

With White House Backing, Senate Overturns ESSA Accountability Rules

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The Senate on Thursday voted 50-49 to block the accountability rules for the Every Student Succeeds Act created by the Obama administration.

Without the rules, the requirements for accountability and state plans will be found in the language of ESSA itself. **The Obama-era accountability rules**, finalized late last year, set ground rules for how schools must be rated for school-improvement purposes, specified the requirements of (and flexibility for) states dealing with high testing opt-out rates in individual schools, and outlined how states would have to handle the "school quality" indicator in accountability systems.

The rollback measure was introduced by Sen. Lamar Alexander, R-Tenn., the chairman of the Senate education committee, and had nine other Republican co-sponsors, including Senate Majority Leader Mitch McConnell of Kentucky. Last month's similar House measure was introduced by Rep. Todd Rokita, R-Ind., the chairman of the House subcommittee dealing with elementary and secondary education.

Earlier the same day, the Senate also followed the House's lead by voting to overturn separate Obama-era rules governing teacher-preparation programs.

Vigorous Debate

Supporters of blocking the rules said that, in many instances, they were too prescriptive and went against the spirit of ESSA, which lawmakers crafted in large part to return more accountability decisions to states and districts. They also argued that in lieu of the accountability rules, the Education Department could provide nonregulatory guidance and technical assistance to states and districts to support their transition to ESSA, which kicks in for the 2017-18 school year. The National Governors Association and AASA, the School Administrators Association, backed overturning the rules. **The NGA outline several concerns it had with the regulations last year.**

Speaking on the Senate floor before the vote, Alexander said the regulation runs counter to ESSA itself. As examples, Alexander said that the regulations improperly prescribe how states must build rating systems for schools, and how they must handle relatively high opt-outs from mandatory state tests, among other instances.

"This regulation would say to states: 'Ignore the law that 85 senators just passed 15 months ago. Ignore the law that President Obama called a Christmas miracle. ... Listen instead to the unelected bureaucrats at the United States Department of Education,'" Alexander said on Wednesday.

However, critics charged that the move was unnecessary, would create confusion in states about whether and to what extent their ESSA accountability plans comply with the law, and could endanger crucial protections for disadvantaged students. They also argued that the measure, introduced through the Congressional Review Act, was a solution in search of a problem, introduced without significant backing from teachers, state chiefs, and others. American Federation of Teachers President Randi Weingarten, for example, was critical of the accountability rules in some respects as they were developed, but said overturning them "would demonstrate a disregard by Congress of school districts' operations and timelines." Supporters of the regulations also argued that, **in many cases, the regulations increased flexibility for states, instead of restricting it.**

"This rule provides clarity on accountability, on reporting requirements, and on state plan requirements. And it helps ensure that no student, no matter where they live, can fall through those cracks," said Sen. Patty Murray, D-Wash., the top Democrat on the education committee. She later added that, "If the rug's pulled out from under these states, there could be chaos."

Murray also argued that the regulations represented a check on the power of Secretary of Education Betsy DeVos, whom Murray criticized for numerous mistakes over the past month.

The writing has been on the wall for some time. Last December, the Senate put out a "hit list" of Obama administration regulations they wished to overturn, **and the ESSA accountability rules were on that list.** And **President Donald Trump has indicated support for the move**, so the regulations appear to be finished, since the House previously voted to block the rules as well.

Chris Minnich, the executive director of the Council of Chief State School Officers, said that irrespective of the ESSA regulations' fate, states "just want certainty about how to proceed" as they finalize plans for

ESSA. And he expressed skepticism about any talk of restarting the regulatory process and potentially replacing the ESSA rules that Washington is about to toss overboard.

"I'm not really interested in relitigating this through the next six months," Minnich said.

Meanwhile, state chiefs say they are forging ahead on ESSA implementation, despite the rollback.

"Wyoming will continue to carefully and swiftly plan for full implementation of ESSA," said Jillian Balow, the Wyoming superintendent of public instruction. "The congressional intent that ESSA return the bulk of education governance to the states and state education agency is unobjectionable with or without regulations."

And Carey Wright, the state chief in Mississippi, said her state is "forging ahead with our statewide accountability system whether or not federal regulations are repealed. We have a strong accountability model that we are strengthening further to address the performance of English-learners."

Chiefs for Change, which represents both state and district leaders, said its members are committed to "leading by example" and sticking with a number of the requirements that were in the soon to be defunct regulations, including having at least three distinct and understandable categories for rating schools.

"By holding themselves to a high standard, our members will set the bar for strong ESSA plans that align not only with the basic statutory requirements, but also with these principles of excellence and equity," the organization said in a statement.

And the National Governors' Association is out with a list of frequently asked questions on the law. The NGA suggests that regulatory changes are an **opportunity for the governors to hit the pause button** if they feel that their views—or the views of key groups in the state—aren't being listened to.