

## **Every Student Succeeds Act Frequently Asked Questions for LEAs**

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### **Accountability**

#### **Q1: What are the performance indicators required under ESSA?**

**A:** At the elementary and middle school level, the required performance indicators are: Student Achievement, Academic Growth, English Language Proficiency, and another indicator of Student Success or School Quality. Under South Dakota's *current* accountability system, the Attendance indicator meets this last requirement. However, Attendance has been a topic of debate with the state's Accountability Work Group. As such, further input is being sought from other stakeholders.

At the high school level, required performance indicators are: Student Achievement, Four-Year Cohort Graduation Rate, English Language Proficiency, and another indicator of Student Success or School Quality. Under South Dakota's *current* accountability system, the College and Career Readiness indicator meets this last requirement. However, conversations continue as to how this indicator might be expanded to include other evidence of postsecondary and workforce readiness.

#### **Q2: What are the federal requirements related to accountability systems and differentiation?**

**A:** The new law requires multiple indicators to measure school performance – paving the way for differentiation. It also requires that the indicators that are more academic in nature carry significantly more weight – in the aggregate – than the Student Success or School Quality indicator.

**Q3: When will districts and schools be held accountable under the new accountability system?**

**A:** Districts and schools will be held accountable under the new system beginning with the 2017-18 school year. Report cards issued in the fall of 2018 will reflect performance on accountability indicators in SY 2017-18. At that same time (fall 2018), new schools will be identified for comprehensive and targeted support. It is important to note that other ESSA requirements and programs may have different timelines.

**Q4: I understand ESSA expands the number of subgroups tracked. What are these new subgroups and how will they be reported?**

**A:** The law calls for an emphasis on three additional subgroups: foster students, homeless students, and military-connected students. These subgroups will be reported on in the same manner as the existing subgroups. Please see the Data and Reporting section for additional information on how foster and military data will be collected.

**Q5: How will ESSA's requirement that states use a four-year cohort graduation rate for accountability impact South Dakota's current accountability system?**

**A:** In addition to the four-year cohort graduation rate, South Dakota's current system uses what we call a High School Completion indicator. This completion indicator gives schools credit for students who take longer than four years to graduate, as well as students who earn a high school equivalency diploma. South Dakota's plan under ESSA will reflect the use of both indicators in its accountability system. We are hopeful that the U.S. Department of Education approves this approach.

**Q6: Students with the most severe cognitive disabilities do not meet graduation requirements. We continue to serve these students, but they consistently count against our four-year cohort graduation rate. Does ESSA address this problem?**

**A:** ESSA allows states to count students assessed using the alternate assessment towards the four-year cohort graduation rate, if they meet alternate achievement standards and are awarded a state-defined alternate diploma. However, at this time South Dakota administrative rule does not allow for an alternate diploma, so these students will continue to count as non-graduates.

**Q7: I understand there may be a change in how the state counts students who drop out, when they have been enrolled for less than half the school year. Is this true?**

**A:** Under ESSA, if a student drops out and has been enrolled for less than half the school year that they drop out, the state has the option to count that student either at the school he/she last attended or at the school where the student spent the majority of his or her enrolled days. The state's Accountability Work Group recommended attributing that student to the school of majority enrollment.

**Q8: I understand that English language proficiency is now a requirement of the accountability system. Most districts have few English learners. How will all schools be held accountable for this indicator?**

**A:** South Dakota has chosen to use an n-size of 10 for this and other indicators. That said, the state’s ESSA English Learners Work Group has proposed that South Dakota use three years’ worth of data to calculate this indicator. This means that a school would only have to have a combined total of 10 EL students over three years. For example, a school with 3 ELs in 2017-18, 3 ELs in 2018-19, and 4 ELs in 2019-20 would be held accountable for the English Language Proficiency indicator in the 2019-20 school year. Under this scenario, schools with fewer than 10 ELs over three years would be exempt from this indicator.

**Q9: I will not have enough English learners to be accountable under the indicator. Do I still have Title III responsibilities?**

**A:** Yes. All LEAs are required to provide services to **ALL** English Learners. LEAs are required to have a Home Language Service in place to identify potential students who may have an influence of another language. LEAs are then required to use the W-APT screener to identify English Learners, provide a parent notification of the services that the students will be receiving through the LEA’s English Language Program, as well as periodically receiving monitoring through Title I and Title III.

**Q10: My school has a transient population, which has hampered our ability to affect the outcomes of our accountability indicators. Will we face the same hurdles under ESSA?**

**A:** Under ESSA, every indicator, except for the graduation/completer rates, will now be calculated based on those students who attended your school or district for at least half the year. The Accountability Work Group proposed that we define “at least half the year” as a full academic year – enrollment from Oct. 1 through May 1, with a gap of no more than 15 days. It is these full academic year, or FAY, students who will count for “points” under ESSA.

DOE is still required to report the performance of *all* students, irrespective of whether they met FAY or not. Therefore, for each indicator, the report card will display accountability (FAY) results and the results of *all* students separately.

**Q11: No Child Left Behind had Annual Yearly Progress (AYP); the waiver had Annual Measurable Objectives (AMOs). What is the goal under ESSA?**

**A:** ESSA allows states to set their own ambitious long-term and interim goals, which are required for Student Achievement, the Four Year Cohort Graduation Rate, and the English Learners’ indicator. The Accountability Work Group proposed keeping goals for Student Achievement and Graduation Rate similar to current AMOs, but with the goal of reducing by 25 *percent* (rather than 50 percent) over six years the percent of students not meeting the benchmark. The English Learner Work Group is working to refine the EL goal.

## Assessment & Standards

**Q1: What does ESSA say in regards to parents opting students out of the state assessment?**

**A:** Under the new law, states are still required to test all students in ELA and math in grades 3-8 and once in high school. The new law also maintains the requirement that 95 percent of all students (at school and subgroup levels) take the state assessment. ESSA requires states to determine how the 95 percent participation requirement factors into the state accountability system and what consequences there will be for schools that fail to meet the threshold.

In addition to the language noted above, however, ESSA also includes language that the federal law is not meant to preempt a state or local law regarding a decision of a parent to not have their child participate in the state assessment. South Dakota does not currently have a state law that allows for opt-outs. NOTE: There is currently a bill (SB 85) making its way through the State Legislature, which would allow for students to opt out of the state test.

**Q2: ESSA allows states to substitute the ACT or the SAT as the statewide assessment for the 11<sup>th</sup> grade. Will South Dakota be doing this?**

**A:** The Accountability Work Group recommendation on this issue has been to keep Smarter Balanced as the high school assessment. This recommendation comes for a variety of reasons. First, ACT has written its assessment to measure ACT standards, not South Dakota state standards. The state would need to invest time, resources, and energy to augment the ACT assessment to ensure it covered all state standards as required in law. Second, ACT does not have the accommodations necessary for *all* students to be able to participate, leaving many students with disabilities and English learners at a disadvantage. Additionally, there are concerns about ACT policies for data collection and ownership.

While many of these issues could be addressed in the future, the recommendation is that South Dakota stay the course for now and potentially re-evaluate in several years.

**Q3: I understand that districts have some new requirements related to public reporting of assessments. What are those requirements?**

**A:** See the Data & Reporting section below: Question #7.

**Q4: ESSA says that the federal government cannot dictate state standards. Does that mean South Dakota's standards (i.e., the Common Core standards) are going away?**

**A:** South Dakota is committed to high quality standards in English language arts and math, as well as other content areas. The state's content standards in ELA and math are not going away. However, it is important to note that South Dakota's ELA and math standards are currently under revision *as part of a required standards revision cycle*. Work groups completed the initial standards review process, and feedback is being gathered during the 2016-17 school year. Public hearings are planned for 2017-18.

## School Improvement

### **Q1: How will schools be identified for improvement under ESSA?**

**A:** The new law requires states to identify schools for “comprehensive support” and “targeted support.” These categories are similar to the state’s current Priority and Focus school classifications.

The federal law dictates that comprehensive support schools shall include:

- Not less than the lowest-performing 5 percent of Title I schools;
- Any public high school failing to graduate one-third or more of its students; and
- Any school with a chronically underperforming subgroup

The federal law dictates that targeted support schools shall include:

- Any school with at least one subgroup performing at the same level as the bottom 5 percent (as noted above)
- Any school with a low performing subgroup as defined by the state

### **Q2: In the past, school improvement has been a fairly prescriptive process. What does school improvement look like under ESSA?**

**A:** Under ESSA, states have more flexibility to support schools in improvement (i.e., no more turnaround principles), and districts have more responsibility to support these schools as well. A description of this framework of support will be fleshed out in the state plan.

### **Q3: What happens to the federal School Improvement Grants (1003g) under ESSA?**

**A:** School Improvement Grants are no longer available under the new law. Schools that currently have an award will be allowed to finish up their grant cycle.

## Student Supports

### **Q1: The new law includes a section (Title IV Part A) for “student support and academic enrichment.” What is its purpose?**

**A:** The purpose of this section is to “improve students’ academic achievement by increasing the capacity of states, local educational agencies, schools, and local communities to:

- (1) Provide all students with access to a well-rounded education;
- (2) Improve school conditions for student learning; and
- (3) Improve the use of technology in order to improve the academic achievement and digital literacy of all students.”

That said, there are still many questions surrounding the funding of this Title. Please see Questions 13 and 14 in the Fiscal section.

## **Data & Reporting**

**Q1: ESSA requires reporting on a new subgroup for students in foster care. How will this information be collected?**

**A:** Beginning with the 2017-18 school year, DOE will obtain a listing of all students in foster care placed by the Department of Social Services. This list will be received two times during the school year. DOE will work directly with Infinite Campus to have students in foster care automatically flagged for districts – similar to what is currently done for migrant students. There is already a new checkbox in Infinite Campus, and DOE will be responsible for populating it. Once a student is identified as being in foster care during a school year, that designation will apply for the entire school year.

**Q2: ESSA requires reporting on a new subgroup for students who are connected to the military. How will this information be collected?**

**A:** Beginning with the 2016-17 school year, there is already a checkbox in Infinite Campus to mark students as “Student of Active Military Parent.” Districts will be responsible for checking the box when appropriate. Once this checkbox has been marked, it needs to remain checked for the remainder of the current school year. The student must be flagged if he/she has a parent who is a member of the Armed Forces on active duty (Army, Navy, Air Force, Marine Corps and Coast Guard) **OR** if the student has a parent on full-time National Guard duty – meaning they are activated to full-time status. One way to collect this information is to add a question to enrollment cards collected at the beginning of the school year.

**Q3: When will report cards under the new ESSA system be published?**

**A:** Report cards reflecting the accountability system under ESSA will be released for the first time in the fall of 2018. They will provide data from the 2017-18 school year.

**Q4: What will report cards for the 2016-17 school year look like?**

**A:** The 2016-17 report card will look similar to the 2015-16 report cards. DOE will calculate a School Performance Index result for every school, based on the same indicators as last year. Those results will be public in the fall of 2017.

**Q5: I have heard that the report cards required under ESSA will grow significantly beyond what is already reported. What types of new information will be there?**

**A:** ESSA requires a variety of new information to be included in the annual report card. In addition to the new subgroups of students, the report card will include: school- and district-level financial information, information traditionally reported through the Office of Civil Rights data collection, AP passage rates, percent of graduates going on to postsecondary, preschool

enrollment rates, etc. See separate information on what the report cards will contain and what districts are required to make available to their communities.

**Q6: Does ESSA include new fiscal data reporting requirements?**

**A:** Yes, there are new fiscal reporting requirements to be included on state-, district- and school-level report cards. Per ESSA, each report card must include the following:

Current expenditures per pupil from federal, state and local funds for the preceding fiscal year for each school district in the state and for each school served by each school district

- In the aggregate; and
- Disaggregated by source of funds, including: 1) federal funds, and 2) state and local funds combined plus federal funds intended to replace local tax revenues, which must not include funds received from private sources.

**Q7: I understand that districts have some new requirements related to public reporting of assessments. What are those requirements?**

**A:** Under the new law, **all** LEAs are required to make widely and publicly available, including posting on the LEA’s website and, where practicable, on the website of each school, information on each assessment required by the state, as well as assessments required districtwide by the LEA. The information to be reported includes:

- Subject matter assessed;
- Purpose for which the assessment is designed and used;
- Source of the requirement for the assessment; and
- Where such information is available:
  - Amount of time students will spend taking the assessment, and the schedule for the assessment; and
  - Time and format for disseminating results

**Consultation**

**Q1: Are there any changes related to an LEA’s requirement to consult with private schools serving their students?**

**A:** Under the new law, LEAs are required to consult with private schools who serve children residing in their district – just as they have in the past. The following are *additional* required components of this consultation under ESSA:

- Whether the LEA shall provide services directly or through a separate government agency, consortium, entity, or third-party contractor

- Whether to provide equitable services to eligible private school children—
  - By creating a pool or pools of funds with all of the funds allocated under subsection (a)(4)(A) based on all the children from low-income families in a participating school attendance area who attend private school; or
  - In the agency’s participating school attendance area who attend private schools with the proportion of funds allocated under subsection (a)(4)(A) based on the number of children from low-income families who attend private schools.
- When, including the approximate time of day, services will be provided
- Whether to consolidate and use funds provided under subsection (a)(4) in coordination with eligible funds available for services to private school children under applicable programs, as defined in section 8501(b)(1) to provide services to eligible private school children participating in programs.

**Q2: I’ve heard that ESSA requires the state to identify an ombudsman. What is this person’s role and how will they interact with LEAs?**

**A:** The ombudsman for South Dakota is Jordan Dueis. The ombudsman will monitor and enforce the requirements related to equitable services. We anticipate this will be done through the consolidated application process, similar to what is currently being done. Private schools have the opportunity to file a complaint with the state if they believe the LEA did not engage in meaningful and timely consultation.

**Q3: ESSA has new requirements related to consultation with Indian tribes and tribal organizations. What are these requirements and when do they begin?**

**A:** In general, Section 8538 of ESSA requires *affected* LEAs to consult with Indian tribes, or those tribal organizations approved by the tribes located in the area served by the LEA, prior to submitting a plan or application for covered programs (see Question 5 below). This requirement is designed “to ensure timely and meaningful consultation on issues affecting American Indian and Alaska Native students.” These requirements begin with plans or applications for FY 2017 formula grant funding.

**Q4: Which LEAs are affected by the new tribal consultation requirements?**

**A:** Under Section 8538 of ESSA, an *affected* LEA is one that either:

- 1) Has 50 percent or more of its student enrollment made up of American Indian/Alaska Native students, or
- 2) Received an Indian education formula grant in the previous fiscal year that exceeds \$40,000

To determine whether an LEA has the 50 percent enrollment noted above, an LEA should use the enrollment data from the 2016-17 school year to determine whether it is an affected LEA in FY 2017. For assistance in determining whether an LEA is affected by this requirement, LEAs



should contact the U.S. Department of Education’s Office of Indian Education at [IndianEducation@ed.gov](mailto:IndianEducation@ed.gov).

**Q5: On which programs must an affected LEA consult with Indian tribes?**

**A:** Beginning with FY 2017, affected LEAs must consult with Indian tribes before submitting plans or applications for the following programs:

- Title I, Part A (Improving Basic Programs)
- Title I, Part C (Education of Migratory Children)
- Title I, Part D (Neglected, Delinquent, or At Risk Children and Youth)
- Title II, Part A (Supporting Effective Instruction)
- Title III, Part A (English Language Acquisition)
- Title IV, Part A (Student Support and Academic Enrichment Grants)
- Title IV, Part B (21<sup>st</sup> Century Community Learning Center)
- Title V, Part B, subpart 2 (Rural and Low-Income School Program)
- Title VI, Part A, subpart 1 (Indian Education Formula Grants to LEAs)

**Q6: May an LEA combine the tribal consultation with other requirements regarding tribal or parent involvement?**

**A:** According to guidance from the U.S. Department of Education, an LEA may coordinate or consolidate the required consultation with the parent activities required under the Indian Education Formula Grant program, the Impact Aid program, and the Johnson O’Malley program. However, the consultation must meet all of the requirements of each program.

**Q7: Where can I get more information about tribal consultation requirements?**

**A:** The U.S. Department of Education may offer assistance upon request. Please contact the U.S. DOE’s Office of Indian Education at [IndianEducation@ed.gov](mailto:IndianEducation@ed.gov).

## **Fiscal**

**Q1: What is transferability?**

**A:** Transferability is a flexibility authority that permits local educational agencies (LEAs) to transfer all or a portion of the funding they receive by formula under certain federal programs to their allocations under other programs so they can address more effectively their unique needs.

**Q2: Under ESSA, what programs are affected by transferability?**

***Programs from which an LEA May Transfer Funds***

- Title II, Part A – Supporting effective instruction state grants
- Title IV, Part A – Student support and academic enrichment grants

***Programs to which an LEA May Transfer Funds***

- Title I, Part A – Improving basic programs operated by LEAs
- Title I, Part C – Education of migratory children
- Title I, Part D – Programs for neglected, delinquent, or at-risk
- Title II, Part A – Supporting effective instruction state grants
- Title III, Part A – English language acquisition and language enhancement
- Title IV, Part A – Student support and academic enrichment grants
- Title V, Part B – Rural and low income schools (RLIS)

**Q3: What rules and requirements govern funds that an LEA transfers from one program to another?**

**A:** Transferred funds become funds of the program to which they are transferred and are subject to all the rules and requirements of the programs to which the funds are transferred. In transferring funds, an LEA should recognize that a transfer could affect set-aside amounts in both the program(s) from which the LEA transfers funds and the program(s) to which the LEA transfers funds.

**Q4: How do requirements relating to the equitable participation of private school students and staff apply to funds an LEA is considering to transfer?**

**A:** Excluding Title I, Part D and Title V, Part B, each program covered by the transferability authority is subject to the equitable services requirements under Title I or VIII. Before an LEA may transfer funds from a program subject to equitable services requirements, it must engage in timely and meaningful consultation with appropriate private school officials. With respect to the transferred funds, the LEA must provide private school students and teachers equitable services under the program(s) to which, and from which, the funds are transferred, based on the total amount of funds available to each program after the transfer.

**Q5: May an LEA transfer only those funds that are to be used for equitable services to private school students or teachers?**

**A:** No, an LEA may *not* transfer funds to a particular program solely to provide equitable services for private school students or teachers. Rather, an LEA, after consulting with appropriate private school officials, must provide equitable services to private school students and teachers based on the rules of each program and the total amount of funds available to each program after a transfer.

**Q6: What effect does an LEA's transfer of funds have on its future formula allocations under the programs covered by the transferability authority?**

**A:** An LEA's transfer of funds does not affect its future grant allocations under the programs covered by the transferability authority. Transferred funds are not taken into consideration

when the state allocates formula grant funds in subsequent years, and transferability has no effect on statutory hold-harmless provisions governing grant allocations.

**Q7: How does REAP-Flex compare to the “transferability” authority?**

**A:** Under REAP-Flex, the funds are not actually transferred from one program to another. LEAs with REAP-Flex authority may use all or part of their “applicable funding” to carry out an expanded list of activities authorized under various other Federal programs. While the “applicable funding” may be used for activities authorized under other programs, it is not subject to all of the rules and requirements of those programs.

Under the transferability authority, an LEA transfers funds from one program to another, and the funds are subject to all the rules and requirements of the programs to which the funds are transferred.

**Q8: Should a REAP-Flex eligible LEA use the “transferability” authority?**

**A:** No, REAP-Flex provides the expanded allowable activities without subjecting the funds to the other program’s rules and requirements.

**Q9: How does the state education agency determine the amount of each LEA’s Title II Part A allocation?**

**A:** Beginning in school year 2017-18, the SEA will allocate funds to LEAs based solely on the following formula:

- 20 percent of the funds must be distributed to LEAs based on the relative numbers of individuals ages 5 through 17 who reside in the area the LEA serves (based on the most recent Census data); and
- 80 percent of the funds must be distributed to LEAs based on the relative numbers of individuals ages 5 through 17 who reside in the area the LEA serves and who are from families with incomes below the poverty line (based on the most recent Census data).

There is no longer a “hold-harmless” provision governing the calculation of LEA allocation amounts. The hold-harmless provision was based on the amount of funds an LEA received for Federal FY 2001 under the former Eisenhower Professional Development and Class-Size Reduction programs.

**Q10: Under ESSA, may an LEA reserve funds off the top of its Title I allocation before it allocates funds for equitable services?**

**A:** No. An LEA must determine the amount of funds available for providing equitable services prior to making reservations previously taken “off the top” of an LEA’s Title I allocation, including reservations for administration, parental involvement, and district-wide initiatives.

**Q11: How does an LEA reserve Title I funds for administering equitable services for private school students?**

**A:** From the proportionate share of Title I funds available to provide equitable services, an LEA may reserve an amount that is reasonable and necessary to administer equitable services. An LEA determines this amount separately from the funds needed to administer the Title I program for students in public schools. The LEA should discuss administrative costs for implementing equitable services during consultation with appropriate private school officials.

**Q12: How does an LEA determine the proportionate share of Title I funds available for all equitable services activities (i.e., administration, instruction, activities for parents and families of participating private school students, and professional development for teachers of participating private school students) now that this amount must be determined before any allowable expenditures or transfers of funds, including off-the-top reservations?**

**A:** Once an LEA has established the participating public school attendance areas, it would first determine the number of children from low-income families residing in each participating public school attendance area who attend public schools and private schools. The LEA would then determine the overall proportion of children from low-income families who reside in participating public school attendance areas and who attend public schools and private schools. Using the proportion of children from low-income families who attend private schools, the LEA would determine the amount of funds available for equitable services based on that proportionate share of the LEA’s total Title I allocation. For example, an LEA with four Title I public school attendance areas and a total Title I allocation of \$1,000,000 would determine the total amount available for all equitable services activities (proportionate share) as follows:

<b>EXAMPLE OF DETERMINING THE AMOUNT OF TITLE I FUNDS FOR EQUITABLE SERVICES</b>			
<b>Public School Attendance Area</b>	<b>Number of Public School Low-Income Children</b>	<b>Number of Private School Low-Income Children</b>	<b>Total Number of Low-Income Children</b>
A	500	120	620
B	300	9	309
C	200	6	206
D	350	15	365
<b>TOTAL</b>	<b>1,350</b>	<b>150</b>	<b>1,500</b>
<b>PROPORTIONATE SHARE</b>	90%	10%	
	\$900,000	\$100,000	

**Q13: How does the state education agency determine the amount of each LEA's Title IV Part A allocation?**

**A:** SEAs allocate Title IV Part A funds to LEAs by formula in the same proportion as the LEAs' prior year's *Title I*, Part A allocations.

**Q14: What is the SEA required to do if the amount of Title IV Part A program funds is insufficient to make allocations to LEAs equal to the minimum amount of \$10,000?**

**A:** If the SEA does not have sufficient funds to make allocations to any of its LEAs in an amount equal to the minimum of \$10,000, it must ratably reduce the LEA allocations, as required by section 4105(b) of the ESEA. This means that the SEA must reduce all LEA allocations proportionately to fit the funds that the SEA has available for LEA allocations. Ratable reduction ensures that all of the LEAs will receive allocations of some amount.

**Q15: Will ESSA change the way LEAs apply for their federal funds?**

**A:** The online Grants Management System will continue to be the vehicle for LEAs to apply for their federal funding. There will be some modifications to the system, as early as the application for SY 2017-18, to align with the new requirements.

### **Miscellaneous**

**Q1: What are the requirements for operating a Title I schoolwide program?**

**A:** A Title I school with 40 percent or more of its students living in poverty is eligible to operate a schoolwide program. Under ESSA, a Title I school that does not meet this threshold may apply for a waiver from the state to operate a schoolwide program.