



Every Student Succeeds Act

Performance-Based Compensation under the ESSA

The new Every Student Succeeds Act (ESSA) creates new opportunities for stakeholder engagement in the implementation process. In some instances, these provisions potentially impact educator pay. This factsheet briefly describes the areas of the law where compensation is referenced, NEA resources on these topics, and a brief summary of research on pay for test scores.

It is important to note that there are many references, both direct and indirect, in the law to educator pay. The ESSA mentions, but does not require, any specific type of performance-based pay. In addition, the areas that refer to pay are covered by savings clauses that protect existing rights through collective bargaining and state laws. Depending on your local circumstances, affiliates may wish to use the law to implement a new pay system such as professional growth salary schedule or additional pay for those who staff hard-to-staff schools. Alternatively, a local may use the protections in the law to maintain salary systems they have previously developed.

Pay Issues in ESSA Title I

Under Title I, local education agencies (LEAs, which is the legislative term for school districts and other education entities¹) that serve the lowest performing schools and those that serve schools in which any subgroup of students is consistently underperforming must develop and implement a comprehensive support and improvement plan for those schools, in “partnership” with stakeholders, which include teachers and parents. Though performance-based pay and other forms of compensation are not specifically mentioned as elements of a support and

improvement plan, the law does require the plan to address “resource inequities,” which may include a review of district-wide and school level budgeting. This requirement could result in plans that include incentives for educators to work in low-performing schools. Subsection 1111 (d) addresses “School Support and Improvement Activities” and contains specific language to ensure that contractual and collective bargaining rights are not altered or affected by implementation under this subsection. See §1111(d)(4). What those rights are will vary from state to state and contract to contract.

¹ The LEA refers to school districts, vocational schools, charter schools, and county or regional education service centers.

Title I also sets forth the requirements for LEA Plans in Section 1112. It states that an LEA must develop a plan in “timely and meaningful consultation” with teachers, specialized instructional support personnel, paraprofessionals, other appropriate school personnel, and parents. Some of these plans will directly impact compensation, such as additional pay to work in hard-to-staff schools, while others may be more indirect such as pay for extended work days.

Title I, Section 1114, also covers Schoolwide Programs to upgrade the entire educational system of a school that serves a large population of low-income students. The ESSA mandates that school-wide programs be developed with the “involvement” of teachers, specialized instructional support personnel, paraprofessionals, school staff, parents, and the community. Some of these programs will impact compensation.

In addition, Title I, Section 1201, calls for increased compensation to serve as instructional coaches.

Pay Issues in ESSA Title II

Title II authorizes grants to state educational agencies (SEAs) and LEAs to increase student achievement, improve the quality and effectiveness of teachers and principals, increase the number of effective teachers and principals, and provide low-income and minority students greater access to effective teachers and principals. There are specific compensation references including:

- ▶ Professional growth and career advancement for teachers and paraprofessionals.
- ▶ Incentives to attract and retain teachers.
- ▶ Differential and incentive pay (which may include, but does not require, performance-based pay) in high-need academic subject areas

and specialty areas.

The ESSA also establishes a Teacher and School Leader Incentive Program, which is an optional grant program that LEAs must apply for and essentially replaces the former Teacher Incentive Fund, authorizing comprehensive performance-based compensation systems or human capital management systems for raising student achievement and closing the achievement gap.

The law defines performance-based compensation systems to include differentiated compensation (including bonuses) based on the employment responsibilities and success of effective teachers in hard-to-staff schools or in high-needs subject areas. It also includes recognition of skills and knowledge as demonstrated through successful fulfillment of additional responsibilities or job functions (such as leadership roles), evidence of professional achievement and mastery of content knowledge, and superior teaching and leadership skills.

Under the ESSA, human capital management systems are defined as decisions on teacher preparation, recruitment, hiring, placement, retention, dismissal, compensation (including performance-based compensation), professional development, tenure, and promotion.

The application for a Teacher and School Leader Incentive Program grant must include “evidence of support and commitment” from teachers, principals, and other school leaders and organizations representing teachers, principals, and other school leaders. Further, the law requires the performance-based compensation system or human capital management system be developed, implemented, improved, or expanded in “collaboration” with teachers, principals, and other school leaders and members of the public.

Regulations for this program have not been developed yet (NEA will be developing additional resources related to this program).

Moreover, a carve-out to protect existing contractual and collective bargaining rights applies to the entirety of Title II. See § 2302(b). Therefore in implementing the topics covered in Title II -- preparing, training, and recruiting high-quality teachers, including compensation, professional development and advancement, the employer cannot contravene existing contractual or collective bargaining rights or relevant state laws.

NEA Resources on Alternative Compensation

CBMA has the following compensation-related resources that can assist affiliates in negotiating or advocating for compensation systems based on professional growth and advancement and countering the arguments that pay based on student test scores is effective.

- ▶ **Professional Growth Salary Framework** – NEA’s Professional Growth Salary Framework (PGSF) provides an option for affiliates interested in pursuing career ladder models for recruiting and retaining teachers. The document includes principles for a strong pay system and outlines best practices. CBMA also has a three tier sample and graphic.
- ▶ **Alternative Compensation Checklist** – A checklist of factors to consider when discussing developing or implementing a compensation system.
- ▶ **Solutions for High-Needs Schools** – This factsheet summarizes programs that some NEA affiliates are involved in to attract teachers to high-needs schools. The pay components include pay for hard-to-staff schools, additional

pay for coaching/mentoring, and peer assistance and review programs.

- ▶ **Sample Contract Language:** CBMA can provide affiliates with samples of strong career ladder programs and other pay systems associated with professional growth. Teacher pay benchmarks by state and local school districts for comparisons across districts and over time.

Problems with Pay for Performance

While a great deal of research has indicated the problems with tying educator pay to student test scores, recent research has been even stronger in its cautions against using value-added models to determine educator pay. In April 2014, the American Statistical Association (ASA), in their *Statement on Using Value-Added Models for Educational Assessment*, issued a stern word of caution for school districts considering the use of VAM scores in high-stakes employment decisions. While “a VAM score may provide teachers and administrators with information on their students’ performance and identify areas where improvement is needed, it does not provide information on how to improve the teaching.” Much of this is because the scores do not take into account many outside factors that are out of the educators’ control. These may include class size and teaching high-needs students.

There are also factors that contribute to variances in test scores that are not related to educators. These contributors can include student/family background, poverty, and other outside influences. Using VAM scores for high-stakes decisions on tenure, salary, and termination can lead to “unintended consequences that reduce quality.” The ASA suggests that instead the scores may be used to analyze the overall system, such as how policies and educator development can be improved.

They also state that because of the complexity of VAMs, “high-level statistical expertise is needed to develop the models and interpret their results.”

The American Educational Research Association (AERA), released a similar word of caution in their June 2015 *AERA Statement on Use of Value-Added Models (VAM) for the Evaluation of Educators and Educator Preparation Programs*. In their statement they warn of the “considerable risks of misclassification and misinterpretation in the use of VAM” for school districts that have made the decision to use the scores in evaluating their staff and preparation programs. The AERA points to the fact that there are a number of requirements which must be met in terms of accuracy, reliability, and validity when it comes to student assessments and staff evaluation. They stress the fact that to “properly aggregate student assessment results for any purpose, especially those related to drawing inferences about teacher, school leader, or educator program effectiveness,” a high bar must be established for statistical methods and testing.

There is a strong consensus in the research field that the use of poor data and/ or the misuse of that data will have a negative effect on students and educators. They encourage the examination of a tremendous amount of research done on other effective methods and models, such as educator observation and peer assistance and review. They highlight the fact that these models “provide formative and summative teaching assessments of teaching and honor teachers’ due process rights.” Lastly, the AERA echoes many of the past studies warning of the use of VAM in high-stakes evaluation and employment decisions.

For more information, contact the NEA Collective Bargaining & Member Advocacy Department at collectivebargaining@nea.org.