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A collaborative project of Support and Training for Exceptional Parents (STEP, Inc.), the Tennessee Disability Coalition, the National Center for Learning Disabilities, Tennessee Education Equity Coalition, and Understood

ESSA Advocacy Toolkit – Implications for Students with Disabilities

**ESSA and IDEA**

The Every Student Succeeds Act (ESSA) and the Individuals with Disabilities Education Act (IDEA) are two of the nation’s most important federal laws relating to the education of children.

ESSA is concerned with improving the education of all children, with an emphasis on groups of students who are historically low performing or underserved. IDEA focuses on the individual child and seeks to ensure specialized services for children with disabilities so they may benefit from education.

Understanding the requirements of both ESSA and IDEA will help parents of students with disabilities and advocacy organizations to maximize opportunities under each law.

**What is ESSA?**

The Every Student Succeeds Act (ESSA**)** is the newest version of the Elementary and Secondary Education Act (ESEA). The ESEA is the federal law related to public education from pre-kindergarten through high school. ESEA aims to close educational achievement gaps for historically low performing groups of students. Achievement gaps are most prevalent among low-income and minority students, students with disabilities, and English learners.

The Every Student Succeeds Act (ESSA) was enacted in 2015, and it covers every public school in the country. The law went into effect beginning in the 2017–2018 school year. ESSA replaces the No Child Left Behind Act (NCLB). ESSA’s stated goal is to “provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.”

ESSA requires all states that accept Title I funds to:

* Have challenging academic standards for mathematics, reading or language arts, and science that are the same for every student;
* Administer high-quality student academic assessments in mathematics, reading or language arts, and science;
* Provide all appropriate accommodations to students with disabilities, including assistive technology;
* Break out performance 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;
* Develop a statewide accountability system and a system of meaningfully distinguishing between all public schools based on the accountability system and then identify schools that need support and improvement;
* Produce an annual statewide report card and make it available to the public; and
* Ensure that local districts also produce annual report cards.

Under ESSA, states will have more power to determine what education looks like in their schools, while still following a federal framework. ESSA requires all states to include the following accountability indicators to hold schools responsible:

• Academic achievement

• Academic progress

• High school graduation rates

• English language proficiency

States were also required to set additional indicator(s) of school quality or student success.

The purpose of this toolkit is to:  
1. Provide an overview of some of the Tennessee ESSA accountability indicators, with a focus on implications that may specifically impact students with disabilities.

2. Be used as tool to plan advocacy strategies for accountability of ESSA implementation as it relates to specific populations, including students with disabilities.

**What is IDEA?**

The **Individuals with Disabilities Education Act (IDEA)** is the federal law dealing with the education of children with disabilities. IDEA provides annual federal funds to help local districts meet the requirements of the law. All states that accept IDEA funds are required to provide a free appropriate public education (FAPE) to all of its students with disabilities. To achieve that goal, every state is required to:

* Establish a goal of providing full educational opportunity to all children with disabilities and a timetable for accomplishing that goal;
* Identify, locate, and evaluate all children with disabilities residing in the state who are in need of special education and related services;
* Evaluate every child suspected of having a disability in accordance with the requirements of IDEA;
* Annually develop an individualized education program (IEP) for each child with a disability;
* Provide education services in the least restrictive environment (LRE), removing children from the regular education environment only when the nature or severity of their disability makes it necessary to do so;
* Provide all procedural safeguards required by IDEA to children with disabilities and their parents;
* Include all children with disabilities in all general state and districtwide assessment programs, including those assessments required by ESSA and provide appropriate accommodations and alternate assessments as indicated in their IEPs.

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**ESSA and IDEA: What’s the Connection?**

IDEA’s requirements ensure that all school districts and states provide a free appropriate public education (FAPE) to children with disabilities. However, nothing in the law holds schools accountable for the progress and performance of children with disabilities as ESSA does. While IDEA allows parents to challenge whether special education services are adequate, it does not contain any of the measures of total school performance for IDEA-eligible students that ESSA requires.

Beginning with ESSA’s predecessor, No Child Left Behind (NCLB), the progress and performance of students with disabilities became a shared responsibility of general and special education teachers. Such enhanced accountability for students with disabilities has elevated them in the consciousness of school, school district, and state level administrators.

In recent years, the U.S. Department of Education’s Office of Special Education Programs (OSEP) has refocused the process used to determine how well states are implementing IDEA. By shifting from a totally compliance-driven process to one that considers both compliance and student outcomes, OSEP hopes to raise expectations for students with disabilities. Known as Results Driven Accountability (RDA), this process brings attention to student performance on state assessments, graduation rates, and other academic measures such as the National Assessment of Educational Progress. In order to improve these measures, it is critical that students with disabilities have access to the general education curriculum.

In 2015, the U.S. Department of Education distributed guidance to states that further clarified access to the general education curriculum, stating that:

*“To help make certain that children with disabilities are held to high expectations and have meaningful access to a State’s academic content standards, we write to clarify that an individualized education program (IEP) for an eligible child with a disability under the Individuals with Disabilities Education Act (IDEA) must be aligned with the State’s academic content standards for the grade in which the child is enrolled.”*

It’s important to remember that access to the general education curriculum means that students with disabilities are actively engaged in learning the content and skills that define the general education curriculum. It isn’t enough to simply be *placed* in the general education classroom—students must be *actively engaged in learning the content and skills that define the curriculum for their enrolled grade.*

**Tennessee ESSA State Plan Components – Focus on those that impact students with disabilities**

**Chronically Out Of School**

****The Chronically Out of School indicator is intended to measure the amount of class time a student has with his or her teacher of record. Tennessee will use chronic absenteeism as the metric in this indicator in the initial implementation of our accountability framework in 2017-18. Chronic Absenteeism is defined as missing 10 percent or more school days that a student is enrolled. Students who are absent or suspended out of school will also be included in the metric. Students that serve in school suspension are not included, whereas students suspended out of school are considered absent.

The Tennessee Department of Education is exploring all exclusionary discipline practices, including in-school suspensions, teacher absenteeism metrics, and access to effective teachers to determine whether they are appropriate for inclusion in an expanded Opportunity to Learn indicator in future years. However, in the first year, the indicator will be known as Chronically Out of School.

2017 Guidance from the Assistant Commissioner for TN DOE Special Populations:

The chronic absenteeism measure—new to the accountability framework this year—will constitute 10 percent of a school’s overall letter grade. Schools can earn an A on this indicator by having overall low chronic absenteeism rates or by reducing the percent of students who are chronically absent. This indicator is intended to measure school culture, student engagement in learning, non-exclusionary discipline practices, and other policies and practices that lead to positive student outcomes.   
   
The department has received several questions on how this indicator impacts students with disabilities who might not attend school each day. School attendance for students with disabilities should be in accordance with the student’s IEP. Students receiving special education services may attend part-time days, alternating days, or for a specific amount of time as indicated in their IEP. Students should be counted present for the days attended in accordance with their IEPs when the child is in attendance at least fifty percent (50%) of the time scheduled for the service(s) in the IEP.   
   
This measure is not in any way intended to single out individual students or certain populations of students. Local educators and IEP teams must still make decisions based on the individual needs of students, taking into consideration the student’s least restrictive environment.   
   
Districts maintain autonomy in setting local attendance policies. The State Board of Education’s School Attendance policy located [here](http://www.us8.list-manage.com/track/click?u=b28b453ee164f9a2e2b5057e1&id=4dde3e371c&e=e4bb09fb23) provides guidance on the attendance policies required by state law.

**Alternate Academic Diploma**

Students with the most significant cognitive disabilities who are assessed with the state’s alternate assessment and awarded a state-defined alternate diploma that is aligned to the state requirements for the regular high school diploma, will be included in the four-year adjusted cohort graduation rate in accordance with the requirements of ESSA § 8101(25). In Tennessee this will be the new alternate academic diploma. In accordance with 34 CFR § 200.34(c)(3), “alternate diploma” means a diploma for students with the most significant cognitive disabilities, as defined by the state, who are assessed with a state’s alternate assessments aligned to alternate academic achievement standards under § 1111(b)(2)(D) of the Act and is—

• standards-based;

• aligned with the state’s requirements for a regular high school diploma; and

• obtained within the time period for which the state ensures the availability of a free appropriate public education under § 612(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(1)).

**Ready Graduate - Increasing Access to Early Post-Secondary Opportunities (EPSO)**

The Ready Graduate indicator will drive a statewide focus on readiness for postsecondary, military, and the workforce. An emphasis is being placed on increasing access to Early Post- Secondary Opportunities (EPSO) for all students, including students from traditionally under-represented groups such as students with disabilities, economically disadvantaged, and English Language Learners. EPSO’s include Advanced Placement (AP), dual credit/dual enrollment, and access to career or technical education (CTE).

**Academic Content and Achievement Standards**

ESSA requires states to have two things that are the same for all students:

(1) **Challenging state content**—what students need to know, and (2) **Academic achievement standards**—how well students need to know the content standards. The only exception is that states may develop what are known as “alternate achievement standards” for students with the most significant cognitive disabilities. The IEPs of students with disabilities should be connected to the state’s academic content standards. This IEP linkage—in TN called Instructionally Appropriate IEP (IAIEP)—ensures that students are working toward the same state grade-level content and skills as their grade-level peers.

**TN Alternate Achievement Standards**

All students are assessed on their mastery of grade-level standards. As with all summative assessments, the alternate assessment is a snapshot of performance, regardless of which assessment a student takes. It is one data point for the student’s mastery of core curriculum. The student’s Individualized Education Program (IEP) goals, alternate assessment score, and a variety of other progress monitoring tools will be used throughout the year to help the team best plan for the most appropriate instructional program to ensure the student is provided with increased postsecondary opportunities.

**TN Alternate Assessment Targets**

Tennessee offers alternate assessments based on alternate achievement targets (AATs) in compliance with the U.S. Department of Education (USEd) federal regulations and guidance. A student must have an IEP, and the primary disability must be recognized under the IDEA. Tennessee has established specific AATs or specific statements of knowledge and skills that align to the most critical grade level standards in math, ELA, science, and social studies. All students can and should participate in daily core instruction. The annual assessment is the measure of how students perform based on grade-level content. How a student will access grade level content will differ based on individual student needs. Students who participate in the alternate assessment system receive core instruction which is modified to provide students the opportunity to access and participate in rigorous instruction—based on a student’s IEP.

**English Language Proficiency Standards**

Tennessee’s English learner (EL) population has more than doubled from 2006 to 2016.20 If the current growth pattern continues, Tennessee will exceed 60,000 EL students by 2020. Changes in this population will have a significant impact on the educational trends in the state. In preparing for the expanding EL population for access to academic content and success in college and career, Tennessee has increased the rigor in standards and assessments for English learners. The Tennessee standards and assessments for ELs meet the requirements under ESSA § 1111(b)(1)(F).

In addition to the core knowledge and skills represented in content standards, students need to develop social language and cross-cultural competencies to be successful in school and beyond. Students benefit tremendously from direct instruction in these aspects of language development. Educators should recognize and maximize the language, knowledge, and skills that students bring from their homes and communities, empowering them to explore their own unique pathways to college and career success.

Tennessee encourages ESL teachers to work with other core content teachers to use, at a minimum, one WIDA English language development standard and one content standard in each lesson plan. This approach presents a win-win situation for the English Language student by providing double exposure to the content ideas and academic vocabulary, as well as support for English language development.

**Students in Non-Public Schools**

The passage of ESSA requires numerous changes to procedures and administrative requirements for providing equitable services to non-public school students; specifically, the changes in oversight, consultation, and equitable share. ESSA includes significant changes in the calculation of equitable share. Title I § 1117(a)(4)(A)(ii) requires that the proportionate share of funds for equitable services be determined based on the total amount of Title I funds received by a district prior to any allowable expenditure or transfers by the district. For all programs, §§ 1117(a)(4)(B) and 8501(a)(4)(B) require that funds allocated to districts for educational services and other benefits to eligible non-public school children be obligated in the fiscal year for which the funds are received by the district. Additionally, §§ 1117(a)(4)(C) and 8501(a)(4)(C), require states to provide timely notice to appropriate non-public school officials in the state of the allocation of funds for equitable services that districts have determined are available for eligible non-public school children.

**Family & Community Engagement**

****ESSA contains many requirements to involve parents and families in all aspects of the law’s implementation. These requirements include meaningfully and continuously engaging families in developing state, district and school plans, developing parent engagement policies and making decisions regarding the uses of Title I schools 1% set aside funds. These ESSA requirements supplement the parent involvement requirements found in IDEA. Most important among these are:

* Parent participation in the development of student IEPs;
* Parent representation on state special education advisory panels;
* Required state reporting on the percent of parents with a child receiving special education services who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities.

For a full overview of the ESSA’s requirements, and opportunities, for parent, family and community engagement see this guide from the Leadership Conference Education Fund: <http://civilrightsdocs.info/pdf/education/ESSA-Parent-Family-Engagement.pdf>

**Creating Safe & Healthy Learning Environments**

Other areas of interest to parents and advocates that are directly tied to ESSA include specific work around behavior, mental health, adverse childhood experiences, and the reduction of exclusionary practice and promotion of restorative practices.

**Reduction of Exclusionary Practices & Promotion of Restorative Practices**

Closely related to chronic absenteeism, the reduction of exclusionary discipline practices can impact school culture and reduce absenteeism. The office of safe and supportive schools will expand and enhance training and support to districts and schools, including Title I schools, to reduce the use of exclusionary practices and implement effective alternatives to suspension and expulsion. Several strategies have been identified to address this critical priority. Restorative practices promote inclusiveness, relationship building, and problem-solving, through restorative methods including circles for teaching and conflict resolution. Other effective methods include conferences that bring victims, offenders, and their supporters together to address wrongdoing. Instead of punishment, students are encouraged to reflect on and take responsibility for their actions and come up with plans to repair harm

**Education of Migratory Children**

The goal of the Migrant Education Program (MEP) is to ensure that migratory children benefit fully from the same free public education provided to other children and to help them overcome issues such as educational disruption, cultural and language barriers, social isolation, various health related problems, and other factors that inhibit their ability to be successful in school. To this end, the MEP in Tennessee seeks to accurately identify all migrant students, including preschool, in school and out-of-school youth, in the state through a thorough understanding of the agricultural activities of Tennessee, strategic networking with community stakeholders, and an unwavering commitment to the well-being of the youth this program serves.

**Students in Foster Care**

The TDOE has developed joint guidance through ongoing communication and collaboration with the Department of Children’s Services (DCS) to ensure the Title I Educational Stability Provisions for children and youth in foster care are implemented with fidelity. Additionally, the department and each district have appointed a foster care point of contact to create policies and to provide oversight at the local level. The department is providing assistance and encouraging districts to review and revise polices that create barriers to the enrollment and attendance of children and youth in foster care.

**Best Interest:** When determining whether it is in a child’s best interest to remain in his or her school of origin, the educational stability team meets to review best interest factors. These factors include, but are not limited to, the appropriateness of the current educational setting and proximity of placement. Transportation costs are not considered when determining a child’s best interest. DCS has the flexibility to determine additional factors to consider when making best interest determinations. Additionally, districts are encouraged to develop and align protocols to guide the discussion of the advantages and disadvantages of staying in the school of origin or moving to a new school.

**Immediate Enrollment:** When a determination is made that remaining in the school of origin is not in the child’s best interest, districts ensure that a child or youth in foster care is immediately enrolled in their new school even if the student does not have the required documentation. The enrolling school then contacts the student’s prior school to obtain relevant records.

**Language Instruction for English Learners & Immigrant Students**

Title III in Tennessee serves students from many languages and many countries. Tennessee has more than 150 languages and more than 100 countries represented in our English learner population year after year. The department has developed policies that set minimum standards for Tennessee school districts and works to help English Learners achieve success in and full access to all curriculum provided.

Teachers are to be trained in an on-going manner to provide accommodations and modifications to ensure success for English learners. The goal is that all ELs will be able to participate fully in both educational and community-based settings. While Title III funds are generated to districts with identified English learners, some districts elect not to participate in Title III; however, they are held to the same academic standards for ELs—regardless of whether they accept federal Title III dollars. The department will be working over the 2017-18 school year to develop broader programming resources and guidance to districts and schools to better support EL students.

**Student Support & Academic Enrichment Grant – Supporting a Well-rounded Education**

Tennessee believes that all students should receive a high-quality education that also provides well-rounded experiences and prepares all students for life after high school. By supporting the whole child and a supportive learning environment, we will promote equity and excellence for all of our students. It is imperative that students have access to coursework and activities that interest them. TN DOE heard from hundreds of parents and educators how critical arts and music, health and wellness, mental health services, counseling, sports, and clubs are in a student’s development, as well as supporting students’ academic interests and lifelong learning. The TDOE will use the flexibility under Title IV, Part A, the new Student Support and Academic Enrichment (SSAE) program, to allow districts and schools the flexibility they need to invest these new federal resources wisely in meeting the needs of all students to attain a holistic, well-rounded education. Each district will have flexibility to utilize its grant funds to support these well-rounded opportunities based on its specific needs. These additional formula dollars provide opportunities for states and districts to address issues that impact student achievement and can support students around choices after graduation. Here are some examples that fit within ESSA:

|  |  |  |
| --- | --- | --- |
| Well-Rounded Educational Opportunities  (ESSA § 4107) | Safe & Healthy Students  (ESSA § 4108) | Effective Use of Technology  (ESSA § 4109) |
| Improving access to foreign language instruction, arts, and music education | **Providing school-based mental health services and counseling (social workers, psychologists, counselors)** | **Providing students in rural, remote, and underserved areas with the resources to benefit from high quality, digital learning opportunities** |
| Promoting access to accelerated learning opportunities: Advanced Placement (AP) and International Baccalaureate (IB) programs, dual enrollment programs and early college high schools | **Establishing or improving dropout prevention** | **Delivering specialized or rigorous academic courses and curricula using technology, including digital learning technologies and assistive technology** |
| Supporting college and career counseling, including providing information on opportunities for financial aid through the early FAFSA | **Supporting re-entry programs and transition services for justice involved youth** | **Supporting high-quality professional development for educators, school leaders, and administrators to personalize learning and improve academic achievement** |

**Frequently Asked Questions**

**Q.** Why must students with disabilities take the state assessment for their enrolled grade? If the student isn’t functioning at grade level, isn’t this unfair?

**A.** ESSA requires students with disabilities to take the general assessment for the grade they are enrolled in. Giving a student a test designed for a lower grade—called “out-of-level” testing—will not provide the information needed to understand where the student is functioning compared to his grade level peers. The student’s IEP should then be designed to accelerate learning in the areas of deficit.

**Q.** Why shouldn’t IEP teams be able to exempt a student from taking the assessments required by ESSA?

**A.** The assessment participation requirement of ESSA is a key part of the statewide accountability system. Only by requiring schools to include *all* students in the assessments will the performance and progress of all students be of equal importance to schools. Furthermore, IDEA contains a requirement that students with disabilities participate in all state and district level assessments. So, while it is important for the IEP team to make decisions regarding test accommodations a student needs in order to participate in the assessment, the team does not have the authority to exempt a student from taking the assessment.

**Q.** My child’s school told me that my child will not be promoted unless he can pass the test required by ESSA.

**A.** ESSA is strictly about school accountability. The law does not set requirements for grade promotion or graduation. Such requirements and policies are set at the state and local district level. While some states may use the same tests to satisfy ESSA’s testing requirements and make decisions about students as required by state or local policies, parents should not confuse the requirements of ESSA with those of their individual state or local school district.

**Q.** Why are some accommodations not allowed on state assessments?Shouldn’t my child be given any accommodation that will help him?

**A.** Some accommodations invalidate the test by compromising the skill that is being tested. Only by truly measuring the skill can the results of the test be meaningful and valid. These scores can then be used to rate school performance and make improvements to the instruction of individual students.

**WORKSHEET: Advocacy Strategies for Parents and Advocates**

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| --- | --- |
| Indicator/Area | Advocacy Strategy |
| Report Cards | Information on state and school report cards can be used to target school improvement. |
| Family Engagement | Ask schools to provide information on how they are using the 1% of set aside funds to engage families. Ensure these efforts are effective for families of children with disabilities who may require advance notice, child care, transportation, interpreters, or other supports in order to participate. |
| Chronically Out Of School |  |
| Ready Graduate |  |
| Reduction of Exclusionary Practices & Promotion of Restorative Practices |  |
| English Language Proficiency Standards/  Language Instruction for English Learners & Immigrant Students |  |
| Students in Foster Care |  |
| Education of Migratory Children |  |
| Alternate Academic Diploma |  |
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ESSA Action Plan

**Goals**

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**Actions**

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