



The Education Trust

Closing the gaps in opportunity and achievement, pre-k through college.

The Honorable Lamar Alexander
Chairman
HELP Committee
U.S. Senate
Washington, DC 20510

The Honorable Patty Murray
Ranking Member
HELP Committee
U.S. Senate
Washington, DC 20510

Dear Chairman Alexander, Ranking Member Murray, and other members of the Senate HELP Committee:

Thank you for your efforts to jump-start the long overdue reauthorization of the Elementary and Secondary Education Act. While current law has helped to prompt the fastest improvement since 1980 in the achievement of the very children who are the primary focus of federal education policy, the law has become outdated and, in some places, unworkable. We have learned a lot as a country in the 13 years since it was signed — lessons that should be reflected in a new, forward-looking law. While the Chairman's discussion draft of the Every Child Ready for College or Career Act builds on some of those, we appreciate the opportunity to offer comments aimed at improving the draft to respond to other of those lessons.

First, though, let us be clear: We do not believe that the federal government should run America's public schools. That is and always has been a responsibility of states and local communities. But historically, the federal government has played a limited yet critical role in: 1) providing to communities with concentrations of low-income children, English learners, and children with disabilities the extra resources they need to serve those children well and 2) assuring that states and local school districts take seriously their responsibilities to all of their children.

Most Americans, of course, thoroughly understand why federal intervention in education was needed back when it began in the 1950s and 60s. Too many state and local officials were literally standing in schoolhouse doorways blocking the access of black and Latino children to the schools that their parents' tax dollars helped to support.

What Americans may not recognize, however, is that education inequities are by no means a thing of the past. Every day in America, low-income children and children of color continue to attend schools where we spend less on their education, expect less of them, and assign them our least experienced, least-well educated and least effective teachers.

Each iteration of federal education law has sought to reduce these disparities, because they are crippling the futures of so many of our children and weakening our country's long-term prospects. And each law has made a dent. The 2002 law, in particular, fundamentally changed what it meant to be a good school in America. No longer was it possible for schools to simply skate by on the performance of their top

achievers or to otherwise hide the performance of some groups of children. To be considered a good school, that school had to be improving achievement for all groups of students.

It's become clear that there were a lot of problems with the way the law was crafted, including rigid federal dictates of both goals and consequences for schools that didn't meet them. Unfortunately, when the Secretary of Education sought to open an escape valve to let off some of the steam created by those rigid prescriptions by offering waivers from parts of the law, the problem was compounded by more prescriptions in areas unrelated to the federal government's historic role in protecting the disadvantaged — while all but the lowest performing schools escaped their special responsibility to such students.

So here we are at a critical moment. Can we fashion an effective but carefully limited federal role that walks the fine line between too much and too little? Can a new, forward-looking federal education law both energize and empower states and communities, and assure progress for the children who are still often overlooked in these communities — our fast-growing populations of low-income children, children of color, English learners, and children with disabilities?

We think so. Indeed, the discussion draft has elements of the flexible but focused approach that we think makes sense — including its section regarding the importance of state standards. We appreciate very much your insistence that these be anchored in the real world, most particularly the skills and knowledge that students need to begin credit-bearing work in postsecondary education. This is critical for all children, but especially for the low-income children and children of color who have for too long been harmed by watered down standards.

One note here, however. As you know, there have been big changes in recent years in what it means to be ready for careers. In today's economy, in fact, the reading, writing, and math skills necessary to be ready for careers paying a family-supporting wage are pretty much the same as those necessary to be ready for college. Accordingly, the states have worked very hard to develop standards that prepare students for college and careers. By labeling the new ESEA the "Every Child Ready for College or Career Act," the federal government may be unwittingly undermining the key message that states are trying to send to their students that strong preparation is important regardless of your intended destination after high school.

Beyond that, we identified six critical problems in Title I of the draft that absolutely must be attended to if our schools are to continue moving forward, rather than backward. This letter outlines our recommendations in each of those domains.

Every reauthorization of ESEA has been an improvement on the last, and we know that that's the goal of the Committee this time, too. The changes we recommend are essential to making sure that's the case. They're aimed at ensuring that all children matter, that schools and districts serving the most vulnerable children get the resources they need, and that the country accelerates its upward trajectory of performance for all students, especially the low-income students, students of color, English learners and children with disabilities who are, and must remain, the focus of federal law.

Priority 1: Statewide, annual assessments for all students in grades 3-8 and at least once in high school in both reading and math, and at least once in elementary, middle, and high school in science

In light of all the debate surrounding assessment, it's important to remember the value of annual, statewide tests:

- They provide a common way of measuring student progress on state-set, statewide standards across classrooms, schools, and districts.
- They equip parents with data to make informed decisions about their children's schooling, including which schools to send their child to and when to push for extra supports for a child who's struggling academically.
- By providing a common, objective measure of performance, they guard against lowering expectations for low-income students, students of color, students with disabilities, and English learners.
- They are one important tool for educators, who use test results to understand how their students perform relative to others in the school, district, and state; track progress over time; and plan for and adjust instruction.
- They allow us to measure individual student learning growth from one year to the next, which is the fairest way to hold schools accountable for results.

We appreciate that the Chairman's draft invited discussion of the issue. Given their importance for transparency, equity, and improvement, we urge members of the Committee to maintain current requirements for statewide, annual assessments for all students. All means all students taking the same test. Only students with the most significant cognitive disabilities should be assessed on alternate assessments on alternate achievement standards, and there should be strict limits on how many are allowed to do so.

We are aware, of course, that — in addition to the federally required statewide annual tests — many localities are administering low-quality, redundant, unnecessary tests that are a waste of money and, worse, students' and teachers' time. Congress can and should support the good work already happening in some states and districts to audit and clear out unnecessary, unaligned, low-quality local tests.

Finally, we appreciate the need for innovation in assessment. Just as there have been huge advances in the field in recent years, there will undoubtedly be advances during the course of the next authorization of ESEA. Federal policy should not discourage innovation, but it must put in place careful guardrails to ensure that the value of common assessments for all students aligned with state-set standards is not undermined. Therefore, as is currently the case through regulation, any exceptions to statewide assessment must be held to rigorous criteria around quality, validity and reliability, and comparability, consistent with nationally recognized professional and technical standards. These exceptions must also be broadly acceptable to parents.

Recommendations

- 1) Eliminate assessment Option 1 of the Chairman's draft and maintain assessment Option 2.***

- 2) *Allow only those students with the most significant cognitive disabilities to be assessed on alternate assessments of alternate achievement standards with strict limits.*
- 3) *Incorporate S.197, the SMART Act, introduced by Sen. Baldwin.*
- 4) *Require approval by a national expert review panel — convened by the U.S. Secretary of Education or by the Board on Testing and Assessment of the National Academy of Sciences — that is empowered to set rigorous criteria for quality, validity and reliability, comparability, utility, and stakeholder buy-in before a LEA can participate in any locally designed assessment system in lieu of the statewide assessment.*

Priority 2: Statewide accountability systems that expect and support all students to graduate from high school ready for college and career

While assessment has dominated recent debate, we urge Committee members to keep in mind that assessment for transparency’s sake is not enough. Parents must be confident that schools will act when their children are falling behind, giving them the supports they need to get back on track. And parents and taxpayers alike need to know that when a school is struggling, the district and state have a responsibility to that school’s students that transcends just sitting by and watching.

That’s where accountability comes in. Well-designed accountability systems can be a much-needed source of pressure and support in the work of improving results for all students by:

- Setting a clear expectation that schools must raise the achievement of all of their students, not just some;
- Focusing attention and resources of the full range of student groups, including those who are sometimes ignored; and
- Prompting action when schools don’t meet expectations for any group of students.

While game-changing in many ways, the accountability provisions in current law are in serious need of updating. States are in the process of shifting to new, more rigorous college- and career-ready standards and assessments, and need to set new ambitious but achievable achievement goals. Current law focuses on reading and math only, to the exclusion of other measures of college and career readiness; and it focuses on year-to-year proficiency rates, to the exclusion of individual student learning growth over time. Under current law, schools that fall far below expectations for all students are treated the same as schools that are just off target for one group of students. And despite school districts’ critical importance to creating the conditions for school success, current law largely ignores them.

These problems need attention. But in making much-needed changes, Congress must be careful to maintain the core expectation of improvement for all groups of students — not just some — and the expectation of action where any group of students is struggling.

We appreciate that the Chairman’s discussion draft requires states to establish statewide accountability systems that differentiate among schools based on the performance of students overall and groups of

students, as well as high school graduation rates. And we appreciate that the draft requires that some schools be identified for improvement. But we're concerned that the draft does not:

- Require academic achievement and graduation rates to be the primary focus of accountability systems, allowing instead for other, non-academic indicators to count as much or even more;
- Ensure that states not only incorporate the performance of individual groups of students into their accountability systems, but also require faster progress of those groups starting further behind;
- Expect district or state action in schools where students are missing state-set progress expectations; or
- Recognize the central importance of school districts and hold them accountable both for student outcomes and for creating the conditions for school success.

This year, the federal government will invest \$15 billion in Title I funds in schools and districts to support their work of improving achievement for disadvantaged students. Federal lawmakers have a right — and a responsibility — to expect results from that investment. And while it may be tempting to say that states — which are closer to districts, schools, and the students they serve — should have full discretion to establish their own accountability systems, history tells us that without a federal backstop, too many states will walk away from their obligation to disadvantaged students.

That pattern was clear under the 1994 authorization of ESEA, when most states ignored the law's requirement that they hold schools accountable for the performance of disadvantaged students. Under No Child Left Behind, in setting their graduation rate goals — the one place they had much discretion — most states chose to set exceedingly low goals, and then didn't hold schools accountable for getting groups of students to those low goals. More recently, under ESEA waivers, states set goals for individual groups of students, but chose not to make those goals matter in the accountability ratings they gave to schools when given that opportunity by the Secretary of Education.

In return for billions in federal Title I dollars every year, states should be asked to put in place statewide accountability systems that expect and support all students to graduate from high school ready for college and careers. While these systems can and should vary based on state context, federal law must require that all state systems include a few key elements essential to improving results among the students who are the focus of federal investments.

Recommendations

Require states to establish statewide accountability systems that incorporate the following elements:

1) A focus on student achievement

- ***State systems should be based predominantly on student growth and proficiency on statewide assessments, accurate high school graduation rates, and other measures of college and career readiness.***

- *States can choose other indicators, such as attendance, student surveys, school safety, parent satisfaction, and working conditions, but these must play a secondary role to assessment results, graduation rates, and measures of college and career readiness.*
- *Evidence of English proficiency and time in program should be taken into account for English learners.*

2) Meaningful goals for improvement and gap-closing

- *States must set public, statewide improvement and gap-closing goals for at least assessment results and graduation rates.*
- *Statewide goals must be translated into improvement targets for districts and schools for students overall and each group of students, with greater progress expected for groups that have been behind.*
- *Assessment performance and graduation rates for each group of students, including performance against improvement targets for each group of students, must be the predominant factor in school accountability ratings.*
- *Assessment performance for each group of students, including performance against improvement targets for each group of students, should also be a significant factor in district accountability ratings. But district ratings should also be based on measures of support for schools, success with school improvement, and equity in the allocation of key resources such as dollars and strong teachers.*

3) Action based on improvement and gap-closing goals

- *States must specify how schools and districts that consistently demonstrate high performance for all groups of students, including exceeding improvement targets, will be rewarded.*
- *States must articulate a plan for ensuring supports and interventions in schools that miss their targets, including how students in persistently low-performing schools will get the supports they need to meet state standards and graduate from high school.*
 - *Where states rely on districts to be the first responders to underperformance in schools, states must specify how they will monitor districts and intervene when they are not meeting their responsibilities to schools.*
- *States must also articulate a plan for supporting and intervening in districts that miss targets and/or are not performing well on other district accountability measures.*

Priority 3: Transparent data reporting to parents and the public

Parents, taxpayers, and policymakers need accurate information on how all students, and all groups of students, are performing academically. And they need accurate information on whether all students, and all groups of students, have access to key resources for learning.

This information empowers parents to be effective partners in their children’s education, and it empowers taxpayers and policymakers to gauge the efficacy of their investments in public education.

We appreciate that the Chairman’s discussion draft includes many important elements of a public reporting system. To create an even stronger reporting system — one that creates a fuller picture of student achievement, attainment, and opportunities to learn — we recommend some clarifications, such as ensuring reporting of graduation rates for all groups of students, and ensuring that per-pupil expenditures are reported by funding source.

And we recommend some additions, such as more explicit reporting on key parts of the accountability system discussed above, as well as required reporting of indicators that are identified as optional considerations for school improvement activities under Section 1114 of the draft.

Recommendations

Require annual public reporting at the school, district, and state level of:

- 1) The percentage of students in each achievement level on the statewide annual assessment, overall and for each group of students**
- 2) Growth over time on the statewide, annual assessment, overall and for each group of students**
- 3) Secondary school graduation rates, including the 4-year adjusted cohort rates and the extended-year adjusted cohort rates, overall and for each group of students**
- 4) Whether assessment and graduation rate accountability targets were met, overall and for each group of students**
- 5) All other indicators included in the accountability system, overall and for each group of students**
- 6) The accountability rating of each school and district**
- 7) The percentage of teachers who are in their first year in the profession, the percentage of secondary teachers teaching out of field, teacher attendance rates, and teacher retention rates. At the district and state level, these data should be disaggregated by high-poverty compared with low-poverty schools, and by high-minority compared with low-minority schools.**
- 8) The percentage of students who receive out-of-school suspension or expulsions, overall and for each group of students**
- 9) The percentage of chronic absentees — students who are absent for at least 10 percent of the school year, overall and for each group of students**
- 10) Per pupil expenditures of federal and, separately, state and local funds, including actual staff salaries**

Priority 4: Equitable access to strong teachers and high-quality instructional programs

If students are going to meet rigorous state-set standards, school systems have to provide them with the resources necessary to do so. That starts with strong teachers. But, especially at the high school level, it also includes access to the full range of college preparatory classes, advanced math and science courses, and Advanced Placement/International Baccalaureate courses.

Teachers are the most important in-school factor for student learning. Recognizing this, and supported in part by federal dollars, many states and districts have done promising work to improve teacher

preparation, certification, recruitment and retention, evaluation, and professional development. But among them, only a handful have gone beyond these overall improvement strategies and worked explicitly to ensure that the vulnerable students who most need strong, well-supported teachers actually get them.

The result? Low-income students and students of color are still much more likely than their peers to be taught by inexperienced, out-of-field, and otherwise less effective teachers. They are also more likely to have teachers who don't show up for work regularly, and to be subjected to an ever-changing mix of teachers going in and out of a revolving door. To improve achievement for the disadvantaged students at the heart of federal education policy, we simply must turn these patterns around.

But we must also make sure that secondary school students have access to the coursework they need to be fully college and career ready.

We appreciate that there is attention to this issue in the Chairman's discussion draft. Indeed, states are required to assure that low-income and minority students are served by effective teachers, principals and instructional programs, and publicly report progress toward that goal. And districts are required to identify and address disparities that result in low-income and minority students being taught at higher rates than other students by ineffective teachers.

Yet if we have learned anything over the past 13 years, it is that provisions like these are an invitation to inaction. When states supply their own definitions, as they have with the Highly Qualified Teacher provisions of current law, these are typically so low as to be next to meaningless. And when the only action required is an "assurance," you can pretty much assume nothing will happen.

The answer, we think, is to preserve the structure in the draft — which is exactly right — but to add flesh to the draft provisions as necessary to assure that states begin to take far more seriously than most have to date their responsibilities to provide quality teachers and instructional programs to low-income children and children of color. That means not assurances but plans. And it means publicly reported data on well-defined measures, clear goals, careful delineation of action steps, and public reports on progress.

Recommendations

- 1) Shift the obligation of the states to make certain that low-income and minority children are taught by effective teachers and have equal access to quality instructional programs from a simple "assurance" to an action plan, with an inclusive process, clear and public goals, defined action steps, and periodic reporting on progress.***
- 2) Avoid the adoption of meaningless definitions of "effective teachers" by requiring, at the very least, attention to and public reporting of any disparities on the following indicators, both statewide and by district:***
 - The percentage of children taught by teachers who are in their first year in the profession;***
 - The percentage of secondary students taught by out-of-field teachers;***

- *The percentage of children taught by chronically absent teachers (missing more than 10 percent of school days); and*
 - *Wherever robust (statewide) evaluation systems have been in place for at least three years, the percentage of children taught by teachers at the top and bottom of the evaluation scale.*
- 3) *Avoid similar problems with the definition of “high-quality instructional program” by requiring, at the very least, attention to and public reporting of any disparities on the following indicators, both statewide and by district:*
- *The percentage of high school students enrolled in AP and/or IB programs;*
 - *The percentage of high school students completing the state’s full college- and career-ready curriculum; and*
 - *The percentage of high school students completing advanced STEM courses.*
- 4) *Improve the quality of this very important work by insisting on community engagement in district and state planning and peer review of state plans, either as a part of the overall Title I plan from each state or through a separate process.*

Priority 5: Sustained investment in public education, and targeting of Title I dollars to the highest poverty schools and districts

At the core of Title I is an essential bargain: a significant *investment* of federal dollars for disadvantaged students in exchange for significantly improved *outcomes* for those students.

So far, we have focused on ways that the Chairman’s proposals for assessment, transparency, and reporting — as well as the proposals on access to effective teachers and instructional programs — could be strengthened to reinforce the outcomes side of the bargain by making sure that all kids count.

But we have grave concerns that, even if these provisions are strengthened, problems on the investment side of the bargain — specifically, in some of the Chairman’s funding proposals — will seriously erode the potential for strong gains among low-income children. Why? Because, if adopted, these provisions are likely to result in significantly fewer dollars going to the schools and districts educating the largest proportions of disadvantaged students.

We have several specific concerns:

First, the Chairman’s draft would freeze Title I funding until 2021. Given the growing numbers of low-income students in our schools — including large numbers of children in extreme poverty — and increasing costs, flat funding means fewer services for low-income children. Especially when standards are rising, we should be increasing our investment to help our poorest children reach them.

Second, by eliminating long-standing Maintenance of Effort provisions, the proposal invites states to reduce their investments and use federal dollars to make up the difference — instead of providing the extras for disadvantaged students those dollars are supposed to buy. The current MOE provisions aren’t a straightjacket: They require states and districts receiving Title I funds to spend at least 90 percent of what they spent in the previous year on education from nonfederal sources. These provisions may not

work perfectly, but they provide common sense protections to the federal taxpayer, preventing states and localities from making big cuts in their education investment and using federal funds make up the difference.

Finally, and perhaps most worrisome, the draft’s so-called “portability” provisions would allow states to direct dollars away from districts and schools serving the largest concentrations of students in poverty. Yes, the idea of Title I dollars going to every poor child, regardless of which public school or district they attend, is intuitively appealing. But in the face of limited budgets, we oppose this provision because it will result in taking Title I funds away from the highest poverty districts and schools and giving that money to more affluent — and lower need — districts and schools.

For example, our estimates suggest that under this proposal, Memphis could lose approximately 14 percent of its Title I funds, and Nashville-Davidson could lose as much as 20 percent. The lowest poverty districts in Tennessee, meanwhile, would likely gain more than 10 percent. Likewise, both Spokane and Tacoma, Washington, could lose about 15 percent of their Title I funds, while the lowest poverty districts in the state would gain more than 20 percent.

We urge the Committee to change all three of these provisions. If our schools are to get their low-income children to their new college- and career-ready standards, we must increase our investments in these children and the adults that serve them, not decrease them. And we must ensure that, as long as dollars are limited, we target them to the schools and districts with the greatest needs: those serving concentrations of low-income children.

Recommendations

- 1) ***Raise authorization levels to help schools better respond to the needs of their low-income students, especially in an era of higher standards.***
- 2) ***Retain the Maintenance of Effort provisions in current law.***
- 3) ***Eliminate the Title I Funds Follow the Low-Income Child State Option from the Chairman’s draft.***

Priority 6: An effective role for the U.S. Secretary of Education in enforcing the law

The U.S. Secretary of Education has an important role to play in enforcing the laws set by Congress. This is central to the federal government’s responsible stewardship of billions of dollars in education investment annually, and to its unique role as champion of the children who are too often overlooked and underserved in state and local decision-making.

Historically, Secretaries have used their enforcement authority to prompt real improvements in state implementation of ESEA. For example, Secretary Margaret Spellings used her regulatory authority to push states to calculate accurate high school graduation rates, and to hold schools accountable for meeting meaningful graduation-rate goals for all groups of students. Secretary Spellings also used her authority to allow for additional state flexibility — within well-defined parameters — through her growth model and differentiated accountability pilots.

The Chairman's draft strips the Secretary of much of this enforcement authority, and would relegate the U.S. Department of Education to little more than a check-writing institution. While we understand that there are legitimate concerns about state micromanagement under Secretary Duncan's ESEA waiver strategy, we urge the Committee not to use these concerns as a reason to undermine an appropriate Secretarial role for years to come.

As we said above, we do not believe that the federal government should run America's public schools. That is and always has been a responsibility of states and local communities. But the federal government does have a limited but critical role to play in ensuring all students are held to high expectations and provided with the supports necessary to meet those expectations. For the federal government to effectively play this role, both Congress and the Administration need to be able to do their jobs.

Recommendation:

- 1) Remove the limitations placed on Secretarial authority to set criteria for state and local plans regarding assessment, accountability, student growth measures, other academic indicators, and indicators of teacher, principal, or other school leader effectiveness.***

Thank you for your consideration of these ideas. We look forward to working with you to make sure this legislation moves America forward by moving all of her children forward.

Sincerely,



Kati Haycock
President