



Update on the Every Student Succeeds Act (ESSA)

When the Every Student Succeeds Act (ESSA) replaced the No Child Left Behind Act on December 10, 2015, it was generally regarded by states and many interest groups as a win. The bill reduces federal control and allows states to make key decisions regarding public school accountability. The Texas Education Agency (TEA) is currently tasked with creating a strategic plan and accountability system that meets the federal requirements and leverages the flexibilities in a way that best suits the needs of school districts in Texas.

TEA has made it clear that their goal is to unite Texas accountability system and federal accountability into one system. TEA plans to submit this final state plan to the federal government by September 2017.¹ Although the state plan is still a few months ahead, much of ESSA became effective immediately (December 10, 2015), however, certain accountability and assessment provisions had delayed implementation dates. For the 2016-17 school year, districts in Texas operated under the NCLB state plans which means most state plan requirements remained the same. The 2017-18 school year will be the first year that the assessment and accountability measures under ESSA will be fully implemented.²

The United States Department of Education (DOE) released the ESSA 2017-18 Consolidated State Plan template in March 2017. The ESSA Consolidated Federal Grant Application for school districts is expected to be available in June 2017. See the appendix for links to these applications.

1. A System of Meaningful Differentiation

One of the most important changes from ESSA to the Elementary and Secondary Education Act (ESEA) is the decreased focus on assessment results for accountability. Instead, under ESSA, the statewide accountability system must include multiple factors such as academic achievement, student growth, graduation rates, progress in English language proficiency, and at least one indicator of school quality or student success. Possible indicators of school quality or student success include educator engagement, access to and completion of advanced coursework, postsecondary readiness, and school climate and safety, but each state is allowed to choose any indicator that meets the federal requirements. In general, the accountability system must allow a state to “meaningfully differentiate” between all public schools in the state and identify low-performing campuses and students. Under ESSA, each state may determine the weight of the different indicators in its own system, but academic measures must be given substantial weight.

TEA gathered input in the spring of 2017 from various stakeholders to assist in the development of the federally compliant accountability system. TEA is also expected to receive feedback on its proposed state plan in the summer of 2017. The governor will ultimately approve of the assessment and accountability plan prior to submission to the DOE. Once submitted, the DOE has little room to deny the state's plan as long as the state meets the overall plan requirements of ESSA.

Before the 2017 legislative session, TEA developed the details of what's known as "The A-F" accountability system mandated under House Bill 2804. Passed in the 2015 legislative session, House Bill 2804 created a five-domain state accountability system and an A-F rating label to describe performance in that system. The domains were as follows: the first domain included student achievement on academic assessments; the second domain measured student progress on those assessments; the third domain measured academic achievement among different subgroups; the fourth domain measured postsecondary readiness, including college and career readiness; and the fifth domain measured community and student engagement.³ The five domain accountability system was scheduled to be implemented in the 2017-18 school year, with ratings and interventions to be determined in August 2018.⁴

The "A-F" accountability system was criticized for its lack of fairness and accuracy. During the 85th Legislative session in 2017, the Texas legislature passed House Bill 22, described below. Under the new version of the A-F accountability system, districts will receive A-F performance ratings in August 2018. Individual schools will receive A-F performance ratings in August 2019.

House Bill 22 reduces the domains measured in the A-F accountability system from five to three. The three domains include the following:

- 1. Student achievement:** Similar to the prior system, this domain must include an indicator that evaluates satisfactory performance through the results of the state required assessments, including STAAR tests, EOC exams, STAAR A (for special education students), and STAAR L (for English language learners). This domain must also include an indicator that evaluates the performance of high school campuses and districts. This indicator must account for students that: satisfy the Texas Success Initiative (TSI) college readiness benchmarks; satisfy performance standards on Advanced Placement (AP) tests or similar assessments; earn dual credits; successfully complete an OnRamps dual enrollment course; earn industry certifications; enlist in the US military; are admitted into certain postsecondary industry certification programs; successfully complete college preparatory courses; are awarded an associate's degree; and students who successfully met standards on a composite of indicators that through research indicates the student is prepared to enroll and succeed in bachelor' or associate's degree general education courses. This domain also includes high school graduation rates as computed under ESSA and subject to certain statutory exclusions.

- 2. School progress:** This domain measures a school or district’s effectiveness in promoting school learning. The indicators must include assessment data on the percentage of students who met the standard for improvement, as determined by the commissioner, and an indicator for relative performance as compared to similar districts and campuses.
- 3. Closing the gaps:** This domain requires the measurement of disaggregated data to determine differences in academic performance among different racial and ethnic groups, socioeconomic backgrounds, and other factors, including students formerly receiving special education services, students continuously enrolled, and mobile students.

2. Assessment Selection

ESSA and NCLB contain similar assessment requirements with respect to mandatory subjects and grade levels tested. However, a few of ESSA’s changes in the selection of assessments are quite notable. For example, a state may choose to include assessments partially delivered in the form of portfolios, projects, or extended performance tasks and may choose a single summative assessment or multiple statewide interim assessments that result in a single summative score.⁵ Under ESSA, states may also choose to provide an advanced mathematics assessment for eighth grade students. Other state choices include the option to provide a nationally recognized assessment for high school students, such as the ACT or SAT; however, the state must determine that the assessment is consistent with state standards and must use the same locally selected assessment in all of its high schools.⁶

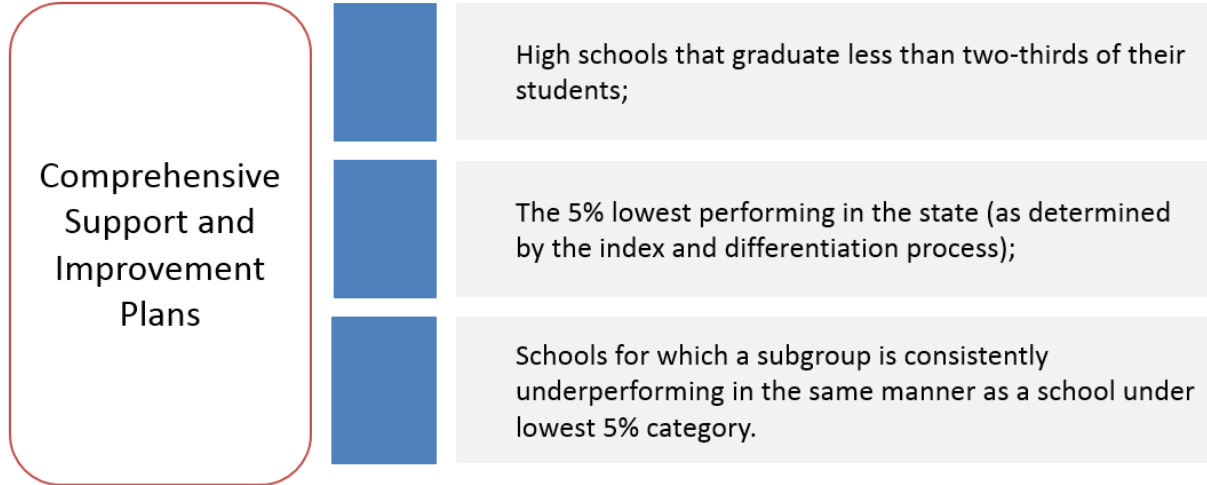
No Child Left Behind	Every Student Succeeds Act	Texas Authority
<p>Reading/Language Arts: tested annually in grades 3-8, at least once in 10-12. Math: tested annually in grades 3-8, at least once in 10-12. Science: at least once in grade level spans 3-5, 6-9, and 10-12.</p>	<p>Mostly the same, except math and language arts shall be tested at least once in grades 9-12.</p>	<p>Reading and Math: tested in grades 3–8 annually. End-of-course (EOC) assessments required: English 1, English 2, Algebra 1, Biology, and U.S. History. Science: tested in grades 5 and 8. Writing: tested in grades 4 and 7. Social Studies: tested in grade 8.</p>

Alternate academic achievement standards and alternate assessments are available for students with the most significant cognitive disabilities. States have a 1% cap on students that may be assessed under these alternate assessments. Districts may exceed the 1% cap if they notify the state of the reason they need to exceed the cap.

Parents may not opt their students out of state assessments. ESSA requires districts to provide parents with required assessment information, including student participation information, but an opt-out policy is only required “where applicable.”⁷ Texas law currently does not have an applicable law that provides for opting out of state assessments. In Texas, students that opt out will receive failing scores on the state assessment. This may affect their advancement to the next grade level or graduation, and it affects the requirement that schools have 95% of their students participating in state assessments.⁸

3. Support and Improvement Systems

Beginning in the 2018-19 school year, a state’s system of meaningful differentiation must identify the following: not less than the lowest-performing 5% of schools in the state; all public high schools failing to graduate one-third or more of their students; and schools in which any subgroup of students, as this term is defined in the bill, would on its own fall under the lowest-performing 5% across the state.⁹ Districts with identified schools will need to develop and implement a comprehensive support and improvement (CSI) plan. The details of the CSI plan are left up to the districts; however, ESSA lists general requirements and the plan must be approved by the school, the district, and TEA.¹⁰ TEA must also decide the exit criteria for schools, how long schools can be under a CSI plan before state intervention (not to exceed four years), and what that state intervention will entail.¹¹ In schools with subgroups consistently underperforming on the accountability indicators, schools are required to develop targeted support and improvement (TSI) plans. The requirements for TSI plans are similar to those for CSI plans, except that TSI plans must be approved and monitored by the school district.¹² As Texas has had similar types of plans, interventions, and sanctions in place already, districts will need to pay close attention to how TEA responds to this charge.



4. Teacher Qualifications

ESSA repeals the provisions set out by NCLB that required teachers to be highly qualified in districts supported by the federal funds of the ESEA. The highly qualified language and requirements were included in teacher applications, employment contracts, and several related statutes. Under ESSA, teachers and paraprofessionals must meet each individual state’s certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification. Districts are still required to notify parents about a teacher’s lack of qualifications if the child has been taught for four or more consecutive weeks by a teacher who does not meet applicable state certification or licensure requirements at the grade level and subject area in which the teacher has been assigned. In addition, each annual state report card must present information on the experience levels and credentials of teachers in the state.¹³

Teacher Qualifications

NCLB	ESSA	Texas Authority
The SEA shall ensure that all teachers in core academic subjects are “highly qualified.” 20 U.S.C. § 7801(23).	Teachers shall meet state certification and licensure requirements. 20 U.S.C. §§ 6311(g)(2)(J), 6312(c)(6).	An educator may not be employed as a teacher unless the person holds an appropriate certificate or permit. Tex. Educ. Code § 21.003(a). See TASB Policy DBA(LEGAL).

Federal requirements for paraprofessionals continue to go beyond state requirements in Texas. Paraprofessionals working programs supported by Title I, Part A funds must meet the qualification standards that were in effect prior to ESSA. NCLB required paraprofessionals to have completed at least 48 college hours or an associate's degree, or to have demonstrated knowledge and ability in reading and math. Under ESSA, those requirements remain because ESSA states that paraprofessionals shall meet the requirements of the bill that was in place prior to ESSA (NCLB).¹⁴

In order to be considered highly qualified under NCLB, special education teachers providing direct instruction in core academic subjects had to demonstrate subject-matter competency in addition to being certified by the state. Texas did not have the requirement to demonstrate competency in core academic subjects prior to NCLB. After ESSA repealed the federal requirement, the Texas State Board of Educator Certification amended the Texas Administrative Code to essentially require what had been required under NCLB. The Texas Administrative Code now requires certified educators working in special education personnel assignments and providing content instruction in a special education classroom setting to be certified in the subject and grade level of the assignment, or to demonstrate competency through the state's system used prior to ESSA. Prior to ESSA, the state used the 2010 and 2011 high, objective, and uniform state standard of evaluation (HOUSE) system.¹⁵

5. Educator Evaluation Systems

Educator evaluation systems tied to student test scores were a controversial requirement under NCLB waivers granted by the DOE in recent years. ESSA enables, but does not require, states to create their own evaluation systems without formal approval of the content of such systems by the DOE. Despite the repeal of the federal requirement, TEA implemented the T-TESS (Texas Teacher Evaluation System) and T-PESS (Texas Principal Evaluation System) statewide in the 2016-17 school year. Districts still have the option of creating their own evaluation system if they choose not to use the state recommended evaluation system, but under the Texas Administrative Code, student performance should be factored into a locally developed teacher appraisal system.¹⁶

For more information on T-TESS or T-PESS, visit TEA's Educator Evaluation and Support System, available at tea.texas.gov/Texas_Educators/Educator_Evaluation_and_Support_System/Educator_Evaluation_and_Support_System/.

6. Funding

Before the passage of ESSA, some lawmakers and interest groups were pressing for the portability of Title I funding. Portability, also known as “backpack funding,” would shift funding away from public schools towards private schools if an eligible student were to attend a private school. This provision did not make the final version of ESSA. But ESSA does contain some flexibility of Title I funds. ESSA contains a provision that enables states and districts to transfer funds between specified programs if the state and district modify their submitted plans and notify the DOE and the state, respectively.¹⁷

ESSA also changes the way districts must measure whether they are supplementing their budget with Title I funds as required or supplanting other funds that the district would have spent if they did not receive Title I funds (essentially not using their Title I funds to spend more on their neediest students and schools). To show compliance under NCLB, districts could not use Title I funds to pay for programs paid for in the previous year with non-Title I funds. The proposed Obama administration rule prescribed a different compliance test that was more specific but could potentially result in moving personnel to satisfy the test. That rule was never finalized because the DOE withdrew the proposed rules before the Trump administration took office. Now districts are compliant with “supplement, not supplant” rules if they receive all the state and local funds they would have received had they not received Title I funds.¹⁸

TEA has released additional information regarding federal funding under the ESSA. TEA’s guidance encourages districts to align federal funds to specific priorities, best practices, and recommendations described by the agency. TEA encourages districts to review their comprehensive needs assessment. The guidance also warns that some districts will be receiving less funding under Title II, Part A (teacher, administrator, and school leader preparation and professional development funding) in the 2017-18 school year. In addition, an unexpected reduction in Title IV, Part A (student support and academic enrichment grants) from the federal appropriation means the agency may have to make these grants competitive and not formula based in the future.¹⁹

7. English Learner Prioritization

ESSA places increased emphasis on English language proficiency by moving the accountability measures for English language learners (ELL) from Title III to Title I of the Act. Authorized funding is also increased under Title III with the intention of increasing English language proficiency and academic achievement of English learners. Under ESSA, the authorized funding for ELL programs is gradually increased from \$756 million in fiscal year 2017 to \$885

million by fiscal year 2020. Title III also contains provisions regarding competitive and formula grants for the professional development of classroom instruction of English learners. Assessments to determine English language proficiency of applicable students are continued under ESSA as well.

8. Homeless, Foster, and Active Duty Military Status Provisions

In addition to identified student subgroups, states and districts are now required to disaggregate student achievement data from academic assessments taken by students who are homeless, students in the state foster care system, and students with a parent in active duty in the armed forces. ESSA also implemented new provisions regarding the presumption that it is in a child's best interest to remain in their school of origin after coming into a CPS conservatorship or if they are a student of homeless status.²⁰ ESSA amended the McKinney-Vento Homeless Assistance Act to expand school of origin to include pre-kindergarten and schools for which school of origin is a feeder school. Districts are also required to arrange for transportation for these students to attend the school of origin, if necessary.²¹

For students in the foster care system, ESSA requires collaboration between the district and child welfare agencies to provide transportation to maintain the student's enrollment in their school of origin. Each school district was required to have clear written procedures regarding transportation of these students in place by December 10, 2016.²² In the DOE's joint guidance with the U.S. Department of Health and Human Services, the agencies recommended that states create a plan for handling disagreements between districts and child welfare agencies.²³

9. Prohibition on Aiding and Abetting Sexual Abuse

A state or district that receives federal funds under ESSA is now required to have laws, regulations, or policies in place to prevent what is commonly referred to as "passing the trash." The laws or policies should prohibit any individual who is a school employee, contractor, or agent, or any state educational agency or local educational agency, from assisting a school employee, contractor, or agent in obtaining a new job if the individual or agency knows, or has probable cause to believe, that such school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law. ESSA excludes from its definition of "assisting in obtaining a new job" routine transmission of administrative and personnel files. Additionally, this provision has exceptions for cases of acquittal or exoneration, or if the investigation remains open without charges within four years after the date this information was reported to law enforcement.²⁴ TASB Policy Update 107, released in the spring of 2017, included revisions to address the ESSA requirements.

In response to ESSA's requirements, the State Board for Educator Certification adopted an amendment to the Educators' Code of Ethics, effective December 27, 2016. Standard 1.14 provides the following: The educator shall not assist another educator, school employee, contractor, or agent in obtaining a new job as an educator or in a school, apart from the routine transmission of administrative and personnel files, if the educator knows or has probable cause to believe that such person engaged in sexual misconduct regarding a minor or student in violation of the law.²⁵

10. Well-Rounded Education

Under ESSA, a school district's plan should include how the district will monitor student progress towards challenging academic standards by implementing a well-rounded education.²⁶ "Well-rounded" education is a term newly defined in the Act as courses, activities, and programming in the basic subjects, as well as in the following categories: technology, engineering, foreign languages, civics and government, economics, arts, history, geography, computer science, music, career and technical education, health, physical education, and any other state determined subject with the purpose of enriching the curriculum and educational experience.²⁷ The DOE has already released two "Dear Colleague Letters" in promotion of a well-rounded education; the first letter discussed how to maximize federal funds to support STEM education and the second letter focused on how to maximize federal funds, including formula grant funds under ESSA, for supporting humanities education.²⁸ In addition, the Education Commission of the States issued a special report regarding opportunities that ESSA opens for states and districts to provide a well-rounded education to their students.²⁹

Student Support and Academic Enrichment Grants, Part A of Title IV of ESSA, creates a grant program that is a consolidation of several smaller, targeted grants that were available under NCLB. Although the 2017 federal budget reduced this funding by 20 percent, districts have more flexibility under the consolidation on how they wish to spend the funds. Districts must provide a needs assessment every three years and prioritize spending the funds on schools with the greatest economic needs and schools identified for comprehensive or targeted support and improvement plans.³⁰

Accountability Resources

From the U.S. Department of Education

- Main page: www.ed.gov/essa.
- ESSA Consolidated State Plans:
www2.ed.gov/admins/lead/account/stateplan17/plans.html.
- Guidance documents
 - Education for Homeless Children and Youths Program, Non-Regulatory Guidance (July 27, 2016),
www2.ed.gov/policy/elsec/leg/essa/160240ehcyguidance072716.pdf.
 - U.S. Dep't of Educ. and U.S. Dep't of Health & Human Services, *Non-regulatory Guidance: Ensuring Educational Stability for Children in Foster Care* (June 23, 2016),
www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf.

From the Texas Education Agency

- Main page:
[tea.texas.gov/About_TEA/Laws_and_Rules/ESSA/Every_Student_Succeeds_Act_\(ESSA\)/](http://tea.texas.gov/About_TEA/Laws_and_Rules/ESSA/Every_Student_Succeeds_Act_(ESSA)/).
- Transition to ESSA:
tea.texas.gov/Finance_and_Grants/Grants/Administering_a_Grant/Transition_to_ESSA/.
- Tex. Educ. Agency, *To the Administrator Addressed Letter Re: 2018-2018 Every Student Succeeds Act – Consolidated Federal Grant Application* (May 19, 2017),
[tea.texas.gov/About_TEA/News_and_Multimedia/Correspondence/TAA_Letters/2017-2018_Every_Student_Succeeds_Act_\(ESSA\)_-Consolidated_Federal_Grant_Application/](http://tea.texas.gov/About_TEA/News_and_Multimedia/Correspondence/TAA_Letters/2017-2018_Every_Student_Succeeds_Act_(ESSA)_-Consolidated_Federal_Grant_Application/).
- Tex. Educ. Agency, *To the Administrator Addressed Letter Re: Every Student Succeeds Act* (Mar. 8, 2016),
tea.texas.gov/About_TEA/News_and_Multimedia/Correspondence/TAA_Letters/Every_Student_Succeeds_Act/.
- House Bill 2804
 - Tex. Educ. Agency, HB 2804 Implementation,
tea.texas.gov/2804implementation.aspx.
 - Tex. Educ. Agency, *To the Administrator Addressed Letter Re: Indicators for A-F Academic Accountability System* (Dec. 1, 2016),
tea.texas.gov/About_TEA/News_and_Multimedia/Correspondence/TAA_Letters/Indicators_for_A-F_Academic_Accountability_System/.

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- ¹ Tex. Educ. Agency, *TEA Releases ESSA Survey Results* (Dec. 29, 2016), tea.texas.gov/About_TEA/News_and_Multimedia/Press_Releases/2016/TEA_releases_ESSA_survey_results/. Previously, the Department of Education required state plan submissions by April 2017, but after stakeholder feedback, the DOE added a September deadline. U.S. Dep't of Educ., Office of Elementary & Secondary Education, *Dear Colleague Letter* (Nov. 29, 2016), www2.ed.gov/policy/elsec/leg/essa/essadcl-accountability-plus-112916.pdf.
- ² U.S. Dep't of Educ., *Transitioning to the Every Student Succeeds Act (ESSA)* (June 29, 2016), www2.ed.gov/policy/elsec/leg/essa/essafagtransition62916.pdf.
- ³ Tex. Educ. Code § 39.053 (amended by Texas House Bill 2804 in 2015 to create a five-domain indicator system for statewide accountability).
- ⁴ Tex. Educ. Agency, *House Bill (HB) 2804 Implementation*, tea.texas.gov/2804implementation.aspx.
- ⁵ 20 U.S.C. § 6311(b)(2).
- ⁶ 20 U.S.C. § 6311(b)(2).
- ⁷ 20 U.S.C. § 6312(e)(2).
- ⁸ See Tex. Educ. Code § 26.010 (exempting avoidance of a test from the statutorily allowed class or school activity that students may opt out of if it conflicts the parent's religious or moral beliefs).
- ⁹ 20 U.S.C. § 6311(c)(4)(D).
- ¹⁰ 20 U.S.C. § 6311(d)(1).
- ¹¹ 20 U.S.C. § 6311 (d).
- ¹² 20 U.S.C. § 6311(d)(2).
- ¹³ 20 U.S.C. § 6312(e), 6311(h)(1)-(h)(2).
- ¹⁶ U.S. Dep't of Educ., *Transitioning to the Every Student Succeeds Act (ESSA)* (June 29, 2016), www2.ed.gov/policy/elsec/leg/essa/essafagtransition62916.pdf.
- ¹⁵ 19 Tex. Admin. Code § 230.611.
- ¹⁶ Tex. Educ. Agency, *ESSA Represents Significant Policy Shift* (Dec. 15, 2015), tea.texas.gov/Home/Commissioner_Blog/ESSA_Represents_Significant_Policy_Shift/; 19 Tex. Admin. Code §§ 150.1001, .1007.
- ¹⁷ 20 U.S.C. §§ 7305a-7305b.
- ¹⁸ 20 U.S.C. § 6321.
- ¹⁹ Consolidated Federal Grant Application (May 19, 2017), [tea.texas.gov/About_TEA/News_and_Multimedia/Correspondence/TAA_Letters/2017-2018_Every_Student_Succeeds_Act_\(ESSA\)_-Consolidated_Federal_Grant_Application/](http://tea.texas.gov/About_TEA/News_and_Multimedia/Correspondence/TAA_Letters/2017-2018_Every_Student_Succeeds_Act_(ESSA)_-Consolidated_Federal_Grant_Application/).
- ²⁰ 20 U.S.C. §§ 6311(g)-(h), 6312(b)-(c).

- ²¹ 20 U.S.C. § 11432(g).
- ²² 20 U.S.C. § 6312(c).
- ²³ U.S. Dep't of Educ. and U.S. Dep't of Health & Human Services, *Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care* (June 23, 2016), www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf.
- ²⁴ 20 U.S.C. § 7926.
- ²⁵ 19 Tex. Admin. Code § 247.2.
- ²⁶ 20 U.S.C. § 6312(b).
- ²⁷ 20 U.S.C. § 7801 (52).
- ²⁸ John B. King, Jr., U.S. Dep't of Educ., *Key Policy Letters Signed by the Education Secretary or Deputy Secretary* (July 13, 2016), www2.ed.gov/policy/elsec/guid/secletter/160713.html; U.S. Dep't of Educ., *Dear Colleague Letter* (Apr. 13, 2016), www2.ed.gov/programs/promiseneighborhoods/stemdearcolleagueltr.pdf.
- ²⁹ Emily Workman and Scott D. Jones, Education Commission of the States, *ESSA's Well-Rounded Education* (June 22, 2016), ecs.org/essas-well-rounded-education/.
- ³⁰ 20 U.S.C. § 7101 et seq.