

CLIENT NEWS BRIEF

President Signs Into Law “Every Student Succeeds Act” Overhauling “No Child Left Behind”

President Obama has signed into law the “Every Student Succeeds Act” (ESSA), a sweeping overhaul of “No Child Left Behind” (NCLB) that eases the burden of the NCLB’s testing and reporting requirements and restores local autonomy to schools and districts by making states responsible for students’ academic achievement. The ESSA reaffirms the notion that local leadership is best for local schools by overwhelmingly shifting authority from the federal government to the states.

Under the ESSA, the federal “adequate yearly progress” accountability system is replaced by state-designed systems, under which states develop the criteria for identifying and supporting struggling schools. State education agencies must demonstrate that they consulted local school districts in developing their plans, and the plans must be submitted to the federal Secretary of Education to ensure compliance with the law. The most important change regarding accountability is that states are now free to use measures other than test scores as evidence of progress, such as student engagement, access to and completion of advanced coursework, and school climate and safety.

The ESSA, like the NCLB, still requires states to test annually reading and mathematics in grades 3 through 8, and at least once in grades 9 through 12, and further maintains NCLB’s requirement that science tests be given at least three times between grades 3 through 12. Unlike NCLB, however, the ESSA allows states flexibility when assessing students. A state may pilot new testing variables and performance based tests so long as the assessments are valid and reliable.

The ESSA includes several measures to ensure reporting and compliance. First, the law caps the number of alternative assessments to be provided to students with disabilities at 1%, with the goal of ensuring that only those students with the most severe cognitive disabilities are given alternate achievement standards. The ESSA also moves English language accountability standards from Title III to Title I, to refocus efforts on providing support for English language learners. Finally, the ESSA requires states to focus on improving student learning in the lowest performing 5% of schools and any school in which any discrete group of students is consistently underperforming based on the state’s standard.

Further underlining its emphasis on local decision-making, the ESSA contains specific language crafted by the National School Boards Association that curtails federal influence in local school administration, including in the development and expenditure of school budgets. The law now explicitly requires the federal Secretary of Education to “consider input from stakeholders” before issuing any non-regulatory guidance which would impact local decision making.

In other changes, the ESSA eliminates NCLB’s requirement that all teachers be “highly qualified,” which previously required teachers to have demonstrated competence in the core academic subject they teach. Instead, the ESSA requires districts to hire teachers who are determined to be effective at teaching students using locally determined standards. In eliminating the

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onerous “highly qualified” requirements, the ESSA intends to provide school districts with flexibility and responsibility in selecting teachers to teach in their classrooms.

The ESSA also authorizes states to use funding targeted at the improvement of teacher quality. Specifically, states are encouraged to implement teacher evaluation systems, develop mechanisms for effectively recruiting and retaining teachers, and reform teacher certification, recertification, licensing and tenure systems. The ESSA further emphasizes the importance of improving equitable access for all students to effective teachers who are able to improve student academic achievement. The ESSA also requires local education agency plans to address disparities that result from low-income and minority students being taught by ineffective, inexperienced, or out-of-field teachers at higher rates than their peers.

Finally, the ESSA allocates funding through Teacher and School Leader Incentive Fund Grants for the development, implementation, improvement or expansion of performance-based compensation systems and for staff retention and recruiting for teachers, principals and other school leaders.

California and the other states must now grapple with the increased autonomy and flexibility offered by the ESSA, so it remains to be seen how the ESSA will be implemented in this state. Lozano Smith will continue to monitor this new law and will provide further updates as needed.

If you have questions about the ESSA or accountability measures generally, please contact one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).