



April 27, 2010

U.S. Senate, Committee on Health, Education, Labor, & Pensions

Re: Reauthorization of the Elementary and Secondary Education Act (ESEA)

Dear Chairman Harkin, Ranking Member Enzi, and Members of the Committee on Health, Education, Labor, & Pensions:

The undersigned organizations appreciate the opportunity to respond to the Committee's request for comments on reauthorization of the Elementary and Secondary Education Act ("ESEA") by May 7, 2010.

Summary

Our comments emphasize the urgent need to ensure that states provide districts and schools, especially those serving concentrations of low-income or "at-risk" students and students of color, with the resources necessary to offer all students a genuine "Opportunity To Learn" and achieve rigorous academic standards. Opportunity To Learn (OTL) means children have access at least to high-quality preschool, quality teaching in pre-K-12, a college preparatory curriculum, decent facilities, and equitable instructional resources. Only by ensuring the fair and equitable provision of essential educational resources, including teaching quality, *across our 50 state public school systems* will the U.S. have any hope of closing the achievement gap and returning our educational system to international prominence.

To further this overarching objective, our primary recommendations for reauthorization of ESEA are to ensure that:

- (1) ***All states distribute an adequate level of state and local funding relative to student need, and all states are held accountable for ensuring districts and***

schools have the educational resources necessary to provide equal opportunity to learn and achieve academic standards.

- (2) All students arrive at kindergarten prepared to learn, by encouraging states to provide access to high quality pre-K education.***
- (3) All students have access to fully prepared and effective teachers.***
- (4) All parents have meaningful opportunities to engage in their child's education.***

Organizations Submitting these Comments

Education Law Center (“ELC”), which includes **Education Justice**, is a non-profit legal services and advocacy organization dedicated to advancing equal educational opportunities for public school children across the nation, especially low-income students, students of color, and students with special needs.

Public Advocates is a non-profit law firm and advocacy organization that challenges the systemic causes of poverty and racial discrimination by strengthening community voices in public policy and achieving tangible legal victories advancing education, housing and transit equity.

Californians for Justice is a statewide, grassroots organization dedicated to building power in communities that have been pushed to the margins of the political process.

The Campaign for Fiscal Equity, Inc. (CFE) is non-profit organization leading efforts to protect and promote the constitutional right to the opportunity for a sound basic education for all New York public school students through policy research and development, legislative and policy advocacy, and public engagement.

Need to Improve ESEA and State Education Funding

ESEA includes the purpose “to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education.” (20 U.S.C. § 6301). Unfortunately, however, millions of children across the country, particularly low-income and minority children, do not yet have access to this opportunity because their schools and communities cannot provide the programs and services all children need to achieve. Closing these huge opportunity gaps is an essential precondition to closing achievement gaps among groups of students.

Many of the nation’s “lowest-performing” schools lack the qualified and experienced teachers and other staff that are crucial to educational success. These schools are also often housed in overcrowded and crumbling buildings that do not have: sufficient light, heat, and air conditioning; working science laboratories and equipment; accessibility for students with limited mobility; music and art supplies; sufficient books and computers; and other essentials.

Importantly, children in many of the impacted communities do not have access to a well planned, high quality preschool program, linked to the state’s K-12 content and performance standards, beginning at age three. An impressive body of research shows that high quality early education is essential to close early developmental gaps and prepare children for success in elementary school and beyond. Furthermore, many students attending these schools move frequently and suffer the other negative effects of poverty, all of which decrease learning.

To close these opportunity gaps, the federal government needs to fully fund Title I and IDEA Part B, and require all states to assess the resource deficits among districts and schools within their states. States must also develop and implement plans to end these inequities and provide the Opportunity To Learn to all. In short, this Committee must advance, through the ESEA reauthorization, the overarching objective of assuring the 50 states provide the educational resources necessary for every child, especially those in high-poverty, low-wealth communities, to have access to a high quality learning experience that will prepare them for college or the workforce.

Recommendations

We believe that the reauthorization of ESEA should prioritize the following issues:

(1) Equitable Resources and Opportunity To Learn

Through “No Child Left Behind,” the federal government has focused on holding schools and teachers accountable for ensuring that students reach specified test scores. The Administration’s Blueprint for ESEA Reauthorization (“the Blueprint”) improves on NCLB’s overly constricted focus almost exclusively on math and reading test scores to a more meaningful focus on college and career readiness standards. While the latter is a welcome improvement, neither NCLB nor the Blueprint requires states to align school resources with their learning goals.

As a result, most state education funding systems remain disconnected from the needs of the state’s students and schools, and particularly shortchange schools in low-wealth and minority communities. Instead of punishing students, teachers and schools for failing to reach test score goals that are unrealistic, federal education policies should work to ensure that schools have sufficient educational resources to provide all students with a genuine opportunity to learn. Therefore, the ESEA reauthorization should ***ensure that all schools have adequate resources, that resources are distributed equitably, and that all schools provide equal Opportunity To Learn, by:***

- *Increasing federal funding for education and targeting the additional spending to the schools and students that need it the most;*
- *Increasing federal funding for education to fully fund Title I and IDEA Part B;*
- *Making federal Title I and IDEA Part B, funding mandatory instead of discretionary;*

- *Distributing the bulk of federal education funds through fair formulas, rather than competitive grant programs that inherently distribute money to only some schools and districts while causing many other children in need to lose out through no fault of their own;*
- *Enforcing the “supplement, not supplant” requirement for Title I funds;*
- *Requiring states and districts to report actual per pupil expenditures for all schools **at the school level** based on actual salaries paid to personnel working at each school site;¹*
- *Conducting professional, high quality studies to determine the costs of providing a quality education to all students in the states. These studies should include the costs of programs necessary to offer students from poverty backgrounds, learning English, and with disabilities a genuine opportunity to learn;*
- *Where deficient, requiring states to phase in state funding increases to fully meet the costs of providing a quality education to all students in the state;*
- *Requiring states to assure school funding equity by demonstrating that per pupil state and local revenues for K-12 education are positively correlated with US Census Bureau Poverty Estimates across LEAs within the state and that, on average, LEAs with higher poverty rates receive higher levels of state and local revenues. If a state cannot demonstrate the correlation between higher per pupil revenues and higher rates of poverty in LEAs, then the state must present a school finance reform plan and timetable for achieving the requisite correlation;*
- *Requiring states to make a minimum school funding effort by increasing the total state and local revenues for K-12 education as a percent of the gross state product (GSP) to the average of all states, if the state is below the national average, or maintain the GSP percentage if the state is above the national average;*
- *Requiring states to assure sufficient school funding by increasing per pupil state and local revenues for K-12 education to a level that is at least within 10% of the mean for all states, if the state is under that level, or maintain the per pupil level of state and local revenues if the state is above the national mean;²*
- *Requiring, as a condition of receipt of Title I funds, that states and districts ensure Title I schools are funded at least at comparable levels with non-federal dollars as non-Title I schools, specifically removing the teacher salary exception to comparability determinations;*

¹ A similar provision was enacted in the American Recovery and Reinvestment Act of 2009 and has been enacted in California. See http://info.sen.ca.gov/pub/05-06/bill/sen/sb_0651-0700/sb_687_bill_20050928_chaptered.pdf.

² These recommended national average benchmarks should be adjusted for regional cost differences.

- *Requiring states to measure and report on the availability, quality, and distribution of key instructional resources and opportunities. Among the factors that should be included, with appropriate required benchmarks, are teacher and school leader qualifications and experience, available courses, class sizes, counselor ratios, libraries and computers, and facilities; and*
- *Requiring states to redress any resource or opportunity-to-learn deficiencies identified through the aforementioned evaluation.*³

(2) Well Planned, High-Quality Preschool

By the time they enter kindergarten, many children in the nation's low-wealth communities have already fallen behind their peers in cognitive achievement and/or social skills so that they are not prepared for the work that is expected of them. High-quality early-childhood programs have had strong success in addressing this gap, and have been found to have both short- and long-term benefits, including greater academic achievement, lower rates of grade retention and placement into special education, higher graduation rates, and higher incomes in adulthood. Therefore, the reauthorization of ESEA should **ensure, at a minimum, that all low-income children, and all children in high-poverty communities, arrive at kindergarten ready to learn, by:**

- *Requiring states to phase in access to well-planned, high-quality preschool programs starting at age three;*
- *Requiring the states to adopt appropriate quality standards for all preschool programs, including small classes, qualified teachers and staff, and developmentally appropriate early education curriculum tied to the state's K-12 content standards; and*
- *Requiring states to develop systems designed to unify the delivery of preschool at the local level by child care providers, Head Start, and public schools through a common set of quality standards and the provision of adequate funding for all programs.*

(3) High Quality Teaching

High quality teaching is perhaps the most important factor in providing students with an equal and significant educational opportunity, and this is especially true for disadvantaged students, who both face greater barriers to education, and benefit more than other students

³ Another key resource critical to ensuring the Opportunity To Learn is access to safe and educationally adequate school facilities. We strongly recommend, as a component of the ESEA reauthorization package, inclusion of the provisions of S. 1121, the School Building and Financing Act of 2009 (Harkin) related to the planning, construction and renovation of school facilities by the states.

from high quality teaching. Despite the clear need for strong teachers in low-income districts, the distribution of public school teachers remains highly inequitable, with low-income and minority students disproportionately taught by the least prepared and experienced teachers. And while we suspect that if sound metrics for evaluating teachers were in place, the same students would also disproportionately be found to receive teachers deemed the least effective, the nation's schools have not developed meaningful mechanisms for distinguishing between effective and ineffective educators.

NCLB purports to ensure that all students have access to “highly qualified” teachers in their core classes, 20 U.S.C. § 6319(a)(2), and, where shortages persist, to ensure that poor and minority students are not disproportionately taught by non-highly qualified, inexperienced, or out-of-field teachers, *id.* § 6311(b)(8)(C). The Administration’s Blueprint proposes to maintain “highly qualified” requirements on only an interim basis and then to abandon preparation requirements completely with a shift to a singular focus on “effective” and “highly effective” teachers. The Blueprint goes astray by posing teacher quality measurement as a choice between preparation standards and effectiveness standards. Our students, particularly our neediest low-income students of color, need *both* fully prepared teachers and effective teachers.

Contrary to the “straw man” arguments of some, certification standards do not exist to distinguish between degrees of effectiveness of otherwise qualified teachers but to determine which individuals are baseline qualified to serve as teachers at all. Even after valid and fair measures of teacher effectiveness are in place across the country—something that remains yet years away—it will remain imperative to retain baseline qualification standards to ensure teachers *enter* the classroom fully prepared to teach on day one and with the foundation to increase their effectiveness over time. Since teachers will not have their effectiveness determined until after at least a year into their service, it will simply prove too late for a class full of students to find out at the end of the year that their teacher was “ineffective.” An objective preparation requirement enforced at the beginning of the year is still needed to identify such individuals as unqualified to teach in the first place.⁴ Beyond that, teachers with baseline qualifications can more reliably benefit from professional development investments and adjust to changing circumstances and requirements.

We support the Blueprint’s direction of going beyond minimal preparation standards to also require states and districts to establish meaningful measures of teacher effectiveness. To be successful, such measures must: (1) be robust in going beyond merely using standardized test scores as a sole or primary determinant of effectiveness; (2) serve primarily to inform professional development and promotion, and possibly compensation

⁴ In NCLB, Congress set a reasonable standard for a fully prepared teacher as one who possesses a B.A., subject matter competence, and his or her state’s level of full certification, 20 U.S.C. § 7801(23) (though a better label for such teachers would be “qualified” as opposed to “highly qualified”). To the extent graduation from a given traditional or alternative preparation program does not produce a fully prepared teacher (as most states’ “full certification” standards currently assume) than, rather than abandoning the critical “fully prepared” standard, the programs should be required to undertake reforms so that their graduates actually reflect that standard.

and only secondarily as a means to dismiss teachers (that is, evaluation systems should be focused on improving the great majority of teachers who have the capacity to be effective rather than on the small number of teachers incapable of ever being successful); and (3) be developed in collaboration with teachers, parents and the school community.

When the preparation and effectiveness standards are in place, Congress should require that states and districts ensure all students, particularly low-income students and students of color, have equal access to teachers who are both fully prepared and effective.

Therefore, the reauthorization of ESEA should **ensure that all students have access to high quality teaching** by enacting the following policies in the following areas:

PREPARATION:

- *Focusing teacher recruitment policies on strategies designed to attract teachers who intend to make a long-term commitment to teaching;*
- *Revising and strengthening accountability requirements for teacher preparation programs so that a teaching credential truly signifies that the teacher has received high-quality training and is prepared to teach on day one. Factors to include in a multiple measures approach to evaluating teacher preparation programs might include: teacher retention rates in the classroom, high school graduation rates of graduates' students, attendance rates of graduates' students for elementary and middle grades, percentage of graduates' students who attend college and complete one year of college credit, rates of reclassification of graduates' students with limited English proficiency, program graduates' scores on rigorous teacher performance assessments and percentage of program graduates who later attain National Board Certification;*

EVALUATION and PROFESSIONAL DEVELOPMENT:

- *Requiring states and districts to develop fair and robust mechanisms to measure teacher effectiveness in collaboration with teachers, parents and the school community;*
- *Requiring development of teacher evaluation systems that use multiple measures to differentiate teacher effectiveness. In addition to partial use of standards-based standardized test scores, such measures might include: regular evaluations by peers and administrators based on clearly-defined, research-based standards that include classroom observations, analyses of student work, teaching portfolios, teacher performance assessments, and analyses of teacher assignments, including the student populations a teacher teaches.*

- *Requiring use of evaluation systems primarily for purposes of professional development, promotion, and possibly compensation, and secondarily for dismissal.*⁵
- *Strengthening professional development programs;*

EQUITABLE DISTRIBUTION OF PREPARED & EFFECTIVE TEACHERS:

- *Requiring states to ensure that poor and minority students have equal access to qualified, experienced, and effective teachers;*
- *Requiring states to report the number and percentage of teachers who are “qualified,” “effective,” and “highly effective,” the number and percentage of teachers who have 2 or more years of experience, and the number and percentage of teachers who are teaching out-of-field (i.e., who lack subject matter competency and/or full state certification for one or more classes they are assigned to teach) for both “high-poverty” and “high-minority” schools;*
- *Requiring states and districts to establish “high quality plans” for achieving equity in distribution of both prepared and effective teachers, propose performance measures by which it will be assessed, and then hold states accountable for making progress on these indicators;*
- *Requiring states and districts, as part of their “high quality plans” for achieving equity in teacher distribution to develop policies designed to attract and retain prepared and effective teachers to low-performing schools that address, among other things, improving working conditions, school leadership/principal quality, time for collaboration and planning, class sizes, professional development and possibly compensation incentives; and*
- *Providing the Office of Civil Rights in the U.S. Department of Education with authority to investigate and enforce complaints regarding the inequitable distribution of prepared and effective teachers.*

(4) Parent Engagement

With NCLB, Congress made important, if incomplete, strides in seeking to inform parents about the quality of their children’s schools and to empower them to have a role in influencing the reform of those schools when underperforming. The Blueprint references parents around

⁵ One promising evaluation model that has achieved positive results nationwide is the Teacher Advancement Program (TAP), which integrates four research-based strategies in a holistic approach to improving student achievement: (1) multiple career paths for teachers with increasing responsibilities and pay, (2) ongoing professional growth and time for teachers to collaborate, (3) instructionally-focused accountability and evaluation, and (4) performance-based compensation.

the margins but appears to represent, if anything, a diminution of parent engagement and empowerment. The ESEA reauthorization should instead be moving in the opposite direction. Ample research supports the notion that students perform better and schools improve when parents are actively aware of and involved in their children's education. Therefore, the reauthorization of ESEA should **ensure that all parents have the opportunity to be engaged in their child's education** by:

- *Requiring that states and districts provide parents with information on the opportunities to learn and student outcomes at their child's school as compared to other schools in the district and state; and*
- *Requiring that states and districts provide parents with meaningful opportunities to engage with the school and district in deciding educational reform strategies to improve the conditions of learning and student achievement at their child's school.*

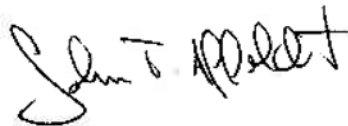
Conclusion

We appreciate the opportunity to comment on ESEA reauthorization on behalf of the public school students, especially the low-income students, students with special needs, and students of color, whom our organizations serve. Thank you for your consideration of these comments, and please do not hesitate to contact us should you need additional information or assistance. Our organizations stand ready to assist the Committee in its efforts to reauthorize an improved ESEA.

Sincerely,



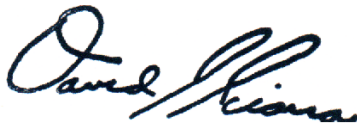
Molly A. Hunter
Director
Education Justice



John Affeldt
Managing Attorney
Public Advocates



Geri Palast
Executive Director
Campaign for Fiscal Equity



David G. Sciarra
Executive Director
Education Law Center



Jeremy Lahoud
Executive Director
Californians for Justice