The Every Student Succeeds Act (ESSA): What next?

NCSL 2016 Capitol Forum
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National Conference of State Legislatures
ESSA was signed into law Dec. 10, 2015

- Bipartisan legislation reauthorizing the Elementary and Secondary Education Act (ESEA) of 1965
- Last reauthorized as No Child Left Behind in 2002
- Full implementation school year 2017-2018
Assessment regulations

- Product of negotiated rulemaking this spring
- Not controversial
- Final regulations published 12/7
  - Govern assessments in Title I, Part A
  - Govern the innovative assessment pilot and the assessment grants in Title 1, Part B
ESSA

Final rules on accountability, state plans, and data
Accountability, state plans, and data

- Final rule published in the Federal Register 11/28
- Important deadlines
  - Assurances April 3, 2017
  - Plan submission…new dates (April 3, 2017 or September 18, 2017)
- Additional time to identify schools needing improvement
## Comprehensive Support and Improvement

<table>
<thead>
<tr>
<th>Types of schools</th>
<th>Description</th>
<th>Timeline for Identification</th>
<th>Initial year of identification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lowest-performing</td>
<td>Lowest-performing five percent of schools in the state participating in Title I</td>
<td>At least once every three years</td>
<td>2018-2019</td>
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<tr>
<td>Low High School Graduation Rate</td>
<td>Any public high school in the state with a four-year adjusted cohort graduation rate at or below 67 percent (or a higher percent selected by state over no more than three years)</td>
<td>At least once every three years</td>
<td>2018-2019</td>
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<tr>
<td>Chronically Low-Performing Subgroup</td>
<td>Any Title I school identified for targeted support and improvement because performance of a subgroup was at or below performance of all students in lowest-performing schools and did not improve after implementing a targeted support and improvement plan over a state-determined number of years.</td>
<td>At least once every three years</td>
<td>State-determined</td>
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<tr>
<td>Consistently Underperforming subgroup</td>
<td>Any school with one or more consistently underperforming subgroups</td>
<td>Annually</td>
<td>2019-2020</td>
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<tr>
<td>Low-performing Subgroup</td>
<td>Any school in which one or more subgroups of students is performing at or below the performance of all students in the lowest-performing schools. These schools must receive additional targeted support under the law.</td>
<td>At least once every three years</td>
<td>2018-2019</td>
</tr>
</tbody>
</table>

*If this type of school is a Title I school that does not improve after implementing a targeted support and improvement plan over a state-determined number of years, it becomes a school that has a chronically low-performing subgroup and is identified for comprehensive support and improvement.*
Other important elements

• can use a performance index that measures achievement at multiple levels

• standards...simple assurance that state will meet the requirements of any statute or applicable regulations

• must still provide a summative rating for each school, but also report a school’s performance on each individual indicator through a data dashboard or other mechanism.
  – three distinct categories for rating, may use comprehensive support and improvement, targeted support and improvement and other– or develop another system.
Other important elements (continued)

- specific weights or percentages for any of the indicators not prescribed
- the “n” size for disaggregating groups not prescribed, but a state must justify proposing an “n” size larger than 30 students
- measure of Academic Quality or Student Success must be supported by research showing high performance or improvement on measures is likely to increase student learning.
- at least one unique student characteristic (i.e. students’ initial English proficiency level) must be considered in determining targets for progress toward proficiency
Mixed reaction to the regs

• Reps. Kline and Rokita: “This regulation is still flawed... Congress and the next Administration will have to work together to fix the problems...”

• Senator Alexander: “I would have moved to overturn the earlier version...I will carefully review this final version before deciding what action is appropriate.”

• National Governors Association: “...represents a compromise... that takes into account the needs of states and the civil rights community...respect that the President-elect and new Congress may have a different vision.”

• Council of Chief State School Officers: “...the U.S. Department of Education listened to the feedback...”
ESSA:
Proposed rules on supplement, not supplant (sns)
ESSA discussions of school finance/sns

• Unsuccessful amendments requiring LEAs to demonstrate that combine state and local per-pupil expenditures, including personnel costs, in Title I schools were not less than per-pupil expenditures in non-Title I schools

• ESSA provisions requiring states and LEAs to report actual per-pupil expenditures
When do funds supplement, not supplant state and local dollars?

• ESEA requires that LEAs use Title I funds only to supplement funds that, in the absence of such funds, would be made available from state and local sources.

• LEAs must show that their methodology for allocating state and local dollars does not take into consideration a school’s receipt of Title I funds.

• ESSA simplified the test to show this requirement is met:
  - Eliminates the “cost by cost” test.
  - Prohibits any requirement for LEAs to provide Title I services through a particular instructional method or instructional setting.
US ED proposed rules 9/6

• Negotiated rulemaking did not result in consensus language last spring

• “Unfortunately, the NPRM does not reflect the clear and unambiguously expressed intent of Congress.” (letter signed by Chairman Alexander and Chairman Kline and 23 other GOP members)

• Set out three methodologies from which LEAs must choose to allocate funds*

• LEAs must allocate “almost all state and local funds to all of its public school funds regardless of Title I status” in a way that meets one of these tests

*There’s also a special rule for a 4th test.
Additional issues with SNS rules

- Federal influence over state and local education finance
- Undermining school-based budgeting reforms
- If additional resources aren’t available, may see teacher transfers to comply
- Many costs (construction, transportation, and employee benefits) are accounted for at the district level, yet the NPRM would force “almost all” funds to be allocated at the school level.
ESSA:
Extensive guidance
Guidance

• Foster children (joint with HHS)
• Homeless children and youth
• English learners and the Title III Program
• Early learners
• Supporting Educators (Title II Part A)

Dear Colleague letters
• Stakeholder engagement
• Tribal consultation
Teacher Preparation regulations
Teacher prep regs have long history

• NOTE: these are not ESSA rule, but important
• Negotiated rulemaking failed in 2012
• Draft rules published in 2014
• Published final rules 10/31/2016
Report at program level

- Placement and retention rates in the first three years of teaching (including in high needs schools)
- Feedback from graduates and employers (surveys)
- Student learning outcomes (various ways to measure)
- Other program characteristics
Revisions from proposed rule

• Additional information on application to distance education programs

• Eliminated requirement that states rate placement for alternative paths to certification

• Removed requirement that programs must have a high bar for entry; instead must have a high bar for exit.
Regulations in the new Congress and Administration
Congressional Review Act (CRA)

• Provides for a joint resolution of disapproval
  – Special parliamentary procedures for considering a joint resolution disapproving an agency final rule
  – Not only invalidates rule in question, but in most cases also bars the agency from issuing another rule in substantially the same form.

• Amendment to CRA proposed in H.R. 5982
  – “Midnight Rules Relief Act”
  – Would allow a joint resolution of disapproval for multiple rules if issued as early as May 16, 2016
  – Passed House 11/17
Key players

• New chair of the House Education and Workforce Committee Representative Virginia Foxx (NC)
  – Former higher ed teacher and administrator, small business owner, former chair of the Higher Education and Workforce Training subcommittee

• New Secretary of Education Betsy DeVos
  – Voucher and charter school advocate from Michigan
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NCSL ESSA page: http://www.ncsl.org/ESSA

NCSL College and Career Readiness Legislative Tracking:
http://www.ccrslegislation.info