



SOCIAL DETERMINANTS OF HEALTH: EDUCATION AND HEALTH Issue Brief

Health-Related Provisions of the Every Student Succeeds Act

Background

On December 10, 2015, President Obama signed the Every Student Succeeds Act (ESSA) into law.¹ ESSA is a **reauthorization of the Elementary and Secondary Education Act** first passed in 1965. The No Child Left Behind Act of 2002 was the previous reauthorization of the Elementary and Secondary Education Act. The principal concerns of ESSA are federal funding for elementary and secondary education and accountability for student outcomes.² In general, state and local education agencies have greater authority under ESSA than under No Child Left Behind. Funding authorized under ESSA is subject to the federal appropriations process.³

Because they help to shape the social and economic environment, **laws governing education have an impact on health.**⁴ In addition to its underlying impact on public health, the Act contains a number of provisions aimed directly at improving health, mental health, and safety in our nation's schools. **Health is addressed explicitly throughout ESSA, including in particular the provisions for planning, assessment, and accountability under Title I and provisions concerned with student support, academic enrichment, and community-based learning under Title IV.** Providing equitable educational opportunities for economically disadvantaged children, children from all major racial and ethnic groups, children with disabilities, English language learners, children of both genders, migrant children, rural children, and homeless children and youth is addressed under ESSA.⁵

The U.S. Department of Education, as well as state and local educational agencies, has begun to implement ESSA.⁶ **The current implementation process may provide opportunities for public health officials and community members to collaborate with education leaders to promote community health.**⁷ The Act calls upon state, Tribal, and local education leaders to engage in timely and meaningful consultation with stakeholders, as they engage in planning activities, comprehensive needs assessments, and community partnerships.

The chart below provides an overview of sections in the Act that are particularly relevant to public health, including the title and a brief descriptive summary of the section. For most provisions, citations are provided for the Every Student Succeeds Act (ESSA), Elementary and Secondary Education Act of 1965 (ESEA), and the U.S. Code.

Health-Related Provisions of the Every Student Succeeds Act

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ESSA § 1005 ESEA § 1111 20 U.S.C. § 6311	State Plans	Requires state educational agencies seeking funds under ESSA to submit a state plan to the Secretary of Education, following timely and meaningful consultation with specified interested parties. Directs the Secretary to establish multi-disciplinary peer review teams to review the state plans. Requires participating states to make the state plan available for public comment, and to take comments into account. Sets forth provisions for assessment and accountability. Requires that results from academic assessments be enabled to be disaggregated for specified groups, including economically disadvantaged students, students from major racial and ethnic groups, children with disabilities, and English learners. In addition to reporting on required indicators of academic success, establishes potential indicators of school quality and student success such as student engagement and school climate and safety. States must report on at least one of these non-academic indicators. Requires each state plan to describe how the state educational agency will support local educational agencies receiving funds to improve school conditions. Requires participating states to prepare and disseminate an annual state report card, including information related to school quality, climate, and safety.
ESSA § 1006 ESEA § 1112 20 U.S.C. § 6312	Local Educational Agency Plans	Requires that, in order to receive a subgrant from a state educational agency, a local educational agency must develop a plan with timely and meaningful consultation with specified stakeholders and secure approval from the state educational agency.
ESSA § 1008 ESEA § 1114 20 U.S.C. § 6311	Schoolwide Programs	Authorizes a local educational agency to use ESSA funds, together with other funds, in order to upgrade the entire educational program of a school that serves a student body or an eligible school attendance area in which 40 percent of the children are from low-income families. An eligible school operating a schoolwide program shall develop a comprehensive plan to address the needs of all children in the school, but particularly the needs of children at risk of not meeting challenging academic standards. Activities in the plan may include counseling, school-based mental health programs, specialized instructional support services (including counseling, social work services, school nurse services, speech pathology services, and school library services), mentoring services, a schoolwide tiered model to prevent and address problem behavior, and strategies to assist in the transition from early childhood education programs to elementary school.
ESSA § 1009 ESEA § 1115 20 U.S.C. § 6315	Targeted Assistance Schools	Targeted assistance schools may serve eligible low-income children (rather than through a schoolwide program) by coordinating ESSA programs with violence prevention programs, nutrition programs, housing programs, Head Start programs, adult education programs, career and technical education programs, and support and improvement activities.
ESSA § 1010 ESEA § 1116 20 U.S.C. § 6318	Parent and Family Engagement	Authorizes use of funds for local educational agencies and schools to collaborate with community-based or other organizations or employers with a record of success in improving and increasing parent and family engagement.
ESSA § 1011	Participation of Children Enrolled	To the extent consistent with the number of eligible low-income children enrolled, directs a local educational agency to engage in timely and meaningful consultation with

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ESEA § 1117 20 U.S.C. § 6320	in Private Schools	private school officials and provide services such as special educational services, instructional services, counseling and mentoring on an equitable basis to those children.
ESSA § 1013 ESEA § 1119 20 U.S.C. § 6322	Coordination Requirements	Requires local educational agencies to develop agreements with Head Start agencies and other early childhood education programs.
ESSA § 1301 ESEA § 1301 <i>et seq.</i> 20 U.S.C. § 6391 <i>et seq.</i>	Education of Migratory Children	Sets forth requirements for program to assist states to identify and address the unique needs of migratory children , including helping them to overcome educational disruption, cultural and language barriers, social isolation, health-related problems , and other factors that inhibit the ability of migratory children to succeed in school . The programs may include outreach and advocacy to help migratory children and their families to access education, health , nutrition, and social services . Directs the Secretary of Education to work with states to facilitate the electronic exchange of education and health data regarding migratory students through the linkage of migrant student record systems.
ESSA § 2001 ESEA § 2103 20 U.S.C. § 6613	General Provisions: Local Uses of Funds	Local educational agencies which receive sub-grants from their state educational agencies may provide professional development to train teachers, principals, and other school leaders to effectively engage parents, families, and community partners; coordinate services between school and community; and develop policy with school, local educational agency, community, and state leaders. Title II funds may also be used at the local level to carry out in-service training for school personnel related to mental health and wellness, including trauma, risk of mental illness, treatment and intervention services, referrals and partnerships between school-based mental health programs and public or private mental health organizations, and addressing issues related to school conditions for learning , such as safety, peer interaction, drug and alcohol abuse, and chronic absenteeism.
ESSA § 4002 ESEA § 4001 20 U.S.C. § 7101	General Provisions	Requires a state, local educational agency, or other entity receiving funds under Title IV of ESSA to obtain prior written informed consent from the parent of any minor child who participates in any mental health assessment or service connected with an elementary or secondary school and funded under Title IV.
ESSA § 4101 ESEA § 4101 20 U.S.C. § 7111	Student Support and Academic Enrichment Grants	Sets forth purposes of Student Support and Academic Enrichment Grants: (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 student academic achievement and digital literacy
ESSA § 4101 ESEA § 4104 20 U.S.C. § 7114	State Use of Funds	Authorizes states to use Title IV funds to support local educational agencies in providing programs and activities that foster safe, healthy, supportive, and drug-free environments that support student academic achievement.
ESSA § 4101 ESEA § 4106 20 U.S.C. § 7116	Local Educational Agency Applications	Requires a local educational agency to submit an application and conduct a needs assessment in order to receive an allocation over \$30,000 under Title IV. The application is to be developed through consultation with parents, teachers, principals, other school leaders, specialized instructional support personnel (including school nurses, counselors, and school librarians), community-based organizations, local government representatives (which may include law enforcement, juvenile court, child

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welfare, public housing), Indian tribes, charter schools, and others. Applications should note any partnerships with public or private entities with a demonstrated record of success in implementing relevant activities. A comprehensive needs assessment is to be conducted once every three years, and is to address the purposes of the Student Support and Academic Enrichment Grants, including an examination of needs for improvement of school conditions for student learning in order to create a healthy and safe school environment. In general, a local educational agency shall use not less than 20 percent of Student Support and Academic Enrichment Grant funds for activities to support safe and healthy students and school conditions.

ESSA § 4101
ESEA § 4108
20 U.S.C. § 7118

Activities to
Support Safe and
Healthy Students

Describes programs and activities to support safe and healthy students and school conditions, including (1) drug and violence prevention, (2) school-based mental health services and partnerships, (3) integration of health and safety practices in school and athletic programs, (4) support for a healthy, active lifestyle, (5) bullying, harassment, coercion, and abuse prevention, (6) improvement of instructional practices for relationship-building skills, (7) provision of mentoring and school counseling to all students, (8) establishment or improvement of school dropout and re-entry programs, (9) establishment of learning environments and improvement of students' effective learning skills, (10) child sexual abuse awareness and prevention, (11) reduction of exclusionary discipline, (12) positive behavioral interventions and supports, (13) pay for success initiatives, (14) high quality training for school personnel on related topics, and (15) a designated site resource coordinator to strengthen relationships and establish partnerships within the community.

ESSA § 4201
ESEA § 4201
20 U.S.C. § 7171

21st Century
Community
Learning Centers

Sets forth purpose and definitions. Purpose is to provide opportunities for communities to establish or expand activities in community learning centers, including youth development activities, service learning, nutrition and health education, drug and violence prevention programs, counseling programs, arts, music, physical fitness and wellness programs, technology education programs, financial literacy programs, environmental literacy programs, internship or apprenticeship programs, family engagement programs, and literacy programs.

ESSA § 4601
ESEA § 4621
20 U.S.C. § 7271

National Activities:
Purposes

Sets forth purposes for provisions related to community support for school success. Purposes identified include significantly improving the academic and developmental outcomes of children living in the most distressed communities in the United States, including ensuring school readiness, high school graduation, and access to a community-based continuum of high-quality services. Purposes also include providing support for planning, implementation, and operation of full-service community schools that improve coordination, integration, accessibility, and effectiveness of services for children and families, particularly children attending high-poverty schools, including high-poverty rural schools.

ESSA § 4601
ESEA § 4624
20 U.S.C. § 7274

Promise
Neighborhoods

Authorizes eligible entities including institutions of higher learning, Indian tribes or tribal organizations, and nonprofit entities working in collaboration with specified entities to apply for competitive grants from the Secretary of Education to provide pipeline services in neighborhoods with high concentrations of low income individuals and with multiple signs of distress, which may include high rates of poverty, childhood obesity, academic failure, and juvenile delinquency, adjudication, or incarceration. Pipeline services means a continuum of coordinated supports, services, and opportunities for children from birth through entry into and success in postsecondary education and career attainment. Among other things, pipeline services include social, health, nutrition, and mental health services and supports. When applying for PROMISE neighborhood funds, eligible entities must include a needs assessment and a

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plan for significant improvement.		
ESSA § 4601 ESEA § 4625 20 U.S.C. § 7275	Full-Service Community Schools	Authorizes eligible entities including 1 or more local educational agencies, the Bureau of Indian Education , and 1 or more community-based organizations, nonprofit organizations, or other public or private entities to apply for grants from the Secretary of Education to provide pipeline services to full-service community schools. Pipeline services means a continuum of coordinated supports, services, and opportunities for children from birth through entry into and success in postsecondary education and career attainment. Among other things, pipeline services include social, health, nutrition, and mental health services and supports. When applying for full-service community school funds, eligible entities must include a comprehensive plan, including a needs assessment that identifies the academic, physical, nonacademic, health, mental health, and other needs of students, families, and community residents.
ESSA § 4601 ESEA § 4631 20 U.S.C. § 7281	National Activities for School Safety	Authorizes the secretary of Education to use Title IV funds for the Project School Emergency Response to Violence (Project SERV) program to carry out activities to improve students' safety and well-being, including through grants, contracts, or cooperative agreements. Authorizes eligible entities (including a local educational agency, an institution of higher education disrupted by violence or trauma, and the Bureau of Indian Education in a case where the learning environment of a school operated or funded by the Bureau has been disrupted by violence or trauma) to use Project SERV funds to initiate or strengthen violence prevention activities or to restore a learning environment disrupted by a crisis.
ESSA § 5005 20 U.S.C. § 7341a Note	Review Relating to Rural Local Educational Agencies	Directs the Secretary of Education to conduct a review to assess the extent to which the Department of Education takes into account, considers input from, and addresses the unique needs and characteristics of rural schools and rural local educational agencies. Directs the Secretary to report to Congress on actions the Department can take to meaningfully increase the consideration and participation of rural schools and rural local educational agencies in the Department's processes, procedures, policies, and regulations. Further directs the Secretary to carry out the identified actions or provide an explanation to Congress of why they were not carried out.
ESSA § 6002 ESEA § 6115 20 U.S.C. § 7425	Indian Education: Authorized Services and Activities	Authorizes local educational agencies, Indian tribes, Indian organizations, and consortia to use Title VI funds for services and activities including early childhood and family programs that emphasize school readiness, enrichment programs that focus on problem solving and cognitive skills development, and activities to educate individuals in order to prevent violence, suicide, and substance abuse.
ESSA § 6002 ESEA § 6121 20 U.S.C. § 7441	Improvement of Educational Opportunities for Indian Children and Youth	Authorizes the Secretary to award grants to eligible entities for activities including health and nutrition services; activities that address the health, social, and psychological needs of Indian children and youth; comprehensive guidance, counseling, and testing services; and early childhood education programs, including programs that emphasize school readiness, screening and referral, and provision of services to Indian children and youth with disabilities.
ESSA § 6004 ESEA § 6304 20 U.S.C. § 7544	Alaska Native Education: Program Authorized	Authorizes the Secretary of Education to make grants or enter into contracts with eligible Alaska Native organizations and entities to provide programs with activities that may include early childhood and parenting education (including home visiting), and comprehensive school or community-based support services, including services that address family instability and trauma, and services to improve conditions for learning at home, in the community, and at school.

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ESSA § 6006	Report on Responses to Indian Student Suicides	Directs the Secretary of Education, in collaboration with the Secretaries of Interior and of Health and Human Services, to prepare a report on efforts to address outbreaks of suicides among elementary school and secondary school students in Indian country. The report is to include information on (1) the federal response, (2) a list of federal resources to prevent and respond to outbreaks of student suicides, including the availability and use of tele-behavioral health, (3) barriers to timely implementation of programs or interagency collaboration, (4) interagency collaboration efforts, (5) recommendations to improve or consolidate federal resources, including interagency collaboration, and (6) feedback from Indian tribes in relation to the federal response.
ESSA § 8002 ESEA § 8101 20 U.S.C. § 7801	Definitions	Defines “specialized instructional support personnel” as including (1) school counselors, school social workers, and school psychologists, and (2) other qualified professional personnel, such as school nurses, speech language pathologists, and school librarians, involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services as part of a comprehensive program to meet student needs. Defines “well-rounded education” as including courses, activities, and programming in health and physical education.
ESSA § 8024 ESEA § 8527 20 U.S.C. § 7907	Prohibitions on Federal Government and Use of Federal Funds	States that nothing in ESSA shall be construed to authorize the federal government to mandate, direct, or control a State, local educational agency, or school’s curriculum, program of instruction, or allocation of state or local resources. States that nothing in ESSA should be construed to require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials.
ESSA § 8028 ESEA § 8530A 20 U.S.C. § 7910a	Prohibition on Requiring State Participation	States that nothing in ESSA shall be construed to require a state to participate in any program under the Act, if the state has not received or been awarded funds.
ESSA § 8035 ESEA § 8543 20 U.S.C. § 7923	Limitations on School-Based Health Centers	Invokes an existing limitation on school-based health centers under the Public Health Service Act, which provides that school-based health centers, by definition, do not provide abortion services. Funds for activities carried out under ESSA must comply with this limitation.
ESSA § 8037 ESEA § 8545 20 U.S.C. § 7925	Sense of Congress on Protecting Student Privacy	Expresses the sense of Congress that the Secretary of Education should review all regulations addressing student privacy, including those under ESSA, and ensure that students’ personally identifiable information is protected.
ESSA § 8040 ESEA § 8548 20 U.S.C. § 7928	Privacy	Directs the Secretary of Education to require each grantee receiving funds under ESSA to provide an assurance that it understands the importance of privacy and is aware of its responsibilities under the Family Education Rights and Privacy Act of 1974 (FERPA).
ESSA § 9102 42 U.S.C. § 11432	Grants for State and Local Activities	Amends a provision of the McKinney-Vento Homeless Assistance Act related to grants for state and local activities to educate homeless children and youths. Requires a state desiring to receive a grant under the Act to submit a plan to the Secretary of Education. Among other things, the plan shall include the following (1) procedures to ensure eligible homeless children and youth are able to participate in government nutrition programs, (2) access to public preschool programs, (3) strategies to address enrollment delays caused by lack of immunization and other required health records or birth

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certificates, (4) how the state will ensure that local educational agency requirements are met, including (a) making placement and enrollment decisions in the best interest of the homeless child or youth, (b) immediately enrolling homeless children and youth, even if they are unable to produce records of immunization and other required health records, and (c) designating a liaison for homeless children and youths who ensures that homeless children, youths, and families receive referrals to health care services, dental services, mental health and substance abuse services, housing services, and other appropriate services. The enrolling school shall refer parents, guardians, and unaccompanied youths to the local educational agency liaison for assistance in obtaining necessary immunizations or screenings, and required immunization or health records.

ESSA § 9104
42 U.S.C. § 11434

Secretarial
Responsibilities

Amends a provision of the McKinney-Vento Homeless Assistance Act. Requires the Secretary of Education to update and disseminate nationwide a public notice of the educational rights of homeless children and youths.

ESSA § 9212
42 U.S.C. § 9831
Note

Preschool
Development
Grants

Amends a provision of the McKinney-Vento Homeless Assistance Act. Authorizes the Secretary of Health and Human Services, jointly with the Secretary of Education, to award grants to states to carry out activities related to preschool development, including conducting a statewide periodic needs assessment and developing, updating, and implementing a strategic plan to facilitate coordination and delivery of early childhood care and education services to low-income and disadvantaged children.

ESSA § 9213
42 U.S.C. § 9831
Note

Review of Federal
Early Childhood
Education
Programs

Amends a provision of the McKinney-Vento Homeless Assistance Act. Directs the Secretary of Health and Human Services to conduct an interdepartmental review of all federal early childhood education programs and report to Congress on recommendations to eliminate overlap and fragmentation among programs and achieve better utilization of resources.

SUPPORTERS



Robert Wood Johnson Foundation

The Network for Public Health Law is a national initiative of the Robert Wood Johnson Foundation with direction and technical assistance by the Public Health Law Center at Mitchell Hamline School of Law.

This document was developed by Jill Krueger, Director, Network for Public Health Law – Northern Region at the Public Health Law Center at Mitchell Hamline School of Law. The Network for Public Health Law provides information and technical assistance on issues related to public health. The legal information and assistance provided in this document does not constitute legal advice or legal representation. For legal advice, please consult specific legal counsel.

¹ Every Student Succeeds Act, Pub. L. No. 114-95, 129 Stat. 1802 (2015).

² National Conference of State Legislatures, *Summary of the Every Student Succeeds Act: Legislation Reauthorizing the Elementary and Secondary Education Act*, (January 2016), available at http://www.ncsl.org/documents/educ/ESSA_summary_NCSL.pdf.

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- ³ Alyson Klein, *ESSA's House Sponsors Want More Money for New Flexible Grant, Title I*, EDUCATION WEEK (April 28, 2016), available at http://blogs.edweek.org/edweek/campaign-k-12/2016/04/essas_house_sponsors_want_mone.html.
- ⁴ Healthy People 2020, *Social Determinants of Health*, available at <https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-of-health> (last visited March 2, 2017); See also, Whole School, Whole Community, Whole Child model (Centers for Disease Control and Prevention and ASCD), available at <https://www.cdc.gov/healthyyouth/wsccl/>; See also, Rebecca Sustersic Carroll, *Health Policy Brief: Connections Between Education and Health*. Health Policy Institute of Ohio (2017), available at http://www.healthpolicyohio.org/wp-content/uploads/2017/01/PolicyBrief_EducationandHealth.pdf.
- ⁵ The Aspen Education & Society Program and the Council of Chief State School Officers, *Advancing Equity through ESSA: Strategies for State Leaders*, (2016), Washington, D.C. available at <http://www.ccsso.org/Documents/2016/ESSA/AdvancingEquityThroughESSA101316.pdf>.
- ⁶ U.S. Department of Education, *Laws and Guidance/ Elementary and Secondary Education: Every Student Succeeds Act*, available at <https://ed.gov/policy/elsec/leg/essa/index.html>; See also, *Non-Regulatory Guidance: Student Support and Academic Enrichment Grants*, (October 2016), available at <https://www2.ed.gov/policy/elsec/leg/essa/essassaegrantguid10212016.pdf> .
- ⁷ Healthy Schools Campaign and Alliance for a Healthier Generation, *State ESSA Plans to Support Student Health and Wellness: A Framework for Action* (2016), available at <https://healthyschoolscampaign.org/wp-content/uploads/2016/11/ESSA-State-Framework-Second-Edition.pdf>.