

Every Students Succeed Act

ESEA Reauthorization:

What It Means for Vulnerable Children & Youth

February 24, 2016



MAURA MCINERNEY, ESQ.

EDUCATION LAW CENTER

Who We Are

Education Law Center-PA (“ELC”) is a non-profit, legal advocacy organization dedicated to ensuring that *all children in Pennsylvania have access to a quality public education.*

Through legal representation, impact litigation, and policy advocacy, ELC advances the rights of vulnerable children, including children living in poverty, children of color, English language learners, children with disabilities, those in the foster care and juvenile justice systems, and children experiencing homelessness. Our strategic areas:

- **Equal Access to Quality Schools**
- **Adequate & Equitable School Funding**
- **Dismantling the School-to-Prison pipeline**

ESSA Big Picture

-
- » *Enacted Dec. 2015, Eff. Date – Dec. 2016***
 - » *Reauthorization of Major Education Law (ESEA); Replaces No Child Left Behind (2002)*
 - » Establishes Standards » Assessments
 - » **Accountability**
 - » Effective Teaching
 - » Title I Plans & Federal Grants
 - » **Focus: Driving interventions to low-performing schools & supporting at-risk students**

ESSA v. NCLB Debate

ESSA: State Control Model

State curriculum: *We are best positioned to define what students needs to learn.*

State defines performance standards.
May choose vague measures that make it difficult to identify failing schools.

Teacher evals determined by state legislative process or school district policy and input from schools.

Struggling students will not be supported because there are no strong incentives to intervene.

NCLB: Federal Control Model

Federal standards (Common Core): *Rigorous requirements will make us competitive in global economy.*

Strict accountability standards =
Punitive measures for underperforming schools, incentivizes “pushing/counseling out” struggling students.

Teacher evaluations defined by student outcomes = *good teachers pushed out.*

Struggling students are more likely to receive more interventions.

Standards

States are required to adopt “challenging” academic standards (could be Common Core State Standards or new standards adopted by state)

- The U.S. Secretary of Education is expressly prohibited from forcing or even encouraging states to pick a particular set of standards (including the common core)

Testing & Assessments

States *still* must test students in reading and math in grades 3 through 8.

High school – Break out the data for whole schools, plus different “subgroups” of students (English-learners, students in special education, racial minorities, students in poverty).

Note: ESSA maintains the federal requirement that 95% must participate in tests.

Testing & Assessments

- States can create their own testing opt-out laws, and states decide what should happen in schools that miss targets.
- Districts can use local, nationally recognized tests at the high school level, with state permission, such as the SAT or ACT.
- Up to seven states can apply to “try out” local tests for a limited time, with the permission of the U.S. Department of Education.
- Must disaggregate the data by specific sub-groups – AND adds requirements for students who are homeless and in foster care.

Accountability

- **New law shifts responsibility from feds to states – most significant change.**
- Requires states to identify and provide “state-determined” interventions and supports to:
 - lowest-performing 5 percent of schools;
 - schools with large achievement gaps; and
 - high schools where one-third or more of students fail to graduate.

Accountability (Cont'd)

States must submit accountability plans (SY 2017-18 thru 2020) that are peer-reviewed. State can obtain a hearing if plan is rejected.

States pick their own goals, both a big long-term goal, and smaller, interim goals. These goals must address: proficiency on tests, English-language proficiency, and graduation rates.

States must incorporate at least four indicators into their accountability systems and **must** include three academic indicators: proficiency on state tests, **English-language proficiency**, plus some other academic factor that can be broken out by subgroup. *Weight determined by state.*

Fourth Factor: Defined by State. Possibilities include: student engagement, **school climate**, educator engagement, access to and completion of advanced coursework, postsecondary readiness.

Low Performing Schools

States identify and intervene in schools:

- With the bottom 5 percent of performers (determined once every three years).
- High schools where graduation rate = 67 percent or less.

Districts determine plans monitored by state.

- Where subgroups of students are struggling.

Schools develop evidence-based plans to help the particular group of students which are monitored by Districts. States and districts establish “comprehensive improvement plan” in schools where subgroups chronically underperform despite local interventions.

Teachers

- States are no longer required to evaluate teachers through student outcomes.
- NCLB law's "highly qualified teacher" requirement is officially a thing of the past.
- Former Teacher Incentive Fund—now Teacher and School Leader Innovation Program—provides grants to districts that want to try out performance pay and other teacher-quality improvement measures.
- [ESSA includes resources for helping train teachers](#) on literacy and STEM (Science, Technology Engineering & Math education)
- Effective teachers are defined by state law.

GRANT PROGRAMS

Block Grant (individual programs now consolidated)

Preschool Development Grants

Innovation Grants

Parent Engagement Grants

Districts receiving over \$30,000 must spend at least 20 percent of funding on at least one activity that helps students become well-rounded, and another 20 percent on at least one activity that helps students be safe and healthy. Part of the money can be spent on technology.

English-Language Learners

- Accountability moves from Title III (English-language acquisition section of ESEA) to Title I (accountability). Accountability measures highlight progress of ELL students as greater priority.
- English-language learners' test scores "count" after they have been in the country a year.
- During first year, ELL students' test scores do not count toward school's rating, but they must take both assessments & have results reported.
- In second year, the state incorporates ELLs' results for both reading and math, using some measure of growth.
- In third year, proficiency scores of newly arrived ELLs are treated just like other students'.
- ESSA does NOT provide guidance on proficiency standards or school funding weights.

Students in Special Education

- Promotes parent and family engagement
- Ensures that students with disabilities receive accommodations, including interoperability with, and ability to use, assistive technology to participate in academic assessments.
- Mandates that each state plan describe how the [s]tate educational agency will support local educational agencies to:
 - Improve school conditions for student learning, including through reducing . incidences of bullying and harassment,
 - Reduce the overuse of discipline practices that remove students from the classroom, and
 - **Eliminate the use of aversive behavioral interventions that compromise student health and safety.**

Students in JJ System

ESSA strengthens protections for juvenile justice system-involved youth in Title I, Part D by including:

- Smoother education transitions when students enter juvenile justice facilities
- Educational assessments when practicable upon entry to a facility
- Increased emphasis on connecting young people to an appropriate education or career and technical education program upon reentry,
- Smooth record sharing and credit transfer, timely and appropriate re-enrollment, and supportive reentry programs.
- Prioritizing attainment of regular high school diploma, which includes a new option to use funding to support and serve youth touched by both the child welfare and juvenile justice systems.

Students Experiencing Homelessness

- **Enhances school stability thru McKinney-Vento:**
 - Presumption that staying in the school of origin is in the student's best interest, unless individual determination of best interest factors shows otherwise
- Amends school of origin definition to include “***feeder schools***”
- Clarifies that homeless youth must be enrolled in school **immediately**, even if the student has missed application or enrollment deadlines during any period of homelessness

Students Experiencing Homelessness

- **State coordinators** must be able to sufficiently carry out duties, **monitor LEAs** & annually publish **updated list** of liaisons on SEA website
- Requires SEAs and LEAs to develop, review, and revise policies to remove barriers to the identification, enrollment, and retention of homeless students in school, including barriers related to fees, fines, absences, and credit accrual policies

School District Duties

Requires local school district liaisons to ensure that unaccompanied homeless youth:

- are enrolled in school;
- have opportunities to meet State academic achievement standards, including through the McKinney-Vento Act's credit accrual provisions;
- are informed of their status as independent students for financial aid and may obtain assistance to receive verification for the FAFSA.

Expands Opportunities

States must have procedures to ensure that homeless youth have opportunities including:

- Able to receive appropriate **credit for full or partial coursework satisfactorily completed** while attending prior school
- **Access** to magnet school, summer school, career and technical education, advanced placement, online learning, and charter school programs, if such programs are available at the State or local levels.

Privacy Protections

Schools must treat information about a homeless child or youth's living situation as a student education record, and may not release this information to persons not authorized under FERPA.

Title I Funds for Homeless Students

- Requires State Title I plan to describe how the SEA will comply with the McKinney-Vento Act
- Authorizes the amount of Title I set-aside to be determined based on a needs assessment, and to be used for services not ordinarily provided by Title I, including local liaisons and transportation to the school of origin
- Clarifies that the Title I set-aside is for all schools in an LEA (not just non-participating)

Data & State Report

States publish State report cards on achievement, including specific subgroups.

Adds students who are homeless and students in foster care children to state assessments and graduation rate disaggregation.

Students in Foster Care

Children in foster care are some of the country's most educationally disadvantaged students.

Compared to other students, they experience:

- Higher rates of school suspensions and expulsions;
- lower standardized test scores in reading and math;
- high levels of grade retention and drop-out;
- far lower high school and college graduation rates.

See [National Fact Sheet on Foster Care and Education](#) from January 2014.

Foster Care Amendments – State Title I Plans

State Title I Plans must describe the steps the SEA will take to ensure collaboration with the State child welfare agency to improve the educational stability of children or youth in foster care including assurances that:

1. Foster youth are enrolled or remain in their school of origin, unless a determination is made that it is not in their best interest;

Foster Care – State Title I Plans

2. The determination must be based on best interest factors, 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
3. When a determination is made that it is not in the best interest to remain in the school of origin, the child must be immediately enrolled in a new school

Foster Care – Local Title I Plans

Within one year of enactment, LEAs must **develop and implement plans for the transportation of foster youth to their school of origin, when in their best interest**

LEAs are required to provide transportation to the school of origin with payment determined by agreement with child welfare. Some states have laws governing this. Child welfare agencies can draw down Title IV-E administrative dollars for this.

Foster Care – Points of Contact

The SEA designates a point of contact for the state child welfare agency, who will oversee implementation of the SEA responsibilities

The SEA point of contact may not be the same person under the McKinney-Vento Act.

LEAs must designate a point of contact if, as in Pennsylvania, the corresponding child welfare agency notifies the LEA, in writing, that it has designated a point of contact for the LEA.

“Awaiting Foster Care”

Within one year of enactment, “awaiting foster care placement” is deleted from the definition of homelessness in the McKinney-Vento Act.

Children in foster care would ***still qualify*** as homeless if living in a shelter, doubled up with another family etc.

Questions



Education Law Center Resources

- Tool Kit for School Success for Students without Homes: <http://www.elc-pa.org/resource/elc-toolkit-school-success-for-students-without-homes/>
- Fact Sheet for Education of Students Experiencing Homelessness: http://www.elc-pa.org/wp-content/uploads/2014/01/ELC_FactSheet_EducationforHomelessYouth_Jan2014.pdf
- Other relevant resources: <http://www.elc-pa.org/resourcetag/students-experiencing-homelessness/>



LEGAL CENTER FOR
FOSTER CARE & EDUCATION



AMERICAN BAR ASSOCIATION

**Center on
Children and the Law**

Access to Justice for Children & Families

Juvenile
Law Center
advancing the rights and
well-being of children in jeopardy

**EDUCATION
LAW CENTER**

www.fostercareandeducation.org

Twitter: @FosterEdSuccess

Email: ccleducation@americanbar.org



Contact Information

Maura McInerney, Esq.
Education Law Center
1315 Walnut Street
Philadelphia, PA
215-238-6970 Ext. 316
mmcinerney@elc-pa.org