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The Every Student Succeeds Act: Special Education Requirements

On December 10, 2015, President Obama signed the Every Student Succeeds Act (ESSA) which reauthorizes the Elementary and Secondary Education Act (ESEA) for four years and enacts significant changes from the previous iteration of the law, the No Child Left Behind Act (NCLB). In general, ESSA reduces federal intervention in state education policymaking and allows states more authority to design their own accountability systems. ESSA still requires states to develop a comprehensive system of standards, assessments, and accountability for all schools, however.

The new law also establishes specific opportunities for students with disabilities and the educators who work with them. In particular, ESSA makes some changes in the areas of standards and assessments, accommodations, reporting of assessment results, accountability and educator qualifications for students with disabilities.

State Standards and Allowable Assessments of Students with Disabilities. Like all students, students with disabilities must be assessed annually¹ using the statewide assessment system. The assessments for all public school students must be based upon challenging academic state standards in English/language arts and mathematics.

All students with disabilities may be assessed with the regular state assessment, or the state may choose to develop an alternative assessment for students with the most severe cognitive disabilities. If the state chooses to develop an alternative assessment, the assessment must be based upon alternative state standards. In addition, states that adopt alternative standards and assessments for students with the most severe cognitive disabilities must provide assurances to the US Department of Education that the system meets several criteria:

1. The system must be aligned with state academic standards;
2. The system must promote access to the general education curriculum;
3. The system must reflect professional judgment as to the highest possible standards achievable by students with the most significant cognitive disabilities; and
4. The system must be designed to ensure any student who meets the alternative standards is on track to pursue postsecondary education or employment.

¹ Annual assessment must occur in reading and mathematics in grades three through eight and once in high school. States also must assess students in science at least once in elementary, middle, and high school.

Pennsylvania already has adopted an alternative assessment for students with the most severe cognitive disabilities. This assessment, the Pennsylvania Alternative Student Assessment (PASA), is based upon Pennsylvania's academic standards in reading and mathematics. ***In order to continue to administer the PASA, Pennsylvania must develop alternative academic standards that form the basis of PASA content.***

Decision to Participate in the Alternative Assessment. If a state develops an alternative assessment only the IEP team can determine whether a student participates in the regular state assessment or an alternative assessment. Before the IEP team determines whether a student should take the alternative assessment, school officials must fully inform parents of students with disabilities that their child's academic achievement will be measured by alternative standards and whether participation in alternative assessments may impact the student's ability to meet the requirements for a regular high school diploma. However, a state may not preclude any student who takes an alternative assessment from attempting to complete requirements for a regular high school diploma.

Alternative Assessment Participation Rate. For any state that provides an alternative assessment, ESSA caps student participation in the alternative assessment at one percent. However, this cap applies only at the state level; neither the federal government nor the state can impose any limitation on a local education agency (LEA) decision to administer the alternative assessment. If an LEA administers the alternative assessment to more than one percent of its students, it must submit an explanation to the state addressing why more than one percent of its students participated in the alternative test. If more than one percent of students in a state take the alternative assessment, the state may apply for a waiver from the one percent cap from the US Department of Education.

Testing Accommodations. To enable as many students as possible to participate in the regular state assessment, all state assessments must be developed, to the extent practicable, using the principles of universal design.² The state assessment system must provide accommodations for those students who receive accommodations under the IDEA. Specifically, states also must provide all appropriate assessment accommodations needed to measure the academic achievement of students with disabilities participating in the regular or alternative state assessment.

Reporting State Assessment Results. Results on the regular state assessment in each of grades 3 through 8 and in high school must be reported for specific subgroups of students. Students with disabilities is one of the specified subgroups that must be reported separately. These results must be reported at the state, LEA and school level. State and local report cards also must include the number and percent of students who take the alternative assessment.

² ESSA does not define specific components of universal design. The National Center on Educational Outcomes lists seven elements: 1) inclusive assessment population; 2) precisely defined constructs; 3) accessible, non-biased assessment items; 4) amenable to accommodations; 5) simple, clear, and intuitive instructions and procedures; 6) maximum readability and comprehensibility; and 7) maximum legibility. See [Universal Design Applied to Large Scale Assessments](#).

Educator Qualifications. The state must ensure that both general and special education teachers and other staff know how to administer the alternative assessment and can provide appropriate accommodations to increase the number of students with significant disabilities who are able to participate in grade level instruction and assessment. However, ESSA abolishes the federal “highly qualified teacher” requirements included in NCLB and IDEA and allows each state to revert to its own certification requirements to determine which teachers are qualified to teach specific content to students with disabilities. Title I paraprofessionals are still required to meet qualification requirements established under NCLB: either completion of two years of study at an institution of higher learning; an associate’s (or higher) degree; demonstration, through a state or local assessment, of knowledge and the ability to assist in reading, writing, and mathematics instruction.

Accountability. The state must set long term goals and measures of interim progress for all federally required accountability measures for students with disabilities as well as for other student subgroups.³ These required accountability measures include proficiency on the annual state assessment and four-year high school graduation rate. Students with disabilities are included in all school and district accountability measures and also must be reported as a disaggregated group. If students with disabilities do not do as well as their peers in regular education on these measures, then the state must set goals that take into account the improvement necessary on these measures to make significant progress in closing statewide gaps. States also must include in the accountability system a measure of student growth or other statewide academic indicator for elementary and middle school students, disaggregated by student subgroups including students with disabilities. Finally, every state accountability system must include at least one measure of student or learning supports, reported for all students as well as for subgroups of students including those with disabilities.

States may include students with disabilities who take the alternative assessments in counting a school’s graduation cohort as long as the student is awarded an alternative state designed diploma that is standards-based and aligned to requirements for a regular high school diploma.

For More Information. For more information about the Every Student Succeeds Act and Pennsylvania’s plans for implementation, PSEA members may contact Brad Hull in PSEA’s Education Services Department, bhull@psea.org. PSEA members also can view a 1-hour webinar for Act 48 credit that explains the contents of the new ESSA in more detail on PSEA’s [Online Learning Portal](#).



³ See PSEA’s Advisories, [The Every Student Succeeds Act: State Accountability System Requirements](#) and [The Every Student Succeeds Act: State and Local Education Agency Report Card Requirements](#) for more information on accountability reporting requirements under ESSA.