

# Every Student Succeeds Act (ESSA)

WHY DOES IT MATTER?



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As school districts close the books on the previous academic year, they can look to the upcoming school year with optimism knowing that the pressures of meeting the challenging requirements of No Child Left Behind<sup>1</sup> have been significantly reduced as part of the passage of the Every Student Succeeds Act<sup>2</sup> which goes into effect this school year. While NCLB was initially lauded for its attempt to increase accountability for student achievement, including students with disabilities, the actual implementation of the law left many school districts struggling and disillusioned. Rather than supporting the improvement of our educational system, NCLB was deemed by many as federal overreach and became widely criticized for its one-size-fits-all approach to accountability. “The scope, specificity, and ambition of the law’s mandates signaled something akin to a revolution in federal education policy”<sup>3</sup>. For the first time, the federal government led the charge in restructuring the education system by pressuring states to adopt standardized approaches to the development of



JoDell Heroux, Ph.D.

JoDell Heroux has over twenty years of public school teaching experience in self-contained and inclusive classroom settings. She is an Associate Professor in the Department of Counseling and Special Education at Central Michigan University and the Director of Clinical Experiences for Special Education and the Graduate Coordinator. Her interests center around equity, inclusion and teacher preparation.

1 No Child Left Behind (NCLB), 2001

2 ESSA, 2015

3 McGuinn, 2016, p. 393

achievement standards, instruction, assessment, and teacher evaluation. For many school districts, particularly those in high poverty, rural and/or urban areas, the NCLB mandates did little in the way of improving educational outcomes. As part of the reauthorization of NCLB, ESSA attempts to address some of the most controversial provisions of the previous law while shifting some of the responsibility for educational decision-making back to the states. This has some stakeholders concerned that the new law may roll back some of the positive gains achieved under NCLB for students receiving special education services, such as increased access to the general education curriculum, assessment, and access to highly qualified teachers.

The recent Supreme Court decision in the case of *Endrew F. v. Douglas County School District*, which raises the standard of education provided for students with disabilities, could offer strong support for states as they develop their educational plans to meet ESSA requirements. In preparation for a new academic year under newly revised legislation, special education professionals may benefit from a broader understanding of how the legislative changes impact the education of some of our most vulnerable students, those with significant cognitive disabilities.

The recent Supreme Court decision in the case of *Endrew F. v. Douglas County School District*, which raises the standard of education provided for students with disabilities, could offer strong support for states as they develop their educational plans to meet ESSA requirements.

In response to the overwhelming criticism of NCLB as federal overreach, ESSA reduces the role of the federal government in the development of educational policies and allows states more authority to design their own accountability systems<sup>4</sup>. As part of ESSA, states are required to develop and submit an accountability plan no later than September 18, 2017. The U.S. Department of Education created a template for states to follow that includes identification of long-term goals, consultation and performance management, academic assessments, accountability, support, and improvement for schools, supporting excellent educators and supporting all students. In an effort to build an effective plan for addressing the educational needs of all students, states are required to engage in broad, robust, and transparent consultation with a diverse, representative group of stakeholders (e.g., education professionals, parents, community organizations, and institutes of higher education) at multiple points during the design, development, and implementation of a consolidated state plan, to ensure state and local voices are included in each stage<sup>5</sup>.



The involvement of various stakeholders allows states to reflect on their current educational systems and identify areas of strength and areas of weakness unique to their particular state

4 The Professional Learning Exchange, 2016

5 U.S. Department of Education, 2016 P.5

while also considering the supports and resources available to them. Education professionals, particularly those in leadership positions, may want to review the ESSA plan submitted by their state education agency (SEA) for specific information related to each component (See [ed.gov](http://ed.gov) for information on state plans).

ESSA maintains the overall spirit of NCLB, which is to close the achievement gap for disadvantaged students, yet it offers a more nuanced approach that allows states more flexibility in meeting their legislative mandates. Several researchers and scholars have reviewed ESSA and its implications for students with disabilities<sup>6</sup> and offer critical insight for education professionals charged with implementing the new mandates as they relate to academic standards, statewide assessment, accountability, evidence-based practices, reporting requirements, and discipline.

## Academic Achievement Standards

ESSA maintains the requirement that all students have access to challenging state academic standards. Some states have chosen to adopt the Common Core State Standards, while others have opted to develop their own. States are still allowed to develop alternate academic



<sup>6</sup> Spooner, McKissick, & Knight, 2017; Agoratus, 2016; Alvarez, 2016; The Professional Learning Exchange, 2016

achievement standards (AAS) for students with significant cognitive disabilities; however, they must provide evidence that they are aligned with the state academic content standards, promote access to the general education curriculum, reflect professional judgment as to the highest possible standards achievable for students with significant disabilities, and ensure that the student who meets the AAS is on track to pursue postsecondary education or employment<sup>7</sup>. The requirement that Individualized Education Programs (IEPs) must be aligned to state academic content standards for the grade level in which the student is enrolled remains unchanged as part of ESSA. States that develop and implement AAS must also develop an assessment designed to measure student proficiency toward the AAS.

## Annual Assessment and Accountability

ESSA retains the requirement that 95 percent of all students participate in annual statewide assessment to measure proficiency toward academic achievement standards with a 1 percent cap on student participation in alternate assessment. The previous legislation was openly criticized for violating the free appropriate public education<sup>8</sup> requirement of the Individuals with Disabilities Education Act<sup>9</sup> by expecting

95%

Percent of all students participate in annual statewide assessment to measure proficiency toward academic achievement standards.

7 Section 1111(b)(1)(E) of the ESEA, as amended by the ESSA

8 FAPE

9 IDEA, 2004

students with disabilities to take grade level tests<sup>10</sup>. IDEA does not stipulate a minimum assessment participation percentage, which means that local education agencies<sup>11</sup> are free to decide what percentage of students are capable of taking the regular assessment and when an alternate assessment is appropriate. This tension between previous legislation and IDEA is eased somewhat through ESSA, as the one percent cap only applies at the state level and does not preclude any Local Education Agency (LEA) from determining that it is appropriate for more than one percent of their student population to take the alternate assessment. Administrators and teachers of students with disabilities should continue to base determination of alternate assessment participation on the individual needs of the student whether or not it exceeds the one percent cap. According to ESSA, if an LEA administers the alternate assessment to more than one percent of its students, it must provide the state with an explanation stating the rationale for doing so<sup>12</sup>. Under NCLB, this may have negatively impacted an LEA's ability to demonstrate adequate yearly progress<sup>13</sup>; however, the AYP requirement has been removed as part of ESSA and accountability measures are now developed at the state level and include results on state standardized assessments, graduation rates, and at least one other non-academic measure (e.g., school climate or student/teacher engagement). Not only does the removal of AYP reduce



10 Eckes & Swando, 2009

11 Lea

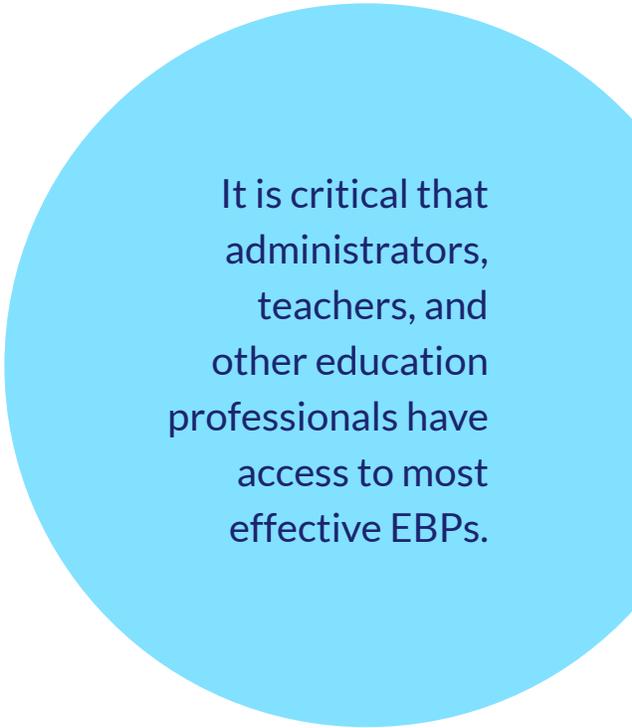
12 The Professional Learning Exchange, 2016

13 AYP

stress for LEAs, the inclusion of a non-academic factor in the accountability measurement system reflects what education professionals have been saying for years: measures of academic performance alone are inadequate.

## Evidence-based Practices

The use of **evidence-based practices** (EBP), which was mandated in NCLB, is retained as part of ESSA. Given that EBPs are still very much part of the equation when educating students with severe disabilities, it is critical that administrators, teachers, and other education professionals have access to those EBPs that are most effective in teaching academics, social communication, and transitional skills (e.g., dressing, cooking, self-care). Unfortunately, research on effective instructional strategies for students with significant cognitive disabilities is limited. However, an EBP that has shown overwhelming promise for teaching socially relevant, operationally defined skills to students with disabilities is systematic instruction with specific response prompting procedures<sup>14</sup>. Systematic instruction draws from the components of behavior analysis (e.g., stimulus control, positive reinforcement) and focuses on teaching skills that generalize to other settings, people, and/or materials<sup>15</sup>. East Carolina University, with support from the Office of Special Education Programs, U.S. Department of Education, has created



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<sup>14</sup> Spooner, McKissick, & Knight, 2017

<sup>15</sup> Snell, 1978; 1983; Spooner & Browder, 2015

Modules Addressing Special Education and Teacher Education (MAST) to provide online professional development in a variety of areas including systematic instruction.

For more information, visit <http://mast.ecu.edu>.

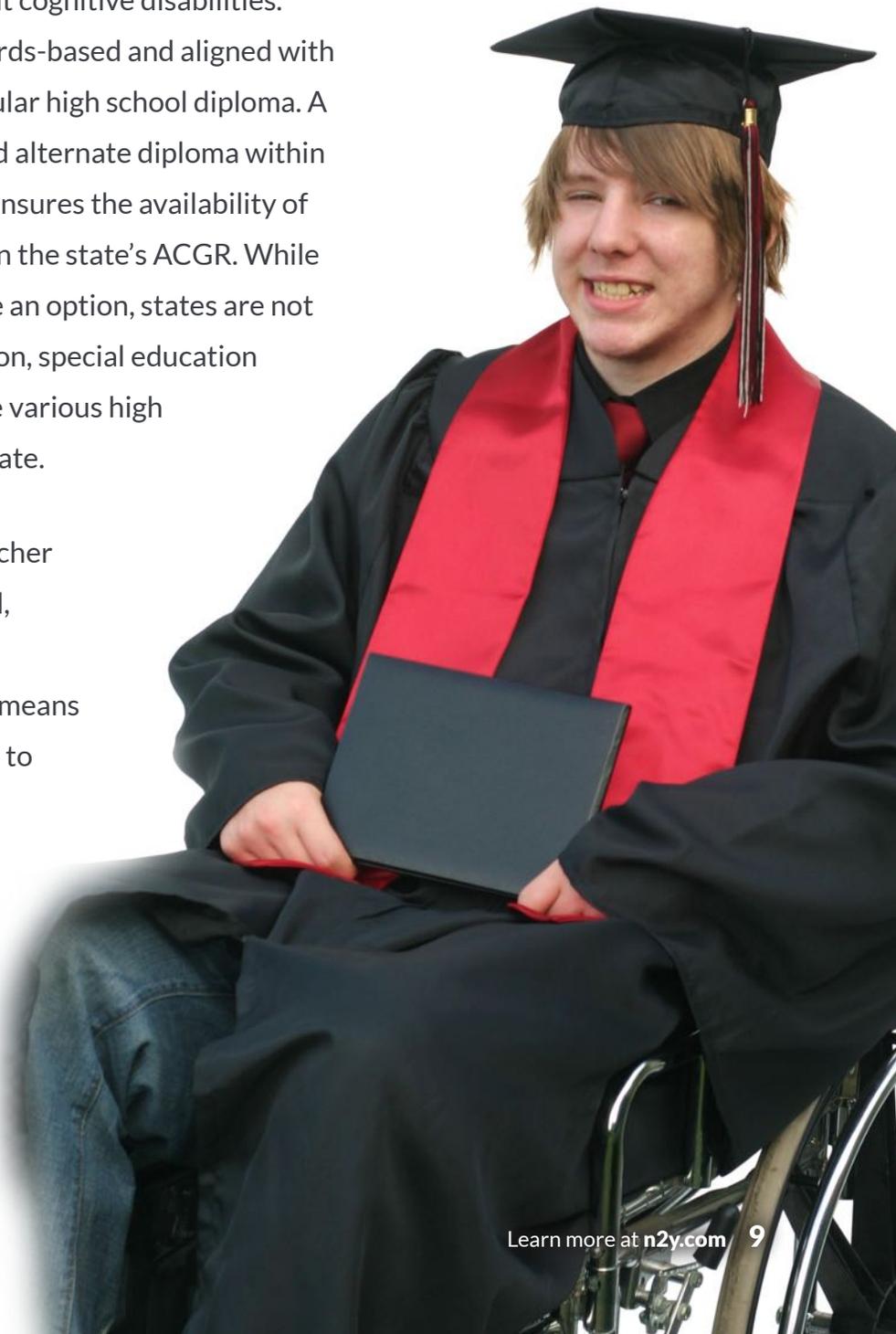
## Reporting Requirements

As part of ESSA, every state is required to publish not only an annual statewide report card but individual school district report cards as well. As part of this annual report, LEAs must include disaggregated results on state assessments, graduation rates, assessment participation rates, disaggregated results on access to advanced coursework (e.g., AP, IB, and dual enrollment), exclusionary discipline rates, chronic absenteeism, educator qualifications, the number and percentage of students taking the alternate assessment, postsecondary enrollment, and per-pupil expenditures<sup>16</sup>. Administrators, educators, and related special education professionals should be aware of how graduation rates will be calculated relative to students with significant cognitive disabilities and how educator qualifications will be reported under this revised legislation.



According to the U.S. Department of Education (2017), states are not allowed to count students receiving general equivalency diplomas (GED), alternative diplomas, certificates of attendance, or diplomas based on meeting IEP goals as having received a regular high school diploma. States do, however, have the option of offering a state-defined alternate diploma for students with the most significant cognitive disabilities. This type of diploma must be standards-based and aligned with the state's requirements for the regular high school diploma. A student who receives a state-defined alternate diploma within the time period for which the state ensures the availability of FAPE can be counted as a graduate in the state's ACGR. While state-defined alternate diplomas are an option, states are not required to offer them. For this reason, special education professionals should be aware of the various high school credentials offered in their state.

Under ESSA, the highly qualified teacher (HQT) provision has been eliminated, returning the standards for teacher certification back to the states. This means that teachers are no longer required to hold a bachelor's degree from a four-year institution, hold full state certification, and demonstrate competence in each core academic subject being taught. This means that teachers who meet the state's certification requirements



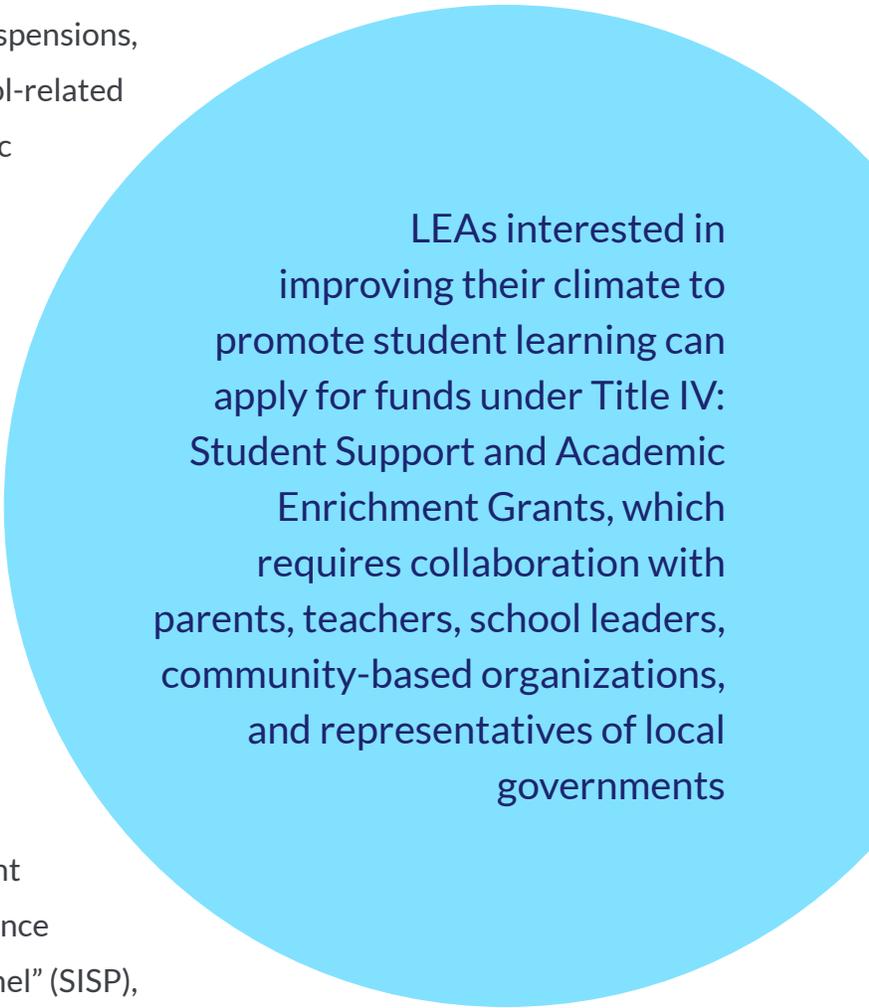
are considered to have met the criteria of “highly qualified.” Though HQT has been eliminated for teachers, the provision remains intact for paraeducators. In order for districts to receive Title I funds, all teachers and paraeducators working in a program supported by Title I funding must meet applicable state certification and licensure requirements. On the surface, this is a triumph, particularly for those districts with chronic vacancies due to the HQT requirement; however, many remain cautiously optimistic. Without the HQT requirement, teachers may be assigned to classrooms or programs they are not adequately prepared for based on the individual state’s certification requirements. For example, there are some states that require special education teachers to have certification in a specific special education category (e.g., autism, specific learning disability, cognitive impairment, etc.) while other states offer broader special education certification (e.g., high incidence and low incidence disabilities). Though districts are not bound by the HQT requirement any longer, they are required to include the number of inexperienced teachers, principals, emergency certified or provisional teachers, and teachers who are not teaching in their certified area in their annual accountability report.



## Discipline

As part of Title I plans under ESSA, SEAs and LEAs must describe how they plan to support schools to improve school conditions for student learning through reducing instances of harassment and bullying, the overuse of discipline that removes students from classrooms, and the use of behavioral interventions that compromise student health and safety<sup>17</sup>.

Annual reporting of the rates of in-school suspensions, out-of-school suspensions, expulsions, school-related arrests, referrals to law enforcement, chronic absenteeism, and incidences of violence are required. LEAs interested in improving their climate to promote student learning can apply for funds under Title IV: Student Support and Academic Enrichment Grants, which requires collaboration with parents, teachers, school leaders, community-based organizations, and representatives of local governments to establish a plan aimed at fostering safe, healthy, supportive, and drug-free environments that support academic achievement and promote family involvement (ESSA, 2015). Also included in ESSA is reference to “specialized instructional support personnel” (SISP), which includes school counselors, school social workers, school psychologists, school nurses, speech and language



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pathologists, and others involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services as part of a comprehensive program to meet student needs. The requirement that SISP be involved in the development of Title I plans is an important step toward establishing a comprehensive approach to school improvement.

ESSA appears to offer the flexibility and support that was absent from the previous legislation, which should have administrators, educators, and support personnel breathing a collective sigh of relief. Ringing in the new academic year under ESSA may have many administrators and educators feeling optimistic about the educational future for our students with significant disabilities.



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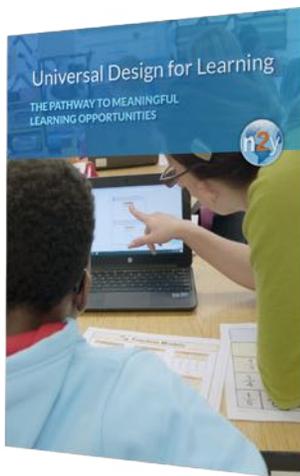
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