


MEMORANDUM

December 18, 2015

TO: The Honorable Chair and Members of The School Board of Miami-Dade County, Florida

FROM: Alberto M. Carvalho, Superintendent of Schools 

SUBJECT: FEDERAL LEGISLATIVE UPDATE – EVERY STUDENT SUCCEEDS ACT

A reauthorized version of the Elementary and Secondary Education Act (ESEA), renamed the Every Student Succeeds Act (ESSA), was signed into law by President Obama on December 10, 2015. The bill follows eight years of failed attempts to update the 2002 No Child Left Behind Act. A fast-track process was completed less than two weeks after the unified compromise bill was unveiled on November 30th, and refined by a House and Senate conference committee that included Representatives Carlos Curbelo and Frederica S. Wilson from South Florida. The bill passed with large bipartisan majorities, by 359 to 64 in the House and by 85-12 in the Senate.

Education groups expressed widespread consensus that the ESSA is an improvement over the expired No Child Left Behind Act, shifting more authority to states and limiting federal mandates while maintaining a shared framework for K12 accountability. The Council of the Great City Schools noted that the compromise bill is “the most practical opportunity” to replace the current system of state waivers, despite some measures that may be difficult for districts to implement.

Among the District priority issues, the following were resolved favorably in the final bill:

- Maintenance of effort by states. The District opposed a controversial House measure that would have allowed states to cut annual spending for education by over 10 percent. The ESSA retains dollar-for-dollar penalties if states budget less than 90 percent of prior-year funding, absent disaster or a “precipitous decline” in tax funding.
- Annual funding increases. Instead of reduced or non-specified spending levels, the bill authorizes modest inflationary growth for local educational agencies: annual increases of 3 percent, 3.5 percent, and 1.8 percent each year, from \$15 billion in 2017 to \$16.2 billion in 2020, with the ability to go higher if sequester limits on total discretionary spending are modified.
- Funding for migratory children. Annual funds up to \$375 million are authorized for the education of migratory youth—a provision that could benefit high-immigration communities such as Miami—as well as \$47 million for at-risk youth.
- Testing exception for newly arrived immigrants. The District successfully advocated for flexibility for newly arrived English learners, allowing Florida to

exclude first-year test scores and use growth in English language proficiency as the measure for year two. Such a measure was sponsored by Rep. Curbelo and adopted in the House bill.

- No statewide Title I voucher portability. The District opposed a divisive House measure allowing states to create a statewide voucher system, by which Title I funds would follow eligible students to any public or charter school, rather than targeting the funding to schools with the highest concentrations of students in poverty.
- Fixed limit on class size reduction averted. A House provision would have capped Title II funding for class size reduction at just 10 percent, but the cap was changed to “a level that is evidence-based,” as determined by the state in consultation with the local district.
- Title II poverty allocation increased. A change in the Title II allocation formula will increase the share of funding to districts with higher poverty. After a “hold-harmless” baseline allocation is met (65 percent based on low-income students), additional funding will be phased in with higher weight for low-income students (rising to 80 percent by FY 2020).
- Annual testing with limited federal control. ESSA retains annual reading and math tests in grades 3-8 and once in high school (except in 8th grade math with end-of-course assessment); science is tested once in each grade span. State interventions must target schools in the bottom 5 percent or under a 67 percent graduation rate. Only states may determine standards and criteria for failure or intervention, and pilot districts can test alternatives to the standardized state assessment.
- 95 percent participation in testing. Although states may provide opt-out rights from testing, school grades must be calculated based on a minimum of 95 percent participation (including subgroups). The consequence of low school grades due to parents opting out remains a state matter.

Issues that were opposed by the District or could raise concerns include the following:

- High-need school definition diluted. A change in the Title I definition of “high-need” schools dilutes funding for districts with concentrated poverty, such as Miami-Dade. Instead of targeting schools with over 75 percent low-income students, the new policy lowers the bar to 50 percent of enrolled students in K-8 and 40 percent in high schools.
- State set-asides increase. The bill increases state capacity to reserve Title I funding for school interventions and turnarounds, from 4 to 7 percent of total funds. Although 95 percent of the set-aside goes to districts, the state can set the formula or issue competitive grants, and up to 3 percent can fund “direct student services” by districts, agencies, or businesses.
- Pilots for Title I changes. Fifty pilot districts will gain federal approval to combine Title I with state and local funding into a unified system for public and charter

schools. Local plans must give “substantially more” per pupil weight for disadvantaged students, including low-income and English learners, and address the comparability of schools serving Title I students (e.g., actual personnel salaries rather than average salaries).

- Technical issues. Technical changes throughout the law may create issues for the District, including new provisions related to public school choice and charter funding, and the term and method for determining Title I expenditures to private schools. A new cap from the House bill limits alternative testing of Students with Disabilities to 1 percent statewide, though new language was added prohibiting absolute caps at the local district level. The inclusion of disciplinary practices in state plans, including removal of students from classrooms, raises the possibility that federal regulations could preempt state policies.

Detailed impacts of the ESSA are still being analyzed by educational organizations. Numerous programs were combined in block grants, though some specific programs utilized by the District such as 21st Century Community Learning Centers and Magnet Schools Assistance were preserved.

If you have any questions or need additional information, please contact Ms. Iraida R. Mendez-Cartaya, Associate Superintendent, Office of Intergovernmental Affairs, Grants Administration, and Community Engagement, at 305 995-1497.

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cc: School Board Attorney
Superintendent’s Cabinet