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Analysis of the Strengthening Career and Technical Education for the 21st Century Act of 2018 (Perkins V)

Overview

This summer, for the first time in more than a decade, Congress reauthorized legislation governing the country's Career and Technical Education (CTE) programs (commonly referred to as "the Perkins Act"). This reauthorization bill, Strengthening Career and Technical Education for the 21st Century Act ("Perkins V"), did not make dramatic or sweeping changes to CTE programs or funding formulas. However, Perkins V did make important updates to modernize the technical education system while also further decreasing the federal government's role in it.

Following the bipartisan passage of Perkins V—a historically wildly popular bill on both sides of the aisle—on July 23, 2018, President Trump signed the measure into law July 31. The Trump administration will now work over the next eight months on implementation before the new legislation takes effect July 1, 2019. This whitepaper is meant to provide background on the Perkins Act more generally and help you understand key provisions and major themes of the recently passed bill so you can better prepare for next summer's implementation.



Perkins Act background

General purpose and history of the Perkins Act

The Perkins Act authorizes federal funding for CTE programs for students in secondary and postsecondary institutions. Its primary purpose is to increase access to these CTE programs of study (courses that provide a technical proficiency, credential, certificate, or associate degree) and align them with industry and workforce needs.

Congress first passed the Perkins Act in 1984, named in honor of Rep. Carl D. Perkins, a Democrat from Kentucky known for his commitment to equal access to education. The 1984 Perkins Act evolved from prior legislation that provided federal support for vocational schools and programs and work-study, placing a greater focus on access to CTE programs for special populations, including people with disabilities, single parents, and incarcerated individuals.¹ In 2006, when Congress last reauthorized the Perkins Act, it attempted to address changing workforce needs by strengthening collaboration among stakeholders, including secondary and postsecondary institutions, employers, and industry partners. The 2006 legislation also reinforced the CTE accountability system by requiring states to meet performance targets on separate core indicators for secondary and postsecondary levels (e.g., graduation rates for CTE students).²

As explained in greater detail below, the most recent reauthorization of the Perkins Act occurred in July 2018 with the passage of the Strengthening Career and Technical Education for the 21st Century Act, or Perkins V.

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How Perkins funding is distributed

The Perkins Act authorizes the allocation of federal funding to states in the form of Basic State Grants (BSGs) based on a formula of population and per capita income. States then allocate 85 percent of the total allotment to local education agencies (i.e., school districts) and postsecondary institutions and are provided the flexibility to decide how much to distribute to both groups.

Before a state can receive its funding, it must submit a plan to the U.S. Department of Education that details certain information as required by the Perkins Act, such as a description of the CTE programs that will be supported with the funding and how the state will support teachers and other school faculty to provide appropriate CTE instruction. The Perkins Act also outlines requirements for a local eligible recipient to apply for and receive funding.

The Perkins Act requires the consultation of school leaders, teachers, parents, and students, among others, during the development, submission, implementation, and evaluation of the state plan. States must conduct public hearings to receive recommendations regarding the development of the plan. States also must follow performance indicators to meet a set of goals or targets, such as graduation rates for CTE students, to ensure that federal funds are used effectively.

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Much of the funding formula and general structure of the Perkins Act outlined above was kept intact in Perkins V; however, the sections below describe updates to funding (in special circumstances) and to the consultation process and performance indicators, in addition to other areas addressed in the bill.

Relevance of Perkins V to other recently enacted legislation

Perkins V makes some references to the Workforce Innovation and Opportunity Act (WIOA) and the Elementary and Secondary Education Act (ESEA), both major education legislative vehicles that Congress successfully reauthorized during the Obama administration. Perkins V aligned several new key definitions to those defined under WIOA and ESEA. WIOA, reauthorized in 2014, serves as the primary law and federal funding mechanism for workforce development programs. One year later, Congress reauthorized ESEA, which serves as the primary law and federal funding mechanism for primary and secondary education. Aligning CTE for students from the primary, secondary, and postsecondary levels through the workforce was a key objective with the passage of Perkins V.

Perkins V analysis

Common themes

In the section below, we outline key changes and new provisions of Perkins V. However, several major themes also appear throughout the legislation. Such themes include the earlier introduction of CTE programs for students and a greater focus on industry needs, which are meant to modernize the CTE system to better prepare our future workforce. Additionally, nods in the law to accountability measures and improved data collection match congressional efforts seen in WIOA and ESEA. A brief review of these common themes follows.

- **Eligibility for younger students in the middle grades.** The new law removes the prohibition on CTE funding for programs in the 5th and 6th grades. Additionally, within the definition of an “area CTE school” and within the new eligible uses of local CTE funds, Perkins V adds language for schools to include career exploration and career development activities in the middle grades. Therefore, the new law will open up all CTE programs to students earlier in middle school.
- **Recognition of innovative implementation programs and strategies.** Throughout the law’s permissible uses of CTE funds, we see a focus on new eligibility for innovative and accelerated learning and other emerging strategies, including:

 - **Pay for success initiatives**, which are newly defined and are included as an allowable use of funds in a new federal grant program established to improve CTE program effectiveness and outcomes. Pay for success initiatives also appear as a permissible use of funds for CTE improvement activities at the state level.
 - **Competency-based curricula**, which appear in sections governing local uses, state leadership activities and plans, and national activities.
 - **Dual or concurrent enrollment**, which is newly defined in the law and used as a performance indicator for CTE evaluation purposes.
 - **Early college high school**, which also is newly defined and used as a performance indicator for CTE evaluation purposes.
 - **Work-based learning**, which is newly defined and appears 21 times throughout the law.
 - **Open educational resources**, which are recognized as an allowable national research activity, an allowable use of funds under state activities, and a required local use of funds.
- **Greater alignment to industry needs and to recently passed legislation addressing career readiness (WIOA and ESEA).** Significantly, the purpose of CTE programs is updated under Perkins V to recognize the importance of developing employability skills through CTE programs. It also aligns several new key definitions to those defined under WIOA and ESEA. The new definition for CTE “programs of study” includes a requirement for programs to be aligned with industry. Additionally, the new law will require employers to be consulted as part of the state plan development process. At the local level, the comprehensive needs assessment must include a description of how CTE programs are aligned to state, regional, or local in-demand industry sectors or occupations. Additionally, local allowable uses to support implementation of successful CTE programs include equipment, materials, and technology aligned with industry needs.

The new law will open up all CTE programs to students earlier in middle school.

- **Less federal oversight but increased accountability metrics.** A general provision outlined under the new law prohibits the federal government from conditioning funding on the adoption of the Common Core State Standards (CCSS) or any other academic standards common to a significant number of states. The Obama administration received much pushback on conditioning ESEA funding waivers on adopting CCSS, and this prohibition was a key priority for Republican lawmakers while negotiating the final Perkins bill. Under Perkins V, state and local agencies can set determined levels of performance for each of the core indicators outlined without required negotiations with the Secretary of Education (as currently required), but the Secretary retains the authority to disapprove state plans based on the determined levels of performance included in the plan. Eligible agencies will set performance targets for all four years in the state plan, which is submitted and approved by the Secretary. The accountability systems under the new law are enhanced to include core indicators of performance for CTE concentrators, in addition to the new requirements for the state-determined levels of performance. Perkins V also improves and strengthens data reporting for the performance indicators.
- **Renewed focus on research and data.** As noted above, throughout the accountability section of the law, enhancements are made to strengthen data reporting. Perkins V also requires a new study from the General Accountability Office (GAO), or the “congressional watchdog” agency, to evaluate the strategies and practices used by CTE funding recipients to (1) help all students complete

CTE programs aligned to high-skill, high-wage occupations, including underrepresented subgroups, and (2) identify any challenges associated with replication of such strategies.

Understanding how Perkins V is structured and its key provisions

While the themes are discussed above, there are many other changes in Perkins V. Perkins V is broken up into four main sections, including an introductory section with general information, followed by three titles. A brief summary of each is below.

Introduction—general information

This section of the bill stipulates general information such as the purpose of the bill, effective date, important definitions, prohibited actions, and authorized funding levels. It makes clear that amendments refer to changes made to the Carl D. Perkins Career and Technical Education Act of 2006, and it stipulates that such changes will take effect July 1, 2019.

Updated purpose

The purpose of the current Perkins law is to develop more fully the academic and career and technical skills of secondary and postsecondary CTE students by:

- building on state and local efforts to develop challenging academic and technical standards and to assist students in meeting such standards;
- promoting the development of services and activities that integrate rigorous and challenging academic and career and technical instruction;
- increasing state and local flexibility in providing services and activities designed to develop, implement, and improve CTE;
- conducting and disseminating national research and information on best practices that improve CTE programs;
- providing technical assistance to promote leadership and improve the quality of CTE teachers and faculty;
- supporting partnerships among secondary and postsecondary institutions, area CTE schools, local workforce investment boards, business and industry, and intermediaries; and
- providing individuals at all stages in life with opportunities to develop the knowledge and skills needed to keep the United States competitive.

Perkins V emphasizes that the purpose of the law should be tied to knowledge and employability skills.

It also expands the law's purpose to include increasing employment opportunities for certain underemployed populations, including individuals with disabilities, economically disadvantaged families, homeless individuals, and youth in foster care.

Expanded prohibitions

This introduction section also expands upon the prohibitions in current law that keep the federal government from mandating, directing, or controlling the allocation of state or local resources through grants, contracts, or other cooperative agreements. Specifically, this section prohibits the federal government from including any conditions or preferences to adopt the CCSS initiative or any other common set of standards.

New definitions

Perkins V makes important updates to terms defined under the law. Some definitions are expanded upon in the bill, while others are altogether new, and outdated terms are removed entirely. For example, the legislation amends the definition of “area CTE school” to decrease from five to three the number of minimum CTE fields offered and requires alignment with challenging state academic standards under ESEA. “Career guidance and counseling” also now includes direct support services for special populations and ensures that information is presented to students on their different education and training options (i.e., dual or concurrent enrollment programs, work-based learning opportunities, early college high schools) in addition to financial literacy. Perkins V expands the definition of “special populations” to include low-income youth and adults, out-of-workforce individuals, homeless individuals, youth in foster care, and youth with a parent in the armed forces. This is significant because new references to special populations are made throughout Perkins V, including a state set-aside of 0.1 percent or \$50,000 to recruit special populations into CTE programs.

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Many new terms are defined in the bill, but the ones you should know include:

- *CTE concentrator*—a secondary school student who has completed at least two courses in a single CTE program or program of study, or a postsecondary school student who has earned 12 or more credits within a CTE program or program of study.

- *Professional development*—activities that are (1) an integral part of an eligible agency, eligible recipient, institution, or school strategies for providing educators with the necessary knowledge and skills to enable students to succeed in CTE, to meet challenging state academic standards, or to achieve academic skills at the postsecondary level and (2) sustained, intensive, collaborative, job embedded, data driven, classroom focused, and evidence based.
- *Program of study*—a coordinated, nonduplicative sequence of academic and technical content at the secondary and postsecondary level that incorporates ESEA standards, addresses both academic and technical knowledge, is aligned with industry, progresses in specificity, has multiple entry and exit points that incorporate credentialing, and results in a recognized postsecondary credential.
- *Work-based learning*—sustained interactions with industry or community professionals in real workplace settings, to the extent practicable, or simulated environments at an educational institution that foster in-depth, firsthand engagement with the tasks required in a given career field, and are aligned to curriculum and instruction.

Perkins V also aligns the terms “evidence-based” and “career pathways” with the definitions provided under the ESEA and the WIOA, respectively.

Authorized funding

Finally—and importantly—this section for the first time would authorize federal funding levels for the key state grant program provided in the bill. The bill authorizes \$1.23 billion in funding for fiscal year (FY) 2019, gradually increasing to \$1.32 billion in FY 2024. Current law does not include specific funding amounts but only authorizes “such sums as necessary” to carry out CTE programs. By specifying funding levels, the bill sets a target at which to authorize the program, and that target, even in its first year, is slightly higher than the FY 2018 CTE funding level of \$1.19 billion when the bill passed.

Title I—CTE assistance to the states

The bulk of the reauthorization is included in Title I, which governs how federal funding flows to states and local governments to provide CTE services and what accountability metrics are needed to receive such funding. As such, there are three “parts” to Title I—(A) Allotment and allocation, (B) State provisions, and (C) Local provisions—all discussed here.

Part A—Allotment and allocation

Part A of the bill covers how states receive CTE funding, but also houses important requirements around accountability and performance. Perkins V removes the “hold harmless” provision in current law and creates a

“foundational grant” for states, which ensures all states shall receive a BSG that is no less than the amount they received in FY 2018. States are guaranteed the BSG amount from FY 2018 if Congress appropriates FY 2018-level funding, but funds will be adjusted as necessary if more or less than what was received in FY 2018 is provided. The allotment formula changes only when additional funds are appropriated (above FY 2018 levels) and is based on state populations ages 15–65 and per capita income. If Congress appropriates less than FY 2018 funding amounts, states’ BSG shares are reduced by the percentage reduction in overall funding. In the recently enacted FY 2019 appropriations bill, Congress included more than in FY 2018 for the BSG, so funding above the foundational grant level would be based on income and age by state.

Perkins V updates the requirements for the core indicators of performance for CTE concentrators and performance targets for state and local agencies. The new secondary core indicators of performance must be “valid and reliable” and contain measures of the following:

- graduation rates defined under ESEA;
- academic standards adopted by the state under ESEA;
- student placement two quarters after exiting secondary education into postsecondary education, advanced training, military or other service program, the Peace Corps, or employment;
- percentage of CTE concentrators in programs that lead to nontraditional fields; and
- “CTE program quality” metrics shall include the percentage of CTE concentrators who are secondary graduates with a recognized postsecondary credential, who achieve postsecondary credits through dual or concurrent enrollment, or who graduate high school having participated in work-based learning.

Eligible state and local agencies will have the ability to set determined levels of performance for each of the core indicators listed above without required negotiations with the Secretary of Education (as exists in current law), but the Secretary will have the authority to disapprove state plans based on the determined levels of performance included in the plan. There are new requirements by which eligible agencies must abide when determining the levels of performance. State-determined levels of performance now must be expressed in a numerical form so they can be:

- objective and measurable;
- subject to public comment by stakeholders;

- considered as to how they advance the goals identified in the state plan; and
- used for continual meaningful progress toward improving CTE performance.

Eligible agencies are permitted to adjust their determined levels of performance before the third program year. If state-determined levels of performance are adjusted, they must be compared with levels established by other states, consider characteristics of CTE concentrators, and be higher than the average performance of the most recent two years. The local levels of performance are identical to the state-determined levels of performance. Both state and local eligible agencies must submit an annual report regarding their progress in achieving the determined levels of performance and the actual levels of performance for all CTE concentrators. The reports must include nonduplicative information and be publicly available and easily accessible. Local reports must be submitted to the state agency, and state reports must be submitted to the Secretary of Education, who will share them with the appropriate committees in Congress.

Part B—State provisions

Part B primarily governs state CTE plans, including improvement plans, and state leadership activities. The first significant change of Perkins V is that it expands who must be consulted as part of the development and implementation of the plan. Teachers, faculty, business representatives, labor organizations, local and state program administrators, and parents and students were historically required to be included in consultation. Perkins V makes additional consultation requirements for specialized instructional support personnel, paraprofessionals, school leaders, charter school leaders and agencies, employers, tribal organizations, and community organizations.

Perkins V more closely aligns the state plan with WIOA by reducing the state plan window from a six-year period to a four-year period, while continuing to allow states to submit annual revisions to existing state plans. It also requires a minimum 30-day public comment period. While the state plan components mostly remain the same, but widen in scope, they are consolidated under the new law (from 20 to 14). One of the new components requires that the state plan include the strategic goals and vision the state has for meeting the state's workforce needs.

Although the Secretary of Education has 90 days to review the state plan, it is automatically approved if the Secretary has not responded within 120 days. Perkins V requires that—if the Secretary disapproves a state plan because it fails to meet the requirements under the Act—the state must be notified in writing, with justification of

the denial, and grant the eligible agency a hearing.

Perkins V retains the 10 percent set-aside in current law to conduct state leadership activities but consolidates the required uses of funds into the following leadership activities: (1) preparation of nontraditional fields in emerging professions and programs for special populations; (2) support for individuals in correctional institutions and individuals with disabilities; (3) recruiting, preparing, or retaining CTE teachers and faculty; and (4) technical assistance for eligible recipients. Additionally, the new law expands the former list of 17 permissible uses of funds to 25 permissible uses. These vary and range from supporting programs that increase success in science, technology, education, and mathematics (STEM) fields to making instructional content more widely available and expanding work-based learning opportunities.

Part C—Local provisions

Perkins V amends requirements for the local plan. First, the law now requires an eligible recipient to conduct and update every two years a comprehensive local needs assessment related to CTE and must include the results in its local plan. The eligible recipient must include in its assessment an evaluation of the students' performance; a description of its CTE programs; an evaluation of progress toward the implementation of CTE programs; a description of how it will improve recruitment, retention, and training of educators; and a description of progress toward implementation of equal access to high-quality CTE courses and programs of study for all students. The law adds that a diverse body of stakeholders must be consulted during the needs assessment and that ongoing consultation with the same stakeholders must take place.

The new law also updates the local uses of funds to align better with the needs assessment. It now requires CTE programs to provide:

- career exploration earlier (in the middle grades) and before enrolling in a CTE program;
- professional development for educators and other professionals;
- CTE skills necessary to pursue careers in high-skill, high-wage, or in-demand industry sectors or occupations;
- integration of academic skills into CTE programs and programs of study;
- implementation of CTE programs and programs of study that result in increasing student achievement of the local levels of performance; and
- evaluations of the activities carried out with funds.

Examples of elements to support the implementation of CTE programs to increase student achievement and performance at the local level include, but are not limited to, the following uses: sustainable stakeholder relationships; accelerated learning programs; equipment, technology, and materials aligned with business and industry needs; simulated work environments; distance, blended-learning, and competency-based education CTE program opportunities; and use of open educational resources.

Title II—General provisions

Title II previously governed the Tech Prep program, which focused on the last two years of secondary education and the first two years of postsecondary education and was designed to strengthen links between the two. It has not been funded in recent years and is eliminated under Perkins V. Title II now houses important general provisions, including the following three:

- **Maintenance of effort**—The new law does not change the requirement that a state must maintain its expenditures from the previous year to receive its full allotment of funds but makes technical changes with respect to the maintenance of effort calculation.
- **Scope of CTE programs**—Perkins V under this Title also allows for CTE funds to be spent on programs in the middle grades, which now includes 5th and 6th grades.
- **CTE evaluation**—The law requires a GAO study evaluating the strategies, components, policies, and practices used by CTE program recipients and any challenges associated with replication of such strategies.

The new law does not change the requirement that a state must maintain its expenditures from the previous year to receive its full allotment of funds but makes technical changes with respect to the maintenance of effort calculation.

Title III—Amendments to other laws

Title III makes several amendments to other laws, including:

- **Amendments to the Wagner-Peyser Act** specify that the state must consult with eligible agencies to include CTE data in the already-existing workforce and labor market information system to receive any federal financial assistance.

- **Amendments to the ESEA of 1965** clarify that the state report card must include information about the state meeting the CTE state determined levels of performance for core indicators. References to Tech Prep education and apprenticeship programs for eligible state grant activities were removed.
- **An amendment to the WIOA** replaces the term “school dropout” with “out-of-school youth” when describing youth who are no longer attending school.

Perkins V implementation

Perkins V will take effect July 1, 2019, but questions remain as to how much CTE funding Congress will provide for these programs each year. Although passage of Perkins V authorized specific funding amounts for the next six fiscal years, Congress still holds the “power of the purse”—or the ability to provide more, less, or the same funding authorized in the Perkins Act each fiscal year through its annual appropriations process. The recently passed FY 2019 appropriations bill governing CTE funding provides more (\$1.26 billion) than the amount laid out for the year in Perkins V (\$1.23 billion).

The new law requires CTE programs to provide career exploration earlier (in the middle grades).

The Department of Education is tasked with implementing the law and will likely issue nonregulatory guidance in the coming months regarding state transition plans for 2019–2020, the “transition year” for implementation, as well as guidance for four-year state plans for 2020–2024. Local agencies likely will receive guidance from states as well. Department officials published a state plan guide in October 2018 in the Federal Register, which is available for review and comment until December 24, 2018.

Because the Department has not issued regulations for Perkins in several decades, formal regulations are unlikely. However, the legislation addresses the potential for proposed rulemaking. Perkins V requires the Secretary of Education to provide the relevant congressional committees with a copy of any proposed regulation related to the bill at least 15 days before issuing a notice of proposed rulemaking. The Secretary also must provide an explanation for the regulation and provide Congress with a comment period of 15 days to provide feedback on the proposed regulation.

Conclusion

With the passage of Perkins V, Congress has continued to provide federal support for CTE. The changes enacted with Perkins V signal policymakers' intent to ensure access to and alignment of CTE programs for students at all levels of education, and allow for greater innovation and research, all while ensuring increased accountability mechanisms but with less federal oversight authority. As CTE grantees monitor CTE implementation developments from the Department of Education, educators, parents, and other community members who value CTE education also should consider their role as key stakeholders and influencers in the development of state plans and uses of funds. Congressional hearings on implementation are likely to occur in the 116th Congress, which begins in January 2019, and stakeholder input will be key as to the direction that oversight process takes.

¹ Dortch, Cassandra. Carl D. Perkins Career and Technical Education Act of 2006: Background and Performance (CRS Report No. R42863). Retrieved from Congressional Research Service website: <https://fas.org/sgp/crs/misc/R42863.pdf>

² Dortch, Cassandra. Carl D. Perkins Career and Technical Education Act of 2006: Background and Performance (CRS Report No. R42863). Retrieved from Congressional Research Service website: <https://fas.org/sgp/crs/misc/R42863.pdf>

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