, the sixth reauthorization of the *Elementary and Secondary Education Act* (ESEA) was signed by President Obama. The *Every Student Succeeds Act* replaces the previous ESEA reauthorization, *No Child Left Behind*, which had been in place since 2001. States will be expected to make changes in accordance to the new law by the start of the 2017-18 school year. This brief highlights the evolution of the ESEA, as well as key changes in the *Every Student Succeeds Act*.

THE ELEMENTARY AND SECONDARY EDUCATION ACT

In 1965, as part of President Lyndon B. Johnson’s war on poverty, Congress enacted the *Elementary and Secondary Education Act* (ESEA) in an effort to provide equitable access to education for all children. The passage of ESEA elevated the federal government’s involvement in public education, authorizing federal spending on public K-12 programs. Until 2001, with the passing of *No Child Left Behind*, ESEA primarily funded initiatives to support low-income and special needs students through a provision known as Title I. The main authority and funding responsibilities for K-12 education were left to states and local districts.

With the exception of the 2015 reauthorization, each prior reauthorization increased the federal government’s role in public education—perhaps most notably with the 2001 reauthorization, *No Child Left Behind* (NCLB). NCLB represented an unprecedented bipartisan agreement to reform America’s education system. Short falls in student academic performance, large achievement gaps, and subpar international rankings united legislators in expanding the federal role far beyond previous revisions of the ESEA. President George W. Bush made the passage of NCLB a cornerstone of his presidency, enacting policy that sought to improve education for disadvantaged students and increase the academic achievement of all children.

NCLB has been a major topic of discussion in education policy since it was passed 14 years ago. As the most sweeping education reform ever enacted in the United States, the law drew both praise and critique (see chart on page 2 for commonly identified successes and criticisms). ESEA was supposed to be reauthorized again in 2007, but congress struggled to pass legislation due to political differences.

In 2011, the Obama administration circumvented congressional inaction by implementing waivers to many aspects of NCLB. In exchange for waivers from specific requirements of NCLB, including Adequate Yearly Progress (AYP), states agreed to implement: college and career ready standards and aligned assessments; differentiated accountability systems that provided targeted support to the lowest-performing schools; and teacher and principal evaluation and support systems that led to improved practice and student achievement. With more states seeing higher percentages of schools not meeting AYP and subject to sanctions, 45 states applied for waivers under this initiative (43 waivers were granted).

WHAT IS TITLE I?

Historically, the U.S. Department of Education has allocated the majority of ESEA funding to **Title I** initiatives, the purpose of which is “to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state academic achievement standards and state academic assessments.” Today, about **21 percent** of the federal education dollars are spent on Title I programs including “Title I schools” — schools where at least four out of 10 children are enrolled in the **Free and Reduced Lunch** (FRL) Program.

WHAT IS ADEQUATE YEARLY PROGRESS?

Under NCLB, states were required to establish goals for “**adequate yearly progress**” (AYP)—minimum levels of improvement as measured by standardized tests chosen by the state—to annually determine the achievement of each school district and school. A state’s definition of AYP was meant to be based on expectations for continuous and substantial growth in student achievement, toward a goal of 100% proficiency in reading in math by no later than 2013-14.

NCLB SUCCESSES	NCLB CRITICISMS
<ul style="list-style-type: none"> • Rigor: Until 2002, states had limited requirements for standardizing content. NCLB required all states to establish core content standards, addressing several critical elements that are reviewed by their peers and experts. • Increased Accountability: NCLB's assessment and AYP requirements ensured all schools were tracking student performance and disaggregating results by subgroups. • Data Driven Solutions: NCLB's accountability focus greatly increased the amount of data collected on student achievement. As a result, states were better able to assess a school's performance and address the needs of all students, with particular emphasis on disadvantaged students. • Choice: NCLB required states and districts to provide public information regarding the performance of schools. Parents have the choice to send their children to better performing schools, should their children's schools be labeled as failing. 	<ul style="list-style-type: none"> • Expectations: In 2010, nearly half of all schools in the U.S. did not make AYP and had been labeled as failing. • Restrictions: NCLB's limited pass/fail designations over-identified schools as failing without recognizing school improvement or growth in student achievement. • Funding: The federal government established unprecedented funding commitments to lessen NCLB cost burdens but never fully funded to those levels. • Testing: To avoid added sanctions as a result of low student performance, critics assert that high-stakes testing resulted in an emphasis on test-based instruction. • Narrowed Curriculum: As a result of high-stakes tests, curriculums often placed heavy emphasis on math and reading, spending significantly less time and resources on non-tested subjects.

EVERY STUDENT SUCCEEDS ACT

In July of 2015, the House and Senate each put forth bills to reauthorize ESEA. Sponsors of both bills worked together throughout the summer and fall to develop a compromise framework that could be debated and voted on by a conference committee. The bills were generally similar in their content; both ended AYP requirements and maintained annual assessments. The House bill sought additional changes that were not reflected in the Senate bill including provisions to make Title I funds portable such that they would follow students to the schools of their choice and to eliminate the requirement to test 95 percent of students. In mid-November a framework was put forward and passed within two days by a conference committee with a vote of 39-1. The compromise bill, known as the *Every Student Succeeds Act (ESSA)*, was then passed by an overwhelming majority in the House and Senate before being signed into law by President Obama on December 10, 2015. ESSA is the sixth reauthorization of ESEA and replaces NCLB and flexibility waivers.

While not a complete shift from NCLB, ESSA gives states more discretion over education policy, especially accountability measures, and restricts federal involvement. States are still required to set standards and annually assess at least 95 percent of students. However, student achievement on assessments can now be considered alongside of other measures of performance including factors like educator engagement or access to advanced coursework in state accountability systems. Furthermore, states are no longer required to set up systems to evaluate teachers as required by the ESEA flexibility waivers.

IMMEDIATE NEXT STEPS

States have an 18-month transition period between NCLB and waivers to the new requirements of ESSA which are meant to be in place beginning in the 2017-18 school year. Over the next few months, the U.S. Department of Education will begin the regulatory process to define certain aspects of ESSA and make guidelines and suggestions for how states may proceed in implementation. Three areas of the new law have been marked as needing to go through **negotiated rulemaking**: standards, assessments, and the requirement that funds under Title I, Part A be used to supplement—and not supplant—state and local funds. Other areas of the law, including accountability, will go directly through the department’s normal regulatory process. Presently, it is unclear how far the department will go in creating regulations. With much power devolving back to the state, the department will likely try to balance suggesting guidelines with requiring specific actions.

WHAT IS NEGOTIATED RULEMAKING?

A process where education advocates (selected by the Secretary) and members of the U.S. Department of Education negotiate the terms of a law. If stakeholders are unable to reach an agreement during the rulemaking session, the department may still move forward in crafting regulations, but those regulations must be approved by Congress.

KEY POINTS OF THE *EVERY STUDENT SUCCEEDS ACT*

STANDARDS	ASSESSMENTS
<p>Despite added guidelines about alignment, states should not expect much to change with the academic standards they already have in place.</p> <ul style="list-style-type: none"> • Maintained: States are required to adopt academic standards in reading, math, and science. • Changed: Standards must be “aligned with entrance requirements for credit-bearing coursework in the system of public higher education in the state and relevant state career and technical education standards.” • Changed: Explicitly states that the U.S. Secretary of Education may not coerce or mandate states to adopt a particular set of standards, including Common Core. 	<p>States will be able to keep their current assessment systems, but will have more flexibility to innovate if they desire. The U.S. Department of Education’s peer review process of state assessments will be conducted in the spring of 2016, and states will receive feedback on their assessments following the review.</p> <ul style="list-style-type: none"> • Maintained: Annual assessments in reading and math for grades 3 through 8 are still in place, as well as the requirement to test once in science during each of the following grade spans: 3-5, 6-9, and 10-12. • Maintained: Schools and districts must test 95 percent of students on state assessments. • Changed: States may set a cap on the total amount of time students spend testing but are not required to do so. • Changed: One percent of the total student population may take an alternate assessment aligned to alternate academic achievement standards for students with disabilities. • Changed: States may participate in a pilot program to develop and implement innovative assessments at the local level. • Changed: States may choose to allow local school districts to offer nationally-recognized assessments like the SAT or ACT at the high school level instead of the state exam. • Changed: States may measure student achievement and growth through a single summative assessment or through multiple, statewide interim assessments during the course of the academic year that result in a single summative score.

KEY POINTS OF THE *EVERY STUDENT SUCCEEDS ACT*

ACCOUNTABILITY	TEACHER QUALITY
<p>In an effort to move away from high-stakes testing, accountability systems will need to encompass factors beyond test scores, but states will be able to determine what factors to include and how much to weight them. States will also need to craft evidence-based intervention plans for low-performing schools.</p> <ul style="list-style-type: none"> • Maintained: States must report student performance by subgroups. • Changed: Replaces “adequate yearly progress” with state-designed accountability systems to identify low-performing schools. States may set the weight of the various measures, but academic indicators must count for “much more” than additional indicators. <p>Academic Indicators (<i>all</i> of the following indicators must be used):</p> <ul style="list-style-type: none"> • Test scores • Graduation rates (high school only) • English language proficiency • Other academic factor that can be broken out by subgroup <p>Additional Indicators (<i>at least one</i> of the following indicators must be used):</p> <ul style="list-style-type: none"> • Student engagement • Student access to and completion of advanced coursework • Educator engagement • Postsecondary readiness • School climate and safety • Other state-selected indicator <ul style="list-style-type: none"> • Changed: States are required to improve student learning in the lowest-performing five percent of schools and high schools with graduation rates below 67 percent, but the U.S. Secretary of Education may not prescribe the specific intervention or improvement strategy. • Changed: States and districts are responsible for how to address schools that test less than 95 percent of students. 	<p>States may continue to use their current teacher evaluation systems but are no longer required to do so. States that were required to provide additional documentation on their teacher evaluation systems to the U.S. Department of Education for waiver purposes will no longer need to provide that information.</p> <ul style="list-style-type: none"> • Changed The “highly qualified teacher” requirement is eliminated. • Changed: States are not required to establish teacher evaluation systems as previously required by the ESEA flexibility waivers.

ADDITIONAL RESOURCES

Education Week has compiled a collection of their ESSA articles [here](#). Specifically, these two articles below by Alyson Klein may be helpful to understand changes with the new law and the regulatory process:

[ESEA Reauthorization: The Every Student Succeeds Act Explained](#)

[ESEA Reauthorization: How Will ESSA Regulatory Process Work?](#)

Resources produced by the **U.S. Department of Education** can be found [here](#). Specifically, states may find this letter to be helpful to better understand the transition to ESSA: [Dear Colleague Letter on Transition to ESSA](#).

The **Thomas B. Fordham Institute** hosted a panel discussion about implementation of ESSA, which can be viewed [here](#). Panelists include Claire Voorhees from the Foundation for Excellence in Education, Christy Wolfe from the National Alliance for Public Charter Schools, and Noelle Ellerson from the American Association of School Administrators.

For more information about changes to accountability, the **Alliance for Excellent Education** has created a [side-by-side chart](#) comparing requirements under NCLB, waivers, and ESSA. Additional resources from the Alliance about ESSA can be found [here](#).