



## **A COURSE OF ACTION FOR THE NEXT GENERATION OF ESEA**

### **GUIDING PRINCIPLES FOR A RENEWED FEDERAL COMMITMENT TO K-12 EDUCATION IN THE US**

Five years overdue, Congress is moving forward to reauthorize the Elementary and Secondary Education Act of 1965 (ESEA) - or No Child Left Behind (NCLB) as it was rebranded in 2001. Yesterday, the US House of Representatives Committee on Education and the Workforce moved their version of ESEA reauthorization to the House floor on party lines, signaling a showdown with the US Senate. Earlier last week the US Senate Committee on Health, Education, Labor and Pensions (HELP) passed its vision of what the new ESEA would look like if it has its way.

Despite widespread disagreement between both parties on the proper federal role in education, the House mark-up of the Republican-sponsored Student Success Act (H.R. 5) sparked a healthy debate revealing bipartisan consensus that NCLB initially worked well in ensuring school accountability. Reflecting on previous efforts to

reauthorize in 2007, Rep. John Yarmuth (D-KY) noted that “here we are 5 years later striking a balance to how heavy-handed the federal government should be... we need to maintain the accountability of NCLB and give states flexibility.” His sentiment was joined by Rep. Robert E. Andrews (D-NJ) who believed the Democratic substitute to H.R. 5, which failed on a party vote, refines the accountability provisions that “once worked in No Child Left Behind before 2005.” Meanwhile, House Committee Chairman Rep. John Kline (R-MN) once again voiced the Republican disdain for the Obama Administration’s granting of waivers in exchange for supporting its education agenda that “expanded federal control.”

Regardless of the discussion, neither chamber’s committee version comes close to providing the right balance of incentive and consequence necessary to ensure that money spent on education actually makes a difference.

On the one hand, the Democrats' version of ESEA requires states to write plans that speak to a variety of requirements, including how they pay teachers in order to get federal funds. Their proposal makes no connection between student success and whether schools get to keep the federal check if they fail. On the other hand, the Republicans' version releases all accountability for federal spending and leaves it to local and state actors whose neglect of real school accountability was the cause of the original NCLB to begin with! Essentially, both versions end up at the same place, albeit through different routes.

While the outcomes would be similar in many ways, the differences between how the federal government would operate under H.R. 5, "The Student Success Act" and S. 1094, "Strengthening America's Schools Act of 2013," are stark.

First, as noted above, in the Senate version, accountability for funds comes not through consequences for results, but through mandating how states function. The House version leaves virtually all decisions on how to spend federal funds to the states.

Second, when it comes to funding, the Senate version mandates that states spend at comparable levels on teacher salaries across all schools, inviting deep regulation from the federal government into state and local salary structures. While there's a tacit endorsement of performance pay in both versions, that's where the similarity ends. The House consolidates funding for all special student categories into one big Title I program and gives districts authority to deploy those monies.

The most extreme differences seem to be in how both chambers expect states to treat low-performing schools. In the Senate version, states are required to abide by the school improvement categories of the existing Obama Administration program, designating authority to the US Education Secretary to allow exceptions and waivers. The House disposes of the School Improvement Grant (SIG) program altogether and instead gives flexibility to states and districts to intervene as they see best.

When it comes to standards, the Senate Democrats require standards of every state that participates, while the House simply encourages them.

Finally, the process for spending money on charter schools has gone from a very flexible construct of the Federal Charter Schools Program (CSP) to a very prescriptive one in the Senate version. While less so in the House version, charter funding is still going to be something that states and state entities can manipulate.

That there is any legislating on how states do charter laws and how charter school authorizers function at the US Department of Education remains a mystery to an organization like The Center for Education Reform (CER), who helped write and lead the nation's first charter laws and the initial federal grant program -- intended to incentivize, not regulate federal charter school start-up spending.

The federal government is not equipped to measure charter schools, charter networks or define what constitutes success. This is simply pernicious and bad for those on the ground trying to improve educational outcomes for our students. Parents and reformers need to get out of the legislative cloud and understand the impact of words on policy.

Both reauthorization bills invite more regulation from the federal government on charter school laws and the institutions those laws create. In the interest of getting more federal money, charter advocates in Congress and outside the Beltway apparently don't see how having to abide by federal spending regulations translates into regulating their actions. It is the antithesis of the charter model to start, and will interfere not only with how states amend their laws, but seriously hamper the freedom and flexibility these schools have.

In general, we must look to history as we reauthorize ESEA in this 113th Congress. The thousands of pages of code that emanated from the last go-round which became NCLB, was not entirely intended but gave regulators license to prescribe state procedures that later backfired on accountability. Assuming a federal rewrite of the law will result in higher student achievement is folly. The high stakes testing backlash that was carefully choreographed by the education establishment was the death knell of NCLB, just as the hoopla surrounding the Administration's Race to the Top may have resulted in behavioral changes by adults, but surely added little value for kids.

CER believes that making and implementing laws are hard enough to do in a government that has national and international interests, security and defense to manage. The ability of the federal government to ensure that the public interest is protected and that education is well managed is best left to those closest to our families and communities, though not without a strong partnership—a carrot and a stick—with the federal government to ensure our nation's freedoms and civil rights are upheld.

Thus, the federal role should be one of assessment and data gathering, conducting nonpartisan, objective research to support policymaking, and ensuring that the most needy are supported and helped, provided that such support is predicated on success, and not the status quo.

With more than 60 billion dollars on the table, there must be firm consequences for federal spending at state and local levels. The Democrats are right that some accountability for spending must be in place, but it's not the kind that simply mandates well-written plans and promises of reform. The Republicans are right that flexibility in state education policy is critical to real reform, but local control is a hallow theme when it is school board groups and teachers unions doing the controlling.

There must be accountability, and high standards and consequences for spending and whether or not states meet the criteria set forth should be cause for more money, or cutbacks. Such criteria, however, must be simple, based on results, and reforms incentivized but not prescribed. Until both parties get that formula right, we are wasting the American people's time.

In the coming weeks and months, there are a few things CER's twenty-year footprint can predict. The Senate version will pass its floor debate and the House will do the same with theirs. Given the partisanship in our current Congress, it's just simple political science! However, when both Chambers come to conference, a strong bipartisan effort is necessary. Rep. Jared Polis (D-CO) and Chairman Kline demonstrated this is possible in yesterday's committee mark-up. Insiders do not expect strong leadership on this issue from the current Administration.

The leadership team at The Center for Education Reform, along with its Board of Directors, is committed to these guiding principles to support our tens of thousands of stakeholders, nearly three million student benefactors and the 65 percent of America's K-12 student population that is failing and falling through the cracks. Additional recommendations, history lessons and a further "Course of Action for Congress" are forthcoming in the next week.

Parents, educators and advocates need to get in the game. Summer recess will make Congress much more accessible to do so, back home where it matters most.

Respectfully,

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