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ESEA: Title I-A Standards, Assessments, Accountability, Report Cards, and Frequently Asked Questions

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SUMMARY

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ESEA: Title I-A Standards, Assessments, Accountability, Report Cards, and Frequently Asked Questions

The Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA; P.L. 114-95), provides federal aid for elementary and secondary education. The largest ESEA program is Title I-A, Improving the Academic Achievement of the Disadvantaged. As a condition of receiving Title I-A funds, states and local educational agencies (LEAs) must meet requirements related to academic standards, assessments, accountability, and reporting.

Academic Standards

Each state must adopt (1) challenging academic content standards in reading/language arts (RLA), mathematics, and science; and (2) achievement standards representing three levels of achievement. States must also adopt English language proficiency standards for English Learners (ELs), covering four domains: speaking, listening, reading, and writing. States may adopt alternate achievement standards for students with the most significant cognitive disabilities.

Academic Assessments

Each state must administer academic assessments in RLA, mathematics, and science. The state is required to administer RLA and mathematics assessments in grades 3 through 8 and once in high school, and it is required to administer science assessments once in each of three grade spans (3-5, 6-8, and 10-12). Each state may assess a certain percentage of students with the most significant cognitive disabilities with an alternate assessment based on alternate achievement standards. Each state must administer an annual assessment of English proficiency to all ELs.

Accountability Systems

Each state must submit a plan that describes its accountability system. Accountability systems must establish long-term goals and include indicators based on these long-term goals. The indicators must include (1) student performance on RLA and mathematics assessments in all public schools and may include a measure of student growth for public high schools, (2) a measure of student growth or another indicator that allows for meaningful differentiation in school performance for all public elementary and secondary schools that are not high schools, (3) graduation rates for public high schools, (4) progress in English language proficiency by English learners in all public schools, and (5) at least one indicator of student school quality or student success that allows for meaningful differentiation in all public schools.

The accountability systems must provide data for all students and allow for the disaggregation of student performance by subgroups: (1) economically disadvantaged students, (2) students from major ethnic/racial groups, (3) children with disabilities, and (4) ELs.

States must establish a system of meaningfully differentiating among all public schools in the state based on established indicators. The differentiation among schools must include any school in which any subgroup is consistently underperforming. Using the system of meaningful differentiation, a state must identify schools that require comprehensive support and improvement (CSI), including (1) the lowest performing 5% of all schools receiving Title I-A funds, (2) all public high schools failing to graduate 67% or more of their students, (3) schools required to implement additional targeted support and improvement that have not improved in a state-determined number of years, and (4) additional statewide categories of schools (at the state's discretion).

Additionally, states are required to identify schools for targeted support and improvement (TSI), which includes any school in which a subgroup of students is consistently underperforming. Schools may also be identified for additional targeted support and improvement (ATSI), which includes any school in which one or more subgroups performs at a level that, if reflective of an entire school's performance, would result in its identification for CSI.

Report Cards

Each state is required to prepare and disseminate an annual report card. The report card must include (1) information about the state's accountability system; (2) schools identified for CSI or schools implementing TSI; (3) information on student performance disaggregated by various subgroups; (4) teacher qualifications; (5) LEA- and school-level per pupil expenditures of federal, state, and local funds; and (5) additional information related to student assessments. Each LEA that receives Title I-A funds is required to prepare and disseminate an annual LEA report card that includes information on the LEA and each public school served by the LEA.

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Introduction

The primary source of federal aid in support of elementary and secondary education is the Elementary and Secondary Education Act (ESEA)—particularly its Title I-A program, which authorizes federal aid for the education of disadvantaged students. The ESEA was initially enacted in 1965 (P.L. 89-10) "to strengthen and improve educational quality and educational opportunities in the Nation's elementary and secondary schools." It was most recently comprehensively amended and reauthorized by the Every Student Succeeds Act (ESSA; P.L. 114-95), which was enacted "to ensure that every child achieves." The ESSA authorized appropriations for ESEA programs through FY2020.[1] FY2020 appropriations for ESEA programs were $25.9 billion. The ESSA also enacted a series of revisions to educational accountability requirements that are applicable to recipients of ESEA funds.

Under Title I-A of the ESEA, as amended by the ESSA, if a state accepts Title I-A funds then the state, its local educational agencies (LEAs), and its public schools are required to focus on educational accountability as a condition of receiving federal grant funds. States, LEAs, and individual public schools are held accountable for monitoring and improving achievement outcomes for students and closing achievement gaps. Each state is required to have content standards, academic achievement standards, and aligned assessments in reading/language arts (RLA), mathematics, and science for specific grade levels. States must also have an accountability system that incorporates (1) long-term and interim performance goals for specified measures; (2) weighted indicators based, in part, on these goals; and (3) an annual system for meaningful differentiation that is used to identify schools that need additional support to improve student achievement. These academic accountability requirements must be detailed in each state's Title I-A state plan.

Each state educational agency (SEA) is required to submit a state plan delineating its academic accountability system, among other state plan requirements, for approval by the U.S. Department of Education (ED) in order to receive Title I-A funds. This plan must be developed by the SEA with "timely and meaningful consultation" with other education stakeholders, including the governor, the state board of education, members of the state legislature, school staff, and parents. The plan must be peer-reviewed through a process established by the Secretary of Education (hereinafter referred to as the Secretary)[2] and then approved by the Secretary. The state plan will remain in effect for the duration of the state's participation in Title I-A and must be periodically reviewed and revised as necessary by the SEA to reflect any changes in the state's strategies or programs under Title I-A. As part of this plan, the SEA is required to provide information on its standards, assessments, and academic accountability system.

State plans can be submitted for individual formula grant programs or, if permitted by the Secretary, the SEA may submit a consolidated state plan based on requirements established by the

[1] The General Education Provisions Act (GEPA) automatically extends the authorizations of appropriations for these programs for an additional fiscal year if Congress has not acted to extend or repeal the authorizations of appropriations by the regular session that ends prior to the start of FY2020 (20 U.S.C. 1126a). Congress did not act to extend or repeal the authorizations of appropriations for ESEA programs prior to the start of FY2020; thus, the authorizations of appropriations for these programs have automatically been extended through FY2021.

[2] The Secretary and political appointees at ED are prohibited from participating in or influencing the peer review process (ESEA, §1111(a)(4)(D)).

Secretary.[3] Following the enactment of the ESSA, all SEAs submitted consolidated state plans.[4] The Secretary has approved these plans for all 50 states, the District of Columbia, and Puerto Rico.

This report discusses the Title I-A requirements related to academic standards, assessments, and state accountability systems that are in effect under current law.[5] This is followed by a brief discussion of special rules that apply to schools operated or funded by the Bureau of Indian Education (BIE), and an examination of SEA and LEA report card and reporting requirements related to standards, assessments, and accountability systems. Frequently asked questions (FAQs) related to each of these areas are included at the end of the report.

Academic Standards

As a condition of receiving Title I-A funds, each state must have state standards in specific subject areas that meet certain requirements. This section discusses general requirements related to standards, as well as alternate achievement standards for students with the most significant cognitive disabilities and English language proficiency standards.

General Requirements Related to Academic Standards

Each state receiving Title I-A funds is required to provide an assurance in its state plan that it has adopted challenging academic content standards and aligned academic achievement standards in RLA, mathematics, and science (and any other subject selected by the state). The achievement standards must include at least three levels of achievement (e.g., basic, proficient, and advanced). Except as discussed below, the same standards and achievement levels must be applied to all public schools and all public school students. The standards must include the same knowledge, skills, and levels of achievement expected of all public school students in the state. In addition, states are required to demonstrate that these academic standards are aligned with entrance requirements for credit-bearing coursework in the state's system of public higher education and relevant state career and technical education standards.

Alternate Achievement Standards

States may adopt alternate achievement standards for students with the most significant cognitive disabilities.[6] The term *most significant cognitive disabilities* is not defined in federal legislation.

[3] Based on authority available under ESEA, Section 8302, the Secretary may allow SEAs to submit a consolidated state plan for specific ESEA programs. The Secretary allowed this following the enactment of the ESSA. For more information about consolidated state plans, see https://www2.ed.gov/admins/lead/account/stateplan17/index.html.

[4] In the consolidated state plan, SEAs were required to provide information related to how they would implement Title I-A, Title I-C, Title I-D, Title II-A, Title III-A, Title IV-A, Title IV-B, and Title V-B-2. In addition, they had to provide information on the Education for Homeless Children and Youth program authorized under the McKinney-Vento Homeless Assistance Act. For more information about the consolidated state plans, see https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/essa-consolidated-state-plans/.

[5] It is beyond the scope of this report to examine individual state plans to analyze what each state had proposed to do with respect to standards, assessment, and accountability systems.

[6] ESEA, §1111(b)(1)(E). States are prohibited from developing or implementing alternate academic achievement standards that do not meet the requirements of Section 1111(b)(1)(E)(i). Previous regulations allowed for *modified* academic achievement standards for students with disabilities who were unlikely to achieve grade-level proficiency within the school year covered by their individualized education program (IEP).

States are required to define the term relative to a student's cognitive functioning and adaptive behavior.[7]

Alternate achievement standards must be aligned with state academic content standards, promote access to the general education curriculum, and reflect professional judgment as to the highest possible standards achievable by such students. The standards must be designated for use in the student's individualized education program (IEP) and developed in accordance with the Individuals with Disabilities Education Act (IDEA).[8] Alternate achievement standards must also ensure that a student is on track to pursue postsecondary education or employment.

English Language Proficiency Standards

States must adopt English language proficiency (ELP) standards that cover the four domains of language: speaking, listening, reading, and writing. The standards must address different proficiency levels of English learners (ELs) and be aligned with the state academic content standards.[9]

Academic Assessments

States must implement a set of high-quality academic assessments in mathematics, RLA, science, and any other subject chosen by the state.[10] The assessments must be the same academic assessments used to measure the achievement of all public elementary and secondary schools in the state and be administered to all students in the state within the required grades and subjects.[11]

General Requirements Related to Assessments

Academic assessments must be aligned with state academic content standards and provide coherent and timely information about student attainment of the academic standards and whether a student is performing at grade level. The state assessments must be the same for all public elementary and secondary school students in the state. Assessments must be used for purposes for which they are reliable and valid and be of adequate technical quality for each purpose required by the ESEA.[12] Assessments must objectively measure academic achievement, knowledge, and skills without assessing personal or family beliefs and attitudes. They must involve multiple up-to-date measures of student academic achievement, including measures that assess higher-order thinking. Assessments may be administered through a single summative assessment or through multiple statewide interim assessments during the academic year that result in a single summative score. The format of assessments may be "partially delivered" in the form of portfolios, projects, or extended performance tasks.[13]

[7] 34 C.F.R. §200.6(d)(1).

[8] IDEA, §614(d)(3).

[9] ESEA, §1111(b)(1)(F).

[10] ESEA, §1111(b)(2).

[11] States are not required to use the "same" academic assessment for students who participate in alternate assessments in accordance with ESEA, Section 1111(b)(2)(D). For more information, see the subsequent section on "Assessment for Students with Disabilities."

[12] Evidence of technical quality must be made public, including on the website of the SEA (ESEA, §1111(b)(2)(B)(iv)).

[13] ESEA, §1111(b)(2)(B)(vi).

In general, a state is required to administer mathematics and RLA assessments in grades 3 through 8 and once in high school.[14] For science, the assessment must be administered at least once in each of three grade spans (3-5, 6-9, and 10-12). For any other subjects chosen by the state, assessments are administered at the discretion of the state. Thus, for any given school year, a state must administer 17 assessments to comply with these Title I-A requirements but no student would be required by federal legislation to take more than 3 assessments (mathematics, RLA, and science).[15]

The assessments must allow for the participation of all students, including students with disabilities and ELs by using principles of universal design[16] and allowing appropriate accommodations.[17] States, however, may exempt students with the most significant cognitive disabilities, provided these students participate in an alternate assessment based on alternate achievement standards. States may provide the RLA assessment in another language or form for ELs if (1) a student has attended school in the United States for less than three consecutive years, and (2) doing so "would likely yield more accurate and reliable information on what such student knows and can do."[18] Furthermore, an LEA may, on a case-by-case basis, extend the time period during which a student is assessed in a language other than English by up to an additional two years if the student has not reached a level of English language proficiency sufficient to yield valid and reliable results on a test administered in English.

Under the ESEA, states are required to use assessment results for accountability purposes, reporting purposes, or both. Assessment results for accountability purposes inform the statewide accountability system.[19] Some assessment results are used for reporting purposes only and have no bearing on the statewide accountability system. For accountability purposes, assessments must enable results to be disaggregated within the SEA, LEAs, and schools by the following groups (commonly referred to as *subgroups*): (1) each major racial and ethnic group, (2) economically disadvantaged students compared to students who are not economically disadvantaged, (3) students with disabilities compared to students without disabilities, and (4) English proficiency status. For reporting purposes, in addition to the four aforementioned subgroups of students,

[14] States are allowed an exception for advanced mathematics in middle school. A state may exempt an 8th-grade student from the regular mathematics assessment if the student participates in a more advanced end-of-course assessment that is used to measure achievement for the purposes of the state accountability system (ESEA, §1111(b)(2)(C)). For more information, see the subsequent discussion on "Advanced Mathematics in Middle School."

[15] ELs are required under the ESEA to participate in an additional annual assessment of English language proficiency. Students also may participate in additional assessments required by the state that are not required by the ESEA.

[16] ESEA, Section 8101 references the definition of *universal design* in Section 103 of the Higher Education Act, which references the definition in the Assistive Technology Act of 1998 (P.L. 105-394). The term *universal design* refers to a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly usable (without requiring assistive technologies) and products and services that are made usable with assistive technologies. In practice, universal design is a framework that improves access to assessments for all students. The framework includes seven elements: (1) inclusive assessment population; (2) precisely defined constructs; (3) accessible, non-biased items; (4) amenable to accommodations; (5) simple, clear, and intuitive instructions and procedures; (6) maximum readability and comprehensibility; and (7) maximum legibility. For more information about universal design in educational assessment, see https://nceo.info/Assessments/universal_design/overview.

[17] *Appropriate accommodations* specifically allow the use of assistive technology devices for students with disabilities (ESEA, §1111(b)(2)(B)(III)(vii)(II)). States are also required to allow for appropriate accommodations for ELs, including, to the extent practicable, "assessments in the language and form most likely to yield accurate data on what such students know and can do." (ESEA, §1111(b)(2)(B)(III)(vii)(III)).

[18] ESEA, §1111(b)(2)(B)(ix).

[19] The statewide accountability system requirements are outlined in ESEA, Section 1111(c) and are discussed later in this report.

assessment results must also be disaggregated by gender, migrant status, homeless status, foster care status, and whether a student has a parent who is a member of the Armed Forces on active duty, including a parent on full-time National Guard duty.[20]

For reporting purposes, assessments must also provide for timely individual student reports regarding achievement that allow parents, teachers, principals, and other school leaders to understand and address specific academic needs of a student. Individual student reports of achievement must allow for itemized score analyses to assist LEAs and schools in addressing the needs of students based on their responses to specific assessment items, provided that personally identifiable information is not publicly disclosed.

Assessments for English Learners

States must include all ELs in their statewide assessment systems and disaggregate results for these students. Under certain circumstances, the ESEA allows ELs to participate in assessments in a language other than English.[21] ELs also participate in other English language proficiency assessments. ELs participate in statewide assessment and accountability systems in different ways, depending on their level of language proficiency and number of years of schooling in the United States. The following sections describe the statutory requirements regarding the assessment of ELs.

Language Assessments for English Learners

Each state plan must identify languages other than English that are spoken "to a significant extent" in the student population of the state and indicate the languages for which state assessments are not available and are needed.[22] The state must make every effort to develop such assessments that are needed. The state may request assistance from the Secretary to identify appropriate assessments, but the Secretary shall not mandate a specific assessment.

English Proficiency Assessments

Each state plan must demonstrate that LEAs will administer an annual assessment of English proficiency of all ELs in the schools served by the SEA. Such assessments must be aligned with the state's ELP standards.[23] Regulations reiterate that English proficiency assessments must be administered annually in each domain (reading, writing, speaking, and listening) for all ELs in kindergarten through grade 12 served by the LEA. ELP scores from previous years may not be *banked* and counted as proficient for a student in the following year. For example, proficient listening scores and speaking scores cannot be banked in first grade and allow for an EL to be

[20] ESEA, §1111(h)(1)(C)(ii) and U.S. Department of Education, Opportunities and Responsibilities for State and Local Report Cards Under the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act: Non-Regulatory Informational Document, p. 54, September 2019, https://www2.ed.gov/policy/elsec/leg/essa/rptcardpubliccomment3282019.pdf. (Hereinafter referred to as ED, State and Local Report Cards, 2019.)

[21] The Midwest Comprehensive Center at the American Institutes for Research conducted a review of ESEA state plans regarding the availability of statewide assessments in other languages. Thirty states have statewide assessments available in Spanish. Four states have a limited number of statewide assessments available in other languages. For more information, see Appendices A and B of the report "State Assessments in Languages Other than English" available at https://midwest-cc.org/sites/default/files/2018-07/MWCC-Native-Language-Assessments-Report-508.pdf.

[22] ESEA, §1111(b)(2)(F).

[23] ESEA, §1111(b)(2)(G). For more information on the standards, see the previous discussion on "English Language Proficiency Standards."

administered only reading and writing assessments in the following year. All domains must be assessed annually.[24]

Exceptions for Recently Arrived English Learners

The ESEA includes provisions regarding recently arrived ELs.[25] As was previously permitted prior to the enactment of the ESSA, a state may exclude an EL from one administration of the RLA assessment if the student has been enrolled in school in the United States for less than 12 months and may exclude the EL's performance on the mathematics or ELP assessment for the first year of the EL's enrollment in school for accountability purposes.[26] However, the EL does still have to participate in the mathematics and ELP assessments.

The ESSA added a second option regarding the assessment of recently arrived ELs.[27] A state may choose to assess and report the performance of a recently arrived EL on the statewide RLA and mathematics assessments for each year of the student's enrollment. However, for the first year of the student's enrollment, the state may exclude his or her results on the RLA and mathematics assessments from the state's accountability system. In the second year of the student's enrollment, the state must include a measure of student growth on the RLA and mathematics assessments. In the student's third year of enrollment and all subsequent years, the state must include his or her performance on the RLA and mathematics assessments in the state's accountability system.

The results of statewide academic assessments must be disaggregated for ELs. A state may include the scores of formerly identified ELs in the EL subgroup for a period of four years after the student ceases to be identified an EL.[28] That is, once an EL becomes proficient in English, his or her score may still be included in the "EL subgroup" for RLA and mathematics assessment results for four years.[29]

Assessments for Students with Disabilities

States are required to include all students with disabilities in the statewide assessment system. Furthermore, states are required to disaggregate assessment results for students with disabilities. The majority of students with disabilities participate in the general academic assessment with their peers. However, the ESEA allows students with the most significant cognitive disabilities to participate in an alternate assessment based on alternate achievement standards.[30] The following sections describe the statutory requirements regarding the assessment of students with disabilities.

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[24] See the discussion of *banking* scores in U.S. Department of Education, "Title III of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB)," 73 *Federal Register* 61830-61831, October 17, 2008.

[25] ESEA, §1111(b)(3).

[26] Prior to enactment of the ESSA, this provision was included in regulations (34 C.F.R., §200.6(b)(4)).

[27] ESEA, §1111(b)(3)(A)(ii).

[28] Prior to the enactment of the ESSA, an EL that had attained proficiency in English had his or her score included in the EL subgroup for two years. This provision was included in regulations (34 C.F.R., §200.20(f)(2). Prior to the enactment of the ESSA, ELs were referred to as limited English proficient (LEP) students in statutory and regulatory provisions.

[29] ESEA, §1111(b)(3)(B).

[30] ESEA, §1111(b)(2)(D). For more information on alternate achievement standards, see the previous discussion on "Alternate Achievement Standards."

Alternate Assessments for Students with the Most Significant Cognitive Disabilities

Students with the most significant cognitive disabilities may be eligible to participate in an alternate assessment. As mentioned above, the term *most significant cognitive disabilities* is not defined in federal legislation. States are required to define the term relative to a student's cognitive functioning and adaptive behavior.[31] The IEP team[32] for a student with a disability determines when the student shall participate in an alternate assessment, using guidelines provided by the state.[33] In this situation, parents must be notified (1) that their child's achievement will be measured with an alternate assessment based on alternate achievement standards, and (2) how participation in an alternate assessment may affect the attainment of a regular high school diploma.[34]

A state must ensure that alternate assessments are administered in accordance with ESEA requirements. Alternate assessments must be aligned with alternate achievement standards. The ESEA requires that within a state, the number of students assessed in each subject with alternate assessments does not exceed 1% of the total number of students in the state who are assessed in that subject. A state may request a waiver from the Secretary to exceed the 1% cap.[35] The 1% cap, however, does not apply at the LEA level. An LEA may administer alternate assessments to more than 1% of students, provided that the LEA submits information to the SEA justifying the need to exceed the cap.[36]

More specifically, if a state anticipates that it will exceed the 1% cap, it must submit a waiver request to the Secretary. The waiver request must meet the following criteria:[37]

- It must be submitted at least 90 days prior to the start of the state's testing window.
- It must include (1) the number and percentage of students in each subgroup of students who took the alternate assessment, and (2) data demonstrating that the state has measured the achievement of at least 95% of students in the "children with disabilities" subgroup for all grades in which the alternate assessment is administered.[38]

[31] 34 C.F.R. §200.6(d)(1).

[32] The IEP team is composed of (1) the parents of the student, (2) at least one regular education teacher, (3) at least one special education teacher, (4) a representative from the LEA, (5) an individual who can interpret the results of evaluations, (6) additional members at the discretion of the agency or the parents, and (7) the child with a disability, when appropriate. See IDEA, §614(d).

[33] ESEA, §1111(b)(2)(D)(ii)(I).

[34] ESEA, §1111(b)(2)(D)(i)(II). The state may not preclude a student with the most significant cognitive disabilities who takes an alternate assessment from attempting to complete the requirements for a regular high school diploma (ESEA, §1111(b)(2)(D)(i)(VII)).

[35] ESEA, §1111(b)(2)(D)(ii)(IV).

[36] ESEA, §1111(b)(2)(D)(ii)(II).

[37] 34 C.F.R. §200.6(c)(4).

[38] 34 C.F.R. §200.6(c)(4). Using the data described in the waiver request, states must (1) improve the implementation of its guidelines and, if necessary, change its definition of students with the most significant cognitive disabilities so that the state may meet the 1% cap in future years; (2) take additional steps to provide oversight to LEAs who assess more than 1% of students with alternate assessments; and (3) address any disproportionality in the percentage of students taking alternate assessments.

- It must include state assurances that the state is appropriately monitoring its LEAs. If an LEA anticipates that it will assess more than 1% of students with disabilities using an alternate assessment, the state must ensure that the LEA followed the state's guidelines and the LEA will address any issues of disproportionality[39] in the percentage of students participating in alternate assessments.
- It must include a plan and timeline for improving the implementation of state guidelines regarding alternate assessments. Such a plan may include revising the definition of students with the "most significant cognitive disabilities." The state must take additional steps to support LEAs and describe how LEAs that assess more than 1% of students will be monitored and evaluated. The state will address any disproportionality in the percentage of students participating in alternate assessments.
- If the state is requesting to extend the waiver for an additional year, the state must meet all requirements described above and demonstrate substantial progress towards achieving each component of the prior year's plan and timeline.

The use of alternate assessments must be consistent with tenets of IDEA that emphasize that students with disabilities have access to the general education curriculum.[40] That is, if a student is selected to participate in an alternate assessment, he or she must not be excluded from involvement and progress within the general education curriculum. The state must also describe within the state plan (1) how it has incorporated universal design in alternate assessments,[41] and (2) that general and special educators know how to administer the alternate assessment and provide appropriate accommodations.[42]

State and Local Flexibility in Assessment

The ESEA, as amended by the ESSA, provides for some additional flexibility in assessment systems. New provisions allow states to (1) administer advanced mathematics assessments in middle school, (2) administer locally selected assessments in high school, (3) administer computer adaptive assessments, and (4) design an innovative assessment and accountability program. The following sections describe each flexibility.

Advanced Mathematics Assessments in Middle School

A state may exempt any 8th-grade student from the regular mathematics assessment if the student participates in a more advanced end-of-course assessment that can be used to measure mathematics achievement within the state's Title I-A accountability system. This flexibility allows the state to avoid double testing students who take advanced mathematics courses in 8th

[39] *Disproportionality* refers to the overrepresentation or underrepresentation of certain demographic groups participating in alternate assessments. The term usually refers to the overrepresentation of racial or ethnic minorities who participate in alternate assessments.

[40] ESEA, §1111(b)(2)(D)(i)(III).

[41] For more information on universal design, see the previous discussion on "General Requirements Related to Assessments."

[42] The state must develop and disseminate information on appropriate accommodations in order to increase the number of students with the most significant cognitive disabilities (1) who are able to participate in academic instruction and assessments at grade level and (2) who are tested based on challenging academic standards for the grade level in which the student is enrolled (ESEA, §1111(b)(2)(D)(i)(VI)).

grade.[43] When the student is in high school, however, he or she must take another mathematics end-of-course or other assessment that is more advanced than the assessment administered in middle school and is used to determine a student's mathematics proficiency in grades 9-12 for Title I-A accountability purposes.

Locally Selected Assessments

An LEA may administer a locally selected, nationally recognized high school academic assessment (hereinafter referred to as a *locally selected high school assessment*) in lieu of the state test in high school, provided that the assessment has been approved by the state.[44] Though specific locally selected high school assessments are not referenced in legislation, education groups posit that the term generally refers to the SAT and ACT, as well as several other types of assessments,[45] such as Advanced Placement or International Baccalaureate exams, ACCUPLACER,[46] and the Armed Services Vocational Aptitude Battery (ASVAB).[47]

If a state has already approved one of the above mentioned assessments as the high school assessment used for accountability, the LEA is not required to request using it. For example, if the SAT or ACT is already approved as the statewide assessment in high school, an LEA would not need to request its use as a locally selected high school assessment. In other cases where a state uses a state assessment, such as PARCC or Smarter Balanced, the LEA may request the use of another test like the SAT or ACT in lieu of the state test provided the assessment meets the requirements discussed below.

Before LEAs may use this flexibility, the state must approve the assessment for use. The SEA is required to establish technical criteria to determine whether a locally selected high school assessment meets the requirements of the statutory flexibility. At a minimum, the SEA must (1) conduct a review of the assessment to determine whether it meets or exceeds the technical criteria established by the SEA, (2) submit evidence for peer review,[48] and (3) approve such assessment for selection and use by any LEA that requests to use it.

To receive approval from the SEA, a locally selected high school assessment must meet the following criteria:

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[43] The Education Commission of the States tracks state use of end-of-course exams. In April 2018, 25 states used end of course exams; however, 4 of the 25 states did not have end-of-course exams in mathematics (Idaho, Maryland, Massachusetts, and New Jersey). For more information, see https://www.ecs.org/wp-content/uploads/State-Information-Request_End-of-Course-Exams.pdf. It is unknown how many states use these end-of-course exams to exempt students from annual statewide testing in mathematics. At least seven states have been granted waivers to test 8th grade students in advanced mathematics: the District of Columbia, Maryland, Missouri, New Jersey, New York, Ohio, and Virginia. See https://www2.ed.gov/admins/lead/account/stateplan17/waivers/index.html.

[44] ESEA, §1111(b)(2)(H).

[45] PARCC and Smarter Balanced are common assessments used in many state assessment systems. However, if a state does not use PARCC or Smarter Balanced in its assessment system, they could potentially be approved as a locally selected high school assessments.

[46] ACCUPLACER is a college placement exam administered by the College Board. For more information, see https://accuplacer.collegeboard.org/educator/about-accuplacer.

[47] The ASVAB is used for entrance and placement by the U.S. Military. For more information on these assessments, see https://ccsso.org/resource-library/implementing-locally-selected-nationally-recognized-high-school-assessment and https://www.ecs.org/wp-content/uploads/Assessments-101_A-policymakers-guide-to-K-12-assessments.pdf.

[48] The evidence must be submitted for peer review in accordance with ESEA, §1111(a)(4).

- be aligned with the state's academic content standards, address the depth and breadth of the standards, and be equivalent to the state assessment with regard to content coverage, difficulty, and quality;
- provide comparable, valid, and reliable data on academic achievement as compared to the state assessment (for all students and each subgroup of students) and results must be expressed in terms consistent with the state academic achievement standards;
- meet the general requirements of assessment systems, including technical criteria, with the exception that the locally selected high school assessment need not be the same assessment used for all students in the state and administered to all students in the state; and
- provide unbiased, rational, and consistent differentiation between schools within the state.

The LEA may choose to submit a locally selected high school assessment to the SEA for approval. If the LEA requests to use a locally selected high school assessment, it must notify parents of its request and, upon approval of the request and at the beginning of each subsequent school year in which the assessment is used, inform them that the locally selected high school assessment is different from the state high school assessment.[49]

Computer Adaptive Assessments

States may develop and administer computer adaptive assessments, provided that these assessments meet the general requirements of state assessment systems.[50] A computer adaptive assessment can measure a student's academic ability above and below the student's current grade level.[51] Because of this assessment property, the ESEA specifies additional requirements to ensure compliance with the general assessment requirements. The provision allowing states to use computer adaptive assessments clarifies that the language in Section 1111(b)(2)(B)(i) requiring that all students participate in same academic assessment shall not be interpreted as requiring that all students be administered the same assessment items. The computer adaptive assessment must, at a minimum, measure each student's academic proficiency with respect to state academic standards for the student's grade level and growth toward such standards.[52] Once the assessment

[49] It is unknown how many states have completed the state approval process described above. The Council of Chief State School Officers (CCSSO) has provided external guidance to states for implementing this flexibility (see https://ccsso.org/resource-library/implementing-locally-selected-nationally-recognized-high-school-assessment).

[50] ESEA, §1111(b)(2)(J). States are implementing computer adaptive assessments in their statewide assessment systems. For example, states that participate in the Smarter Balanced Assessment Consortium (Smarter Balanced) use computer adaptive assessments.[50] Additionally, Nebraska has contracted with the Northwest Evaluation Association (NWEA) to create its own computer adaptive assessments (see https://www.omaha.com/news/education/for-student-assessments-nebraska-moving-to-computer-adaptive-testing-which/article_4df97d4d-274d-5106-8adb-b838d53e6b4e.html).

[51] Computer adaptive assessments used in statewide assessment systems provide a scale score. A student's scale score may indicate that he or she is not proficient at grade level, but it can also provide more-detailed information about the grade level of student achievement. For example, if a 5th-grade student is not achieving at a proficient level, the scale score would be able to determine whether the student is achieving at a 4th-grade level, 3rd-grade level, etc., which is slightly more precise than determining if a student is proficient or not. On the other end of the spectrum, a 5th-grade student can be found to be advanced on an assessment, and his or her scale score may correspond, for example, to a 7th-grade level or 8th-grade level.

[52] If computer adaptive assessments are used, student growth must be measured. Student growth is measured by finding the difference in achievement from one point in time to another. Sometimes, growth is measured across multiple

has measured the student's proficiency at grade level, it *may* measure the student's level of academic proficiency above or below his or her grade level.

States may use computer adaptive assessments for students with the most significant cognitive disabilities, provided that the assessments (1) meet the legislative requirements for alternate assessments, and (2) assess the student's academic achievement and whether the student is performing at grade level. States may also use computer adaptive assessments to assess English language proficiency, provided that the assessments (1) meet the requirements for the assessment of English language proficiency, and (2) assess the student's language proficiency, which may include growth towards proficiency.

Innovative Assessment and Accountability Demonstration Authority

ESEA, Section 1204 includes a new demonstration authority for the development and use of an *innovative assessment system*. Over time, the innovative assessment system could replace assessments required by Title I-A. States or consortia of states may apply for the demonstration authority to develop an innovative assessment system that "may include competency-based assessments, instructionally embedded assessments, interim assessments, cumulative year-end assessments, or performance based assessments that combine into an annual summative determination for each student"[53] and "assessments that validate when students are ready to demonstrate mastery or proficiency and allow for differentiated student support based on individual learning needs."[54] A maximum of seven SEAs, including not more than four states participating in consortia, may receive this authority. Separate funding is not provided under the demonstration authority; however, states may use formula and competitive grant funding provided through the State Assessment Grant program to carry out this demonstration authority.[55]

States and consortia may apply for an initial demonstration period of three years to develop innovative assessment systems and implement them in a subset of LEAs. If the initial demonstration period is successful, states and consortia may apply for a two-year extension in order to transition the innovative assessment system into statewide use by the end of the extension period. If the SEA meets all relevant requirements and successfully scales the innovative assessment system for statewide use, the state may continue to operate the innovative assessment system.

In general, applications for the demonstration authority must show that the innovative assessments meet all the general requirements of Title I-A state assessments discussed above.[56] The only explicit differences between state assessment systems and innovative assessment systems are the format of the innovative assessment (i.e., competency-based assessments, instructionally embedded assessments, interim assessments, cumulative year-end assessments, and performance-based assessments) and that the reporting of results from the innovative

assessments in one school year. Other times, growth is measured from one assessment across multiple grades (e.g., from spring of 3rd grade to spring of 4th grade). For non-computer adaptive assessments, the measurement of student growth is optional.

[53] ESEA, §1204(a).

[54] Ibid.

[55] The State Assessment Grant Program is authorized by Title I-B of the ESEA. Under current law, ESEA, Section 1201 describes Grants for State Assessments and Related Activities. ESEA, Section 1203 describes the Allotment of Appropriated Funds. For more information, see CRS Report R45049, *Educational Assessment and the Elementary and Secondary Education Act*.

[56] Innovative assessments must meet all state assessment requirements with the exception of assessing all students (ESEA, §1111(b)(2)(B)(i)) and assessing all content areas and grades (ESEA, §1111(b)(2)(B)(v)).

assessments may be expressed in terms of *student competencies*[57] aligned with the state's achievement standards.[58]

Administration and Special Requirements Regarding Assessment

There are several additional considerations in the administration of state assessments. Specifically, there are provisions relevant to parent rights regarding student assessment, limitations on assessment time, and participation in the National Assessment of Educational Progress (NAEP).

Parent Rights

The ESEA does not preempt a state or local law regarding the decision of a parent not to have his or her child participate in an academic assessment.[59] If a state or local law allows parents to permit their student to "opt-out" of an assessment, the student cannot be required to participate in a state assessment.

Limitation on Assessment Time

There have been concerns over the amount of time schools spend on assessment and assessment preparation activities.[60] Each state may set a limit on the total amount of time devoted to the administration of assessments for each grade, expressed as a percentage of annual instructional hours.[61]

NAEP

As a condition of receiving Title I-A funds, a state must agree to participate in the biennial state NAEP assessments in reading and mathematics in grades 4 and 8 if the Secretary pays the costs of administering these assessments.[62] NAEP is referred to as the "Nation's Report Card" because it is the "largest nationally representative and continuing assessment of what America's students know and can do in various subject areas."[63] A sample of public schools and students are selected for the assessments to create a representative sample of students within each state. Participation in the NAEP assessments is voluntary at the individual level. Results are reported at the national and

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[57] *Competency-based education* describes learning progressions based on mastery of content. Students move through the progressions based on demonstration of mastery. For more information on competency based education, see, for example, http://www.ncsl.org/research/education/competency.aspx. Competency-based education is more widely used in higher education because it relies on the measurement of competencies, irrespective of "seat time" in class. Although K-12 education has mandatory attendance policies, some states are moving toward more competency-based education policies. For more information, see http://www.competencyworks.org/wp-content/uploads/2014/09/CWorks-Aligning-State-Policy.pdf.

[58] Common *alignment procedures* include sequential development, expert review, and document analysis (see http://images.pearsonassessments.com/images/tmrs/tmrs_rg/alignmentmethodologies.pdf).

[59] ESEA, §1111(b)(2)(K).

[60] See "Testing Burden" in CRS Report R45049, *Educational Assessment and the Elementary and Secondary Education Act*.

[61] ESEA, §1111(b)(2)(L). The limitation on assessment time is subject to federal and state requirements related to assessments and is implemented at the sole discretion of the state.

[62] ESEA, §1111(g)(2)(D).

[63] U.S. Department of Education, National Center for Education Statistics, *2019 NAEP Participation: Why Your Participation Matters*, https://nces.ed.gov/nationsreportcard/participating/.

state levels, as well as at the LEA level for a limited number of LEAs that participate in the trial urban district assessment (TUDA). Results are not reported at the school or individual student levels.[64]

Accountability Systems

In order to receive funds under Title I-A, each state is required to submit a plan to ED that, among other items, describes its accountability system.[65] The system must incorporate the state's academic standards and aligned assessments in RLA and mathematics.[66] In addition, the system must meet numerous requirements discussed below.[67]

Subgroups and Minimum Number of Students

Each state's accountability system must disaggregate data by specified student subgroups. These subgroups, which must receive separate accountincludeability determinations, include (1) economically disadvantaged students, (2) students from major racial/ethnic groups, (3) children with disabilities, and (4) English learners, provided the number of students in each subgroup meets the state's minimum number of students (also referred to as minimum group size) for inclusion in accountability determinations.[68] Each state establishes its own minimum group size.

In selecting its minimum group size, each state is required to describe the minimum number of students that are necessary to implement requirements related to the disaggregation of data by subgroup and how the number selected is statistically sound. The state must explain how the minimum number of students was determined, including whether stakeholders were included in the determination process, and how the state ensures that the selected minimum number of students is sufficient to not reveal any personally identifiable information. The same state determined minimum group size number must be used for all students and for each subgroup of students in the state.

Interim and Long-Term Goals

The system must include state established long-term goals (and measures of interim progress) for all students, and separately for subgroups of students,[69] for academic achievement as measured by proficiency on the state RLA and mathematics assessments and high school graduation rates.[70] In

[64] For more information about NAEP, see CRS In Focus IF11021, *National and International Educational Assessments*; CRS Report R45401, *National and International Educational Assessments: Overview, Results, and Issues*; and U.S. Department of Education, National Center for Education Statistics, *National Assessment of Educational Progress*, https://nces.ed.gov/nationsreportcard/.

[65] ESEA, §1111(c) and (d).

[66] ESEA, §1111(c)(4).

[67] ED promulgated new regulations pertaining to the new accountability requirements enacted by the ESSA on November 29, 2016, but the regulations were disapproved by Congress using the Congressional Review Act on March 27, 2017 (P.L. 115-13). ED has since acted to amend existing regulations to eliminate provisions that no longer apply under the ESEA as amended by the ESSA. The repealed regulations are available at U.S. Department of Education, "Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act—Accountability and State Plans," 81 *Federal Register* 86076-86248, November 29, 2016.

[68] ESEA, §1111(c)(2).

[69] ESEA, §1111(c)(4)(A).

[70] ESEA, §1111(c)(4)(A)(i)(I).

addition, the goals for subgroups of students who are behind on any of these measures must take into account the improvement needed to close statewide achievement gaps.[71] Also, the system must include long-term goals (and measures of interim progress) for increases in the percentage of English learners making progress in achieving English proficiency, as defined by the state.[72]

Indicators

A state must then use a set of indicators that are based, in part, on the long-term goals established by the state to annually measure the performance of all students and each subgroup of students to evaluate public schools.[73] These indicators must include the following:

1. **Student Proficiency on RLA and Mathematics Assessments.** For all public schools, student performance on the RLA and mathematics assessments as measured by student proficiency, and for high schools may also include a measure of student growth on such assessments.[74]
2. **Measures of Student Growth or Another Indicator of School Performance.** For public elementary and secondary schools that are not high schools, a measure of student growth or another indicator that allows for *meaningful differentiation* in school performance.[75]
3. **Graduation Rates.** For public high schools only.[76]
4. **English Language Proficiency.** For all public schools, ELs' progress in achieving English language proficiency.[77]
5. **School Quality or Student Success.** For all public schools, at least one indicator of school quality or student success (e.g., measure of student engagement, postsecondary readiness, school climate) that allows for meaningful differentiation in school performance.[78]

95% Participation Rate and Calculating Proficiency on Assessments

Each state is required annually to measure the performance of not less than 95% of all public school students and not less than 95% of all public school students in each subgroup on the mathematics and RLA assessments.[79] For example, assume a school had 100 students enrolled in grades where state RLA and mathematics assessments were required (e.g., grades 3-6), but only 80 students participated in the RLA assessment. The school's participation rate for the RLA assessment would be 80% (80/100).

The state is required to provide a *clear and understandable explanation* of how it will factor the participation rate requirement into the state's accountability system.[80] Thus, each state is able to

[71] ESEA, §1111(c)(4)(A)(i)(III).

[72] ESEA, §1111(c)(4)(A)(i)(I).

[73] ESEA, §1111(c)(4)(B).

[74] ESEA, §1111(c)(4)(B)(i).

[75] ESEA, §1111(c)(4)(B)(ii).

[76] ESEA, §1111(c)(4)(B) (iii).

[77] Only the English learners subgroup needs to be measured annually on this indicator (ESEA, §1111(c)(4)(B)(iv)).

[78] ESEA, §1111(c)(4)(B)(v).

[79] ESEA, §1111(c)(4)(E)(i).

[80] ESEA, §1111(c)(4)(E)(iii).

determine the extent to which failing to meet the 95% participation rate will be factored into its accountability system for evaluating school performance. For example, a state might decide that failing to meet the 95% participation rate requirement only has consequences if a school fails to meet it for the all students group or a subgroup for multiple years. Alternatively, a state could decide that for any year, failing to meet the participation rate requirement means that a school cannot receive the highest rating level in the state's accountability system.

For the purposes of measuring, calculating, and reporting student proficiency on the mathematics and RLA assessments, the state must use as the denominator the greater of either (1) 95% of all public school students or 95% of all public school students in the subgroup (whichever is applicable to the calculation), or (2) the number of students participating in the assessments.[81] Returning to the previous example, the school's maximum proficiency rate for the RLA assessment would be calculated by dividing the 80 participating students by 95% of all students in the school (i.e., 95 students) as 95% of the students is higher than the number of participating students. This would mean that the school's proficiency rate on the RLA assessment could be no higher than 84.2%.[82]

System of Annual Meaningful Differentiation

Based on the aforementioned indicators, the SEA must establish an annual system for *meaningfully differentiating* all public schools that gives substantial weight to each indicator but in the aggregate provides greater weight to the first four indicators than to the measure of school quality or student success.[83] The system must also identify any school in which any subgroup of students is "consistently underperforming, as determined by the state,"[84] based on all the aforementioned indicators and the system for annual meaningful differentiation (AMD).

Comprehensive Support and Improvement

Based on the state's system for AMD, each SEA must establish a state-determined methodology to identify schools for comprehensive support and improvement (CSI), beginning with school year 2018-2019,[85] and at least once every three years thereafter,

1. at least the lowest-performing 5% of all schools receiving Title I-A funds,
2. all public high schools failing to graduate 67% or more of their students,
3. schools required to implement additional targeted support and improvement (see below) that have not improved in a state-determined number of years, and
4. additional statewide categories of schools, at the state's discretion.[86]

The first category of CSI schools is the only category strictly limited to Title I-A schools. High schools can be identified for CSI regardless of whether they receive Title I-A funds or not. The third category of schools only includes Title I-A schools that have been identified for additional

[81] ESEA, §1111(c)(4)(E)(ii).

[82] Students who did not participate in the assessment would be considered non-proficient.

[83] ESEA, §1111(c)(4)(C).

[84] ESEA, §1111(c)(4)(C)(iii).

[85] Statutory language stated that the identification of schools for CSI was to begin in the 2017-2018 school year. ED used its transition authority to extend the start date to the 2018-2019 school year (ED, *State and Local Report Cards*, 2019, Item B-7).

[86] ESEA, §1111(c)(4)(D).

targeted support and improvement (ATSI) but have failed to improve within a state determined number of years.[87] States have the discretion to determine whether any other schools will be identified for CSI. The statutory language does not specify whether this category of schools must be limited to only schools receiving Title I-A funds. Non-Title I-A schools that are identified for CSI are eligible to receive school improvement funds under Section 1003. However, the receipt of school improvement funds does not make a non-Title I-A school a Title I-A school.

Each SEA is required to notify each LEA in the state if any of the schools served by the LEA have been identified for CSI. The LEAs in which schools are identified for CSI are then required to work with stakeholders, including principals or other school leaders, teachers, and parents, to develop a comprehensive support and improvement plan that meets the following requirements:

- is informed by all of the aforementioned indicators;
- includes evidence-based interventions;
- is based on a school-level needs assessment;
- identifies resource inequities to be addressed through the comprehensive support and improvement plan;[88]
- is approved by the school, LEA, and SEA; and
- upon approval and implementation, is monitored and periodically reviewed by the SEA. [89]

Evidence-Based Interventions

The ESEA includes a definition of *evidence-based*. In general, when the term is used with respect to a state, LEA, or school activity, it means an "activity, strategy, or intervention" that (1) demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on one of three levels of evidence, or (2) demonstrates a "rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes."[90] The three levels of evidence for demonstrating a statistically significant effect are the following:

1. "strong evidence from at least 1 well-designed and well-implemented study";[91]
2. "moderate evidence from at least 1 well-designed and well-implemented quasi-experimental study";[92] and
3. "promising evidence from at least 1 well-designed and well-implemented correlational study with statistical controls for selection bias."[93]

For activities, strategies, or interventions funded under Section 1003 (School Improvement), which can be used to support CSI and other support and improvement activities, the term *evidence-based* only includes activities, strategies, or interventions that meet one of the three

[87] ESEA, §1111(d)(3)(A)(i)(II).

[88] The identification of resource inequities may include a review of LEA- and school-level budgeting (ESEA, §1111(d)(1)(B)(iv)).

[89] ESEA, §1111(d)(1)(B).

[90] ESEA, §8101(21).

[91] ESEA, §8101(21)(A)(i)(I).

[92] ESEA, §8101(21)(A)(i)(II).

[93] ESEA, §8101(21)(A)(i)(III).

levels of evidence for a statistically significant effect. School improvement funds may not be used for activities, strategies, or interventions that are likely to improve outcomes based only on a rationale constructed from high-quality research findings or positive evaluations.[94]

Special Provisions for High Schools

For high schools that are identified for CSI, the SEA may permit differentiated improvement activities that use evidence-based interventions at a school that predominantly serves students who (1) have returned to high school after previously leaving secondary school without a regular high school diploma, or (2) "based on the grade or age, are significantly off track to accumulate sufficient academic credits to meet high school graduation requirements."[95] In addition, if a high school serves fewer than 100 students, the SEA may permit the LEA to "forego implementation" of CSI activities.[96]

Public School Choice

An LEA may offer students enrolled in a school identified for CSI the option to transfer to another public school served by the LEA, unless doing so is prohibited by state law.[97] If an LEA offers public school choice, it must give priority to the lowest-achieving children from low-income families.[98] A student who opts to transfer to another school must be permitted to remain in that school until he or she has completed the highest grade available at it. The student must also be permitted to enroll in classes and other activities in the same manner as all other students at the school. An LEA may use not more than 5% of its Title I-A allocation to pay for transportation costs associated with the public school choice option.

Targeted Support and Improvement

States are also required to identify for targeted support and improvement (TSI) any school in which a subgroup of students is consistently underperforming.[99] As previously discussed, the state has sole discretion to determine how the term *consistently underperforming* is defined.[100] SEAs must notify each LEA in the state if a school served by the LEA has been identified as having at least one subgroup that is consistently underperforming and ensure that the LEA notifies such school with respect to which subgroup(s) is consistently underperforming. Once an LEA notifies a school that it has been identified for TSI, the school is required to work in partnership with stakeholders, including principals and other school leaders, teachers, and parents, to develop a school-level TSI plan to improve student outcomes based on the aforementioned indicators for each subgroup of students that was the subject of the notification provided by the SEA. The TSI plan must meet the following requirements:

- is informed by all of the aforementioned indicators;

[94] ESEA, §8101(21)(A)(ii).

[95] ESEA, §1111(d)(b)(1)(C)(i).

[96] ESEA, §1111(d)(1)(C)(ii).

[97] ESEA, §1111(d)(1)(D).

[98] Children from low-income families must be identified based on the methodology the LEA used to distribute Title I-A funds to schools under Section 1113. For additional information, see the discussion on "Allocations at the School Level" in CRS Report R44461, *Allocation of Funds Under Title I-A of the Elementary and Secondary Education Act*.

[99] ESEA, §1111(d).

[100] ESEA, §1111(c)(4)(C)(iii).

- includes evidence-based interventions;
- is approved by the LEA prior to implementation;
- upon submission and implementation, is monitored by the LEA; and
- results in additional action, should implementation of the plan be unsuccessful after a number of years determined by the LEA.

Additional Targeted Support and Improvement

For a school in which one or more subgroups is performing at a level that, if reflective of an entire school's performance, would result in its identification for CSI as one of the lowest performing 5% of schools in the state,[101] the school must be identified for additional targeted support and improvement (ATSI) activities.[102] Schools identified for ATSI must include an identification of resource inequities[103] as one of its activities. If a Title I-A school identified for ATSI does not improve within a state-determined number of years, the state is required to identify the school for CSI.[104]

Statutory language includes a special rule with respect to the identification of schools for ATSI. For the 2017-2018 school year, based on the state's system of meaningful differentiation, the SEA was required to notify an LEA if any of its schools met the ATSI identification requirements, as SEAs did not have to identify schools for TSI for the 2017-2018 school year. ED subsequently provided SEAs with an extra year to meet this requirement, so SEAs had to begin identifying schools for ATSI by the 2018-2019 school year.[105] In some states, ATSI schools were identified prior to any TSI schools being identified, as statutory language did not include a requirement for when TSI schools had to be identified for the first time. For subsequent years, schools are required to be identified for ATSI following their initial identification for TSI based on the requirements of Section 1111(c)(4)(C)(iii). Thus, the frequency with which additional schools are identified for ATSI will depend on the frequency with which states identify schools for TSI.

In determining which schools identified for TSI will also have to meet the additional ATSI requirements, each school is to be evaluated individually. If a school meets the ATSI criteria, then it is subject to the additional requirements and could ultimately be identified for CSI if it is a Title I-A school and fails to improve. There is no cap on the number of schools identified for TSI that may also be identified for ATSI. Thus, it is possible that every school identified for TSI could also be identified for ATSI, depending on how the state chooses to define *consistently underperforming*, when identifying TSI schools. However, if the state establishes a definition of consistently underperforming that is more restrictive than the ATSI requirement, it is possible that schools that would otherwise qualify for ATSI would not be identified for ATSI, as they would not be identified for TSI.

[101] ESEA, §1111 (c)(4)(D)(i)(I) (as referenced in ESEA, Section 1111(d)(2)(C)).

[102] ESEA, §1111(d)(2)(C).

[103] The identification of resource inequities may include a review of LEA- and school-level budgeting (ESEA, §1111(d)(2)(C)).

[104] ESEA, §1111(d)(3)(A)(i)(II).

[105] U.S. Department of Education, *Dear Colleague letter*, April 10, 2017, https://www2.ed.gov/policy/elsec/leg/essa/dcltr410207.pdf.

State Support and Additional Action

If schools identified for CSI fail to improve in a state-determined number of years (not to exceed four years), the state must implement *more rigorous State-determined action*, and Title I-A schools identified for ATSI that fail to improve within a state-determined number of years must be identified for CSI. In addition, SEAs are required to periodically review the resource allocation to support school improvement in each LEA that serves a "significant number" of schools identified for CSI and a "significant number" of schools implementing TSI. SEAs are also required to provide technical assistance to each LEA serving a "significant number" of schools implementing CSI plans or TSI plans.

SEAs have the option to initiate additional improvement in any LEA with (1) a "significant number of schools that are consistently identified" for CSI and are not meeting the exit criteria to be removed from this status,[106] or (2) a "significant number of schools" implementing TSI plans.[107] As part of these efforts, SEAs may establish alternative evidence-based state-determined strategies for use by LEAs to assist schools identified for CSI. The statutory language does not specify whether LEAs would have to use one or more of the strategies, or whether these would be the only strategies that could be used. Statutory language also does not address the state establishing alternative evidence-based state-determined strategies for LEAs to use to assist schools implementing TSI plans.

Reservation of Funds to Support School Improvement Under Section 1003

Section 1003 of the ESEA provides for a state reservation of Title I-A funds for school improvement. An SEA is required to reserve the greater of (1) 7% of the amount the state receives under Title I-A, or (2) the sum of the amount the state reserved for school improvement under Title I-A in FY2016, and the amount the state received under the School Improvement Grants (SIG) program in FY2016. No LEA is permitted to receive less Title I-A funding than it received in the prior year as a result of this provision in FY2018 and subsequent fiscal years.[108]

Of the funds reserved for school improvement, states are required under ESSA provisions to provide at least 95% to LEAs through formula or competitive grants[109] to serve schools that are implementing CSI activities or TSI activities.[110] In allocating funds, an SEA must give priority to LEAs that serve high numbers or a high percentage of schools implementing CSI and TSI plans; demonstrate the strongest need for the funds, as determined by the state; and demonstrate the strongest commitment to using the funds to help the lowest-performing schools to improve student achievement and outcomes. Funds reserved by the SEA must be used for establishing the

[106] ESEA, §1111(d)(3)(B)(i)(I).

[107] ESEA, §1111(d)(3)(B)(i)(II).

[108] For FY2017, SEAs were able to reserve the full amount for school improvement regardless of whether it resulted in reduced LEA Title I-A grant amounts. This could have resulted in lower FY2017 Title I-A grant amounts to LEAs, making it easier for states to reserve the full amount for school improvement in subsequent years without violating the requirement that no LEA receive less than it did in a prior year as a result of the reservation of funds for school improvement. As of December 2019, CRS is not aware of any publicly available data that detail whether states' FY2017 reservation of funds for school improvement resulted in lower Title I-A grants to LEAs.

[109] The statutory language does not specify requirements for how funds must be awarded by competition.

[110] An SEA, with the approval of the LEA, may also provide activities or arrange for a third-party provider with expertise in "using evidence-based strategies to improve student achievement, instruction, and schools" to provide for these activities (ESEA, §1003(b)(1)(B)).

method by which funds will be allocated to LEAs; monitoring and evaluating the use of funds by LEAs; and, as appropriate, "reducing barriers and providing operational flexibility to schools" to implement CSI and TSI activities.[111]

Direct Student Services (Section 1003A)

In addition to the required reservation of Title I-A funds for school improvement, SEAs have the option of reserving up to 3% of the Title I-A funds they receive for direct student services.[112] This optional reservation of funds was not included in the law prior to the ESSA. Of the funds reserved, states must distribute 99% to geographically diverse LEAs using a competitive grant process that prioritizes grants to LEAs that serve the highest percentages of schools identified for CSI or that are implementing TSI plans.[113] Funds may be used by LEAs for a variety of purposes, including to pay the costs associated with the enrollment and participation of students in academic courses not otherwise available at the students' school; credit recovery and academic acceleration courses that lead to a regular high school diploma; activities that lead to the successful completion of postsecondary level instruction and examinations that are accepted for credit at institutions of higher education (IHEs), including reimbursing low-income students for the costs of these examinations[114]; and public school choice if an LEA does not reserve funds for this purpose under Section 1111.

Teacher and Paraprofessional Requirements

Title I-A also holds states accountable for teachers and paraprofessionals working in a program supported with Title I-A funds. These teachers or paraprofessionals must meet applicable state certification and licensure requirements. In addition, states participating in Title I-A must describe in their state plans how low-income and minority children enrolled in Title I-A schools are not served at disproportionate rates by "ineffective, out-of-field, or inexperienced teachers."[115] The state must also describe the measures that will be used to measure and evaluate the state's success in this area.

Special Rules for Bureau of Indian Education Schools

The BIE oversees a total of 183 elementary, secondary, residential, and peripheral dormitory (i.e., "boarding") schools across 23 states.[116] Of these 183 schools, 130 are tribally controlled[117] and 53 are operated by the BIE.[118] There are special rules regarding standards, assessment, and accountability for schools operated or funded by the BIE included in Section 1111(k) that apply

[111] ESEA, §1003(b)(2)(A).

[112] Funds for direct student services may be reserved without regard to how the reservation of funds may affect LEA grant amounts.

[113] See footnote 107.

[114] These could include, for example, Advance Placement (AP) or International Baccalaureate (IB) examinations.

[115] ESEA, §1111(g)(1)(B).

[116] U.S. Department of the Interior, Bureau of Indian Education, *Schools*, https://www.bie.edu/Schools/index.htm.

[117] Tribally controlled schools are authorized under P.L. 93-638 (Indian Self Determination Contracts) or P.L. 100-297 (Tribally Controlled Grant Schools); U.S. Department of the Interior, Bureau of Indian Education, *Schools*, https://www.bie.edu/Schools/index.htm.

[118] U.S. Department of the Interior, Bureau of Indian Education, *Schools*, https://www.bie.edu/Schools/index.htm.

until the requirements of Section 8204 (discussed below) are met. The special rules are as follows:

- Each BIE school accredited by the state in which it is operating shall use the assessments and other academic indicators the state has developed and implemented to meet the requirements of Section 1111, or such other appropriate assessment and academic indicators as approved by the Secretary of the Interior.
- Each BIE school that is accredited by a regional accrediting organization (in consultation with and with the approval of the Secretary of the Interior, and consistent with assessments and academic indicators adopted by other schools in the same state or region) shall adopt an appropriate assessment and other academic indicators that meet the requirements of Section 1111.
- Each BIE school that is accredited by a tribal accrediting agency or tribal division of education shall use an assessment and other academic indicators developed by such agency or division, except that the Secretary of the Interior shall ensure that such assessment and academic indicators meet the requirements of Section 1111.

ESEA, Section 8204 contains provisions related to the setting aside of funds for the Department of the Interior to participate in the development of standards, assessments, and accountability systems in BIE-funded schools. For the purposes of Title I-A, the Secretary of the Interior, in consultation with the Secretary of Education (if requested by the Secretary of the Interior), shall use a negotiated rulemaking process to develop regulations that define the standards, assessments, and accountability systems for schools funded by the BIE. Using the negotiated rulemaking process, the Secretary of the Interior was required to develop regulations for implementation no later than the 2017-2018 school year.[119]

The tribal governing body or school board of a school funded by the Bureau of Indian Affairs[120] may waive the aforementioned requirements if they are determined by such body to be inappropriate. If the requirements are waived, the tribal governing body or school board must submit a proposal to the Secretary of the Interior for alternative standards, assessments, and accountability systems within 60 days. The Secretary of the Interior and the Secretary of Education shall approve such standards, assessments, and accountability systems unless the Secretary of Education determines that they do not meet the requirements of ESEA, Section 1111, while taking into account the unique circumstances and needs of the schools and students served.

The Secretary of the Interior and the Secretary of Education shall provide technical assistance, either directly or through a contract, to a tribal governing body or school board (if requested by such body) to develop alternative standards, assessments, and accountability systems.

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[119] According to media reports, the Secretary has withheld $1.6 million in federal funds to the BIE for not complying with the requirements of Section 8204. (See, for example, https://www.politico.com/newsletters/morning-education/2018/04/03/new-civil-rights-rule-triggers-hundreds-of-dismissals-156940 and https://www.politico.com/newsletters/morning-education/2018/05/03/continued-friction-over-indian-education-funding-202291.) POLITICO reports that ED withheld the funds because the Secretary of the Interior did not meet a deadline of October 2, 2017, to appoint members to a negotiated rulemaking committee. The Secretary of the Interior subsequently submitted names to be vetted for such a committee on October 26, 2017, and stated that ED may no longer have the legal authority to withhold funds. The names of proposed committee members formally appeared later in proposed rules (see U.S. Department of Interior, "Bureau of Indian Education Standards, Assessments, and Accountability System, Negotiated Rulemaking Committee Establishment; Proposed Membership" 83 Federal Register 16806-16808, April 17, 2018: https://www.govinfo.gov/content/pkg/FR-2018-04-17/pdf/2018-07922.pdf).

[120] Statutory language references the Bureau of Indian Affairs as opposed to the Bureau of Indian Education.

Report Cards and Other Reports

Section 1111 includes specific requirements related to annual SEA, LEA, and school public report cards. It also includes requirements related to reporting data to the Secretary and Congress. This section discusses these requirements as well as privacy requirements that apply to Section 1111.

Report Card Requirements

States and LEAs are required to prepare and disseminate annual report cards that include a range of information. LEAs are also required to prepare and disseminate report cards for each of their public schools.

State Report Cards

Any state that receives Title I-A funding is required to prepare and widely disseminate an annual, overall state report card. The report card must be concise. It must be presented in an "understandable and uniform"[121] format that is developed in consultation with parents. And, to the extent practicable, it must be made available in a language that parents can understand. With respect to the dissemination of the document, an SEA is required to have a single page on its website that includes the state report card, all LEA report cards, and the annual report that the SEA must submit to the Secretary.

The state report card must include, at a minimum, several elements ranging from information about the state's accountability system to teacher qualifications. Each required element is discussed briefly below. In guidance issued in September 2019, ED included a table that summarizes subgroup disaggregation reporting requirements for each data element.[122]

Description of State Accountability System

Each state report card must include a "clear and concise"[123] description of the state's accountability system required under Title I-A. This includes a description of the minimum number of students for each subgroup for use in the accountability system. The report card must also include the long-term goals and measures of interim progress for all students and the subgroups for which the SEA is held accountable.[124] In addition, the report card must include a description of the state's system for meaningfully differentiating all public schools in the state, including the following:

- The specific weight assigned to each of the indicators in the state's system for meaningful differentiation.
- The methodology used by the state to differentiate among schools;
- The methodology by which a state differentiates a school as "consistently underperforming" for any subgroup of students for which the SEA is held

[121] ESEA, §1111(h)(1)(B)(ii).

[122] ED, *State and Local Report Cards*, 2019, Appendix A.

[123] ESEA, §1111(h)(1)(c)(i).

[124] These four subgroups of students include (1) economically disadvantaged students, (2) students from major racial/ethnic groups, (3) children with disabilities, and (4) English learners.

accountable. The report card must also indicate the number of years used in determining whether a school is consistently underperforming.

- The methodology used by the state to identify a school for CSI.

Schools Identified for CSI or TSI

The report card must include the number and names of all public schools in the state identified for CSI or implementing TSI. There is no separate reporting requirement for schools implementing ATSI. The report card must also provide a description of the exit criteria established by the state for exiting CSI status and the number of years that ATSI schools have to fail to improve before being identified for CSI.

Disaggregated Data on Student Performance

Each state report card is required to include information about student performance. The report must include data for all students and data disaggregated by each major racial/ethnic group, economically disadvantaged students, children with disabilities, English proficiency status, gender, migrant status, homeless status, foster care status, and status as a student with a parent who is a member of the Armed Forces on activity duty[125] on student achievement on the mathematics, RLA, and science assessments required under Title I-A at each level of achievement.[126]

Further, for the (1) "all students" group, (2) student subgroups with separate accountability determinations,[127] (3) students who are homeless, and (4) students in foster care, the state report card must include information on performance on the other academic indicator included in the state's accountability system for elementary schools and secondary schools that are not high schools. For the same groups of students, the state report card must report on high school graduation rates, including the four-year adjusted cohort graduation rate and, at the state's discretion, any extended-year adjusted cohort graduation rates used by the state.

The state report card must also include other student-specific data. For only students in the EL subgroup, state report cards must provide data on the number and percentage of ELs achieving English language proficiency. For the (1) "all students" group, and (2) student subgroups with separate accountability determinations (with the exception of ELs),[128] the state report card must include information on performance on the indicator(s) of school quality or student success used in the state's accountability system, as well as their progress toward meeting the state's long-term accountability system goals, including interim progress. And for the (1) "all students" group, (2)

[125] With respect to students with a parent who is a member of the Armed Forces, the statutory language says the following: "status as a student with a parent who is a member of the Armed Forces (as defined in section 101(a)(4) of title 10, United States Code) on active duty (as defined in section 101(d)(5) of such title)." Section 101(a)(4) of Title 10 of the U.S. Code provides the definition of Armed Forces, which includes the Army, Navy, Air Force, Marine Corps, and Coast Guard. Section 101(d)(5) of Title 10 of the U.S. Code is not a reference to the definition of *active duty*. Rather, it is a reference to the definition of *full-time National Guard duty*. *Active duty* is defined in Section 101(d)(1) of Title 10 of the U.S. Code. Guidance issued by ED appears to clarify this by noting that *active duty* has the meaning given to the term in 10 U.S.C. 101(d)(1). For more information, see ED, *State and Local Report Cards*, 2019, Item D-3.

[126] The subgroups of students for which data must be reported are more expansive than the subgroups of students used for accountability purposes in each state's accountability system.

[127] Student subgroups with separate accountability determinations include economically disadvantaged students, students from major racial/ethnic minority groups, children with disabilities, and ELs.

[128] See footnote 122.

student subgroups with separate accountability determinations,[129] (3) gender subgroups, and (4) migrant status group, the state report card must include data on the percentage of students assessed and not assessed.

Civil Rights Data Collection (CRDC) Reports

The state report card is required to include information submitted by the SEA and each LEA in the state pursuant to Section 203(c)(1) of the Department of Education Organization Act (DEOA), which is a reference to data collected through the Civil Rights Data Collection (CRDC) administered by the Office of Civil Rights at ED.[130] The CRDC is conducted every other year and the next CRDC is scheduled to collect data from the 2019-2020 school year. From the data reported on the CRDC, the state report card must include the following information:

- "measures of school quality, climate, and safety, including rates of in-school suspensions, out-of-school suspensions, expulsions, school-related arrests, referrals to law enforcement, chronic absenteeism (including both excused and unexcused absences), incidences of violence, including bullying and harassment;"[131]
- the number and percentage of students in preschool programs; and
- the number and percentage of students in accelerated coursework to earn postsecondary credit while in high school (e.g., Advanced Placement, International Baccalaureate, dual or concurrent enrollment).

For some of the reporting requirements related to the CRDC, the CRDC collects multiple measures from which SEAs and LEAs must select at least one to include on the required report cards.[132] The ESEA requires that these data be included annually on report cards. As the CRDC reports data biennially, SEAs and LEAs are permitted to include the same information for consecutive years provided it is the most recent data provided by ED.[133] SEAs and LEAs also have the option to report, in addition to the ED-provided data, more recent data that the SEAs and LEAs have provided to ED through a more recent CRDC data collection as long as the data provided are reported separately from the ED-provided data.[134]

Additional statutory language reinforces that the reporting requirement related to the aforementioned data elements is limited to data collected under the authority of Section 203(c)(1) of the DEOA and cannot require disaggregation for subgroups beyond economically disadvantaged students, students from major racial/ethnic groups, children with disabilities, and ELs, as well as by homeless status and foster care status.[135]

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[129] See footnote 122.

[130] SEAs and LEAs cannot meet this requirement by only providing a link to the CRDC data posted on ED's website; ED, *State and Local Report Cards*, 2019, Item F-9.

[131] ESEA, §1111(h)(1)(C)(viii)(I).

[132] In its guidance on report cards, ED has included a table that crosswalks each of the CRDC data categories required to be included on report cards and the available CRDC measures and corresponding CRDC survey items. For more information, see ED, *State and Local Report Cards*, 2019, Table 3.

[133] ED, *State and Local Report Cards*, 2019, Item F-7.

[134] ED, *State and Local Report Cards*, 2019, Item F-8.

[135] ESEA, §1111(h)(1)(D).

Teacher Qualifications

State report cards must provide data, in the aggregate, and disaggregated by high-poverty as compared to low-poverty schools, on the professional qualifications of teachers. More specifically, data must be provided on the number and percentage of inexperienced teachers, principals, and other school leaders; teachers teaching with emergency or provisional credentials; and teachers who are not teaching in the subject or field for which they are certified or licensed. Several of the terms related to the reporting of these data elements, such as *high-poverty schools*, *low-poverty schools*, and *teachers who are not teaching in the subject or field for which the teacher is certified or licensed* are not defined in statutory language. In its guidance, ED suggests that SEAs may want to develop uniform definitions for the undefined terms.[136]

Per-Pupil Expenditures

The state report card must provide data on LEA- and school-level per-pupil expenditures of federal, state, and local funds, including actual personnel expenditures and actual nonpersonnel expenditures of these funds, disaggregated by the source of funds for the preceding fiscal year. The data reported to meet the requirements of Section 1111 cannot be based on average staff salary data.[137] The data must be reported for every LEA and public school in the state. An SEA may provide LEAs with the flexibility to develop their own procedures for calculating per-pupil expenditures or could opt to establish uniform statewide procedures for making these calculations.[138]

Per-pupil expenditure data have not been reported for LEAs and public schools in the past. Based on guidance issued by ED, SEAs and LEAs may delay reporting per-pupil expenditures until they issue report cards for the 2018-2019 school year. However, if an LEA decides to delay the reporting of per-pupil expenditures, the SEA and its LEAs are required to provide information on their report cards for the 2017-2018 school year about the steps they are taking to provide such information on the 2018-2019 school year report card.[139] ED has indicated that it expects SEAs and LEAs to make these data public by the end of the school year during which the other report card data are released.[140]

Student Assessments

The state report card must include additional information related to student assessments. It must include the number and percentage of students with the most significant cognitive disabilities who take an alternate assessment (see previous discussion) by grade and subject. It must also include the results on the state's National Assessment of Education Progress (NAEP) for reading and mathematics in grades 4 and 8 compared to the national average.[141] As NAEP is administered biennially, report cards should reflect the most recent data available.[142]

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[136] ED, *State and Local Report Cards*, 2019, Item G-2.

[137] Average staff salary data may be included on the report cards as a separate item; ED, *State and Local Report Cards*, 2019, Item H-3.

[138] ED, *State and Local Report Cards*, 2019, Item H-2.

[139] ED, *State and Local Report Cards*, 2019, Item H-14.

[140] ED, *State and Local Report Cards*, 2019, Item H-13.

[141] SEAs and LEAs cannot meet this requirement by only providing a link to the CRDC data posted on ED's website; ED, *State and Local Report Cards*, 2019, Item I-5.

[142] ED, *State and Local Report Cards*, 2019, Item I-6.

In states where data are available, SEAs must include data on the cohort rate for all students and disaggregated for economically disadvantaged students, students from major racial/ethnic groups, children with disabilities, and English learners who graduate from high school and enroll, for the first academic year following the students' graduation, (1) in public postsecondary education programs in the state, and (2) if data are available and to the extent practicable, in private postsecondary education programs in the state or in postsecondary education programs outside of the state.

State-Determined Information

The state may include any additional information on its state report card that it believes will provide members of the public, including parents and students, with information about the progress of each of the state's elementary and secondary schools. Statutory language notes that this may include the number and percentage of students attaining career and technical proficiencies.

State Data Cross Tabulations

SEAs are required to provide specific information included on the state report card to the public in an "easily accessible and user-friendly manner" that allows the data to be cross-tabulated by, at a minimum, each major racial and ethnic group, gender, English proficiency status, and children with or without disabilities.[143] The ability to cross-tabulate data applies to data reported on

- student achievement on the RLA, mathematics, and science assessments at all achievement levels;
- performance on the other academic indicator used for public elementary schools and secondary schools that are not high schools;
- high school graduation rates, including the four-year adjusted cohort graduation rate and, at the state's discretion, any extended-year adjusted cohort graduation rates used by the state; and
- the percentage of students assessed and not assessed.

SEAs may choose to include this information in the annual state report card. The data provided for cross-tabulation purposes must not reveal any personally identifiable information about an individual student and cannot include a number of students in any cross-tabulation that is insufficient to provide statistically reliable information or that would reveal any personally identifiable information about an individual student. It must also be consistent with the Family Educational Rights and Privacy Act (FERPA) of 1974.[144]

LEA and School Report Cards

An LEA that receives Title I-A funds is required to prepare and disseminate an annual LEA report card that includes information on the LEA overall and each public school it serves. Similar to the requirements for state report cards, an LEA report card must be concise. It must be presented in an understandable and uniform format and, to the extent practicable, in a language that parents

[143] ESEA, §1111(g)(2)(N).

[144] FERPA is included in Section 444 of the General Education Provisions Act (GEPA).

can understand. The report card must also be publicly accessible, including on the LEA's website.[145]

An SEA is required to ensure that each of its LEA collects necessary data and includes information on all of the items that are also required to be reported on the state report card, including the disaggregation of data as specified above, with one exception: the LEA report card does not have to include NAEP scores, as these scores are only available at the LEA level for a subset of all LEAs in the United States.[146] In addition, requirements for the state report card that require comparisons between the state and the nation as a whole are modified to be a comparison between an LEA and the state as a whole in the case of LEA report cards, and a comparison between a school and the LEA as a whole and the state as a whole in the case of school report cards. LEAs are permitted to include additional information on their report cards that the LEA determines will provide members of the public, including parents and students, with information about the progress of each of the state's elementary and secondary schools, regardless of whether the information is also included on the state report card.

State Reports to the Secretary

Each SEA receiving Title I-A funds is required annually to report to the Secretary, and make several pieces of information "widely available"[147] in the state. The SEA must provide information on student achievement on the mathematics, RLA, and science assessments required under Title I-A, and must disaggregate the results for student subgroups with separate accountability determinations.[148] The report must also include information on the acquisition of English proficiency by ELs. The SEA must include the number and names of each public school in the state that has been identified for CSI and the number and names of each public school in the state that is implementing TSI. There is no separate reporting requirement for schools identified for or implementing ATSI. In addition, the report must include information on the professional qualifications of teachers, including the number and percentage of inexperienced teachers, teachers teaching with emergency or provisional credentials, and teachers who are not teaching in the subject or field in which they are certified or licensed.

Secretary Reports to Congress

The Secretary is required annually to submit a report to the House Committee on Education and the Workforce[149] and the Senate Committee on Health, Education, Labor, and Pensions that provides national and state-level data based on the data that were submitted to the Secretary by the states. The report must be submitted electronically only. There is no requirement that the report be made available publicly.

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[145] If an LEA does not have a website, it may provide the information to the public through other means as determined by the LEA.

[146] LEAs for which NAEP data are available by subgroups have the option to include these data on their report cards (SEAs and LEAs cannot meet this requirement by only providing a link to the CRDC data posted on ED's website; ED, *State and Local Report Cards*, 2019, Item I-2).

[147] ESEA, §1111(h)(5).

[148] Student subgroups with separate accountability determinations include economically disadvantaged students, students from major racial/ethnic minority groups, children with disabilities, and ELs.

[149] The House Committee on Education and the Workforce is currently referred to as the House Committee on Education and Labor.

Privacy

Any information collected and disseminated in response to the aforementioned reporting requirements must be collected and disseminated in such a way that it protects the privacy of individuals consistent with FERPA. In addition, the report cards and reports shall only include data that "are sufficient to yield statistically reliable information."[150] Data reported in the report cards and reports do not have to be disaggregated if doing so will reveal personally identifiable information about a student, teacher, principal, or other school leader. Data also do not have to be disaggregated if doing so will provide data that are insufficient to yield statistically reliable information.

Frequently Asked Questions

The last part of this report provides responses to frequently asked questions (FAQs) about various aspects of the educational accountability requirements enacted in the ESEA, as amended by the ESSA. In particular, FAQs related to academic content standards, assessment, accountability systems, and report cards are addressed.

Standards

This section highlights two frequently asked questions with respect to the state standards requirements under Title I-A.

Does the Secretary tell states what standards they have to use?

The ESEA explicitly says that a state is not required to submit its challenging state academic standards, alternate achievement standards, or English language proficiency standards to the Secretary for review or approval.[151] The Secretary also does not have the authority "to mandate, direct, control, coerce, or exercise any direction or supervision over any of the challenging State academic standards adopted or implemented by a State."[152]

What are the Common Core State Standards? Do states have to use them?

Concerns related to the diversity of accountability systems,[153] student mobility, consistent expectations for students, preparation of students for global competition, and skills students need for employment[154] spurred an effort led by the National Governors Association and the Council of Chief State School Officers to develop common standards for English language arts/literacy and

[150] ESEA, §1111(i)(2).

[151] ESEA, §1111(b)(1)(G)(i).

[152] ESEA, §1111(b)(1)(G)(ii).

[153] Under ESEA as amended by the No Child Left Behind Act of 2002 (NCLB; P.L. 107-110) as well as under the current version of the ESEA as amended by the ESSA, states have flexibility with respect to their selection of standards and assessments and the requirements of their accountability systems. This has the effect of every state having its own accountability system.

[154] For more information, see Common Core State Standards Initiative, March 2010 presentation, http://www.corestandards.org/assets/ and select the Common-Core-Standards-March-2010.ppt.

mathematics in grades K-12 (referred to as the Common Core State Standards).[155] This effort is referred to as the Common Core State Standards Initiative (CCSSI). According to the CCSSI,

> The purpose of this state-led initiative ... is to create a rigorous set of shared standards that states can voluntarily adopt. The standards are crafted to "define the knowledge and skills students should have within their K-12 education careers so they graduate from high school able to succeed in entry-level, credit-bearing academic college courses and workforce training programs."[156]

Overall, 45 states, the District of Columbia, four outlying areas, and the Department of Defense Education Activity (DoDEA) adopted the Common Core State Standards at some point in time.[157] Adoption of the Common Core State Standards has always been optional. However, some federal initiatives such as the Race to the Top (RTT) State Grant competition that began in 2009 provided substantial incentives to states that had adopted college- and career-ready standards that met specified requirements, and the Common Core State Standards was the most widely available set of standards that met such requirements.

As discussed above, however, the Secretary does not have the authority to tell states what standards they must use to comply with the requirements of Title I-A. Thus, the decision to adopt (or not adopt) the Common Core State Standards as a state's standards rests solely with the state.

Assessment

This section discusses some examples of FAQs that have arisen as SEAs and LEAs implement the assessment requirements. The FAQs are related to the use specific assessments, assessment of students with disabilities, and the new assessment flexibilities.

Can the Secretary tell states what assessments they have to use?

The ESEA contains multiple provisions that prohibit the Secretary from specifying the assessments that a state must use to comply with the requirements of Title I-A.[158]

Do states have to use the assessments developed to align with the Common Core State Standards?

As previously discussed, the Secretary is prohibited from prescribing which assessments a state must use, provided the assessments selected by the state meet statutory requirements. Through the Race to the Top Assessment Grant competition, the Partnership for the Assessment of Readiness for College and Careers (PARCC) and the SMARTER Balanced Assessment Consortium (Smarter Balanced) received grants to develop assessments aligned with the Common Core State

[155] The complete names of each set of standards are the Common Core State Standards for Mathematics and the Common Core State Standards for English Language Arts and Literacy in History/Social Studies, Science and Technical Subjects.

[156] Common Core State Standards Initiative, *Reactions to the March 2010 Draft Common Core State Standards: Highlights and Themes from the Public Feedback*, http://www.corestandards.org/assets/k-12-feedback-summary.pdf.

[157] For more information, see Common Core State Standards Initiative, http://www.corestandards.org/standards-in-your-state/.

[158] See, for example, ESEA, §1111(e)(1)(B)(iii)(II).

Standards.[159] Many states continue to use assessments developed by these organizations, but doing so is optional.

Can a state or LEA use a test like the SAT or ACT for its high school assessment in its statewide accountability system?

A state may use the SAT or ACT for its high school assessment in its statewide accountability system, provided that the assessment is approved for use in the state plan. In short, the state must provide evidence that the SAT or ACT (1) is aligned with and equivalent to the state's academic content standards; (2) provides comparable, valid, and reliable data compared to the state assessment; (3) meets the general requirements of assessment systems with the exception that it need not be administered to all students in the state; and (4) provides unbiased, rational, and consistent differentiation between schools within the state.[160] While the use of the SAT or ACT is a potentially viable option, the alignment evidence that must be collected and submitted to ED may be a barrier to implementing the flexibility.

In March 2016, the SAT administered a newly redesigned assessment, which made a more focused effort to align itself with the Common Core Academic Standards.[161] If there is a high degree of alignment between a state's academic content standards and the Common Core Academic Standards, the SAT may be suitable for use in accountability systems (provided the SAT meets the other requirements). The ACT was redesigned prior to the development of the Common Core Academic Standards; however, a representative from the ACT maintains that there is "significant overlap" between the common core and the college- and career-readiness constructs measured by the ACT.[162] An *Education Week* survey of the states found that 25 require students to take the SAT or ACT, and 12 currently use the SAT or ACT for federal reporting and statewide accountability systems.[163]

If the SAT or ACT is not already used by the state in its accountability system, an LEA may request the use of a locally selected high school assessment (such as the SAT, ACT, Advanced Placement or International Baccalaureate exams, ACCUPLACER, or the ASVAB). The locally selected high school assessment must be approved by the state before an LEA uses it for accountability purposes.[164] An *Education Week* article cites several reasons why states may not be adopting this flexibility more quickly, including the requirements that a state (1) figure out how to pay for the flexibility, (2) design a process for districts to apply for the flexibility, and (3) collect evidence that compares data from the statewide assessment and the locally selected high school assessment. Furthermore, an assessment expert explains in the article that it is difficult to have this flexibility and a comparable accountability system. By allowing the flexibility, states are

[159] U.S. Department of Education, "U.S. Secretary of Education Duncan Announces Winners of Competition to Improve Student Assessments," press release, September 2, 2014, http://www.ed.gov/news/press-releases/us-secretary-education-duncan-announces-winners-competition-improve-student-asse.

[160] For a more comprehensive discussion of these requirements, see the previous discussion on "Locally Selected Assessments."

[161] See https://www.edsurge.com/news/2016-02-08-why-the-sat-and-act-may-replace-parcc-and-smarter-balanced.

[162] See https://www.edsurge.com/news/2016-02-08-why-the-sat-and-act-may-replace-parcc-and-smarter-balanced.

[163] See https://www.edweek.org/ew/section/multimedia/what-tests-does-each-state-require.html. In another report, *Education Week* also noted that 12 states use ACT or SAT for federal accountability (see https://www.edweek.org/ew/articles/2017/02/15/state-solidarity-still-eroding-on-common-core-tests.html).

[164] See http://blogs.edweek.org/edweek/campaign-k-12/2018/01/act_sat_test_district_essa_local_college.html. As of January 2018, two states (North Dakota and Oklahoma) had immediate plans to offer LEAs a choice and four other states (Arizona, Georgia, Florida, and Oregon) were considering the issue.

opening the door to LEAs requesting different assessments from one year to the next. While the locally selected high school assessment must be comparable to the statewide assessment, it will not overlap 100% with the statewide assessment. If assessments continue to change from one year to the next, it may be more difficult to compare results across assessments and track progress over time than if only one assessment was allowed.[165]

Some states have applied for waivers of the locally selected high school assessments requirements. In one case, a state requested a waiver because an LEA requested to administer the ACT in lieu of the high school assessment before the state approval process was completed. The waiver was not approved, in part because the state had not submitted a timely request and did not demonstrate how the results of the ACT would be comparable to the results of the state test used in other high schools.[166]

Are states applying for the alternate assessment waiver for students with disabilities?

For school year 2017-2018, 28 states requested a waiver to exceed the 1% cap for alternate assessments.[167] Of the 28 states that requested waivers, 23 received them.[168] At least 19 of the 23 states were granted a one-year extension of the waiver for school year 2018-2019, and 3 additional states were granted new waivers for school year 2018-2019.[169]

The National Center on Educational Outcomes (NCEO)[170] tracks student participation in alternate assessments by state. The most recent NCEO publication reports on participation from school year 2015-2016, before the new alternate assessment requirements were in place.[171] These data provide a baseline for expected rates of participation in alternate assessment in the short term. In general, most states reported alternate assessment participation rates between less than 1% and 2.5%;[172] a participation rate of 2% is twice the allowable rate in statutory language.[173]

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[165] See http://blogs.edweek.org/edweek/campaign-k-12/2018/01/act_sat_test_district_essa_local_college.html.

[166] See the Secretary's response to North Dakota's waiver request: https://www2.ed.gov/admins/lead/account/stateplan17/waivers/nd5.pdf.

[167] See ESEA waivers: https://www2.ed.gov/admins/lead/account/stateplan17/waivers/index.html. The states that requested a waiver for school year 2017-2018 include Alabama, Arizona, Arkansas, Delaware, Georgia, Hawaii, Idaho, Indiana, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wisconsin.

[168] State that were granted waivers include Arizona, Arkansas, Delaware, Georgia, Hawaii, Idaho, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, West Virginia, and Wisconsin. Some state waiver requests were not approved because they did not meet the requirements outlined in 34 C.F.R., §200.6(c)(4). For example, one state did not submit its request in a timely manner. Some states were denied waivers because they had not tested at least 95% of students with disabilities in the previous school year.

[169] It is possible that more extensions have been granted without decision letters posted to the ED website. The states that have already been granted a waiver of the 1% cap in school year 2018-2019 are Alabama, Arkansas, Delaware, the District of Columbia, Georgia, Hawaii, Idaho, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, Nebraska, North Carolina, Ohio, Oklahoma, Rhode Island, South Dakota, Tennessee, Texas, and West Virginia.

[170] For more information from the NCEO, see https://nceo.info/.

[171] See summary data at https://nceo.umn.edu/publications/APRsnapshot/data/1516/ParticipationDataMath2015-16.pdf.

[172] There are extreme outliers in alternate assessment participation rates in some American territories.

[173] The NCEO prepared a brief that provides guidance on how to identify and monitor best practices with regard to participation rates on alternate assessments. It also provides analytic approaches to deal with high levels of participation in alternate assessments. As states transition into complying with the new 1% cap on participation in

Are states still permitted to identify students for alternate assessments based on modified achievement standards?

The ESEA, as amended by the ESSA, no longer allows the use of modified achievement standards (AA-MAS).[174] Assessment options for students with disabilities have changed over the last several years. In the past, students with disabilities could participate in the general state assessment, alternate assessments based on alternate achievement standards (AA-AAS),[175] or alternate assessments based on AA-MAS.[176] States have been transitioning away from AA-MAS since around 2014. Therefore, students with disabilities who previously participated in AA-MAS[177] are now required to participate either in the general state assessment or the AA-AAS (if they are determined to be students with the most significant cognitive disabilities and eligible to participate in an alternate assessment).

The prohibition on the use of modified achievement standards (and therefore the AA-MAS option) may have led to an overidentification of students found eligible to participate in AA-AAS. As discussed above, approximately 40% of states have requested waivers to the 1% cap on AA-AAS, which may suggest that some of the students who were once eligible for AA-MAS are now eligible for AA-AAS. States may need to consider revising their definition of *most significant cognitive disability* and consider strategies for successfully transitioning students who took the AA-MAS to the general assessment.

Have any states applied for and received the innovative assessment authority?

As of September 2019, the Secretary has granted innovative assessment and accountability demonstration authority to four states: Georgia, Louisiana, New Hampshire, and North Carolina.[178, 179, 180] Georgia is piloting two technology-based assessments designed to provide

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alternate assessments, such approaches may be necessary to examine why rates are high and how they can be reduced. See "Guidance for Examining District Alternate Assessment Participation Rates" at https://nceo.umn.edu/docs/OnlinePubs/NCEO1percentBrief.pdf.

[174] ESEA, §1111(b)(1)(E)(ii). Previous Title I-A regulations published on August 21, 2015, had prohibited the use of modified achievement standards, but the ESSA was the first law to prohibit the use of modified achievement standards. Current ED regulations reiterate the prohibition on modified achievement standards for students with disabilities (34 C.F.R. §200.6(c)(6)). For more information on modified achievement standards, see archived information available from the National Center on Educational Outcomes (NCEO): https://nceo.info/Assessments/aa-mas.

[175] In general, *AA-AAS* is an outdated acronym. In this report, *AA-AAS* will only be used when directly compared to *AA-MAS*, which is no longer authorized by the ESEA or ED regulations. In all other cases, the term *alternate assessment* will refer to alternate assessments based on alternate achievement standards, which are currently authorized by the ESEA.

[176] For links to ED regulations and non-regulatory guidance on AA-MAS, see https://www2.ed.gov/policy/speced/guid/modachieve-summary.html.

[177] For links to ED regulations and non-regulatory guidance on AA-MAS, see https://www2.ed.gov/policy/speced/guid/modachieve-summary.html. Previous regulations allowed states to assess up to 2% of students with disabilities with an AA-MAS.

[178] U.S. Department of Education, "New Hampshire Becomes Second State to Embrace Flexibility in ESSA to Pilot Innovative Assessments," press release, October 2, 2018, https://www.ed.gov/news/press-releases/new-hampshire-becomes-second-state-embrace-flexibility-essa-pilot-innovative-assessments.

[179] U.S. Department of Education, "Georgia and North Carolina Become Latest States to Test New Ways to Assess Student Achievement," press release, July 16, 2019, https://www.ed.gov/news/press-releases/georgia-and-north-carolina-become-latest-states-test-new-ways-assess-student-achievement.

[180] For more information, including state applications and approval letters, see https://www2.ed.gov/admins/lead/account/iada/index.html.

educators with data that can be used to target instruction during the school year.[181] Louisiana is developing a new format for the Louisiana Educational Assessment Program (LEAP) in ELA and social studies.[182] New Hampshire is building on its Performance Assessment for Competency Education (PACE) system.[183] North Carolina is using a customized, end-of-year assessment (referred to as the "route"), which is developed for individuals based on their performance on two formative assessments administered during the school year.[184]

What are some possible consequences if numerous students in a school, LEA, or state choose to opt out of the required assessments?

Excessive numbers of opt-outs may have consequences for both assessment and accountability purposes. In terms of assessment, excessive numbers of opt-outs may undermine the validity of the measurement of student achievement because they may create a scenario in which states are measuring student achievement that is not representative of the whole student population.[185] When at least 95% of all students and 95% of students in each student subgroup participate in the assessments, the conclusions based on the results are more likely to be valid and reliable for differentiating schools based on academic achievement.

In terms of accountability, excessive numbers of opt-outs may lead to states failing to meet the requirement that 95% of all students and 95% of students in each student subgroup are assessed in

[181] Georgia is using the Innovative Assessment Demonstration Authority (IADA) to support its districts as they develop innovative assessments for learning. The objective of Georgia's innovative assessment pilot program is to allow local school districts to develop and implement innovative assessments that are comparable and aligned with Georgia's content and achievement standards. During the development and implementation of the IADA pilot, Georgia will evaluate three innovative assessment approaches and consult stakeholders across the state to select one assessment model for statewide use. For more information, see https://www2.ed.gov/admins/lead/account/iada/index.html.

[182] The new format will measure pre-identified knowledge and texts before administering an assessment. Pre-identified knowledge and texts include books and other text materials that students have used in their daily classroom experiences. Since students have familiarity and exposure to these texts, the assessment can focus on deeper knowledge and comprehension of known texts rather than superficial knowledge of unknown texts. By doing so, the innovative assessment intends to draw on students' deep knowledge of content and books from their daily classroom experience. Louisiana's application argues that focusing on pre-identified knowledge and texts from the classroom will make the assessment more relevant and equitable while maintaining validity and reliability. For more information, see https://www2.ed.gov/admins/lead/account/iada/laiadaapplication.pdf.

[183] This IADA grant is a continuation of four years of design and implementation work that was originally conducted under a waiver granted by former Secretary of Education Duncan during the 2014-2015 school year. The Secretary has continued the waiver in subsequent years. The PACE assessment system uses a combination of locally developed and administered performance tasks and common tasks that are shared among all participating schools. These tasks are tied to grade and course competencies, which are aligned with content standards. The PACE system uses these tasks for both formative and summative assessment. PACE assessments will be calibrated against current state assessment systems to ensure technical quality, such as reliability and validity. See New Hampshire's application at https://www2.ed.gov/admins/lead/account/iada/nhapplication.pdf.

[184] Individual student reports will identify the content standards for which a student needs additional instruction. This model implements a through-grade assessment system by converging formative, interim, and summative assessments. With this approach, North Carolina proposes to end the current practice of using three assessment types that may provide misaligned data on student performance. The data are more aligned in the through-grade assessment system, which allows more consistent measurement of and focus on the content standards. North Carolina will develop the North Carolina Personalized Assessment Tool (NCPAT) for statewide implementation in the 2023-2024 school year. For more information, see https://www2.ed.gov/admins/lead/account/iada/index.html.

[185] For more information, see CRS Report R45049, *Educational Assessment and the Elementary and Secondary Education Act*.

the Title I-A assessment and accountability system. The specific consequences for failing to meet this 95% threshold for accountability purposes are determined by the state.

Accountability Systems

This section includes FAQs that have arisen as SEAs, LEAs, and schools implement ESEA accountability requirements. They cover topics such as the use of student growth measures, the identification of schools for improvement, and whether accountability requirements can be waived.

Are SEAs required to use measures of student growth in their accountability system?

No, but states have the discretion to do so. Statutory language requires that the proficiency of students on the RLA and mathematics assessments be included as an indicator for all public schools in a state.[186] It provides states with the option to use measures of student growth on the state assessments for high school students.[187] The use of these growth measures would be in addition to the use of the proficiency measures. Public elementary and secondary schools that are not high schools are required to use, in addition to the proficiency measures, either a measure of student growth, "if determined appropriate by the state," or another "valid and reliable statewide indicator that allows for meaningful differentiation in school performance."[188] Thus, the state also has the option to use student growth as measured by the RLA and mathematics assessments as an indicator for elementary and secondary schools that are not high schools.

Can an LEA use measures of student growth if they are not part of the state accountability system?

An LEA may use measures of student growth only for limited purposes if the state chooses not to use them. As previously discussed, the SEA is charged with developing and implementing the state accountability system, including selecting the indicators that will be included in the system. The use of student growth measures as indicators in the accountability system is left to the SEA's discretion. If an SEA does not choose to incorporate these measures into the accountability system that is used by the state to meaningfully differentiate schools and identify schools for CSI or TSI, then student growth is not an accountability system indictor. However, an LEA could choose to include student growth measures, for example, in the data that it uses at the LEA level for data analysis purposes or makes publicly available.

Can an LEA substitute its indicators for those used in the state accountability system?

An LEA may only use additional indicators for limited purposes. Statutory language requires SEAs to include specific indicators in the state accountability system and provides SEAs with some flexibility in including other indicators. The indicators included in the state accountability system are required to apply to all public schools in the state. The SEA is required to use its accountability system to determine which schools in the state will be identified for CSI or TSI. While an LEA could choose to add additional indicators, for example, in the data that it uses at

[186] ESEA, §1111(c)(4)(B)(i)(I).

[187] ESEA, §1111(c)(4)(B)(i)(II).

[188] ESEA, §1111(c)(4)(ii).

the LEA level for data analysis purposes or makes publicly available, the LEA could not use these additional indicators as replacements for the SEA-selected indicators.

Can accountability requirements be waived?

Yes. Section 8401 provides the Secretary with the authority to waive various ESEA statutory and regulatory provisions. An SEA or Indian tribe that receives funds under any ESEA program may submit a request to the Secretary to waive any statutory or regulatory requirement pertaining to the ESEA,[189] unless the Secretary is prohibited by law from waiving such provision.[190] An LEA that receive funds under any ESEA program may also request a waiver of ESEA statutory and regulatory provisions, but the LEA must submit its request to its SEA. The SEA then has the option of submitting the LEA's waiver request if the SEA "determines the waiver appropriate."[191]

Thus, an SEA could request a waiver related to its accountability system. For example, an SEA could request that only measures of student growth rather than student proficiency be used in the accountability system or that the SEA be permitted to create a combined measure based on student proficiency and student growth. An LEA could submit a waiver request to operate under a modified accountability system, such as an accountability system where the LEA uses different indicators than those selected by the state. However, as the LEA waiver request would have to be approved by the SEA prior to being submitted to the Secretary, it is possible that an SEA would deny the request and require that all public schools be evaluated using the state established accountability system, as is currently required by statutory language.

Do SEAs have to include subgroup performance when identifying the lowest-performing 5% of Title I-A schools for CSI?

In identifying the lowest-performing 5% of Title I-A schools for CSI, statutory language requires each state to select these schools using a "state-determined methodology"[192] that is based on the "system of meaningful differentiation."[193] As there are no regulations clarifying the identification of schools for CSI, based on ED's approval of state plans it appears that a state can decide whether to use all of the data included in the system of meaningful differentiation, including data for subgroups, or use only selected elements from the system of meaningful differentiation in its state-determined methodology for identifying CSI schools. There are ED-approved state plans that include subgroup performance in the identification of the lowest performing 5% of schools for CSI and also approved state plans that do not include it. For example, the District of Columbia's state plan bases 25% of a school's overall accountability framework rating on student subgroup performance.[194] Based on this accountability framework, the lowest performing 5% of schools are identified for CSI. On the other hand, North Carolina's state plan only considers a

[189] ESEA, §8401(a)(1).

[190] The Secretary is prohibited from waiving various ESEA provisions, such as those related to the distribution of funds and parental participation. A complete list of the restrictions on the Secretary's waiver authority can be found in ESEA, §8401(c).

[191] ESEA, §8401(2)(A).

[192] ESEA, §1111(c)(4)(D).

[193] Ibid.

[194] The District of Columbia's state plan is available at https://www2.ed.gov/admins/lead/account/stateplan17/dcconsolidatedstateplan.pdf.

school's total score on the state accountability model for the all students group when identifying the lowest performing 5% of schools.[195]

Do schools identified for ATSI during the 2019-2020 school year and subsequent school years have to be a subset of the schools identified for TSI?

For all years following the first school year in which schools are identified for ATSI, the methodology for identifying schools for TSI begins with an SEA's identification of schools with at least one subgroup that is "consistently underperforming, as determined by the state." As such, an SEA has the flexibility to define this group of schools as broadly or as narrowly as it chooses. This could result in a large group of schools being identified for TSI, of which only a subset will be identified for ATSI. It could also result in an SEA identifying schools for TSI in such a way that every one of these schools would also meet the requirements for being identified for ATSI.

Because a school's designation for ATSI hinges on being identified for TSI after the first school year in which schools are identified for ATSI, ATSI schools are a subset of TSI schools. Because the ESEA allows SEAs to define what a *consistently underperforming* subgroup of students means for designation as a TSI school, it appears that an SEA could use the ATSI criteria—a school having at least one subgroup of students whose level of performance, if reflective of the entire school's performance, would cause the school to be among the lowest-performing 5% of schools receiving Title I-A funds in the state—as its definition of a school having a consistently underperforming subgroup of students. Under such circumstances, the SEA's TSI and ATSI schools would be the same. A state could also choose to implement a more restrictive definition of a consistently underperforming subgroup of students than the ATSI definition, resulting in fewer schools being identified for ATSI than would otherwise be identified if schools did not have to be initially identified for TSI.

The Bureau of Indian Education

As previously discussed, there are special rules regarding standards, assessment, and accountability for schools operated or funded by the BIE that apply until the requirements of Section 8204 are met. Section 8204 requires the Department of the Interior to participate in the development of standards, assessments, and accountability systems in BIE-funded schools using a negotiated rulemaking process. The process was required to result in the development of regulations for the implementation of standards, assessments, and accountability systems no later than the 2017-2018 school year.

Has the BIE met the requirements of Section 8204?

On June 10, 2019, the Bureau of Indian Education proposed a rule developed using a negotiated rulemaking process as required by the ESEA to meet the Secretary of the Interior's obligation to define standards, assessments, and accountability system consistent with the ESEA for BIE-funded schools.[196] Comments on the rule were due on August 9, 2019. A final rule had not been issued as of February 14, 2020.[197]

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[195] North Carolina's state plan is available at https://www2.ed.gov/admins/lead/account/stateplan17/ncconsolidatedstateplanfinal.pdf.

[196] U.S. Department of the Interior, Bureau of Indian Affairs, "Standards, Assessments, and Accountability System," 84 *Federal Register* 26785-26802, June 10, 2019.

[197] The BIE indicated that it expected a final rule to be published in January 2020. (U.S. Department of the Interior,

Report Cards

This section includes two FAQs related to state and LEA report cards.

When do report cards first need to reflect the new ESSA requirements?

SEA and LEA report cards for the 2017-2018 school year must include the information required by ESSA with the exception of the per-pupil expenditures data. ED is allowing SEAs and LEAs to delay reporting per-pupil expenditures data until report cards for the 2018-2019 school year.[198] SEAs and LEAs are required to explain the delay in reporting per-pupil expenditures if the data are not being reported until the 2018-2019 school year. In addition, while the per-pupil expenditures data do not have to be reported at the same time as other report card data are released, ED expects SEAs and LEAs to make these data public by the end of the school year during which the other report card data are released.[199]

Do report cards have to indicate why a school was identified for improvement?

SEAs and LEAs are not required to say why a school was identified for CSI, TSI, or ATSI. For example, a report card does not have to indicate whether a school was identified for CSI because it was one of the lowest-performing 5% of Title I-A schools, had a graduation rate of 67% or less, or failed to exit ATSI status in a state-determined number of years. In its report card guidance, ED indicates that SEAs and LEAs "may wish" to provide this information on report cards and provides examples of the types of information that an SEA or LEA might consider including. For example, an SEA or LEA might indicate which subgroup(s) led to the school's identification for TSI.

Bureau of Indian Education, *Bureau of Indian Education Every Student Succeeds Act (ESEA) Update*, October 31, 2019, https://bie.edu/cs/groups/xbie/documents/text/idc2-100924.pdf.) As of February 14, 2020, no additional information had been made available.

[198] ED, *State and Local Report Cards*, 2019, Item H-14.

[199] ED, *State and Local Report Cards*, 2019, Item H-13.

Appendix. Glossary of Acronyms

AA-AAS	Alternate assessment based on alternate achievement standards
AA-MAS	Alternate assessment based on modified achievement standards
AMD	Annual meaningful differentiation
ASVAB	Armed Services Vocational Aptitude Battery
ATSI	Additional targeted support and improvement
BIE	Bureau of Indian Education
CCSSI	Common Core State Standards Initiative
CSI	Comprehensive support and improvement
CRDC	Civil rights data collection
DODEA	Department of Defense Education Activity
ED	U.S. Department of Education
EL	English learner
ELP	English language proficiency
ESEA	Elementary and Secondary Education Act
ESSA	Every Student Succeeds Act
FERPA	Family Educational Rights and Privacy Act
GEPA	General Education Provisions Act
IDEA	Individuals with Disabilities Education Act
IEP	Individualized education program
IHE	Institution of higher education
LEA	Local educational agency
LEP	Limited English proficient
NAEP	National Assessment of Educational Progress
NCLB	No Child Left Behind Act
PARCC	Partnership for Assessment of Readiness for College and Careers
RLA	Reading/language arts
RTT	Race to the Top
SEA	State educational agency
SIG	School Improvement Grants
TAP	Targeted assistance program
TSI	Targeted support and improvement

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