

Building Blocks: The Hidden Benefit of the Every Student Succeeds Act on Early Childhood
Education

Stephanie Romeo

I. INTRODUCTION

Passed in December 2015, the Every Student Succeeds Act (“ESSA”) provides sweeping education reform throughout the United States. Most of the ESSA relates to K-12 education, such as the mandates that states create academic plans, implement rigorous standards, and assess students. However, the ESSA differs from No Child Left Behind (“NCLB”) and most of past education law by containing initiatives that address early childhood education. As a result, although primarily an elementary and secondary education law, the ESSA still manages to positively impact early childhood education by beginning to incorporate early childhood education into the elementary and secondary education framework, raising awareness of the issue in the process. Therefore, in this article, I will demonstrate that the ESSA benefits early childhood education through its express inclusion of preschool and early childhood education within the Act and, that despite limits in these provisions, the ESSA still positively impacts early childhood education.

Accordingly, Part II of this article will discuss the benefits for students attending quality early childhood education. Although countless numbers of benefits may exist, this article will mainly focus on the academic, developmental, and economic benefits to students who attend early childhood education as compared to those who do not. Part III will first provide background on the ESSA and explain the ESSA’s major components, especially related to K-12 education changes, but also the more limited number of early childhood education changes. Next, Part IV will examine the impact that the ESSA has on early childhood education as well as potential

drawbacks to the ESSA's early childhood education provisions, which may reduce the provisions' effectiveness in early childhood education. Lastly, Part V will explore the overall impact of the ESSA on early childhood education and suggest more still needs to be done to improve the availability of early childhood education and its corresponding benefits to children.

II. THE IMPORTANCE OF EARLY CHILDHOOD EDUCATION

Although early childhood education covers the education of a child from birth to age eight, early childhood education mainly applies to children between the ages of three and five since that is prior to students starting kindergarten.¹ Early childhood education mainly takes the form of preschool and pre-kindergarten. In the United States, attending early childhood education is not required, and many individuals, especially those from low-income and minority backgrounds, experience reduced access to early childhood education.² In contrast, students who do attend early childhood education prior to attending kindergarten experience significant benefits, including academic, health, and economic, making early childhood education a significant public policy issue.

First, children who attend early childhood education are more likely be "school-ready" and experience academic gains. Early childhood education provides children with the structured opportunity to develop skills that will allow them to be successful in kindergarten.³ Children who perform below grade level are unlikely to catch up to their early childhood education

¹ *Early Childhood Care and Education*, UNESCO, <http://en.unesco.org/themes/early-childhood-care-and-education> (last visited Aug. 9, 2016).

² MICHAEL J. KAUFMAN, SHERELYN R. KAUFMAN, & ELIZABETH C. NELSON, *LEARNING TOGETHER: THE LAW, POLITICS, ECONOMICS, PEDAGOGY, AND NEUROSCIENCE OF EARLY CHILDHOOD EDUCATION* 77 (2015) (Government funding of early childhood education "would benefit all children, and particularly children of color. Access to early childhood education programs in America varies significantly by race and ethnicity. Slightly more than half of African American four-year-olds are not enrolled in any pre-K program, and 63 percent of Latino or Hispanic children do not attend any program.").

³ First Five Years Fund, *Children are America's Greatest Resource* (2016), <http://ffyf.org/why-it-matters> [hereinafter *Children are America's Greatest Resource*]. See generally LYNN A. KAROLY, REBECCA M. KILBURN, AND JILL S. CANNON, *EARLY CHILDHOOD INTERVENTIONS: PROVEN RESULTS, FUTURE PROMISE* 61-62 (2005).

attending peers since achievement gaps are expensive and difficult to close as children move throughout their education careers.⁴ In the long-term, children who attend early childhood education are more likely to graduate high school and attend college than their peers who did not attend early childhood education.⁵ Therefore, early childhood education is important to improve children's academic success and future educational attainment.

In addition, children who attend early childhood education experience improved health and development. To begin, early childhood education helps improve children's brain development.⁶ Within the first few years of children's lives, children form "700 to 1,000 [new] neural connections."⁷ Early experiences continue to refine the neural connections due to use or alternatively reduce the neural connections due to lack of use.⁸ As a result, early childhood education provides a regular opportunity for children to develop those neural connections, and children who attend quality early education programs "demonstrate greater cognitive and social-emotional growth than children who do not."⁹ Early childhood education continues to benefit students into adulthood, such as through increased health and social-emotional development. For instance, early childhood education has been shown to produce improved cardiovascular and metabolic health measures.¹⁰ Early childhood education also increases children's long-term

⁴ *Children are America's Greatest Resource*, *supra* note 3.

⁵ KAROLY, KILBURN, & CANNON, *supra* note 3, at 61-62 (discussing how over two-thirds of twenty long-term programs examined found statistically significant academic results for attending early childhood education).

⁶ *Children are America's Greatest Resource*, *supra* note 3. See First Five Years Fund, *Brain Development* (2016), <http://ffyf.org/why-it-matters/brain-development/> (explaining five studies that found students who participated in preschool or pre-kindergarten programs to outperform their non-attending peers).

⁷ Jennifer Calder, *Early Childhood Education: Investment Brings Big Results*, MONT. BUS. Q. 18, 18 (Summer 2014).

⁸ *Id.*

⁹ *Children are America's Greatest Resource*, *supra* note 3.

¹⁰ Frances Campell et al., *Early Childhood Investments Substantially Boost Adult Health*, 343 SCIENCE 1478, 1478 (Mar. 27, 2014). See Helen Baker-Henningham, *The Role of Early Childhood Education Programmes in the Promotion of Child and Adolescent Mental Health in Low- and Middle-Income Countries*, 43 INT'L J. OF EPIDEMIOLOGY, 407, 409-29 (discussing the benefit that early childhood intervention can have on students' future mental health).

social-emotional and cognitive development, which influences their future educational success and potential earnings.¹¹ Thus, early childhood education benefits children's development directly as well as their long-term health and development.

Lastly, early childhood education produces short-term and long-term economic benefits. The return on investment for children who enroll in early childhood education is high and is particularly "between \$7.00 and \$16.00 for every dollar invested" and actually approximately \$10.00.¹² Early childhood education produces short-term savings from improved work performance and better attendance, increasing productivity and minimizing the need to hire additional employees.¹³ Early childhood education also reduces societal deficits, leading to a stronger economy.¹⁴ For example, early childhood education makes it more likely that children will be ready for kindergarten and not need special education services and will graduate from high school.¹⁵ Early childhood education additionally reduces the likelihood that children will rely on social services, including public assistance, and will be "70 percent less likely to commit violent crimes or be involved in the criminal justice system, which presents enormous savings."¹⁶ As a result, states will be spending money up front in children's lives but will reduce their later expenses significantly. For instance, a universal pre-kindergarten program may cost about \$212 million, but "the savings would be approximately eight times that at \$1.7 billion."¹⁷ Therefore,

¹¹ Jerry Diakiw, *Good for Kids, Good for Us: Socio-Emotional Skill Development in the Early Years*, CANADIAN CTR. FOR POL'Y ALTERNATIVES 39, 41 (Winter 2016). See W. Steven Barnett, *Benefits and Costs of Quality Early Childhood Education*, 27 CHILD. LEGAL RTS. J. 1, 9 (Spring 2007) (discussing a few studies' findings of the positive effects of early childhood education on students' long-term social-emotional development).

¹² KAUFMAN, KAUFMAN, & NELSON, *supra* note 2, at 80.

¹³ Calder, *supra* note 7, at 20.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

although costly upfront, providing early childhood education is important to improving society and reducing future economic costs.

Furthermore, students who attend quality early childhood education receive many benefits, including academic, developmental, and economic, that should be available to benefit all children. However, early childhood education is not required, and families are not all capable of sending their children to early childhood education. As a result, in order to increase the benefits to more children, quality early childhood education needs to become more accessible. Consequently, early childhood education is an important policy initiative within the United States that should be increased to provide additional access to children.

III. OVERVIEW OF THE ESSA

The ESSA is a bipartisan bill that President Obama signed into law on December 10, 2015.¹⁸ The ESSA reauthorizes the Elementary and Secondary Act for four years and replaces the previous No Child Left Behind Act (“NCLB”).¹⁹ Under the NCLB, the federal government established a national accountability system, where states would receive funding if they made adequate yearly progress or would alternatively face harsh consequences.²⁰ The NCLB sought to measure students’ academic progress to ensure all students regardless of race, socioeconomic status, disability, or home language succeeded.²¹ However, the NCLB faced criticism for its

¹⁸ Exec. Off. of the President, *Every Student Succeeds Act: A Progress Report on Elementary and Secondary Education 1* (Dec. 2015), https://www.whitehouse.gov/sites/whitehouse.gov/files/documents/ESSA_Progress_Report.pdf. See Nat’l Conference of St. Legislatures, *Summary of the Every Student Succeeds Act, Legislation Reauthorizing the Elementary and Secondary Education Act 1*, http://www.ncsl.org/documents/educ/ESSA_summary_NCSL.pdf (last visited Aug. 8, 2016) (discussing the legislative history and process to enact the ESSA).

¹⁹ Nat’l Conference of St. Legislatures, *supra* note 18.

²⁰ William Duncombe, Anna Lukemeyer, & John Yinger, *The No Child Left Behind Act: Have Federal Funds Been Left Behind?* (Sept. 2006), http://cpr.maxwell.syr.edu/efap/Publications/costing_out.pdf. See generally Andrew Rudalevige, *The Politics of No Child Left Behind*, 3 ED. NEXT 4 (Fall 2003).

²¹ U.S. Dep’t of Educ., *Every Student Succeeds Act (ESSA)* (July 27, 2016), <http://www2.ed.gov/policy/elsec/leg/essa/index.html>.

seemingly one-size-fits-all approach and its widespread utilization of “high-stakes” testing.²² Instead, the ESSA aims to maintain accountability while increasing states’ autonomy in providing education.²³

In particular, the ESSA shifts federal authority to states, allowing states to develop their own education plan and implementation for elementary and secondary schools.²⁴ Under Title I, a state education agency (“SEA”) must collaborate with state legislature members and Governors to prepare an academic plan.²⁵ Along with the plan, states must adopt challenging academic achievement standards and English language proficiency standards.²⁶ States may also adopt alternate standards for students with significant disabilities as long as the standards provide access to the general education curriculum and align with the pursuit of postsecondary education.²⁷ States must utilize their state standards to implement student academic assessments in at least the following subjects: Reading/Language Arts, Math, and Science.²⁸ The ESSA follows the current federal schedule of statewide assessments²⁹ but requires states to assess student achievement using multiple measures, which may be delivered partially through portfolio assessments or performance tasks.³⁰ States have discretion in whether the assessments will be administered in one summative assessment or through multiple formative assessments

²² Kathryn Foxhall, “No Child Left Behind” Finally Catches Up, CONTEMP. PEDIATRICS 9 (Feb. 2016); Exec. Off. of the President, *supra* note 18.

²³ Foxhall, *supra* note 22; Exec. Off. of the President, *supra* note 18.

²⁴ Am. Speech-Language-Hearing Ass’n, *Every Student Succeeds Act: Key Issues for ASHA Members* 6 (2016), <http://www.asha.org/uploadedFiles/Every-Student-Succeeds-Act-Key-Issues.pdf>.

²⁵ Nat’l Conference of St. Legislatures, *supra* note 18, at 2.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 3.

²⁹ Under the current minimum federal schedule of statewide assessments, states must assess students in grades three through eight yearly in Reading/Language Arts and Math and one time while the students are in grades nine through twelve. *Id.* States must also assess students in Science once while the students are in grades three to five, one while the students are in grades six through nine, and another time when the students are in grades ten through twelve. *Id.*

³⁰ *Id.*

throughout the academic year.³¹ Moreover, through its emphasis in standards and assessment, the ESSA continues many existing components of education but strives to offer states more flexibility in how they will achieve student growth.

Additionally, under the ESSA, states must utilize state standards and assessments to create statewide accountability systems to ensure that all students are improving academically.³² States must accordingly develop their own long-term goals for all students and sub-groups of students related to academic achievement, high school graduation rates, and English learners' proficiency with the English language.³³ States must also measure the educational system based on similar standards as the long-term student goals as well as measure student success and school quality, such as those evidenced by student engagement or school climate and safety.³⁴ Using their accountability systems, states must develop methodology to identify schools that need to receive additional comprehensive support that will be implemented on a school-level.³⁵ States who fail to maintain effort at 90 percent of the funding level will receive reduced funding if the state had already failed to meet the maintenance of effort standard at least once in the preceding five years.³⁶ As a result, the ESSA continues the use of consequences related to academic performance while providing states with more flexibility to determine their own goals and accountability methods.

Besides these academic provisions, the ESSA contains many grant provisions for specific purposes. For instance, the ESSA enables the Secretary of Education to award grants to SEAs to develop or administer state assessments as well as separate grants to audit states' assessment

³¹ *Id.*

³² *Id.* at 4-5.

³³ *Id.* at 4.

³⁴ *Id.*

³⁵ *Id.* at 5.

³⁶ *Id.*

systems.³⁷ The ESSA also provides Student Support and Academic Enrichment Grants to provide students with a well-rounded education, improve students' learning conditions, and improve students' digital literacy.³⁸ The ESSA further provides grant funding to increase family engagement through the establishment of statewide family engagement centers.³⁹ Lastly, the ESSA provides grant funding for quality elementary and secondary charter schools; Bureau of Indian Education schools; and national activities, such as community support and education research.⁴⁰ Consequently, these funding opportunities allow states to further enrich the educational possibilities within states.

In addition to these elementary and secondary education provisions, the ESSA contains some provisions related to early childhood education. The ESSA requires states, for instance, to now keep track of the number of students who attended preschool.⁴¹ The ESSA also refers to early childhood education by allowing Title I funds and other funds to be provided for educational uses that include early childhood education.⁴² However, the ESSA's main early childhood education provision involves the creation of "Preschool Development Grants" to help the states with coordination, quality, and access for early childhood education."⁴³ The Preschool Development Grants are designed to encourage states to partner with existing childcare centers, Head Start providers, state and local governments, state and local government agencies, Indian tribes, and private entities.⁴⁴ The Preschool Development Grants are intended to benefit

³⁷ *Id.* at 6.

³⁸ *Id.* at 8.

³⁹ *Id.* at 10-11.

⁴⁰ *Id.*

⁴¹ Council of Chief St. Sch. Officers, *ESSA and Early Childhood Education: Opportunities for State Leadership 2*, http://www.ccsso.org/Documents/2016/ESSA/CCSSO_ESSA_ECE_Guide.pdf (last visited Aug. 9, 2016).

⁴² Nat'l Conference of St. Legislatures, *supra* note 18, at 5.

⁴³ Kathryn Foxhall, *supra* note 22.

⁴⁴ *Id.* at 10.

disadvantaged and low-income children by better preparing the children to attend kindergarten.⁴⁵ Therefore, the ESSA provides increased funding uses for early childhood education.

In sum, the ESSA continues many of the components from NCLB and existing elementary and secondary education practice but moves toward flexibility and increased inclusivity. First, the ESSA maintains a heavy standards and assessment approach to education but allows states to develop their own standards and assessments. In addition, under the ESSA, accountability and measuring student progress remain, but accountability and methodology are more state-determined. Besides increasing flexibility in education, the ESSA subtly increases benefits to community programs and preschools. Therefore, the ESSA created changes in K-12 education while also affecting the structure and implementation of other educational programs.

IV. THE IMPACT OF THE ESSA ON EARLY CHILDHOOD EDUCATION

Overall, the ESSA includes provisions that apply to early childhood education. This is a major shift toward increasing access to early childhood education. Despite these increased provisions related to early childhood education, the ESSA predominantly still applies to elementary and secondary education and places limits on the early childhood education provisions, which may decrease the utility of the provisions. Nonetheless, the ESSA still benefits early childhood education by establishing the foundation to increase future early childhood education quality and access.

To begin, the ESSA specifically allocates funding to early childhood education, drawing attention to preschool funding and its importance. In particular, the ESSA establishes a new preschool-specific grant that is worth \$250 million dollars.⁴⁶ The grant is also aimed at improving access to individuals from low-income backgrounds, who are less likely to send their

⁴⁵ *Id.*

⁴⁶ Christina A. Samuels, *Law Adds to Pre-K's Stature as Federal-State Priority*, 35 ED. WEEK 15 (Jan. 6, 2016).

children to preschool without government assistance.⁴⁷ Additionally, states can explicitly use Title I funds to benefit early childhood education, which was unclear and not readily used for early childhood education prior to the enactment of the ESSA.⁴⁸ Regardless of whether Title I funds are used to benefit early childhood education, states must still coordinate with early childhood education programs, and targeted programs must explain how eligible students will receive services, such as early childhood education services.⁴⁹ Title I also requires states to publish the number and percentage of students enrolled in preschools in their state report cards.⁵⁰ As a result, ESSA raises awareness of the importance of early childhood education through additional early childhood education funding and reporting provisions.

However, the ESSA's early childhood education funding will have a limited impact. First, despite an increase in early childhood funding, the new Preschool Development Grants are not enough to have a large-scale impact. Although \$250 million dollars is being added to fund early childhood education, that amount is spread throughout eighteen states with varying levels of early childhood education development within the states.⁵¹ The early childhood education program will also move from the U.S. Department of Education to the U.S. Department of Health and Human Services, where the Office of Head Start is housed.⁵² Unlike Head Start programs, the preschool grants do not require the same quality provisions, such as teacher certification or program length requirements.⁵³ Although the lax standards ensure states' greater access to the funding, the quality of the education offered may suffer, reducing the benefits from

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ First Five Years Fund, *Summary and Analysis of the Early Learning Provisions of the Every Student Succeeds Act 3* (Jan. 18, 2016), http://ffyf.org/wp-content/uploads/2016/02/ESSA_ECE_Provisions_NarrativeSummaryAnalysis_020316.pdf [hereinafter *Summary and Analysis*].

⁵⁰ *Id.*

⁵¹ Samuels, *supra* note 46.

⁵² *Id.*

⁵³ *Id.*

early childhood education that the children would otherwise receive in a quality early childhood education program. For example, educational benefits can “disappear within three years” if the quality of education declines.⁵⁴ Therefore, although the ESSA allocates additional funding to early childhood education, the funding will go toward a reduced number of states and may not go toward quality early childhood education programs, reducing the benefits that children could otherwise receive.

Nonetheless, besides providing increased funding, the ESSA provides curricular changes that benefit early childhood education. Under the ESSA’s Education for All program, states must review and develop comprehensive literacy instructional programs.⁵⁵ States must conduct literacy proficiency needs assessments and must award at least fifteen percent of the grant funds to state and local programs involving children from birth to age five.⁵⁶ Through the direct inclusion of early childhood education for grant recipients, the ESSA attempts to solidify the importance between the early childhood education and the transition into kindergarten.

In addition, ESSA expands funding access to early childhood educators, increasing the role of early childhood educators within students’ lives. In particular, the ESSA authorizes the funding to be used for family and parental engagement programs.⁵⁷ The engagement programs can include professional development for school staff and parents and may even be jointly provided to multiple stakeholders, where early childhood educators are specifically one type of stakeholder.⁵⁸ The ESSA also allows funding to be allocated for professional development involving early learning and transitioning into school.⁵⁹ States may allow principals; other

⁵⁴ Sharita Forrest, *Is the Every Student Succeeds Act an Improvement over No Child Left Behind?*, U. OF ILL. (Dec. 14, 2015), <https://illinois.edu/blog/view/6231/291527>.

⁵⁵ *Summary and Analysis*, *supra* note 49, at 4.

⁵⁶ *Id.*

⁵⁷ *Id.* at 5.

⁵⁸ *Id.*

⁵⁹ *Id.*

school leaders; and teachers, including early childhood educators, to participate in the professional development opportunities.⁶⁰ Consequently, ESSA provides early childhood educators with access to more professional development, which will likely improve the quality of early childhood education. However, the inclusion of early childhood education programs and educators is discretionary and not mandatory. As a result, the ESSA creates the possibility, but that possibility may never be utilized by states.

Overall, the ESSA draws attention to the importance of providing early childhood education as well as emphasizes the connection between early childhood education and elementary education in order for students to receive a quality education. First, although limited, the ESSA provides specific funding for early childhood education. The ESSA also provides funding that requires early childhood education's literacy programs to be reviewed, increasing the connection between early childhood and elementary education. Lastly, the ESSA expands the possibility for early childhood education professional development, which further demonstrates the importance of providing children with quality education from the beginning. Therefore, despite drawbacks, the ESSA provides the foundational structure that will allow early childhood education to become improved and more accessible.

V. CONCLUSION

In conclusion, the ESSA benefits early childhood education by establishing a beginning framework that will allow early childhood education to become more accessible. Early childhood education offers many benefits to children that can impact their future as students, professionals, and members of society, but not all families have access to early childhood education, limiting the benefits. The ESSA marks a huge shift toward the inclusion of early

⁶⁰ *Id.*

childhood education by creating specific early childhood education provisions and expanding other provisions to include early childhood education. However, those provisions contain limitations that will still reduce the accessibility of early childhood education. Therefore, federal and especially state governments must utilize the available ESSA provisions but also incorporate their own funding and initiatives to provide more students with access to early childhood education and its derived benefits.