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ESSA Impact on Students with Disabilities in Louisiana

The Elementary and Secondary Education Act (ESEA) of 1965 received the seventh, and long overdue, reauthorization with the passage of the Every Student Succeeds Act (ESSA) last week. ESSA marks more changes than just a new name for ESEA, more commonly referred to by the previous reauthorization, No Child Left Behind Act (NCLB) of 2001, but what do these changes mean for students with disabilities?

Since laws that apply to all students also apply to students with disabilities, parents of students with disabilities need to understand EVERYTHING about how the new law impacts students AND how certain provisions may impact students with disabilities. This article will merely touch on a few of the interesting and significant changes to how the law may impact students with disabilities in Louisiana. The operative word here is 'may' since how the changes to law really impact students will depend on various interpretations such as rules, guidance, implementation and enforcement are carried out at the federal, state and local levels. And of course, differences in interpretation will ultimately be decided by the courts. So perspectives shared here are certainly not final or binding. With that perspective, a few interesting and significant changes ESSA makes regarding students with disabilities in Louisiana include:

Louisiana Alternate Assessment - Level 1 (LAA-1)

ESSA changes the requirement related to how many students can be tested on alternate academic achievement standards, which in Louisiana is the LAA-1. Previously, federal law (i.e., ESEA/NCLB) only allowed one percent of students at each grade level to be COUNTED as proficient on the LAA-1. The new federal law (ESEA/ESSA) limits the students who can TAKE the LAA-1 to one percent of students at each grade level.

A few problems are anticipated with this shift in limiting who can take the LAA-1 to a certain percentage of students, particularly in Louisiana. First, another federal law, the Individuals with Disabilities Education Act (IDEA), authorizes a student's Individual Education Program team to decide whether a student is eligible to participate in an alternate test (i.e., LAA-1). So it is not clear how a decision made at the student level in one federal law can be deemed inappropriate relative to meeting a quota or limit (cap) on participation. Interestingly, this shift seems at odds with the general movement of ESSA seeking to give more authority and decision making power to people closest to the child.





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Second, each state determines criteria IEP teams must use in determining which students are eligible to take alternate assessments. In the middle of last school year, 2014-2015, Louisiana expanded LAA-1 eligibility criteria, allowing more students - likely more than one percent of students at each grade level - to qualify for the LAA-1. Louisiana will likely shift eligibility criteria back to more restrictive requirements for LAA-1 to align with this ESSA participation cap. It is not clear what will happen to all the students just deemed eligible for LAA-1 by their IEP teams. To meet the one percent rule will the state require these IEP teams to reverse the decision they just made? Will enforcing the cap on how many students can take the alternate assessment, LAA-1, violate decisions made by the IEP team?

Diplomas and Accountability

ESSA continues to grant states the right to define requirements for earning a diploma, but separates out a state-defined alternate diploma from a regular diploma, somewhat. While there are some concerns regarding the wording related to requirements for both alternate and regular diplomas in ESSA, or for an alternate diploma at all, it is an historic shift for Congress to formally recognize that students with the most significant disabilities can exit with a diploma, albeit an alternative one. The significance of this development for an exit option reveals an awakening of a vision for all students, a vision which was lost and may get clouded when applying norm-referenced standards to define success or failure. Now states and schools will be able to get credit for every student earning a diploma. Prior to language provided by ESSA there were questions about whether students with the most significant disabilities could be counted in the diploma rates and indices. Considering in Louisiana half of high school performance scores are comprised of diploma rates and indices, and ESSA will require diplomas to be part of school accountability, it matters that some students were not able to earn a diploma by virtue of having a disability and schools lost points for serving them. While Act 833 of 2014 generated dialogue and changes to the accountability in Louisiana, it is a positive step for Congress to recognize and place value on outcomes for students with the most significant disabilities.

ESSA definitions of both the alternate and regular diploma contain some language that is likely to generate further dialogue and discussions regarding diploma requirements both in Louisiana and across the nation – dialogue that is long overdue. It seems clarity is needed in defining 'alignment' as this is expected to be the root of discussions and decisions related to diploma requirements. Alternate diplomas are to be standards-based and aligned with the state requirements for a regular high school diploma. A 'regular high school diploma' is 'the standard high school diploma awarded to the preponderance of students in the State that is fully aligned with State standards, or a higher diploma, except that a regular high school diploma shall not be aligned to the alternate academic achievement standards…' How rules and guidance on interpreting whether a diploma is 'fully aligned' with State standards has huge implications for not only Louisiana, but for most of the nation.

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Currently there is incredible variability across the states in requirements for earning a high school diploma, particularly considering pathways available for students with disabilities.¹ Dialogue and advocacy for a vision for every student, including students with disabilities, to be equally valued will be necessary as success is further defined in our education accountability structures, support systems, and outcomes through the rule making and policy guidance of ESSA.

Bullying and Restraints and Seclusion

ESSA will require states to support local school systems to reduce the use of aversive behavioral interventions, including the use of restraints and seclusion. Although Louisiana passed a law (Act 328 of 2011) to govern the use of restraints and seclusion in schools, it has become evident recently that increased attention and oversight of these practices is needed by the Louisiana Department of Education.

A few useful links:

U.S. Department of Education Laws and Guidance

- <u>U.S. Department of Education Takes First Steps in Transition to New Law</u> (Press Release 12/18/15)
- Every Student Succeeds Act U.S. DOE press release with other useful links

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¹ Thurlow, M.L., Albus, D.A., & Lazarus, S.S. (2015). Graduation policies for students with disabilities who participate in states' general assessments (Synthesis Report 98). Minneapolis, MN: University of Minnesota, National Center on Educational Outcomes. http://www.cehd.umn.edu/NCEO/OnlinePubs/Synthesis98/SynthesisReport98.pdf