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Education Provisions in the Bipartisan Safer Communities Act

On June 25, 2022, the Bipartisan Safer Communities Act (BSCA; P.L. 117-159) was signed into law. In addition to provisions addressing mental health services, firearms, and Medicare, the act requires the establishment of a Federal Clearinghouse on School Safety Evidence-based Practices, provides additional appropriations for several programs authorized by the Elementary and Secondary Education Act (ESEA), and institutes a new ESEA prohibition related to dangerous weapons. The new clearinghouse and ESEA provisions are discussed below. For general information about federal programs that support school safety and security, see CRS Report R46872, *Federal Support for School Safety and Security*.

Clearinghouse on School Safety Evidence-based Practices

Under the Luke and Alex School Safety Act of 2022, included in the BSCA, a Federal Clearinghouse on School Safety Evidence-based Practices (hereinafter referred to as “the clearinghouse”) is to be established by the Secretary of Homeland Security in coordination with the Secretary of Education, the U.S. Attorney General, and the Secretary of Health and Human Services. The clearinghouse is required to identify and publish online through SchoolSafety.gov evidence-based practices and recommendations to improve school safety for use by states, local educational agencies (LEAs), institutions of higher education (IHEs), state and local law enforcement agencies, health professionals, and the general public.

The BSCA specifies criteria for the evidence-based practices and recommendations to be identified and published by the clearinghouse. The clearinghouse (or the external advisory board established under the act) is also required to (1) review existing grant programs and identify any that may be used to implement the practices and recommendations of the clearinghouse and (2) identify and periodically report on evidence-based practices or recommendations of the clearinghouse for which there is not a federal grant program for implementing such practices or recommendations. The clearinghouse must also, to the extent practicable, identify for each state the agency responsible for school safety in the state and grant programs and other resources that may be used to implement the clearinghouse’s evidence-based practices and recommendations.

Specified federal agencies must notify various entities about the clearinghouse’s evidence-based practices and recommendations. For example, the Secretary of Education must notify every state and LEA.

Appropriations for ESEA Programs

The BSCA provides additional appropriations for Student Support and Academic Enrichment (SSAE) Grants, which are authorized by ESEA Title IV-A; 21st Century Community Learning Centers (21st CCLC), which are authorized by ESEA Title IV-B; and National Activities for School Safety programs, which are authorized by ESEA Title IV-F-3. The period of obligation of these funds is automatically extended for grantees and subgrantees by one year beyond the period of availability of funds specified in the BSCA and highlighted below. This extension is in accordance with the Tydings provision included in the General Education Provisions Act (GEPA, §421).

SSAE Grants

Under the SSAE program, formula grants are provided to states, which then provide formula grants to LEAs. Funds received by LEAs are used for three broad categories of activities: (1) supporting well-rounded educational opportunities (§4107), (2) supporting safe and healthy students (§4108), and (3) supporting the effective use of technology (§4109). In FY2022, the program received an appropriation of \$1.28 billion.

The BSCA provides \$1 billion in additional appropriations to remain available through September 30, 2025, for activities authorized by Section 4108 for supporting safe and healthy students. Funds provided through the BSCA program are to be awarded to states using the formula specified in ESEA Title IV-A. However, the BSCA specifically states that the Title IV-A formula for making subgrants to LEAs is not to be used. Rather, the state educational agency (SEA) is required to award competitive grants to high-need LEAs “as determined by the state.” That is, the BSCA does not define the parameters for how competitive grants should be awarded to LEAs, nor does it define the term *high-need LEAs*.

The programs and activities the LEA selects to support under Section 4108 must be used to develop, implement, and evaluate comprehensive programs and activities that are coordinated with other schools and community-based services and programs; foster safe, healthy, supportive, and drug-free environments that support student academic achievement; and promote parent involvement in the activity or program. The programs and activities may be conducted in partnership with another organization (e.g., IHE, private entity) that has a demonstrated record of successful implementation of relevant activities. Examples of allowable activities include providing drug and violence prevention programs; school-based mental health services; bullying and harassment prevention programs; mentoring and school counseling; positive behavioral interventions

and supports (PBIS); or programs to support a healthy, active lifestyle.

Statutory language provides examples of programs for which Section 4108 funds may be used. It does not provide a comprehensive list of the allowable uses of funds. For example, the U.S. Department of Education (ED) has specifically stated in its guidance materials that funds may be used for the training of safety and security staff, which is not explicitly addressed in law. Neither statutory provisions nor ED guidance specifically addresses the use of Section 4108 funds to physically secure school buildings (often referred to as school hardening measures). As neither statutory language nor ED guidance provides an exhaustive list of allowable uses of funds under Section 4108, it is possible that funds could be used for such activities provided the activities meet various statutory requirements. A general prohibition on the use of ESEA funds for construction, renovation, and repair of any school facility (§8526(1)) applies to the use of Section 4108 funds.

For more information about the SSAE program, see CRS In Focus IF10910, *Student Support and Academic Enrichment (SSAE) Grants*.

21st CCLC

The 21st CCLC program supports activities provided during non-school hours that offer learning opportunities for school-aged children. Under the program, formula grants are made to SEAs, which in turn award grants to local entities (e.g., LEAs, community-based organizations) on a competitive basis. Local entities may use funds for activities that improve student academic achievement and support student success, such as academic enrichment learning programs, mentoring, tutoring, well-rounded education activities, programs to support a healthy and active lifestyle, drug and violence prevention programs, counseling programs, and programs that build career competencies and career readiness. In FY2022, the program received an appropriation of \$1.29 billion.

The BSCA provided an additional \$50 million for 21st CCLC to remain available through September 30, 2023. The funds must be used to carry out activities authorized by the 21st CCLC. The Secretary of Education is directed to “increase support for the implementation of evidence-based practices intended to increase attendance and engagement of students in the middle grades and high school in community learning centers” using the funds provided under the BSCA. The BSCA does not specify how much of the funding should be used by the Secretary for the aforementioned purpose.

For more information about the 21st CCLC program, see CRS Report R45977, *The Elementary and Secondary Education Act (ESEA), as Amended by the Every Student Succeeds Act (ESSA): A Primer*.

National Activities for School Safety

The BSCA provides \$1 billion in additional appropriations over five years to be divided evenly between two mental health-related programs that were created through ED

appropriations acts using authority available under ESEA Title IV-F-3. Each program is discussed below.

The School-Based Mental Health Services Grant program was established in the Department of Education Appropriations Act, 2020 (P.L. 116-94). The explanatory text that accompanied the Consolidated Appropriations Act, 2022 (P.L. 117-103) directed \$56 million for FY2022 to the program. Under this program, competitive grants are provided to SEAs. Funds are used to increase the number of mental health professionals (e.g., counselors, social workers, psychologists) who provide school-based mental health services to students in high-need LEAs.

The Mental Health Services Professional Demonstration Grants program was created through the Department of Education Appropriations Act, 2019 (P.L. 115-245). The explanatory text that accompanied P.L. 117-103 directed \$55 million to the program for FY2022. Under this program, competitive grants are provided to LEAs. Funds are used to support partnerships that train school-based mental health service providers to serve in schools located in high-need LEAs.

Of the \$1 billion BSCA appropriation, \$200 million is provided in FY2022 and is to remain available until March 31, 2023. An additional \$200 million in each of FY2023-FY2026 is to be provided and remain available until December 31 following the end of the fiscal year. For example, an additional \$200 million is to be provided in FY2023 and remain available until December 31, 2023. The BSCA stipulates that not more than 2% of the amount appropriated each fiscal year may be used for program administration, technical assistance, data collection, and the dissemination of best practices.

For more information about these programs, see CRS Report R46872, *Federal Support for School Safety and Security*.

New ESEA Prohibition Related to Dangerous Weapons

Section 8526 of the ESEA includes general prohibitions on the use of ESEA funds for specified purposes. The BSCA adds a new prohibition to Section 8526 that states that no ESEA funds may be used to provide anyone with a dangerous weapon or to provide anyone with training in the use of a dangerous weapon. The term *dangerous weapon* has the meaning given to the term in 18 U.S.C. §930(g)(2):

The term “dangerous weapon” means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2½ inches in length.

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