

# ISSUE BRIEF

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## Reauthorizing No Child Left Behind: Four Recommendations to Advance Federalism in Education

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In early 2015, Congress is likely to consider reauthorization of the Elementary and Secondary Education Act (ESEA), currently known as No Child Left Behind (NCLB), presenting conservatives with an opportunity to advance bold reforms to federal education policy. NCLB reauthorization will take one of two paths: It will either maintain (and potentially expand) high levels of federal interference in education, or it will take steps toward restoring state leadership and citizen ownership of education.<sup>1</sup> To reverse decades of Washington overreach and revitalize state and local reform efforts, policymakers must choose the latter.

Conservatives in Congress should continue to champion the Academic Partnerships Lead Us to Success (A-PLUS) Act to advance the goal of restoring state and local control of education. The A-PLUS Act, which has been the conservative alternative to NCLB for years, would allow states to opt-out of No Child Left Behind and prioritize federal funding for any education purpose under state law. At the same time, policymakers should use reauthorization of NCLB as an opportunity to make the underlying law less intrusive by limiting federal intervention in education. They can also pursue reforms to allow funding to be student-centered and portable.

### Reauthorization Landscape and Likely Policy Approach

Senator Lamar Alexander (R-TN), the incoming chair of the Senate Health, Education, Labor, and Pensions (HELP) Committee, has indicated the committee will work to advance a reauthorization of NCLB in early 2015. It has been slated for reauthorization since 2007.

**Framework for Current Reauthorization.** In 2013, Senator Alexander introduced the Every Child Ready for College or a Career Act (S. 1101), which will likely serve as a starting point for the current reauthorization effort. The proposal would make some important changes to NCLB, such as eliminating the so-called Adequate Yearly Progress (AYP) mandate, which requires that all students be proficient in mathematics and reading by the 2014 school year and that schools make “adequate yearly progress” toward meeting the universal proficiency requirement. The structure of the mandate, however, has led to states defining proficiency downward in order to avoid the law’s sanctions. Any forthcoming reauthorization of NCLB should discard the AYP mandate. The National Assessment of Educational Progress (NAEP) can continue to serve as an external audit of state education performance.

The Every Child Ready for College or a Career Act would also eliminate NCLB’s Highly Qualified Teacher (HQT) provision.<sup>2</sup> NCLB’s HQT mandate utilized a combination of credentials and state certification to determine what constitutes a “highly qualified teacher.” However, there is evidence that teacher certification has little, if any, impact on student achievement. Although teacher quality varies widely, “whether a teacher is certified or not

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is largely irrelevant to predicting his or her effectiveness.”<sup>3</sup> NCLB’s architects operated under the assumption that paper credentials would improve the teacher workforce. The evidence suggests the opposite: Removing the barriers to entry holds far more promise for attracting promising teachers to the nation’s schools.

The proposal would reconfigure NCLB in a few other positive ways, including eliminating maintenance of effort requirements that mandate that states maintain elevated levels of spending in order to access federal funds, and allowing for more spending flexibility on the part of states.

Although the proposal limits some aspects of federal intervention in education, other measures contained within the Every Child Ready for College or a Career Act maintain Washington’s interference in local school governance in substantial ways. The bill, for example, mandates that states use federal funding to develop programs to improve students’ mental and physical health, diet, and physical fitness, among other requirements. It also proposes reforms that are inappropriate for the federal government to pursue, such as authorizing competitive grants to be awarded to states and school districts to develop performance-based teacher compensation models and school improvement strategies for local education agencies to use with underperforming schools. Though these reforms advance conservative principles, they should only be offered at the state or local level.

The proposal also falls short in another key regard: Conservatives have long advocated that states be able to make Title I funds for low-income districts portable, following a student to a public or private school of choice. The Every Child Ready for College or a Career Act would only allow for funding portability to other public schools, significantly lim-

iting the ability of low-income students to use funding at schools that match their learning needs. The proposal also failed to significantly reduce program count or reduce overall spending.

If the forthcoming NCLB reauthorization is modeled after the Every Child Ready for College or a Career Act, it will represent a missed opportunity to advance federalism in education, limit Washington’s overreach into local school policy, and provide states the opportunity to make federal funding student-centered and portable. Although the proposal would have streamlined NCLB and created some nominal flexibility in funding allocations for states and local education agencies, the goal of conservative policymakers should be to rewrite NCLB in a way that provides significant flexibility for states, limits federal intervention in education, and reduces program count.

#### Four Goals for Reauthorization

The goal of any NCLB reauthorization should not be to simply consolidate the myriad programs into larger titles or umbrella programs. Specifically, any reauthorization of ESEA should include, at a minimum:

- 1. Allowing states to opt out.** The A-PLUS Act aims to remove the bureaucracy handed down to states from Washington and allow states to lead education reform by directing how their education dollars are spent. Including the A-PLUS approach would enable states to consolidate their federal education funds authorized under NCLB to be used for any lawful education purpose they deem beneficial. This allows states to opt out of the prescriptive programmatic requirements of NCLB and use funding in a way that will best meet their students’ needs.

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1. Eugene Hickok and Matthew Ladner, “Reauthorization of No Child Left Behind: Federal Management or Citizen Ownership of K-12 Education?” Heritage Foundation *Background* No. 2047, June 27, 2007, <http://www.heritage.org/research/reports/2007/06/reauthorization-of-no-child-left-behind-federal-management-or-citizen-ownership-of-k-12-education>.

2. Although it would still require teachers to meet applicable state certification licensure requirements, a requirement beyond the scope of what Washington should mandate.

3. Robert Gordon, Thomas J. Kane, and Douglas O. Staiger, “Identifying Effective Teachers Using Performance on the Job,” Brookings Institution, The Hamilton Project, *White Paper* No. 2006-01, April 2006, <http://www.oest.oas.org/iten/documentos/Investigacion/Teacher%20effectiveness%202006.pdf> (accessed December 5, 2014).

4. Dan Lips, “Reforming No Child Left Behind by Allowing States to Opt Out: An A-PLUS for Federalism,” Heritage Foundation *Background* No. 2044, June 19, 2007, [http://www.heritage.org/research/reports/2007/06/reforming-no-child-left-behind-by-allowing-states-to-opt-out-an-a-plus-for-federalism#\\_ftn6](http://www.heritage.org/research/reports/2007/06/reforming-no-child-left-behind-by-allowing-states-to-opt-out-an-a-plus-for-federalism#_ftn6).

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**2. Reducing program count.** The original ESEA included five titles, 32 pages, and roughly \$1 billion in federal funding. Programs and spending under ESEA grew throughout the 1970s and 1980s, marking a shift from the compensatory model toward attempts at systemic education reform from Washington. By the time ESEA was reauthorized for the seventh time in 2001 as No Child Left Behind, new mandates had been imposed on states and local school districts, and program count continued to grow as part of a trend by national policymakers to have a “program for every problem.”<sup>4</sup> In order to pay for the dozens of competitive and formula grant programs that comprise the law, funding for NCLB exceeded \$25 billion in fiscal year 2014. The growth in program count and spending over the decades has failed to improve educational outcomes for students, and as such, should be curtailed.

**3. Eliminating burdensome mandates.** Accountability and transparency “should be vehicles to reinvigorate the relationship of the American people with their schools rather than merely mechanisms employed by government officials to oversee and hold government schools accountable.”<sup>5</sup> Congress should eliminate the many federal mandates within NCLB masquerading as accountability, including AYP requirements, HQT mandates, and costly maintenance of effort rules.

**4. Creating a state option of Title I funding portability.** The \$14.5 billion Title I program comprises the bulk of NCLB spending. Acting as a vehicle to provide additional federal funding to low-income school districts, Title I was one of the 1965 ESEA’s original and primary purposes. Funding through Title I, however, is distributed through a convoluted funding formula, “with pro-

visions that render the final results substantially incongruent with the original legislative intention.”<sup>6</sup> In order to make Title I work for the disadvantaged children it was originally intended to help, the program’s funding formula should be simplified using a set per-pupil allocation to ensure maximum funding reaches poor children, rather than seeing it diluted due to formula complexity and administrative requirements. Congress should permit states to make Title I funding portable, allowing funding to follow a child to the school of his parents’ choice—public, private, charter, or virtual.

### Seek Bold Reforms

Ultimately, conservatives in Congress should pursue the A-PLUS approach in order to restore educational decision making to state and local leaders, who are better positioned to make informed decisions about the needs of their school communities. This approach would allow states to consolidate funding for programs that they consider ineffective or wasteful. It would also reduce bureaucracy and increase transparency in student outcomes. Federal intervention in education would also decline, bringing it more in line with Washington’s 10 percent share in its financing—and with the tenets of federalism.

During any prospective ESEA reauthorization, Congress should reduce program count (and associated spending), eliminate federal mandates on states and local school districts, and create portability of Title I funding. Such an approach represents a first, small step toward reform. Bold reforms are needed, including the opportunity for states to completely exit the 600-page regulatory behemoth that is No Child Left Behind.

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5. Hickok and Ladner, “Reauthorization of No Child Left Behind: Federal Management or Citizen Ownership of K-12 Education?”

6. Susan L. Aud, “A Closer Look at Title I: Making Education for the Disadvantaged More Student-Centered,” Heritage Foundation *Special Report* No. 15, June 28, 2007, <http://www.heritage.org/research/reports/2007/06/a-closer-look-at-title-i-making-education-for-the-disadvantaged-more-student-centered>.