

# The Federal Every Student Succeeds Act and How It Differs from No Child Left Behind



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## Introduction – Historical Perspective

The Elementary and Secondary Education Act of 1965 (ESEA) was originally passed as part of President Lyndon Johnson's War on Poverty campaign. It created a clear role for the federal government in elementary and secondary education. Since that time, the ESEA has been reauthorized eight times; most recently in December 2015 when lawmakers revamped No Child Left Behind (NCLB) and renamed it as the Every Student Succeeds Act (ESSA). Each reauthorization has brought changes, but the central goal of improving educational opportunities and outcomes for disadvantaged children has remained unchanged.

The ESEA is the single largest source of federal spending on elementary and secondary education. Ever since its inception, Title 1, Part A, of the ESEA has provided more than a billion dollars per year to school districts to help cover the cost of educating disadvantaged students. In return, states and school districts must demonstrate that they are working to meet the needs of all students and to provide a quality education.

Before the late 1980's, when the federal government started requiring states to test students every year as a condition of receiving ESEA money, there was not sufficient data to determine how specific groups of students were performing. States could simply use total average scores to determine success.

With the results from annual testing, however, it became possible to look deeper into how different groups of students were performing. This subgroup reporting made it obvious that the under-achievement of the most vulnerable students had been masked in the old system of reporting. Students with disabilities, English-language learners, Native American students, and many others were being left behind and schools were not held accountable for their individual progress and growth. Federal requirements and expectations in ESEA provide transparency and oversight for states and school districts to ensure that there are protections for these vulnerable students.

## No Child Left Behind

In 2002, the ESEA was reauthorized by the No Child Left Behind Act of 2001. The reauthorizing act received overwhelming bipartisan support and was signed into law by President George W. Bush. Support for the new law, in large part, grew out of concern that the American school system was no longer internationally competitive.

NCLB significantly increased the federal role in holding schools responsible for the academic progress of all students, and it put special focus on ensuring that states and schools boost the performance of certain subgroups of students, such as students in special education and poor and minority children, whose achievements, on average, trailed their peers. The states did not have to comply with the new requirements, but states not complying risked losing federal Title 1 money.

Under NCLB, states were required to bring all students to the proficient level on state tests by the 2013-14 school year. It was a requirement that proved to be very difficult to meet; particularly since no exceptions were made for any students, including those with special needs. By 2010, it was clear that many schools were not going to meet the achievement requirements. By 2011, lawmakers in Congress saw the need for revisions in the law, but were unable to agree on a bill. That is when the Obama administration began offering the states a reprieve from many of the NCLB mandates through a series of waivers.

The waivers, which were in place in 42 states by 2015, allowed the states to get out from under many of the NCLB mandates in exchange for embracing certain education priorities, such as agreeing to standards aimed at preparing students for higher education and the workforce. It was evident,

however, that revisions in the law were still needed as Congress continued to wrestle with reauthorization.

### **The Every Student Succeeds Act**

The long-awaited bipartisan legislation to reauthorize the ESEA was signed by President Obama on December 10, 2015. Known as the Every Student Succeeds Act, it replaced NCLB. The new law, which took full effect in the 2017-18 school year, updated many of the provisions in NCLB that caused unintended negative effects or had outlived their usefulness, while still maintaining many of the key components that have been responsible for many of the improvements in student achievement over the past fifteen years.

While previous reauthorizations of the ESEA sought to expand the role of the federal government in education, this one does the opposite, by rolling back federal involvement in education policy on testing, teacher quality, low performing schools, and more. As well as providing the states more leeway in making those decisions.

### **How the Every Student Succeeds Act Changes No Child Left Behind**

Below are five main education policy areas impacted by the ESEA and how the requirements within each policy area have changed since ESSA replaced NCLB.

**Testing Requirements**—Under NCLB, states were required to administer a statewide assessment in both math and English language arts annually to every child in grades three through eight and once to those in high school, as well as a science assessment once per grade span (elementary, middle, and high school). Those requirements remain under ESSA, but it gives the states the option of either continuing to give single, annual assessments or breaking up the assessments into smaller components that can be given throughout the school year to provide more frequent information on student achievement and growth.

The ESSA also gives school districts the ability to use nationally-recognized high school academic assessments (like the ACT or the SAT) in place of state-developed assessments if the test can provide comparable data and the state approves. The new

law permits states to set a target limit on the aggregate amount of time schools can spend administering assessments in each grade level. The requirement that assessments be administered to at least 95% of all students is maintained under ESSA, but it allows the states to establish their own "opt-out" laws and requires that parents be notified of their children's participation rights in assessments.

**Academic Standards**—NCLB required state standards in reading, math, and science at all grade levels. ESSA requires assurance that each state adopts challenging academic content standards in reading, math, and science with three levels of achievement that are aligned with entrance requirements for credit-bearing coursework in the state's higher education system as well as the state's career and technical education standards.

Whereas NCLB required states to apply the same academic standards to all schools and children, ESSA allows the states to develop alternate academic achievement standards for students with the most significant cognitive disabilities using a documented and validated standards-setting process.

Unlike NCLB, the new law specifically prohibits any federal official from mandating or incentivizing states to adopt or maintain any particular set of standards, including the Common Core.

**Accountability**—Under NCLB, 100% of students were to be proficient in reading and math by the end of the 2013-14 school year, and schools were required to make "adequate yearly progress" for all students and for the subgroups of students for which data is disaggregated. The goals, which in large part went unmet due to their inflexible and unrealistic nature, led the U.S. Department of Education to begin issuing waivers to states to avoid the harsh consequences of the law. The waivers gave the states options to expand their own accountability goals, much of which continues under ESSA.

The ESSA eliminated the requirement for adequate yearly progress and the 100% proficiency requirement. In its place, it requires state-developed accountability systems that include performance goals for each subgroup, annually measure student performance based on the state assessments, and include one other indicator of school quality or



student success that allows for meaningful differentiation, such as student or educator engagement or school climate and safety. States can now decide how much weight to give tests in their accountability systems, though they must give more weight to academic factors than to other factors. States are now also able to determine what consequences, if any, should attach to poor performance.

**School Improvement**—One of the hallmarks of NCLB was the prescriptive and detailed federal requirements around how states must deal with schools that failed to meet their annual goals year after year. Under the School Improvement Grant program, states were required to implement targeted interventions that escalated over time.

Under the waiver system, the federal government loosened many of those requirements, but states receiving a waiver were required to identify their very lowest-performing schools as priority schools to receive one of the federal turnaround strategies. Those states were required to label another ten percent of their schools with big achievement gaps as focus schools to receive targeted help. Also under NCLB, states were required to reserve a portion of their Title 1 funds to be available through the School Improvement Grant program.

The ESSA requires states, once every three years, to identify a category of schools for comprehensive support and improvement, including at least the lowest-performing five percent of Title 1 schools, high schools with a graduation rate of 67% or less, and schools where one or more subgroups of students are underperforming. Under the ESSA, the School Improvement Grant program is eliminated, but the states can still use up to seven percent of their federal funding for school improvement efforts, and the federal government cannot step in even if both the local and state turnaround strategies fail year after year.

School districts must develop evidence-based strategies for school improvement that include all accountability indicators and, if the state permits, students in underperforming schools must be allowed to transfer to another public school in the district.

**Teacher Effectiveness**—NCLB mandated that all teachers of core subjects be highly qualified, with the goal of addressing the teacher equity problem wherein the least qualified teachers were disproportionately instructing the most disadvantaged students. To be highly qualified, a teacher of a core subject had to have a bachelor's degree, demonstrate subject-matter expertise in the areas taught, and hold a certification or license in the subjects taught. Schools receiving Title 1 funds were required to ensure that poor and minority children were not taught by inexperienced, unqualified, or out-of-field teachers at higher rates than other children. Professional development activities were defined as those that aligned with the content standards and improved a teacher's knowledge in the subjects taught or enabled a teacher to become highly qualified.

Under the ESSA, the federal provisions requiring all teachers in core subject areas to have a bachelor's degree and demonstrate subject-matter knowledge in the areas they teach are eliminated. The states are still required to provide assurance that all teachers and paraprofessionals working in programs supported by Title 1 funds meet state certification and licensure requirements, but they are given more flexibility to determine who should be teaching in their classrooms. Lastly, the definition of professional development is expanded to include teachers of all subjects, not just the core subjects, and school leaders, administrators, and other school staff. Professional development opportunities now include more personalized, on-going activities that are job-imbedded and part of broader school improvement plans.

### Moving Forward

So far, many education advocates have called the Every Student Succeeds Act a step in the right direction in providing the necessary updates to No Child Left Behind. They say it attempts to find just the right balance between providing states with more flexibility to set their own goals and their own consequences for schools that do not reach those goals while at the same time keeping many of the federal safeguards in place.

The legislation represents a somewhat rare bipartisan effort. Almost everyone could agree that



it was time to update No Child Left Behind. When the next reauthorization will come and what it will entail will likely depend on the academic growth of students in the years ahead, especially students in the subgroups and vulnerable populations. Annual testing combined with other measures like graduation rates, surveys, and college readiness measures will hopefully provide the insight needed to make those determinations.

This issue memorandum was written by Clare Charlson, Principal Research Analyst, on August 27, 2018 for the Legislative Research Council. It is designed to provide background information on the subject and is not a policy statement made by the Legislative Research Council.

