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Funding Flexibility Enhanced Under New K-12 Law

By Andrew Ujifusa

Funding issues weren't often at the forefront of the controversies surrounding the Every Student Succeeds Act as Congress forged its way to a rare bipartisan agreement last month. But the newly reauthorized version of the main federal K-12 law does make significant changes in how schools can use dollars set aside for economically disadvantaged students.

Those and other changes give states and districts more flexibility in general—and particularly in how they use Title I aid. Around four dozen districts will also get the chance to create a new funding formula, using federal dollars, that's intended to target more money directly to students from low-income backgrounds and other students, like English-language learners, who may have disadvantages.

At the same time, several highly contested changes that were discussed during congressional negotiations—such as making Title I money "portable" to public schools of parents' choice, or revisions making the Title I formula more favorable to states in the South and West—did not make it into the final bill.

And because it is an authorization and not an appropriations measure, ESSA does not by itself increase or decrease federal funding levels for various programs. In addition, changes to the administration of noncompetitive formula-grant programs like Title I won't occur until the 2017-18 school year.

The fiscal 2016 federal budget signed by President Barack Obama last month does include a $1.2 billion increase for the U.S. Department of Education, bringing its funding up to about $68 billion a year. The increase includes an additional $500 million for Title I, the department's largest single K-12 grant program. That raises the funding for Title I—targeted to students from low-income backgrounds—to $14.9 billion a year.

Changes in Rules

The new law contains two potentially big changes to the way Title I money works that together could greatly increase state discretion over the federal funds for low-income students. The changes could also dramatically expand the freedom schools have over how that money is used.

Under ESSA, states will receive the power to grant waivers from the requirement that only schools in which students from low-income backgrounds are at least 40 percent of enrollment can use Title I aid for schoolwide purposes. States would be allowed to grant those waivers after considering "how a schoolwide program will best serve the needs of the students ... in improving academic achievement and other factors."

According to a Brookings Institution analysis published in November, just under half of students go to schools below the 40 percent threshold.

In addition, ESSA makes changes to the federal "supplement not supplant" rule, which says that schools can't use Title I money for anything their states already required them to spend money on.

Under the No Child Left Behind Act—the version of the federal K-12 law that ESSA replaces—schools have had to itemize the cost of services and programs to show that Title I aid was providing supplemental services.

But under ESSA, schools don't have to identify those individual costs—they only have to show in fiscal terms that the Title I dollars supplement state and local dollars, and they don't need a waiver to do so. Districts no longer have to worry about showing whether each expenditure is a core service or supplemental for Title I purposes.

The upshot is a greatly different landscape for how Title I funds can be used, said Sheara Krvaric, a lawyer for the Federal Education Group, which studies K-12 funding. Now, many districts will be freer to look at paying for broader initiatives—a new K-3 reading curriculum or enhanced educational technology, for example.

"That opens up the door to more comprehensive services," Krvaric said.

Still, there's no guarantee that waivers of the 40 percent threshold for schoolwide uses will be granted in the same way or to the same degree across states, said Melissa Junge, another lawyer for the Federal Education Group.

"Different states are also at different stages of readiness about this," Junge said, referring to their preparedness for assessing and approving these waivers.

Weighted-Formula Pilot

ESSA also includes a pilot program that will let 50 districts create weighted student-funding formulas that include federal money.

Under the pilot, which would last for a maximum of three years, districts would be permitted to combine federal, state, and local funding streams with the purpose of better directing that money to low-income students and others with particular needs, including English-language learners. Among other requirements, the new formulas would have to ensure that each high-poverty school gets more per-pupil funding than it did in the previous academic year.

Some advocates at first advertised the new formula as a sort of school choice program, but the pilot formulas won't allow any sort of portability for funds or any sort of parental choice. However, some supporters of choice, such as the Thomas B. Fordham Institute, have previously argued that such weighted formulas can help money more easily follow the students who are deemed to need it most.

The ESSA provision creating a weighted-funding formula pilot came from Sen. Michael Bennet, D-Colo., who as the superintendent of schools in Denver oversaw a weighted-funding formula. Other districts using or exploring some version of weighted funding in recent years include Baltimore, Indianapolis, and Seattle.

"I don't think it's groundbreaking. I do think it's promising that there's some kind of acknowledgment in there about how districts are moving to allocate these resources," said Marguerite Roza, the director of the Edunomics Lab at Georgetown University, who has studied districts using such formulas.

While the ability to use Title I funds more freely is a big incentive in the weighted-funding pilot "to better and more cleanly target money for high-needs kids," Roza said, she doesn't believe it will trigger a big rush of district applicants.

She also said it's unlikely that many small or rural districts will seek to participate because they may already feel they have enough autonomy dealing with a small number of schools without such funding flexibility—and without the federal oversight that is part of the pilot initiative.

"I doubt the Title I incentive will be enough to flip a district into applying for this," Roza said.

Maintenance of Effort

Although the fate of the federal K-12 law's "maintenance of effort" provision was uncertain earlier this year, that provision survives in ESSA. Maintenance of effort requires districts to spend in their current fiscal year at least 90 percent of what they spent in the previous fiscal year, in order to get at least the same amount of federal money (including Title I funding).

However, in a victory for many Republican members of Congress, ESSA converts funding for several programs into a block grant that has shifted from federal to state control. Programs that are a part of the new block grant include support for Advanced Placement test-taking fees, school counseling, and education technology.

The total value of the authorized programs in the block grant is $1.6 billion a year, but some of the programs haven't been funded for some time. The actual appropriations for programs that make up the block grant total add up to less than $200 million, according to Joel Packer, the executive director of the Committee for Education Funding, a lobbying group. So he's not clear where the rest of the money would come from.

What's more, the new law specifies that districts that get $30,000 or more under the block grant program must spend 20 percent on at least one activity that helps students be more well-rounded, and another 20 percent on something that helps improve health and safety. But Packer is betting that—since the program is likely to be very small and go out to districts through a predetermined method—few districts will hit those levels.

That could "undermine the way the block grant was constructed," Packer said. "It's going to be very interesting."

Assistant Editor Alyson Klein contributed to this article.