



SCHOOL DISCIPLINE REFORM, SCHOOL CLIMATE, AND EQUITY PROVISIONS IN THE **EVERY STUDENT SUCCEEDS ACT (ESSA)**



The newest iteration of the Elementary and Secondary Education Act (ESEA) of 1965, the Every Student Succeeds Act (ESSA), was signed into law by President Obama on December 15, 2015, (Pub. L. 114-95). It replaces the broken No Child Left Behind Act (NCLB). The law reduces the federal footprint in education and delegates a lot of oversight and accountability for the provision of education to the states. Therefore, local and community based advocacy is essential to ensuring proper implementation and enforcement of the law. The reduced federal role does not change the responsibility and obligation of the federal government to protect the civil rights of students (under the Civil Rights Act of 1964 and other federal civil rights law). Vigorous regulation, as well as guidance and technical assistance to states, will be vital to the proper implementation of the law consistent with the congressional intent of expanding access to quality educational opportunities for all students.

(Full text of the law: <https://www.gpo.gov/fdsys/pkg/BILLS-114s1177enr/pdf/BILLS-114s1177enr.pdf>)

“ESSA does not address the wide range of structural inequalities that contribute to learning and achievement gaps. This includes dramatically inequitable school funding across states, districts, and schools and the intensified segregation of students on the basis of race and socio-economic status which have, together, created a growing number of under-resourced apartheid schools serving exclusively poor and minority students. Squaring these ongoing issues with much more powerful expectations for quality and equity than ESSA currently offers will be much more important than annual testing or measurement in achieving the goals of our nation’s most important education law.”- Dr. Linda Darling-Hammond, Charles E. Ducommun Professor of Education, Stanford University

ESSA Implementation Timeline:

The waivers that 41 states and the District of Columbia are currently receiving from the Obama Administration from No Child Left Behind will expire on **August 1, 2016.**

2016-2017 School Year will be a transition year (states will likely be finalizing their state plans, outlining accountability indicators prior to and during this transition year)

2017-2018 School Year-most provisions of the law take full effect

PROVISION	DETAILS	LDF /DSC
<p>School Climate as an indicator of School Quality or Student Success (to be annually measured) Sec. 1111 (p. 34-35)</p>	<p>Indicators that states can choose from to measure school quality and student success:</p> <ol style="list-style-type: none"> 1. Performance on Annual Assessments for both high school (HS) and middle and elementary school (MS/ES) (and student growth on assessments optional for HS) 2. English Proficiency (All: HS and MS/ES) 3. Different Indicator for HS and MS/ES <ol style="list-style-type: none"> a. HS: High school graduation rate(4 year or adjusted rates for longer than 4 years) b. MS/ES: Student growth OR another reliable indicator that is academic-related and enables differentiation between schools 4. For All (HS and MS/ES): Indicator of school quality or student success from these options: <ol style="list-style-type: none"> a. Student engagement b. Educator engagement c. Student access to and completion of advanced coursework d. Post-secondary readiness e. School Climate and Safety f. Another indicator that the state chooses 	<ul style="list-style-type: none"> • Schools have the option of choosing school climate as one of the indicators of overall school quality or student success—this is an opportunity to advocate that States include school climate as an indicator of overall success • On the issue of school policing, this indicator could be tied to reducing arrests, tickets and referrals to law enforcement, and removing/reducing police presence in schools as a factor that negatively impacts school climate.
<p>School Climate Provisions required to be detailed in State plans Sec. 1111 (p. 42-43)</p>	<p>The State shall describe how it will support Local Educational Agencies (LEAs – ie. school districts) in improving school conditions for learning, including through reducing:</p> <ul style="list-style-type: none"> • Incidences of bullying and harassment; • The overuse of discipline practices that remove students from the classroom; and the • Use of aversive behavioral interventions that compromise student health and safety 	<ul style="list-style-type: none"> • These are provisions that should be detailed in State plans that advocates should look for—this is where the State Educational Agency (SEA) will detail how it will support LEAs in addressing discipline disparities and promote positive and inclusive school climates—especially by reducing exclusionary discipline. On the issue of school policing, this can include reducing arrests, referrals to law enforcement, handcuffing, use of mace or other “aversive behavioral interventions” that compromise student health & safety.

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<p>School Climate Provisions required to be detailed on Annual State Report Cards Sec 1111 (p. 47)</p>	<p>Information reported annually by the SEA and the LEA on (these indicators coincide with discipline data reported in the Civil Rights Data Collection-CRDC):</p> <ul style="list-style-type: none"> Measures of school quality, climate, and safety, including rates of in-school suspensions, out-of-school suspensions, expulsions, school-related arrests, referrals to law enforcement, chronic absenteeism, incidences of violence, including bullying and harassment 	<ul style="list-style-type: none"> The State Report Card should indicate the rates described (i.e. suspensions, expulsions, arrests, referrals to law enforcement) to give an overall idea of school climate and discipline in the state.
<p>School Climate Provisions required to be detailed in the LEA Plan Sec. 1112 (p. 53)</p>	<p>The LEA Plan (which is submitted to the state by school districts /LEAs) should detail how the LEA will:</p> <ul style="list-style-type: none"> Support efforts to reduce the overuse of discipline practices that remove students from the classroom, which may include identifying and supporting schools with high rates of discipline, disaggregated by each student sub-group (race/ethnicity, English Learner status, disability status) 	<ul style="list-style-type: none"> The LEA must describe how it will help reduce exclusionary discipline practices that push students out of school. The LEA must also provide data disaggregated by student sub-group. On the issue of school policing, can include focusing on identifying schools with high rates of arrests and referrals by sub-group (race, disability, etc.)
<p>Local Educational Agency (LEA) Applications- Comprehensive Needs Assessment Sec. 4106 (p. 173-174)</p> <p>The needs assessment is required for applications under Title 4 – Part A – Student Support and Academic Enrichment Grants (described below)</p>	<p>Before receiving funding from the State, a local educational agency (LEA)* must conduct a comprehensive needs assessment to examine needs for improvement of:</p> <ul style="list-style-type: none"> Access to opportunities for a well-rounded education for all students; School conditions for student learning in order to create a healthy and safe school environment; and Access to personalized learning experiences supported by technology and professional development for the effective use of data and technology. A needs assessment should be conducted every 3 years The LEA should develop its application for funding through consultation with parents, teachers, principals, and other school leaders, students, community-based organizations, local government representatives . . . 	<ul style="list-style-type: none"> DSC members can have a role in developing LEA applications for funding from the state, particularly with a focus on ensuring that the LEA conducts a needs assessment (that should be developed with input from parents, teachers, and community-based organizations) that addresses school conditions for student learning in order to create a healthy and safe school environment. This also means working to include requests for funding of alternatives to punitive discipline, like restorative practices, SWPBIS, & training for school personnel on classroom management. The LEA/Consortium must engage in continued consultation with parents, community members, etc., in order to improve the activities and coordinate implementation with other related strategies, programs, and activities being conducted in the community. EXCEPTION: LEAs receiving less than \$30,000 are not required to conduct a comprehensive needs assessment.

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<p>Funding for Activities to Support Safe and Healthy Students Sec. 4108 (Beginning on p. 177-180)</p> <p>Applications for funding are under Title 4 – Part A – Student Support and Academic Enrichment Grants (Total of \$1.6 billion annually through 2020, states must spend 20% on “safe and healthy students” activities described here)</p>	<p>LEAs shall use a portion of funds for programs that:</p> <ul style="list-style-type: none"> • Are coordinated with other school and community-based services • Foster safe, healthy, supportive and drug-free environments • Promote the involvement of parents • May be coordinated with higher ed. institution, business, non-profit, community-based organization • May include among other programs and activities: <ul style="list-style-type: none"> • Drug and violence prevention programs that are evidence-based, including professional development training • School-based mental health services, including: Partnerships with public or private mental health entities, and School based services that include trauma- informed practices that are evidence-based • Help prevent bullying and harassment • Improve instructional practices for developing relationship-building skills, and prevention of coercion, violence, or abuse, including teen dating violence, stalking, domestic abuse, and sexual harassment • Provide mentoring and school counseling • Establish or improve dropout and re-entry programs • Training for school personnel on: Suicide prevention; Effective and trauma-informed practices in classroom management; Crisis management and conflict resolution; Human trafficking • Designing and implementing a locally-tailored plan to reduce exclusionary discipline aligned with the long-term goal of prison reduction through opportunities, mentoring, intervention, support, and other education services, referred to as a ‘youth promise plan’ • Implementation of SWPBIS to improve academic outcomes and school conditions for student learning 	<ul style="list-style-type: none"> • Title 4 Part A of ESSA provides funding to states and districts for activities to support safe and healthy students. • Out of the total \$1.6 billion authorized for Title 4 Part A through ESSA, the bill requires states to spend a percentage of the funds on several different areas, including 20% on the “safe and healthy students” activities described here. • Based on the needs assessment described above, LEAs (or school districts) would apply for funding from the state to spend the funds on one or more of the activities described here. • Potential funding for partnerships with schools to coordinate programs focused on school safety. • These funding streams can be used to support alternatives to policing that create safety while getting to root causes rather than criminalizing student behavior.

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<p>Ability of Secretary of Education to Disapprove of State Plans Sec. 1111 (p. 21)</p>	<p>The Secretary of Education can disapprove of a state plan only if:</p> <ul style="list-style-type: none"> • The Sec. determines that it fails to meet the law’s requirements; • The Sec. immediately notifies the State in writing notice that the plan may rejected and reasoning for why; • Offers the state an opportunity to revise and resubmit its State plan, and provides the state <ul style="list-style-type: none"> ○ Technical assistance to meet law’s requirements for a state plan; ○ All recommendations and suggestions from peer review of the plan; ○ A hearing (unless the state declines an opportunity for a hearing) <p>The Secretary can disapprove of the state plan after the plan is resubmitted and a hearing is conducted if the Secretary determines the plan still doesn’t meet law’s requirements.</p>	<ul style="list-style-type: none"> • This adds additional steps for the Secretary of Education to take to disapprove of state plans for intervention in schools identified as low-performing (State Plans that the Secretary does not think are strong enough to improve student performance or outcomes).
<p>Secretarial Authority (Prohibitions on authority of the Secretary of Education) (pp. 41-42)</p>	<p>The Secretary of Education is prohibited from:</p> <ul style="list-style-type: none"> • Adding new requirements to law • Adding new criteria • Acting outside of authority of this law • Requiring states, as a condition of approving the state plan to add or delete any requirements or add or delete any elements of the challenging state academic standards • Prescribing any specific numeric goals or measurements of interim progress for all students or groups of students • Requiring any specific tests • Prescribing what indicators states should use in their accountability systems • What weight the state should give to any accountability indicator • Any specific support or intervention the state should implement • Any aspect of teacher or principal evaluations • Requiring additional data collection 	<ul style="list-style-type: none"> • The Secretary of Education is restricted from requiring or specifying any particular standards, accountability measures, curricula or particulars that states, LEAs, or schools should adopt. • The Secretary has broad authority to, for instance, disapprove a state plan (after allowing the state to resubmit the plan and provide for a hearing), but the Secretary could not specify what the state should do to improve its accountability system or intervention:

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<p>Resource Equity in Local Educational Agency Plans Sec. 1111 (p. 37)</p>	<p>For schools identified for targeted support, the LEA shall, for each identified school, implement a comprehensive support and improvement plan that:</p> <ul style="list-style-type: none"> • Identifies resource inequities, which may include a review of LEA and school-level budgeting, to be addressed through implementation of such comprehensive support and improvement plan • (Additional Targeted Support-p. 39) <ul style="list-style-type: none"> ○ A school identified for targeted support with particular focus on any sub-group of students falling behind shall also identify resource inequities to be addressed through implementation of the Targeted Support and Improvement Plan (i.e. a plan to address persistent disparities based upon those initially identified through the comprehensive support and improvement plan) • Periodic review of resource allocation to support school improvement (p. 40) 	<ul style="list-style-type: none"> • Resource inequities related to school climate and discipline—i.e. counseling, services and supports for students, ongoing professional development training on classroom management and cultural competency for educators—can be addressed under this provision. • This is an opportunity to encourage states to address resource inequities (lack of programming or support staff like counselors) that contribute to discipline disparities.
<p>Magnet School Assistance Program (MSAP)</p>	<p>Reauthorizes the Magnet Schools Assistance Program (MSAP)—increases funding from \$91 to \$108 Million in Fiscal Year 2020.</p> <p>Increases grant period to two years.</p>	<ul style="list-style-type: none"> • Helps to support the creation and continuation of theme-based magnet programs that promote diversity • LDF has been involved in the <i>Sheff v. O’Neil</i> litigation, which has spurred successful magnet school programs • Encourages school districts to work in coordination to break down barriers that sustain racial and socioeconomic isolation by creating inter-district or regional magnet programs. This provision recognizes that the greatest amount of school segregation now occurs between school districts, rather than at the neighborhood level.¹ • Allows use of funds for transportation (as long as not a significant portion of funding)

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<p>Title I Funds for schoolwide programs to address the effects of concentrated poverty</p>	<p>Title I funds are funds targeted for districts serving high proportions of low-income students. These funds can go towards schoolwide programs to mitigate the effects of concentrated poverty and supports for students. Groups like the National Coalition on School Diversity advocate for use of funds for transportation to promote school integration</p>	<ul style="list-style-type: none"> • It is important to ensure that Title I funds are used as intended to serve low-income students and provide them with additional supports and services—this funding should supplement, not supplant equitable local funding
<p>Involvement of parents and community members in reviewing state plans Sec. 1111 (p. 20)</p>	<p>After states have completed and submitted their state plans to the Department of Education, the Department shall establish multi-disciplinary peer-review teams to review these state plans and appoint members of such teams who are representatives of parents, teachers, principals, other school leaders . . . and the community. . .</p>	<ul style="list-style-type: none"> • Parents and community members can participate in these peer review teams and ensure that parents/caregivers and community members are included in the process to review state plans
<p>Part D-Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk (Sec. 1401, p. 100)</p>	<p><i>‘(E) provide assurances that the State educational agency has established—</i> <i>(i) procedures to ensure the timely re-enrollment of each student who has been placed in the juvenile justice system in secondary school or in a re-entry program that best meets the needs of the student, including the transfer of credits that such student earns during placement; and</i> <i>(ii) opportunities for such students to participate in credit-bearing coursework while in secondary school, postsecondary education, or career and technical education programming.’</i></p>	<ul style="list-style-type: none"> • Many students become involved in the juvenile justice system due to overly punitive discipline practices that result in expulsion, arrest, or referral to law enforcement, most often for minor offenses (like dress code violations) • The likelihood of dropping out of school is high for those students pushed out due to discriminatory discipline practices. • It is important to have regulations and guidance from the Department to help states realize the law’s intent and re-enroll and reintegrate students in the juvenile justice system into the educational system when they return to their community, so that they can go on to obtain a regular high school diploma and enter postsecondary school and earn needed credentials • States also need technical assistance in ensuring that coursework in juvenile facilities is aligned with challenging state academic standards and that students in facilities receive transferable credits

¹ Magnet Schools of America, *Every Student Succeeds Act Improves Access to Magnet Programs and Provides Needed Support to Address Growing Problem of Resegregation in American Public Schools*, available at http://edworkforce.house.gov/uploadedfiles/magnet_schools_of_america.pdf.

“The benefits of diversity in schools are not restricted to minority students, research shows a diverse educational setting can lead to improved critical thinking skills and better academic performance in non-minority students.² Even the U.S. Department of Education itself has previously observed that “diverse schools provide incalculable educational and civic benefits by promoting cross-racial understanding, breaking down racial and other stereotypes, and eliminating bias and prejudice.”³—*National Coalition on School Diversity (NCSD) Comments on Implementing Programs Under Title I of the Every Student Succeeds Act* (January 2016)

***LEAs:** Local Educational Agencies; **SEAs:** State Educational Agencies

Key Definitions:

Violence (p. 168) **Section 4102**—this section outlines the definition of terms (beginning on p. 168)

- **Details:** It is important to note that definition of violence prevention is—the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, on school premises, going to and from school, and at school sponsored activities through the creation and maintenance of a school environment that is free of weapons and fosters individual responsibility and respect for the rights of others.
- **DSC Opportunity:** Knowledge of this definition may be useful in reducing and eliminating police in schools and perhaps the 1033 program

Evidence-Based (p. 289): When used with respect to a SEA, LEA, means an activity, strategy, or intervention that:

- Demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on:
 - Strong evidence from at least 1 well-designed and well-implemented experimental study;
 - Moderate evidence from at least 1 well-designed and well-implemented quasi-experimental study; or
 - Promising evidence from at least 1 well-designed and well-implemented correlational study with statistical controls for selection bias; or
 - Demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes; and
 - Includes ongoing efforts to examine the effects of such activity, strategy, or intervention

Professional Development (p. 295): Activities that:

- Are an integral part of school and LEA strategies for providing educators (including teachers, principals, other school leaders, specialized instructional support personnel, paraprofessionals, and, as applicable, early childhood educators) with the knowledge and skills necessary to enable students to succeed in a well-rounded education and to meet the challenging state academic standards; and
- Are **sustained** (not stand-alone, 1-day, or short-term workshops), intensive, collaborative, job-embedded, data-driven, and classroom-focused, including programs . . . that improve classroom management skills (pp. 295-296)

Specialized Instructional Support Personnel (p. 298): Including school counselors, school social workers, and school psychologists

² Genevieve Siegel-Hawley, *Research Brief 8: How Non-Minority Students Also Benefit from Racially Diverse Schools*, National Coalition on School Diversity (2012), available at <http://www.school-diversity.org/pdf/DiversityResearchBriefNo8.pdf>.

³ U.S. Departments of Education, Justice, "Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in Elementary and Secondary Schools," (2011), available at www2.ed.gov/about/offices/list/ocr/docs/guidance-ese-201111.html. See also *Promoting Diversity and Desegregation*, 3(4) *The Magnet Compass* 1, p. 1, available at http://www.msapcenter.com/doc/MagnetCompass_July2014.pdf (observing “[t]he benefits of a diverse school environment cannot be overstate

