

ISSUE BRIEF

No. 4345 | FEBRUARY 11, 2015

NCLB Reauthorization Proposals: Missed Opportunities for Conservatives

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The House Education and the Workforce Committee, and the Senate Health, Education, Labor, and Pensions (HELP) Committee have each proposed reauthorizations of the Elementary and Secondary Education Act (ESEA), known as No Child Left Behind (NCLB). House Education and the Workforce Committee Chairman John Kline (R-MN) has introduced the Student Success Act, and Senate HELP Committee Chairman Lamar Alexander (R-TN) has authored an ESEA reauthorization discussion draft. The two proposals mirror each other more than they differ, and the respective committees have expressed a desire to reauthorize the law quickly. Proposals offered thus far, however, fail to adequately reduce federal intervention in education, and as such, represent a missed opportunity for advancing conservative principles.

The U.S. Department of Education currently controls and directs a significant amount of policy affecting local schools throughout the country. For roughly 10 percent of all funding spent on K-12 education, the department, largely through ESEA, determines policy impacting everything from teacher certification and school assessment schedules to the types of programs funding is spent on, and how much states must spend in order to access federal

funds. Moreover, dissatisfaction with NCLB has created an environment in which the Obama Administration has deigned to offer conditions-based waivers to states chafing under the law's provisions, enabling the White House to advance its preferred education agenda, including common standards and tests, outside the normal legislative process.

Over the past five decades, an accumulation of evidence on the ineffectiveness of federal intervention in education suggests that the federal government is less effective at improving educational outcomes than policymakers at the state and local level, who can be far more responsive to students and their families. As reauthorization discussions continue in the coming weeks, Congress should empower states to completely opt out of the programs that fall under NCLB, either through stand-alone proposals, such as the Academic Partnerships Lead Us to Success (A-PLUS) Act, or through similar opt-out language included in any ESEA reauthorization.

Conservatives Must Fight for a Complete Opt-Out of NCLB

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. The A-PLUS Act enables states to lead on education reform by allowing them to completely opt out of NCLB and to direct how their education dollars are spent. Including the A-PLUS approach in an ESEA reauthorization would enable states to consolidate their federal education funds authorized under NCLB to be used for any lawful education purpose they deem benefi-

This paper, in its entirety, can be found at
<http://report.heritage.org/ib4345>

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cial. This allows states to opt out of the prescriptive programmatic requirements of NCLB and use funding in a way that will best meet students' needs.

Streamlining NCLB

At the same time, conservative policymakers should streamline NCLB by eliminating ineffective and duplicative programs, simplifying the programmatic labyrinth within the Department of Education, and increasing flexibility at the state and local levels.

Reduce Program Count. Although A-PLUS would allow states to opt out of the programs authorized under NCLB and target education funding to those education areas most in need, NCLB would remain in force for any states that do not opt out. Therefore, in addition to providing an opt-out for states, federal policymakers should simplify existing law by eliminating many programs and allowing cross-program flexibility among the remaining K-12 programs operated by the Department of Education. Moreover, in order to limit the Department's direction of education, spending and programs under NCLB must be eliminated in conjunction with an A-PLUS opt-out.

The current reauthorization proposals in Congress largely punt on any effort to eliminate programs or cut spending. Through the decades and various reauthorizations of the ESEA, dozens of competitive grant programs have accumulated. In fact, some 80 programs are authorized under NCLB today, more than 60 of which are niche competitive grant programs. These programs create a significant compliance burden for state and local leaders, who must apply for program funding, monitor federal notices and regulations, and demonstrate com-

pliance to the U.S. Department of Education. They also represent one of the primary ways in which Washington has extended its overreach into local school policy.

A conservative reauthorization of ESEA would include the elimination of nearly every competitive grant program authorized under the law. At a bare minimum, policymakers should eliminate (repeal the authorizations of and set to zero any associated spending) the 43 such programs outlined in the Setting New Priorities in Education Spending Act introduced by Representative Duncan Hunter (R-CA) in 2011.¹ The proposal, which was passed out of the House Education and the Workforce Committee, would repeal the authorization for 43 programs under NCLB, eliminating the programs completely. As the committee stated at the time:

Congress must permanently repeal the authorization for inefficient federal education programs to ensure taxpayer dollars are well spent. This will help encourage a more focused, streamlined, and transparent federal role in the nation's education system.²

Simply consolidating programs to provide "flexibility," as the HELP committee draft currently suggests, does nothing to limit spending—a critical component of curtailing federal intervention in education. Although the House version goes further in eliminating programs, it remains to be seen whether those reductions will survive as the proposal proceeds through the legislative process.

Eliminate Testing Mandates. NCLB currently contains prescriptive testing mandates that dictate, from the federal level, how frequently states are to

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1. Programs slated for elimination included: the Even Start Family Literacy Program; Enhancing Education Through Technology (Ed-Tech); Striving Readers; the National Writing Project, Smaller Learning Communities, Improving Literacy Through School Libraries, Improve Mental Health of Children; Mental Health Integration in Schools; Improve Mental Health of Children; Foundations for Learning; the Close Up Fellowship Program, Advanced Credentialing; Reading Is Fundamental; Alaska Natives; Native Hawaiians; Whaling Partners; Women's Educational Equity; Javits Gifted and Talented Students Education Program; School Leadership; Grants to Reduce Alcohol Abuse; the Elementary and Secondary School Counseling Program; Teaching American History; the Mentoring Program; Comprehensive School Reform; the Ready to Teach Grant Program; Community Technology Centers; Bilingual and Emergency Immigrant Education Programs; Star Schools; Early Reading First; Safe and Drug-Free Schools and Communities; State Grants; Character Education; Early Childhood Educator Professional Development; Healthy, High-Performance Schools; Combating Domestic Violence; Improving Language Instruction Educational Programs; Teacher Mobility; Additional Assistance for LEAs Impacted by Federal Property Acquisition Native Hawaiian Education; Alaska Native Education Equity; the Foreign Language Assistance Program; Physical Education; Arts in Education; the High School Graduation Initiative (dropout prevention); Special Education Teacher Training; Ready to Learn Television; and Excellence in Economic Education.
 2. "H.R. 1891, The Setting New Priorities in Education Spending Act," Education and the Workforce Committee *Fact Sheet*, U.S. House of Representatives, May 13, 2011, <http://edworkforce.house.gov/News/DocumentSingle.aspx?DocumentID=241209> (accessed February 10, 2015).

assess students, that all students attain proficiency (as defined by the state), and that failure to do so will result in a variety of federal sanctions. The prescriptive Adequate Yearly Progress (AYP) mandate in NCLB created a host of unintended consequences, namely that states defined downward their definitions of what it takes for a student to be considered “proficient.”

The current debate over how to reform NCLB’s testing provisions is among the most contentious issues of this reauthorization. Although testing is not inherently bad policy, and does, in fact, provide critical information about student performance, mandating rigid testing sequences from Washington has proven counterproductive. As researchers Ze’ev Wurman and Williamson Evers explain in the journal *EducationNext*:

We would prefer that states retain annual grade-level testing of each student (which would facilitate evaluation of teacher and school performance), but we believe that federalism requires that each state make that determination for itself. We expect that some states might drop annual grade-level testing (in favor of grade-span testing), but we expect that rivalry with other states and pressure from parents would encourage many states to retain annual grade-level testing for each student.³

Early indications suggest that the two ESEA reauthorization proposals under consideration will likely retain the federal annual testing mandate. Moreover, conflicting language in the draft reauthorization renders the option of multiple assessments moot. Having a choice among assessments enables school districts to craft assessments in a way that reflects local curricula. As researcher Jay Greene explains, a single system of assessments would only make sense if, among other things, “there was a single best way for all students to learn, and we knew what it was.”⁴ Yet as Wurman and Evers note, the current draft reauthorization proposal language “requiring that such multiple state assessments *‘are the same academic assessments*

used to measure the achievement of all students’...seem self-defeating and needs to be taken out—after all, assessments can’t be both ‘multiple’ and ‘same...[for] all students’ at the same time.”⁵

Prohibit National Standards, Testing, and Curriculum. In addition to allowing testing flexibility, any potential reauthorization of ESEA should maintain and strengthen prohibitions on the federal direction of curriculum. Since 2009, the Obama Administration has used a combination of federal funding and incentives to prompt states to adopt the Common Core standards and tests. There is growing dissatisfaction with Common Core among parents, who have expressed particular concern about the federal government increasing control over local school policy through the initiative. Any reauthorization should contain language reiterating that the federal government is already prohibited in three federal laws (the Elementary and Secondary Education Act, the Department of Education Organization Act, and the General Education Provisions Act) from directing standards, assessments, or curricula, along with a global prohibition on the federal government directing or incentivizing the adoption of standards, assessments, and curricula.

Eliminate Federal Teacher Licensure Regulations. Although both the House and Senate versions move toward smarter policy on teacher evaluation—they both eliminate the Highly Qualified Teacher (HQT) mandate in federal law that prescriptively dictates from the federal level that teachers must hold paper certifications—the House version replaces the HQT regulation with yet another federal mandate that states use growth models to assess student achievement. Although evaluating student growth over time is smart policy, it should not be a federal mandate.

Current Reauthorization Proposals Fall Short

The two proposals offered by the House and Senate Education Committees fail to adequately limit federal intervention in education and do not put policy on a path toward restoring state and local control

3. Ze’ev Wurman and Williamson Evers, “ESEA Reauthorization: Some Fixes to the Alexander Draft,” *EducationNext*, January 29, 2015, http://educationnext.org/esea-reauthorization-fixes-alexander-draft/?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+EducationNext+%28Education+Next%29 (accessed February 10, 2015).

4. Jay P. Greene, “Should All U.S. Students Meet a Single Set of National Proficiency Standards?” *The Wall Street Journal*, June 22, 2012, <http://www.wsj.com/articles/SB10001424052970204603004577269231058863616> (accessed February 10, 2015).

5. *Ibid.*

of education. They also fail to offer options to empower parents, such as enabling states to make their Title I dollars portable to public and private schools of choice. Bold reforms are needed, and they are missing from the current legislative efforts to deal with No Child Left Behind. Policymakers should empower states to completely exit the 600-page law in order to begin the process of devolving education authority back to states and localities, and, ultimately, families.

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