



February 2, 2015

The Honorable Lamar Alexander
Chairman, Committee on Health,
Education, Labor and Pensions
428 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Patty Murray
Ranking Member, Committee on Health,
Education, Labor and Pensions
154 Russell Senate Office Building
Washington, DC 20510

Dear Chairman Alexander and Ranking Member Murray:

On behalf of the Foundation for Excellence in Education (ExcelinEd), I thank you for the opportunity to provide comments on the Discussion Draft to reauthorize the Elementary and Secondary Education Act (ESEA) released on January 13, 2015.

ExcelinEd strongly supports the efforts of the Committee to update this critical law last reauthorized in 2002 under the No Child Left Behind Act (NCLB). This process has been delayed for far too long and the current collection of state waivers from NCLB provisions is simply not sustainable. We look forward to working with you and the other Committee Members to ensure that we see a new, more effective ESEA as soon as possible.

ExcelinEd believes the Discussion Draft provides an excellent foundation for a reauthorized ESEA and looks forward to being in a position to support this bill as it moves through Congress. However, this support will largely rest on the extent to which the bill, as it moves forward, does three things:

- (1) preserves the annual testing provisions in current law (as proposed in "option 2" of the Discussion Draft);
- (2) significantly limits and focuses the federal role in state accountability systems, as envisioned by the Discussion Draft; and
- (3) maintains the language currently in the Discussion Draft that provides a much-needed assurance that the federal government may not dictate or coerce states into adopting particular academic standards or assessments.

The No Child Left Behind Act of 2002 (NCLB) sent an enormously important message that it was no longer acceptable to simply excuse away low student achievement. All students can learn and succeed; states and schools must be accountable for results and be honest in reporting the results. Even critics of NCLB concede that the law helped to shift the definition of educational quality from how much is spent on our schools to whether our schools are effectively using those funds to improve student outcomes, especially for children from disadvantaged backgrounds.

However, in the 14 years since NCLB became law, the education landscape has undergone significant transformation – particularly with respect to the active role of states in education reform – and it is long

past time for federal education policy to recognize and reflect these changes. To that end, ExcelinEd has developed five major principles for ESEA reauthorization:

- I. Reinforce state authority over education policy decisions.**
- II. Limit and focus the federal role.**
- III. Embrace research and innovation.**
- IV. Modernize Title I to support portability, equity, and rewarding of success.**
- V. Promote choice measures designed to increase the availability of high-quality educational options and give parents the financial freedom to choose the school and courses that best meet their child’s needs.**

We believe that, if adopted, these principles will help drive education reform and accountability into the next decade and support states as they build an American education system that equips every child to achieve his or her God-given potential.

Therefore, we have used these principles as the lens through which we have provided the following comments on the ESEA reauthorization Discussion Draft:

I. Reinforce state authority over education policy decisions.

The performance of our education system is of national significance. Low performance weakens the ability of today’s students to actively participate in our Democracy; undermines civil rights; weakens our national security; erodes the economic stability of the family and the nation; and, it hurts the ability of America’s companies to succeed in the global economy. But these national interests are best met by embracing the dynamism of federalism. We need a federal law that supports state reform rather than states working to support a federal law. We believe in the role of sovereign states to set high standards and design their own innovative accountability systems. These state systems should recognize a range of school effectiveness and should select from a toolbox of state-determined interventions to turn around struggling schools. Reform plans will – and should – acknowledge the variability in education challenges and necessary solutions across states.

ExcelinEd supports the provisions in the Discussion Draft that reinforce state authority over education policy decisions. Specifically:

- The Discussion Draft maintains current law with respect to states adopting challenging academic content standards and academic achievement standards but specifies that states shall not be required to submit such standards to the Secretary “for review or approval” – firmly assuring that standards are a state, not a federal, responsibility.
- In the Discussion Draft, states would have to identify schools “in need of strategies for improving student achievement and . . . other measures.” But, the Draft provides far more flexibility to states to design their own accountability systems by removing rigid, federal mandates for making “adequate yearly progress.” Instead, states will be allowed to have rating systems that use a variety of student outcome measures to indicate a range of effectiveness, such as an A–F rating system.

- Under the Discussion Draft, states and districts – not the federal government – determine what strategies should be used to improve academic achievement in low-performing schools. This will give states and districts the freedom they need to employ the turnaround tools – such as recovery districts, reading interventions, choice programs, online learning, and others – that best meet the needs of their schools and their students.

II. Limit and focus the federal role.

From Washington, D.C., Congress and the U.S. Department of Education are not in a position to know how to operate individual schools, administer school programs, or select the right turnaround strategies. Even the most thoughtful and well-intentioned federal dictates will bear little resemblance to the policies that play out in schools and classrooms. The federal government should not mandate, approve, or take any action that even appears to coerce states to adopt a particular set of standards. Rather than prescribing regulations around state accountability systems and school turnaround interventions, the federal government should embrace a more appropriate role: transparent reporting of academic performance. Taxpayers and parents deserve to know where and how their tax dollars are being spent and whether these investments are helping students succeed. Therefore, we need annual statewide assessments, which allow for measurement of student growth, fair evaluation of schools, and empowerment of parents with the data they need to make informed decisions about educational options for their children. It is also why we need the “[truth serum](#)” provided by state participation in the National Assessment of Educational Progress (NAEP).

Setting Clear Limits on the Federal Role

ExcelinEd supports the provisions in the Discussion Draft that set clear limits on the federal role in education. Specifically:

- The Discussion Draft includes new language expanding the prohibition in current law against federal “mandates, direction or control” over states’ standards or curriculum. The Discussion Draft adds that the Secretary shall also not “coerce or exercise any direction or supervision” over standards or curriculum and (as noted above) expressly prevents the Secretary from reviewing, approving, or otherwise controlling state standards. These are important changes, but we believe Congress should go even further by, for example, explicitly prohibiting the Secretary from any mandates related to the Common Core State Standards. Such a clear statement will protect states’ future decisions about standards from any appearance of federal involvement and ensure maximum trust in those decisions.
- While maintaining the ability of states to seek waivers from certain provisions of ESEA, the Discussion Draft prohibits the Department of Education from denying a states’ waiver request based on conditions outside the scope of the request.
- The Discussion Draft includes new language vastly limiting the ability of the federal government to expand its role in education through regulations. Specifically, new language rightly prohibits the Secretary to “establish any criterion that specifies, defines, or prescribes the standards or measures that State or local educational agencies

use to establish, implement, or improve – State standards, assessments, State accountability systems; systems that measure student academic growth; measures of other academic indicators; teacher, principal, or other school leader evaluation systems; or indicators of teacher, principal, or other school leader effectiveness.”

Focusing the Federal Role on Transparent Reporting

ExcelinEd supports the provisions in the Discussion Draft that focus the federal role on transparent reporting of academic performance. Specifically:

- The Discussion Draft strengthens transparency provisions in current law by preserving the requirement that state and district report cards include disaggregated, annual student achievement data and ensuring that additional information is included regarding per pupil spending, graduation rates, and teacher salaries.
- The Discussion Draft also continues the requirement that all states participate in NAEP as a “truth serum” check on the overall quality of their standards and assessments.

“Option 2”: Preserving Annual Assessments

However, we urge the Committee to maintain a focus on academic performance and transparency for parents and taxpayers by preserving the annual testing requirements in current law (proposed as “option 2” in the Discussion Draft). ExcelinEd, along with a growing, bipartisan list of groups representing [business](#), [civil rights organizations](#), and [education reform groups](#), strongly believe annual assessments are by far the best – and many would say the only – way to:

- Provide honest, objective information on academic achievement to students, parents, teachers, schools and the public;
- Identify struggling students and schools to make sure they receive the help and resources they need to be successful;
- Know if state and local policies and interventions are working and are accountable to the taxpayers who fund them;
- Keep the promise of equity, ensuring that all children get a high-quality education; and
- Assure the civil rights of our students and their parents.

It is important to note that grade span testing, as allowed for under “option 1” in the Discussion Draft, would do little to help strengthen accountability, better inform parents, or reduce the amount of testing. In fact, grade span testing would increase, rather than decrease, the stakes attached to these tests. Furthermore, grade span testing makes it difficult to calculate student growth, which is required in order to make equitable, fair accountability decisions that give schools credit for student learning.

Fewer, Better Tests

We understand the concern from parents and policymakers about over testing and firmly believe that we need fewer, better assessments. However, removing federal annual assessments or embracing grade span testing will do little to help because a growing body of evidence suggests that most of the testing comes from district requirements. The [Center for American Progress](#) found that high school students are tested twice as much on district exams than on required statewide tests. [ExcelinEd also reviewed](#) 44 (out of 67 Florida districts) assessment calendars and found that districts required on

average 98 tests in addition to state requirements. The numbers varied widely, with some districts requiring as few as eight additional tests to as many as 198 additional tests. As a first step, toward improving the quality and quantity of tests, districts should consider cutting back on their local tests, and state and local leaders should review test quality and frequency as well as whether results are being given back to teachers in a useful, timely manner.

Furthermore, recent polling results show strong public support for assessments. According to an AP-NORC Center for Public Affairs Research survey, the majority of [parents think](#) current levels of testing are about right, with only one in four believing their children take too many tests. A [PACE/USC Rossier Poll](#) showed large majorities of California parents support annual assessments.

It is also worth noting that the focus on transparency and the preservation of annual testing significantly strengthen the funding follows-the-child and public school choice provisions in the Discussion Draft. Annual assessments provide critical school performance data to help parents make decisions about the best educational options for their child. Annual tests also enable authorizers, policy makers, and the public to measure the success of options such as charter schools compared to traditional schools.

III. Embrace research and innovation.

If we want to give all our students the world-class education they need to compete in the global economy, we must embrace an array of 21st-century tools. And, we must do so in a way that does not trade innovation for accountability. ESEA should support opportunities to incubate new models of education in states, particularly in those that have demonstrated success with student performance. States and schools are exploring [competency-based education systems](#) that allow students to progress upon demonstrating mastery of the material rather than basing learning on a calendar year. Computer adaptive testing helps to identify not just if a student is proficient, but his or her precise level of achievement. ESEA must support these and other innovations in three ways. First, ESEA must continue to support the rigorous, scientifically-based research needed for evaluating which reforms and programs are working and which are not. Second, the law must support efforts to help accelerate the development of technologies and innovations to empower teachers and school leaders. Finally, ESEA must accommodate innovations and emerging accountability, assessment, and instructional models.

ExcelinEd supports provisions in the Discussion Draft that promote research, innovation, and flexibility. Specifically:

- The Discussion Draft empowers states and districts to identify and implement their own effective methods and instructional strategies designed to strengthen academic programs within their schools and requires that such methods and strategies are based on “scientifically valid research.”

Balancing Innovation and Accountability

We believe the Discussion Draft could do a better job of balancing innovation and accountability with regard to the next generation of student assessments.

- We are pleased to see that the Discussion Draft enables states to use federal assessment funds for the development or improvement of comprehensive academic assessment instruments “such as performance-based assessments that emphasize the mastery of standards and aligned competencies in a competency-based education model, technology-based academic assessments, computer adaptive assessments, and portfolios, projects, or extended performance task assessments.”
- But the Discussion Draft should also create a clearer pathway toward the adoption of innovative assessment models without sacrificing the benefits inherent to traditional annual assessments of student performance. To create that pathway, the legislation should allow the following flexibilities:
 - allow for flexible assessment schedules and for students to demonstrate mastery when ready, particularly for competency-based models;
 - allow states to determine if annual student scores are based on one summative assessment or on the results of interim assessments given throughout the year combined with a summative assessment into a single annual score; and
 - give states the opportunity to participate in pilot programs to support and substantiate innovative assessment models at the state or district levels.
- However, the legislation must also require that before adopting innovative assessment approaches or proposed assessment pilot programs, states must demonstrate – through an approval process utilizing a Federal Advisory Committee that increases access to technical experts while minimizing political influence on the decisions – that the assessments and combined results thereof are: valid; secure; aligned to state standards; testing a broad, representative range of state standards; comparable year-to-year to enable measurement of individual student growth; and comparable in depth, breadth, and results to traditionally used statewide assessments.

IV. Modernize Title I to support portability, equity, and rewarding of success.

Title I funding is overly complex and bureaucratic. As a result, this \$14 billion taxpayer investment is failing to maximize its potential impact on the achievement of our most vulnerable and disadvantaged students. Title I should be modernized into a portable program that rewards states’ success in improving student learning. There are enormous challenges involved with modernizing the program, but that should not be an excuse for failing to comprehensively tackle an underperforming funding program. While it appears that the upcoming reauthorization of ESEA will not include a complete overhaul of Title I’s funding formulas and allocation rules, Congress should take immediate steps to maximize states’ federal fiscal flexibility within existing rules and structures.

A critical component of this modernization is rewarding success. Currently, Title I pays the same amount to states and schools regardless of quality. Establishing a Title I Rewards Fund would allow states to earn additional funding that would be allocated to schools based on their ability to improve student outcomes such as raising student proficiency, increasing student growth, closing achievement gaps, reducing dropouts, or increasing graduation rates. Such an approach helps reward schools that successfully accomplish the core goal of Title I which is helping improve student achievement.

ExcelinEd supports provisions in the Discussion Draft that make immediate improvements to Title I formulas and allocation rules:

- The Discussion Draft’s inclusion of “follow-the-child” provisions will give states the option of empowering parents to use Title I funds to select from the expanding array of educational options that best meet their child’s needs.
- The Discussion Draft also takes an important step toward reducing federal micromanagement, bureaucracy, and paperwork by eliminating the current “maintenance of effort” requirements and simplifying the manner in which districts can demonstrate compliance with the “supplement not supplant” requirement.

Taking Concrete Steps Toward Full Title I Modernization

Although the Discussion Draft makes dramatic improvements to Title I, more can be done in the long-run. We encourage Congress to use this opportunity to take concrete steps toward the full modernization of Title I by creating a national commission of State leaders, civil rights leaders, and education experts to report to Congress on how to achieve full Title I modernization, including a review of weighted student funding, performance-based Title I rewards for student success, and other state-designed options that could increase opportunities for all students to receive a world-class education.

Past Title I reforms have focused on improving the targeting of Title I funds to better serve vulnerable and disadvantaged students who need the most help. These efforts should continue to be refined and improved. However, Congress should give states the chance to earn additional funding that could be allocated to schools that are doing the best job meeting the goals of Title I.

Such a rewards-based approach is not new. [Florida’s School Recognition Program](#) provides public recognition and financial awards to schools, of up to \$100 per student, that have sustained high student performance or demonstrated substantial improvement in student performance. Schools qualify for the award if they:

- receive a grade of “A”;
- improve at least one letter grade;
- improve more than one letter grade and sustain the improvement the following school year; or
- are designated as Alternative Schools and receive a school improvement rating of “Improving” or improve at least one level.

In addition, the Advanced Placement Incentive Program (APIP) in current law offers teachers and students the opportunity to earn cash rewards based on each passing score earned on an Advanced Placement (AP) exam. Early versions of the program were championed as a national model in the 2006 report, [Rising Above the Gathering Storm: Energizing and Employing America for a Brighter Economic Future](#) and were later scaled through the [National Math and Science Initiative](#) to 620 high schools across 26 States. The results have been impressive. For example, the State of Virginia saw a 52 percent increase in AP Exams with a score of 3 or higher in math, science, and English. Schools that have fully implemented the three-year program have seen the [number of passing AP scores for African American and Hispanic students triple](#), and the number of passing scores for female students triple as well.

V. Promote choice measures designed to increase the availability of high-quality educational options and give parents the financial freedom to choose the school and courses that best meet their child’s needs.

Today, there are more than [19 states with school choice programs](#); [43 states have charter school laws](#); [26 states have statewide virtual schools](#); and [11 states have laws supporting course access programs](#). A modern ESEA must reflect and support these growing reforms that provide students with high-quality educational options at both the school and the course level. ESEA should allow funds to follow each child to help him or her assemble the portfolio of educational services that meet his or her unique needs and leverage his or her full potential.

ExcelinEd supports provisions in the Discussion Draft that support public school choice. Specifically,

- As discussed more fully above, we appreciate the provision allowing states to opt into a follow-the-child funding model for Title I.
- The Discussion Draft also effectively updates the Charter Schools Program. The improvements included under this program – such as protecting charter school autonomy, supporting the replication and expansion of high-quality charter schools, and encouraging states to provide more equitable funding for charter schools – will help to provide more high-quality educational options for students across the country.
- The Discussion Draft also sets aside additional funding to support transportation of students participating in choice programs.

However, we urge the Committee to take the following additional steps to provide the full range of choices to all students:

- Support state [course access](#) and [online learning](#) programs by allowing states to direct federal Title II and AP Incentive Program funds toward the establishment or expansion of course access programs; and
- Authorize and fund the DC Opportunity Scholarship Program.

Again, we thank you for the opportunity to comment on the Discussion Draft of the “Every Child Ready for College or Career Act of 2015.” We appreciate your consideration of our recommendations and look forward to working with you and other Committee Members as you continue your efforts to reauthorize this historic piece of legislation.

Sincerely,



Patricia Levesque
Chief Executive Officer
Foundation for Excellence in Education