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Access to a High Quality Education is a Fundamental Civil Right for All Children: Reauthorize the Elementary and Secondary Education Act

Chairman Tom Harkin
Committee on Health, Education, Labor and
Pensions
615 Dirksen Senate Office Building
Washington, DC 20515

Ranking Member Michael Enzi
Committee on Health, Education, Labor and
Pensions
428 Dirksen Senate Office Building
Washington, DC 20515

Dear Chairman Harkin and Ranking Member Enzi:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of 210 national organizations charged with the promotion and protection of the rights of all persons in the United States, we are writing to you regarding reauthorization of the Elementary and Secondary Education Act (ESEA). The Leadership Conference believes that access to a high quality education is a fundamental civil right for all children. The recommendations that follow below are limited to the issue of accountability under Title I, Part A, and do not include other ESEA provisions that are high priorities for our members, including Title II, Title III, Safe & Drug-Free Schools, and school choice programs. The Leadership Conference will provide recommendations on our other priorities in additional correspondence.

Fifty-six years after *Brown v. Board of Education*, too many of our nation's students still do not have access to equal educational opportunities. To the contrary, even as the past two Elementary and Secondary Education Act (ESEA) reauthorizations prodded states and local educational agencies (LEAs) to close gaps in achievement and high school completion, many recipients dragged their feet on improvements and investments needed to realize the promise of *Brown*. Instead, our public education system persistently shortchanged low-income and minority students who need the most – through access to qualified and effective teachers or a curriculum and learning environment that ensures college and career readiness – by systematically providing them with less. And these same students, as well as those who are also learning English or have disabilities, have often been assigned to schools and LEAs increasingly segregated by race and facing concentrated poverty, where standards and expectations are low and resources are inadequate. It is apparent that many states and LEAs are unable or unwilling to meet the achievement goals of No Child Left Behind – that all students meet grade level standards within twelve years – without strong and sustained federal oversight and monitoring. Yet without this past federal involvement the educational outcomes could have been far worse.

We recognize that NCLB's accountability framework has not succeeded in ensuring that we move closer to realizing the promise of *Brown*, and there is broad agreement that it needs to be changed. That said, the continued commitment of the federal government to equal educational opportunity is more important than ever as states and LEAs face historic budget shortfalls for the foreseeable future. This is not the time to walk away from a robust accountability system. Nor can we limit accountability to a small percentage of our schools while ignoring the others, thereby retreating from the long-standing federal role in ensuring that minority students, low-income students, English learners, and students with disabilities have access to a robust and well-rounded curriculum; well supported and prepared educators; safe environments that are conducive to learning; and supports that address a range of student needs so that they are better prepared to succeed in the classroom.

In light of the foregoing, The Leadership Conference urges you to improve and reauthorize ESEA this year by enacting strong provisions to preserve accountability, enhance transparency by taking into account the gender of students within each subgroup or ancestry of students in major racial or ethnic groups, and ensure that states and LEAs take effective action to improve low-performing schools and to close gaps in such areas as achievement, high school graduation, and discipline rates (herein after “gaps”) and to remove barriers to learning. We have identified the following twelve elements we believe are critical to include in ESEA:

1. Comprehensive State Plans. In order to continue to be eligible to receive funding under Title I: (a) states must develop (with stakeholder involvement including parents, educators, and communities) and submit plans to the Secretary providing evidence that their accountability systems include, and that the State will enforce, each of the elements that follow; and (b) the state plan must be peer reviewed and approved by the Secretary.

2. High Academic Standards. States must adopt academic content standards that describe, by grade and in each subject, what students need to know in order to graduate from high school prepared for postsecondary education or entry into a career.

3. Equitable and Adequate Resources.

- a. *Equal access to curriculum aligned with college and career-ready standards.* States must provide evidence or realistic plans to ensure that all students have access to curriculum, instruction, materials, technology, and other resources aligned with college and career-ready standards (e.g., college-preparatory courses in middle and high schools; college-credit-eligible classes like AP, IB, and dual enrollment programs; and high-quality career and technical education options).
- b. *Teacher and School Leader Equity.* States must provide evidence or realistic plans to ensure, on both an inter- and intra-district basis, that students of color, low-income students, English learners, and students with disabilities are not taught at greater rates than other students by inexperienced, unqualified, out-of-field, or less effective teachers and school leaders. Plans should offer incentives to recruit and retain highly qualified teachers and leaders in high need schools.
- c. *State Resource Equity Plans.* Each state plan must identify, report, and describe how the state will: (1) measure and remedy inequitable distribution of core instructional resources; (2) require LEAs to fully report actual dollars spent at the school level; (3) target sufficient additional resources and technical assistance to LEAs and schools where the neediest students are concentrated; and (4) provide adequate state and local resources to ensure that out-of-school factors (e.g., hunger, chronic illness) are addressed.

4. Measurement. States must develop new assessments that: (1) involve multiple measures of student academic achievement, including measures that assess higher order thinking skills and understanding, and (2) are aligned with Common Core or equivalent standards that validly and reliably can be used for school and LEA accountability purposes. While states are transitioning to these new assessments, they must maintain their current assessment systems under Sec. 1111(b)(3). States must ensure that English learners and students with disabilities are fully and appropriately included in the current as well as in the new state assessment systems. States must also collect and report additional measures of non-academic barriers to learning (e.g., school climate and discipline).

5. Performance Standards and Targets. States must define expectations for student, school, and LEA progress, including how the state will: (a) set future performance standards and targets (based on assessments and graduation rates) by grade, subject, and year; and (b) reduce non-academic barriers to learning. States must ensure that performance standards are the same for all students, schools, and LEAs, and that growth targets are based on closing gaps and growth toward college and career readiness.

6. Graduation. Rather than relying exclusively on assessments, schools and LEAs should also be held accountable for meeting performance targets for increasing graduation rates, under a uniform definition, for all subgroups (e.g., as defined in the 2008 regulations and the Every Student Counts Act), with data disaggregated by gender for each

subgroup. In addition, states should provide incentives for schools and LEAs to reenroll students who have dropped out and to provide additional time to support those students who cannot graduate in four years.

7. Public Reporting. States must report data annually at the school, LEA, and state level on the following:

- (a) Student achievement and high school graduation; teacher quality and equity; school climate measures, including discipline and incidents of harassment; and resource measures, including per-pupil spending at the school level; and
- (b) Progress in: (1) meeting academic performance standards and targets, including achievement and graduation rates; (2) closing gaps in achievement, high school graduation rates, and discipline; and (3) reducing barriers to learning.

States must provide data in a language and format that is meaningful and understandable to parents and the public. In addition, states must disaggregate data by gender for each subgroup currently identified in Sec. 1111(b)(3)(xiii), cross-tabulate for all subgroups, and further disaggregate by ancestry for major racial and ethnic groups (e.g., for subgroups of Asian/Pacific Islanders). Finally, states should have policies that balance the public interest in data and transparency with respect for individual privacy interests.

8. School Classifications and Categories. States must construct statewide accountability systems that identify and classify schools and LEAs based on their performance in improving student outcomes in such areas as closing gaps in achievement, high school graduation, and discipline rates, and reducing barriers to learning. Moreover, states must account for the following categories:

- **“Priority” Schools:** These would include: (a) the lowest performing schools in the state (i.e. bottom quartile); (b) all “dropout” factories (high schools with a promoting power of less than 60 percent) and feeder schools, where applicable; and (c) all schools with substantial or persistent gaps or barriers to learning for one or more subgroups.
- **“Priority” LEAs:** These would be LEAs in which over half the schools are Priority Schools.
- **“Previously Identified” Schools and LEAs:** These are schools or LEAs currently in school improvement or restructuring under the current law. LEAs shall modify current improvement plans to incorporate additional factors described herein.
- **“Reward” LEAs and Schools:** States may recognize schools and LEAs that have demonstrated the greatest success in: (a) increasing student achievement (gains and/or growth); (b) closing achievement gaps; and (c) reducing barriers to learning. Rewards should not include “flexibility” from complying with federal standards or anything else that undermines student success. Other bases for rewards may include progress in: (d) dissipating concentrated poverty in school makeup; (e) reducing racial isolation; (f) improving high school graduation and college-going rates; (g) developing assessments and services for ELLs and students with disabilities; (h) assigning highly effective teachers to high needs/high poverty schools; and (i) improving school climate. Financial rewards must be limited to high poverty schools.
- **All Other LEAs and Schools:** All other schools should be held accountable for meeting performance targets and closing gaps. Any grant of “greater flexibility” to LEAs and/or schools should be limited to those LEAs and schools that meet performance targets and close gaps, provided that the states describe the improvement remedies they will require if/when such LEAs or schools fail to maintain their targets or gap closures.

9. Interventions in Priority LEAs and Schools. The statute shall describe a system of interventions that will be effective in significantly and rapidly improving learning conditions and outcomes for students in Priority LEAs and Priority Schools. The interventions should be based on a needs assessment that: (a) includes the meaningful input

and involvement of parents, educators, and communities; (b) is conducted by a team of state-appointed educational experts; and (c) examines both academic and non-academic barriers to success. State plans shall account for evidence from both research and data on high performing schools, districts, states, and countries.

10. Other State Responsibilities. Where low performance is the product of persistent under-resourcing of an LEA or school, the state must ensure that resource gaps will be closed in tandem with school improvement efforts.

11. Outcome-Triggered Interventions. If after three years of state-directed remedies, a Priority LEA or Priority School still has not met the performance targets articulated in its improvement plan, the LEA or school will be identified for more intensive interventions based on a menu of focused options. (The time currently-identified schools or LEAs have spent in school improvement, however, would count toward the three-year trigger and any school or LEA designated for restructuring would immediately be subject to the trigger.) The menu of required interventions at this stage shall provide that the interventions selected by the state must be tailored to be responsive to the specific, immediate needs of the students in the LEA or school at issue. Congress should only include, and states may only select, interventions on the menu that have a high likelihood of success based on evidence from both research and data from high performing schools, districts, states, and countries. The menu should include conversion to a high-performing magnet school and community-based models (e.g., Harlem Children's Zone model). Appropriate wrap-around services and extended learning time should be provided to students in all Previously Identified Schools, Priority LEAs, and Priority Schools. Any third-party provider (e.g., an IHE, CMO, EMO) for school turnaround must have a proven record of success with similar LEAs or schools and must certify compliance with federal and state civil rights laws.

12. Rights and Protections for Students and Employees in Low-Performing LEAs and Schools. States must ensure that parents have the right to transfer their children from low-performing Priority Schools to better public schools in the LEA or region, with transportation provided. States must also provide for regular communication and consultation between LEAs/schools and parents and ensure maximum transparency in reporting of performance and school climate data, teacher qualifications, resource allocation, and public school choice options. States and LEAs must ensure that any students displaced due to a school closure, conversion, or restart are able to attend the newly-opened school or are assigned to a better-performing school. Finally, States and LEAs should respect the rights and interests of both parents and employees, including the right to collective bargaining, in recognition of the fact that improvement efforts and interventions are more likely to succeed when all stakeholders are involved and invested in the process.

We look forward to working with you to strengthen and improve ESEA. For additional information, please contact Senior Counsel Dianne Piche at piche@civilrights.org or The Leadership Conference's Education Task Force Co-Chairs, Fatima Goss Graves, at fgraves@nwlc.org or James Ferg-Cadima, at Jferg-Cadima@MALDEF.org.

Thank you for your consideration.

Sincerely,



Wade Henderson
President & CEO



Nancy Zirkin
Executive Vice President