

Special Education Advocates Gear Up for ESSA Implementation

By [Christina A. Samuels](#)

Like the version of law that preceded it, the latest revision of the nation's main elementary and secondary education statute requires states to report the performance of students with disabilities, along with students in other groups, such as racial and ethnic minorities.

But ESSA does not mandate any approach that states must take in intervening with low-performing schools that receive federal money. That's up to the states—and that will require a new advocacy focus, say those who work in the disability field.

"This is an opportunity for parents to make a huge difference," said Lindsay Jones, the director of public policy and advocacy for the National Center for Learning Disabilities. "We're really thinking through how can we amplify parent voices and make sure they're a part of the stakeholder discussions that we know will be taking place."

Said Nancy Reder, the director of government relations for the National Association of State Directors of Special Education: "The special education people need to be at the table when the state plans are being made."

Assessment Implications

Most students with disabilities will be taking the general assessment that states will give to students without disabilities. The bill maintains a 1 percent cap on all students—or 10 percent of students with disabilities—who can take alternate assessments. Such alternate assessments are intended for students with severe cognitive disabilities.

Many disability groups fought hard against lifting the cap on alternate assessments, which was under consideration in early drafts of the law. But Candace Cortiella, a public-policy consultant and special education advocate, said that since the alternate assessment is administered on a one-on-one basis, districts generally would not have the staffing to give the test to many more students than those who would obviously qualify for it.

More meaningful, in Cortiella's view, is that the law keeps a prohibition against states creating tests that are based on modified academic standards. The federal government once allowed states to test up to 2 percent of students on modified academic standards, but many advocates believed those tests were shortchanging students with disabilities. The Education Department stopped allowing such tests for accountability purposes in 2015.

The law also says that if students take the alternate test and are also given a "state-defined alternate diploma" that is aligned with regular standards, they can be counted in a state's adjusted cohort graduation rate. That uniform calculation, used by all states, is intended to make states easy to compare to one another.

But that desired uniformity breaks down when it comes to students with disabilities. States are able to define a student with a disability differently and also set different graduation requirements for those students. The new provision will make it even harder to compare states to one another, advocates say.

"I've given up on the [adjusted cohort graduation rate] for kids with disabilities," Cortiella said.

The law does not have a specific provision on the size that a subgroup of students must be to be measured for accountability purposes. States that use large subgroup sizes—also called "n sizes"—have fewer schools that might be assessed as low-performing. States currently vary widely on the size of their subgroups, with the average at about 30 students. The law directs the Institute for Education Sciences to release a report in three months that offers "best practices for determining valid, reliable, and statistically significant" subgroup sizes.

In addition to provisions around assessment, the law requires states to develop plans on how they expect to reduce bullying and harassment, restraint and seclusion, and suspensions and expulsions—all of which disproportionately affect students with disabilities.

ESSA also creates "a comprehensive center on students at risk of not attaining full literacy skills due to a disability" such as dyslexia. The center will promote professional development and best practices on screening and educational tools for this population.

What's more, the law adds provisions for gifted and talented students: The Jacob K. Javits education law, which funds research into gifted education, is retained. And ESSA requires states to show how they will use their federal teacher-development funding to support gifted and talented education.

So, with ESSA now on the books, can the reauthorization of the Individuals with Disabilities Education Act, now about six years overdue, be up next?

Not a chance, advocates say. "I'd be surprised if IDEA is on anyone's to-do list," said Katy Beh Neas, Easter Seals' executive vice president for government relations.

But students with disabilities are general education students first, Neas said, so ESSA is important. "What we hope is that kids can get the services and supports that they need."