

MEMORANDUM

TO: Chiefs, Deputies, Federal Liaisons, and Communications Directors
FROM: CCSSO
DATE: July 26, 2018
SUBJECT: Final Passage of the Strengthening Career and Technical Education for the 21st Century Act

Introduction

On July 25, the U.S. House of Representatives, by voice vote, passed [H.R. 2353](#), the Strengthening Career and Technical Education for the 21st Century Act, the Congress' bill to reauthorize the Carl D. Perkins Career and Technical Education Act of 2006 (the Perkins Act). The House's action followed Senate passage of the bill on July 23. The bill will now go to President Trump to be signed into law.

The following is a brief summary of the major provisions of the legislation. We have also attached a side-by-side analysis comparing the bill with current law.

Overview of the Perkins Act

Under the current Perkins Act, the great majority of funds flow by formula from the U.S. Department of Education (ED or the Department) to the states and then from the states to secondary and postsecondary entities under two separate formulas (one for secondary funds and one for postsecondary). States themselves make the decision about how much of the formula money to allocate to secondary vs. postsecondary entities. Programs in the state programs are held accountable through a system under which states establish "core indicators of performance" in certain areas, and then are measured against the extent to which they reach "adjusted levels of performance," as negotiated with ED, on each of the indicators.

In addition to the state formula program, current law authorizes a small amount of annual funding for research, evaluation, and other activities conducted at the national level by ED.

The newly passed reauthorization bill largely leaves this existing structure in place, with key changes as described below.

Summary of Significant Changes to Current Law

The following are key areas in which the bill now passed by Congress differs from current law. Please see the side-by-side analysis for more detail.

Statutory Definitions

Definition of an Area Career and Technical School: Area career and technical schools (ACTSs) are one of the types of entities that may receive funding through the Perkins Act State Grants program. Current law defines an ACTS as one of four types of entities, two of which are,

in brief: (1) the department of a public secondary school that is used exclusively or principally to provide career and technical education (CTE) in at least five different occupational fields to individuals who available for study in preparation for entering the labor market; and (2) the department or division of an institution of higher education (IHE) that provides CTE in at least five different occupational fields and leading to immediate employment. The reauthorization changes the threshold from *five different occupational fields* to *three different occupational fields*.

Definition of Career and Technical Education: The reauthorization makes minor changes to the definition of CTE (the activity that may be funded through the state program), focusing somewhat more on alignment with states' Elementary and Secondary Education Act (ESEA) academic standards and on attainment of recognized postsecondary credentials.

Definition of a CTE Concentrator: Under the bill, states will be held accountable for the outcomes of their CTE concentrators. The bill defines a concentrator (there is no definition in current law) as, in brief: (1) a secondary student who has completed at least two courses in a single CTE program or program of study (POS); or (2) a postsecondary student who has completed at least 12 credits in a CTE program or POS or has completed a CTE program of less than 12 credits.

Definition of an Eligible Institution: Under the law, an "eligible institution" is an entity that is eligible to receive a state's postsecondary formula funding. Currently, an eligible institution is: (1) a public or private IHE that offers CTE courses leading to a credential; (2) a local educational agency (LEA) that offers postsecondary education; (3) a postsecondary institution operated by the Bureau of Indian Education; (4) an educational service agency; or (5) a consortium of two or more of those entities. The reauthorization changes the first category to require that an IHE *offer and will use Perkins Act funds to offer* CTE courses. Further, it makes eligible an Indian tribe, tribal organization, or tribal educational agency that operates a school or may be present in a state, as well as a tribally controlled college or university.

Definition of a Program of Study: Under current law, each state must develop, and each local recipient must implement, one or more POSs, which are, briefly, CTE programs that incorporate secondary and postsecondary elements and lead to an industry-recognized credential or a postsecondary certificate or degree. The reauthorization replaces the current definition of a POS with a requirement that, in brief, POSs: (1) provide academic and technical content at the secondary and postsecondary level; (2) incorporate challenging state academic standards (including the state's ESEA standards) that address both academic and technical knowledge and the skills that are needed by industry; (3) progress in specificity; (4) have multiple entry and exit points that incorporate credentialing; and (5) culminate in the attainment of a recognized postsecondary credential.

Definition of Special Populations: As under current law, the reauthorization will hold states and local recipients accountable for the CTE outcomes of special populations. Under current law, special populations are individuals with disabilities; individuals from economically disadvantaged families, including foster children; individuals preparing for nontraditional fields; single parents, including single pregnant women; displaced homemakers; and English learners. The reauthorization makes youth who are in or have aged out of the foster care system a

separate population (that is, apart from individuals from economically disadvantaged families) and adds homeless individuals and military-connected students as new special populations.

Within-State Allocations

The reauthorization includes several changes to the rules that govern states' use of their formula grant funds.

Under current law, each state must allocate by the formulas, to secondary and postsecondary recipients, at least 85 percent of the state's total grant. With the remainder, 10 percent of the total may be used for state leadership activities and 5 percent for state administration. With the amount reserved for state leadership, a state may currently use up to 1 percent (of the state's total grant) for programs in state correctional institutions and institutions that serve individuals with disabilities. The bill increases that maximum to 2 percent.

Also within state leadership, the bill includes a new requirement that each state use at least 0.1 percent of its grant or \$50,000 (whichever is less) for the recruitment of special populations to enroll in CTE programs.

Finally, current law permits a state to use up to 10 percent (of the 85 percent that flows to local recipients) to make grants for CTE activities in rural areas and areas with high numbers or percentages of CTE students. The reauthorization increases this "reserve fund" to 15 percent and provides that these funds may go to geographic areas with disparities or gaps in CTE performance, in addition to the types of areas currently authorized. Further, unlike current law, the reserved funds must now be used to foster innovation in CTE or to promote the development of POSs or career pathways aligned with high-need, high-wage, or in-demand occupations and industries.

State Plan

The reauthorization replaces the current six-year state plan with a four-year plan. States will also have the option of submitting a combined plan under the Perkins Act and Workforce Innovation and Opportunity Act. New language will require the state agency to meet with the Governor's office during the development of and prior to submission of the plan and give the Governor the opportunity sign the plan 30 days prior to submission. If the Governor does not sign the plan, the plan goes to ED without that signature.

Regarding the contents of the state plan, the reauthorization replaces the approximately 40 descriptions required under current law with some 30 descriptions, plus several assurances. The bill also adds to the categories of stakeholders that must be involved in and consulted with in the development of the plan.

Under current law, the U.S. Secretary of Education (the Secretary) must approve a state plan unless ED determines that it does not meet the requirements of the Act or that the state's levels of performance are not rigorous enough to meet the purposes of the Act, and a plan is considered approved if ED does not respond to the state's submission within 90 days. Under the reauthorization, ED must approve a plan within 120 days if the Secretary determines that the

state's levels of performance, or other elements of the plan, do not meet the statutory requirements.

Indicators of Performance

As noted in the overview, each state must establish "core indicators" of performance in certain areas, covering its secondary and postsecondary CTE programs, with which it will hold accountable (and will be held accountable for) its programs.

The reauthorization makes some changes to the areas in which state must establish indicators of performance for secondary-level programs. The revised indicators are, briefly, the percentage of CTE concentrators who: (1) attain academic proficiency (as measured by the state's ESEA assessments); (2) graduate high school; (3) in the second quarter following their exit from secondary school, are in postsecondary education, advanced training, military service, a national service program, or the Peace Corps; and (4) are in CTE programs leading to nontraditional fields, plus state-determined indicators of CTE "program quality."

The reauthorization also revised the areas in which states must establish indicators for their postsecondary programs. The new indicators are, briefly, the percentage of CTE concentrators who: (1) in the second quarter after program completion, remain enrolled in postsecondary education, are in military service, are in a national service program, are in the Peace Corps, or are placed or retained in employment; (2) receive a recognized postsecondary credential during participation or within one year of program completion; or (3) are in CTE programs that lead to nontraditional fields.

State Performance Levels

Current law requires the state to establish "adjusted levels of performance," negotiated with ED, for each of its core indicators. These are the levels that a State will hold itself accountable for meeting, with consequences for failure to attain them as described below. The reauthorization largely leaves these requirements in place but removes the authority of ED to negotiate with the states over their performance levels. As under current law, states will reset their levels (now to be known as "state-determined levels of performance" rather than "state-adjusted levels of performance") before the third and fifth performance years. Further, the bill requires that: (1) a state use the same levels of performance for all CTE students; (2) the levels provide for meaningful progress toward improving the performance of all CTE students; and (3) the levels be developed with stakeholders and subject to a public comment. Further, when a state adjusts its performance levels (before the third and fifth years), it must take into consideration the levels established by other states and must generally set levels that are higher than the average of the two preceding years.

Local Performance Levels

The reauthorization largely continues the current requirement that an eligible recipient accept the state-determined performance levels or reach agreement with the state on its own levels. Similar to the language on the state performance levels, local levels will have to provide for meaningful progress in improvement of the performance of all CTE students and, when adjusted, call for

performance higher than the average level of the previous two years. Adjusted levels would also have to take into account the performance levels of other local recipients.

State and Local Program Improvement

Under current law, a state that has failed to meet 90 percent of the adjusted level of performance for any core indicator must develop and implement an improvement plan. ED may withhold funds from the state if it determines that the state has: (1) failed to implement its improvement plan; (2) failed to make improvement against a core indicator (within one year of implementing the improvement plan); or (3) failed to meet at least 90 percent of a level of performance for three consecutive years. The reauthorization retains these provisions but revises the language on withholding to authorize the Secretary to withhold funds if the state does not implement its improvement plan or if it does not meet at least 90 percent of a performance level for two consecutive years after the state has been identified for improvement. The bill also specifies that a determination of whether a state is failing to meet the 90 percent level is to be made based on the performance of “all CTE concentrators” (i.e., not based on the performance of individual special populations or subgroups), and that a state’s improvement plan must include an analysis of the gaps between the performance of special populations and special populations on the core indicators (versus the performance of the “all students” group) and of the actions that will be taken to address those gaps.

With respect to local program improvement, where current law has similar language, the reauthorization makes similar changes.

State Leadership Activities

Current law specifies some nine mandatory uses of the state leadership funds, along with some 17 additional permissible uses. The reauthorization specifies four mandatory uses (briefly, support for preparation in nontraditional fields and other programs for special populations; support for individuals in state institutions; educator recruitment, preparation, and training; and technical assistance) and authorizes some 30 additional ones. The state agency will also be required to report on the effectiveness of its leadership activities in helping the state achieve its goals for CTE, its state-determined performance levels, and the reduction in performance gaps.

Local Application/Comprehensive Needs Assessment

Current law requires an eligible recipient of secondary or postsecondary formula funds to submit to the state a local plan, covering the same time period as the state plan that includes certain descriptions and assurances. The reauthorization revises the contents of local plan (renamed the “local application”), including by mandating that it include a description of the recipient’s “comprehensive needs assessment” (a new requirement under the reauthorization) and of how that assessment has informed the recipient’s selection of CTE programs and activities. This comprehensive needs assessment, which a local recipient will update every two years, will address such issues as the recipient’s performance against the levels of performance and its progress in implementing CTE programs and POSs.

Local Uses of Funds

Current law requires that the activities funded by eligible local recipients meet some nine criteria (that they strengthen students' academic and CTE skills, link secondary and postsecondary CTE, etc.) and authorizes some 20 permissive activities. Each local recipient must also implement at least one program of study.

The reauthorization specifies that local programs must be of sufficient size, scope, and quality to be effective and lists five criteria (e.g., that they provide career exploration and career development activities, that they provide professional development, that they support the integration of academic skills into CTE), a reduction from current law, that a local recipient's program must meet. The requirement that each recipient offer at least one POS is continued.

Maintenance of Effort

Under current law, a state may not receive its formula allocation if the state's per-pupil or aggregate CTE expenditures for the preceding year were less than those expenditures for the second preceding year. The law further provides for an exclusion of certain expenditures from these maintenance-of-effort (MOE) calculations and authorizes ED to grant an MOE waiver, of not more than 5 percent, in extraordinary circumstances.

The reauthorization permits a state to meet the MOE requirement under either the current criteria or by having a per-pupil or aggregate CTE expenditure that is at least 95 percent of the level spent in the first year following reauthorization. Further, rather than losing all of its allocation if it does not meet the MOE requirement, a state will now receive a reduction that is proportionate to the amount of the state's failure to make MOE, and only if has not met the requirement in more than one of the previous five years.

Private School Participation

Current law provides, among other things, that a local recipient may use grant funds, upon written request, to provide for the meaningful participation (in its Perkins-funded CTE programs) of secondary school students who are enrolled in nonprofit private schools and reside in the geographical area served by the recipient. The reauthorization retains this language, but changes "who reside in the geographical area served by" to "in areas served by." In other words, the test will now be where a private school is located, not where a student resides.

National Activities

Under current law, ED is mandated to collect and report on the condition of CTE and is authorized to carry out additional research, development, dissemination, evaluation, and assessment activities. Further, the Department was required to carry out a national evaluation and assessment of CTE, covering certain issues and with the advice of a national advisory panel, and to make an award to an IHE or nonprofit organization for a national research center on CTE.

The reauthorization requires that these national activities be carried out through ED's Institute of Education Sciences. In place of the requirement for a national assessment of CTE, the bill requires a series of research and evaluation initiatives.

Innovation Grants

Within the authorization for National Activities (and using up to 20 percent of the appropriation for those activities), the reauthorization authorizes national competitive grants for CTE innovation and modernization. These grants would go to entities that are eligible for local allocations under the state formula grants and to consortia of various entities.

Each entity receiving an innovation grant would be required to provide a 50 percent match, unless the recipient can demonstrate exceptional circumstances. ED will give priority to funding eligible entities that will serve students from low-income families, and the Department will provide at least 25 percent of the program funding to rural areas. Each grantee will provide for an independent evaluation of its project.