

## The Every Student Succeeds Act (ESSA)

## Intersections and Opportunities for Career Technical Education

The Elementary and Secondary Education Act (ESEA) is the primary federal law governing most national elementary and secondary education programs. Originally passed in 1965, ESEA was last reauthorized in 2001 as the No Child Left Behind Act (NCLB). In 2007, NCLB's authorization expired and the law had been due for renewal since that time.

In 2015, Congress successfully passed the Every Student Succeeds Act (ESSA), which reauthorizes the law through 2020. The new ESEA legislation seeks to remedy many common criticisms of NCLB, particularly the federal government's expanded role in K-12 education under NCLB, by providing states and local school districts with significant flexibility regarding how to implement the elements of the new legislation while also significantly reducing the federal footprint in the nation's schools.

ESSA's emphasis on state and local autonomy will provide many opportunities for innovation and experimentation in the K-12 education environment, particularly with regards to Career Technical Education (CTE). While there are many provisions in ESSA that hold promise for the CTE community, it will be incumbent upon states to implement the law in such a way that fully leverages the potential of CTE.

Below is an analysis of the new law with a particular emphasis on these points of opportunity for the CTE community. Please note that all citations, unless otherwise specified, correspond to the enrolled version of ESSA, which can be accessed [here](#).

### Timeline for Implementation

Many of ESSA's provisions became effective on December 17, 2016 — the day ESSA was signed into law. However, given that most ESSA programs are forward-funded (i.e. provided in advance), the most recent Fiscal Year (FY) 2016 appropriations legislation superseded some of the law's embedded timelines.

It is important to note that many of the legislation's "big" pieces, such as new the state ESSA accountability systems and plans, are required to go into full effect at the start of the 2017-18 school year.<sup>1</sup> Another important deadline states should be aware of is August 1, 2016 — the day existing state ESEA waivers will expire.<sup>2</sup>

At present, it is not clear when states' ESSA plans will officially be due for submission to the U.S. Department of Education (USDE) for approval. The federal rulemaking process, which will likely begin in late spring 2016, will make that deadline clearer. Given that states' new accountability systems for ESSA must be operational by the 2017-18 school year, Advance CTE anticipates the deadline for state ESSA plan submission to be sometime in 2017, following the federal rulemaking process.

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<sup>1</sup> Sec. 5(e)(1)(B)

<sup>2</sup> Sec. 4(c)

## Limits on the Role of the U.S. Secretary of Education

A recurrent theme throughout ESSA is a regression of the federal role in K-12 education. The new law contains a number of provisions that will significantly limit the U.S. Secretary of Education's responsibilities and authority with regards to the implementation of ESSA. As a result, the Secretary is prohibited from requiring the following as a condition for approving a state plan or waiver (Note: this list is not exhaustive):<sup>3</sup>

- Requiring states to add new / additional requirements to the state plan;
- Requiring states to add or delete specific elements to their standards;
- Prescribing specific assessments or items to be used in assessments;
- Prescribing specific goals for state progress under their new accountability system
- Prescribing specific accountability indicators that states must use;
- Prescribing the weight a state's accountability measures should have;
- Prescribing a specific methodology that states must use to differentiate and identify low-performing schools; and
- Prescribing school improvement strategies or exit criteria.

The Secretary is also strictly prohibited from issuing new non-regulatory guidance that could be construed as falling beyond the scope of the requirements contained in Title I of ESSA.<sup>4</sup> The law also prevents USDE from developing non-regulatory guidance that, "purports to be legally binding," or that requires additional data collection beyond existing federal, state, and local reporting requirements.<sup>5</sup>

## ESSA: A General Provision of Note

***Four-Year Authorization Period:*** ESSA authorizes programs for four years in total, rather than a longer period of time that is much more common for reauthorization efforts of this size.<sup>6</sup> This decision was made intentionally to allow the next president to revisit the law if they would like to.

***Specific Authorization Levels:*** ESSA prescribes specific authorization levels for each of the Titles contained in the new law. It is important to note that these funding levels are merely suggestions from the law's authors. Congressional appropriators must ultimately decide how much each of these sections of the law receives through the annual budget and appropriation process in Congress. As a result, Congressional appropriators may choose to ignore these authorization levels and appropriate funds at a higher or lower level than those suggested in the statute.

***Title I-Part A:*** Maintains same basic architecture for Title I aid and makes no changes to underlying formula determining state allocations. Grants made under this section of the law will continue to flow to local school districts serving high numbers and percentages of students from low-income families.

***Standards:*** Maintains NCLB approach of standards-based reform by requiring states to establish "challenging" academic standards in English / Language Arts (ELA), Mathematics and Science. The USDE

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<sup>3</sup> Sec. 1111(e)

<sup>4</sup> Sec. 1111(e)(1)(A)

<sup>5</sup> Sec. 1111(e)(1)(C)

<sup>6</sup> Sec. 1002

is expressly prohibited from developing these standards or encouraging their development monetarily or otherwise.

**Assessments:** Maintains requirements for annual assessments in ELA, Mathematics and Science in grades 3 through 8 and at least once in high school.

**Accountability:** ESSA repeals NCLB’s “Adequate Yearly Progress” (AYP) provisions with a state-defined accountability system based on “multiple measures,” each disaggregated by student subgroups:<sup>7</sup>

- Annual assessments in subjects noted above;<sup>8</sup>
- High school graduation rates;
- Another “academic” indicator for elementary and middle schools;
- English language proficiency for ELL students; and
- At least one indicator of “school quality or student success”.

**School Interventions:** Starting in the 2017-18 school year, states must identify and intervene in the lowest-performing 5 percent of schools.<sup>9</sup> While earlier versions of ESSA proposed specific school-wide intervention strategies for states, the final version forgoes this type of prescriptive guidance in favor of maximum flexibility for states in the identification and intervention processes (see also: *Limitations on the Role of the U.S. Secretary of Education*).<sup>10</sup> As such states have the ability to incorporate CTE into their turnaround strategies for schools and districts if they choose to do so. However, this decision will ultimately be left to the SEA’s discretion and ESSA makes clear that states, not federal law or USDE, will determine how to turn around low-performing schools.

**Public Accountability:** ESSA maintains the requirement that states and school districts publish report cards that make publicly available information related to the state’s accountability system and a host of other important information.<sup>11</sup>

**Program Consolidation:** ESSA consolidates or eliminates 49 existing programs into a new block grant called “Student Support and Academic Enrichment Grants”.<sup>12</sup> More information related to these grants and funding opportunities for CTE can be found in the Title IV section of this document.

**Maintenance of Effort (MOE):** ESSA maintains the current 90 percent MOE requirement, but strengthens the process for states to waive this requirement in exceptional circumstances (such as a natural disaster or a change in the organizational structure of the state) and gives states a transition period of one year for meeting this requirement if it has done so in the previous five years.<sup>13</sup>

**Supplement, not Supplant (SnS):** ESSA broadly maintains this requirement, but will now only require states to demonstrate compliance every two years rather than annually. Further, states and local districts will have additional flexibility when having to demonstrate that individual costs are

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<sup>7</sup> Sec. 1111(c)

<sup>8</sup> Sec. 1111(c)(C)(ii). *It is important to note that this measure must be weighted substantially higher than all other indicators in a state’s accountability system.*

<sup>9</sup> Sec. 1111(c)(4)(D)

<sup>10</sup> Sec. 1111(d)

<sup>11</sup> Sec. 1111(h)(1) & Sec. 1111(h)(2)

<sup>12</sup> Sec. 4101

<sup>13</sup> Sec. 8019

supplemental.<sup>14</sup> This is an area of the law that USDE will likely develop regulations for in the coming year.

## CTE Opportunities: Title I

**Standards Alignment:** States **must** demonstrate in their state plans that their “challenging academic standards” are aligned with state CTE standards. Further, states must align these standards to the entrance requirements for credit-bearing coursework for higher education in the state.<sup>15</sup>

**Well-rounded Education:** A main point of emphasis in ESSA is ensuring that every student receives a “Well-rounded Education” (formerly known as core academic subjects). CTE is now included as part of the statutory definition for a “Well-rounded Education”.<sup>16</sup> CTE’s inclusion in this definition will open up new opportunities for states and LEAs to use ESSA funding for CTE programs and activities. However, the extent to which this will be realized is largely up to the discretion of those entities and is also contingent on what portions of the new law the definition is being used.

**State Planning Coordination:** State ESSA plans **must** be developed in coordination with the state’s Carl D. Perkins Act (Perkins) plan and, at the local level, applications must be submitted in coordination with a local Perkins plan, as appropriate.<sup>17</sup>

**Accountability:** ESSA provides states with broad authority for how to develop and implement their new K-12 accountability systems. Five measures are required as noted above but only four are defined in the new law. The fifth accountability metric must be a measure of “school quality or student success”. States are responsible for determining what this metric will be.<sup>18</sup> ESSA provides a few suggestions for states to use such as measures of postsecondary readiness or student access to advanced coursework. However as with most of ESSA, states must ultimately determine what this measure will be, and it must be both objective and allow for meaningful comparisons among schools and districts within a state. It is important to note that with this new flexibility states have a greater ability than before to promote college and career readiness among their students via their accountability systems. As such, this fifth metric should be looked to as a key opportunity during the law’s implementation to embed CTE / career readiness measures within the state’s accountability system. [Read more on these efforts here.](#)

**Dual / Concurrent Enrollment Programs:** For the first time, ESSA provides a formal definition for dual or concurrent enrollment programs as well as for early college high schools.<sup>19</sup> The new law seeks to promote these programs and opportunities for students in a variety of ways including by allowing LEAs

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<sup>14</sup> Sec. 1012

<sup>15</sup> Sec. 1111(b)(1)(D)(i)

<sup>16</sup> Sec. 8002(52). “WELL-ROUNDED EDUCATION.—The term ‘well-rounded education’ means courses, activities, and programming in subjects such as English, reading or language arts, writing, science, technology, engineering, mathematics, foreign languages, civics and government, economics, arts, history, geography, computer science, music, career and technical education, health, physical education, and any other subject, as determined by the State or local educational agency, with the purpose of providing all students access to an enriched curriculum and educational experience.”

<sup>17</sup> Sec. 1111(a)(1)(B) & Sec. 1112(a)(1)(B)

<sup>18</sup> Sec. 1111(c)(4)(B)(v)

<sup>19</sup> Sec. 8002(15) & Sec. 8002(17)

to use Title I funds for these programs and for providing teachers opportunities for joint professional development aimed at integrating academic coursework with CTE.<sup>20</sup>

**Public Report Cards:** ESSA maintains NCLB’s requirement that states and local districts create public report cards that are intended to publish information related to performance on ESSA’s new accountability measures along with other important information such as student participation in and completion of dual or concurrent enrollment programs.<sup>21</sup> States **must** make this available to the wider public in an accurate and timely fashion. Significantly, states **may** elect to include Perkins accountability information on these report cards, along with any other information that they deem important.<sup>22</sup>

**Work-based Learning:** If an LEA deems it appropriate, a local application for Title I funding **may** include a description for how CTE and academic instruction is delivered in a coordinated manner that affords students the opportunity to participate in work-based and experiential learning.<sup>23</sup>

**Effective Student Transitions:** A local application for Title I funding **must** also include language for how an LEA plans to support “effective student transitions” between high school and postsecondary education. In particular, LEAs are now encouraged to describe how they will ensure these student transitions by articulating their coordination efforts with institutions of higher education and employers as well as through other efforts such as career counseling, early college high schools or dual / concurrent enrollment opportunities, as applicable.<sup>24</sup>

## CTE Opportunities: Title II & Teacher Certification Provisions

**Highly-qualified Teacher Requirements:** ESSA fully repeals NCLB’s “highly-qualified teacher” requirement and replaces it with the term “effective” throughout the new law. States are responsible for determining teacher certification and licensure requirements and processes for the state, including “alternative” routes to certification.<sup>25</sup> ESSA amends all other federal laws making use of the highly-qualified teacher terminology.

**Professional Development Opportunities:** ESSA continues to provide states and LEAs with separate funding under Title II to support professional development opportunities and programs for teachers, school leaders and administrators. State education agencies **may** choose to use a portion of these funds to prepare teachers, principals and other school leaders to integrate academic and CTE instructional strategies, which **may** also include training on how to understand and make use of labor market information and ways to ensure effective student transitions to postsecondary education and the workforce.<sup>26</sup>

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<sup>20</sup> Sec. 1114(e)(2)(A)

<sup>21</sup> Sec. 1111(h)(1)(C)(viii)(I)(II)(bb)

<sup>22</sup> Sec. 1111(h)(1)(C)(xiv)

<sup>23</sup> Sec. 1112(b)(12)

<sup>24</sup> Sec. 1112(b)(10)

<sup>25</sup> Sec. 9214

<sup>26</sup> Sec. 2101(c)(4)(B)(xviii)

## CTE Opportunities: Title IV

**State Role in New Block Grant:** ESSA consolidates 49 existing programs into a new block grant, known as “Student Support & Academic Enrichment Grants” available to states via a prescribed formula. Funding for these grants is set to begin in FY 2017 along with all other noncompetitive programs authorized by the law.<sup>27</sup> ESSA contains an authorization level of \$1.605 billion in the first year and \$1.6 billion for each fiscal year thereafter until 2020.<sup>28</sup> These grants are intended to ensure that students receive a “Well-rounded Education,” improve school conditions for student learning and enhance the use of technology to support student achievement.<sup>29</sup> Five percent of the funds allotted to a state for this grant program may be reserved for statewide activities. The allowable uses of funds vary greatly, but states now have the ability to spend this funding on the following activities:

- Technical assistance for LEAs to ensure they are meeting the above purposes of the grant program;<sup>30</sup>
- Coordination and integration efforts with other funding streams and programs that meet the requirements of the grant program (this may include the Perkins Act and other federally funded programs);<sup>31</sup>
- Accelerated learning programs, such as dual or concurrent enrollment programs and early college high schools;<sup>32</sup>
- Reimbursement for low-income students for the costs of their participation in accelerated learning programs;<sup>33</sup>
- Costs of instruction and examination fees for AP and IB programs;<sup>34</sup> and
- CTE programs and activities that meet the requirements of ESSA’s definition for a “Well-rounded Education.”<sup>35\*\*</sup>

\*\* It is important to note that CTE is included in the definition of a “Well-rounded Education”. It is therefore possible to use funds allotted under this section of ESSA for CTE programs at the discretion of the state education agency.

**Local Role in New Block Grant:** The above noted grant program requires that 95 percent of the state’s allocation be disbursed to LEAs for district and school-level activities. Schools and districts within the state that have the greatest need are required to be prioritized under this grant program. Significantly, LEAs must conduct a “needs assessment” prior to grant funding that should examine student opportunities and access to well-rounded educational activities, personalized learning, and school

<sup>27</sup> Sec. 5(b)

<sup>28</sup> Sec. 4112. It is important to note that just like all other authorization levels contained in ESSA, annual funding for these grants is ultimately contingent on Congressional appropriators allocating funding for this portion of the law.

<sup>29</sup> Sec. 4101

<sup>30</sup> Sec. 4104(b)(1). It is important to bear in mind that this block grant seeks to ensure that students are receiving a “well-rounded education” which now includes CTE. It is therefore possible to interpret the purpose of this block grant, at least in part, to extend to CTE-related activities and efforts.

<sup>31</sup> Sec. 4104(b)(2)

<sup>32</sup> Sec. 4104(b)(3)(A)(i)(IV)(aa)

<sup>33</sup> Sec. 4104(b)(3)(A)(ii)

<sup>34</sup> Sec. 4104(b)(3)(A)(i)(IV)(bb)

<sup>35</sup> Sec. 4104(b)(3)(A)(i)(VII)

conditions.<sup>36</sup> The allowable uses of funds at the local level are much more comprehensive and include, but are not limited to:

- Supporting partnerships with postsecondary institutions, employers, and other entities with a “record of success” in implementing activities supported by this grant;<sup>37</sup>
- College and career counseling, guidance, and exploration activities, including training guidance counselors to effectively use labor market information to provide college and career planning;<sup>38</sup>
- Supporting the improvement of STEM instruction and student engagement in STEM subjects, as well as supporting the development of schools specializing in these subjects;<sup>39</sup>
- Supporting accelerated learning programs noted above, increasing the availability of these programs, reimbursing low-income students for the costs of these programs, and increasing student enrollment in accelerated learning programs;<sup>40</sup>
- Strengthening the technological capacity and infrastructure of schools;<sup>41</sup>
- Personalizing the student learning experience using technology and also supporting blended learning experiences for both students and teachers;<sup>42</sup>
- Increasing access for rural, remote and underserved areas to use digital learning resources;<sup>43</sup>
- CTE programs and activities that meet the requirements of ESSA’s definition for a “Well-rounded Education”.<sup>44</sup> \*\*

\*\* It is important to note that CTE is included in the definition of a “Well-rounded Education”. It is therefore possible to use funds allotted under this section of ESSA for CTE programs at the discretion of the state education agency.

**21<sup>st</sup> Century Community Learning Centers:** One of the few individual programs that will remain under ESSA, 21<sup>st</sup> Century Community Learning Centers are another funding stream available to states and local school districts to supplement the K-12 experience during non-school hours. At the state and local levels, these centers are required to fund a multitude of programs and activities that relate to a “Well-rounded Education,” including CTE.<sup>45</sup> Importantly, LEAs are encouraged to fund programs that partner with “in-demand fields of the workforce” as defined by the Workforce Innovation and Opportunity Act or that build “career competencies” such as programs funded by the Perkins Act.<sup>46</sup>

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<sup>36</sup> Sec. 4106(d)

<sup>37</sup> Sec. 4107(a)(2)

<sup>38</sup> Sec. 4107(a)(3)(A)

<sup>39</sup> Sec. 4107(a)(3)(C)

<sup>40</sup> Sec. 4107(a)(3)(D)

<sup>41</sup> Sec. 4109(a)(2)

<sup>42</sup> Sec. 4109(a)(1) & (3)

<sup>43</sup> Sec. 4109(a)(6)

<sup>44</sup> Sec. 4107(a)(3)(J)

<sup>45</sup> Sec. 4201(a)(2)

<sup>46</sup> Sec. 4205(a)(14)



## Conforming Amendments to Perkins

*The Every Student Succeeds Act contains several “conforming amendments” that have altered the Carl D. Perkins Career and Technical Education Act (Perkins) in a few ways. Below is a highlighted, but not exhaustive, list of these changes to current Perkins law. Portions of current Perkins law that are no longer funded or have never been funded, such as Title II or Sec. 118 of the Perkins Act, are not listed here.*

**Perkins Accountability:** Secondary Perkins accountability indicators 1S1, 1S2 and 4S1 will all now be calculated using ESSA’s new or changed methods for assessing student academic achievement and calculating cohort graduation rates.<sup>47</sup> The USDE’s Office of Career, Technical, and Adult Education (OCTAE) will likely release updated guidance for states to reflect these changes.

**State Perkins Plans:** With ESSA’s emphasis on a “Well-rounded Education”, NCLB’s “core academic subjects” terminology has been dropped in favor of this new definition. As mentioned above, ESSA defines this new term to include CTE and as such states’ Perkins plans must now include a description for how this concept will be supported.<sup>48</sup> ESSA also makes changes to current state Perkins plan requirements related to state-identified standards, updating Perkins to align with ESSA’s new terminology related to “challenging state academic standards” as defined by that law.<sup>49</sup> OCTAE will likely release updated guidance to states to reflect these changes.

**Perkins State Leadership:** ESSA makes a small modification to Perkins’ current required uses of funds for state leadership activities funding. As mentioned above, ESSA updates Perkins to clarify that states may now use a portion of their Perkins allocation designated for this purpose to ensure students are receiving a “Well-rounded Education”.<sup>50</sup> OCTAE will likely release updated guidance to states to reflect these changes.

**Local Perkins Plans and Uses of Funds:** ESSA makes similar changes to Sections 134 (Local Perkins Plans) and 135 (Local Uses of Funds) to update those sections to align to ESSA’s new terminology related to standards and to a well-rounded education.<sup>51</sup>

## Additional Implementation Resources

- [USDE ESSA Resource Page](#)
- [Advance CTE Updates on ESSA Implementation](#)

*For more information on this resource, please contact Steve Voytek, Advance CTE’s Government Relations Manager ([svoytek@careertech.org](mailto:svoytek@careertech.org)).*

<sup>47</sup> Sec. 9215(n)(3) & Perkins Sec. 113(b)

<sup>48</sup> Sec. 9215(n)(6)(B) & Perkins Sec. 122(c)(7)(A)(i)

<sup>49</sup> Sec. 9215(n)(6)(A) Perkins Sec. 122(c)(1)(I)(i)

<sup>50</sup> Sec. 9215(n)(7) & Perkins Sec. 124(b)(4)(A)

<sup>51</sup> Sec. 9215(n)(8), Sec. 9215(n)(9) & Perkins Sec. 134(b)(3), Sec. 135(b)(1)(A), respectively.