

EVERY STUDENT SUCCEEDS ACT (P.L. 114-95) Analysis & Comments

Prepared by
[The Advocacy Institute](#) & the [Center for Law and Education](#)

On December 10, 2015, the President signed into law the Every Student Succeeds Act (ESSA), which reauthorizes the Elementary and Secondary Education Act of 1965 (ESEA). ESSA replaces the No Child Left Behind Act (NCLB) which had been in effect since 2002.

However, few states have been operating under NCLB rules, most having obtained [ESEA Flexibility from the U.S. Dept. of Education](#) starting back in 2012. The accountability plans states were allowed to develop under their ESEA Flexibility (to replace Adequate Yearly Progress or AYP) raised many questions about just how students with disabilities would be impacted, as laid out in our 2013 report, [ESEA Flexibility: Issues for Students with Disabilities](#).

Now, states will need to transition from their Flexibility plans (or NCLB for those States not operating under Flexibility plans) to a new accountability system as required by ESSA. The existing Flexibility plans were null and void as of August 1, 2016. The 2016-2017 school year is a transition year. States will begin operating under new accountability systems as defined by ESSA and approved by the U.S. Dept. of Education beginning in the 2017-2018 school year.

Below we offer an examination of several key provisions of ESSA along with comments of how the provisions may impact students with disabilities. Unless otherwise stated, students with disabilities are [those served under the Individuals with Disabilities Education Act \(IDEA\)](#).

Also see:

- [Comments submitted to the U.S. Dept. of Education in response to its Request for Information, January 2016](#)
- [Comments submitted to NPRM on Accountability, data reporting and state plans](#) (PDF)
- [Comments submitted to NRPM on Academic Assessments](#) (PDF)
- [Comments submitted to NPRM on Innovative Assessments Demonstration Authority](#) (PDF)

► ACADEMIC CONTENT AND ACHIEVEMENT STANDARDS

Each State must provide an assurance that it has adopted challenging academic content standards in mathematics, reading or language arts, and science and academic achievement standards aligned with those content standards that include not less than 3

levels of achievement. The State may similarly adopt such standards for any other subject it chooses. ([This graphic explains content standards and achievement standards.](#))

The challenging State academic standards must “align with entrance requirements for credit-bearing coursework [not remedial instruction programs] in the system of public higher education in the State and relevant State career and technical education standards.”

The State's challenging academic content standards must apply to all public schools and public school students in the State; and the academic achievement standards include the same knowledge, skills, and levels of achievement expected of all public school students in the State except for students identified with the most significant cognitive disabilities. If the State chooses to adopt academic content standards in any subject other than those articulated above, e.g., history, those academic standards would similarly apply to all public schools and students.

ESSA provides only one exception to use of the same standards for all students, as follows:

Alternate Academic Achievement Standards for Students with the Most Significant Cognitive Disabilities

The State may, through a documented and validated standards-setting process, adopt alternate academic achievement standards for students with the most significant cognitive disabilities, provided those standards—

- are aligned with the challenging State academic content standards
- promote access to the general education curriculum, consistent with the [Individuals with Disabilities Education Act](#) (20 U.S.C. 1400 et seq.);
- reflect professional judgment as to the highest possible standards achievable by such students;
- are designated in the individualized education program developed under [section 614\(d\)\(3\) of the Individuals with Disabilities Education Act](#) for each such student as the academic achievement standards that will be used for the student; and
- are aligned to ensure that a student who meets the alternate academic achievement standards is on track to pursue postsecondary education or employment, consistent with the purposes of [Public Law 93-112](#), as in effect on July 22, 2014, , i.e., to maximize opportunities for individuals with significant disabilities for competitive integrated employment.

ESSA also prohibits States from developing or implementing any other alternate academic achievement standards for use in meeting the Act's requirements.

COMMENT: This provision expressly prevents [bars] States from developing alternate assessments other than an alternate assessment based on alternate achievement standards developed exclusively for students with the most significant cognitive disabilities, such as the Alternate Assessment on Modified Achievement Standards previously authorized by the U.S. Dept. of Education in 2005, and recently rescinded [[Fed. Register August 21, 2015](#)] [See [A Look Back at the AA-MAS](#)].

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▶ STUDENT ACADEMIC ASSESSMENTS

Subjects and Grades Assessed

Each State must implement a set of high-quality student academic assessments in mathematics, reading or language arts, and science, administered as follows:

Mathematics: in each of grades 3 through 8; and at least once in grades 9 through 12;
Reading or language arts: in each of grades 3 through 8; and at least once in grades 9 through 12;

Science: not less than one time during grades 3 through 5; grades 6 through 9; and grades 10 through 12.

State assessments may be administered 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 that provides valid, reliable, and transparent information on student achievement or growth.

Criteria

With the singular exception of those assessment for students with the most significant cognitive disabilities, the same academic assessments must be used to measure the achievement of all public elementary school and secondary school students in the State; be administered to all public elementary school and secondary school students in the State and provide coherent and timely information about student attainment of the State standards and whether the student is performing at the student's grade level and allow parents, teachers, principals, and other school leaders to understand and address the specific academic needs of students. (This requirement would support the use of [Standards-based IEPs for all student with disabilities, as articulated by the U.S. Dept. of Education in a November 16, 2015 Dear Colleague Letter.](#))

In addition, the assessments must “involve multiple up-to-date measures of student academic achievement, including measures that assess higher-order thinking skills and understanding, which may include measures of student academic growth and may be partially delivered in the form of portfolios, projects, or extended performance tasks...” [This should mean multiple ways of measuring or assessing the same proficiencies in order to help assure the validity of the determination that students are or are not proficient. This is consistent with the requirements that the assessments are valid, reliable, and consistent with nationally recognized professional and technical testing standards, and that they shall be developed, “to the extent practicable”, using the principles of universal design for learning.

Inclusion of Students

To enable the participation of all in such assessments, States must provide all appropriate accommodations, such as interoperability with, and ability to use, assistive technology, for children with disabilities (as defined in [section 602\(3\) of the Individuals with Disabilities Education Act \(20 U.S.C. 1401\(3\)\)](#), including students with the most significant

cognitive disabilities, and students with a disability who are provided accommodations under an Act other than the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), such as [Section 504 of the Rehabilitation Act](#)), necessary to measure the academic achievement of such children relative to the challenging State academic standards or alternate academic.

ESSA authorizes only one alternate assessment to be used to assess some students with disabilities based on the State's alternate standards, which is described as follows:

Alternate Assessments for Students with the Most Significant Cognitive Disabilities

A State may provide for alternate assessments aligned with the challenging State academic standards and alternate academic achievement standards (described above) for students with the most significant cognitive disabilities if the State meets the required conditions.

COMMENT: The IDEA reauthorization of 1997 required all States to develop and implement an alternate assessment by the year 2000 for the small number of students with disabilities who cannot participate in state and district-wide assessment programs [[More](#)] Therefore, all States must have an alternate assessment based on alternate achievement standards in order to comply with the IDEA.

States must ensure that:

- for each subject, the total number of students assessed using the alternate assessments based on alternate achievement standards does not exceed 1 percent of the total number of all students in the State who are assessed in such subject;

COMMENT: The U.S. Dept. of Education estimates that 1 percent of the total number of all students assessed equates to roughly 9%-10% of students with disabilities. This limitation is similar to - but more restrictive than - the 2003 [federal regulation outlining the use of alternate assessments on alternate achievement standards](#), (AA-AAS) in determining adequate yearly progress. Under that regulation the number of proficient and advanced scores of students with the most significant cognitive disabilities derived from that AA-AAS could not exceed 1 percent of all students in the grades assessed, at both the district and State level. ESSA now places the limitation on the total number of students with the most significant cognitive disabilities who can be assessed using the State's alternate assessment. Few states assessed more than 10 percent (roughly 1 percent of all students) in the 2011-2012 school year based on data reported in the 36th Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act.) Get [state-by-state data here](#) (6 pgs,PDF).

ESSA prohibits both the U.S. Dept. of Education and State educational agencies from imposing a cap on the percentage of students with the most significant cognitive disabilities who can be administered such an alternate assessment at the local educational agency (district) level. However, districts exceeding the cap must submit information to the State educational agency justifying their need to exceed the cap.

The U.S. Secretary of Education's waiver authority applies to this provision. Therefore, States could request an exception to the cap.

The State must further ensure that:

- the parents of students identified as having the most significant cognitive disabilities are clearly informed, as part of the process for developing the individualized education program (as defined in [section 614\(d\)\(1\)\(A\) of the Individuals with Disabilities Education Act](#)) that their child's academic achievement will be measured based on such alternate standards; and how participation in such assessments may delay or otherwise affect the student from completing the requirements for a regular high school diploma;

- promotes, consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the involvement and progress of students with the most significant cognitive disabilities in the general education curriculum;

- describes in the State plan the steps the State has taken to incorporate [universal design for learning](#), to the extent feasible, in alternate assessments;

- describes in the State plan that general and special education teachers, and other appropriate staff know how to administer the alternate assessments; and make appropriate use of accommodations for students with disabilities on all assessments;

- develops, disseminates information on, and promotes the use of appropriate accommodations to increase the number of students with significant cognitive disabilities participating in academic instruction and assessments for the grade level in which the student is enrolled; and who are tested based on challenging State academic standards for the grade level in which the student is enrolled; and

- does not preclude a student with the most significant cognitive disabilities who takes an alternate assessment based on alternate academic achievement standards from attempting to complete the requirements for a regular high school diploma.

COMMENT: Assessing students with the most significant cognitive disabilities is required to fill ESSA's "Annual Measurement of Achievement" provision and comply with IDEA's requirement to include all students with disabilities in state assessments. [More: [TASH in Support of Alternate Assessments](#)]

Significantly, ESSA authorizes States to include a student taking alternate assessments based on alternate academic achievement standards who is awarded a State-defined alternate diploma to be counted as a regular high school graduate in the Adjusted Cohort Graduation Rate - the graduation rate that high schools will be held accountable for within

ESSA's accountability framework. This is a significant change from the ESEA graduation regulation issued in 2008.

Assessment Reports

Disaggregation of Assessment Results, including results based on a State Alternate Assessment (based on alternate State achievement standards)

Results of the State assessments must be disaggregated within each State, local educational agency, and school by:

- each major racial and ethnic group;
- economically disadvantaged students as compared to students who are not economically disadvantaged;
- children with disabilities as compared to children without disabilities;
- English proficiency status;
- gender;
- migrant status.

EXCEPTION TO ABOVE: disaggregation is not required in the case of a State, local educational agency, or a school when the number of students in a subgroup is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student. More on this under the next section.

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► STATE ACCOUNTABILITY SYSTEM

Each State must develop a statewide accountability system, articulated in a formal State Plan. The State accountability system must:

- be based on the challenging State academic standards for reading or language arts and mathematics;
- establish ambitious State-designed long-term goals, including regular measurements of interim progress toward meeting such goals for all students and separately for each subgroup of students in the State for, at a minimum, improved academic achievement, as measured by proficiency on the annual assessments and high school graduation rates. The time period set by the State for the long-term goals must be the same for all students and for each subgroup of students in the State; and must take into account the improvement necessary on such measures to make significant progress in closing statewide proficiency and graduation rate gaps for subgroups of students who are behind.

COMMENT: As with many aspects of ESSA, States will decide what constitutes "significant progress" in closing statewide proficiency and graduation rate gaps for subgroups. While the time period for progress must be the same for all students and student subgroups, the expectations can look substantially different. States will set proficiency goals based on the proficiency rate for each subgroup. In most states, students with disabilities are the lowest performing subgroup and, therefore, will be assigned proficiency rate goals lower than all other students and students overall.

Depending upon the starting point and what each State determines is "significant progress," long-term goals could result in expecting less than half of students with disabilities to be proficient in reading/language arts and/or mathematics. [See, for example, how [students with disabilities performed on the latest administration of California state assessments](#).] And check out [your state's achievement gaps using this interactive report](#) by the National Center on Educational Outcomes.

- provide increases in the percentage of English learners making progress in achieving English language proficiency within a State-determined timeline.

Specifically, the State system for accountability and improvement must include performance reports in the aggregate and disaggregated by each subgroup on each of the following Indicators:

1. student scores on annual assessments and, at the state's discretion, for high schools also may include student growth based on annual assessments in addition to high school students' annual assessment scores;
2. for elementary and middle schools, a "measure of student growth" or other academic indicator that allows for meaningful differentiation in student performance;
3. for high schools, graduation rates as measured by the Adjusted Cohort Graduation Rate
4. English language proficiency for English learners;
5. at least one indicator of school quality or success (e.g., school climate and safety rates, student and/or teacher engagement, student access to and completion of advanced courses, postsecondary readiness) that allows for meaningful differentiation among student performance and can be disaggregated by student subgroup.

COMMENT: While we are pleased to see high school graduation rates as one of the required indicators within a State system of accountability, the Adjusted Cohort Graduation Rate for students with disabilities is highly problematic. See the Definitions section for more information.

States must develop a system of meaningfully differentiating all public schools on an annual basis. This system must:

- give "substantial" weight to each of Indicators 1-4 above with the sum of these indicators being given a "much greater weight" than the school quality and success indicator 5;
- include differentiation of any such school in which any subgroup of students is consistently underperforming, as determined by the State, based on all indicators.

COMMENT: How states define "consistently underperforming" subgroups of students will be critical to ensuring that students with disabilities receive effective benefits from ESSA since it will be used to identify schools in need of improvement as specified under Identification of Schools for Comprehensive Reform and Targeted Reform.

As with NCLB, while ESSA requires administration of Science assessments, student performance on such assessments is not required to be part of the State accountability system.

The Indicators of the State Accountability System must include disaggregation* by the following subgroups of students:

- economically disadvantaged students;
- students from major racial and ethnic groups;
- children with disabilities; and
- English learners.

*States must provide information on:

- how it determined the minimum number of students (also known as "n" size or "subgroup size") that are necessary to be included to carry out the requirements in the State Accountability System
- how that number is statistically sound,
- how the minimum number of students was determined by the State, including how the State collaborated with teachers, principals, other school leaders, parents, and other stakeholders when determining the minimum number; and
- how the State ensures that such minimum number is sufficient to not reveal any personally identifiable information.

Significantly, the minimum number of students represented by "n" must be the same for all students and for each subgroup of students in the State. However, States may determine different subgroup minimum sizes for elements of the accountability system, such as proficiency, participation and graduation rate.

COMMENT: Schools and districts will be held accountable only for the student groups that meet or exceed this minimum number of students.

For example, if a state establishes a subgroup size of 35 for assessment proficiency, a school with 20 students with disabilities in the tested grades would not be held accountable for this group of students. A 2013 report, [The Inclusion of Students with Disabilities in School Accountability Systems](#), found that across 40 states with relevant data for the 2008–09 school year, slightly more than a third (35 percent) of public schools were accountable for the performance of the students with disabilities subgroup, representing just over half (58) percent of tested students with disabilities in those states. Thus, it is critical that stakeholders expect these minimum subgroup sizes to be based on best practices and result in holding as many schools as possible accountable for student subgroups.

ESSA directs the U.S. Dept. of Education to publish a report (within 90 days of enactment) on "best practices for determining valid, reliable, and statistically significant minimum numbers of students for each of the subgroups of students for the purposes of inclusion as subgroups of students in an accountability system." The study must not recommend a specific subgroup number. [This 2010 report, [Statistical Methods for Protecting Personally Identifiable Information in Aggregate Reporting](#) recommends a subgroup size of 10 for confidentiality purposes; this 2008 report, [Confidentiality and](#)

[Reliability Rules for Reporting Education Data](#), offers comprehensive information on setting group sizes.]

The plain language of ESSA requires each State in designing its accountability system to annually measure, for all students and separately for each subgroup of students the indicators described above. This language does not allow States to consolidate subgroups as part of their accountability systems—a tactic in use by many States under ESEA Flexibility. Such an amalgamation—frequently referred to as a “super subgroup” or “gap group”—combines the performance results of several subgroups required to be reported separately under NCLB and/or creates new subgroups by achievement level regardless of ethnic/racial/economic status. Most often, the groups being consolidated are comprised of low-income, English language learners, and students with disabilities, **with no student being counted more than once even if the student belongs to two or more of the groups being combined**. Many States gained approval to use this approach under ESEA Flexibility. While this approach may result in more small schools being held accountable, particularly schools that otherwise escape accountability for subgroups due to State established minimum “n” sizes, it has the effect of masking the performance of the individual subgroups. It also suggests that a student with one challenge, say limited English, has the same needs as a student with multiple challenges, when in fact this is not the case. This [2013 report by the Campaign for High School Equity examined the issue of super subgroups in detail](#), including a listing of States using super subgroups. Stakeholders should be on the look-out for new ways States may attempt to escape accountability for every student subgroup in State accountability systems formulated under ESSA.

ESSA also requires that each State will provide the disaggregated data required to be collected under the Act to the public in a user-friendly manner that can be cross-tabulated by, at a minimum, each major racial and ethnic group, gender, English proficiency status, and children with or without disabilities.

COMMENT: Cross-tabulation is a tool that allows comparison of the relationship between two variables. So, this would allow, for example, data to be examined regarding how many students with disabilities are also English learners. However, such cross tabulation can't reveal personally identifiable information (protected by the Family Educational Rights and Privacy Act or FERPA, aka the student records law). Thus, this requirement could seriously limit the level of detail such comparisons would allow.

Annual Measurement of Achievement

States must measure the achievement of not less than 95 percent of all students, and not less than 95 percent of all students in each subgroup of students (including students with disabilities), enrolled in public schools on the State assessments.

States must provide a clear and understandable explanation of how the State will factor the 95 percent assessment participation requirement into the system of "meaningful differentiation."

COMMENT: This is a significant change from the assessment participation requirement in No Child Left Behind. Under NCLB's Adequate Yearly Progress (AYP) provision, schools and districts that failed to assess at least 95 percent of all students and at least 95 percent of students in each subgroup **automatically failed AYP**. The

provision was deliberately constructed in order to ensure that schools could not "cherry-pick" successful students for testing nor exclude students who might perform poorly because they have not had access to the general curriculum aligned with state standards and/or received effective instruction from highly qualified teachers. While the IDEA has required that all students with disabilities be included in state- and districtwide assessments since 1997, it was this NCLB requirement that finally began to ensure that students with disabilities were tested, and in a significant turnabout, given access to the general education curriculum, and provided instruction based on an expectation that students with disabilities could also learn to high standards. The [National Center on Educational Outcomes \(NCEO\)](#) has documented the significant increase in test participation that has occurred across states for students with disabilities since enactment of NCLB as a result of the law's 95 percent participation requirement. [See [NCEO 2010 testimony before the Senate HELP Committee](#).]

While the "not less than 95 percent participation" requirement component of AYP was not waived under the ESEA Flexibility program, several States submitted and gained approval for accountability systems that did, in fact, lessen the impact of this provision within the overall system. [See [Test Participation: At Risk under ESEA Flexibility](#)]

Simply maintaining this requirement while not assigning any weight to it within the accountability system is likely to result in diminished attention to ensuring the testing of all students, including students with disabilities—a level arguably necessary to assuring that all students matter in the State's accountability system. Just as States failed to comply with the [IDEA requirement to include all students with disabilities in assessments](#), ESSA may lead to similar behavior. [This [blog post spells out just how meaningless the participation requirement can be under ESSA](#).]

The participation of students with disabilities in state assessments is critical to improving their achievement. Only by assessing all students with disabilities-at their enrolled grade level-can schools, districts and States have a complete picture of how these students are doing and make important instructional decisions. And, equipped with information from the assessments, each student's present level of performance and annual goals can be crafted in a manner that seeks to close the gap between the student's achievement and the state standards for their enrolled grade.

Importantly, NCLB and its regulations stated that not only must students with disabilities be tested, but they must be tested at their enrolled grade level. This provision led to the elimination of "out-of-level" or "below-grade-level" testing of students with disabilities - a practice that was widespread in many states, based largely on stereotypes and low expectations, and resulted in this subgroup of children, in particular, being channeled into low tracks with access only to limited curriculum and little or no opportunity to learn to high standards and develop higher order critical thinking skills. As justification for this prohibition, the comments to the final NCLB regulations stated:

"One of the bedrock principles of the NCLB Act is that all students can learn to high standards. As a result, section 1111(b)(1) requires challenging academic content and student achievement standards that a State applies to all schools and students in the State. Similarly, section 1111(b)(3) requires a State to develop aligned assessments that the State uses to measure the achievement of all students. These requirements are accurately implemented in Secs. 200.2(b)(1) and 200.6(a) of the final regulations. Specifically, as Sec. 200.6(a)(1) indicates, a State's assessment system must provide

*accommodations so that a student with disabilities or a student covered under Section 504 of the Rehabilitation Act of 1973 can be held to the content and achievement standards for the grade in which the student is enrolled. **Although "out-of-level" tests, for example, may provide instructional information about a student's progress, they are not an acceptable means to meet the State's assessment requirements under Secs. 200.2 and 200.6 or the accountability requirements of the NCLB Act.*** (34 CFR Part 200, Final Regulations for Standards and Assessments, Federal Register: July 5, 2002 (Volume 67, Number 129) (Emphasis added)

Despite the clear prohibition on out-of-level testing under NCLB (including ESEA Flexibility) there have been attempts to have this provision waived. Most recent was an attempt by New York state to test some students with disabilities using lower grade tests. This request was denied by the U.S. Dept. of Education [[See letter here](#)].

Ensuring that this prohibition is continued under ESSA will be critical to making sure assessment results reflect the achievement of students with disabilities at their enrolled grade.

Identification of Schools for Comprehensive Reform and Targeted Reform

Comprehensive Reform: Relying upon its own system of "meaningfully differentiating" all public schools based on all indicators in its accountability system for all students and each subgroup, each State must, beginning with school year 2017–2018, identify one statewide category of schools for "Comprehensive Support and Improvement." This category shall include:

- at least the lowest-performing 5 percent of Title I schools in the State;
- all high schools failing to graduate one third or more of their students (in other words, a graduation rate of less than 67 percent, based on the Adjusted Cohort Graduation Rate, or ACGR for all students)

In addition, schools are identified for comprehensive support and improvement if they have already been identified for "additional targeted support" based on having a "consistently underperforming subgroup", AND have a subgroup of students performing below the bottom 5% of Title I schools, AND have not achieved state-defined "exit criteria" from additional targeted support after a number of years determined by the state.

COMMENT: The identification of high schools is based only on the graduation rate (ACGR) for all students. Thus, schools could have a very low graduation rate for students with disabilities but escape this identification if other groups are doing well enough to push the total graduation rate over 67 percent. However, such schools could be identified for targeted reform if meeting the criteria below. Of course, this is dependent upon the State's 'n' size for graduation rate.

Targeted Reform: Each State must, beginning with school year 2017–2018, identify one statewide category of schools for "Targeted Support and Improvement." This category shall include:

- schools in which any subgroup of students is *consistently underperforming* (as defined by the state);
- schools in which the performance of any subgroup of students is below the level used to identify schools for the bottom 5% in the state.

States may include additional categories of schools via their system of "meaningful differentiation."

Subsequent to 2017-2018, States must identify these categories of schools at least once every three years.

What a Comprehensive Support and Improvement Plan Looks Like

Following identification of schools as required above, local educational agencies (school districts) must locally develop and implement a comprehensive support and improvement plan for the school to improve student outcomes, that:

- is informed by all indicators including student performance against State-determined long-term goals;
- includes evidence-based interventions (see Important Definitions);
- is based on a school-level needs assessment;
- identifies resource inequities, which may include a review of local educational agency and schoollevel budgeting, to be addressed through implementation of the comprehensive support and improvement plan;
- is approved by the school, local educational agency, and State educational agency;
- is monitored and periodically reviewed by the State educational agency, which must initiate additional interventions if a school so-identified fails to improve after a designated period.

For high schools in the State identified as failing to graduate one third or more of their students (i.e., a graduation rate of 67 percent or better), the State educational agency may:

- permit differentiated improvement activities that utilize evidence-based interventions in the case of such a school that predominantly serves students—
- returning to education after having exited secondary school without a regular high school diploma; or
- who, based on their grade or age, are significantly off track to accumulate sufficient academic credits to meet high school graduation requirements, as established by the State; and
- in the case of a high school that has a total enrollment of less than 100 students, permit the local educational agency to forego implementation of improvement activities required under this paragraph.

COMMENT: Depending on the configuration of alternative high schools in a State, these provisions may not work in the best interest of students with disabilities (or racial and ethnic minorities), particularly the provision allowing small schools (less than 100 students) to forego improvement activities. Alternative high schools often have a disproportionate number of students with disabilities and students of color, including those with disabilities. These students are entitled to receive comparable aids, benefits

and services and all protections of the civil rights statutes, Title VI (race, color, ethnicity) and Section 504 (disability).

What a Targeted Support and Improvement Plan Looks Like

Each school identified through the State's accountability system as in need of intervention by the school district must develop and implement a school-level targeted support and improvement plan to improve student outcomes for each subgroup of students that was the subject of the identification. The Targeted Support and Improvement Plan must:

- be informed by all Indicators including student performance against long-term goals;
- include evidence-based interventions;
- be approved by the local educational agency prior to implementation of such plan;
- be monitored, upon submission and implementation, by the local educational agency;
- and
- result in additional action following unsuccessful implementation of such plan after a number of years determined by the local educational agency.

In schools in which any subgroup of students, *on its own*, would lead to identification, the improvement plan must also identify resource inequities (which may include a review of local educational agency and school level budgeting), to be addressed through implementation of such plan. Any of these schools that fail to attain the State's 'exit criteria' [necessary to be released from its designation as a targeted support and improvement school] within the State defined timeline must be reclassified by the State as in need of comprehensive support and improvement.

COMMENT: While the ability and capacity of a school that has been identified as having "consistently underperforming" subgroup(s) of students to develop its own improvement plan may seem highly questionable, prior to implementation such a plan must be approved by the district and the State educational agency. Moreover, such plans must be developed in partnership with stakeholders, including not only principals and other school leaders, but teachers and parents. This provides a critical opportunity for parents, including parents of students with disabilities, and their advocates, to engage as key members of the school community empowered through a jointly developed Parent Involvement Policy to identify barriers to their children's learning to high standards and to participate in the development of the school's improvement plan.

Recent projects examining how schools are positively impacting the performance of all students, including students with disabilities, support the important role of the district in planning and implementing improvement plans. [See, for example, [Moving Your Numbers](#)]

Public School Choice

Under ESSA a local educational agency (school district) may allow students enrolled in a school identified by the State for comprehensive support and improvement to transfer to another public school served by the local educational agency, unless such an option is prohibited by State law. The district must give priority to transfer to the lowest-achieving children from low-income families.

COMMENT: This provision is a watered-down version of the school choice provision in NCLB. Under NCLB school districts were not required to offer the same school choice options to students with disabilities as those offered to non-disabled students. School choice options could be limited to schools in the district that could accommodate the needs of the student and provide an appropriate education. Therefore, in dealing with districts that elect to provide school choice, it is important to ensure that students with disabilities are able to receive FAPE and, consistent with Section 504 and the ADA, to access effective, comparable benefits to the same extent as non-disabled students.

Other Key Components of State Plans

ESSA requires States to provide details on all of the following:

- how the State will provide assistance to local educational agencies and individual elementary schools choosing to use Title I funds to support early childhood education programs;
- how low-income and minority children enrolled in Title I schools are not served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers, and the measures the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such description;
- how the State educational agency will support local educational agencies receiving assistance under this part to improve school conditions for student learning, including through reducing:
 - incidences of bullying and harassment;
 - the overuse of discipline practices that remove students from the classroom; and
 - the use of aversive behavioral interventions that compromise student health and safety;
- how the State will support local educational agencies in meeting the needs of students at all levels of schooling (particularly students in the middle grades and high school), including how the State will work with such local educational agencies to provide effective transitions of students to middle grades and high school to decrease the risk of students dropping out;
- the steps a State educational agency will take to ensure collaboration with the State agency responsible for administering the State plans under parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq. and 670 et seq.) to ensure the educational stability of children in foster care, including assurances that:
 - any such child enrolls or remains in such child's school of origin, unless a determination is made that it is not in such child's best interest to attend the school of origin, which decision shall be based on all factors relating to the child's best interest, including consideration of the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement;
 - when a determination is made that it is not in such child's best interest to remain in the school of origin, the child is immediately enrolled in a new school, even if the child is unable to produce records normally required for enrollment;
 - the enrolling school shall immediately contact the school last attended by any such child to obtain relevant academic and other records; and

- the State educational agency will designate an employee to serve as a point of contact for child welfare agencies and to oversee implementation of the State agency responsibilities required under this subparagraph, and such point of contact shall not be the State's Coordinator for Education of Homeless Children and Youths under section 722(d)(3) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(d)(3));
- how the State educational agency will provide support to local educational agencies in the identification, enrollment, attendance, and school stability of homeless children and youths; and
- such other factors the State educational agency determines appropriate to provide students an opportunity to achieve the knowledge and skills described in the challenging State academic standards.

COMMENT: While this is a long and complex list, every element has important application to students with disabilities! Students with disabilities are disproportionately poor, taught by ineffective or out-of-field teachers, subject to bullying and harrassment, experience much higher rates of suspension and expulsion, and criminalization of their behavior and referral to the juvenile justice system, retention in grade, dropping out, and placement in foster care. Therefore, each of these provisions within a State plan should include specific information about students with disabilities, not simply broad generalities.

- The new requirement regarding the school of origin for students in foster care is particularly important to students with disabilities, as such students may have their special education services and supports seriously disrupted when required to change schools. According to the [National Center on Family Homelessness](#), children experiencing homelessness are four times more likely to show delayed development and twice as likely to have learning disabilities as non-homeless children. [[Learn more about ESSA provisions regarding homeless children and youth and children in foster care.](#)]
- The requirement to ensure that low-income and minority children enrolled in Title I schools are not served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers is particularly important given the research on this topic. [See, for example, [Uneven Playing Field? Assessing the Inequity of Teacher Characteristics and Measured Performance Across Students](#) (PDF)]
- The final provision - "such other factors ... to provide students an opportunity to achieve..." speaks directly to the urgent need to provide standards-based Individualized Education Programs to students with disabilities in order to ensure they receive special education, supports and services designed to get them to the State academic standards. [[See Standards-based IEPs for all student with disabilities, as articulated by the U.S. Dept. of Education in a November 16, 2015 Dear Colleague Letter](#)]

It is also significant that both schoolwide programs are mandated to develop plans describing, inter alia, strategies the school will be implementing that will provide opportunities for all children, including each of the subgroups to meet the challenging State academic standards; use methods and instruction strategies that strengthen the academic program, increase the amount and quality of learning time, and help provide an enriched accelerated curriculum, and particularly address the needs of those children at risk of not meeting the challenging academic standards, including through counseling,

mental health programs, specialized instructional support services, mentoring services and other strategies to improve students' skills outside the academic subject areas (e.g., social and emotional skills). Targeted assistance programs similarly must provide to the local school district assurances that the school will help provide an accelerated enriched curriculum; minimize the removal of children from the regular classroom during regular school hours for instruction supported by Title I and on an ongoing basis, review the progress of eligible Title I students and the targeted assistance program if necessary, to provide additional assistance to enable such children to meet the challenging State academic standards.

Local Educational Agency Plans

ESSA requires each Local Educational Agency (LEA) (school district) receiving funds under the Act to develop and submit a plan to the State educational agency.

The required components of Local Educational Agency Plans are extensive and in large part echo the components of the State plan.

Importantly, ESSA continues the **Parents Right-to-Know** provision of NCLB which requires that at the beginning of each school year, a LEA that receives funds under the Act shall notify the parents of each student attending any Title I school that the parents may request, and the LEA will provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including at a minimum, the following:

- Whether the student's teacher has met State qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction; is teaching under emergency or other provisional status through which State qualification or licensing criteria have been waived; and is teaching in the field of discipline of the certification of the teacher.
- Whether the child is provided services by paraprofessionals and, if so, their qualifications.

In addition to the above information that parents may request, a Title I school shall provide to each individual parent of a child:

- information on the level of achievement and academic growth of the student, if applicable and available, on each of the State academic assessments required under this part; and
- timely notice that the student has been assigned, or has been taught for 4 or more consecutive weeks by, a teacher who does not meet applicable State certification or licensure requirements at the grade level and subject area in which the teacher has been assigned.

COMMENT: The Parents Right-to-Know provisions are particularly important to parents of students with disabilities, many of whom are frequently taught by unqualified teachers and also receive services from paraprofessionals. Note, however, that the provision applies only to Title I schools.

ESSA adds a new provision called "Testing Transparency" which requires that;

- At the beginning of each school year, a LEA that receives funds under the Act shall notify the parents of each student attending any Title I school that the parents may request, and the LEA will provide the parents on request (and in a timely manner), information regarding any State or LEA policy regarding student participation in any assessments mandated by ESSA and by the State or LEA, which shall include a policy, procedure, or parental right to opt the child out of such assessment, where applicable.

COMMENT: While several states have policies that allow parents to opt their child out of assessments, the U.S. Dept. of Education has reminded States that such students will still count as non-participants in calculating the State's adherence to the NCLB, and in future years, ESSA, provision on test participation (see **Annual Measurement of Achievement**). [See [USED Dear Colleague Letter of 12-22-15](#)] [More on [State Opt-out Policies](#)]. As with the Right-to-Know provision above, note that this provision applies only to Title I schools.

National Assessment of Educational Progress

State and LEA plans must include an assurance that the State and LEA, if selected, will participate in the biennial State academic assessments in reading and mathematics in grades 4 and 8 of the [National Assessment of Educational Progress \(NAEP\)](#).

COMMENT: Continuing the requirement that every State participate in the NAEP, first initiated under NCLB, is particularly important to students with disabilities as it provides the only information on the academic performance of students with disabilities that is comparable across states. NAEP performance varies widely across States, as [we report here](#). State report cards must include the State's NAEP results compared to the national average.

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► ANNUAL STATE REPORT CARDS

ESSA maintains the requirement for every State receiving funds under the Act to issue annual state report cards. In addition to data on long-term goals and measurements of interim progress for students in the aggregate and disaggregated by subgroup, all indicators that are part of the accountability system for all students and disaggregated by subgroups, the information required to be included in these report cards is extensive and includes many new elements.

Some new elements important to students with disabilities are:

- Reporting on the achievement of homeless students, foster care students and [students with a parent who is a member of the Armed Forces](#), disaggregated by student subgroups.
- Reporting on the performance of homeless students and, in particular, foster care students on the "other" academic indicator and high school graduation rates, disaggregated by student subgroups.
- Reporting the information submitted to the U.S. Dept. of Education's [Civil Rights Data Collection](#), including equitable distribution of experienced teachers, measures of school quality, climate, and safety, rates of in-school suspensions, out-of-school

suspensions, expulsions, school-related arrests, referrals to law enforcement, chronic absenteeism (including both excused and unexcused absences), incidences of violence, including bullying and harassment; and the number and percentage of students enrolled in preschool programs; and accelerated coursework to earn postsecondary credit while still in high school, such as Advanced Placement and International Baccalaureate courses and examinations, and dual or concurrent enrollment programs.

- Reporting on the per-pupil expenditures of Federal, State, and local funds, including actual personnel expenditures and actual nonpersonnel expenditures of Federal, State, and local funds, disaggregated by source of funds, for each local educational agency and each school in the State for the preceding fiscal year.
- The number and percentages of students with the most significant cognitive disabilities who take an alternate assessment, by grade and subject.

Importantly, ESSA maintains the requirement that State report cards include the results on the academic assessments in reading and mathematics in grades 4 and 8 of the [National Assessment of Educational Progress \(NAEP\)](#) compared to the national average of NAEP results. While not required by ESSA, such results should be provided for all students and for each student subgroup.

ESSA also requires school districts to produce and disseminate annual report cards. A listing of [requirements of state and district report cards is here](#) (PDF).

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► CHARTER SCHOOLS

ESSA states that the accountability provisions under the Act shall be overseen for charter schools in accordance with State charter school law.

ESSA's charter school grant program, "Expanding Opportunity Through Quality Charter Schools," now requires that states applying for innovation funds include in their plan how they will recruit, admit and retain students with disabilities.

ESSA also makes clear that schools specializing in providing specific services for students with a demonstrated need for such services, such as students who need specialized instruction in reading, spelling, or writing, are not prohibited from receiving funds under the program.

COMMENT: This new provision appears to open the door for the establishment of charter schools that specialize in serving students with disabilities, or students with specific disabilities such as learning disabilities or autism. Note, however, that in the context of charter school education every public school and school district (including each charter school that acts as a local school district, in and of itself) must consistent with IDEA ensure that each child with a disability is integrated to the maximum extent appropriate in the general curriculum with his non-disabled peers.

Information on how charter schools are serving students with disabilities is available from the [National Center for Special Education in Charter Schools](#).

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▶ MAINTENANCE OF EFFORT (MOE)

ESSA continues “maintenance of effort” requirements to ensure that federal funds are not used to reduce state and local investments in education (i.,e. “supplement not supplant”).

MOE requires that a state's fiscal effort per student, or aggregate expenditures, for free public education must be at least 90 percent of those from the preceding fiscal year.

Federal funding may be reduced if a state fails to meet the MOE requirement for one or more of the five immediate preceding years. However, the Secretary can waive the MOE requirement in the case of exceptional or uncontrollable circumstances like a natural disaster or change in the organizational structure of the state, or precipitous decline in the financial resources of the state.

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▶ FAMILY ENGAGEMENT IN EDUCATION PROGRAMS

ESSA authorizes \$10 million in federal funding beginning in 2017 and continuing through 2020 to reconstitute the Parental Information and Resources Center (PIRC)—which had not been funded since 2010—into new statewide Family Engagement in Education Programs. Minimum award is \$500,000 and a non-federal match requirement, in cash or in-kind. (Note: an authorization doesn't guarantee funding; that depends on the annual appropriations process.)

The U.S. Secretary of Education would award grants to statewide organizations to establish family engagement centers to “carry out parent education, and family engagement in education, programs; or provide comprehensive training and technical assistance to State educational agencies, local educational agencies...organizations that support family-school partnerships, and other organizations that carry out such programs.” Specifically, statewide family engagement centers would be able to access funding to, among other goals, “assist parents in participating effectively in their children’s education and to help their children meet challenging State academic standards,” and assist parents “to engage in activities that will improve student academic achievement, including understanding how parents can support learning in the classroom with activities at home and in after school and extracurricular programs.”

COMMENT: These new Family Engagement programs should work closely with the [Parent Training and Information Centers](#) authorized under the IDEA.

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▶ IMPORTANT DEFINITIONS

Four Year Adjusted Cohort Graduation Rate (ACGR) & Extended-Year Adjusted Cohort Graduation Rate

COMMENT: ESSA assigns significant attention to the graduation rate of all students and every student subgroup by requiring reporting of graduation rates calculated using the "Four Year Adjusted Cohort Graduation Rate (ACGR) and requiring intervention in any high school not graduating at least 67 percent of students in 4 years. However, the ACGR for students with disabilities is replete with problems of validity and reliability. For example, each state has been allowed to define the students with disabilities subgroup for the ACGR. According to the U.S. Dept. of Education, states may define the subgroup as (a) only students who both entered and exited high school as a IEP student, (b) only students who had an IEP at graduation, (c) any student who had an IEP at any time between entering high school and graduation, (d) some other definition. See [Study Finds Wide Variation in Graduation Rates for Students with Disabilities; Little Relationship with Graduation Policies](#) for further information.

ESSA allows States to also use an "Extended-Year Adjusted Cohort Graduation Rate" at the State's discretion in setting goals and reporting on graduation rates.

Importantly, ESSA allows high schools to count students taking the alternate assessment as having received a regular high school diploma in the ACGR, further obfuscating the validity of the ACGR for the students with disabilities subgroup.

It should be noted that the Office of Special Education Programs (OSEP) at the U.S. Dept. of Education elected to use a different graduation rate calculation for use in determining how States are doing on implementation of the IDEA. [[More on OSEP Monitoring](#)]

Evidence-based

The term 'evidence-based', when used with respect to a State, local educational agency, or school activity, means an activity, strategy, or intervention that—

- demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on strong evidence from at least 1 well designed and well-implemented experimental study; moderate evidence from at least 1 well designed and well-implemented quasi-experimental study; or promising evidence from at least 1 well designed and well-implemented correlational study with statistical controls for selection bias; or
- demonstrates a rationale based on high quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes; and includes ongoing efforts to examine the effects of such activity, strategy, or intervention.

[[More on Evidence-based](#)]

Multi-Tier System of Supports (MTSS)

The term 'multi-tier system of supports' means a comprehensive continuum of evidence-based, systemic practices to support a rapid response to students' needs, with regular observation to facilitate data-based instructional decisionmaking.

ESSA allows funds to be used on professional development activities which are designed to give teachers of children with disabilities or children with developmental delays, and

other teachers and instructional staff, the knowledge and skills to provide instruction and academic support services, to those children, including positive behavioral interventions and supports, multi-tier system of supports, and use of accommodations.

[\[More on MTSS\]](#)

Regular high school diploma

The term 'regular high school diploma' means the standard high school diploma awarded to the preponderance of students in the State that is fully aligned with State standards, or a higher diploma, except that a regular high school diploma shall not be aligned to the alternate academic achievement standards... and does not include a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential.

Well-rounded Education (ESSA eliminates the term Core Academic Subjects and replaces it with this term)

The term 'well-rounded education' means courses, activities, and programming in subjects such as English, reading or language arts, writing, science, technology, engineering, mathematics, foreign languages, civics and government, economics, arts, history, geography, computer science, music, career and technical education, health, physical education, and any other subject, as determined by the State or local educational agency, with the purpose of providing all students access to an enriched curriculum and educational experience.

Universal Design for Learning (UDL)

ESSA includes a definition of UDL (by reference to the Higher Education Opportunity Act of 2008) and also contains several references to UDL. [See this [summary from CAST.](#)]

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▶ AMENDMENTS TO IDEA

ESSA includes several amendments to the Individuals with Disabilities Education Act (IDEA). [Complete list of amendments available here](#) (PDF).

Among those most significant are:

Highly qualified. ESSA eliminates all references to the term "Highly qualified" and it strikes, by amendment, the definition of "[Highly qualified](#)" in IDEA. The IDEA definition included extensive language designed to guarantee that students with disabilities were taught by well qualified teachers, including specific requirements for teachers teaching to alternate achievement standards and teachers teaching multiple subjects.

ESSA amends IDEA's requirements regarding the obligations of State educational agencies regarding [Personnel qualifications](#). Specifically, [qualifications for special education teachers](#) now reads:

the qualifications described in [subparagraph \(A\)](#) shall ensure that each person employed as a special education teacher in the State who teaches elementary school, middle school, or secondary school has obtained full State certification as a special education teacher (including participating in an alternate route to certification as a special educator, if such alternate route meets minimum requirements described in section 2005.56(a)(2)(ii) of title 34, Code of Federal Regulations, as such section was in effect on November 28, 2008), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except with respect to any teacher teaching in a public charter school who shall meet the requirements set forth in the State's public charter school law; has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and holds at least a bachelor's degree.

COMMENT: The [National Council on Teacher Quality's Teacher Prep 2014 Review](#) reported this: "By and large, special education teacher preparation programs have not come to grips with the need to ensure that their candidates know the content of the subjects they will teach. Only 2 percent of programs nearly meet or meet the standard. Even if a program did an excellent job preparing its special education candidates in techniques to modify instructional materials, their lack of content mastery across some, or all, of the curriculum might handicap them enormously and jeopardize the success of their students...The most striking manifestation of the content knowledge problem occurs in the 35 states that certify special education teachers for grades PK-12, a span that makes it unlikely candidates sufficiently know the subjects they will teach or co-teach."

Essential Components of Reading Instruction

ESSA eliminates the Essential Components of Reading Instruction which were previously found within the [Reading First grant program of NCLB](#).

The IDEA makes reference to the Essential Components of Reading Instruction in the [Special rule for eligibility determination](#).

ESSA preserves this important reference by inserting ", as such section was in effect on the day before the date of enactment of the Every Student Succeeds Act" after "1965".

Thus, the IDEA Special rule for eligibility determination continues to reference the term 'essential components of reading instruction' which means explicit and systematic instruction in—

- (A) phonemic awareness;
- (B) phonics;
- (C) vocabulary development;
- (D) reading fluency, including oral reading skills; and
- (E) reading comprehension strategies.

COMMENT: The [National Council on Teacher Quality's Teacher Prep 2014 Review](#) reported this: "We are disheartened that the teacher education field continues to disregard scientifically based methods of reading instruction: coursework in just 17

percent of programs equips their elementary and special education teachers to use all five fundamental components of reading instruction, helping to explain why such a large proportion of American school children (30 percent) never learn to read beyond a basic level." (Page 3)

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▶ OTHER PROVISIONS OF INTEREST

Direct Student Services (DSS)

ESSA allows States to reserve up to 3% of their Title I funding for "Direct Student Services." This provision is optional and is in addition to the requirement that States set aside 7% of their Title I allocation for school improvement grants. Allowable services include a wide variety of educational opportunities, including personalized learning, public school choice, tutoring, credit recovery, accelerated learning, and access to courses not otherwise available to students in their schools, such as AP. [See [Chiefs for Change paper on DSS](#)]

COMMENT: DSS funds could be used to pay for online courses. However, a recent report from the Center on Online Learning and Students with Disabilities found serious problems with most online courses. [See the [report here](#).]

Student Support and Academic Enrichment Grants

ESSA authorizes a new block grant program (which consolidates 49 previous programs) to improve students' academic achievement by increasing the capacity of States, local educational agencies, schools, and local communities to—

- provide all students with access to a well-rounded education;
- improve school conditions for student learning; and
- improve the use of technology in order to improve the academic achievement and digital literacy of all students.

The program is authorized at \$1.65 billion annually but funding will depend on federal appropriations.

Comprehensive Center

ESSA authorizes the creation of a new comprehensive center on students at risk of not attaining full literacy skills due to a disability. The comprehensive center shall—

- identify or develop free or low-cost evidence-based assessment tools for identifying students at risk of not attaining full literacy skills due to a disability, including dyslexia impacting reading or writing, or developmental delay impacting reading, writing, language processing, comprehension, or executive functioning;
- identify evidence-based literacy instruction, strategies, and accommodations, including assistive technology, designed to meet the specific needs of such students;
- provide families of such students with information to assist such students;
- identify or develop evidence-based professional development for teachers, paraprofessionals, principals, other school leaders, and specialized instructional support personnel to understand early indicators of students at risk of not attaining full literacy

skills due to a disability, including dyslexia impacting reading or writing, or developmental delay impacting reading, writing, language processing, comprehension, or executive functioning; use evidence-based screening assessments for early identification of such students beginning not later than kindergarten; and implement evidence-based instruction designed to meet the specific needs of such students; and

- disseminate the products of the comprehensive center to regionally diverse State educational agencies, local educational agencies, regional educational agencies, and schools, including, as appropriate, through partnerships with other comprehensive centers.

Literacy Education for All, Results for the Nation

ESSA includes a new competitive grant program to provide funds to States to develop or enhance comprehensive literacy instruction plans that ensure high-quality instruction and effective strategies in reading and writing for children from early childhood education through grade 12, including English learners and children with disabilities.

Comprehensive literacy instruction is defined as instruction that

- includes developmentally appropriate, contextually explicit, and systematic instruction, and frequent practice, in reading and writing across content areas;
- includes age-appropriate, explicit, systematic, and intentional instruction in phonological awareness, phonic decoding, vocabulary, language structure, reading fluency, and reading comprehension;
- includes age-appropriate, explicit instruction in writing, including opportunities for children to write with clear purposes, with critical reasoning appropriate to the topic and purpose, and with specific instruction and feedback from instructional staff;
- makes available and uses diverse, high-quality print materials that reflect the reading and development levels, and interests, of children;
- uses differentiated instructional approaches, including individual and small group instruction and discussion;
- provides opportunities for children to use language with peers and adults in order to develop language skills, including developing vocabulary;
- includes frequent practice of reading and writing strategies;
- uses age-appropriate, valid, and reliable screening assessments, diagnostic assessments, formative assessment processes, and summative assessments to identify a child's learning needs, to inform instruction, and to monitor the child's progress and the effects of instruction;
- uses strategies to enhance children's motivation to read and write and children's engagement in self-directed learning;
- incorporates the principles of universal design for learning;
- depends on teachers' collaboration in planning, instruction, and assessing a child's progress and on continuous professional learning; and
- links literacy instruction to the challenging State academic standards, including the ability to navigate, understand, and write about, complex print and digital subject matter.

Preschool Development Grants

ESSA includes a new \$250 million Preschool Development Grants program to coordinate existing early learning programs, improve preschool programs, expand access, and strengthen transition to elementary school, which would be jointly administered between the U.S. Department of Health and Human Services and U.S. Department of Education.

The focus of this program will be on children who are from low-income or vulnerable backgrounds.

Pay for Success

ESSA includes a definition of Pay for Success and allows federal funds provided under two sections (title I, Part D and title IV, Part A) of the law to be used to fund Pay for Success initiatives.

COMMENT: Pay for Success initiatives have raised some concerns in the disability advocacy community. [See this [Ed Week article for discussion](#).]

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