

114TH CONGRESS
1ST SESSION

S. 516

To amend the Elementary and Secondary Education Act of 1965 to permit alternate standards and assessments for students with the most significant cognitive disabilities.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2015

Mr. MURPHY (for himself and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Elementary and Secondary Education Act of 1965 to permit alternate standards and assessments for students with the most significant cognitive disabilities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Every Child Counts
5 Act”.

1 **SEC. 2. ALTERNATE STANDARDS AND ASSESSMENTS FOR**
 2 **STUDENTS WITH THE MOST SIGNIFICANT**
 3 **COGNITIVE DISABILITIES.**

4 Section 1111 of the Elementary and Secondary Edu-
 5 cation Act of 1965 (20 U.S.C. 6311) is amended—

6 (1) in subsection (b)—

7 (A) in paragraph (1)—

8 (i) in subparagraph (B), by striking
 9 “The” and inserting “Except as provided
 10 in subparagraph (G), the”; and

11 (ii) by adding at the end the fol-
 12 lowing:

13 “(G) ALTERNATE ACADEMIC ACHIEVE-
 14 MENT STANDARDS FOR STUDENTS WITH THE
 15 MOST SIGNIFICANT COGNITIVE DISABILITIES.—

16 “(i) IN GENERAL.—The State may,
 17 through a documented and validated
 18 standards-setting process, adopt alternate
 19 academic achievement standards in any
 20 subject included in the State’s account-
 21 ability system under paragraph (2) for stu-
 22 dents with the most significant cognitive
 23 disabilities, if such alternate academic
 24 achievement standards—

25 “(I) are aligned with the State
 26 challenging academic content stand-

1 ards and challenging student aca-
2 demic achievement standards;

3 “(II) provide access to the gen-
4 eral curriculum for the grade in which
5 the student is enrolled;

6 “(III) are vertically aligned to
7 ensure that a student who achieves at
8 the on-target or advanced level under
9 subclause (VI) signifies that the stu-
10 dent is on track to access a postsec-
11 ondary education or achieve competi-
12 tive integrated employment, as defined
13 under section 3 of the Workforce In-
14 novation and Opportunity Act (Public
15 Law 113–128; 128 Stat. 1425);

16 “(IV) are supported by evidence-
17 based learning progressions to age
18 and grade-level performance;

19 “(V) are designated in the indi-
20 vidualized education program devel-
21 oped under section 614(d)(3) of the
22 Individuals with Disabilities Edu-
23 cation Act for each such student as
24 the academic achievement standard
25 that will be used for the student; and

1 “(VI) establish, at a minimum—

2 “(aa) 2 levels of high
3 achievement (on-target and ad-
4 vanced) that indicate that a stu-
5 dent with the most significant
6 cognitive disabilities meets or ex-
7 ceeds the State’s proficient level
8 of academic achievement under
9 paragraph (2)(L) as measured by
10 performance on alternate assess-
11 ments under paragraph (3)(E);
12 and

13 “(bb) a third level of
14 achievement (catch-up) that pro-
15 vides information about the
16 progress of a student with the
17 most significant cognitive disabil-
18 ities toward meeting the State’s
19 proficient level of academic
20 achievement under paragraph
21 (2)(L) as measured by perform-
22 ance on alternate assessments
23 under paragraph (3)(E).

24 “(ii) PROHIBITION ON ANY OTHER AL-
25 TERNATE OR MODIFIED STANDARDS.—A

1 State shall not develop, or implement for
2 use, under this part any alternate or modi-
3 fied academic achievement standards for
4 students who are children with disabilities
5 that are not alternate academic achieve-
6 ment standards that meet the require-
7 ments of clause (i).”;

8 (B) in paragraph (2), by adding at the end
9 the following:

10 “(L) STUDENTS WITH THE MOST SIGNIFI-
11 CANT COGNITIVE DISABILITIES.—In deter-
12 mining the percentage of students meeting or
13 exceeding the State’s proficient level of aca-
14 demic achievement on the State assessments, a
15 State educational agency may include, for all
16 schools in the State, the performance of the
17 State’s students with the most significant cog-
18 nitive disabilities on alternate assessments as
19 described in paragraph (3)(E) in the subjects
20 included in the State’s accountability system,
21 consistent with the 1 percent limitation of para-
22 graph (3)(E)(i).”;

23 (C) in paragraph (3), by adding at the end
24 the following:

1 “(E) ALTERNATE ASSESSMENTS FOR STU-
2 DENTS WITH THE MOST SIGNIFICANT COG-
3 NITIVE DISABILITIES.—A State may provide al-
4 ternate assessments that are aligned with alter-
5 nate academic achievement standards described
6 in paragraph (1)(G) for students with the most
7 significant cognitive disabilities, if the State—

8 “(i) ensures that for each subject, the
9 total number of students in each grade
10 level assessed in such subject using the al-
11 ternate assessments does not exceed 1 per-
12 cent of the total number of all students in
13 such grade level in the State who are as-
14 sessed in such subject;

15 “(ii) certifies, consistent with section
16 612(a)(16)(A) of the Individuals with Dis-
17 abilities Education Act, that the State’s
18 regular academic assessments are univer-
19 sally designed to be accessible to students,
20 including students with sensory, physical,
21 and intellectual disabilities, through the
22 provision of accommodations that produce
23 valid results; and

1 “(iii) ensures that such alternate as-
2 sessments are peer reviewed and based on
3 the best available evidence.”; and

4 (2) in subsection (h)(1)(C)—

5 (A) in clause (vii), by striking “and” after
6 the semicolon;

7 (B) in clause (viii), by striking the period
8 at the end and inserting “; and”; and

9 (C) by adding at the end the following:

10 “(ix) the number and percentage of
11 students with disabilities who take an al-
12 ternate assessment under subsection
13 (b)(3)(E), by grade, subject, and type of
14 disability, as outlined in section 602(3) of
15 the Individuals with Disabilities Education
16 Act.”.

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