

# **Real Relief for Schools: Accomplishing Effective Flexibility**



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Senior Democrat  
Committee on  
Education and the Workforce**

**July 2011**

## Executive Summary

Since *Brown v. Board of Education* and Sputnik, the federal government's role in education focuses on two central purposes — increasing equity for traditionally underserved students and ensuring our national economic competitiveness. Over the past 60 years, federal education laws have reinforced those purposes, and any additional Congressional action in education policy must continue to reinforce, and not detract from, those two central purposes.

Over the past two years, the Education and Workforce Committee has heard recommendations from stakeholders about improving the Elementary and Secondary Education Act (ESEA), including recommendations for increasing flexibility within the law. The requests to increase flexibility have focused on improving standards, assessments, and accountability systems, eliminating a one-size-fits-all approach to school improvement, and streamlining federal education programs to allow districts to more flexibly address their local needs. Additionally, stakeholders emphasize that federal education policy must maintain a strong focus on improving student achievement and equal opportunity.

This report outlines the history and the importance of federal role in K-12 education, provides a description of the flexibility provisions currently afforded by ESEA, and summarizes requests from education stakeholders about flexibility within a reauthorized ESEA. Lastly, it offers recommendations for increasing flexibility while maintaining a focus on equity and national competitiveness.

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## Introduction

In 2001, President Bush signed the No Child Left Behind Act (NCLB) into law. NCLB, which reauthorized the Elementary and Secondary Education Act of 1965 (ESEA), refocused national attention on the wide achievement gaps facing poor and minority communities. While NCLB made student performance more transparent, the law is now 10 years old and four years overdue for reauthorization. Members of Congress have heard from schools, parents, their local communities, states, and other national stakeholders about the desperate need to update this law.

Over the past few years, the Committee on Education and the Workforce has held a number of hearings on the next reauthorization of ESEA.<sup>1</sup> Witnesses have called for upgrading standards and assessments, updating accountability and school improvement, and improving use of data. They also have highlighted the need for increased flexibility to meet student needs in funding, reporting, and school improvement strategies, balanced with strong accountability. Calls for increased flexibility are the specific focus of this report.

For decades, ensuring equal opportunity, improving student achievement, and maintaining global competitiveness have necessitated a federal role in education. These core principles must continue to drive federal policy, including any changes to the roles and responsibilities of states and school districts in the nation's education system.

**“The best way the federal government can drive improved student performance is by setting high expectations, enforcing strict accountability measures, and allowing states the flexibility to work on behalf of their students.”**

*—Dr. Tony Bennett,  
Indiana Superintendent of  
Public Instruction,  
February 10, 2011  
Testimony to Congress*

While there are many other critical elements to ESEA reauthorization, this report highlights what education stakeholders have requested in order to increase flexibility in reauthorizing ESEA and offers key recommendations to do so while holding true to the core principles of the federal role.

## Promoting Equity and Economic Competitiveness — The Federal Role in Education

The modern federal role in the nation's K-12 education system arose out of two significant events—*Brown v. Board of Education* and Sputnik. In 1954, the Supreme Court declared in *Brown v. Board of Education* that every child in this country has a right to equal access to education – a separate education for black and white students cannot be considered equal.<sup>2</sup> In

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<sup>1</sup> Information available from: <http://democrats.edworkforce.house.gov/hearings/>

<sup>2</sup> *Brown v. Board of Education*, 347 U.S. 483 (1954).

1957, the Soviet Union launched Sputnik, the world's first venture into outer space, igniting a national concern that our education system was not sufficient to keep up with new global competitors.<sup>3</sup> As a result, Congress passed the National Defense Education Act (NDEA) in 1958 which focused on improving science, math, and foreign language instruction in our elementary and secondary schools. Seven years later, the Elementary and Secondary Education Act (ESEA) would follow.

Since then, the federal investment in education, which is primarily directed toward elementary schools and low-income and minority students, has resulted in academic gains. In fact, since 1973, 4<sup>th</sup> grade scores on the National Assessment on Education Progress have shown dramatic increases on both reading and math assessments, and the increases for minority students have outpaced the increases of their peers, helping to narrow the achievement gap.<sup>4</sup>

While progress has been made, the need remains for our education laws to remedy inequality and increase student achievement. In a nation of growing income disparity and a legacy of racial segregation, education inequalities will persist, or even grow, without an updated education law and a reordering of national priorities.

While equity in education is a moral and constitutional issue, it is also inextricably tied to economic competitiveness. Students that graduate high school today are entering a labor market that is more globalized and more competitive than ever. Of 34 industrialized countries, in 2009, the U.S. ranked 14<sup>th</sup> in reading, 17<sup>th</sup> in science, and 25<sup>th</sup> in math.<sup>5</sup> These rankings are directly linked to the United States tolerating achievement gaps within its population. Our top 10 percent of students perform equally with the students from top countries internationally, but there are significant discrepancies between the performance of students in those other countries and the rest of our population, especially poor and minority children.<sup>6</sup>

This achievement gap is exacerbated by a regressive and inequitable funding structure unique to the United States and only two other industrialized countries. Despite the second highest average spending per pupil, the United States spends considerably less per student on students from disadvantaged backgrounds than the average would suggest. The local system of school financing in the United States allocates resources to schools according to the tax revenues generated by the surrounding community. Thus, schools serving poor communities have fewer resources. As a result, poverty has a particularly stronger impact on student performance in the United States than in competing nations.<sup>7</sup>

The status quo, permitting these achievement gaps and funding inequities to exist, not only fails our students; it puts our economic future and global competitiveness at risk. Attention must now

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<sup>3</sup> U.S. Department of Education. (2011). *The Federal Role in Education*. Retrieved from: <http://www2.ed.gov/about/overview/fed/role.html>

<sup>4</sup> Rampey, B.D., Dion, G.S., and Donahue, P.L. (2009). *NAEP 2008 Trends in Academic Progress* (NCES 2009–479). National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education, Washington, D.C

<sup>5</sup> OECD (2011), *Lessons from PISA for the United States*, Strong Performers and Successful Reformers in Education, OECD Publishing. Retrieved from: <http://dx.doi.org/10.1787/9789264096660-en>

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

turn to reforming the federal education law. Increasing the law’s flexibility on a state or local level is one of many areas identified by stakeholders as important to reinvigorating our education system.

## Flexibility Provisions in Current Law

Several provisions in current law offer states and local districts flexibility in the way they use their funds. However, in most cases, few states or districts have chosen to utilize that flexibility.

### Transferability

Under Title VI, Part A, Subpart 2 of ESEA, state and local educational agencies are able to transfer a portion of the federal funds that they receive under certain ESEA programs to other programs and into Title I, Part A of the ESEA—the federal program targeted toward increasing equity and achievement for low-income students.

States and districts are permitted to transfer up to 50% of the funds they receive from the following programs:

- Teacher and Principal Training and Recruitment;
- Enhancing Education Through Technology;
- Safe and Drug-Free Schools and Communities; and
- 21st Century Community Learning Centers (at the SEA level only).

The federal funds may be transferred among and between these programs. Additionally, states and districts may transfer 50% of the funds from the programs listed above into Title I, Part A. No state or district can transfer money out of Title I, Part A. A district identified for improvement may only transfer up to 30% of their funds among these programs.

In the 2009-2010 school year, only 2 states and approximately 1,500 districts (10%) utilized this transferability option.<sup>8</sup>

### State and Local Flexibility Demonstration

Under Title VI, Part A, Subpart 3 of ESEA, states and districts may apply to the Department of Education for increased flexibility over uses of funds. Intended as a pilot program, State-Flex allows up to seven states to consolidate all of their state administration and state activity funds under a number of ESEA programs and use these funds for any purpose authorized under any ESEA program. Under a companion Local-Flex authority, a limited number of districts may consolidate all of their funds under a number of ESEA programs, and use these funds for any purpose authorized under any ESEA program. Under both the state and local flexibility

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<sup>8</sup> U.S. Department of Education (2011). *Consolidated State Performance Reports*.

demonstration programs, certain specified types of requirements—including those regarding civil rights, fiscal accountability (particularly the requirement that funds be used only to supplement, and not supplant, nonfederal funds), and equitable participation by private school students and teachers—may *not* be waived.

No state has ever participated in the State-Flex program.<sup>9</sup>

Authorized to participate through 2011, Seattle, Washington, is the only district that has ever participated in the Local-Flex program.<sup>10</sup>

### Small Rural School Achievement (SRSA) Program

Most formulas are based on a per-pupil allocation, and as a result small rural districts receive smaller grant allocations. Title VI, Part B, Subpart 1 of ESEA, offers flexibility to these small rural districts through the Small, Rural School Achievement (SRSA) program. Under this program, rural districts may flexibly use funds under certain programs to support activities under a broader range of programs. These school districts can shift money from the following three programs:

- Teacher and Principal Training and Recruitment;
- Enhancing Education Through Technology; and
- Safe and Drug-Free Schools and Communities.

This money can be used for authorized activities under any of the above programs as well as Title I, Part A (Improving the Academic Achievement of the Disadvantaged—Basic programs), Language Instruction for Limited English Proficient and Immigrant Students, and 21<sup>st</sup> Century Community Learning Centers.

ESEA requires that after three years, the state educational agency must review the performance of the districts utilizing these flexibility provisions. If the district is making adequate yearly progress (AYP), it can continue using the flexibility provisions. If the district is not making AYP, it can continue to participate only if it uses the funds under this flexibility provision to carry out school improvement requirements.

In the 2009-2010 school year, 51% of eligible districts participated in this program.<sup>11</sup>

### State and Local Consolidation of Administrative Funds

Under Title IX, Part B of ESEA, states and districts are permitted to consolidate administrative funds made available across ESEA programs to administer the programs included in the

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<sup>9</sup> Skinner, B. (Summer 2011). *Flexibility Provisions in the ESEA and Ed-Flex* [PowerPoint slides]. Congressional Research Service: Washington: DC.

<sup>10</sup> *Ibid.*

<sup>11</sup> U.S. Department of Education (2011). *Consolidated State Performance Reports*.

consolidation. Additionally, at the state level, funds may be used for improving coordination across the programs under the consolidation and developing standards and assessments for English and math as required under Title I, part A.

In 2006, 30 states informed the Department of Education that they planned to consolidate administrative funds under this authority.<sup>12</sup>

## Formula Programs Under ESEA

Many of the major formula programs under ESEA are driven by a focus on specific students—such as students from low-income families, migrant students, neglected and delinquent students, English language learners, and American Indian students—that have been traditionally underserved in education. These programs were created to promote equity and to ensure resources were focused on these traditionally underserved populations. While these programs require that funding be spent on the designated population, they offer considerable flexibility to districts in how those districts spend funds to improve services to the students for which they are intended.

## Education Flexibility Partnership Act of 1999 (P.L. 106-25)

Authorized outside of ESEA, the Education Flexibility Partnership Act of 1999 created an opportunity for states with sufficiently strong accountability systems to waive requirements under ESEA that may preclude reform efforts and school improvement. States may not waive requirements relating to fiscal accountability, equitable participation of private school students, allocations of funds, Title I school selection provisions, parental participation, and civil rights requirements. Districts or schools must apply to the state to be granted a waiver, and local waivers must be discontinued if student performance declines. States are also required to submit annual reports on the granted waivers.

Currently, only 10 states (CO, DE, KS, MS, MD, NC, OR, PA, TX, VT) are participating in the program. In the 2008-2009 school year, 131 waivers were in place across those states, though 3 of the states (KS, MD, OR) did not have any active requests or approved waivers.<sup>13</sup>

## Education Stakeholder Priorities on Flexibility under ESEA

Last year, the Committee received thousands of recommendations on how to reauthorize ESEA, including some on flexibility. The Committee has also heard testimony on the need for flexibility within certain requirements of ESEA. The following section outlines a summary of recommendations the Committee received with regard to flexibility over the past two years.

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<sup>12</sup> *Ibid.*

<sup>13</sup> U.S. Department of Education. (May 2011). *Report to Congress on Activities Carried Out by States During the School Year 2009-2010 Under the Education Flexibility Partnership Act of 1999*. Washington, DC.

## Standards, Assessments, and Accountability

Current law requires that states develop and establish standards for English and math and assessments to measure student achievement against those standards. Because of unintended and perverse incentives created by NCLB, including weak requirements on standards paired with rigid improvement requirements, many states have lowered their standards so that more students meet them. Additionally, because of insufficient funding and technology, many states have low-quality and inflexible assessments. Stakeholders have requested Congress provide states with flexibility, funding, and incentives to collaborate with other states and develop state college- and career-ready standards and higher-quality, more-flexible assessments.

Current law requires that states establish an accountability system based on AYP. Established separately by each state, AYP is an annual target for the percent of students scoring proficient in English and math within a school to progress toward 100% of students scoring proficient in 2013-2014. These perpetually increasing targets toward the goal of 100% of students scoring proficient treat all schools the same regardless of where they started. Most states set targets for achievement gains on a trajectory often known as the “hockey stick.” This state-established trajectory created increasingly unattainable AYP targets; throwing more and more schools into improvement each year.

Under current law, AYP looks only at whether a student scores proficient in a single year, and does not consider whether a student is progressing towards proficiency from year to year—commonly known as student growth.

Stakeholders have requested that ESEA provide greater flexibility in developing statewide accountability systems. They have requested flexibility in determining metrics for such accountability systems—including examining student growth—and in determining how to identify schools in need of improvement.

### ***Stakeholder Voices:***

**“Provide adequate funding, evidence-based research, and flexibility to states to develop a new generation of assessments that are aligned to common standards.”**

*—National Association of State Boards of Education, March 26, 2010, Core Principles and Recommendations for Passage of ESEA Reauthorization*

**“Further, the subsequent culture of accountability has resulted in greater attention to individual student needs. However, the use of a single summative test as an indication of a school’s ‘progress’ misses the underlying intent of the law. The accountability model should reflect that purpose, shifting from summative measures to growth-based assessments that identify student needs, set individual growth goals, and track progress towards those goals.”**

*—Dr. Gary M. Amoroso, Lakeville Area Public Schools, April 7, 2011, Testimony to the House Education and the Workforce Committee*

**“[The AYP] model adversely affects schools with large numbers of disadvantaged students, many of whom may start off academically behind. A system that gives credit for progress, in addition to proficiency, acknowledges the effectiveness of schools that improve even if they fall short of arbitrary proficiency benchmarks.”**

*—American Federation of Teachers, March 12, 2010, Let’s Get It Right: AFT’s recommendations for No Child Left Behind*

## School Improvement

Current law requires a one-size fits all approach to school improvement. Whether a school barely misses AYP or misses AYP by a wide margin, all schools are required to follow the same prescriptive timeline and actions, including siphoning off 20% of their funding in set-asides for school choice and supplemental education services. Stakeholders have requested flexibility in developing differentiated, data-driven school improvement systems in order to target resources and reform based on the school’s need. They have requested eliminating overly burdensome set-asides and certain prescriptive requirements that detract from school improvement efforts and reform.

### **Stakeholder Voices:**

**“States should have the flexibility to establish the consequences for lack of improvement as long as those consequences create real incentives for change.”**

*—Education Trust, March 26, 2010, Recommendations to the Education and Labor Committee on the Reauthorization of ESEA*

**“Provide flexibility to implement ‘targeted’ intervention activities for a particular group of low-performing students or particular student groups, in contrast to more comprehensive interventions, and provide criteria and justification in the LEA plan for permitting the use of less than the 20 percent amount.”**

*—Council of Great City Schools, March 26, 2010, CGCS Initial Recommendations on ESEA*

## Funding

Current law has many small grant programs, each with specific applications, uses of funds, and reporting requirements. Stakeholders have requested program consolidation around common purposes to encourage data-based decision-making, create greater efficiencies and reduce burdens for schools and districts. This consolidation creates a more-streamlined system for states and districts in applying for funding, as they would have fewer required applications. For example, rather than requiring multiple applications for programs to support specific literacy initiatives at different grade levels in the state, under a consolidated literacy program a state could apply for funding based on the specific literacy needs of their state and fund districts based on local literacy needs. This request has focused on grant programs, often competitive grant programs, around issues such literacy or wrap-around services and not the specific student

population-driven formula programs such as Title I, part A. In general, these smaller programs have more requirements on how the funds can be spent at the local level whereas the student population-driven formula programs already allow for great flexibility in how funds are spent at the local level.

***Stakeholder Voices:***

**“Establish broader buckets of funding streams around common purposes and create a new authority for state flexibility that allows state education agencies to consolidate programs and funding (of or below an established dollar amount or percent of Title I funding level), within ESEA and across other federal laws and agencies (with a particular focus on breaking down barriers between early learning, K–12, and higher education).”**

*—Council of Chief State School Officers, March 26, 2010, ESEA Reauthorization Principles and Recommendations*

**Maintain Focus on Student Achievement and Equal Opportunity**

For the first time NCLB highlighted and held schools accountable for the performance of all students, including subgroups based on race, socioeconomic status, disability status, and language proficiency status. Stakeholders have requested that, as we consider increasing flexibility within ESEA, Congress maintain a laser-like focus on the achievement of traditionally underserved populations and not take steps backwards from the increased transparency on performance that NCLB required.

***Stakeholder Voices:***

**“While the reauthorization of ESEA should explore ways to grant appropriate flexibility to ensure schools can best meet local needs, this flexibility should not eliminate the current focus of ESEA’s accountability framework on all schools and all subgroups or eliminate targeted help to schools that need it.”**

*—Consortium for Citizens with Disabilities, May 18, 2011, Letter on ESEA Accountability*

**"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."**

*—The Leadership Conference on Human and Civil Rights, April 5, 2011, Access to a High Quality Education is a Fundamental Civil Right for All Children: Reauthorize the Elementary and Secondary Education Act*

## Recommendations for Increasing Flexibility

On-going discussions with a broad group of education stakeholders, from parents to governors, make clear that the reauthorization should maintain the law's focus on accountability, especially in the areas of equity and student achievement, while increasing flexibility for states and districts to meet the needs of their students and schools. The federal government must provide sufficient support to schools while getting out of the way of true improvement. High standards, strong accountability, fiscal responsibility, and local flexibility directed at improving student outcomes must be the goal of any reauthorization.

ESEA, first and foremost, is a civil rights law, carrying out the federal government's role in ensuring equal access and opportunity for all, as required by *Brown v. Board of Education*.<sup>14</sup> For all its flaws, NCLB did help local communities and the nation see, for the first time, what was happening in our schools for *all* students. In addition to revealing the state of student achievement, it also held schools accountable for improving their students' performance. Hiding this information or retreating from accountability are not options. Reauthorization must build on what NCLB got right and improve on what it didn't.

To maintain this role of increasing equity and economic competitiveness, the federal government should be setting high standards for all students, establishing a strong system for accountability tied to those standards, and encouraging more data-based decision making. Once the federal government ensures the collection of this information, sets high standards, and insists on accountability, it should step back and give a great deal of flexibility to states and school districts in deciding how to help our schools meet our national goals.

Flexibility will only lead to improved student outcomes and improved school operations, if it is grounded in improving equity and student achievement. Student achievement should drive decision-making. With the focus on improving student outcomes, additional flexibility will lead to greater innovation and allow advancements—from what we have learned domestically and internationally—to drive practice.

### Consolidation of Programs

Consolidation of the smaller programs within ESEA will increase efficiency and increase flexibility at the local level, allowing school districts to design programs that best meet their needs. Consolidation of programs should maintain focus on data-based decision making and accountability for outcomes. It is important that in consolidating programs the federal government ensure that essential services to students are not lost, but that districts have the flexibility to meet the various needs of their students. For example, ESEA currently authorizes several programs on various aspects of literacy—family literacy, early literacy, and k-12 literacy. In consolidating these programs into one comprehensive program, Congress would reduce burdens on states and districts by requiring only one application and streamlined data

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<sup>14</sup> *Brown v. Board of Education*, 347 U.S. 483 (1954).

requirements in exchange for funding to provide literacy services based on the needs of their community.

### Alignment of Data and Programs

When consolidating programs, outcome requirements should be aligned and limited in number and focused on increasing student achievement and graduating college- and career-ready students. The outcomes established through Title I, part A—student achievement in English and math and graduation—should be central in all programs within ESEA. A focused and narrowed set of performance indicators will create coherence within the system and reduce burden on schools, districts, and states, while still providing parents, communities, and schools with much needed information on student performance.

### Accountability

States, districts and schools should be more fairly held accountable while maintaining the federal role in setting high expectations and holding all schools accountable for their students' performance. To be fairly held accountable, a system should consider where students and schools start and should create attainable targets that schools can achieve. Rather than relying on status-based measures to determine a school's success, Congress should consider student growth and school progress in accountability.

## Conclusion

There is broad, bipartisan consensus for flexibility that reflects the priorities outlined in this report. Flexibility is more than just a buzzword. While flexibility would be only one element of needed updates to ESEA, when done right, giving schools flexibility to adapt and meet their students' needs, while maintaining accountability at every step along the way, will help students to get ahead and succeed. Most importantly, schools must not lose sight of why the federal government has a role in education in the first place: ensuring every student, regardless of their race, economic status or zip code, receives equal access to a quality education. Arbitrary flexibility policies that undermine equality of opportunity are not only morally reprehensible, they are constitutionally suspect and hinder our economic competitiveness.

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## Appendix

# Stakeholder Statements on Flexibility Issues

### General Flexibility

“I pledge this to you: if you set the bar high for states, put guardrails in place to ensure quality, provide support, enforce accountability, give states the flexibility to achieve those goals, and then get out of our way, we will not fail America’s school children.”

*Dr. Tony Bennett, Indiana Superintendent of Public Instruction,*

*February 10, 2011, Testimony to the House Education and the Workforce Committee*

### Standards and Assessments:

“States, not the federal government, must have lead responsibility and sufficient flexibility to develop standards of student learning and coordinate a broad range of evidence-based activities by which those measures are determined.”

*American Association for School Administrators, National Education Association, National Association of Elementary School Principals, National Association of Secondary School Principals, National School Boards Association Joint Statement*

*March 24, 2010, ESEA Recommendations*

“NAESP also urges the committee to take into account the variety of ways in which children succeed and how their achievements should be measured to accurately gauge their emotional and social development, language fluency and comprehension, creativity, adaptability, critical thinking and problem-solving skills as well as their proficiency in core academic content areas. Measuring these factors and many others that contribute to improved student outcomes provides a complete picture, not the snapshot taken by a standardized test score that does not evaluate the multitude of ways students progress academically and developmentally.”

*National Association of Elementary School Principals*

*March 26, 2010, Recommendations for the Reauthorization of the ESEA*

“Consider incentivizing the Common Core by requiring states who do not adopt them to continue using the more punitive AYP-based accountability system rather than being able to use more growth-oriented provisions or pursue other operational flexibilities.”

*Council of Great City Schools*

*March 26, 2010, CGCS Initial Recommendations on ESEA*

“Provide adequate funding, evidence-based research, and flexibility to states to develop a new generation of assessments that are aligned to common standards.”

*National Association of State Boards of Education*

*March 26, 2010, NASBE ESEA Reauthorization Final*

**Accountability:**

“Allow states to establish accountability systems that meet certain core principles (e.g., align to college and career readiness, focus on student achievement, include annual assessments, disaggregate results, etc.) and work best in each state's context to raise achievement and close gaps, including innovative models that utilize learning progressions or grade span design.”

*Council of Chief State School Officers*

*March 26, 2010, CCSSO ESEA Policy Statement, ESEA Recommendations*

“On Target Schools shall require no further federal action and enjoy continued flexibility unless the State determines that additional measures or opportunities to spur growth and progress in one or more indicator areas are warranted.”

*National Education Association*

*March 26, 2010, NEA's Initial Legislative Specifications on ESEA 2010*

“The current rigid accountability system also leads to a serious misallocation of resources, because state school turn-around funding and efforts are targeted across a larger number of schools (many of which are relatively high performing), rather than being targeted to the persistently lowest performing schools that need the most assistance. This misallocation directly impacts the students requiring the most support.”

*Gene Wilhoit, CCSSO Executive Director,*

*March 1, 2011, Testimony to the House Education and the Workforce Committee*

“NASBE supports the current Administration's objective through ESEA reauthorization to be ‘tight on goals, but loose on means’ to specifically provide states the flexibility in their implementation efforts... States should have the flexibility to use growth model measures designed to move all students towards college- and career-readiness.”

*National Association of State Boards of Education*

*March 26, 2010, NASBE ESEA Reauthorization Final*

“Provide states and local school districts with greater overall flexibility to make educationally-sound decisions, and be free of mandates that unnecessarily or counterproductively hinder schools districts from achieving their goals.”

*National School Boards Association*

*March 26, 2010, NSBA ESEA Recommendations*

“Allow for flexibility when identifying schools with the lowest achievement for ESEA accountability, in order to consider special conditions for alternative schools. The 10% of schools who show the most growth and progress get flexibility and recognition.”—

*American Association of School Administrators*

*March 25, 2010, AASA Comments on ESEA Reauthorization*

“[The AYP] model adversely affects schools with large numbers of disadvantaged students, many of whom may start off academically behind. A system that gives credit for progress, in addition to proficiency, acknowledges the effectiveness of schools that improve even if they fall short of arbitrary proficiency benchmarks.”

*American Federation of Teachers*

*March 12, 2010, Let's Get It Right: AFT's recommendations for No Child Left Behind*

“Maximum flexibility in designing state accountability systems, including testing, is critical to preserve the combination of federal funding, local control of education, and state responsibility for system-wide reform. Governors acknowledge that with this additional flexibility comes an added responsibility for states to develop their accountability systems, including testing, and to satisfy the intent of NCLB.”

*National Governors Association*

*February 22, 2010, Policy Paper: Education Reform*

“Further, the subsequent culture of accountability has resulted in greater attention to individual student needs. However, the use of a single summative test as an indication of a school's ‘progress’ misses the underlying intent of the law. The accountability model should reflect that purpose, shifting from summative measures to growth-based assessments that identify student needs, set individual growth goals, and track progress towards those goals.”

*Dr. Gary M. Amoroso, Lakeville Area Public Schools,*

*April 7, 2011, Testimony to the House Education and the Workforce Committee*

### **School Improvement:**

“States should have the flexibility to establish the consequences for lack of improvement as long as those consequences create real incentives for change.”

*Education Trust*

*March 26, 2010, EdTrust Comments on ESEA Reauthorization*

“Provide flexibility to implement ‘targeted’ intervention activities for a particular group of low-performing students or particular student groups, in contrast to more comprehensive interventions, and provide criteria and justification in the LEA plan for permitting the use of less than the 20 percent amount.”

*Council of Great City Schools*

*March 26, 2010, CGCS Initial Recommendations on ESEA*

“SES and choice shall no longer be mandatory; increase flexibility of LEAs to provide best option for struggling or Priority Schools according to school review findings.”

*National Education Association*

*March 26, 2010, NEA's Initial Legislative Specifications on ESEA 2010*

“Districts should have the flexibility to implement differentiated school improvement interventions that are data-driven and designed to meet the specific needs of target populations.”

*American Association for School Administrators, National Education Association, National Association of Elementary School Principals, National Association of Secondary School Principals, National School Boards Association Joint Statement*

*March 24, 2010, ESEA Recommendations*

“Provide schools and districts the resources and the flexibility to implement research-based interventions. Struggling schools need a broad range of complementary interventions, and they need research-based professional development, instructional strategies, materials and curricula aligned with standards, expertise and supports to fully implement those interventions.”

*American Federation of Teachers*

*March 12, 2010, Let's Get It Right: AFT's recommendations for No Child Left Behind*

### **Funding:**

“Establish broader buckets of funding streams around common purposes and create a new authority for state flexibility that allows state education agencies to consolidate programs and funding (of or below an established dollar amount or percent of Title I funding level), within ESEA and across other federal laws and agencies (with a particular focus on breaking down barriers between early learning, K–12, and higher education).”

*Council of Chief State School Officers*

*March 26, 2010, ESEA Reauthorization Principles and Recommendations*

### **Maintain Focus on Student Achievement and Equal Opportunity:**

“While the reauthorization of ESEA should explore ways to grant appropriate flexibility to ensure schools can best meet local needs, this flexibility should not eliminate the current focus of ESEA’s accountability framework on all schools and all subgroups or eliminate targeted help to schools that need it.”

*Consortium for Citizens with Disabilities*

*May 18, 2011, Letter on ESEA Accountability*

"Tell them we are not going to turn back the clock to a time when results didn't matter. In fact, if there is one thing on which both critics and supporters of NCLB agree, it is that the law's focus on the underperformance of groups of children was dead-on. Of course, your focus on results for all children doesn't have to be done in exactly the same way as No Child Left Behind. Looking at just a snapshot of achievement without recognizing growth, for example, was far from perfect. But both taxpayers and children deserve a focus on improved results, and the country needs us to pick up the pace of improvement, not slow it down."

*Kati Haycock*

*March 1, 2011, Testimony to the House Education and the Workforce Committee*

### **Teachers:**

“Consolidate and simplify other authorized activities, while retaining local district flexibility with the Title II funds [sec. 2123(a)].”

*Council for Great City Schools*

*March 26, 2010, Initial Recommendations for ESEA Reauthorization*

“Deem fully licensed/certified special education teachers to be highly qualified; timeline extension for certain rural teachers to meet the HQ requirements; teacher who meets a state’s

broad-based science certification is considered HQ in each science discipline; Incorporate an analogous provision for Social Studies.”

*National Education Association*

*March 26, 2010, Initial Legislative Specifications on ESEA*

“Provide state flexibility to limit and seek to eliminate the use of emergency certification. Provide state flexibility to develop proficiency-based approval for educator education programs framed with a focus on the effective delivery of instruction for achievement of common standards within the K-12 system. Provide states flexibility to develop educator evaluation systems that are integrated with local goal setting, testing, and staff development activities.”—

*National Association of State Boards of Education*

*March 26, 2010, Core Principles and Recommendations for Passage of ESEA Reauthorization*

“There should be a system of flexibility that would facilitate the ability of teachers who are designated as highly qualified in one state to be recognized as highly qualified in another state under a simplified process.”

*National Association of State Directors of Special Education*

*March 26, 2010, Principles for Reauthorization of the ESEA*

“Provide sufficient local flexibility in professional development programs to be effective in all settings.”

*American Association of School Administrators*

*March 25, 2010, ESEA Position Statement*

“Flexibility is crucial to ameliorating excessive burdens and teacher shortages due to highly qualified teacher requirements.”

*National Governors Association*

*February 22, 2011, Education Reform Policy Position*

### **Innovation:**

“Authorize a national Investing In Innovation Program following the current ARRA framework as Title V Part B. Provide more flexibility in the level of research and effectiveness evidence required for Validation Grants, and require strong or moderate evidence for the larger Scale-Up Grants.”

*Council of Great City Schools*

*March 26, 2010, Initial Recommendations for ESEA Reauthorization*

“Encourage states to be innovative and provide flexibility for states to increase high school graduation rates, close the achievement gap, and raise student achievement levels. Provide states the resources and flexibility to open public education facilities [community schools] beyond the traditional school day to provide academic, extra-curricular, recreational, health, social services, and work force preparation programs for people of all ages.”

*National Association of State Boards of Education*

*March 26, 2010, Core Principles and Recommendations for Passage of ESEA Reauthorization*

**ELL Assessment:**

"States should be allowed to use interim measures for those ELLs at the lowest levels of English proficiency and use their progress in acquiring English as an interim accountability measure. This provides states with sufficient flexibility until they develop appropriate assessments. Principals, teachers, and students should not be asked to wait any longer for appropriate assessments."

*National Council of La Raza*

*March 26, 2011, Recommendations to the House of Representatives Committee on Education and Labor*

"Provide LEAs with the flexibility, except for transition points and initial enrollment, to administer the ELPA only in the domains where proficiency has not been attained, in recognition of the length and labor-intensiveness of the tests in speaking and listening."—

*Council of Great City Schools*

*March 26, 2010, Initial Recommendations of the Council of the Great City Schools for the ESEA Reauthorization*

"Additionally, school districts should have the flexibility to appropriately assess English Language Learners in English content only after they demonstrate acquisition of English. State and local education agencies should develop linguistically and culturally appropriate native language assessments and instructional methods."

*American Association for School Administrators, National Education Association, National Association of Elementary School Principals, National Association of Secondary School Principals, National School Boards Association Joint Statement*

*March 24, 2010, ESEA Recommendations*