

ISSUE BRIEF

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Testing Washington's Promises of Flexibility Under the Every Student Succeeds Act

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When Washington promises something, one can never be sure if the officials mean it. In education, federal officials promised that states would have more flexibility under the latest version of the Elementary and Secondary Education Act (ESEA), revised in 2015 and now called the Every Student Succeeds Act (ESSA). An Arizona law concerning standardized testing may put Washington's promises of increased state authority over education to the test. Federal officials should allow Arizona school leaders to decide the best way to measure student progress and make good on the federal commitment to give states more flexibility through ESSA.

Such promises came as early as the President's signature. After signing ESSA in 2015, President Barack Obama said, "This law...creates a real partnership between the states, which will have new flexibility to tailor their [school] improvement plans."¹

In a 2016 speech on ESSA's regulations, Senator Lamar Alexander (R-TN) said that lawmakers intentionally wrote "more flexibility" into the law.² Education Secretary Betsy DeVos recently stated: "The plans each state develops under the streamlined ESSA template will promote innovation, flexibility and accountability to ensure that every child has the chance to learn and succeed."³

Standardized assessment may be the first test of Washington's willingness to provide flexibility under ESSA. Already, policymakers in Arizona and New Hampshire have proposed or are allowing schools to measure student knowledge using methods other than a uniform state test. New Jersey and Kentucky lawmakers requested waivers from ESSA testing regulations this summer.⁴

Arizona's Menu of Tests

Under federal law, students in grades three through eight must take the same state-administered test (adjusted according to grade level) in math and reading each year. High school students must take a uniform test in these subjects prior to graduation. States report test results to Washington.⁵

In a notable change from prior versions of federal law, the U.S. Department of Education is now encouraging states to "push the field of assessment forward through innovation."⁶ In 2016, Arizona lawmakers enacted state legislation that gives the field of assessment just such a push.⁷ Because Arizona's law is a departure from the federal requirement of one uniform state test, Washington's reaction to the legislation may be an indicator of the federal government's interpretation of flexibility under ESSA.

Arizona lawmakers plan to allow teachers and public schools to choose the standardized test that best fits a school's teaching methods. Arizona's Board of Education is scheduled to approve a menu of tests for high schools to choose from in the 2018–2019 school year.⁸ Elementary and middle schools will participate in the 2019–2020 school year. Schools will still submit student results to the state department of education for accountability purposes.

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es as ESSA requires. Instead of forcing every public school to administer the same test, Arizona officials will give public schools a menu of tests to choose from according to their instructional practices.

Assessments on the state board’s menu must meet or exceed state academic standards. And, the tests must produce results that allow comparisons with other schools and can be used for Arizona’s A–F school grading system (the Arizona Department of Education gives charter and district schools a letter grade based on student test scores, test score improvement from year to year, and other indicators). Schools can request that additional tests be added to the menu if a school finds an assessment that better matches the school’s instructional methods.

Nationally normed tests, such as the Iowa Tests and the Stanford series, allow for such comparisons, so these tests will be important to include on the list. Norm-referenced tests are assessments where individual scores are compared to average scores of other students who have taken the same test. The results can be reported not just as the total of correct answers but also as percentile rankings. For example, a student scoring at the 51st percentile scored higher than 51 percent of the students in the norming group who also took the test. With a nationally normed test, as the name suggests, results can be compared to students who took the same test across the country.

Arizona’s law allows schools to choose the tests that best align with the institution’s teaching prac-

tices instead of aligning their instructional content exclusively with a single state or national test. This means that schools have more autonomy to decide how to educate students and measure success while also allowing for comparisons between schools.

“This menu of tests frees up more instructional time with our students,” said Representative Paul Boyer (R–District 20), Arizona House Education chairman and high school teacher, in an interview for this *Issue Brief*. “When schools are already offering a test from the menu that’s better aligned with their curriculum, they’ll be spending less time testing and more time with their students.”

For Arizona’s 556 charter schools, independent public schools that have more autonomy over school operations than district schools, testing flexibility gives a charter school the ability to match a test with its unique mission.⁹ “All schools, but schools of choice particularly, are well-served by implementing tests that accurately measure the quality of that school’s curriculum and program,” said Peter Bezanson, CEO of BASIS, a charter school network that started in Arizona.¹⁰ “Similarly, it is a complete waste of time and resources for a high quality school to implement tests that are not actionable for them,” he said.

Arizona’s Law and ESSA’s Flexibility

As of this writing, the U.S. Department of Education has approved Arizona’s ESSA plan, but Arizona’s document was missing the new law providing test-

1. Louis Freedberg and John Fensterwald, “President Obama Signs Every Student Succeeds Act,” EdSource, December 10, 2015, <https://edsources.org/2015/president-obama-signs-every-student-succeeds-act/91743> (accessed September 21, 2017).
2. The Thomas B. Fordham Institute, “Lamar Alexander Floor Speech on ESSA Regulations: Full Transcript,” May 13, 2016, <https://edexcellence.net/articles/lamar-alexander-floor-speech-on-essa-regulations-full-transcript> (accessed September 21, 2017).
3. News release, “U.S. Secretary of Education Betsy DeVos Announces Release of Updated ESSA Consolidation Plan Template,” U.S. Department of Education, March 13, 2017, <https://www.ed.gov/news/press-releases/us-secretary-education-betsy-devos-announces-release-updated-essa-consolidated-state-plan-template> (accessed September 21, 2017).
4. Daarel Burnette II, “In Response to Federal Feedback, N.J. Seeks Testing Waiver from ESSA,” *Education Week*, July 31, 2017, http://blogs.edweek.org/edweek/state_edwatch/2017/07/after_devos_feedback_nj_asks_for_testing_waiver_from_essa.html (accessed September 21, 2017).
5. U.S. Department of Education, “Transitioning to the Every Student Succeeds Act (ESSA): Frequently Asked Questions,” February 26, 2016, <https://www2.ed.gov/policy/elsec/leg/essa/faq/essa-faqs.pdf> (accessed October 10, 2017). Students in certain grades must also take a state-administered test in science.
6. U.S. Department of Education, “Every Student Succeeds Act: Final Regulations: Assessments—Title I Parts A & B,” <https://www2.ed.gov/policy/elsec/leg/essa/essaassessmentfactsheet1207.pdf> (accessed September 21, 2017).
7. Fifty-second Arizona Legislature, Second Regular Session, HB 2544, <https://apps.azleg.gov/BillStatus/BillOverview/67919?Sessionid=115> (accessed October 13, 2017).
8. Fifty-third Arizona Legislature, First Regular Session, SB 1098, <https://apps.azleg.gov/BillStatus/BillOverview/68763> (accessed October 13, 2017).
9. Arizona Charter School Association, “About Charter Schools,” <https://azcharters.org/about-charter-schools/> (accessed September 21, 2017).
10. E-mail exchange with Peter Bezanson, March 14, 2017. He granted permission to use his comments for this research.

ing flexibility (every state must submit to the federal agency a plan for how the state intends to implement ESSA's requirements).¹¹ As a result, the status of Arizona's menu of tests law is uncertain because Arizona's ESSA plan does not explain how the state's menu of tests law would fit within ESSA's confines.¹²

Next year, state lawmakers will expect the state board and department to plan implementation of the new state law, federal officials will expect Arizona to comply with ESSA, and the Arizona Department of Education should try to implement state law and comply with federal law. All of these stakeholders should take steps now so that school leaders, parents, and students can prepare for future testing requirements.

The U.S. Department of Education should not interfere with Arizona's efforts to implement the testing menu. The federal agency could allow the state to simply implement the law and use comparable test results for accountability purposes, or the state agency could work with federal officials to use ESSA's pilot testing provision. With this limited pilot, up to seven states can try testing methods different from a single state test requirement.¹³ To date, no state has applied, with one observer saying "states realized just how difficult it would be to comply with some of the 'guardrails' around the pilot, including a requirement to make sure the results of any new assessments are 'comparable' to the state test."¹⁴ Washington should change the rules for this pilot that have prevented states from applying. Federal policymakers should allow states to use tests that produce results comparable with other schools and even in states not using the same tests. Nationally normed tests are an example of such assessments. More

importantly, the federal pilot program's focus should be to allow schools to choose the best way to educate their students and measure progress, not just require all students to take the same test. Uniformity does not help students learn—quality instruction does.

Conclusion

Today, ESSA's flexibility is a matter of debate. Heritage Foundation research has documented how the law's rules and regulations resemble No Child Left Behind, especially in student assessment.¹⁵ Students in grades three through eight and in high school must still take a uniform state-mandated test.

Such focus on uniform testing patterns forces schools to devote time to test preparation often at the expense of other activities like art, music, or even civics education. Tests are but one measure of student learning, and evidence demonstrates an inconsistent relationship between standardized tests results and later life outcomes—calling into question the practice of devoting additional time to a single state standardized test.¹⁶

Lisa Fink, board president of Choice Academies, Inc., in Arizona said,

Utilizing a nationally normed, validated test to be able to measure the progress of students... [provides] quick feedback which helps our organization to maintain our strengths and improve upon our weaknesses to ensure the best educational opportunities for our students. Our belief is that taking the [Arizona state test] and an additional test takes too much time away from the most important effort to improve a student's education which is teacher instruction.¹⁷

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11. Arizona Department of Education, "ESSA State Plan," <http://www.azed.gov/essa/draftplan/> (accessed September 21, 2017).
 12. The Arizona Department of Education did not respond to a request for comment.
 13. U.S. Department of Education, Elementary and Secondary Education Act of 1965 As Amended Through P.L. 114-328, Enacted December 23, 2016, p. 109, <https://legcounsel.house.gov/Comps/Elementary%20And%20Secondary%20Education%20Act%20of%201965.pdf> (accessed September 21, 2017), and Alyson Klein, "What Happened to ESSA's Innovative Testing Pilot?" *Education Week*, August 8, 2017, http://blogs.edweek.org/edweek/campaign-k-12/2017/08/essa_innovative_testing_pilot_what_happened_devos_department.html (accessed September 21, 2017).
 14. Klein, "What Happened to ESSA's Innovative Testing Pilot?"
 15. Anne Ryland and Lindsey M. Burke, "School Rules: Lessons from the ESSA Regulatory Process," Heritage Foundation *Backgrounder* No. 3189, February 1, 2017, <http://www.heritage.org/sites/default/files/2017-02/BG3189.pdf>.
 16. Jay P. Greene, "Evidence for the Disconnect Between Changing Test Scores and Changing Later Life Outcomes," *Education Next*, November 7, 2016, <http://educationnext.org/evidence-for-the-disconnect-between-changing-test-scores-and-changing-later-life-outcomes/> (accessed October 4, 2017).
 17. E-mail exchange with author, March 14, 2017. Fink granted permission to use her comments for this research.
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Teachers and school leaders should make decisions about how to test students, and parents should be free to choose between schools and other learning options based on a school's decision in areas such as testing. Washington promised ESSA would give states more decision-making authority than prior iterations of federal law. New ideas for testing student knowledge will reveal the extent to which federal lawmakers intend to keep that promise.

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