

**THE  
EVERY  
STUDENT  
SUCCEEDS  
ACT (ESSA)**

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ORANGE COUNTY DEPARTMENT OF EDUCATION

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# THE EDUCATION OF SPECIAL EDUCATION STUDENTS

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# THE EVERY STUDENT SUCCEEDS ACT (ESSA)

## I. INTRODUCTION

On December 10, 2015, President Obama signed the Every Student Succeeds Act (ESSA), which reauthorized and updated the Elementary and Secondary Education Act (ESEA). The ESSA repeals many of the provisions of the No Child Left Behind Act (NCLB) and provides states more authority on standards, assessments, accountability, supports and interventions while preserving the general structure of the ESEA funding formulas. Most of the new provisions will take effect in the 2017-18 school year. The 2016-17 school year will be a transition year for local educational agencies under the ESSA. The U.S. Department of Education is currently developing regulations to implement the ESSA.

California is in the process of developing its ESSA State Plan, which will become operational in the 2017-18 school year. The purpose of this workbook is to summarize the statutory and regulatory provisions in the ESSA.

When Congress enacted the ESSA, its express statement of purpose stated, “The purpose of this subchapter is to provide all children significant opportunity to receive a fair, equitable, and high quality education, and to close educational achievement gaps.”<sup>1</sup>

As part of the ESSA, Congress appropriated approximately \$15 billion for the fiscal year 2017 to carry out the provisions of the ESSA.<sup>2</sup> Congress also authorized additional funds for state assessments, education of migratory children, prevention and intervention programs for children and youth who are neglected, delinquent, or at risk.<sup>3</sup>

Our office will update this workbook as more information becomes available.

## II. STATE PLANS

### A. Filing for Grants from the U.S. Department of Education

As part of the ESSA, Congress authorized states to receive grants for federal funds. In order to receive these grants of federal funds, states must develop state plans that meet federal requirements.<sup>4</sup>

In general, the state educational agency must file with the U.S. Secretary of Education a state plan that is developed by the state educational agency with timely and meaningful consultation with the Governor, members of the state Legislature, the State Board of Education, local educational agencies, representatives of Indian tribes located within the state, teachers, principals, other school

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<sup>1</sup> 20 U.S.C. Section 6301.

<sup>2</sup> 20 U.S.C. Section 6302.

<sup>3</sup> 20 U.S.C. Section 6302.

<sup>4</sup> 20 U.S.C. Section 6311.

leaders, charter school leaders, specialized instructional support personnel, paraprofessionals, administrators, other staff and parents. The plan must be coordinated with other federal educational programs including the Individuals with Disabilities Education Act, the Carl D. Perkins Career and Technical Education Act of 2006, the Workforce Innovation and Opportunity Act, the Head Start Act, the Childcare and Development Block Grant of 1990, the Education Sciences Reform Act of 2002, the Education Technical Assistance Act of 2002, the National Assessment of Educational Progress Authorization Act, the McKinney-Vento Homeless Assistance Act, and the Adult Education and Family Literacy Act.<sup>5</sup>

The U.S. Secretary of Education is required to establish a peer review process to assist in a review of state plans, establish multi-disciplinary peer review teams and appoint members of such teams who are representative of parents, teacher, principals, other school leaders, specialized instructional support personnel, state educational agencies, local educational agencies (including the business community), researchers who are familiar with the implementation of academic standards assessments or accountability systems, and how to meet the needs of disadvantaged students, children with disabilities and English Learners, the needs of low-performing schools and other educational needs of students. The majority of representation of individuals who, in the most recent two years have had practical experience in the classroom, school administration, or state and local government and who represent a regionally diverse cross-section of the states are expected to be appointed.

The list of peer reviewers must be made available to the public, including posting to the U.S. Department of Education's websites. The U.S. Department of Education is required to ensure that the peer review teams consist of varied individuals so that the same peer reviewers are not reviewing all of the state plans. The state plans are to be approved within 120 days after their submission.

The U.S. Secretary of Education may disapprove a state plan only if the Secretary of Education determines how the state plan fails to meet the requirements of the ESSA and immediately provides to the state, in writing, notice of such determination, and the supporting information and rationale to substantiate such determination. The U.S. Department of Education must offer the state an opportunity to revise a new submitted state plan and provide the state with technical assistance to assist the state in meeting the requirements for state plans. The U.S. Secretary of Education must provide in writing all peer review comments, suggestions, recommendations, and concerns relating to its state plan and a hearing, unless the state declines the opportunity for such hearing. If the state does not revise and resubmit its state plan, the Secretary of Education may disapprove the plan if it determines that such revised state plan does not meet the requirements of the ESSA.<sup>6</sup>

The purpose of the peer review process is to maximize collaboration with each state, promote effective implementation of the challenging state academic standards through state and local

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<sup>5</sup> 20 U.S.C. Section 6311(a)(1). Other federal programs include the Individuals with Disabilities Education Act, 20 U.S.C. Section 1400 et seq., the Rehabilitation Act of 1973, 20 U.S.C. Section 701 et seq., the Carl D. Perkins Career and Technical Education Act of 2006, 20 U.S.C. Section 2301 et seq., the Workforce Innovation and Opportunity Act, 29 U.S.C. Section 3101 et seq., the Head Start Act, 42 U.S.C. Section 9831 et seq., the McKinney-Vento Homeless Assistance Act, 42 U.S.C. Section 11301 et seq., the Adult Education and Family Literacy Act, 29 U.S.C. Section 3271 et seq., and other acts as appropriate.

<sup>6</sup> 20 U.S.C. Section 6311(a)(4).

innovation and provide transparent timely and objective feedback to states designed to strengthen the technical and overall quality of the state plans. Peer reviewers shall conduct an objective review of state plans in their totality, and out of respect for state and local judgments, with the goal of supporting state and local led innovation and providing objective feedback on the technical and overall quality of the state plan. Neither the Secretary of Education nor the political appointees of the U.S. Department of Education, may attempt to participate in, or influence, the peer review process.<sup>7</sup>

All written communications, feedback, and notifications related to the review of state plans shall be conducted in a manner that is transparent and immediately available to the public on the U.S. Department of Education’s website, including plans submitted or resubmitted by a state, peer review guidance, notes and comments and the names of the peer reviewers (once the peer reviewers have completed their work), state plan determinations by the Secretary of Education, including approvals or disapprovals.<sup>8</sup> Each state plan shall remain in effect for the duration of the state’s participation in the ESSA and shall be periodically reviewed and revised as necessary by the state educational agency to reflect changes in the state’s strategies and programs under the ESSA. The state makes significant changes at any time, such as the adoption of new, challenging state academic standards, or new academic assessments, or changes to its accountability system, such information shall be submitted to the U.S. Secretary of Education in the form of revisions or amendments to the state plan. The U.S. Secretary of Education shall review the information and approve changes to the state plan, or disapprove such changes within 90 days without undertaking the peer review process. If a state makes changes to its challenging state academic standards, the requirements that such standards need not be submitted to the U.S. Secretary of Education shall still apply.<sup>9</sup>

If a state fails to meet any of the requirements for formulating a state plan, the Secretary of Education may withhold funds for stated administration until the U.S. Secretary of Education determines that the state has fulfilled those requirements.<sup>10</sup> Each state shall make the state plan publically available for public comment for a period of not less than thirty days, by electronic means and in an easily accessible format, prior to submission to the Secretary for approval. The state, in the plan it files shall provide an assurance that public comments were taken into account in the development of the state plan.<sup>11</sup>

## **B. Challenging Academic Standards and Academic Assessments**

Each state, in the plan it files, shall provide assurance that the state has adopted challenging academic content standards and aligned academic achievement standards, which achievement standards shall include not less than three levels of achievement that will be used by the state, its local educational agencies, and its schools. A state shall not be required to submit such challenging state academic standards to the U.S. Secretary of Education. The standards shall apply to all public schools and public school students in the state and with respect to academic achievement standards,

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<sup>7</sup> 20 U.S.C. Section 6311(a)(4)(B), (C), (D).

<sup>8</sup> 20 U.S.C. Section 6311(a)(5).

<sup>9</sup> 20 U.S.C. Section 6311(a)(6).

<sup>10</sup> 20 U.S.C. Section 6311(a)(7).

<sup>11</sup> 20 U.S.C. Section 6311(a)(8).



include the same knowledge, skills, and levels of achievement expected of all public students in the state.<sup>12</sup>

The state shall have academic standards for mathematics, reading, or language arts, and science, and may have such standards for any other subject determined by the state. Each state shall demonstrate that the challenging state academic standards are aligned with entrance requirements from credit bearing coursework in the system of public higher education in the state and relevant state career and technical education standards. Nothing in this chapter shall be construed to authorize public institutions of higher education to determine the specific challenging state academic standards.<sup>13</sup>

The state may, through a documented and validated standards setting process, adopt alternative academic achievement standards for students with the most significant cognitive disabilities, provided their standards are aligned with the challenging state academic standards, promote access to the general education curriculum, consistent with the Individuals with Disabilities Education Act, reflect professional judgment as to the highest possible standards achievable by such students, are designated in the individualized educational program (IEP) developed for each student as the academic achievement standards that will be used for the student and are aligned to ensure that a student that meets the alternate academic achievement standards is on track to pursue post-secondary education or employment. A state shall not develop or implement any alternate academic achievement standards for children with disabilities that are not alternate academic standards that meet these requirements.<sup>14</sup>

Each state plan shall demonstrate that the state has adopted English language proficiency standards that are derived from the four recognized domains of speaking, listening, reading, and writing. Each state plan shall demonstrate that the state has adopted English language proficiency standards that address the different proficiency levels of English language learners and are aligned with the challenging state academic standards.<sup>15</sup>

A state shall not be required to submit any standards developed to the U.S. Secretary of Education for review or approval. The U.S. Secretary of Education shall 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.<sup>16</sup>

Each state plan shall demonstrate that the state educational agency, in consultation with local educational agencies, has implemented a set of high quality student academic assessments in mathematics, reading or language arts, and science. The state retains the right to implement such assessments in any other subject chosen by the state.<sup>17</sup>

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<sup>12</sup> 20 U.S.C. Section 6311(b)(1).

<sup>13</sup> 20 U.S.C. Section 6311(b)(1).

<sup>14</sup> 20 U.S.C. Section 6311(b)(1)(E).

<sup>15</sup> 20 U.S.C. Section 6311(b)(1)(F).

<sup>16</sup> 20 U.S.C. Section 6311(b)(1)(G).

<sup>17</sup> 20 U.S.C. Section 6311(b)(2)(A).

The assessments shall be the same academic assessments used to measure the achievement of all public elementary school and secondary school students in the state and administer to all public elementary school and secondary school students in the state. The assessments shall be aligned with the challenging state academic standards, and provide coherent and timely information about student attainment of such standards, and whether the student is performing at the student's grade level. The assessments shall be used for purposes for which such assessments are valid and reliable, consistent with relevant, nationally recognized professional and technical testing standards, objectively measured academic achievement, knowledge, and skills, and be tests that do not evaluate or assess personal or family beliefs and attitudes, or publically disclose personally identifiable information. The assessments shall be of adequate technical quality for each purpose and consistent with the requirements of this section, the evidence of which shall be made public, including on the website of the state educational agency.<sup>18</sup>

In the case of mathematics and reading or language arts, the assessments shall be administered in each of grades 3-8 and at least once in grades 9-12. In the case of science, the assessment shall be administered not less than one time during grades 3-5, grades 6-9, and grades 10-12, and in the case of any other subject chosen by the state, the assessment shall be administered at the discretion of the state. The assessment shall involve multiple up-to-date measures of student academic achievement, including measures that assess higher order thinking skills and understanding, which may include measures of student academic growth, and may be partially delivered in the form of portfolios, projects or extended performance tasks. The assessments shall provide for the participation in such assessments of all students, the appropriate accommodations for students with disabilities, including students with the most significant cognitive disabilities, necessary to measure the academic achievement of such children relative to the challenge of state academic standards or alternative academic achievement standards, and the inclusion of English language learners shall be assessed in a valid and reliable manner. English language learners shall be provided appropriate accommodations on assessments, 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 in academic content areas, until such students have achieved English language proficiency.<sup>19</sup>

At the state's discretion, the assessment shall be administered through a single summative assessment or be administered through multiple statewide interim assessments during the course of the academic year that result in a single summative score that provides valid, reliable, and transparent information on student achievement and growth.<sup>20</sup>

With respect to English language learners, assessments of reading or language arts of any student, using tests in English shall be used for any student who has attended school in the United States for three or more consecutive school years, except that if the local educational agency determines, on a case-by-case individual basis, that academic assessments in another language or form would likely yield more accurate and reliable information on what such student knows and can do, the local educational agency may make a determination to assess such student in the appropriate language other than English for a period that does not exceed two additional consecutive years,

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<sup>18</sup> 20 U.S.C. Section 6311(b)(2)(B).

<sup>19</sup> 20 U.S.C. Section 6311(b)(2)(B).

<sup>20</sup> 20 U.S.C. Section 6311(b)(2)(B).

provided that such student has not yet reached a level of English language proficiency sufficient to yield valid and reliable information on what such student knows and can do on tests (written in English) of reading arts or language arts.<sup>21</sup>

At the state's discretion, the state may produce individual student interpretive, descriptive, and diagnostic reports regarding achievement on such assessments that allow parents, teachers, principals, and other school leaders to understand and address the specific academic needs of students, and that are provided to parents, teachers, and school leaders, as soon as practicable after the assessment is given, in an understandable and uniform format, and to the extent practicable, in any language that parents can understand. At the state's discretion, the assessments shall enable the results to be disaggregated within each state, local educational agency, and school by each major racial and ethnic group, economically disadvantaged students as compared to students who are not economically disadvantaged, children with disabilities, as compared to children without disabilities, English proficiency status, gender and migrant status, except that such disaggregation shall not be required in the case of the state, local educational agency, or a school in which the number of students in a subgroup is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student.<sup>22</sup>

At the discretion of the state, the assessment shall enable itemized score analyses to be produced and reported to local educational 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 will be developed to the extent practicable, using the principles of universal design for learning.<sup>23</sup>

A state may exempt any eighth grade student from the assessment in mathematics if such student takes the end of course assessment the state typically administers in mathematics, such student's achievement on such end of course achievement is used in lieu of such student's achievement on the mathematics assessment and such student is counted as participating in the assessment and in high school, such student takes the mathematics assessment that is in any end of course assessment or other assessment that is more advanced than the assessment taken by such student and shall be used to measure such student's academic achievement.<sup>24</sup>

A state may provide for alternate assessments aligned with the challenging state academic standards and alternate academic achievement standards for students with the most significant cognitive disabilities if the state ensures that, for each subject, the total number of students assessed in such subject using the alternate assessments does not exceed one percent of the total number of all students in the state who are assessed in such subject, ensures that parents of such students are clearly informed as part of the IEP process that their child's academic achievement will be measured based on such alternate assessments and how participation in such assessments may delay or otherwise affect the student from completing the requirements for a regular high school diploma.

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<sup>21</sup> 20 U.S.C. Section 6311(b)(2)(B).

<sup>22</sup> 20 U.S.C. Section 6311(b)(2)(B).

<sup>23</sup> 20 U.S.C. Section 6311(b)(2)(B).

<sup>24</sup> 20 U.S.C. Section 6311(b)(2)(C).

A state may provide for alternate assessments aligned with the challenging state academic standards and alternate academic achievement standards if the state promotes, consistent with the IDEA, the involvement in progress of students with the most significant disabilities in a general education curriculum, describes in the state plan the steps the state has taken to incorporate universal design for learning, to the extent feasible, in alternate assessments. In addition, the state describes in the state plan that general and special education teachers and other appropriate staff know how to administer the alternate assessments and make appropriate use of accommodations for students with disabilities on all assessments, develops, disseminates information on and promotes the use of appropriate accommodations to increase the number of students with significant cognitive disabilities participating in academic instruction and assessment for the grade level in which the student is enrolled and who are tested based on challenging state academic standards for the grade level in which the student is enrolled, and does not preclude a student with the most significant cognitive disabilities who takes an alternate assessment based on alternative academic achievement standards from attempting to complete the requirements for a regular high school diploma.<sup>25</sup>

Subject to the authority and requirements for the IEP team, the IEP team shall determine when a child with a significant cognitive disability shall participate in an alternative assessment aligned with the alternate academic achievement standards. A local educational agency exceeding the one percent cap applied to the state shall submit information to the state educational agency justifying the need to exceed such cap. 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 to exceed the one percent cap. Exceeding the one percent cap shall be subject to the waiver authority under 20 U.S.C. Section 7861.<sup>26</sup>

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. The state shall make every effort to develop such assessments and may request assistance from the U.S. Secretary of Education if linguistically accessible academic measures are needed. Upon request, the U.S. Secretary of Education shall assist with the identification of appropriate academic assessment measures in the needed languages, but shall not mandate a specific academic assessment or mode of instruction.<sup>27</sup>

Each state plan shall demonstrate the local educational agencies in the state will provide for an annual assessment of English proficiency of all English learners in the schools served by the state educational agency. The assessments shall be aligned with the state's English language proficiency standards.<sup>28</sup>

Nothing in federal law shall be construed to prohibit a local educational agency from administering a locally selected assessment in lieu of the state designed academic assessment if the local educational agency selects a nationally recognized high school academic assessment that has been approved for use by the state. To allow for state approval of nationally recognized high school

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<sup>25</sup> 20 U.S.C. Section 6311(b)(2)(D).

<sup>26</sup> 20 U.S.C. Section 6311(b)(2)(D).

<sup>27</sup> 20 U.S.C. Section 6311(b)(2)(F).

<sup>28</sup> 20 U.S.C. Section 6311(b)(2)(G).

academic assessments that are available for local selection, a state educational agency shall establish technical criteria to determine if such assessment meets the requirements of the ESSA.<sup>29</sup>

If a local educational agency chooses to submit a nationally recognized high school's academic assessment to the state educational agency, the state educational agency may approve the use of such assessment. Upon such approval, the state educational agency shall approve the use of such assessment and any other local educational agency in the state that subsequently requests to use such assessment without repeating the state approval process.<sup>30</sup>

A state retains the right to develop and administer computer adaptive assessments provided the computer adaptive assessments measure, at a minimum, each student's academic proficiency based on the challenging state academic standards for the student's grade level and growth toward such standards and measure the student's level of academic proficiency and growth using the items above or below the student's grade level, including for use as part of a state accountability system. In developing and administering computer adaptive assessments, the state shall ensure that such computer adaptive assessments assess the student's academic achievement to measure, in the subject being assessed, whether the student is performing at the student's grade level and the state shall ensure that such computer adaptive assessments assess the student's language proficiency, which may include growth toward such proficiency in order to measure the student's acquisition of English.<sup>31</sup>

Nothing in the assessment provisions of the ESSA shall be construed as preempting a state or local law regarding the decision of a parent to not have the parent's child participate in the academic assessments.<sup>32</sup>

Subject to federal or state requirements related to assessments, evaluations, and accommodations, each state may, at the sole discretion of such state, set a target limit on the aggregate amount of time devoted to the administration of assessments for each grade, expressed as a percentage of annual instructional hours. A state may choose to exclude English language learners from this requirement.<sup>33</sup>

### **C. Statewide Accountability System**

Each state plan shall describe a statewide accountability system that complies with the requirements of the ESSA. Each state plan shall provide for a subgroup of students which means it shall include economically disadvantaged students, students from major racial and ethnic groups, children with disabilities, and English language learners.<sup>34</sup>

Each state plan shall describe with respect to any provisions that require disaggregation of information by each subgroup of students, the minimum number of students that the state determines

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<sup>29</sup> 20 U.S.C. Section 6311(b)(2)(H).

<sup>30</sup> 20 U.S.C. Section 6311(b)(2)(H).

<sup>31</sup> 20 U.S.C. Section 6311(b)(2)(J).

<sup>32</sup> 20 U.S.C. Section 6311(b)(2)(K).

<sup>33</sup> 20 U.S.C. Section 6311(b)(2)(L).

<sup>34</sup> 20 U.S.C. Section 6311(c)(1) and (2).

are necessary to be included to carry out such requirements and how that number is statistically sound, but shall be the same state determined number for all students and for each subgroup of students in the state, how such minimum number of students was determined by the state and how the state ensures that such minimum number is sufficient to not reveal any personally identifiable information.<sup>35</sup> The state accountability system shall be based on the challenging state academic standards for reading or language arts and mathematics, to improve state student academic achievement and school success. In designing such a system to meet the requirements of the ESSA, the state shall address all the following:

1. Establishment of long term goals.
2. Establishment of indicators or annual measures.
3. Annual meaningful differentiation.
4. Identification of schools.
5. Annual measurement of achievement.
6. Partial attendance.<sup>36</sup>

#### **D. School Support and Improvement Activities**

Each state educational agency receiving federal funds shall notify each local educational agency in the state of any school served by the local educational agency that is identified for comprehensive support and improvement. Upon receiving such information from the state, the local educational agency shall, for each school identified by the state and in partnership with stakeholders (including principals and other school leaders, teachers, and parents) locally develop and implement a comprehensive support and improvement plan for the school to improve student outcomes that:

1. Is informed by all indicators, including student performance against state determined long term goals.
2. Includes evidence based interventions.
3. Is based on a school level needs assessment.
4. Identifies resource inequities, which may include a review of local educational agency and school level budgeting, to be addressed through implementation of such comprehensive support and improvement plan.
5. Is approved by the school, local educational agency, and state educational agency.
6. Upon approval and implementation, is monitored and periodically reviewed by the state educational agency.<sup>37</sup>

With respect to any high school in the state identified for comprehensive support and improvement, the state educational agency may permit differentiated improvement activities that utilize evidence based interventions in case of such a school that predominantly serves students returning to education after having exited secondary school without a regular high school diploma or who, based on their age or grade, are significantly off track to accumulate sufficient academic credits

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<sup>35</sup> 20 U.S.C. Section 6311(c)(3).

<sup>36</sup> 20 U.S.C. Section 6311(c)(4).

<sup>37</sup> 20 U.S.C. Section 6311(d)(1).

to meet high school graduation requirements, as established by the state, and in the case of such a school that has total enrollment of less than 100 students, permit the local educational agency to forego implementation of improvement activities.<sup>38</sup>

A local educational agency may provide all students enrolled in a school identified by the state for comprehensive support and improvement with the option to transfer to another public school served by the local educational agency, unless such an option is prohibited by state law. In providing students the option to transfer to another public school, the local educational agency shall give priority to the lowest achieving children from low income families, as determined by the local educational agency for purposes of allocating funds to schools. A student who uses the option to transfer to another public school shall be enrolled in classes and other activities in the public school to which the student transfers in the same manner as all other students at the public school. A local educational agency shall permit a student who transfers to another public school to remain in that school until that student has completed the highest grade in that school. A local educational agency may spend an amount equal to not more than five percent of its allocation to pay for the provision of transportation for students who transfer to the public schools to which the students transfer.<sup>39</sup>

Each state educational agency receiving federal funds using the meaningful differentiation of schools shall notify each local educational agency in the state of any school served by the local educational agency in which any subgroup of students is consistently underperforming and ensure such local educational agency provides notification to such school with respect to which subgroup or subgroups of students in such school are consistently underperforming. Each school receiving a notification in partnership with stakeholders shall develop and implement a school level targeted support and improvement plan to improve student outcomes based on the indicators in the statewide accountability system for each subgroup of students that was subject of notification that:

1. Is informed by all indicators including student performance against long term goals.
2. Includes evidence based interventions.
3. Is approved by the local educational agency prior to implementation of such plan.
4. Is monitored, upon submission and implementation, by the local educational agency.
5. Results in additional action following unsuccessful implementation of such plan after a number of years determined by the local educational agency.<sup>40</sup>

A targeted support and improvement plan that is developed and implemented in any school receiving a notification from the local educational agency in which any subgroup of students, on its own, would lead to identification, using the state's methodology, shall also identify resource inequities (which may include a review of local educational agency and school level budgeting), to be addressed through implementation of such plan. The state educational agency, based on the

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<sup>38</sup> 20 U.S.C. Section 6311(d)(1)(C). This exception may apply to community day schools and other alternative education settings.

<sup>39</sup> 20 U.S.C. Section 6311(d)(1)(D). In California, state law provides for the transfer of students. See, Education Code section 48350 et seq.

<sup>40</sup> 20 U.S.C. Section 6311(d)(2)(B).

state's differentiation of schools, for school year 2017-18, shall notify local educational agencies of any schools served by the local educational agency in which any subgroup of students, on its own, would lead to identification using the state's methodology after which notification of such schools shall result from differentiation of schools.<sup>41</sup>

To ensure continued progress to improve student academic achievement and school success in the state, the state educational agency shall establish statewide exit criteria for schools identified by the state for comprehensive support and improvement which, if not satisfied within a state determined number of years (not to exceed four years), shall result in more rigorous state determined action, such as the implementation of interventions (which may include addressing school level operations and which, if not satisfied within a state determined number of years, shall, in the case of such schools receiving assistance, result in identification of the school by the state for comprehensive support and improvement). The state educational agency shall periodically review resource allocation to support school improvement in each local educational agency and the state serving a significant number of schools identified for comprehensive support and improvement and a significant number of schools implementing targeted support and improvement plans and shall provide technical assistance to each local educational agency in the state serving a significant number of schools implementing comprehensive support and improvement plans or schools implementing targeted support and improvement plans. The state may take action to initiate additional improvement in any local educational agency with a significant number of schools that are consistently identified by the state for comprehensive support and improvement and not meeting exit criteria established by the state or a significant number of schools implementing targeted support and improvement plans and consistent with state law, establish alternative, evidence based state determined strategies that can be used by local educational agencies to assist schools identified for comprehensive support and improvement.<sup>42</sup>

Nothing in 20 U.S.C. Section 6311(d) shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded to school or local educational agency employees under federal, state or local laws (including applicable regulations or court orders), or under the terms of the collective bargaining agreements, memoranda of understanding, or other agreements between such employers and their employees.<sup>43</sup>

#### **E. Prohibited Activities by the U.S. Secretary of Education**

Nothing in the ESSA shall be construed to authorize or permit the U.S. Secretary of Education when promulgating any rule or regulation, to promulgate any rule or regulation on the development or implementation of the statewide accountability system that would add new requirements that are inconsistent with or outside the scope of the ESSA, add any new criteria that are inconsistent with or outside the scope of the ESSA or would be in excess of statutory authority granted to the U.S. Secretary of Education. Nothing in the ESSA shall be construed to authorize or permit the U.S. Secretary of Education, as a condition of approval of the state plan, or revisions, or amendments to the state plan, or approval of a waiver under 20 U.S.C. Section 7861, to require a state to add any requirements that are inconsistent with or outside the scope of the ESSA or require a

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<sup>41</sup> 20 U.S.C. Section 6311(d)(2)(C) and (D).

<sup>42</sup> 20 U.S.C. Section 6311(d)(3).

<sup>43</sup> 20 U.S.C. Section 6311(d)(4).



state to add or delete one or more specific elements of the state academic standards or of prescribed numeric long term goals or measurements, the length of term set by states in designing such goals, or the progress expected from any subgroups in meeting such goals. The U.S. Secretary of Education is prohibited from establishing specific academic assessments or assessment items that states or local agencies must use to meet the requirements of the ESSA or otherwise use to measure student achievement or student growth.<sup>44</sup>

The U.S. Secretary of Education is prohibited from promulgating any rule or regulation on the development or implementation of the statewide accountability system established by the states that would:

1. Establish indicators that states use within the state accountability system, including any requirement to measure student growth, or, if the state chooses to measure student growth, the specific metrics used to measure such growth.
2. The weight of any measure or indicator used to identify or meaningfully differentiate schools.
3. The specific methodology used by states to meaningfully differentiate or identify schools.
4. Any specific support and improvement strategies or activities that state or local educational agencies establish and implement to intervene, support, and improve schools and improve student outcomes.
5. Exit criteria established by the states.
6. Provided that the state meets the requirements of subsection (c)(3),<sup>45</sup> a minimum number of students established by state under such subsection.
7. Any aspect or parameter of the teacher, principal, or other school leader evaluation system within a state or local educational agency.
8. Indicators or specific measures of teacher, principal, or other school leader effectiveness or quality.
9. The way in which the state factors the requirements under subsection (c)(4)(E)<sup>46</sup> into the statewide accountability system.<sup>47</sup>

The U.S. Secretary of Education is prohibited from promulgating any rule or regulation and prohibited from issuing any new non-regulatory guidances that, in seeking to provide explanation of requirements for state and local educational agencies, either in response to requests for information or in anticipation of such requests, provides a strictly limited or exhaustive list to illustrate successful implementation of provisions of this section or purports to be legally binding or to require

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<sup>44</sup> 20 U.S.C. Section 6311(e)(1)(A).

<sup>45</sup> 20 U.S.C. Section 6311(c)(3) requires that the minimum number of students be statistically sound, the same number for all students and each subgroup of students in the State and sufficient so as not to reveal any personally identifiable information.

<sup>46</sup> 20 U.S.C. Section (c)(4)(E) requires that 95% of all students and 95% of all subgroups of students must be assessed by the state testing.

<sup>47</sup> 20 U.S.C. Section 6311(e)(1)(B).

data collection under Section 6311 beyond data derived from existing federal, state, and local reporting requirements.<sup>48</sup>

In carrying out the provisions of 20 U.S.C. Section 6311, the U.S. Secretary of Education shall not, through regulation or as a condition of approval of the state plan, or revisions or amendments to the state plan, promulgate a definition of any term used in the ESSA or otherwise prescribe any specification for any such term, that is inconsistent with or outside the scope of the ESSA or in violation of 6311.<sup>49</sup>

## **F. Alteration of State Law**

Nothing in Section 6311 shall be construed to alter any state law or regulation granting parents authority over schools that repeatedly fail to make adequate yearly progress under the NCLB as in effect on the day before December 10, 2015.<sup>50</sup>

## **G. Other State Plan Requirements**

Each state plan shall describe how the state will provide assistance to local educational agencies and individual elementary schools choosing to use funds to support early childhood education programs. Each state plan shall describe how low income and minority children enrolled in schools assisted by the ESSA are not served at disproportionate rates by ineffective, out of field, or inexperienced teachers, and measures the state educational agency will use to evaluate and publicly report the progress of the state educational agency with respect to such description (except that nothing in this subparagraph shall be construed as requiring a state to develop or implement a teacher, principal, or other school leader evaluation system). Each state plan shall describe how the state educational agency will support local educational agencies receiving assistance from the ESSA to improve school conditions for student learning, including through reducing incidents of bullying and harassment, the overuse of discipline practices that remove students from the classroom, and the use of aversive behavioral interventions that compromise student health and safety.<sup>51</sup>

Each state plan shall describe how the state will support local educational agencies receiving assistance in meeting the needs of students at all levels of schooling, including how the state will work with such local educational agencies to provide effective transitions of students to middle grades and high school to decrease the risk of students dropping out. Each state plan shall describe the steps a state agency will take to ensure collaboration with the state agency responsible for administering social security benefits to ensure that the educational stability of children in foster care, including assurances that:

1. Any such child enrolls or remains in such child's school of origin, unless a determination is made that it is not in such child's best interest to attend the school of origin, which decision shall be based on all factors relating to the child's best interests, including

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<sup>48</sup> 20 U.S.C. Section 6311(e)(1)(C).

<sup>49</sup> 20 U.S.C. Section 6311(e)(2).

<sup>50</sup> 20 U.S.C. Section 6311(f).

<sup>51</sup> 20 U.S.C. Section 6311(g)(1).

consideration of the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

2. When a determination is made that it is not in the child's best interest to remain in the school of origin, the child is immediately enrolled in a new school, even if the child is unable to produce records normally required for enrollment.
3. The enrolling school shall immediately contact the school last attended by any such child to obtain relevant academic and other records.
4. The state educational agency will designate an employee to serve as a point of contact for child welfare agencies and to oversee implementation of the state agency responsibilities, and such point of contact shall not be the state's coordinator for education of homeless children and youth under the McKinney-Vento Act.<sup>52</sup>

Each state plan shall describe how the state educational agency will provide support to local educational agencies in the identification, enrollment, attendance, and school stability of homeless children and youth and such other factors the state educational agency determines appropriate to provide students an opportunity to achieve the knowledge and skills described in the challenging state academic standards.<sup>53</sup>

Each state plan shall contain assurances that:

1. The state will make public any methods or criteria the state is using to measure teacher, principal, or other school leader effectiveness for the purpose of meeting the requirements described in paragraph (1)(B).<sup>54</sup>
2. The state educational agency will notify local educational agencies, Indian tribes and tribal organizations, schools, teachers, parents, and the public of the challenging state academic standards, academic assessments, and state accountability system, developed under Section 6311.
3. The state educational agency will assist each local educational agency and school affected by the state plan to meet the requirements of the ESSA.
4. The state will participate in the biennial state academic assessments in reading and mathematics in grades 4 and 8 of the National Assessment of Educational Progress (NAEP) if the U.S. Secretary of Education pays the cost of administering such assessments.

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<sup>52</sup> 20 U.S.C. Section 6311(g)(1)(E). At the local level many school districts and county offices of education assign responsibility for homeless students and foster youth to the same individual. This prohibition only applies to the State.

<sup>53</sup> 20 U.S.C. Section 6311(g)(1)(F) and (G).

<sup>54</sup> 20 U.S.C. Section 6311 (g)(1)(B) requires the State plan to describe measures to remedy low income and minority students being disproportionately served by ineffective, out-of-field, inexperienced teachers.

5. The state educational agency will modify or eliminate state fiscal and accounting barriers so that schools can easily consolidate funds from other federal, state and local sources to improve educational opportunities and reduce unnecessary fiscal and accounting requirements.
6. The state educational agency will support the collection and dissemination to local educational agencies in schools of effective parent and family engagement strategies.
7. The state educational agency will provide the least restrictive and burdensome regulations for local educational agencies and individual schools participating in a program assisted under the ESSA.
8. The state educational agency will ensure that local educational agencies, in developing and implementing programs under the ESSA will, to the extent feasible, work in consultation with outside intermediary organizations (such as educational service agencies), or individuals, that have practical expertise in the development or use of evidence based strategies and programs to improve teaching, learning, and schools.
9. The state educational agency has appropriate procedures and safeguards in place to ensure the validity of the assessment process.
10. The state educational agency will ensure that all teachers and paraprofessionals working in a program supported with ESSA funding meet applicable state certification and licensure requirements, including any requirement for certification obtained through alternate routes to certification.
11. The state educational agency will coordinate activities funded under the ESSA with other federal activities as appropriate.
12. The state educational agency has involved the committee of practitioners established under Section 6573(b)<sup>55</sup> of Title 20 in developing the plan and monitoring its implementation.
13. The state has professional standards for paraprofessionals working in a program supported with funds under the ESSA, including qualifications that were in place on the day before December 10, 2015.
14. The state educational agency will provide the information to the public in an easily accessible and user friendly manner that can be cross tabulated by, at a minimum, each major racial and ethnic group, gender, English proficiency standards, and children with or without disabilities, which may be accomplished by including such information on the annual state report card, and shall be presented in the manner that is first anonymous and does not reveal personally identifiable information about an individual student, does not include a number of students in any subgroup that is insufficient to yield

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<sup>55</sup> 20 U.S.C. Section 6573(b) requires each state educational agency to create a state committee of practitioners to advise the state on its responsibilities under the ESSA.

statistically reliable information or that would reveal personally identifiable information about an individual student and is consistent with the requirements of FERPA.<sup>56</sup>

## **H. Required Reports**

A state that receives funding under the ESSA shall prepare and disseminate widely to the public an annual state report card for the state as a whole that meets the requirements below. The state report card shall be concise, presented in an understandable and uniform format that is developed in consultation with parents and, to the extent practicable, in a language that parents can understand and widely accessible to the public, which shall include making available on a single webpage of the state educational agency's website, the state report card, all local educational agency report cards for each local educational agency in the state and the annual report to the U.S. Secretary of Education.<sup>57</sup>

Each state report card shall include a clear and concise description of the state's accountability system and include the following information:

1. The minimum number of students that the state determines are necessary to be included in each subgroup of students for use in the accountability system.
2. Long term goals and measurements of interim progress for all students and for each of the subgroups of students.
3. The indicators used to meaningfully differentiate all public schools in the state.
4. The state's system for meaningfully differentiating all public schools in the state, including the specific weight of the indicators in such differentiation, methodology by which the state differentiates all such schools, the methodology by which the state differentiates a school is consistently underperforming for any subgroup of students, including the time period used by the state to determine consistent underperformance and the methodology by which the state identifies a school for comprehensive support.
5. The number and names of all public schools in the state identified by the state for comprehensive support and improvement or implementing targeted support and improvement plans.
6. The exit criteria established by the state, including the length of years.<sup>58</sup>

Each state report card shall include for all students and each disaggregated subgroup of students, homeless status, status as a child in foster care, and status as a student with a parent who is a member of the armed forces on active duty, information on such student achievement on the academic assessments at each level of achievement as determined by the state. Each state report

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<sup>56</sup> 20 U.S.C. Section 6311(g)(2).

<sup>57</sup> 20 U.S.C. Section 6311(h)(1).

<sup>58</sup> 20 U.S.C. Section 6311(h)(1)(C).

card shall include a clear and concise description for all students and disaggregated by each subgroup of students, homeless status and status as a child in foster care, information on the performance on the other academic indicator for public elementary schools and secondary schools that are not high schools, used by the state in the state accountability system, and high school graduation rates, including four year adjusted cohort graduation rates and, at the state's discretion, extended year adjusted cohort graduation rates.<sup>59</sup>

The state report card shall include the following:

1. Information on the number and percentage of English language learners achieving English language proficiency.
2. For all students and disaggregated by each of the subgroups of students, information on the performance on the other indicator or indicators of school quality or student success used by the state and the state accountability system.
3. Information on the progress of all students in each subgroup of students toward meeting the state designed long term goals, including the progress of all students in each such subgroup of students against the state measurements of interim progress.
4. For all students and disaggregated by each subgroup, the percentage of students assessed and not assessed.
5. Information submitted by the state educational agency and each local educational agency on measurements 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), incidents of violence, including bullying and harassment, and the number and percentage of students enrolled in preschool programs and accelerated coursework to earn postsecondary credit while still in high school.<sup>60</sup>

Each state report card shall include the professional qualifications of teachers in the state, including information (that shall be presented in the aggregate and disaggregated by high poverty compared to low poverty schools) 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 the teacher is certified or licensed.<sup>61</sup>

The state report card shall include:

1. The per pupil expenditure of federal, state and local funds, including actual personnel expenditures and actual non-personnel expenditures of federal, state and local funds, disaggregated by the source of funds,

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<sup>59</sup> 20 U.S.C. Section 6311(h)(1)(C).

<sup>60</sup> 20 U.S.C. Section 6311(h)(1)(C).

<sup>61</sup> 20 U.S.C. Section 6311(h)(1)(C).

- for each local educational agency, and each school in the state for the preceding fiscal year.
2. The number and percentage of students with the most significant cognitive disabilities who take an alternate assessment by grade and subject.
  3. Results on the state academic assessments in reading and mathematics in grades 4 and 8 of the National Assessment of Educational Progress compared to the national average of such results.
  4. Where available, for each high school in the state, and beginning with the report card prepared for 2017, the cohort rate (in the aggregate, and disaggregated for each subgroup of students) at which students who graduate from high school enroll, for the first academic year that begins after the students graduation and programs of public post-secondary education in the state, and if data are available and to the extent practicable, in programs of private post-secondary education in the state or programs of post-secondary education outside the state.
  5. Any additional information that the state believes will best provide to parents, students, and other members of the public with information regarding the progress of each of the state's public elementary schools and secondary schools, which may include the number and percentage of students attaining career and technical proficiencies, and reported by states.<sup>62</sup>

A local educational agency that receives assistance under the ESSA shall prepare and disseminate an annual local educational agency report card that includes information on such agency as a whole and each school served by the agency. Each local educational agency report card shall be concise, presented in an understandable and uniform format, and to the extent practicable in a language that parents can understand and accessible to the public, which shall include placing such report card on the website of the local educational agency and in any case in which a local agency does not operate a website, providing information to the public in another manner determined by the local educational agency.<sup>63</sup>

The state educational agency shall ensure that each local educational agency collects appropriate data and includes in the local educational agency's annual report card information disaggregated in the same manner as applied to the local educational agency in each school served by the local agency that shows how students achieved on the academic assessments compared to students served by the local educational agency in the state as a whole, and any information that the local educational agency determines is appropriate and will best provide parents, students, and other members of the public with information regarding the progress of each public school served by the local educational agency, whether or not such information is included in the state report card.<sup>64</sup>

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<sup>62</sup> 20 U.S.C. Section 6311(h)(1)(C).

<sup>63</sup> 20 U.S.C. Section 6311(h)(2).

<sup>64</sup> 20 U.S.C. Section 6311(h)(2).

A state educational agency or local educational agency may use public report cards on the performance of students, schools, local educational agencies, or the state, that were in effect prior to December 10, 2015, so long as any such report card is modified, as may be needed, to contain the information required under Section 6311 and protects the privacy of individual students.<sup>65</sup>

Each state educational agency receiving ESSA funds shall report annually to the U.S. Secretary of Education and make widely available within the state the following information:

1. Information on the achievement of students on the academic assessments, including the disaggregated results for the subgroups of students.
2. Information on the acquisition of English proficiency by English learners.
3. The number and names of each public school in the state identified for comprehensive support and improvement and implementing targeted support and improvement plans.
4. Information on the professional qualification of teachers in the state, including information on 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 for which the teacher is certified or licensed.<sup>66</sup>

The U.S. Secretary of Education shall transmit annually to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report that provides national and state local data on the information collected. Such report shall be submitted through electronic means only.<sup>67</sup>

## **I. Privacy of Information**

Information collected or disseminated under Section 6311 shall be collected and disseminated in a manner that protects the privacy of individuals consistent with FERPA. The reports shall only include data that are sufficient to yield statistically reliable information. Disaggregation under Section 6311 shall not be required if such disaggregation will reveal personally identifiable information about any student, teacher, principal, or other school leader, or will provide data that are insufficient to yield statistically reliable information.<sup>68</sup>

## **J. Voluntary Partnerships**

A state retains the right to enter into a voluntary partnership with another state to develop and implement the challenging state academic standards and assessments required under Section 6311. The U.S. Secretary of Education shall not attempt to influence, incentivize, or coerce states to adopt

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<sup>65</sup> 20 U.S.C. Section 6311(h)(3).

<sup>66</sup> 20 U.S.C. Section 6311(h)(5).

<sup>67</sup> 20 U.S.C. Section 6311 (h)(6).

<sup>68</sup> 20 U.S.C. Section 6311(i).



the Common Core State Standards or any other academic standards common to a significant number of states, or assessments tied to such standards, or participation in such partnerships.<sup>69</sup>

#### **K. Student Promotion or Graduation**

Nothing in the ESSA shall be construed to prescribe the use of the academic assessments describing the ESSA for student promotion or graduation purposes.<sup>70</sup>

### **III. LOCAL EDUCATIONAL AGENCY PLANS**

#### **A. Plans Required**

A local educational agency may receive a subgrant of ESSA funds for any fiscal year, only if such agency has on file with the state educational agency a plan, approved by the state educational agency, that is developed with timely and meaningful consultation with teachers, principals, other school leaders, paraprofessionals, specialized instructional support personnel, charter school leaders (in a local educational agency that has charter schools), administrators (including administrators of programs described in other parts of the subchapter), other appropriate school personnel, and with parents of children in schools served under the ESSA. The local educational agency plan shall, as appropriate, as coordinated with other federal programs.<sup>71</sup>

Each local educational agency plan shall be filed according to a schedule established by the state educational agency. The state educational agency shall approve a local educational agency's plan only if the state educational agency determines that the local educational agency's plan provides that schools served under the ESSA substantially helped children in meeting the challenging state academic standards and the local educational agency plan meets the requirements of Section 6311.<sup>72</sup>

Each local educational agency plan shall be submitted for the first year for which the ESSA is in effect following December 10, 2015, and shall remain in effect for the duration of the agency's participation in the ESSA. Each local educational agency shall periodically review and, as necessary, revise its plan.<sup>73</sup>

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<sup>69</sup> 20 U.S.C. Section 6311(j).

<sup>70</sup> 20 U.S.C. Section 6311(l).

<sup>71</sup> 20 U.S.C. Section 6312(a)(1). Other federal programs include the Individuals with Disabilities Education Act, 20 U.S.C. Section 1400 et seq., the Rehabilitation Act of 1973, 20 U.S.C. Section 701 et seq., the Carl D. Perkins Career and Technical Education Act of 2006, 20 U.S.C. Section 2301 et seq., the Workforce Innovation and Opportunity Act, 29 U.S.C. Section 3101 et seq., the Head Start Act, 42 U.S.C. Section 9831 et seq., the McKinney-Vento Homeless Assistance Act, 42 U.S.C. Section 11301 et seq., the Adult Education and Family Literacy Act, 29 U.S.C. Section 3271 et seq., and other acts as appropriate.

<sup>72</sup> 20 U.S.C. Section 6312(a)(3).

<sup>73</sup> 20 U.S.C. Section 6312(a)(4) and (5).

## **B. Plan Requirements**

To ensure that all children receive a high quality education, and to close the achievement gap between meeting the challenging state academic standards and those children who are not meeting the challenging state academic standards, each local educational agency shall describe:

1. How the local educational agency will monitor students' progress in meeting the challenging academic standards by developing and implementing a well-rounded program of instruction to meet the academic needs of all students, identifying students who may be at risk for academic failure, providing additional educational assistance to individual students the local educational agency or school determines need help in meeting the challenging state academic standards and identifying and implementing instructional and other strategies intended to strengthen academic programs and improve school conditions for student learning.
2. How the local educational agency will identify and address, as required under state plans, any disparities that result in low income students and minority students being taught at higher rates than other students by ineffective, inexperienced, or out-of-field teachers.
3. How the local educational agency will carry out its responsibilities under Section 6311(d)(1) (school choice) and (2) (targeted support and improvement).
4. The poverty criteria that will be used to select school attendance areas.
5. In general, the nature of the programs to be conducted by such agency's schools under Section 6314 (schoolwide programs) and 6315 (targeted assistance schools) and, where appropriate, educational services outside such schools for children living in local institutions for neglected or delinquent children, and for neglected and delinquent children in community day school programs.
6. The services the local educational agency will provide homeless children and youths, including services provided with funds reserved under Section 6313(c)(3)(A), to support the enrollment, attendance and success of homeless children and youths, in coordination with the services the local educational agency is providing under the McKinney-Vento Homeless Act.
7. The strategy the local educational agency will use to implement effective parent and family engagement.
8. If applicable, how the local educational agency will support, coordinate, and integrate services provided under the ESSA with early childhood education programs at the local educational agency or individual school level, including plans for the transition of participants in early childhood education programs to local elementary schools.
9. How teachers and school leaders, in consultation with parents, administrators, paraprofessionals, and specialized instructional

support personnel, in schools operating a targeted assisted school program under Section 6315, will identify the eligible children most in need of services.

10. How the local educational agency will implement strategies to facilitate effective transitions for students from middle grades to high school and from high school to post-secondary education through coordination with institutions of higher education, employers and other local partners, and through increased student access to early college high school or dual or concurrent enrollment opportunities or career counseling to identify student interests and skills.
11. How the local educational agency will support efforts to reduce the overuse of discipline practices that remove students from the classroom, which may include identifying and supporting schools with high rates of discipline, disaggregated by each of the subgroups of students.
12. If determined appropriate by the local educational agency, how such agency will support programs that coordinate and integrate academic and career technical education content through coordinated instructional strategies, that may incorporate experiential learning opportunities and promote skills attainment important to in demand occupations or industries in the state and work based learning opportunities that provide students in depth interaction with industry professionals and, if appropriate, academic credit.
13. Any other information on how the local educational agency proposes to use funds to meet the purposes of the ESSA and that the local educational agency determines appropriate to provide, which may include how the local agency will assist schools in identifying and serving gifted and talented students and assist students in developing effective school library programs to provide students with an opportunity to develop digital literacy skills and improve academic achievement.<sup>74</sup>

### **C. Assurances Provided by the Local Educational Agency**

Each local educational agency plan shall provide assurances that the local educational agency will:

1. Ensure that migratory children and formerly migratory children who are eligible to receive services are selected to receive such services on the same basis as other children who are selected to receive services.
2. Provide services to eligible children attending private elementary schools and secondary schools and timely and meaningful consultation with private school officials regarding such services.

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<sup>74</sup> 20 U.S.C. Section 6312(b).

3. Participate, if selected, in the National Assessment of Educational Progress in reading and mathematics in grades 4 and 8.
4. Coordinate and integrate services with other educational services that the local education agency or individual school level, such as services for English learners, children with disabilities, migratory children, American Indian, Alaska Native, and Native Hawaiian children, and homeless children and youths, in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program.
5. Collaborate with the state or local child welfare agency to designate a point of contact if the corresponding child welfare agency notifies the local agency, in writing, that the agency has a designated employee to serve as a point of contact for the local educational agency, to develop and implement clear written procedures governing how transportation to maintain children in foster care in their school of origin will be provided, arranged, and funded for the duration of the time in foster care when it is in the foster youth's best interest.
6. Ensure that all teachers and paraprofessionals working in a program supported with funds under the ESSA meet applicable state certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification.
7. In the case of a local educational agency that chooses to use funds to provide early childhood education services to low income children below the age of compulsory school attendance, ensure that such services comply with the performance standards under the Head Start Act.<sup>75</sup>

#### **D. Early Childhood Educational Services**

For local educational agencies using ESSA funds for the purpose of early childhood educational services, the U.S. Secretary of Education shall consult with the Secretary of Health and Human Services and establish procedures to assist local educational agencies to comply with the Head Start Act and disseminate to local educational agencies the education performance standards in effect under the Head Start Act. Local educational agencies affected shall plan to comply with the Head Start Act.<sup>76</sup>

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<sup>75</sup> 20 U.S.C. Section 6312(c).

<sup>76</sup> 20 U.S.C. Section 6312(d).

## **E. Information Provided to Parents**

At the beginning of each school year, a local educational agency that receives funds under the ESSA shall notify the parents of each student attending any school the parents may request, and the agency will provide the parents upon request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

1. Whether the student's teacher has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.
2. Whether the student's teacher is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived.
3. Whether the teacher is teaching in the field of discipline of the certification of the teacher.
4. Whether the child is provided services by paraprofessionals and, if so, their qualifications.<sup>77</sup>

In addition, parents may request a school to provide each individual parent of a child who is a student in such school information on the level of achievement and academic growth of the student on each of the state academic standards, and timely notice that the student has been assigned, or has been taught for four or more consecutive weeks by a teacher who does not meet applicable state certification or license requirements at the grade level and subject area in which the teacher has been assigned.<sup>78</sup>

At the beginning of each school year, a local educational agency shall notify the parents of each student attending any school that the parents may request, and the local educational agency will provide the parents on request and in a timely manner, information regarding any state or local educational agency policy regarding the student participation in any assessments which shall include a policy, procedure, or parental right to opt the child out of such an assessment. Each local educational agency shall make widely available through public means for each grade served, information on each assessment required by the state and where such information is available and feasible to report, assessments required districtwide by the local educational agency, including the subject matter assessed, the purpose for which the assessment is designed and used, the source of the requirement for the assessment, where such information is available, the amount of time students will spend taking the assessment, the schedule for the assessment and the time and format for disseminating results.<sup>79</sup>

Each local educational agency using funds under the ESSA to provide a language instruction educational program shall, not later than thirty days after the beginning of the school year, inform parents of an English language learner identified for participation in such a program of the following:

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<sup>77</sup> 20 U.S.C. Section 6312(e)(1)(A).

<sup>78</sup> 20 U.S.C. Section 6312(e)(1)(B).

<sup>79</sup> 20 U.S.C. Section 6312(e)(2).

1. The reasons for the identification of the child as an English learner and in need of placement in a language instruction education program.
2. The child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement.
3. The methods of instruction used in the program in which the child is, or will be, participating and the methods of instruction used in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language instruction.
4. How the program in which their child is, or will be, participating will meet the educational strengths and needs of the child.
5. How such program will specifically help their child learn English and meet age appropriate academic achievement standards for grade promotion and graduation.
6. The specific exit requirements for the program, including the expected rate of transition from such program into classrooms that are not tailored for English learners, and the expected rate of graduation from high school (including four year adjusted cohort graduation rates and extended year adjusted cohort graduation rates for such program) if funds under this part are used for children in high school.
7. In the case of the child with a disability, how such programs meet the objectives of the IEP of the child.
8. Information pertaining to parental rights that includes written guidance detailing the right that parents have to have their child removed from such program upon their request, detailing the options the parents have to decline to enroll their child in such program or to choose another program or method of instruction, if available, and assisting parents in selecting among various programs and methods of instruction, if more than one program or method is offered by the eligible entity.<sup>80</sup>

For those children who have not been identified as English language learners prior to the beginning of the school year, but are identified as English learners during such school year, the local educational agency shall notify the children's parents during the first two weeks of the child being placed in a language instruction educational program.<sup>81</sup>

Each local educational agency receiving funds shall implement an effective means of outreach to parents of English learners to inform the parents how the parents can be involved in the education of their children and be active participants in assisting their children to obtain English proficiency, achieve at high levels with a well-rounded education, and meet the challenging state

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<sup>80</sup> 20 U.S.C. Section 6312(e)(3).

<sup>81</sup> 20 U.S.C. Section 6312(e)(3).

academic standards expected of all students. Each local educational agency shall implement an effective means of outreach to the parents of English learners and shall hold regular meetings for the purpose of formulating and responding to recommendations from parents of students. A student shall not be admitted to or excluded from any federally assisted education program on the basis of a surname or language minority status. The notice and information provided to parents shall be in an understandable and uniform format and to the extent practicable, provided in a language that the parents can understand.<sup>82</sup>

#### **IV. ELIGIBLE SCHOOL ATTENDANCE AREAS**

##### **A. Determine Eligible School Attendance Areas**

A local educational agency must use funds received under the ESSA only in eligible school attendance areas.<sup>83</sup> The term “school attendance area” is defined in relation to a particular school, the geographical area in which the children who are normally served by that school reside, and the term “eligible school attendance area” means a school attendance area in which the percentage of children from low-income families is at least as high as the percentage of children from low-income families served by the local educational agency as a whole.<sup>84</sup>

If funds allocated are insufficient to serve all eligible school attendance areas, a local educational agency shall annually rank, without regard to grade spans, such agency’s eligible school attendance areas in which the concentration of children from low-income families exceeds 75% from highest to lowest according to the percentage of children from low-income families and serve such eligible school attendance areas in rank order.<sup>85</sup> If funds remain after serving all eligible school attendance areas, a local educational agency shall annually rank such agency’s remaining eligible school attendance areas from highest to lowest either by grade span or for the entire local educational agency according to the percentage of children from low-income families, and serve such eligible school attendance areas in rank order either within each grade-span grouping or within the local educational agency as a whole.<sup>86</sup>

##### **B. Local Educational Agency Discretion**

Notwithstanding the designation of school attendance areas, a local educational agency may:

1. Designate as eligible any school attendance area or school in which at least 35% of the children are from low-income families;
2. Use funds received under the ESSA in a school that is not in an eligible school attendance area, if the percentage of children from low-income families enrolled in the school is equal to or greater than

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<sup>82</sup> 20 U.S.C. Section 6312(e)(3).

<sup>83</sup> 20 U.S.C. Section 6313(a)(1).

<sup>84</sup> 20 U.S.C. Section 6313(a)(2).

<sup>85</sup> 20 U.S.C. Section 6313(a)(3).

<sup>86</sup> 20 U.S.C. Section 6313(a)(4).

the percentage of such children in a participating school attendance area of such agency;

3. Designate and serve a school attendance area or school that is not eligible under the ESSA, but that was eligible and that was served in the preceding fiscal year, but only for one additional fiscal year; and
4. Elect not to serve an eligible school attendance area or eligible school that has a higher percentage of children from low-income families if the school meets the comparability requirements of Section 6321(c) of Title 20, the school is receiving supplemental funds from other state or local sources that are spent according to the requirements of 20 U.S.C. Section 6314 (schoolwide programs) or 6315 (targeted assistance schools), and the funds expended from such other sources equal or exceed the amount that would be provided under the ESSA.<sup>87</sup>

### C. Allocation of Funds

A local educational agency shall allocate funds received under the ESSA to eligible school attendance areas or eligible schools in rank order on the basis of the total number of children from low-income families in each area or school.<sup>88</sup> The per-pupil amount of funds allocated to each school attendance area or school shall be at least 125% of the per-pupil amount of funds a local educational agency received for that year under the poverty criteria described by the local educational agency in the plan submitted under 20 U.S.C. Section 6312, except that this paragraph shall not apply to a local educational agency that only serves schools in which the percentage of such children is 35% or greater. A local educational agency may reduce the amount of funds allocated for a school attendance area or school by the amount of any supplemental state and local funds expended in that school attendance area or school for programs that meet the requirements of 20 U.S.C. Section 6314 (schoolwide programs) or 6315 (targeted assistance schools).<sup>89</sup>

A local educational agency shall reserve such funds as are necessary under the ESSA to provide services comparable to those provided to children in schools funded under the ESSA to serve homeless children and youth, including providing educationally related support services to children in shelters and other locations where children may live, children in local institutions for neglected children and, if appropriate, children in local institutions for delinquent children, and neglected or delinquent children in community day school programs.<sup>90</sup> The share of funds so determined shall be based on the total allocation received by the local educational agency and prior to any allowable expenditures or transfers by the local educational agency.<sup>91</sup> Funds reserved may be determined based on a needs assessment of homeless children and youth in the local educational agency, taking into consideration the number and needs of homeless children and youth in the local educational agency and used to provide homeless children and youth with services not ordinarily provided other students including funding for the homeless liaison and funding for transportation.<sup>92</sup>

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<sup>87</sup> 20 U.S.C. Section 6313(b).

<sup>88</sup> 20 U.S.C. Section 6313(c)(1).

<sup>89</sup> 20 U.S.C. Section 6313(c)(2). This provision may have an impact in California. Under the Local Control Funding Formula (LCFF), supplemental and concentration funds are provided to low-income schools.

<sup>90</sup> 20 U.S.C. Section 6313(c)(3)(A).

<sup>91</sup> 20 U.S.C. Section 6313(c)(3)(B).

<sup>92</sup> 20 U.S.C. Section 6313(c)(3)(C).



A local educational agency may reserve such funds as are necessary from those funds received by the local educational agency to provide financial incentives and rewards to teachers who serve in schools eligible under the ESSA and identified for comprehensive support and improvement activities or targeted support and improvement activities for the purpose of attracting and retaining qualified and effective teachers.<sup>93</sup> A local educational agency may reserve funds made available to carry out the ESSA to provide early childhood education programs for eligible children.<sup>94</sup>

## V. SCHOOLWIDE PROGRAMS

### A. Use of Funds for Schoolwide Programs

A local educational agency may consolidate and use funds under the ESSA, together with other federal, state and local funds, in order to upgrade the entire educational program of a school that serves an eligible school attendance area in which not less than 40% of the children are from low-income families, or not less than 40% of the children enrolled in the school are from such families.<sup>95</sup> A school that serves an eligible school attendance area in which less than 40% of the children are from low-income families, or a school from which less than 40% of the children enrolled in the school are from such families, may operate a schoolwide program if the school receives a waiver from the state educational agency to do so, after taking into account how a schoolwide program will best serve the needs of the students in the school in improving academic achievement and other factors.<sup>96</sup>

No school participating in a schoolwide program shall be required to identify particular children as eligible to participate in a schoolwide program or individual services as supplementary.<sup>97</sup> In accordance with the method of determining poverty, a school participating in a schoolwide program shall use funds available to carry out Section 6314 only to supplement the amount of funds that would, in the absence of ESSA funds, be made available from non-federal sources for the school, including funds needed to provide services that are required by law for children with disabilities and English learners.<sup>98</sup>

The United States Secretary of Education may, through publication of a notice in the Federal Register, exempt schoolwide programs under Section 6314 from statutory or regulatory provisions of any other noncompetitive formula grant program administered by the United States Secretary of Education, or any other discretionary grant program administered by the United States Secretary of Education, to support schoolwide programs if the intent and purposes of such other programs are met.<sup>99</sup> A school that chooses to use funds from such other programs shall not be relieved of the requirements relating to health, safety, civil rights, student and parental participation and

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<sup>93</sup> 20 U.S.C. Section 6313(c)(4).

<sup>94</sup> 20 U.S.C. Section 6313(c)(5).

<sup>95</sup> 20 U.S.C. Section 6314(a)(1)(A).

<sup>96</sup> 20 U.S.C. Section 6314(a)(1)(B).

<sup>97</sup> 20 U.S.C. Section 6314(a)(2)(A).

<sup>98</sup> 20 U.S.C. Section 6314(a)(2)(B).

<sup>99</sup> 20 U.S.C. Section 6314(a)(3)(A).

involvement, services to private school children, maintenance of effort, comparability of services, uses of Federal funds to supplement, not supplant non-federal funds, or the distribution of funds to state educational agencies or local educational agencies that apply to the receipt of funds from such programs.<sup>100</sup> A school that chooses to consolidate and use funds from different federal programs under Section 6314 shall not be required to maintain separate fiscal accounting records, by program, that identify the specific activities supported by those particular funds as long as the school maintains records that demonstrate that the schoolwide program, considered as a whole, addresses the intent and purposes of each of the federal programs that were consolidated to support the schoolwide program.<sup>101</sup>

## **B. Developing a Schoolwide Plan**

An eligible school operating a schoolwide program shall develop a comprehensive plan that:

1. Is developed during a one-year period, unless the local educational agency determines, in consultation with the school, that less time is needed to develop and implement the schoolwide program or the school is operating a schoolwide program on December 10, 2015, in which case such school may continue to operate such program, but shall develop amendments to its existing plan during the first year of assistance after that date to reflect the requirements of Section 6314.
2. Is developed with the involvement of parents and other members of the community to be served and individuals who will carry out such plan, including teachers, principals, other school leaders, paraprofessionals present in the school, administrators, the local educational agency, to the extent feasible, tribes and tribal organizations present in the community, and, if appropriate, specialized instructional support personnel, technical assistance providers, school staff, and, if the plan relates to a secondary school, students and other individuals determined by the school.
3. Remains in effect for the duration of the school's participation under the ESSA, except that the plan and its implementation shall be regularly monitored and revised as necessary based on student needs to ensure that all students are provided opportunities to meet the challenging state academic standards.
4. Is available to the local educational agency, parents, and the public, and the information contained in such plan shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.
5. If appropriate and applicable, is developed in coordination and integration with other federal, state and local services, resources, and programs, such as programs supported under the ESEA, violence prevention programs, nutrition programs, housing programs, Head

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<sup>100</sup> 20 U.S.C. Section 6314(a)(3)(B).

<sup>101</sup> 20 U.S.C. Section 6314(a)(3)(C).

Start programs, adult education programs, career and technical education programs, and schools implementing comprehensive support and improvement activities or targeted support and improvement activities under Section 6311(d).

6. Is based on a comprehensive needs assessment of the entire school that takes into account information on the academic achievement of children in relation to the challenging state academic standards, particularly the needs of those children who are failing or at risk of failing, to meet the challenging state academic standards and any other factors as determined by the local educational agency.
7. Includes a description of the following:
  - a. The strategies that the school will implement to address school needs, including a description of how such strategies will provide opportunities for all children, including each of the subgroups of students, to meet the challenging state academic standards, use methods and instructional strategies that strengthen the academic program in the school, increase the amount and quality of learning time, and help provide an enriched and accelerated curriculum. The strategies that the school will implement, may include programs, activities, and courses necessary to provide a well-rounded education, and address the needs of all children in the school, but particularly the needs of those at risk of not meeting the challenging state academic standards, through activities which may include counseling, school-based mental health programs, specialized instructional support services, mentoring services, and other strategies to improve students' skills outside the academic subject areas. The strategies that the school will implement may include preparation for and awareness of opportunities for postsecondary education and the workforce, which may include career and technical education programs and broadening secondary school students' access to coursework to earn postsecondary credit while still in high school, implementation of a schoolwide tiered model to prevent and address problem behavior, and early intervening services, coordinated with similar activities and services carried out under the Individuals with Disabilities Education Act. The strategies that the school will implement may include professional development and other activities for teachers, paraprofessionals, and other school personnel to improve instruction and use of data from academic assessments, and to recruit and retain effective teachers, particularly in high-need subjects, and strategies for assisting preschool children in the transition from early childhood education programs to local elementary school programs, and,

- b. If programs are consolidated, the specific state educational agency and local educational agency programs and other federal programs that will be consolidated in the schoolwide program.<sup>102</sup>

### **C. Preschool Programs**

A school that operates a schoolwide program under Section 6314 may use funds available under the ESSA to establish or enhance preschool programs for children who are under 6 years of age.<sup>103</sup>

### **D. Delivery of Services**

The services of a schoolwide program under Section 6314 may be delivered by nonprofit or for-profit external providers with expertise in using evidence-based or other effective strategies to improve student achievement.<sup>104</sup>

### **E. Dual or Concurrent Enrollment Programs**

A secondary school operating a schoolwide program under Section 6314 may use funds received under the ESSA to operate dual or concurrent enrollment programs that address the needs of low-achieving secondary school students and those at risk of not meeting the challenging state academic standards.<sup>105</sup> A secondary school using funds received under the ESSA for a dual or concurrent enrollment program may use such funds for any of the costs associated with the program, including the costs of:

1. Training for teachers, and joint professional development for teachers in collaboration with career and technical educators and educators from institutions of higher education, where appropriate, for the purpose of integrating rigorous academics in such program.
2. Tuition and fees, books, required instructional materials for such program, and innovative delivery methods.
3. Transportation to and from such program.<sup>106</sup>

Nothing in Section 6314(e) shall be construed to impose on any state any requirement or rule regarding dual or concurrent enrollment programs that is inconsistent with state law.<sup>107</sup>

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<sup>102</sup> 20 U.S.C. Section 6314(b)(3).

<sup>103</sup> 20 U.S.C. Section 6314 (c).

<sup>104</sup> 20 U.S.C. Section 6314(d).

<sup>105</sup> 20 U.S.C. Section 6314(e)(1).

<sup>106</sup> 20 U.S.C. Section 6314(e)(2).

<sup>107</sup> 20 U.S.C. Section 6314(e)(3).

## VI. TARGETED ASSISTANCE SCHOOLS

### A. Requirements for Targeted Assistance

In all schools selected to receive funds that are ineligible for a schoolwide program under Section 6314 that have not received a waiver under Section 6314(a)(1)(B) to operate such a schoolwide program, or choose not operate such a schoolwide program, a local educational agency serving such school may use funds received under the ESSA only for programs that provide services to eligible children identified as having the greatest need for special assistance.<sup>108</sup> To assist targeted assistance schools and local educational agencies to meet their responsibility to provide for all their students served under the ESSA the opportunity to meet the challenging state academic standards, each targeted assistance program under Section 6315 shall:

1. Determine which students will be served;
2. Serve participating students identified as eligible children under Section 6315(c), by:
  - a. Using resources under the ESSA to help eligible children meet the challenging state academic standards;
  - b. Using methods and instructional strategies to strengthen the academic program of the school;
  - c. Coordinating with and supporting the regular education program;
  - d. Providing professional development with resources provided under ESSA;
  - e. Implementing strategies to increase the involvement of parents of eligible children;
  - f. If appropriate and applicable, coordinating and integrating federal, state, and local services and programs;
  - g. Provide to the local educational agency assurances that the school will help provide an accelerated, high-quality curriculum, minimize the removal of children from the regular classroom during regular school hours for instruction, and on an ongoing basis, review the progress of eligible children and revise the targeted assistance program under Section 6315, if necessary, to provide additional assistance to enable such children to meet the challenging State academic standards.<sup>109</sup>

### B. Eligible Children

The eligible population for services under Section 6315 are children not older than age 21 who are entitled to a free public education through grade 12 and children who are not yet at a grade

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<sup>108</sup> 20 U.S.C. Section 6315(a).

<sup>109</sup> 20 U.S.C. Section 6315(b).

level at which the local educational agency provides a free public education.<sup>110</sup> From the population described, eligible children are children identified by the school as failing, or most at risk of failing, to meet the challenging state academic standards on the basis of multiple, educationally related, objective criteria established by the local educational agency and supplemented by the school, except that children from preschool through grade 2 shall be selected solely on the basis of criteria, including objective criteria, established by the local educational agency and supplemented by the school.<sup>111</sup>

A child who, at any time in the two years preceding the year for which the determination is made, participated in a Head Start program, a literacy program or in preschool services is eligible for services under the ESSA.<sup>112</sup> A child who, at any time in the preceding two years received services as a migrant child is eligible for services under the ESSA.<sup>113</sup> A child in a local institution for neglected or delinquent children and youth or attending a community day program for such children is eligible for services under the ESSA.<sup>114</sup> A child who is homeless and attending any school served by the local educational agency is eligible for services under the ESSA.<sup>115</sup>

Funds received under the ESSA may not be used to provide services that are otherwise required by law to be made available to children described in Section 6315(c)(2), but may be used to coordinate or supplement such services.<sup>116</sup>

### **C. Staff Development**

To promote the integration of staff supported with funds under the ESSA into the regular school program and overall school planning and improvement efforts, public school personnel who are paid with funds received under the ESSA may:

1. Participate in general professional development and school planning activities; and
2. Assume limited duties that are assigned to similar personnel who are not so paid, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.<sup>117</sup>

### **D. Comprehensive Services**

Nothing in Section 6315 shall be construed to prohibit a school from serving students under Section 6315 simultaneously with students with similar educational needs, in the same educational settings where appropriate. If health, nutrition, and other social services are not otherwise available

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<sup>110</sup> 20 U.S.C. Section 6315(c)(1)(A).

<sup>111</sup> 20 U.S.C. Section 6315(c)(1)(B).

<sup>112</sup> 20 U.S.C. Section 6315(c)(2)(B).

<sup>113</sup> 20 U.S.C. Section 6315(c)(2)(C).

<sup>114</sup> 20 U.S.C. Section 6315(c)(2)(D).

<sup>115</sup> 20 U.S.C. Section 6315(c)(2)(E).

<sup>116</sup> 20 U.S.C. Section 6315(c)(3).

<sup>117</sup> 20 U.S.C. Section 6315(d).

to eligible children in a targeted assistance school and such school, if appropriate, has engaged in a comprehensive needs assessment and established a collaborative partnership with local service providers and funds are not reasonably available from other public or private sources to provide such services, then a portion of the funds provided under the ESSA may be used as a last resort to provide such services, including the provision of basic medical equipment, such as eyeglasses and hearing aids, compensation of a coordinator, family support and engagement services, integrated student supports, and professional development necessary to assist teachers, specialized instructional support personnel, other staff, and parents in identifying and meeting the comprehensive needs of eligible children.<sup>118</sup>

### **E. Use of Funds and Delivery of Services**

A secondary school operating a targeted assistance program under Section 6315 may use funds received under the ESSA to provide dual or concurrent enrollment program services to eligible children who are identified as having the greatest need for special assistance.<sup>119</sup> Nothing in Section 6315 shall be construed to authorize the United States Secretary of Education or any other officer or employee of the Federal Government to require a local educational agency or school to submit the results of a comprehensive needs assessment or plan under Section 6314(b), or a program described in Section 6315(b), for review or approval by the United States Secretary of Education.<sup>120</sup> The services of a targeted assistance program under Section 6315 may be delivered by nonprofit or for-profit external providers with expertise in using evidence-based or other effective strategies to improve student achievement.<sup>121</sup>

## **VII. PARENT AND FAMILY ENGAGEMENT**

### **A. Local Educational Agency Policy**

A local educational agency may receive funds under the ESSA only if such agency conducts outreach to all parents and family members and implements programs, activities, and procedures for the involvement of parents and family members in programs assisted under the ESSA consistent with Section 6318. Such programs, activities, and procedures shall be planned and implemented with meaningful consultation with parents of participating children.<sup>122</sup>

Each local educational agency that receives funds under the ESSA shall develop jointly with, agree on with, and distribute to, parents and family members of participating children a written parent and family engagement policy. The policy shall be incorporated into the local educational agency's plan developed under Section 6312, establish the agency's expectations and objectives for meaningful parent and family involvement, and describe how the agency will:

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<sup>118</sup> 20 U.S.C. Section 6315 (e).

<sup>119</sup> 20 U.S.C. Section 6315(f).

<sup>120</sup> 20 U.S.C. Section 6315(g).

<sup>121</sup> 20 U.S.C. Section 6315(h).

<sup>122</sup> 20 U.S.C. Section 6318(a)(1).

1. Involve parents and family members in jointly developing the local educational agency plan under Section 6312, and the development of support and improvement plans under Section 6311(d);
2. Provide the coordination, technical assistance, and other support necessary to assist and build the capacity of all participating schools within the local educational agency in planning and implementing effective parent and family involvement activities to improve student academic achievement and school performance, which may include meaningful consultation with employers, business leaders, and philanthropic organizations, or individuals with expertise in effectively engaging parents and family members in education;
3. Coordinate and integrate parent and family engagement strategies under the ESSA with parent and family engagement strategies, to the extent feasible and appropriate, with other relevant federal, state, and local laws and programs;
4. Conduct, with the meaningful involvement of parents and family members, an annual evaluation of the content and effectiveness of the parent and family engagement policy in improving the academic quality of all schools served under the ESSA, including identifying barriers to greater participation by parents in activities authorized by Section 6313, the needs of parents and family members to assist with the learning of their children, including engaging with school personnel and teachers, and strategies to support successful school and family interactions;
5. Use the findings of such evaluation to design evidence-based strategies for more effective parental involvement, and to revise, if necessary, the parent and family engagement policies described in Section 6318; and
6. Involve parents in the activities of the schools served under the ESSA, which may include establishing a parent advisory board comprised of a sufficient number and representative group of parents or family members served by the local educational agency to adequately represent the needs of the population served by such agency for the purposes of developing, revising, and reviewing the parent and family engagement policy.<sup>123</sup>

Each local educational agency shall reserve at least one percent of its allocation to carry out the activities for parent and family engagement. Parents and family members of children receiving services under the ESSA shall be involved in the decisions regarding how funds reserved for parent and family engagement are allotted for parental involvement activities. Not less than 90 percent of the funds reserved shall be distributed to schools served under the ESSA, with priority given to high-need schools. Funds reserved by a local educational agency shall be used to carry out activities and strategies consistent with the local educational agency's parent and family engagement policy, including not less than one of the following:

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<sup>123</sup> 20 U.S.C. Section 6318(a)(2).



1. Supporting schools and nonprofit organizations in providing professional development for local educational agency and school personnel regarding parent and family engagement strategies, which may be provided jointly to teachers, principals, other school leaders, specialized instructional support personnel, paraprofessionals, early childhood educators, and parents and family members.
2. Supporting programs that reach parents and family members at home, in the community, and at school.
3. Disseminating information on best practices focused on parent and family engagement, especially best practices for increasing the engagement of economically disadvantaged parents and family members.
4. Collaborating, or providing subgrants to schools to enable such schools to collaborate, with community-based or other organizations or employers with a record of success in improving and increasing parent and family engagement.
5. Engaging in any other activities and strategies that the local educational agency determines are appropriate and consistent with such agency's parent and family engagement policy.<sup>124</sup>

## **B. School Policies**

Each school served under the ESSA shall jointly develop with, and distribute to, parents and family members of participating children a written parent and family engagement policy, agreed on by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f) of Section 6318. Parents shall be notified of the policy in an understandable and uniform format and, to the extent practicable, provided in a language the parents can understand. Such policy shall be made available to the local community and updated periodically to meet the changing needs of parents and the school.<sup>125</sup>

If the school has a parent and family engagement policy that applies to all parents and family members, such school may amend that policy, if necessary, to meet the requirements of Section 6318(b). If the local educational agency involved has a school district-level parent and family engagement policy that applies to all parents and family members in all schools served by the local educational agency, such agency may amend that policy, if necessary, to meet the requirements of Section 6318(b). If the plan under [Section 6312](#) is not satisfactory to the parents of participating children, the local educational agency shall submit any parent comments with such plan when such local educational agency submits the plan to the state.<sup>126</sup>

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<sup>124</sup> 20 U.S.C. Section 6318(a)(3).

<sup>125</sup> 20 U.S.C. Section 6318(b)(1).

<sup>126</sup> 20 U.S.C. Section 6318(b)(2), (3), (4).

### **C. Parent Involvement**

Each school receiving ESSA funds shall:

1. Convene an annual meeting, at a convenient time, to which all parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation in the ESSA and to explain the requirements of the ESSA, and the right of the parents to be involved;
2. Offer a flexible number of meetings, such as meetings in the morning or evening, and may provide, with funds provided under the ESSA, transportation, child care, or home visits, as such services relate to parental involvement;
3. Involve parents in an organized, ongoing, and timely way, in the planning, review, and improvement of programs under the ESSA, including the planning, review, and improvement of the school parent and family engagement policy and the joint development of the schoolwide program plan under [Section 6314\(b\)](#), except that if a school has in place a process for involving parents in the joint planning and design of the school's programs, the school may use that process, if such process includes an adequate representation of parents of participating children;
4. Provide parents of participating children with timely information about programs under the ESSA, a description and explanation of the curriculum in use at the school, the forms of academic assessment used to measure student progress, and the achievement levels of the challenging academic standards and, if requested by parents, opportunities for regular meetings to formulate suggestions and to participate, as appropriate, in decisions relating to the education of their children, and respond to any such suggestions as soon as practicably possible; and
5. If the schoolwide program plan under [Section 6314\(b\)](#) is not satisfactory to the parents of participating children, submit any parent comments on the plan when the school makes the plan available to the local educational agency.<sup>127</sup>

### **D. School-Parent Compact**

As a component of the school-level parent and family engagement policy developed under [Section 6318\(b\)](#), each school served under the ESSA shall jointly develop with parents for all children served under the ESSA a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student academic achievement and the means by which the school and parents will build and develop a partnership to help children achieve the state's high standards.<sup>128</sup> Such compact shall:

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<sup>127</sup> 20 U.S.C. Section 6318(c).

<sup>128</sup> 20 U.S.C. Section 6318(d).

1. Describe the school’s responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under the ESSA to meet the challenging state academic standards, and the ways in which each parent will be responsible for supporting their children's learning; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extracurricular time; and
2. Address the importance of communication between teachers and parents on an ongoing basis through, at a minimum parent-teacher conferences in elementary schools, at least annually, during which the compact shall be discussed as the compact relates to the individual child's achievement, frequent reports to parents on their children's progress, reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities, and ensuring regular two-way, meaningful communication between family members and school staff, and, to the extent practicable, in a language that family members can understand.<sup>129</sup>

#### **E. Effective Involvement of Parents**

To ensure effective involvement of parents and to support a partnership among the school involved, parents, and the community to improve student academic achievement, each school and local educational agency assisted under the ESSA:

1. Shall provide assistance to parents of children served by the school or local educational agency, as appropriate, in understanding such topics as the challenging state academic standards, state and local academic assessments, the requirements of the ESSA, and how to monitor a child's progress and work with educators to improve the achievement of their children;
2. Shall provide materials and training to help parents to work with their children to improve their children's achievement, such as literacy training and using technology, as appropriate, to foster parental involvement;
3. Shall educate teachers, specialized instructional support personnel, principals, and other school leaders, and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between parents and the school;

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<sup>129</sup> 20 U.S.C. Section 6318(d).

4. Shall, to the extent feasible and appropriate, coordinate and integrate parent involvement programs and activities with other federal, state, and local programs, including public preschool programs, and conduct other activities, such as parent resource centers, that encourage and support parents in more fully participating in the education of their children;
5. Shall ensure that information related to school and parent programs, meetings, and other activities is sent to the parents of participating children in a format and, to the extent practicable, in a language the parents can understand;
6. May involve parents in the development of training for teachers, principals, and other educators to improve the effectiveness of such training;
7. May provide necessary literacy training from funds received under the ESSA, if the local educational agency has exhausted all other reasonably available sources of funding for such training;
8. May pay reasonable and necessary expenses associated with local parental involvement activities, including transportation and child care costs, to enable parents to participate in school-related meetings and training sessions;
9. May train parents to enhance the involvement of other parents;
10. May arrange school meetings at a variety of times, or conduct in-home conferences between teachers or other educators, who work directly with participating children, with parents who are unable to attend such conferences at school, in order to maximize parental involvement and participation;
11. May adopt and implement model approaches to improving parental involvement;
12. May establish a districtwide parent advisory council to provide advice on all matters related to parental involvement in programs supported under Section 6318;
13. May develop appropriate roles for community-based organizations and businesses in parent involvement activities; and
14. Shall provide such other reasonable support for parental involvement activities under this section as parents may request.<sup>130</sup>

## **F. Effective Engagement of Parents**

In carrying out the parent and family engagement requirements, local educational agencies and schools, to the extent practicable, shall provide opportunities for the informed participation of parents and family member, including providing information and school reports required under [Section 6311](#) in a format and, to the extent practicable, in a language such parents understand.<sup>131</sup> The state educational agency shall review the local educational agency's parent and family

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<sup>130</sup> 20 U.S.C. Section 6318(e)

<sup>131</sup> 20 U.S.C. Section 6318(f).

engagement policies and practices to determine if the policies and practices meet the requirements of Section 6318.<sup>132</sup>

## **VIII. CHILDREN ENROLLED IN PRIVATE SCHOOLS**

### **A. Requirements for Interacting with Private Schools**

With respect to eligible children who are enrolled in private elementary schools and secondary schools, to the extent consistent with the number of eligible children identified under Section 6315(c), the local educational agency shall:

1. After timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis, individually or in combination, as requested by the officials to best meet the needs of such children, special educational services, instructional services (including evaluations to determine the progress being made in meeting such student's academic needs), counseling, mentoring, one-on-one tutoring, or other benefits (such as dual or concurrent enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs.
2. Ensure the teachers and families of the children participate, on an equitable basis, in services and activities developed pursuant to Section 6318.<sup>133</sup>

The educational services or other benefits, including materials and equipment provided to private school students shall be secular, neutral, and nonideological.<sup>134</sup> Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under the ESSA and shall be provided in a timely manner. To help ensure such equity for such private school children, teachers, and other educational personnel, the state educational agency involved shall designate an ombudsman to monitor and enforce these requirements.<sup>135</sup>

Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low income families who attend private schools. The proportional share of funds shall be determined based on the total amount of funds received by the local educational agency under the ESSA prior to any allowable expenditures or transfers by the local educational agency. Funds allocated to a local educational agency for educational services and other

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<sup>132</sup> 20 U.S.C. Section 6318(h).

<sup>133</sup> 20 U.S.C. Section 6320(a)(1).

<sup>134</sup> 20 U.S.C. Section 6318(a)(2).

<sup>135</sup> 20 U.S.C. Section 6320(a)(3).

benefits to eligible private school children shall be obligated in the fiscal year for which the funds are received by the local educational agency.<sup>136</sup>

Each state educational agency shall provide notice in a timely manner to the appropriate private school officials in the state of the allocation of funds for educational services and other benefits under the ESSA that the local educational agencies have determined are available for eligible private school children. The local educational agency may determine an equitable share each year or every two years.<sup>137</sup>

The local educational agency, or the state educational agency involved, may provide services under Section 6320 directly or through contracts with public and private agencies, organizations and institutions.<sup>138</sup>

## **B. Consultation with Private Schools**

To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and development of such agency's programs under the ESSA. Such agency and private school official shall both have the goal of reaching agreement on how to provide equitable and effective programs for eligible private school children, the results of which agreement shall be transmitted to the ombudsman. Such process shall include consultation on issues such as:

1. How the children's needs would be identified.
2. What services will be offered.
3. How, where, and by whom the services would be provided.
4. How the services would be academically assessed and how the results of that assessment would be used to improve those services.
5. The size and scope of the equitable services to be provided to the eligible private school children, the proportion of funds that is allocated for such services, and how that proportion of funds is determined.
6. The method or sources of data that are used to determine the number of children from low income families in participating school attendance areas who attend private schools.
7. How and when the agency will make decisions about the delivery of services to such children, including a thorough consideration and analysis of the views of the private school officials on the provision of services through a contract with potential third party providers.
8. How, if the agency disagrees with the views of the private school officials on the provision of services through a contract, the local educational agency will provide, in writing, such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor.

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<sup>136</sup> 20 U.S.C. Section 6320(a)(4).

<sup>137</sup> 20 U.S.C. Section 6320(a)(4).

<sup>138</sup> 20 U.S.C. Section 6320(a)(5).

9. Whether the agency shall provide services directly or through a separate government agency, consortium, entity, or a third party contract.
10. Whether to provide equitable services to eligible private school children by creating a pool of funds with all of the funds allocated based on all the children from low income families in a participating school attendance area who attend private schools, or in the agency's participating school attendance area who attend private schools with the proportional funds allocated based on the number of children from low income families who attend private schools.
11. When, including the approximate time of day, services will be provided.
12. Whether to consolidate unused funds in coordination with eligible funds available for services to private school children under applicable programs to provide services to eligible private school children participating in programs.<sup>139</sup>

If a local educational agency disagrees with the view of private school officials with respect to an issue, the local educational agency shall provide, in writing, to such private school officials the reasons why the local educational agency disagrees.<sup>140</sup> Such consultation shall include meetings of agency and private school officials and shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under the ESSA. Such meetings shall continue throughout the implementation and assessment of services provided under Section 6320.<sup>141</sup>

Such consultation shall include a discussion of service delivery mechanisms the local educational agency can use to provide equitable services to eligible private school children.<sup>142</sup> Each local educational agency shall maintain an agency's records and provide to the state educational agency involved a written affirmation signed by officials in each participating private school that the meaningful consultation required by Section 6320 has occurred. The written affirmation shall provide the option for private school officials to indicate such officials' belief that timely and meaningful consultation has not occurred, or that the program designed is not equitable with respect to eligible private school children. If such officials do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has, or attempts at such consultations have, taken place to the state educational agency.<sup>143</sup>

A private school official shall have the right to file a complaint with the state educational agency asserting that the local educational agency did not engage in consultation that was meaningful and timely, did not give due consideration to the views of the private school official, or did not make a decision that treats the private school students equitably as required by Section 6320.

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<sup>139</sup> 20 U.S.C. Section 6320(b)(1).

<sup>140</sup> 20 U.S.C. Section 6320(b)(2).

<sup>141</sup> 20 U.S.C. Section 6320(b)(3).

<sup>142</sup> 20 U.S.C. Section 6320(b)(4).

<sup>143</sup> 20 U.S.C. Section 6320(b)(5).

If the private school official wishes to file a complaint, the official shall provide the basis of the noncompliance with Section 6320 by the local educational agency to the state educational agency, and the local educational agency shall forward the appropriate documentation to the state agency.<sup>144</sup>

A state educational agency shall provide services under Section 6320 directly or through contracts with public or private agencies, organizations, or institutions, if the appropriate private school officials have requested that the state educational agency provide such services directly and demonstrated that the local educational agency involved has not met the requirements of Section 6320 in accordance with the procedures for making such a request, as prescribed by the state educational agency.<sup>145</sup>

### **C. Allocation of Funds to Private Schools**

A local educational agency shall have the final authority, consistent with Section 6320, to calculate the number of children, ages 5-17, who are from low income families and attend private schools by:

1. Using the same measure of low income used to count public school children.
2. Using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable.
3. Applying the low income percentage of each participating public school attendance area, determined pursuant to Section 6320, to the number of private school children who reside in that school attendance area.
4. Using an equated measure of low income correlated with the measure of low income used to count public school children.<sup>146</sup>

Any dispute regarding low income data for private school students shall be subject to the complaint process authorized in 20 U.S.C. Section 7883 (i.e. the complaint process for private schools established by the U.S. Department of Education).<sup>147</sup>

### **D. Control of Funds**

The control of funds provided under the ESSA, entitled to materials, equipment, and property purchased with such funds, shall be in a public agency, and the public agency shall administer such funds, materials, equipment and property.<sup>148</sup> The provision of services under Section 6320 shall be provided by employees of the public agency, or through contract by such public agency with an

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<sup>144</sup> 20 U.S.C. Section 6320(b)(6)(A) and (B).

<sup>145</sup> 20 U.S.C. Section 6320(b)(6)(C).

<sup>146</sup> 20 U.S.C. Section 6320(c)(1).

<sup>147</sup> 20 U.S.C. Section 6320(c)(2).

<sup>148</sup> 20 U.S.C. Section 6320(d)(1).



individual, association, agency, or organization.<sup>149</sup> In the provision of such services, such employee, individual, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.<sup>150</sup>

### **E. Participation of Private Schools**

If a local educational agency is prohibited by law from providing for the participation and programs on an equitable basis of eligible children enrolled in private elementary schools and secondary schools, or if the U.S. Secretary of Education determines that a local educational agency has substantially failed or is unwilling, to provide such participation, as required by Section 6320, the U.S. Secretary of Education shall:

1. Waive the requirements of Section 6320 for such local educational agency.
2. Arrange for the provision of services to such children through arrangements that shall be subject to the requirements of Section 6320 and Sections 7883 and 7884.
3. In making the determination under this subsection, consider one or more factors, including the quality, size, scope, and location of the program and opportunity of the eligible children to participate.<sup>151</sup>

## **IX.**

### **FISCAL REQUIREMENTS OF THE ESSA**

#### **A. Maintenance of Effort**

With respect to maintenance of effort, a local educational agency may receive funds under the ESSA for any fiscal year only if the state educational agency involved finds that the local educational agency has maintained the agency's fiscal effort in accordance with 20 U.S.C. Section 7901.<sup>152</sup>

#### **B. Federal Funds to Supplement Not Supplant**

A state educational agency or a local educational agency shall use federal funds received under the ESSA only to supplement the funds that would, in the absence of such federal funds, be made available from state and local sources for the education of students participating in programs

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<sup>149</sup> 20 U.S.C. Section 6320(d)(2)(A).

<sup>150</sup> 20 U.S.C. Section 6320(d)(2)(B).

<sup>151</sup> 20 U.S.C. Section 6320(e).

<sup>152</sup> 20 U.S.C. Section 6321(a). 20 U.S.C. Section 7901(a) states, "A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of the agency and the State with respect to the provision of free public education by the agency for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year, subject to the requirements of subsection(b). Section 7901(c) allows the U.S. Secretary of Education to waive the maintenance of effort requirements if exceptional or uncontrollable circumstances, such as a natural disaster or change in the organization structure of the LEA occurred or there was a precipitous decline in the financial resources of the LEA.

assisted under the ESSA, and not to supplant such funds. To demonstrate compliance, a local educational agency shall demonstrate that the methodology used to allocate state and local funds to each school receiving assistance under the ESSA assures that such school receives all of the state and local funds it would otherwise receive if it were not receiving assistance under the ESSA.<sup>153</sup>

No local educational agency shall be required to identify that an individual cost or service supported under the ESSA is supplemental or provide services under the ESSA through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance with the supplement not supplant requirement. Nothing in this section shall be construed to authorize or permit the U.S. Secretary of Education to prescribe the specific methodology a local educational agency uses to allocate state and local funds to each school receiving assistance under the ESSA. A local educational agency shall meet the compliance requirements not later than two years after December 10, 2015, and may demonstrate compliance with the supplement not supplant requirement before the end of such two year period, using the method such local educational agency used on the day before December 10, 2015.<sup>154</sup>

### **C. Comparability of Services**

A local educational agency may receive funds under the ESSA only if state and local funds will be used in schools served under the ESSA to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving ESSA funds. If the local educational agency is serving all such agency schools under the ESSA, such agency may receive funds under the ESSA only if such agency will use state and local funds to provide services that, taken as a whole, are substantially comparable in each school. A local educational agency may meet these requirements on a grade span by grade span basis or a school by school basis.<sup>155</sup>

A local educational agency shall be considered to have met the requirements for comparable services if such agency has filed with the state educational agency a written assurance that such agency has established or implemented:

1. A local educational agency-wide salary schedule.
2. A policy to ensure equivalence among schools and teachers, administrators and other staff.
3. A policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.<sup>156</sup>

For purposes of the comparability of services requirement of Section 6321(c)(2), in the determination of expenditures per pupil from state and local funds, or instructional salaries per pupil from state and local funds, staff salary differentials for years of employment shall not be included in such determinations.<sup>157</sup> A local educational agency need not include unpredictable changes in

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<sup>153</sup> 20 U.S.C. Section 6321(b)(1) and (2).

<sup>154</sup> 20 U.S.C. Section 6321(b)(3), (4), and (5).

<sup>155</sup> 20 U.S.C. Section 6321(c)(1).

<sup>156</sup> 20 U.S.C. Section 6321(c)(2).

<sup>157</sup> 20 U.S.C. Section 6321(c)(2)(B).

student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services under 20 U.S.C. Section 6321(c).<sup>158</sup>

Each local agency assisted under the ESSA shall develop procedures for compliance with the comparability requirements of Section 6321(c) and maintain records that are updated biannually documenting such agency's compliance.<sup>159</sup>

The comparability requirements of 20 U.S.C. Section 6321(c) shall not apply to a local educational agency that does not have more than one building for each grade span.<sup>160</sup> For the purpose of determining compliance, a local educational agency may exclude state and local funds expended for language instruction, educational programs and the excess costs of providing services to children with disabilities, as determined by the local educational agency.<sup>161</sup>

#### **D. State and Local Funds**

For the purpose of complying with 20 U.S.C. Section 6321(b) and (c), a state educational agency or local educational agency may exclude supplemental state or local funds expended in any school attendance area or school for programs that meet the intent and purposes of the ESSA.<sup>162</sup>

### **X. COORDINATION REQUIREMENTS**

#### **A. In General**

Each local educational agency receiving assistance under the ESSA shall carry out the activities described in Section 6322(b) with Head Start agencies and, if feasible, other entities carrying out early childhood development programs. Each local agency shall develop agreements with such Head Start agencies and other entities to carry out such activities.<sup>163</sup>

#### **B. Coordination of Activities**

The activities referred to in Section 6322(a) are activities that increase coordination between the local educational agency and a Head Start agency and, if feasible, other entities carrying out early childhood educational programs serving children who will attend schools of the local educational agency, including:

1. Developing and implementing a systemic procedure for receiving records regarding such children, transferred with parental consent from the Head Start program or, where applicable, another early childhood education program.

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<sup>158</sup> 20 U.S.C. Section 6321(c)(2)(C).

<sup>159</sup> 20 U.S.C. Section 6321(c)(3).

<sup>160</sup> 20 U.S.C. Section 6321(c)(4).

<sup>161</sup> 20 U.S.C. Section 6321(c)(5).

<sup>162</sup> 20 U.S.C. Section 6321(d). In California, this may mean that supplemental and concentration funds allocated under the Local Control Funding Formula may be excluded.

<sup>163</sup> 20 U.S.C. Section 6322(a).

2. Establishing channels of communication between school staff and their counterparts (including teachers, social workers, and health staff) in such Head Start agencies or other entities carrying out early childhood education programs, as appropriate, to facilitate coordination of programs).
3. Conducting meetings involving parents, kindergarten, or elementary school teachers and Head Start teachers or, if appropriate, teachers from other early childhood education programs, to discuss the developmental and other needs of individual children.
4. Organizing and participating in joint transition related training of school staff, Head Start program staff, and, where appropriate, other early childhood education program staff.
5. Linking the educational services provided by such local educational agency with these services provided by local Head Start agencies.<sup>164</sup>

### **C. Coordination of Regulations**

The U.S. Secretary of Education shall work with the U.S. Secretary of Health and Human Services to coordinate regulations promulgated under the ESSA with regulations promulgated under the Head Start Act.<sup>165</sup>

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<sup>164</sup> 20 U.S.C. Section 6322(b).

<sup>165</sup> 20 U.S.C. Section 6322(c).