

## **Elementary and Secondary Education Act of 1965**

[As Amended Through P.L. 114–95, Enacted December 10, 2015]

### **SECTION 1.<sup>1</sup> [20 U.S.C. 6301 note] SHORT TITLE.**

This Act may be cited as the “Elementary and Secondary Education Act of 1965”.

### **SEC. 2.<sup>2</sup> TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

#### **TITLE I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED**

- Sec. 1001. Statement of purpose.
- Sec. 1002. Authorization of appropriations.
- Sec. 1003. School improvement.
- Sec. 1003A. Direct student services.
- Sec. 1004. State administration.

#### **PART A—IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES**

##### **Subpart 1—Basic Program Requirements**

- Sec. 1111. State plans.
- Sec. 1112. Local educational agency plans.
- Sec. 1113. Eligible school attendance areas.
- Sec. 1114. Schoolwide programs.
- Sec. 1115. Targeted assistance schools.
- Sec. 1116. Parent and family engagement.
- Sec. 1117. Participation of children enrolled in private schools.
- Sec. 1118. Fiscal requirements.
- Sec. 1119. Coordination requirements.

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<sup>1</sup>Section 5(a) through (c) of the Every Student Succeeds Act (Public Law 114–95) provides as follows:

#### **SEC. 5. EFFECTIVE DATES.**

(a) **IN GENERAL.**—Except as otherwise provided in this Act, or an amendment made by this Act, this Act, and the amendments made by this Act, shall be effective upon the date of enactment of this Act.

(b) **NONCOMPETITIVE PROGRAMS.**—With respect to noncompetitive programs under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.) under which any funds are allotted by the Secretary of Education to recipients on the basis of a formula, the amendments made by this Act shall be effective beginning on July 1, 2016, except as otherwise provided in such amendments.

(c) **COMPETITIVE PROGRAMS.**—With respect to programs that are conducted by the Secretary of Education on a competitive basis (and are not programs described in subsection (b)) under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), the amendments made by this Act with respect to appropriations for use under such programs shall be effective beginning on October 1, 2016, except as otherwise provided in such amendments.

Section 312 of the Department of Education Appropriations Act, 2016 (division H of P.L. 114–113; Consolidated Appropriations Act, 2016) provides: “Notwithstanding section 5(b) of the Every Student Succeeds Act, funds provided in this Act for non-competitive formula grant programs authorized by the ESEA for use during academic year 2016–2017 shall be administered in accordance with the ESEA as in effect on the day before the date of enactment of the Every Student Succeeds Act.”

<sup>2</sup>The amendment by section 6 of Public Law 114–95 to amend section 2 to read in its entirety was executed by striking the table of sections contained in such section (shown above) in order to reflect the probable intent of Congress.

(i) IN GENERAL.—Each State shall demonstrate that the challenging State academic standards are aligned with entrance requirements for credit-bearing coursework in the system of public higher education in the State and relevant State career and technical education standards.

(ii) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to authorize public institutions of higher education to determine the specific challenging State academic standards required under this paragraph.

(E) ALTERNATE ACADEMIC ACHIEVEMENT STANDARDS FOR STUDENTS WITH THE MOST SIGNIFICANT COGNITIVE DISABILITIES.—

(i) IN GENERAL.—The State may, through a documented and validated standards-setting process, adopt alternate academic achievement standards for students with the most significant cognitive disabilities, provided those standards—

(I) are aligned with the challenging State academic content standards under subparagraph (A);

(II) promote access to the general education curriculum, consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(III) reflect professional judgment as to the highest possible standards achievable by such students;

(IV) are designated in the individualized education program developed under section 614(d)(3) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(3)) for each such student as the academic achievement standards that will be used for the student; and

(V) are aligned to ensure that a student who meets the alternate academic achievement standards is on track to pursue postsecondary education or employment, consistent with the purposes of Public Law 93–112, as in effect on July 22, 2014.

(ii) PROHIBITION ON ANY OTHER ALTERNATE OR MODIFIED ACADEMIC ACHIEVEMENT STANDARDS.—A State shall not develop, or implement for use under this part, any alternate academic achievement standards for children with disabilities that are not alternate academic achievement standards that meet the requirements of clause (i).

(F) ENGLISH LANGUAGE PROFICIENCY STANDARDS.—Each State plan shall demonstrate that the State has adopted English language proficiency standards that—

(i) are derived from the 4 recognized domains of speaking, listening, reading, and writing;

(ii) address the different proficiency levels of English learners; and

*cational agencies and schools, so that parents, teachers, principals, other school leaders, and administrators can interpret and address the specific academic needs of students as indicated by the students' achievement on assessment items; and*

*(xiii) be developed, to the extent practicable, using the principles of universal design for learning.*

**(C) EXCEPTION FOR ADVANCED MATHEMATICS IN MIDDLE SCHOOL.**—*A State may exempt any 8th grade student from the assessment in mathematics described in subparagraph (B)(v)(I)(aa) if—*

*(i) such student takes the end-of-course assessment the State typically administers to meet the requirements of subparagraph (B)(v)(I)(bb) in mathematics;*

*(ii) such student's achievement on such end-of-course assessment is used for purposes of subsection (c)(4)(B)(i), in lieu of such student's achievement on the mathematics assessment required under subparagraph (B)(v)(I)(aa), and such student is counted as participating in the assessment for purposes of subsection (c)(4)(B)(vi); and*

*(iii) in high school, such student takes a mathematics assessment pursuant to subparagraph (B)(v)(I)(bb) that—*

*(I) is any end-of-course assessment or other assessment that is more advanced than the assessment taken by such student under clause (i) of this subparagraph; and*

*(II) shall be used to measure such student's academic achievement for purposes of subsection (c)(4)(B)(i).*

**(D) ALTERNATE ASSESSMENTS FOR STUDENTS WITH THE MOST SIGNIFICANT COGNITIVE DISABILITIES.**—

**(i) ALTERNATE ASSESSMENTS ALIGNED WITH ALTERNATE ACADEMIC ACHIEVEMENT STANDARDS.**—*A State may provide for alternate assessments aligned with the challenging State academic standards and alternate academic achievement standards described in paragraph (1)(E) for students with the most significant cognitive disabilities, if the State—*

*(I) consistent with clause (ii), ensures that, for each subject, the total number of students assessed in such subject using the alternate assessments does not exceed 1 percent of the total number of all students in the State who are assessed in such subject;*

*(II) ensures that the parents of such students are clearly informed, as part of the process for developing the individualized education program (as defined in section 614(d)(1)(A) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(1)(A)))—*

(aa) that their child's academic achievement will be measured based on such alternate standards; and

(bb) how participation in such assessments may delay or otherwise affect the student from completing the requirements for a regular high school diploma;

(III) promotes, consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the involvement and progress of students with the most significant cognitive disabilities in the general education curriculum;

(IV) describes in the State plan the steps the State has taken to incorporate universal design for learning, to the extent feasible, in alternate assessments;

(V) describes in the State plan that general and special education teachers, and other appropriate staff—

(aa) know how to administer the alternate assessments; and

(bb) make appropriate use of accommodations for students with disabilities on all assessments required under this paragraph;

(VI) develops, disseminates information on, and promotes the use of appropriate accommodations to increase the number of students with significant cognitive disabilities—

(aa) participating in academic instruction and assessments for the grade level in which the student is enrolled; and

(bb) who are tested based on challenging State academic standards for the grade level in which the student is enrolled; and

(VII) does not preclude a student with the most significant cognitive disabilities who takes an alternate assessment based on alternate academic achievement standards from attempting to complete the requirements for a regular high school diploma.

(ii) SPECIAL RULES.—

(I) RESPONSIBILITY UNDER IDEA.—Subject to the authority and requirements for the individualized education program team for a child with a disability under section 614(d)(1)(A)(i)(VI)(bb) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(1)(A)(i)(VI)(bb)), such team, consistent with the guidelines established by the State and required under section 612(a)(16)(C) of such Act (20 U.S.C. 1412(c)(16)(C)) and clause (i)(II) of this subparagraph, shall determine when a child with a significant cognitive disability shall participate in an alternate assessment aligned

*with the alternate academic achievement standards.*

*(II) PROHIBITION ON LOCAL CAP.—Nothing in this subparagraph shall be construed to permit the Secretary or a State educational agency to impose on any local educational agency a cap on the percentage of students administered an alternate assessment under this subparagraph, except that a local educational agency exceeding the cap applied to the State under clause (i)(I) shall submit information to the State educational agency justifying the need to exceed such cap.*

*(III) STATE SUPPORT.—A State shall provide appropriate oversight, as determined by the State, of any local educational agency that is required to submit information to the State under subclause (II).*

*(IV) WAIVER AUTHORITY.—This subparagraph shall be subject to the waiver authority under section 8401.*

*(E) STATE AUTHORITY.—If a State educational agency provides evidence, which is satisfactory to the Secretary, that neither the State educational agency nor any other State government official, agency, or entity has sufficient authority, under State law, to adopt challenging State academic standards, and academic assessments aligned with such standards, which will be applicable to all students enrolled in the State's public elementary schools and secondary schools, then the State educational agency may meet the requirements of this subsection by—*

*(i) adopting academic standards and academic assessments that meet the requirements of this subsection, on a statewide basis, and limiting their applicability to students served under this part; or*

*(ii) adopting and implementing policies that ensure that each local educational agency in the State that receives grants under this part will adopt academic content and student academic achievement standards, and academic assessments aligned with such standards, which—*

*(I) meet all of the criteria in this subsection and any regulations regarding such standards and assessments that the Secretary may publish; and*

*(II) are applicable to all students served by each such local educational agency.*

*(F) LANGUAGE ASSESSMENTS.—*

*(i) IN GENERAL.—Each State plan shall identify the languages other than English that are present to a significant extent in the participating student population of the State and indicate the languages for which annual student academic assessments are not available and are needed.*

*(ii) SECRETARIAL ASSISTANCE.—The State shall make every effort to develop such assessments and may*