Fifty Ways in Which the Every Child Ready for College or Career Act Discussion Draft Limits Federal Oversight of State Implementation

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updated 1.19.15

Title I

1. Peer review of state Title I plans (pages 6-12): The peer review process and language is much more specific (including the makeup of review committees and the conditions for not approving a plan); the timeline for Department approval is cut from 120 days to 45; the state process for revising a plan that is not approved is expanded (e.g. a public hearing).
2. Language from NCLB is omitted that requires states to revise plans if needed to satisfy the law's requirements (specifically, ~~"A State plan shall be revised by the State educational agency if it is necessary to satisfy the requirements of this section"~~). If a state changes its standards, tests, or accountability systems it now just "notifies" the Secretary rather than submitting that information to the Secretary. (page 12)
3. A state plan cannot be rejected based on certain conditions set by the Secretary. These conditions are expanded (pages 10-11) to include any standards or measures that relate to academic standards, assessments, state accountability systems, systems that measure student growth, measures of other academic indicators, teacher, principal, or other school leader evaluation systems, or indicators of teacher, principal, or other school leader effectiveness.
4. Assurance for state academic standards (page 13): States are only required to submit an "assurance" instead of demonstrating that they've adopted challenging standards and an "assurance" that those standards are aligned with those for entrance into credit-bearing coursework at state colleges and universities.
5. Standards review (page 16): There is new language that the Secretary shall not have authority to mandate, direct, control, coerce, or exercise any discretion of supervision over state standards.
6. Assurance for statewide assessments (page 13 or page 25): States submit an "assurance" rather than demonstrating that their statewide assessment systems meet all federal requirements.
7. In Testing Option 1 (page 24), states can determine "any other system of assessments of all students" that meets the requirements of the law and get approval of these

"other" systems in their Title I plans via an assurance, rather than more significant federal review.

8. English Language Proficiency tests (page 32): instead of demonstrating that state English Language proficiency assessments meet requirements, states submit an assurance that they do.
9. Locally-designed assessment systems (page 32-33): districts may develop their own testing systems instead of the statewide systems described in option 1 or 2. Local systems can be approved by their state education agency as meeting all federal requirements for use, quality, validity, and reliability. These local systems would, in turn, be included in the state Title I plan via an assurance, with no significant federal review.
10. Prohibition on regulation of state standards, assessments, and accountability (page 36): the Secretary cannot establish any criteria that specifies, defines, or prescribes any standards or measures that are used by state or local agencies to create state standards, assessments, accountability systems, student growth, other academic indicators, teacher/principal evaluation systems, or indicators of teacher/principal effectiveness in regulation.
11. Other assurances (pages 37-39): eleven other provisions are enforced via assurances in state Title I plans rather than description or demonstration of evidence from states.
12. Limits related to voluntary partnerships and state consortia (page 51): the Secretary is prohibited from requiring or coercing a state to enter into voluntary partnerships including as a condition of state Title I plan approval, state waiver plan approval, or federal grants, contracts or cooperative agreements. Additionally, membership may not be a preference, priority, or special consideration in any grant, contract, or cooperative agreement.
13. Title I schools needs assessments (page 84): the Secretary and all other federal officials are prohibited from requiring a district or school to submit the results of their comprehensive needs assessment for review or approval. These needs assessments are part of the process for determining whether Title I schools operate schoolwide or targeted assistance programs (there is no longer a poverty threshold for serving as a schoolwide site).
14. School assistance strategies (page 89): the bill does not authorize or permit the Secretary to establish any criterion that specifies, defines, or prescribes school

improvement strategies for state or local agencies for Title I schools that are identified as needing improvement in their state accountability systems, or by their local district.

15. Compliance with supplement, not supplant (page 95): districts must demonstrate that the methodology used to allocate state and local funds to Title I schools ensures those schools receive all state/local funds they'd otherwise receive. But the bill does not authorize or permit the Secretary to establish any criterion that specifies, defines, or prescribes the methods or manner districts use to comply with supplement, not supplant. Further, districts are not required to identify that any individual cost or service supported by Title I funds is, in fact, supplemental.
16. Alternative process for failure to reach consensus in negotiated rulemaking (pages 117-121): The alternative process includes:
    a. a notice to Congress with a justification and anticipated benefits of the regulation, the anticipated burden (time, cost, paperwork) on states, districts, schools, or other entities, and opportunity for a 30-day comment period--*all* Congressional comments must be addressed before the Secretary may proceed with rulemaking;
    b. a period of public comment and review that must be at least 90 days, announced in the Federal Register, and include regional meetings; and
    c. an independent assessment of the proposed regulation published in the Federal Register by the Secretary that includes representative sampling of districts based on enrollment, geographic diversity, and other factors, addresses the burden (time, cost, paperwork) that the regulation would impose, addresses the benefits of the regulation, and addressed whether the rule is financially and operationally viable at the local level based on comments received. The assessment must also include an explanation of how states, districts, schools, and other affected entities could cover the cost/burden of the new regulation.

Title II

17. Secretary approval of state Title II plans (page 133-134): language in NCLB regarding the process for approval, disapproval, responding, and failing to respond to state's Title II fund applications has been removed, as is language for "containing such

information" as the Secretary requires. States are still required to submit plans to the Secretary "at such time and in such manner as the Secretary may reasonably require."

18. Prohibition related to state Title II plans (page 134): The Secretary or any federal employee may not mandate, direct, control, or exercise any discretion or supervision over states' educator evaluation systems, including their development, improvement, and implementation and states' definitions of effectiveness. This prohibition also applies to teacher, principal, or other school leaders' professional standards, certification, and licensure.
19. Prohibition related to district Title II applications (page 148): The Secretary or any federal employee may not mandate, direct, control, or exercise any discretion or supervision over the "principles of effectiveness" that districts create to decide which programs and activities they may use Title II funds to support. Principles of effectiveness (page 146) are to be based on "locally determined-criteria" and "an assessment of objective data" that show the activities would increase the number of effective educators, ensure low-income and minority children are served by effective educators, and ensure that low-income and minority children have access to high-quality instruction. The principles should also reflect scientifically valid research or best practices and ongoing consultation with stakeholders.
20. Supplement, not supplant (page 154 for state grants, page 162 for TIF): The same changes to the supplement, not supplant language in Title I would be applied to Title II (see #15).
21. Limits on federal oversight of educator quality efforts (page 164-165): The Secretary or any federal employee may not mandate, director, control, or exercise any direction or supervision over state, district, or school instructional content, materials, curriculum, standards, or assessments; educator evaluation systems; or definitions of educator effectiveness.

Title III

22. Secretary approval of state Title III plans (page 172): language in NCLB that state or qualified agency plans must be submitted "containing such information" as the Secretary requires is removed. They are still required to submit plans to the Secretary "at such time and in such manner as the Secretary may reasonably require."

23. Supplement, not supplant (page 180): The same changes to the supplement, not supplant language in Title I would be applied to Title III (see #15).
24. Accountability/AMAOs eliminated: The purpose of this Title no longer reflects that states, districts, and schools should be held accountable for English learners reaching language proficiency, nor proficiency in core academic subjects (pages 166-167); a description of the state's accountability system for districts and schools regarding the academic progress of English language learners is no longer a requirement in state Title III plans (page 174) and is replaced with a description of how the state will support districts in increasing the number of English learners that achieve proficiency (page 175); local Title III plans no longer include a description of how they will hold schools accountable for meeting academic achievement goals for English learners and instead becomes a description of how they will hold schools accountable for annually assessing English learners (page 181); evaluations of the Title III program become "reports" in the draft (with some new information, including the number of students exiting ELL status and the number that do not exit after 5 years), but specific components/measures are eliminated, and the evaluations/reports will no longer be used to determine whether to continue funding programs (page 186); and section 3122 for "Achievement Objectives and Accountability" is struck (page 186). Additionally, explicit requirements for parental notification (see NCLB, Section 3302) for families of English learners is struck (page 190).

Title IV

25. Secretary approval of state plans (page 203-205): language in NCLB regarding the specific contents of and the process for approval, disapproval, responding, and failing to respond to state's Title IV fund applications has been removed
26. Prohibition related to local Title IV applications (page 214): The Secretary or any federal employee may not mandate, direct, control, or exercise any discretion or supervision over the "principles of effectiveness" that districts create to decide which programs and activities they may use Title IV funds to support. Principles of effectiveness (page 212) are to be based on "locally determined-criteria" and "an assessment of objective data" that show the activities would improve school safety, promote students' health and well-being; and strengthen parent and community

engagement. The principles should also reflect scientifically valid research or best practices and ongoing consultation with stakeholders.

27. Supplement, not supplant (page 214): The same changes to the supplement, not supplant language in Title I would be applied to Title IV (see #15).
28. Prohibition on regulation/rules of construction related to background checks (pages 215-216): The Secretary or other federal employees may not "mandate, direct, or control" background check policies or procedures that states or districts develop, nor "establish any criterion that specifies, defines, or prescribes" those policies or procedures, nor require states or districts to submit those policies or procedures for approval. The Secretary is also prohibited, via regulation, from defining "background checks" or prescribing specific requirements regarding them.

Title V

29. Secretary approval of state entity Title V applications (page 225): language in NCLB that state or other eligible applicant plans must be submitted "containing such information" as the Secretary requires is removed. They are still required to submit plans to the Secretary "at such time and in such manner as the Secretary may require." (note: not "reasonably require" as in Title II or Title IV)
30. Supplement, not supplant (page 253): The same changes to the supplement, not supplant language in Title I would be applied to Title V (see #15).
31. Secretary approval of grants under national activities (page 256): language in NCLB requiring that grant applications must be submitted "containing such information" as the Secretary requires is removed.

Note: Places where Secretary's discretion/authority is maintained:

a. *Secretary can award funds to SEAs, state charter school boards, governors, or "charter school support organizations" (page 221). Previously, other entities were only able to receive funding if the SEA did not apply.*
b. *Rule of construction re: weighted lotteries (page 222-223)*
c. *Secretary may extend grants for up to two years (page 223)*
d. *Peer review (page 224): The Secretary must conduct a peer review of state applications, but there are no provisions describing that process (compare to peer review of Title I plans above in #1)*

e. *Applications (facilities financing page 254, magnet schools page 269): Applications are submitted to the Secretary "at such time, in such manners, and containing such information as the Secretary may require." In most other instances, "containing such information" is deleted in the bill.*

Title VI

32. Eliminates state and local funding flexibility demonstration (page 277): All Title II and Title IV funds can be transferred between programs at the state level in the draft (pages 278), as long as the Secretary is notified and state plans are modified and re-submitted. Local agencies, regardless of performance, are also eligible for this flexibility (pages 278-279). Meanwhile, competitive grants in NCLB to allow for state/local experimentation with funding flexibility, with Secretary approval and oversight, is eliminated.
33. Secretary approval of rural education grant applications (page 290): language in NCLB requiring that grant applications must be submitted "accompanied by such information" as the Secretary requires is removed.
34. Supplement, not supplant (page 294): The same changes to the supplement, not supplant language in Title I would be applied to Title VI (see #15).
35. Prohibition against federal mandates, direction, or control (page 295): No federal employee may "mandate, direct, or control" a state's, district's, or school's instructional content, standards, assessments, curriculum, or program of instruction as a condition for funding (this provision is carried over from NCLB).

Title IX

36. Secretary's waiver authority (page 356): Instead of NCLB"s language "the Secretary may waive," the draft stipulates that states "may submit a request to the Secretary to waive" requirements of the Act.
37. Information that must be submitted by states with their waiver request (page 358): states requesting waivers no longer must describe how waiving particular requirements will increase the quality of instruction or improve student's academic achievement. Similarly, states do not have to describe the measurable goals that would be affected by the waiver, nor how the waiver will help them achieve those goals. Instead, states describe how they will monitor and evaluate the waiver's implementation (pages 358-359).

38. Information that cannot be requested of states seeking waivers (page 359): states' waiver requests can only include "information directly related to the waiver request" in how the state will continue reporting student achievement and school performance data to parents and the public.
39. Waiver determination and renewal language (pages 360-362): The Secretary only has 60 days to approve a waiver request; there is a new process for notifying states if their waiver is not approved (including "detailed reasons" for that determination), allowing states to resubmit their request within 60 days, and holding a public hearing within 30 days if the resubmission is still not approved or does not meet requirements--waiver disapproval can only occur after this process is complete, or if the state does not revise and resubmit a request.
40. External conditions on waivers (pages 362-363): The "Secretary shall not disapprove a waiver request under this section based on conditions outside the scope of the waiver request." Since requests originate from states (see #36), this limits the Secretary's ability to shape the kind of flexibility states seek.
41. Waiver limitations (page 363): The Secretary cannot place any requirements on a state, district, or Tribe as a "condition, criterion, or priority" for waiver approval. In addition to the language prohibiting external conditions (#40), this extends that restriction further by limiting the Secretary's ability to set policy preferences in the waiver process.
42. Waiver reporting (page 363-364): Language requiring states to submit reports on their waiver activities that "contains such information" as the Secretary requires is eliminated. Instead, states design and submit waiver reports based on information they already are required to report and collect.
43. Waiver termination (page 364): Waivers may not be terminated if "the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation" of the waiver. In other words, the Secretary cannot revoke a state's waiver based on poor school performance or student outcomes.
44. Approval of state plans and applications (page 364-365): State Title II, Title IV, or consolidated state plans are deemed approved by the Secretary within 90 days of submission, unless the Secretary provides a written determination of non-compliance *and* presents "a body of substantial, high-quality education research that clearly demonstrates that the State's plan does not meet the requirements." In other words,

the burden of proof shifts from states to the Secretary. These changes are also applied to local applications to state education agencies (pages 367-369).

45. Disapproval process of state plans and applications and response (pages 365-366): Before disapproving a state's Title II, Title IV, or consolidated plan, the state must have notice and the opportunity for a hearing, including citations of the specific provisions that are not in compliance or the "substantial, high-quality education research that clearly demonstrates" the state is not in compliance, and a request for the additional information that will be needed to make the plan compliant. If a state responds within 45 days, then the Secretary has 45 days to make a determination (or until the expiration of the 90-day period in #44). These changes are also applied to local applications to state education agencies (pages 367-369).
46. Maintenance of effort is repealed (page 370).
47. Prohibitions of federal government and use of federal funds (page 371): In addition to existing language that the federal government cannot "mandate, direct, or control" a state's, district's, or school's curriculum, program of instruction, or allocation of resources, the federal government can, they cannot "coerce" changes in these policies either.
48. Prohibitions of federal government and use of federal funds (page 371): The prohibition in #47 is also extended to cover "academic standards or assessments" and to apply to "early childhood education programs" and "institutions of higher education," in addition to elementary and secondary schools.
49. Prohibition on federally sponsored testing (page 371): In addition to existing language that the federal government cannot use ESEA funds to "develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject" unless explicitly authorized, ESEA funds can also not "incentivize" such an assessment.
50. Limitations on national testing or certification for teachers (page 372): These provisions are extended to principals, in addition to teachers, and funds cannot be used to "incentivize" these activities, in addition to existing language related to "planning, development, implementation, or administration."