



Every Student Succeeds Act

Teacher Evaluation

The Every Student Succeeds Act has ended the federal government’s involvement in prescribing and influencing teacher evaluation systems across the nation. ESSA does not require states to set up teacher evaluation systems based in “significant” part on students’ test scores, which was a key component of the U.S. Department of Education state-waiver system. The law permits states to re-design and submit descriptions of their new accountability systems to the U.S. Department of Education.

KEY PROVISIONS

- Prohibits the Secretary of Education from prescribing any aspect of states’ educational system, including teacher evaluation systems or defining teacher effectiveness.
- Requires states to develop their own goals (long-term, short term, interim goals) and to look at a broad range of factors to gauge school performance—not just test scores.
- States may design and implement evaluation and support systems that are based in part on evidence of student academic achievement, which may include student growth, and shall include multiple measures of educator performance or other school leaders, such as by—
 - (I) developing and disseminating high-quality evaluation tools, such as classroom observation rubrics, and methods, including training and auditing, for ensuring inter-rater reliability of evaluation results; “(II) developing and providing training to principals, other school leaders, coaches, mentors, and evaluators on how to accurately differentiate performance, provide useful and timely feedback, and use evaluation results to inform decision-making about professional development, improvement strategies, and personnel decisions; and “(III) developing a system for auditing the quality of evaluation and support systems.

BARGAINING/ADVOCACY IMPLICATIONS:

- In Title II, the ESSA savings clause provisions are “rights-preserving” provisions, not “rights-creating provisions.” If you did not have the right to bargain evaluation (either as a mandatory or permissive subject of bargaining) before the enactment of ESSA, the savings clauses in ESSA do not give you that right. Likewise, if you didn’t have a state law covering a topic before the enactment of ESSA, the savings clauses in ESSA do not give you that protection. Rather, the



OPPORTUNITY+ACTION= GREAT PUBLIC SCHOOLS FOR EVERY STUDENT

Every Student Succeeds Act

savings clauses protect against ESSA interference with existing rights under state and local law and association agreement.

- If your state law permits, but does not require, negotiation over evaluation, the savings clause language provides another opportunity.
- Review your existing state bargaining law and your contract for language on evaluation, joint committees, stipends for additional responsibilities, and other key provisions to ensure that where ESSA protects contractual and collective bargaining rights, the employer is not acting unlawfully in implementing ESSA. This review may also prompt your association to conclude that new language needs to be negotiated.
- Under Title II, ESSA requires the local educational agency to “meaningfully consult” with teachers, specialized instructional support personnel, paraprofessionals, parents, and community partners, in developing a grant application that covers a number of issues including evaluation. This provision provides the Association with an opportunity to provide input regarding evaluation, even in non-bargaining states.
- NEA’s Teacher Evaluation and Accountability Toolkit (<http://www.nea.org/home/50813.htm>) contains many contract language examples and guiding principles to consider when implementing or modifying an evaluation system. Some key points to consider include:
 - Depending on the scope of your state’s collective bargaining law, the association may be able to negotiate many aspects of the evaluation system such as the measures to be assessed, observation procedures, and tools/forms associated with the evaluation or accountability system. Some associations have negotiated a joint evaluation committee to oversee the process, while others include the specifics in the collective bargaining agreement.
 - Even where bargaining doesn’t exist, teacher evaluation systems should be developed in partnership with teachers to ensure teacher buy in. Evaluations must be meaningful, providing all teachers with clear and actionable feedback linked to tailored professional development.
 - There is growing evidence that using student test scores to determine teacher effectiveness is misguided and does not improve instructional practice.
 - As part of the implementation process, evaluation systems must be adequately funded and fully developed and validated. All teachers must be trained on the new systems before they are used to make any high-stakes employment decisions.
 - New or modified evaluation systems should be piloted before the high stakes personnel decisions are tied to any evaluation system. The process for changing or modifying the evaluation system due to unanticipated consequences should be negotiated wherever possible and permitted by law.
 - Improvement plans and due process rights should be considered when developing an evaluation plan and must align with the due process rights of the contract.