

# State Notes

## TOPICS OF LEGISLATIVE INTEREST

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### **Overview of the Every Student Succeeds Act** **By Cory Savino, Fiscal Analyst**

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On December 10, 2015, President Barack Obama signed the Every Student Succeeds Act (ESSA). This Act reauthorizes the Elementary and Secondary Education Act (ESEA), which was previously reauthorized in 2002 as No Child Left Behind (NCLB). The Act makes changes to education policy at the Federal, state, and local education authority (LEA) levels. The reauthorization is effective for four years. This article provides background on the ESEA, a timeline for the transition from NCLB to ESSA, and an overview of the various changes made to the titles in the Act.

#### **Background**

The Elementary and Secondary Education Act was signed into law in 1965 by President Lyndon Johnson. The Act involved multiple grant programs intended to serve low-income, underserved, and special education students. The Act has undergone a number of reauthorizations over the past 50 years with the next most recent reauthorization named No Child Left Behind in 2002 by President George W. Bush. This reauthorization supported standards-based education reforms and increased testing standards, graduation standards, and accountability. No Child Left Behind was intended to be reauthorized in 2007, with the goal of having every student proficient in math and reading by 2014. Beginning in 2012, many states began requesting and being issued waivers for NCLB from the United States Department of Education. Many of these waivers included additional increased standards and accountability measures. After many different proposals for reauthorizations were attempted, a final conference committee agreement was reached on November 18, 2015. This agreement was soon passed and signed into law, reauthorizing the ESEA as the Every Student Succeeds Act.

#### **Transition Timeline**

The Every Student Succeeds Act is intended to be fully implemented for the 2016-2017 school year and fiscal year (FY) 2016-17. The formula grants to LEAs and spending level will be in effect on July 1, 2016, which means that schools will receive the increased funding for the 2016-2017 school year. Michigan will no longer be bound by its NCLB waiver as of August 1, 2016, and the State will need to have a new accountability plan established by that date. Competitive grants issued by the U.S. Department of Education will end on September 30, 2016, with the new ESSA competitive grants effective on October 1, 2016. This phase affects only the grants that have substantial changes; multiyear grants that have not changed substantially will remain in effect. It is important to note that any State statute that was changed due to the previous waiver, such as the teacher and principal evaluation laws, will remain in effect. In this timeline, the Michigan Department of Education is required to establish a new accountability system in consultation with the Governor, Legislature, State Board of Education, LEAs (e.g., school districts), and Indian tribes.

## **Overview of Changes**

### Title I

In Title I, Part A of the ESSA, the total formula grants to LEAs are scheduled to increase from \$15.0 billion in FY 2016-17 to \$16.2 billion by FY 2019-20. The formula and disbursement of these grants remain the same during this period of time. The other grant amounts in this title remain consistent over the next four years. The Act retains the current Maintenance of Effort (MOE) requirements at 90% of prior-year funding with the penalty of reduced Federal funds in the event that a state fails to meet MOE requirements for one or more years.

The new School Improvement Grants will allow states to carry out statewide systems of technical support. The amount of school improvement grants is equal to 7% of Title I, Part A funding or the amount reserved by the states in FY 2015-16, whichever is greater. At least 95% of this amount will have to go the LEAs by either a formula or competitive basis for implementing school support and improvement. These grants will be issued to LEAs as a four-year grant. The State also can directly provide LEAs with the technical support or improvement activity. This change in the School Improvement Grants will result in a reduction of Federal funding to the Michigan Department of Education.

Michigan will need to ensure that the State has adopted challenging academic content standards for math, reading, science, and any other subject the State determines. Under the current Common Core State standards, the State does not need to adopt or modify the existing standards that are in place. The State also must ensure that a statewide assessment continues to be in place in math, reading, and science, as is the current policy in Michigan. A significant change in the assessment piece is that states may set the maximum time devoted to testing students. States also may include multiple interim assessments during the course of the year or allow LEAs to use nationally recognized high school academic assessments or use a matrix-style assessment similar to the National Assessment of Educational Progress, which also would greatly reduce testing time. The ESSA does not overrule any state or local laws regarding parents' decision to remove students from taking the assessment; however, states still will need to ensure that 95% of students are taking an assessment. Finally, states are required to continue to disaggregate results by school, race and ethnic group, economically disadvantaged students, disabilities, English proficiency, gender, and migrant status.

Under ESSA, Michigan will need to continue to have a statewide accountability system that aligns with the State's academic standards and more heavily includes academic factors. The system also will have to differentiate subgroups of students who are consistently underperforming. The accountability system also must include long-term goals for all students and the subgroups. The system may include multiple sets of data points, including data provided by the State, LEAs, and even postsecondary education information. Although each state needs to have a new accountability plan in place by August 2016, states are not required to establish and report school performance until the 2017-2018 school year. The schools that have been identified as underperforming, including the lowest-performing Title I-funded schools and high schools with graduation rates under 33%, will need to develop improvement plans, with technical support provided by the Michigan Department of Education. If in four years, a school fails to meet progress goals, a state may use more rigorous state-determined

action. Michigan's accountability system is established in the Revised School Code and will require a statutory change if the State determines that there is a need to modify the accountability system.

In Title I, Part B, state assessment grants will be awarded to states in order to pay for developing state assessments and standards, administering assessments, and developing a report card system. There also are grants with the intended purpose of allowing states to audit the assessment system and ensure LEA compliance. These grants may go toward developing an audit plan and carrying out audits. There also are grants that may be awarded to up to seven states in order to allow LEAs to innovate and pilot assessments with the intent of scaling the assessments to a statewide system. Michigan could use these funds to further develop the M-STEP assessment, or develop an entirely new assessment.

The ESSA did modify Title I, Part C, which provides Federal funding for Migratory Children. The new formula for this funding is the sum of the average 3- to 12-year-old migratory children identified in the state over the past three years plus the number of 3- to 21-year-old migrant children who received services in summer or alternative programs, multiplied by 40% of the average per-pupil expenditure.

In Title I, Part D, new language requires that a state establish a system for timely re-enrollment of youths who were placed in the juvenile justice system into credit-bearing coursework. Michigan will need to ensure that that the School Aid Act aligns with the new requirement in this part.

#### Title II

This title supports teacher and principal recruitment and training, and received a number of changes. The first significant change involves the allotment formula to states. The current formula is divided into 35% based on the total number of students aged 5 to 17 in the state relative to the other states and 65% based on the total number of students aged 5 to 17 living in families below the poverty line in the state relative to the other states. The change will move from the current 35/65 formula in FY 2016-17 to a 20/80 formula in FY 2019-20. With Michigan ranked 20<sup>th</sup> in 5 to 17 student population and 27<sup>th</sup> in the poverty rate, the change from a 35/65 to a 20/80 formula likely will result in a decrease in funding to the State.

Although the ESSA maintains the requirement that 95% of state allotment be subgranted to LEAs, states may reserve up to 3% of the 95% for principal and school leader activities. The formula for subgrants to LEAs is the 20/80 formula; however, the number is based on the total number of students aged 5 to 17 and those living in poverty, relative to the other LEAs in the state. Grants may be used to develop teacher incentive programs, literacy instruction programs, American history and civics instruction, school leader incentive and training programs, and STEM (Science, technology, engineering, and math) master teacher corps programs. The ESSA also removes the mandate for teacher evaluations and eliminates reference to "highly qualified teachers". Though this Federal requirement is removed, Michigan statute will remain in effect unless acted upon by the State Legislature.

### Title III

Title III establishes accountability measures for English Language Learners (ELL) and was combined with Title I. This aligns the proficiency standards for ELL students with general students. Other changes include an increase in funding from \$756.0 million in FY 2016-17 to \$885.0 million in FY 2019-20. The grants are distributed to states based 80% on the population of ELL students relative to other states and 20% on the population of immigrant children and youths relative to other states. States may subgrant to eligible entities as long as 95% of the funds are used following the guidelines and reporting requirements that are laid out in the Act.

### Title IV

Title IV, Part A currently provides grants to states to ensure that the states, LEAs, and Bureau of Indian Education Schools are able to provide all students with access to well-rounded education, improved student learning environment, improved technology activities in order to improve student achievement, and improved digital literacy. Total funding for this grant program will be maintained at \$1.6 billion over the next four years. Under the ESSA, Michigan will need to submit a plan that details how the State intends to use the funds, award subgrants to LEAs, and ensure coordination with existing resources and programs in the State. Under the ESSA, 95% of the grant is intended to be subgranted to LEAs, with only up to 1% of the grant amount going toward administration, and the remaining amount being used for state activities. Grants will be three years in length with a comprehensive needs assessment every three years. Under the ESSA, LEAs will have discretion on how to use the funds in order to meet the goal of providing a well-rounded education, improving learning environments, improving technology activities to support student achievement, and improving digital literacy; however, only 15% of the funds may be used to purchase technology and infrastructure.

Title IV, Part B currently provides grants to establish or expand activities in Community Learning Centers that provide academic enrichment, offer additional services and activities not provided by schools, and offer families the opportunity for active and meaningful engagement in their children's education. The reauthorization continues current grants, with a reservation for national activities, and for the Bureau of Indian Education Schools. The funding is disbursed through a local competitive subgrant program. The funding for Part B begins at \$1.0 billion in FY 2016-17 and increases to \$1.1 billion for each of the remaining three years.

Title IV, Part C currently includes competitive charter school grants that are intended to carry out a charter school program that supports new charter schools and expands high-quality charter schools. These supports include assisting in acquiring and renovating facilities, carrying out nationally recognized programs, disseminating best practices, evaluating charter schools, and improving the charter school authorization process. Unlike other grants that typically flow through a state department of education or directly to LEAs, the reauthorization allows this program to be awarded to a state department of education, state charter school board, governor, or state charter school organization. The state entity will award grants and award subgrants to support new and existing charter schools. These grants are awarded for a five-year period with priority going to states that allow multiple chartering agencies, equitable financing, access to public facilities, ability to share bonds, right of first refusal of a public school building, and low- or no-cost leasing, as well as provide other systems of support. Michigan currently has many of these systems of support and will be highly competitive for this grant.

The total Federal funding for this program is \$270.0 million in FY 2016-17 and FY 2017-18, and then increases to \$300.0 million in FY 2018-19 and FY 2019-20.

Title IV, Part D provides grant funding for magnet school support. The only change that occurred in this grant program involves the level of funding. This begins at \$94.0 million in FY 2016-17 with scheduled increases each year until it reaches \$108.5 million in FY 2019-2020.

Title IV, Part E authorizes grants to family engagement centers. These centers are intended to carry out family engagement in education programs or provide comprehensive training and technical assistance. A state may be awarded \$500,000 with a non-Federal matching requirement. The total funding for the program is maintained at \$10.0 million for the next four years. The reauthorization made no changes to this grant.

Title IV, Part F provides grants that support national activities with 95% of the funds going toward Promise Neighborhoods and full-service community schools, and to support education research and innovation, school safety, and academic enrichment. The reauthorization increased total Federal funding from \$200.7 million in FY 2016-2017 to \$220.7 for each of the remaining years.

#### Title V

This title allows state education authorities to transfer title funds to LEAs and places requirements on how state education authorities and LEAs can transfer funds from one Title to another. The reauthorization made only technical changes to this title.

#### Titles VI and VII

These titles provide funding to support Indian, Native Hawaiian, and Alaska Native education programs, and Impact Aid, which provides aid to school districts that support students who come from Federal land that is not subject to local property taxes, such as Federal reservations, military bases, and Federal housing. The reauthorization made a number of technical and formula changes that are aimed at reducing subjectivity and improving timeliness of payments. It also eliminated "lockout" provisions that prevented federally affected school districts from obtaining this Federal aid. In addition, the reauthorization made adjustments to ensure equal proration in the event that funds are insufficient to support total formula funding. Finally, the reauthorization includes a hold harmless provision that ensures that school districts do not experience a significant funding reduction in the event of a funding cliff or significant change in the number of students supported by impact funding. Funding for impact grants remains the same over the four-year reauthorization.

#### Title VIII

This title involves education for the homeless and was reauthorized to provide coordination between LEAs and homeless children and youths. Liaisons are provided for in each state as part of this program. One significant change is the requirement for immediate enrollment of homeless children and youths pending documentation such as academic or health records. The funding for Title VIII remains \$85.0 million for each of the four years.

### Title IX

This title will provide preschool development grants. Grants will be awarded to states to develop, update, and implement statewide plans to facilitate collaboration and coordination among existing early childhood programs and for homeless children in a mixed delivery system. Grants are intended to encourage partnership with Head Start providers, state and local government, Indian and tribal organizations, private providers, and LEAs to improve coordination, program quality, and the delivery of more services across the state. These grants also are intended to increase parental choice among a mixed delivery system. Grants from this program are competitive in one-year periods with renewal. There is also a 30% non-Federal matching requirement. Funding may be used for assessing state needs, implementing improvements in early child care, or developing new programs. With Michigan's plans for increases in the quality of early childhood providers, the State is highly competitive for this grant; however, it is important to note that increases in Federal aid would require a 30% match from State resources. The Federal funding for this program is at \$250.0 million for each of the four years of reauthorization.

### **The U.S. Department of Education's Role in Education**

The ESSA places many new restrictions on the U.S. Department of Education (USDOE) that greatly reduce Federal mandates and powers over states and LEAs. States are not required to submit state standards to the USDOE for review or approval, nor are they required to submit state assessments, new requirements on statewide accountability systems, additional reporting requirements, curricula, or materials. In the area of common core or any other academic standards common to a number of states, the USDOE may not provide incentives, promote, contract with, make preferences in competitive grants, or make waiver considerations based on specific instructional content, academic standards, assessments, curricula, or program instructions. The USDOE also is prohibited from mandating states to spend funds or incur costs that are not covered under the ESSA, endorse any curriculum, or provide incentive for, pilot test, or sponsor a national assessment not specifically authorized under the ESSA.

Due to the number of restrictions on the power of the USDOE over states and LEAs while enforcing the ESSA, states will have far more freedom in implementing different school improvement plans, assessments, and standards, and supporting various education programs.

### **Conclusion**

The ESSA places restrictions on the amount of Federal power over education policy. This significant change allows Michigan and LEAs to establish different school accountability, support, standards, assessments, and various other education programming. Many of the previous changes made in Michigan due to the waiver system of No Child Left Behind were enacted in State statute and will require legislative changes if the State determines that changes are needed. Overall, the Michigan Department of Education will see a decrease in Federal funding that supports the Department, mostly in the area of school support grants. However, there is potential for additional early education support dollars, which would require additional State resources for matching. As the State and Federal government make the transition to the ESSA, the Michigan Department of Education is required to work with the Legislature, Governor, and other stakeholders in developing a new Michigan education plan.