

# **ESSA IMPACT ON POLICY DEVELOPMENT**

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## ESSA IMPACT ON POLICY DEVELOPMENT

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*“NSBA applauds lawmakers for restoring local governance and working with our public education stakeholders to end the prescriptive requirements under the No Child Left Behind Act – strengthening the ability of states and local school board members to act in the best interests of students, parents, and local communities.”*

- NSBA Executive Director Tom Gentzel (December 10, 2015).

### I. INTRODUCTION

On December 10, 2015, President Obama signed the Every Student Succeeds Act (ESSA), repealing the No Child Left Behind Act of 2001 (NCLB). ESSA, like NCLB, is an amendatory act that does not stand alone but is under the umbrella of the Elementary and Secondary Education Act of 1965 (ESEA). ESSA reauthorizes ESEA and amends other related federal statutes, e.g., the McKinney-Vento Homeless Assistance Act, Protection of Pupil Rights Act, and Boy Scouts of America Act, etc.

While ESSA was effective December 10, 2015, the 2016-17 school year was a year of transition from NCLB to ESSA. The transitional year was necessary not only to allow states to shift gears, but also for states to meet the new requirements...and to continually shake their heads at confusion caused by the federal administration change. For example, Section §6311 of the new ESEA (20 U.S.C. §6311) requires states to submit plans to the U.S. Dept. of Education (DOE) by March 2017. Then, the DOE extended the deadline to give states the option of submitting plans this past spring or this coming fall.

#### A. What Do We Have?

The statute.

Some regulations – related to assessments under:

- Title I, Part A – Improving the Academic Achievement of the Disadvantaged – Academic Assessments at 34 C.F.R. Part 200 (81 Fed. Reg. 88886); and
- Title I, Part B – Innovative Assessment Demonstration Authority at 34 C.F.R. Part 200 (81 Fed. Reg. 88940).

Some guidance at the federal level (e.g., state plan templates, stakeholder engagement, and foster care transportation) and the state level.

#### B. What Are We Waiting For?

A lot!!

Federal and state regulations need to be updated.

State plans need to be submitted and/or approved. The District of Columbia and 16 states<sup>1</sup> submitted plans by the spring deadline; others are expected to submit plans this fall.

Guidance from the DOE and state boards of education needs to be issued, along with many other implementation pieces (including the DOE updating and maintaining its website).

We are in a situation where NCLB federal regulations still exist and have not been updated to align with ESEA as amended by ESSA, some new federal regulations stand while others (related to statewide accountability systems, consolidated state plans, and data reporting at 34 C.F.R. Parts 200, 299) were repealed by the Congressional Review Act, and there are no notice of proposed rulemakings currently pending.

## **II. LET'S START AT THE VERY BEGINNING. A VERY GOOD PLACE TO START.**

How, *exactly*, does ESSA differ from NCLB?

### **A. Section 6311, State Plans**

See *Redlined Changes to Section 6311*.

### **B. Section 6312, Local Educational Agency Plans**

See *Redlined Changes to Section 6312*.

### **C. Section 6318, Parent and Family Engagement**

See *Redlined Changes to Section 6318*.

*What can I say except  
you're welcome!* 

## **III. CHALLENGES WITH WRITING ESSA INTO POLICIES AND PROCEDURES**

### **A. It applies to a wide range of policies and procedures.**

- Finding all affected policies and procedures. You can start by searching for “NCLB” or “ESEA” but such searches won't catch everything.

### **B. It doesn't just involve updating current material, but involves creating new material and deleting obsolete material.**

- In Illinois, based on ESSA statutory changes alone, we amended/created/deleted the following 29 policy and procedure documents:
  1. 1:20-AP, Checklist for Handling Intergovernmental Agreement Requests

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<sup>1</sup> Arizona, Colorado, Connecticut, Delaware, Illinois, Louisiana, Massachusetts, Maine, Michigan, North Dakota, New Jersey, New Mexico, Nevada, Oregon, Tennessee, Vermont

2. 4:110, Transportation
3. 4:170, Safety
4. 4:170-AP5, Unsafe School Choice Option
5. 5:190, Teacher Qualifications
6. ~~5:190-AP, Plan to Ensure That All Teachers Who Teach Core Academic Subjects Are Highly Qualified~~ **DELETED**
7. 5:190-E1, Notice to Parents of Their Right to Request Their Child's Classroom Teachers' Qualifications
8. 5:190-E2, Notice to Parents When their Child Is Assigned To or Has Been Taught for a Least Four Straight Weeks By a Teacher Who is ~~Not Highly Qualified~~ Does Not Meet Applicable State Certification/Licensure Requirements **RENAMED**
9. 5:190-E3, Letter to Teacher Who is ~~Not Highly Qualified~~ Does Not Meet Applicable State Certification/Licensure Requirements **RENAMED**
10. 5:280, Educational Support Personnel - Duties and Qualifications
11. 6:15, School Accountability
12. 6:140, Education of Homeless Children
13. 6:140-AP, Education of Homeless Children
14. 6:145, Migrant Students
15. 6:160, English Learners
16. 6:170, Title I Programs
17. 6:170-AP1, Checklist for Development, Implementation, and Maintenance of ~~Parental and Family Engagement Involvement~~ Compacts for Title I Programs **RENAMED**
18. 6:170-AP1, E1, District-Level ~~Parental and Family Engagement Involvement~~ Compact **RENAMED**
19. 6:170-AP1, E2, School-Level ~~Parental and Family Engagement Involvement~~ Compact **RENAMED**
20. 6:170-AP2, Notice to Parents Required by ~~No Child Left Behind Act of 2001 Elementary and Secondary Education Act, McKinney-Vento Homeless Assistance Act, and Protection of Pupil Rights Act~~ **RENAMED**

21. 6:170-AP2, E1, District Annual Report Card Required by Every Student Succeeds Act (ESSA) **NEW**
22. 7:15, Student and Family Privacy Rights
23. 7:30, Student Assignment and Intra-District Transfer
24. 7:50, School Admissions and Student Transfers To and From Non-District Schools
25. 7:340-AP1, School Student Records
26. 7:340-AP1, E1, Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records
27. 7:340-AP1, E3, Letter to Parents and Eligible Students Concerning Military Recruiters and Postsecondary Institutions Receiving Student Directory Information **RENAMED**
28. 7:340-AP1, E4, Frequently Asked Questions Regarding Military Recruiters Access to Students and Student Information
29. 8:95-AP, Parental Involvement

**C. The continued existence of NCLB regulations and lack of final regulations at both the state and federal levels leaves your policies and procedures as works in progress.**

- We couldn't ignore existing NCLB regulations, so we addressed them in memos and/or footnotes accompanying updated policies and procedures with language such as:

*ESSA amendments and implementation will be a long process and **PRESS** materials will likely need to be updated multiple times; however, we will do our best to minimize the need for continual policy updates by making general references whenever possible.*

*The highly qualified teacher requirement of the No Child Left Behind Act, formerly found in §6319 of the Elementary and Secondary Education Act (ESEA, 20 U.S.C. §6319), was repealed by the Every Student Succeeds Act (ESSA, Pub. L. 114-95, eff. 12-10-15). ESEA federal and State implementing regulations at 34 C.F.R. §200.55 and 23 Ill. Admin.Code Part 25, Appendix D have not been updated, though amendments are highly likely within the next year.*

*The Migrant Education Program is a federally funded program authorized under Title I, Part C, of the Elementary and Secondary Education Act (ESEA, 20 U.S.C. §6391 et seq.). **Note:** Section 6391 of the ESEA was amended by the Every Student Succeeds Act (ESSA), eff. 12-10-15. However applicable regulations at 34 C.F.R. §200.80 have not been updated. Amendments to the regulations are highly likely within the next year.*

#### **IV. ANTICIPATED POLICY MAINTENANCE AND IMPLEMENTATION CHALLENGES**

- A. Federal regulations are still lacking, and there's no sign of them on the horizon.
- B. Since many states won't submit plans until this fall, 2017-2018 will effectively be a transition year.
- C. States won't even contemplate updating their own regulations until federal regulations are finalized.
- D. Uncertainty with the current administration's intentions moving forward puts school districts in limbo.
- E. Every time any of the above items are changed or established, you will need to review your affected policies and procedures and make corresponding updates.