# Key State Decisions Required Under the Every Student Succeeds Act (ESSA)

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## INTRODUCTION

While it will be months before the U.S. Department of Education releases even draft regulations and guidance related to the Every Student Succeeds Act (ESSA), State Education Agencies (SEAs) can take some action now to prepare for the transition to the new law. Below, organized into key topic areas, are some essential questions that States should begin to familiarize themselves with; states should consider how these questions – and their possible answers -- might affect their thinking about implementing ESSA when final regulations are released. In addition to considering these key questions, there are some specific actions States may take right now in order to put themselves in a good position:

- ***Constituency Outreach.*** State should begin constituency outreach to gather ideas for implementation. Input is a requirement under the new law, but it is also a good strategy to help generate support. The process of gathering input is also an opportunity to identify partners to help implement and communicate about the new plan.
- ***Vision Development***. With new flexibility comes the opportunity for states to do more, better and differently. States can host brainstorming discussions to develop a vision for underperforming schools and students. States can use this vision as the basis for concrete planning when final regulations are released by the Department. While certain elements of the vision may need to be adapted in order to adhere to the rules and constructs of the new law, it's worth taking the opportunity to think big and differently before diving into the specifics.
- ***Communications and Messaging.*** When a new law passes, teachers, parents, principals, superintendents and legislators want to know "what's changing today?" ESSA is being branded as a law that provides tremendous state flexibility, but we know that there are still requirements that states and local districts must adhere to. Both of these issues present a communications and messaging challenge that states should get ahead of.
- ***Accountability Alignment***. For both waiver and non-waiver states, now is a good time to analyze current accountability systems in the context of the new requirements, which will help states understand what can stay the same and what will need to change. This will provide states the right jumping off point to create a new plan that builds on the current system and meets a new vision.
- ***Current School Improvement Alignment***: In both waiver and non-waiver states, officials can begin thinking about what parts of their school improvement system they want to maintain, and which they want to change. The new law provides states with significant flexibility regarding what actions to take with identified schools. States should start researching and planning now for what kinds of evidence-based interventions make sense, and what partnerships might be needed to assist in implementation.
- ***Teacher Evaluation***. For waiver states, teacher evaluations are no longer a requirement. States should start talking internally about how teacher evaluation policies and programs may change given the flexibility allowed by the new law.
- ***Consolidated Application***. States should discuss whether a consolidated application will be the right approach, and begin to coordinate and plan accordingly with appropriate

offices. State plans will go into effect beginning with the 2017-18 school year (after receiving US Department of Education approval).

- ***Plan Ahead for the EL/Title III Transition.*** All previous Title III standards, assessment, and accountability requirements have migrated to Title I, although the Title III program remains in the new law. In order to leverage expertise and efficiencies, states might consider how this affects staffing, coordination, and collaboration among the Title I and Title III.

## POTENTIAL QUESTIONS AND CONSIDERATIONS, BY MAJOR ISSUE

### Title I

#### Direct Student Services

- States will need to decide if they want to set aside up to 3% of their Title I funds in order to establish a program of direct student services, and, if so, how much (beginning with the FY2017 funding). If the answer is yes, states will need to:
    - Begin the process of designing such a program;
    - Engage in required consultation with LEAs;
    - Develop grant applications;
    - Develop and implement processes for compiling and maintaining a list of approved "academic tutoring providers" (note: providers of other services do not require state approval); and,
    - Develop a process for monitoring the quality of all providers.

#### State Plans

- This year, state's must begin the development of their new State plans, including developing a process to consult with the Governor, state legislature, state board of education, and stakeholders, and deciding if their plan will be part of a consolidated plan. Consultation with the Governor in the development of a State's Title I, Title II or ESEA consolidated application requires a 30 day review period by the Governor's office as well as consultation before submission of the plan to the Secretary.

#### Challenging Academic Standards

- State plans must include an assurance that the state has adopted "challenging academic content standards and aligned academic achievement standards."
- States must decide if they will create new standards or revise current standards to meet these new requirements.
- States will need to decide how they will demonstrate that their standards are "aligned with entrance requirements for credit-bearing coursework in the system of public higher education in the State and relevant State career and technical education standards."
- States will need to determine if they want to adopt alternative standards for students with disabilities or whether any changes are necessary to these standards if a state has previously adopted them.
- If a state has recently adopted new academic standards (e.g., Common Core), it may need to review its English language proficiency (ELP) standards to ensure that they are in alignment with the new requirement under ESSA that ELP standards address different

proficiency levels, which was not a requirement of NCLB. States will thus need to determine if their ELP standards meet this requirement, and revise them if they do not.

**Assessments**

- State plans must demonstrate that the SEA, in consultation with LEAs, has implemented a set of high-quality academic assessments in mathematics, reading or language arts, and science.
- States may decide if they will implement assessments in any other subjects.
- States may also decide to have assessments delivered, at least partially, in the form of portfolios, projects, or extended performance tasks.
- States may decide if assessments will 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."
- States will need to determine if their ELP assessments align with their ELP standards, and revise those assessments if they do not.
- States may decide if they will exempt 8th graders who take advanced mathematics in middle school from the regular state assessment.
- States will have to determine whether they will adopt alternative assessments for students with significant cognitive disabilities or modify such assessments if a State already has them in place. States are also required to determine how they will do additional oversight over local educational agencies which administer these assessments should they be assessing more than 1% of their total student population via these assessments.
- Locally selected assessments – states must determine if they will make nationally recognized high school assessments available for selection. If so, they must carry out additional actions, a process that would likely have to begin this year.
- In the event any district seeks to use a locally selected assessment, states are required to establish technical criteria to determine if any such assessments meet the requirement.
- States may decide if they want to develop and administer computer-adaptive assessments.
- States may set a limit on the aggregate amount of time devoted to the administration of assessments for each grade, expressed as a percentage of annual instructional hours. States need to determine when they would make this decision and, if they want to institute the limit during the 2016-17 school year, states would need to begin the process soon.

**Statewide Accountability System**

- Each state plan must include a description of the statewide accountability system – key decisions include:
    - The minimum number of students (n-size) that the State determines are necessary with respect to the disaggregation of information, including:
        - How that number is statistically sound;
        - How such 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 such minimum number; and
    - "How the State ensures that such minimum number is sufficient to not reveal any personally identifiable information"
- States will have to establish "ambitious long-term goals, which shall include measurements of "interim" progress toward meeting such goals." States must decide what constitutes "ambitious" "long-term" and "interim."
- These goals include:
    - Academic achievement as measured by proficiency on annual state assessments; and
    - Graduation rates in which states must decide if they want to use the extended-year rate in addition to the required 4-year cohort graduation rate.
    - With respect to English learners, increases in the percentage of student making progress achieving English language proficiency, within a timeline which must be determined by the State.
- States will have to annually measure for all students and separately for each subgroup of students, the following indicators:
    - For all schools and "based on the long-term goals", academic achievement as measured by proficiency on annual state assessments and at the discretion of the state, student growth on such assessments for each public high school in the state;
    - For non-high schools, any other measure of growth as determined by the state (not necessarily based on the state assessments), or another "valid and reliable indicator that allows for meaningful differentiation in school performance";
    - For high schools, graduation rates in which states must decide if they want to use the extended-year rate in addition to the required 4-year cohort graduation rate.
    - For all schools, progress of ELs in attaining English language proficiency – states must decide what is meant by "progress." This could be just a continuation of the indicator a state is currently using under the similar NCLB language in Title III;
    - For all schools, one additional school quality or student success indicator – states must decide what additional indicator or indicators they will use that allow for "meaningful differentiation in school performance."
- States must develop a system to "meaningfully differentiate" all public schools in the state based on the indicators noted above.
    - In developing such a system, states will have to decide how much weight to assign to each indicator, while ensuring that each such indicator has "substantial weight."
    - States must also ensure that, in the aggregate, the indicators which do not include the "additional school quality or student success indicators," are assigned a "much greater" weight. States will need to decide what constitutes "substantial" and "much greater."
    - States will need to decide whether to count former ELs as part of the EL subgroup for up to four years after they exit EL status. (Under the regulations for NCLB, this was allowed only for up to two years.)
    - Based on the wording of the statute, the indicator measuring progress of ELs in attaining English proficiency does not need to be an annual

indicator. Unless the Department requires through regulation that it must be annual, states will need to decide how often to use this indicator.

- States must decide a methodology for identifying schools (based on the system of differentiation), for comprehensive support and improvement (CSI), and for determining if additional categories of schools, beyond what is required by the new law, should be included. This must be "not less than the lowest-performing 5 percent of all schools receiving funds under this part in the State."
- ESSA requires that high schools that graduate fewer than two-thirds of their students be identified for comprehensive support and improvement, but does not specify whether this identification is to be made based on the four-year adjusted cohort rate, an extended rate, or some other rate. Unless the Department regulates on this issue, states will need to decide what rate to use.
- States must decide how the requirement that 95% of all students and students in each subgroup participate in assessments will factor into their state accountability systems.
- Districts with schools identified by the state for comprehensive support and improvement must develop a plan for each such school.
    - States must determine the plan approval process and what will be required for approval. They must also develop the process by which the state will provide on-going monitoring and review of the plan.
    - States must decide if they will permit differentiated improvement activities for high schools that predominantly serve students who are either retuning back to school after dropping out or are significantly off track to graduate.
    - States must decide if they will permit high schools with a total enrollment of less than 100 students to forgo otherwise required improvement activities.
- States must notify districts if they have any school where any subgroup of students is consistently underperforming. These schools will be identified for Targeted Support and Improvements (TSI).
    - States must decide what constitutes "consistently" and "underperforming."
    - States must decide how frequently to identify these schools.
- States must decide what the exit criteria will be for schools identified as in need of comprehensive support and improvement.
    - States must decide how many years schools will have to be underperforming in order to meet the criteria for continued support, and decide which "more rigorous" actions must be taken by such school (which may include addressing school level operations).
    - For targeted schools, states must determine the number of years after which such schools will instead be identified for comprehensive support and improvement.
    - States must develop a process to periodically review resource allocation for supporting school improvement in each district that serves a significant number of schools identified for comprehensive support and improvement and schools identified for targeted support. The state must also determine how it will provide technical assistance to each such district.
    - States must decide if they will take actions to initiate additional improvement in districts where a significant number of schools are consistently identified by the state for comprehensive school improvement

and are not meeting the state's exit criteria or have a significant number of schools implementing targeted support and improvement plans.
    - States must decide if they will establish alternative, evidence-based strategies that can be used by districts to assist a school that is identified for comprehensive school improvement and, if so, what these strategies will be.

**Additional State Plan Provisions**

- States must determine how they will provide assistance to districts and schools using Title I funds for early childhood education.
- States must decide how to determine whether, and ensure that, low-income and minority children enrolled in schools assisted under Title I are not served at disproportionate rates by ineffective, out-of-field, or inexperienced teachers.
- The state must also determine the measures the SEA will use to evaluate and publicly report the progress of the State educational agency with respect to such description, although a teacher/leader evaluation system is not required.
- States must determine how they will help districts improve conditions for student learning (safe schools) and help decrease risk of students dropping out.
- States will have to decide how they will ensure educational stability for children in foster care, including the process for allowing foster students to (1) remain at their school of origin, (2) immediately enroll in a school even if records are not available, (3) ensure the transfer of foster student records, and how and how a point of contact with be for child welfare agencies.
- States will have to decide how they will provide support to districts serving homeless youth.

**State Report Card**

- States will have to determine what additional information they must collect to meet the law's new requirements (e.g. new subgroups, school quality and climate data, preschool data, school-level expenditure data).
- States will have to report on professional qualifications of teachers. As part of this reporting, states will have to determine what constitutes "inexperienced" teachers.
- States must decide if they will include any additional information regarding school progress, beyond what is required under the law.
- States will need to meet the requirement that they publicly provide cross-tabulated (by racial and ethnic group, gender, English proficiency status, and disability status) data on student achievement, high school graduation, the "other academic indicator," and assessment/non-assessment rates.

**Local Plans**

- States must develop a process for approving local plans, which must include how the state will determine if the local plan "provides that schools served under this part substantially help children served under this part meet the challenging State academic standards." In addition, the local plan must include how the LEA will identify and address "any disparities that result in low-income students and minority students being taught at higher rates than other students by ineffective, inexperienced, or out-of-field teachers."

**Participation of Children Enrolled in Private Schools**

- Each State must decide who will serve as the ombudsmen within their Department responsible for monitoring and enforcing requirements under ESSA related to non-public school participation in federal education programs. This is a new requirement.

**State Assessment Grants**

- The Secretary will continue to be required to award grants for assessments and related activities. However, states will be allowed to use these funds to support additional activities, including refining science assessments in order to integrate engineering design skills, developing and improving growth models, developing new assessment instruments such as computer adaptive assessments, and designing improved report cards.
- States must decide if they will seek additional funds from the Secretary to conduct an audit of their assessment system.
- The Secretary can provide states with the authority to establish an alternative, innovative assessment system. States will have to decide if they want to participate in such a demonstration project if made available.

**Title II - Teacher Quality**

- States must decide if they will reserve up to 3% of their state held funds under Title II in order to carry out state-level activities for principals or other school leaders and, if so, how to use those funds. States must also decide if they wish to use other state reservations for other activities, including teacher/leader evaluations and not more of 2% of their state allotment for teacher/leader preparation academies.
- States must decide if they will continue teacher evaluation systems developed under waivers.

**Title III - ELL**

- If they do not already have them, states will need to develop and implement uniform statewide criteria and procedures for entrance into and exit out of EL status. The procedures must include assessing all potential ELs for their English proficiency within 30 days of enrollment.
- States will need to decide if they want to use state set-aside funds to provide recognition and rewards to LEAs that have significantly improved the achievement and progress of ELs.
- States should consider the impact of the reduction from 60 percent to 50 percent (of the 5 percent state-level set-aside) that may be used for state administration may require states to make changes in SEA staffing.
- States will need to develop procedures for the semi-annual LEA report, including procedures for disaggregated data on EL students who have disabilities.

N***ote:*** *The vast majority of the information above is excerpted from a document developed by the Penn Hill Group in Washington, DC through the Council of Chief State School Officers.*