

## COMPARISON OF SELECT ELEMENTS OF ESEA

No Child Left Behind v. Every Student Succeeds Act

December 8, 2015

| Issue                                 | No Child Left Behind   | Every Student Succeeds Act  |
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| <p><b>Authorization Structure</b></p> | <p>Generally includes separate authorizations for separate programs, with the exception being the 21 programs authorized under one authorization of appropriations under the Fund for the Improvement for Education (Title V, Part D of current law)</p> | <p>Maintains the separately authorized large and medium formula grant programs in ESEA, including (among others) Title I, Migrant Education, Neglected and Delinquent, Title II (Teacher and Leader Quality), Title III (English Learners), Charter Schools, Indian Education, Impact Aid and others.</p> <p>In contrast to current law, many “small” ESEA programs are not separately authorized and instead would be funded through reservations of other programs/authorizations or their activities are funded through the Student Supports and Academic Achievement Grants authority.</p> <p>The authorization period for programs under the bill is FY 2017 through FY 2020. Effective dates include:</p> <ul style="list-style-type: none"> <li>• 10/1/2016 for competitive programs</li> <li>• 7/1/2016 for noncompetitive (formula) programs</li> <li>• School year 2017-2018 for Accountability requirements (sections 1111(c) and (d))</li> <li>• FY 2017 appropriations for Impact Aid</li> </ul> <p>Multi year awards for programs which are authorized or are substantially similar to authorized programs continue through length of original award</p> <p>Multi-year awards for programs which are not authorized end after 2016 (regardless of award cycle).</p> <p>Secretary is provided “orderly” transition authority from NCLB to ESSA.</p> <p>Below is the authorization/reservation structure of the conference report. Unless otherwise noted as being funded through a reservation, a program listed below has a separate authorization of appropriations.</p> <p>Title I</p> <ul style="list-style-type: none"> <li>• Local Education Agency Grants (Part A) (within Part A States are required to reserve funds for School Improvement Activities (7%) and may reserve funds for Direct Student Services (up to 3%))</li> <li>• State Assessments (within the State assessment program, up to 20% of funding is reserved for State and local assessment audits)</li> <li>• Education of Migratory Children</li> <li>• Neglected and Delinquent</li> <li>• Federal Activities – Evaluations.</li> <li>• Flexibility for Equitable Per-Pupil Funding (this is a demonstration authority for a limited number of LEAs, so not a program)</li> </ul> |

| Issue | No Child Left Behind | Every Student Succeeds Act  |
|-------|----------------------|---|
|       |                      | <p>Title II – Preparing, Training and Recruiting Teachers, Principals or Other School Leaders</p> <ul style="list-style-type: none"> <li>• Part A – State Grants</li> <li>• Part B contains all national activities and is split into four subparts funded through reservations: <ul style="list-style-type: none"> <li>• Subpart 1 – Teacher and School Leader Incentive Program (2017-2019– 49.1%, 2020–47%)</li> <li>• Subpart 2--Literacy Education for All, Results for the Nation (2017-2019– 34.1%, 2020–36.8%)</li> <li>• Subpart 3--American History and Civics Education (2017-2020–1.4%)</li> <li>• Subpart 4--Programs of National Significance (2017-2019–15.4%, 2020–14.8%) Programs of National Significance include the following: <ul style="list-style-type: none"> <li>○ Supporting Effective Educator Development (not less than 74% of the subpart 4 allocation)</li> <li>○ School Leader Recruitment and Support (not less than 22% of the subpart 4 allocation)</li> <li>○ Technical assistance (not less than 2% of the subpart 4 allocation)</li> <li>○ STEM Master Teacher Corps (not more than 2% of the subpart 4 allocation)</li> </ul> </li> </ul> </li> </ul> <p>Title III – English Learners and Immigrant Students</p> <ul style="list-style-type: none"> <li>• State Grants for Language instruction for English Learners and Immigrant Students.</li> </ul> <p>Title IV – 21<sup>st</sup> Century Schools</p> <ul style="list-style-type: none"> <li>• Part A – Student Support and Academic Enrichment Grants</li> <li>• Part B – 21<sup>st</sup> Century Community Learning Centers</li> <li>• Part C – Charter Schools</li> <li>• Part D – Magnet Schools</li> <li>• Part E – Statewide Family Engagement Centers</li> <li>• Part F – National Activities – Divided into 4 subparts and funded through reservations a follows: <ul style="list-style-type: none"> <li>○ Subpart 1 – Education Innovation and Research - (2017-2018–36%, 2019-2020–42%)</li> <li>○ Subpart 2 – Community Support for School Success (2017-2018– 36%, 2019–2020–32%)</li> <li>○ Subpart 3 – National Activity for School Safety (\$5 million)</li> <li>○ Subpart 4 – Academic Enrichment - (2017-2018–28%, 2019-2020–26%) Made up of 3 sections. Secretary is required to fund each (but a minimum is not set): <ul style="list-style-type: none"> <li>▪ Arts Education</li> <li>▪ Ready to Learn Programing</li> <li>▪ Javitz Gifted and Talented</li> </ul> </li> </ul> </li> </ul> <p>Title V – State Innovation and Local Flexibility</p> <ul style="list-style-type: none"> <li>• Transferability (authority – not a program)</li> <li>• Rural Education</li> </ul> <p>Title VI – Indian, Native Hawaiian, and Alaska Native Education</p> |

| Issue  | No Child Left Behind   | Every Student Succeeds Act   |
|--|--|--|
|  |  | <p>Title VII – Impact Aid</p> <p>Title VIII – ESEA General Provisions</p> <p>Title IX –McKinney-Vento Act and Other Provisions</p> <ul style="list-style-type: none"> <li>• Preschool Development Grants</li> </ul>  |
| <b>Standards</b>   | <p>All states are required to have academic content and achievement standards in mathematics, reading or language arts and science which must include four levels of performance: advanced, proficient, basic and below basic.</p> <p>U.S. Department of Education officers and employees are barred from any action that might mandate or control a state’s, LEA’s or school’s instruction and standards.</p>   | <p>States must provide an assurance that they have adopted challenging academic content and achievement standards in mathematics, reading or language arts and science. The achievement standards would have to include not less than 3 levels of achievement.</p> <p>States must provide an assurance that the state’s standards are aligned with: entrance requirements for credit-bearing coursework in the system of public higher education in the state and relevant State career and technical education standards</p>  |
| <b>Standards and Assessments Related to Students with Disabilities</b> | <p>Two separate regulations apply to standards related to students with disabilities, alternative standards for students with the most significant cognitive disabilities (1% regulation) and modified achievement standards for other students with disabilities (2% regulation). In a state’s accountability system, the scores of students with disabilities assessed against the 1% standards are limited to the number that is 1% of all students in a state. Scores of students with disabilities assessed against the 2% standards are limited to the number of students that is 2% of all students in a state.</p> | <p>Places a cap of 1% of the total number of all students in the State that can be assessed using alternative assessments for students with significant cognitive disabilities. The statutory language does not authorize an LEA cap on the administration of these assessments, but does require LEAs to submit information to the SEA justifying the need to exceed such cap. SEAs are required to provide additional oversight for LEAs which must submit this information. The overall authority to administer these assessments (and the 1% cap) is specifically subject to ESEA’s waiver authority.</p>  |
| <b>English Language Proficiency Standards</b>                          | <p>Each state is required to have English language proficiency standards.</p>  | <p>Maintains the requirement to have English language proficiency standards. Standards would have to be aligned with the challenging State academic standards.</p>   |
| <b>Assessments</b>   | <p>Each state is required to have implemented a set of high-quality, yearly student academic assessments that include, at a minimum, academic assessments in mathematics, reading or language arts, and science</p> <p>Math and reading/English language arts are assessed annually in grades 3-8 and once in grades 10-12. Science is assessed once in each of the following grade spans: 3-5; 6-9; and 10-12. In order to make Adequately Yearly Progress (AYP), schools must assess at least 95% of each subgroup in their school.</p>  | <p>Each state is required to have implemented a set of high-quality student academic assessments in math, reading or language arts, and science.</p> <p>Assessment timelines from current law are maintained.</p> <p>Assessments may, at the state’s discretion, measure individual student growth.</p> <p>State systems can measure achievement through an annual summative assessment or multiple statewide assessments, the results of which would be required to be combined to produce a summative score.</p> <p>States may use computer-adaptive assessments and may measure a student’s academic proficiency above or below grade level and use such scores in the state accountability system.</p> |

| Issue                              | No Child Left Behind   | Every Student Succeeds Act   |
|------------------------------------|--|--|
|                                    |  | <p>Does not generally allow for the use of local assessments, except states may allow an LEA to use a nationally-recognized high school academic assessment in lieu of a state assessment as long as such assessment is aligned to the State's standards and meet other requirements.</p> <p>Allows, but does not require, states to set a limit on the amount of time devoted to the aggregate amount of time devoted to assessment administration for each grade.</p> <p>Prohibits assessments under Title I from assessing personal or family beliefs.</p> <p>A State may exclude a recently arrived English Learner from one administration of the reading/ELA assessment or exclude the results of such English learner from the State's accountability system for the first year of enrollment.</p>  |
| <b>Grants for Assessments</b>      | <p>Authorizes grants to states for the development of the annual assessments for reading/English language arts and math and for enhanced assessment activities, such as those funding the development of the Common Core Assessments, English language proficiency assessments, pre-K assessments and greater accessibility on assessments for students with disabilities.</p> | <p>Continues authorization for grants to states for the development of assessments with some modifications, including allowing states to use funds to refine science assessments in order to integrate engineering design skills and practices into such assessments.</p> <p>Also authorizes grants for enhanced assessments similar to current law. Includes language prohibiting funds to be used to mandate, direct, control, incentivize, or make financial awards conditioned upon a State developing an assessment common to a number of states.</p> <p>Authorizes funds for states and local educational agencies to audit their state and local assessment system with the goal of eliminating unnecessary assessments and streamlining assessment systems. This authority allows for the buying out of existing assessment contracts.</p> |
| <b>Innovative Assessment Pilot</b> | <p>No applicability</p>  | <p>Includes Secretary authority to provide up to 7 states initial authority (with potential of expansion) to carry out innovative assessments such as competency-based, cumulative year-end assessments.</p>   |
| <b>NAEP</b>                        | <p>States are required to provide an assurance that they will participate in 4<sup>th</sup> and 8<sup>th</sup> grade reading and mathematics assessments under the National Assessment of Education Progress (NAEP) if the Secretary pays for the costs of such assessments.</p>   | <p>Maintains current law with respect to NAEP participation.</p>   |
| <b>Opting Out of Assessments</b>   | <p>No provisions on opt out. As noted above, requires 95% participation rate.</p>  | <p>Requires 95% assessment participation for all students and subgroups. Participation rates must be a factor in state accountability systems, but the state determines how they are factored in. Also notes that nothing in the assessment section of Title I preempts state or local law with respect to a parental decision on assessment participation.</p> <p>Requires LEAs to provide parents, on request and in a timely manner, with information regarding state or local policy, procedures and parental rights regarding student participation in mandated assessments.</p>  |

| Issue                                       | No Child Left Behind  | Every Student Succeeds Act  |
|---|---|---|
| <p><b>Title I State Plan Provisions</b></p> | <p>The Secretary is required to approve a Title I state plan within 120 days of its submission unless the Secretary determines it does not meet the statutory requirements. States must be provided an opportunity to revise and resubmit their plan.</p> | <p>The Secretary is required to establish a peer-review process to assist in the review of state plans.</p> <p>The Secretary is required to approve a state plan not later than 120 days after submission unless the Secretary meets specific criteria in the bill in which to disapprove such plan.</p> <p>States are not required to submit their standards for review to the Secretary.</p> <p>State plans are in effect for the duration of the state's participation in Title I</p> <p>State plans must be available for not less than 30 days prior to being submitted to the Secretary.</p> <p>Among other provisions, States must provide an assurance that:</p> <ol style="list-style-type: none"> <li>1. A foster child can remain in their school of origin;</li> <li>2. An enrolling school immediately contacts a foster child's last school of origin to obtain relevant records;</li> <li>3. An enrolling school enroll a foster child even if relevant records are not immediately available; and</li> <li>4. The SEA appoints a point of contact to oversee these requirements and coordinate with child welfare agencies.</li> </ol> <p>Title I LEA plans require LEAs and child welfare agencies to coordinate on the provision of transportation for foster children to attend their school of origin.</p> <p>Failure to meet requirements of the state plan could result in withholding of all funds for state administration, compared to 25% in current law.</p> <p>In their state plans, states must provide an assurance that certain data that can be cross tabulated by subgroup is provided publicly, which may include providing it through the state report card.</p> |

| Issue                                      | No Child Left Behind  | Every Student Succeeds Act   |
|--|---|--|
| <b>Limitation on Secretary's Authority</b> |   | <p>Includes many limitations to the authority of the Secretary, including:</p> <p>With respect to the state accountability system, may not add requirements or criteria that are inconsistent or outside of the scope of Title I-A or in excess of statutory authority granted to the Secretary;</p> <p>As a condition of the state plan or any waiver, the Secretary may not –</p> <ul style="list-style-type: none"> <li>• require a state to add new requirements;</li> <li>• require a state to add or delete specific elements to the standards;</li> <li>• prescribe goals of progress or measurements of interim progress that are set by states under the accountability system;</li> <li>• prescribe specific assessments or items to be used in assessments;</li> <li>• prescribe indicators that states must use;</li> <li>• prescribe the weight of measures or indicators;</li> <li>• prescribe the specific methodology states must use to differentiate or identify schools;</li> <li>• prescribe school improvement strategies or exit criteria;</li> <li>• prescribe min. N-sizes;</li> <li>• prescribe any teacher or principal evaluation system;</li> <li>• prescribe any measures of teacher or principal effectiveness;</li> <li>• prescribe the way in which the State factors the 95% requirement into their accountability system.</li> </ul> <p>The Secretary is also not empowered to:</p> <ul style="list-style-type: none"> <li>• issue new non-regulatory guidance that seeks to provide explanation of the requirements under section 1111, <ul style="list-style-type: none"> <li>○ provide a strictly limited or exhaustive list for implementation purposes; and</li> <li>○ purports to be legally binding or</li> </ul> </li> <li>• requires new data collection beyond data from existing Federal, State and local reporting.</li> </ul> <p>The Secretary is also prohibited from defining a term that is inconsistent with or outside the scope of Title I, Part A.</p> |
| <b>Schoolwide Programs</b>                 | Schools with 40% and higher levels of students from low-income families can operate a schoolwide programs   | Maintains general school wide eligibility at 40% poverty, but allows States to approve schools to operate a schoolwide program with a lower poverty percentage.  |
| <b>Report Cards</b>                        | Each state and LEA is required to publish report cards that include information on student achievement, graduation rates and the professional qualifications of teachers. Student achievement data must be disaggregated by race, ethnicity, gender, disability status, migrant status, English proficiency and status as economically disadvantaged. LEA report cards also contain information on the number of schools identified for school improvement and comparisons of achievement at individual schools to the LEA and state. | <p>Maintains a requirement for state and LEA report cards. Elements included on the state report card include:</p> <ul style="list-style-type: none"> <li>• A concise description of the accountability system, goals, indicators and weights of indicators used in such system;</li> <li>• For all students and the accountability subgroups (racial and ethnic groups, economically disadvantaged status, English proficiency status, gender and migrant status), plus homeless and</li> </ul>   |

| Issue | No Child Left Behind | Every Student Succeeds Act  |
|-------|----------------------|---|
|       |                      | <p>foster youth, and students with a parent in the military, disaggregation on student achievement on the academic assessments;</p> <ul style="list-style-type: none"> <li>• For all students and the accountability subgroups, percentage of students assessed and not assessed;</li> <li>• For all students and, the accountability subgroups, information on the elementary school indicator and high school graduation rates used as part of a state’s accountability system (with disaggregation on homeless and foster youth with respect to graduation rates);</li> <li>• Information on acquisition of English proficiency by English learners;</li> <li>• Information on measures of school quality, or student success;</li> <li>• Progress of all students and subgroups on long term goals and measurements of interim progress under accountability system;</li> <li>• Minimum number of students for subgroups to be included in accountability and reporting;</li> <li>• Percentage of all students and subgroups assessed and not assessed;</li> <li>• Information that the state and each LEA reports under the Civil Rights Data Collection biennial survey;</li> <li>• Professional qualifications of teachers, principals and other school leaders disaggregated by high-poverty compared to low-poverty schools on certain categories, including the number, percentage and distribution of inexperienced teachers, principals and other school leaders; teachers with emergency credentials; teacher who are teaching out of subject;</li> <li>• Per-pupil expenditures of federal, state and local funds, disaggregated by source of funds;</li> <li>• Number and percentage of students with significant cognitive disabilities that take an alternative assessment;</li> <li>• Results on NAEP in grades 4 and 8 in reading and math;</li> <li>• Starting in 2017, the rate at which students in high schools enroll in postsecondary education; and</li> <li>• Any additional information the state wishes to provide.</li> </ul> <p>Local report cards require all of the information reported on the state report cards with the exception of NAEP results as applied to the LEA and school and how the performance of each school’s students compare to performance of the LEA and State as a whole.</p> <p>States are also required to report similar information to that required on the state report card to the Secretary.</p> <p>The Secretary is required to annually transmit a national report card to the House and Senate committees.</p> <p>States, through the Title I state plan, are required to describe how they will assess the state system for collecting data for state report cards and provide support to minimize data collection burden for LEAs for state report cards.</p> |

| Issue  | No Child Left Behind  | Every Student Succeeds Act  |
|--|---|---|
| <p><b>Adequate Yearly Progress/ State Accountability</b></p> | <p>Each state is required to have a definition of AYP in place that sets annual measurable objectives (AMOs) for subgroups in all schools to meet 100% proficiency on state assessments by the 2013-1014 school year.</p> <p>In addition, secondary schools are required to include graduation rates and elementary schools are required to use an academic indicator in addition to the assessments results described above in their definitions of AYP.</p> | <p>The agreement replaces ESEA's current adequate yearly progress system with a State-defined index system with certain federally-required components.</p> <p>Goals – Under this system, States must establish “ambitious State-designed long term goals” with measurements of interim progress for all students and subgroups of students on:</p> <ul style="list-style-type: none"> <li>• Improved academic achievement on State assessments.</li> <li>• Graduation rates.</li> <li>• Progress in achieving English language proficiency for English learners (EL).</li> </ul> <p>State Index – The State-defined index must include the following indicators (measured for all students and subgroups, except for the EL proficiency indicator):</p> <ul style="list-style-type: none"> <li>• Academic Indicators <ul style="list-style-type: none"> <li>○ Academic achievement based on the annual assessments and on the State's goals.</li> <li>○ A measure of student growth or other statewide academic indicator for elementary and middle schools.</li> <li>○ Graduation rates for high schools based on the State's goals.</li> <li>○ Progress in achieving English proficiency for English Learners in each of grades 3 through 8 and the same high school grade in which the State assesses for Math/ELA.</li> </ul> </li> <li>• Measure of School Quality and Student Success <ul style="list-style-type: none"> <li>• At least one measure of school quality or student success (several examples are listed including student and educator engagement, access and completion of advanced coursework, postsecondary readiness, school climate and safety, and another State selected indicator).</li> </ul> </li> </ul> <p>Based on the performance of schools and subgroups in schools on the indicators described above, States are required to “meaningfully differentiate” public schools in the State on an annual basis.</p> <p>“Substantial weight” is required to be given the Academic Indicators (described above) and these 4 indicators must, in the aggregate be given “much greater weight” in the differentiation process than any Measures of School Quality or Student Success (described above).</p> <p>While not specifically named as an indicator in the accountability system, States are required to annually measure the achievement of not less than 95% of all students and subgroups of students in public schools using Title I State assessments. States are permitted to and must provide a clear and understandable explanation of how the 95% assessment requirement will factor into the accountability system.</p> <p>Under the State's accountability system, for recently arrived English learners taking the reading/ELA assessment, a state may:</p> <ul style="list-style-type: none"> <li>• In the first year of enrollment exclude the results of such assessments;</li> <li>• In the second year of enrollment, include a measure of student growth on such assessments; and</li> <li>• In the third and subsequent years of enrollment, include proficiency on such assessments.</li> </ul> |

| Issue   | No Child Left Behind   | Every Student Succeeds Act  |
|---|--|---|
|   |  | States are permitted to include a student in the EL subgroup for up to 4 years after the student is proficient in English for the purposes of the State accountability system.  |
| <b>School Improvement Structure/ Identification and Notification for Comprehensive Support and Improvement and Targeted Support and Improvement</b> | <p>Each LEA must identify schools that do not make AYP for a certain number of years for school improvement, corrective action and restructuring. Schools are identified for school improvement after missing AYP for two years; for corrective action after missing AYP for four years; and for Restructuring after missing AYP for five years.</p> | <p>Under the conference report, ESEA's identification for school improvement, corrective action, restructuring, public school choice and supplemental educational services is replaced with two categories:</p> <ol style="list-style-type: none"> <li>1. Comprehensive Support and Improvement and</li> <li>2. Targeted Support and Improvement.</li> </ol> <p><b>Identification for Comprehensive Support and Improvement</b> – Beginning with school year 2017-2018 and at least once every 3 years, States must identify schools for “comprehensive support and improvement.” States are also required to set exit criteria for schools that are identified to exit such status. Schools that meet the following criteria are required to be identified:</p> <ul style="list-style-type: none"> <li>• The 5% lowest performing in the State (as determined by the index and differentiation process).</li> <li>• High schools that graduate less than two-thirds of their students.</li> <li>• Schools for which a subgroup is consistently underperforming in the same manner as a school under lowest 5% category for a State-determined number of years.</li> </ul> <p>LEAs must develop comprehensive support and improvement plans for schools identified. Plans are required to include evidence-based interventions, be based on a school-level needs assessment, identify resource inequities, be approved by the school, LEA and State Educational Agency (SEA), and be periodically monitored and reviewed by the SEA. LEAs can forgo implementation of the improvement activities for schools with less than 100 students enrolled. SEAs may allow differentiated improvement activities for high schools that predominantly serve students returning to education after dropping out who are significantly off-track to graduate from high school. LEAs may provide students with the option to transfer to another public school, including paying for transportation costs (up to 5% of their Title I allocation).</p> <p>After a state-determined period of years (not to exceed 4 years) States must take more rigorous state determined action if a school identified for comprehensive support and intervention has not met the exit criteria.</p> <p><b>Notification of Targeted Support and Improvement</b> - In addition to identification for comprehensive support and improvement, the State must annually notify LEAs with schools which have “consistently underperforming” subgroups. Schools which are notified must develop and implement a “targeted support and improvement plan” to improve outcomes for subgroups which generated the notification. These plans must include evidence-based interventions and be approved and monitored by the LEA. In addition, if the plan is not successfully implemented after a LEA determined number of years, additional action must take place. Schools for which plans are developed where subgroup performance, on its own, would lead to identification for comprehensive support and improvement as in the lowest 5% must also identify resource inequities to be addressed through plan implementation. As with other schools</p> |

| Issue                                | No Child Left Behind  | Every Student Succeeds Act   |
|--------------------------------------|---|--|
|                                      |   | which are identified, notification for target support and improvement will begin with the 2017-2018 academic year. |
| <b>School Improvement Strategies</b> | <p>Under Restructuring, LEAs are required to adopt one of five alternative governance arrangements for such schools:</p> <ol style="list-style-type: none"> <li>1. Reopening the school as a charter school;</li> <li>2. Replacing all or most of the school staff relevant to the failure to make AYP;</li> <li>3. Operating the school under a private management company;</li> <li>4. State takeover; and</li> <li>5. Other major restructuring of the school's governance arrangement.</li> </ol> <p>Under the regulations for the School Improvement Grant (SIG) program, schools identified for assistance must implement one of four turnaround models:</p> <p><u>Turnaround Model</u>, which would include, among other actions, replacing the principal and at least 50% of the school's staff, adopting a new governance structure, and implementing a new or revised instructional program.</p> <p><u>Restart Model</u>, in which an LEA would close the school and reopen it under the management of a charter school operator, a charter management organization (CMO) or an educational management organization (EMO) that has been selected through a rigorous review process.</p> <p><u>School Closure</u>, in which an LEA would close the school and enroll the students who attended the school in other, high-achieving schools in the LEA.</p> <p><u>Transformation Model</u>, which would address each of four specific areas critical to transforming the lowest achieving schools including:</p> <ul style="list-style-type: none"> <li>• <u>Developing teacher and school leader effectiveness</u>, which would include evaluations that are based in significant measure on student growth to improve teachers' and school leaders' performance;</li> <li>• <u>Comprehensive instructional reform strategies</u>, which would include the use of: instructional programs that are vertically aligned from one grade to the next and individualized student data (such as from formative, interim and summative assessments) to inform and differentiate instruction;</li> <li>• <u>Extending learning time and creating community-oriented schools</u>, which would include providing: more time for students to learn core academic content by expanding the school day, the school week or the school year; more time for teachers to collaborate, including time for horizontal and vertical planning to improve instruction; more time or opportunities for enrichment activities for students; and ongoing mechanisms for family and community engagement;</li> <li>• <u>Providing operating flexibility and sustained support</u>, which would include: giving the school sufficient operating flexibility (including in staffing, calendars/time and budgeting) to implement fully a comprehensive approach to substantially improve student achievement outcomes; and ensuring the school receives technical assistance from the LEA, SEA or an external lead partner organization (such as a school turnaround organization or an EMO).</li> </ul> | <p>The conference report does not prescribe specific school improvement strategies.</p>                            |

| Issue  | No Child Left Behind  | Every Student Succeeds Act  |
|--|---|---|
| <b>Supplemental Educational Services (SES) and Public School Choice</b>                    | Students in schools that have not made AYP for two consecutive years must be offered the ability to choose another public school, and the LEA must provide or provide for transportation. Students in schools that have not made AYP for three years must be offered free tutoring (supplemental educational services). | States may reserve 3% of their Title I allocation to provide competitive grants to LEAs to provide “direct student services” (tutoring and/or to pay for the costs of transportation associated with public school choice). Also includes activities which may be supported to include the ability for students to enroll in courses not otherwise available at their school, such as advanced placement as well as credit recovery and academic acceleration courses that lead to a regular diploma.   |
| <b>Title I State Set-Aside for School Improvement</b>                                      | States must reserve 4% of their Title I, Part A grant, of which 95% must be allocated to LEAs to assist schools identified for school improvement. The amount reserved by the State must not decrease the amount of funds received by LEAs in the prior year.   | Increases the set-aside from 4% to 7% (or, if a greater amount, the sum of the prior set-aside in addition to the funds received by the State under 1003(g) in the prior fiscal year). Funds are for states to carry out a statewide system of technical assistance and support for LEAs. Note, that as under current law, the amount reserved by the State must not decrease the amount of funds received by each LEA in the prior year.   |
| <b>High School Provisions</b>  | As mentioned in the AYP/state accountability section, graduation rates are required to be included as an additional indicator in state AYP definitions.   | Graduation rates (including the 4-year-adjusted cohort graduation rates and extended-year adjusted graduation rates) are included in report cards and in the state-determined accountability system as described above.   |
| <b>Follow the Child State Option (Portability)/Equitable Funding Demonstration Program</b> | No applicability.   | Portability provisions are not included in the Conference report.<br><br>The conference report establishes a Flexibility for Equitable Per-Pupil Funding Demonstration Authority. Under this authority, the Secretary can enter into local flexibility agreements with not more than 50 local educational agencies in order to provide them with flexibility to consolidate eligible Federal funds and State and local education funding into a single school funding system based on weighted per-pupil allocations for low-income and otherwise disadvantaged students.                                       |
| <b>Title I Formulas</b>  | Four formulas allocate Title I funds to states based on counts and concentrations of children from low-income families, state per-pupil spending on education, and, under the Equity and Effort (EFIG) formula, measures of state effort and equity in supporting education.  | Makes technical and conforming changes to the four Title I formulas, but leaves these formulas in place with no significant structural change.  |
| <b>Teacher and Principal Evaluation</b>  | No such requirement.  | Under Title II, SEAs and LEAs are permitted to develop and implement teacher and principal evaluation systems that are based in part on evidence of student achievement.  |
| <b>Highly Qualified Teachers</b>   | All Teachers in Title I programs must be highly qualified. All states must have a plan in place to ensure that teachers teaching in core academic subjects are highly qualified.  | Eliminates any requirements related to highly qualified teachers and replaces them with a requirement for teachers working in Title I programs to meet applicable state certification and licensure standards.<br><br>States are also required, as part of their state plan, to describe how low-income and minority children enrolled in Title I schools are not served at disproportionate rates by ineffective, out-of-field and inexperienced teachers, principals or other school leaders. States are required to describe the measures they will use to evaluate and publicly report on this requirement. |
| <b>Title II Structure</b>  | Under Part A, a program of formula grants to states is authorized with states making formula-based subgrants to LEAs. Also included is a separate authorization for a collection of National Activities (School Leadership, Early Childhood Educator Professional Development, etc.).                                   | Continues separate authorization for state grants and national activities.<br><br>Under Part A, authorizes a program of formula grants to states, which in turn would make formula-based subgrants to LEAs.<br><br>Authorizes the following national activities: <ul style="list-style-type: none"> <li>• Technical assistance (up to 20% of the National Activities appropriation);</li> </ul>   |

| Issue  | No Child Left Behind   | Every Student Succeeds Act   |
|--|--|--|
|  |  | <ul style="list-style-type: none"> <li>• Competitive grants for nontraditional preparation and certification programs, evidence-based professional development and enhancement, etc. (at least 40%);</li> <li>• Competitive grants for school leader recruitment and support (at least 40%).</li> </ul> <p>Part B contains all national activities and is split into four subparts:</p> <ul style="list-style-type: none"> <li>• Subpart 1 – Teacher and School Leader Incentive Program (2017-2019–49.1%, 2020–47%)</li> <li>• Subpart 2 – Literacy Education for All, Results for the Nation (2017-2019–34.1%, 2020–36.8%)</li> <li>• Subpart 3 – American History and Civics Education (2017-2020–1.4%)</li> <li>• Subpart 4 – Programs of National Significance (2017-2019–15.4%, 2020–14.8%)</li> </ul> <p>Programs of National Significance include the following:</p> <ul style="list-style-type: none"> <li>• Supporting Effective Educator Development (not less than 74% of the subpart 4 allocation);</li> <li>• School Leader Recruitment and Support (not less than 22% of the subpart 4 allocation);</li> <li>• Technical assistance (not less than 2% of the subpart 4 allocation);</li> <li>• STEM Master Teacher Corps which includes support for SEA/non-profit ability to provide effective professional development across the state (not more than 2% of the subpart 4 allocation)</li> </ul> |
| <b>Title II Federal-to-State Formula</b>       | <p>For Part A, allocates 35% of funds based on each state’s relative share of school-aged population and 65% based on each state’s relative share of population of school-aged children living in poverty, except that no state may receive less than:</p> <ol style="list-style-type: none"> <li>1. A “hold-harmless” amount equal to its combined allocation under two predecessor programs in FY 2001; or</li> <li>2. 0.5% of the total.</li> </ol> | <p>For Part A, a formula change is phased in over 4 years.</p> <ul style="list-style-type: none"> <li>• In 2017, 35% of funds are allocated based on each state's share of all children and 65% on each state's share of children living in poverty;</li> <li>• In 2018, 30% of funds are allocated based on each state's share of all children and 70% on each state's share of children living in poverty;</li> <li>• In 2019, 25% of funds are allocated based on each state's share of all children and 75% on each state's share of children living in poverty;</li> <li>• In 2020, 20% of funds are allocated based on each state’s share of all children and 80% on each state’s share of children living in poverty.</li> </ul> <p>The conference report includes a hold harmless that phases out over 6 years.</p>  |
| <b>Title II State Set-Aside and Activities</b> | <p>Permits SEAs to reserve 2.5% for state-level activities. 18 separate activities authorized (reforming certification, teacher supports, alternative route programs, recruitment, professional development, etc.). Within the 2.5%, 1% of the state's allocation may be used for state administration.</p> <p>Sets aside 2.5% for Institution of Higher Education (IHE)-LEA partnership grants.</p>   | <p>Permits the SEA to reserve:</p> <ul style="list-style-type: none"> <li>• 1% for administration;</li> <li>• Remaining state-level funds, which would be capped at 5% total, except as described below for additional state-level activities – 21 activities authorized (reform of certification, licensure and tenure systems; development and implementation of teacher evaluation and support systems; residency programs, etc.) Note: Not more than 2% of the State's 5% allotment may be used to establish or expand teacher, principal or other school leader preparation academies if it is allowable under state law, candidates are eligible for state financial aid to the same extent as participants in other state-approved teacher or principal preparation programs, and the state enables teachers, principals and other school leaders to teach and work in the state while enrolled in the preparation academy.</li> <li>• Up to an additional 3% for additional state activities for principals and other school leaders</li> </ul>  |

| Issue                                       | No Child Left Behind   | Every Student Succeeds Act   |
|---|--|--|
| <b>Title II Within-State Formula</b>        | SEAs allocate subgrant funds to LEAs 20% based on total school-aged population and 80% school-aged population living in poverty. No LEA may receive less than it received under two predecessor programs in FY2001.  | Same formula as in current law, but deletes the hold harmless.   |
| <b>Title II Local Uses of Funds</b>         | <p>Authorizes multiple allowable activities, most related to improvement of teaching and school leadership. Specific activities include developing and implementing mechanisms to assist schools in recruiting highly qualified teachers, providing professional development and other activities to improve the quality of the teaching force.</p> <p>Also authorizes the use of funds for recruitment and hiring of teachers to reduce class sizes, particularly in the early grades.</p>                  | <p>Specifies that all funds must be used for comprehensive evidence-based programs that are consistent with the principles of effectiveness and addresses the learning needs of all students. Provides an illustrative list of possible uses of funds, including developing or improving teacher and school leader evaluation and support systems that are based in part on student achievement, recruitment and retention initiatives; recruitment of mid-career professionals into education; high-quality professional development; residency programs; reform of preparation programs; and supporting the instructional services provided by school librarians.</p> <p>Authorizes the use of program funds for “reducing class size to an evidence-based level.”</p>   |
| <b>Title II Principles of Effectiveness</b> | Not included. The local application must describe how local activities will be based on a review of scientifically based research, but the law does not require that activities meet certain principles of effectiveness.  | No comparable provisions.  |
| <b>Title II Accountability</b>              | Requires an LEA, that the SEA determines, after two years, is not making sufficient progress toward meeting program objectives (re: highly qualified teachers, percentage of teachers receiving high-quality professional development) to develop a plan for meeting specific annual objectives. After a third year of failing to make progress, the SEA and LEA must enter into an agreement on the LEA's use of program funds and the SEA must provide funds directly to one or more of the LEA's schools. | No comparable provisions.  |
| <b>TIF</b>                                  | Appropriations bills have funded the Teacher Incentive Grant program. This program largely allows LEAs to operate alternative compensation models for teachers, including augmenting or basing teacher pay on academic performance.  | <p>Maintains a separate Teacher Incentive Fund program, renaming it the Teacher and School Leader Incentive Fund.</p> <p>This version of the program in this bill would maintain a focus on performance-based compensation systems and provide an expanded focus to include the implementation, improvement or expansion of human capital management systems for teachers, principals and other school leaders. These systems would have to be developed in collaboration with teachers, principals and other school leaders.</p> <p>Grantees can conduct several activities with grant funds, including developing or improving an evaluation system; conducting outreach on how to construct an evaluation system; providing principals and other school leaders with autonomy and authority to make budgeting, scheduling, and staffing decisions; paying through a differentiated salary structure; improving recruitment, selection and placement of effective teachers and school leaders; and instituting career advancement opportunities.</p> |

| Issue             | No Child Left Behind  | Every Student Succeeds Act   |
|-------------------|---|--|
| RTTT              | The American Reinvestment and Recovery Act of 2009 created the Race to the Top program (RTTT). This program provided competitive awards to states that agreed to institute a series of education reforms focused on college- and career-ready standards, improved teacher quality, better education data systems and improving school turnaround. | No applicability. Program is not authorized under the conference report.   |
| i3                | The American Reinvestment and Recovery Act of 2009 created the Investing in Innovation (i3) program. This program provided competitive awards to grants to develop and validate promising practices, strategies or programs with potential to improve student outcomes but for which efficacy has not yet been systematically studied.            | <p>The conference report reserves 36% of funds in FYs 2017 and 2018 and 42% in FY2019 of Title IV, Part F National Activities for the Education Innovation and Research Initiative.</p> <p>This initiative would provide grants to develop, create implement, replicate or scale entrepreneurial, evidence-based innovations and evaluate such innovations. Eligible entities include:</p> <ul style="list-style-type: none"> <li>• LEAs and SEAs (or consortia of these),</li> <li>• BIE,</li> <li>• nonprofits, and</li> <li>• consortiums of SEAs, LEAs, and nonprofits, businesses, educational service agencies or IHEs.</li> </ul> <p>Eligible entities can receive one of three grant types:</p> <ul style="list-style-type: none"> <li>• Early phase grants (for initiatives which research suggests has promise,</li> <li>• Mid-phase grants (for initiatives which have been implemented under an early-phase grant or similar initiative); and</li> <li>• Expansion Grants (for implementing initiatives which have produced sizeable important impacts).</li> </ul> <p>There is a 10 percent matching requirement, unless waived by the Secretary.</p> |
| Preschool Program | No applicability.   | <p>The conference report authorizes a Preschool Development Grants program. Funds are authorized through the Department of Health and Human Services (HHS) and the program is jointly administered by HHS and ED. ED is specifically prohibited from making taking any unilateral programmatic or regulation actions with respect to the operation of the program.</p> <p>The purposes of the program are:</p> <ol style="list-style-type: none"> <li>(1) Facilitation of collaboration and coordination among existing early childhood programs and improving transition into elementary school</li> <li>(2) Encouraging partnerships among early childhood providers</li> <li>(3) Maximizing parental choice among early childhood programs.</li> </ol> <p>Initial Grants<br/>States apply for one year competitive grants which may be renewed by the Secretary. States must match at least 30% of the grant amount (cash or in-kind). States use grants for the following activities:</p> <ol style="list-style-type: none"> <li>(1) Statewide needs assessment</li> </ol>   |

| Issue                                | No Child Left Behind  | Every Student Succeeds Act  |
|--------------------------------------|---|---|
|                                      |   | <p>(2) Strategic plan development for collaboration, coordination and quality improvement activities<br/> (3) Maximizing parental choice among the existing programs and providers<br/> (4) Sharing best practices<br/> (5) After activities 1 and 2 are completed, improving overall quality of early childhood programs.</p> <p>Renewal Grants<br/> States can also apply for separate renewal grants if their initial grant has concluded, they received a preschool development grant previously (under the existing appropriations funded program), or HHS permits the State to apply directly. States must also provide a 30% match with these grants (cash or in-kind).</p> <p>Under renewal grants, a State may use grant funds to make subgrants for the following activities:<br/> (1) Addressing areas in need of improvement for programs<br/> (2) Expanding programs<br/> (3) Developing new programs</p>  |
| <b>School Library Programs</b>       | <p>Improving Literacy Through School Libraries – authorized grants to LEAs (in which at least 20% of students served are from families with incomes below the poverty line) to improve literacy skills and academic achievement by providing students with:</p> <ul style="list-style-type: none"> <li>• Increased access to up-to-date school library materials;</li> <li>• Well-equipped, technologically advanced school library media centers; and</li> <li>• Well-trained, professionally certified school library media specialists.</li> </ul> <p><u>Note:</u> Last funded in FY 2010.</p> | <p>Title II, Part B, Subpart 2, Section 2226 continues activities currently implemented through appropriations legislation and authorizes Innovative Approaches to Literacy (IAL) that would promote literacy programs in low income communities. Funds are authorized for the development and enhancement of effective school library programs, which may include providing professional development for school librarians, books, and up-to-date materials to high need schools.</p> <p>Also includes the following provisions related to libraries:</p> <ul style="list-style-type: none"> <li>• The Title I LEA Plan includes a description of how the LEA will assist schools in developing effective school library programs to provide students an opportunity to develop digital literacy skills and improve academic achievement.</li> <li>• Authorizes state and local uses of funds under Title II, Part A (Supporting Effective Instruction) for “supporting the instructional services provided by effective school library programs.”</li> <li>• Uses of funds under Title II, Part B, Subpart 2 (Literacy Education for All, Results for the Nation) include coordination with, and professional development for school librarians.</li> <li>• Eligible entities under Title II, Part B, Subpart 2, Section 2232 (Presidential and Congressional Academies for American History and Civics) include libraries.</li> <li>• Authorizes states to use funds to assist LEAs with identifying and addressing technology readiness needs, including Internet connectivity and access to school libraries under Title IV, Part A (Student Support and Academic Enrichment Grants).</li> </ul> |
| <b>Local Academic Flexible Grant</b> | <p>No such provision.</p>   | <p>The conference report authorizes a Student Support and Academic Enrichment grant program under a new Title IV that funds a wide range of activities and purposes. The program is authorized at \$1.65 billion in FY 2017 and \$1.6 billion in FY 2018 through 2020.</p> <p>Under this authority, .5% is reserved for the Bureau of Indian Education and the Outlying Areas, with 2% reserved for technical assistance and capacity building by the Secretary. Of the remainder, states which submit plans receive formula grants and allocate 95% to LEAs and reserve 5% for State level activities and administration.</p>  |

| Issue   | No Child Left Behind   | Every Student Succeeds Act  |
|---|--|---|
|   |  | <p>Among others, State level activities include:</p> <ul style="list-style-type: none"> <li>• Monitoring of, and training technical assistance and capacity building for, LEAs.</li> <li>• Advanced Placement and International Baccalaureate test fee reimbursement as well as support for dual enrollment and early college high school programs (there is no separately authorized Advanced Placement program under the agreement, unlike current law).</li> <li>• Geography, Civics and well-rounded activities</li> <li>• Fostering safe, healthy and drug free environments.</li> <li>• Technology related activities.</li> </ul> <p>States are permitted to use funds received in FY 2017 to cover the fees of accelerated learning (AP and IB) examinations taken by low-income students in the 2016-2017 school year. LEAs receiving grants must submit an application and do a needs assessment (which must be conducted at least every 3 years). LEAs must provide assurance that funds will be prioritized to schools that have the greatest needs, the most low-income children, or are identified under the accountability system or as persistently dangerous.</p> <p>With grant funds, LEAs are expected to fund activities in each of three categories:</p> <ul style="list-style-type: none"> <li>• Well-Rounded (at least 20% of funds), which include AP and IB test fee reimbursement, STEM, Arts and Computer Science.</li> <li>• Healthy Students (at least 20% of funds), which includes bullying and drug abuse prevention.</li> <li>• Technology (at least one activity, and a limitation is placed on the purchase of technology infrastructure).</li> </ul> |
| <p><b>Transferability/ Flexibility in Using Funds</b></p> | <p>Under current law, states (with the state share of funds) and LEAs (with the local share of funds) can generally transfer up to 50% of a program's allocation among certain programs. The only programs presently receiving funding to which this authority applies are Title I, Part A and Teacher Quality Grants (Title II, Part A). States or LEAs are not permitted to transfer funds out of Title I.</p> | <p>The conference agreement makes several changes to transferability.</p> <p>At the SEA level, the conference report allows States, with the State share of program funds, to transfer any amount (up to 100%) of a program's share of funds between:</p> <ul style="list-style-type: none"> <li>• Title II (teacher and other school leaders),</li> <li>• Student Support and Academic Enrichment grant (Title IV, Part A), and</li> <li>• 21<sup>st</sup> Century Community Learning Centers State level activities (Section 4202(c)(3)).</li> </ul> <p>At the LEA level, the conference report allows LEAs to transfer any amount of the LEA portion of funds from programs between:</p> <ul style="list-style-type: none"> <li>• Title II, (teacher and other school leaders)</li> <li>• Student Support and Academic Enrichment grant (Title IV, Part A)</li> </ul> <p>States and LEAs may transfer funds into but not out of, the following programs:</p> <ul style="list-style-type: none"> <li>• Title I, Part A,</li> <li>• Migrant Education,</li> <li>• Neglected and Delinquent,</li> <li>• English Language Learner State Grants and</li> <li>• Rural Education.</li> </ul>  |

| Issue                              | No Child Left Behind  | Every Student Succeeds Act  |
|------------------------------------|---|---|
| <b>Maintenance of Effort (MOE)</b> | Under most ESEA programs, states and/or LEAs must maintain the amount of state and/or LEA funding that is being expended in the prior fiscal year. Allows the Secretary to waive MOE in the event of natural disasters or precipitous decline in state resources.   | Maintains maintenance of effort (MOE) requirements and only allows reductions in MOE if a state has failed to meet MOE for 1 or more of the 5 immediately preceding fiscal years. Adds an additional authority for the Secretary to waive MOE in the event of a change in the organizational structure of an LEA.   |
| <b>STEM Education</b>              | Provides authorization for the Math and Science Partnership (MSP) Program.  | <p>Repeals the MSP program. Includes a new authority for a STEM Master Teacher Corps, (authorized for under \$2 million) which allows the Secretary to award grants to SEAs to develop such teacher corps, or to fund grants to SEAs or nonprofits in partnership with SEAs to support the implementation, replication, or expansion of effective STEM professional development across the State (not more than 2% of the subpart 4 allocation)</p> <p>As noted above, under Title IV grant funds, LEAs are expected to fund activities in each of three categories:</p> <ul style="list-style-type: none"> <li>• Well-Rounded (at least 20% of funds), which include AP and IB test fee reimbursement, STEM, arts and computer science.</li> <li>• Healthy Students (at least 20% of funds), which includes bullying and drug abuse prevention.</li> <li>• Technology (at least one activity, and a limitation is placed on the purchase of technology infrastructure</li> </ul> <p>Specifies STEM and computer science professional development as uses of funds under Title II.</p> <p>Replaces current law “core academic subject” with a new term, “well-rounded education” which includes, among other subjects, STEM and computer science.</p> |
| <b>ESEA Waivers</b>                | <p>States, LEAs or Indian tribes may request waivers of ESEA provisions. These waivers must demonstrate how they will increase the academic achievement of students. Waivers are not permitted for:</p> <ul style="list-style-type: none"> <li>• Allocations or distributions of funds to states, LEAs or other recipients</li> <li>• Maintenance of effort</li> <li>• Comparability</li> <li>• Supplement not Supplant</li> <li>• Private school participation</li> <li>• Parental participation and involvement</li> <li>• Civil rights</li> <li>• Charter School requirements</li> <li>• Prohibitions regarding state aid and religious worship or instruction</li> <li>• Prohibitions on using ESEA funds for the development and distribution of materials that encourage sexual activity or are legally obscene</li> <li>• Prohibitions on using ESEA funds to providing sex education or to distribute condoms</li> <li>• Selection of school attendance areas under Title I that are more than 10% lower in poverty than those selected without a waiver</li> </ul> | The conference report retains a modified version of ESEA waivers. Under the conference report, the Secretary has 120 days to approve a waiver request unless it does not meet the requirements of the wavier section. The Secretary is prohibited from disapproving a waiver request based on conditions outside the scope of the request. Requests for waivers by LEAs must be submitted through the State and approved by the State. The conference report maintains the list of prohibited wavier topics with conforming changes.  |

| Issue  | No Child Left Behind | Every Student Succeeds Act  |
|--|----------------------|---|
| <b>Department Staff</b>  | No applicability.    | <p>Requires the Secretary to:</p> <ol style="list-style-type: none"> <li>(1) Within 60 days of the enactment of the Student Success Act, identify the number of Department employees who worked on or administered each program that was in effect on the day before the passage of the Student Success Act and publish that information on the Department's website;</li> <li>(2) Within 60 days of the enactment of the bill, identify the number of employees who worked on or administered programs that were eliminated by the Student Success Act;</li> <li>(3) Within one year of the passage of the bill, reduce the number of Department of Education full-time-equivalent employees calculated under (2); and</li> <li>(4) Within one year of the enactment of the Student Success Act, report on how the Secretary reduced the number of employees as described under (3).</li> </ol> <p>Reporting is required on salaries of Department of Education employees.</p> |
| <b>State Legislative and Gubernatorial Signoff on Participation</b>                              | No such provision.   | <p>The agreement requires SEAs to consult with their Governor on the development of State plans for Title I, Title II and the consolidated application authority. This consultation is required to occur during the development of a plan and prior to its submission. A Governor is provided 30 days to sign off on a plan. If the Governor does not sign off during this time period, the SEA will submit the plan to the Secretary for approval.</p>   |
| <b>Criminal Background Checks/Aiding in Obtaining Employment in Sexual Misconduct Situations</b> | No such provision.   | <p>Requires States, SEAs or LEAs which receive ESEA funds to have laws regulations or policies which prohibit school employees, contractors or agents from aiding a school employee, contractor or agent in obtaining a new job if there is probably cause to believe or there has been sexual misconduct with a minor or student. Exception to this apply, including if no charges in an open case have been filed against an individual for 4 years and if a case on an individual has been closed.</p> <p>In addition, the conference report includes a Sense of Congress that calls for an end to confidentiality agreements between LEAs and child predators, a prohibition on the transferring predators to other schools, and reporting allegations of sexual misconduct to law enforcement.</p>   |