

Under ESSA, States, Districts to Share More Power

By Alyson Klein

State and school district officials who have complained for years that an inflexible, overprescriptive federal role in public education is at the heart of the No Child Left Behind Act seem to have finally gotten their wish: a replacement law that scales back Washington's K-12 footprint for the first time in more than a quarter-century.

Now, big questions loom about just where states and districts will take the leeway granted to them under the newly minted Every Student Succeeds Act—and just how their decisions will affect the perennially foundering schools and traditionally overlooked groups of students and schools the NCLB law was designed to help.

It's equally unclear just how much power the U.S. Department of Education will have when the law, the latest reauthorization of the Elementary and Secondary Education Act.

The new law—already widely known by the acronym ESSA—slims down the U.S. Department of Education, consolidating nearly 50 programs, including elementary and secondary counseling, into a giant block grant.

It also aims to crack down on the U.S. secretary of education's authority when it comes to standards, assessments, school turnarounds, teacher evaluation, and other areas.

Sen. Lamar Alexander, R-Tenn., a key architect of ESSA, **said he thinks the federal role will be** “very different” from here on out.

“What I believe is that when we take the handcuffs off, we'll unleash a whole flood of innovation and ingenuity classroom by classroom, state by state, that will benefit children,” Alexander said in an interview. “We've got a law that will govern the federal role in K-12 education for 10 or 20 years.”

Bipartisan Consensus

In signing ESSA on Dec. 10, 2015, President Barack Obama was on the same page—at least rhetorically.

The NCLB law, launched under his predecessor, President George W. Bush, had good intentions, Obama said, but it “often forced schools and school districts into cookie-cutter reforms that didn't always produce the kinds of results that we wanted to see.”

The new law “creates real partnerships between the states, which will have new flexibility to tailor their improvement plans, and the federal government, which will have the oversight to make sure that the plans are sound.”

And Obama said ESSA, which goes into full effect with the start of the 2017-18 school year, will maintain the civil rights legacy of the underlying ESEA, which turned 50 last year.



The Every Student Succeeds Act was signed by President Barack Obama on Dec. 10. The latest revision of the Elementary and Secondary Education Act, it aims to scale back the hands-on federal role in K-12 education and enhance the authority of states and districts.
—Evan Vucci/AP

Setting the Direction

The federal role in K-12 education has been steadily building in successive editions of the ESEA since the late 1980s.

The newest version retains the federal requirement for annual testing in reading and mathematics in grades 3-8 and once in high school. But it calls for **states to revamp their accountability systems**—and they can significantly scale back the role those tests play in gauging school progress.

Under ESSA, states and districts will still have to transform their lowest-performing schools, but they will be able to choose their own interventions, as long as the strategies have some evidence to back them up. They'll also have to flag schools where historically overlooked groups of students, such as English-language learners, members of racial minorities, and students in special education, aren't performing as well as their peers.

And, for the first time, states must include at least one factor that gets at school quality or students' opportunity to learn—such as access to advanced course work or a nurturing school climate—when considering school performance.

They can also opt to get rid of teacher evaluations based in part on students' standardized tests, which were required for states who wanted one of the Obama administration's waivers from portions of the NCLB law.

And while they are required to adopt challenging academic standards, they can move away from the Common Core State Standards. The federal education secretary is explicitly barred from requiring or encouraging any particular set of standards.

For their part, states say they aren't going to back down from ensuring equity for all students.

"I don't see anything changing, except for it being better," Tony Evers, Wisconsin's state superintendent, said shortly after ESSA was passed by Congress. "There will be no backpedaling."

Different factions of the education community already are gearing up to help states and districts bring the new K-12 era forward—typically with an eye to protecting their own interests at the same time.

Moving Forward

Teacher evaluation may be one area ripe for early and significant change. Thanks in part to the Obama administration's NCLB waivers, 42 states and the District of Columbia have some sort of policy on teacher evaluation on the books, according to the National Council on Teacher Quality, a research and advocacy organization in Washington.

In many of the states, those performance reviews are enshrined in law, meaning it would take new legislation to undo them. But already states are mulling their options. New York, for instance, **decided to put off using test scores in teacher evaluations** for the next several years. It's possible that Gov. Andrew Cuomo, a Democrat, will make the shift permanent.

Teachers' unions are likely to give states a hand with all this rethinking. The National Education Association and the American Federation of Teachers would love to see states move beyond teacher evaluations that rely heavily on student test scores.

"The way tests were used in teacher evaluation, ... it became lunacy," AFT President Randi Weingarten said last month.

Teachers' unions aren't the only groups gearing up to influence state policy in the ESSA era. The Leadership Conference on Civil and Human Rights, for instance, will be helping its partners figure out how they can help local and state leaders keep the ESEA's historic focus on equity for often-overlooked groups of students in this new version.

Under ESSA, states will no longer be able to rely solely on so-called “supersubgroups,” which allow them to combine a variety of different groups of students for accountability purposes. States liked the flexibility of supersubgroups, but civil rights advocates said they masked achievement gaps.

And states will have to measure English-language proficiency in their new systems—something few if any states do now. They’ll have to incorporate new factors that get at students’ opportunity to learn, and break those factors out by different groups of students, just as they do with test scores now.

The requirement for such breakdowns may influence the kinds of factors states end up picking, said Daria Hall, the interim vice president for government relations and communications at the Education Trust, which advocates for poor and minority students. For example, the legislation lists teacher engagement as a possible factor, but Hall is not sure how that would play out.

“How do you disaggregate teacher engagement by groups of kids?” she said. “I’m not here to say right now that there is no possible way to make that a valid and reliable student-based indicator. But there are real questions about how to make that work.”

But Donna Harris-Aiken, the director of education policy and practice at the National Education Association, said that all sorts of indicators, including bullying and school climate factors, are incorporated in the data collection of the Education Department’s office for civil rights.

“What we’ve learned over the past few years is that it doesn’t make sense to look at one or the other,” she said, referring to results and inputs. “The outcome piece isn’t coming off the table. [As for] the effort that districts and schools are making to” work in support of students, “they’ll now get credit for those efforts.”

To be sure, there’s still plenty to puzzle over inside the Beltway. It’s unclear whether the language circumscribing the education secretary’s authority will make it more difficult politically—or even legally—for the department to take a hard line in regulating the law.

Michael Kirst, who worked on implementation of the first version of the ESEA during President Lyndon B. Johnson’s administration and is now the president of the California state board of education, wouldn’t mind if the federal department erred on the side of leeway for states.

“I’m at the bottom looking up now and wanting to preserve flexibility,” he said.

Loosening the Reins

The Golden State is one of just a handful that didn’t participate in the Obama administration’s NCLB waiver program. (It couldn’t get on board with then-U.S. Secretary of Education Arne Duncan’s teacher-evaluation vision.)

Kirst is happy to be shrugging off the NCLB law for good, and especially to be gaining access to federal money that the state has had to set aside for the law’s mandatory interventions—school choice and tutoring—which he saw as largely ineffective.

But ESSA may not be a breeze to implement. Kirst is already scratching his head over one new requirement, borrowed from the Obama administration’s waiver initiative, that states turn around their bottom 5 percent of schools. In California, that could mean about 500 low performers—a tall order for the state education agency, in Kirst’s view.

For state officials, embracing ESSA represents “a huge time and conceptual burden,” Kirst said. “But it feels to be a step in the right direction, so at least you’re swimming with the tide.”

Assistant Editor Andrew Ujifusa contributed to this article.