

## **Testimony of Gene Wilhoit**

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### **U.S. House of Representatives Committee on Education and the Workforce**

#### **Education Regulations: Weighing the Burden on Schools and Students**

Good morning Chairman Kline, Ranking Member Miller, and Members of the Committee. My name is Gene Wilhoit and I am the Executive Director of the Council of Chief State School Officers (CCSSO). CCSSO represents the public officials who head departments of elementary and secondary education in all 50 states, the District of Columbia, the Department of Defense Education Activity, the Bureau of Indian Education and five U.S. extra-state jurisdictions.

Thank you for inviting me to speak with you about federal regulations that provide minimal or no value to students and schools, but represent significant state and local burdens. Eliminating dated or unnecessary requirements, while also rethinking the appropriate federal role in education is essential to unleashing innovations needed to improve American education. This Congress has an important opportunity to further states' work by streamlining regulations and creating policy conditions conducive to local leaders' success. We look forward to working with this Congress and the Administration to create a federal role that supports innovation, while still holding states accountable for all children. In the meantime, States intend to continue leading ground-breaking reforms designed to help all students meet college and career ready standards. Federal education laws and regulations can support states by removing barriers to innovation and resisting the temptation to codify a single "right" answer for the nation's more than 90,000 public schools.

Over time, the basis for some federal education policies, and the laws and regulations that embody them, no longer fit the present reform context, because of changing conditions at the state, local and school level. The



dynamic environment of education reform necessarily means that some regulations outlive their purpose and of course other regulations are not sensible on the first day they are issued. We are already engaging with the Department of Education on many of these issues and look forward to continuing positive dialogue between Congress and the Administration. My objective today is to highlight several examples of regulations and requirements that do not currently support sound education reform or directly encourage improved student achievement. This list is not exhaustive, but does illustrate the need to update the Department of Education's regulatory framework.

### **Federal Data Collection and Reporting Regulations**

Federal education laws and related regulations require the collection and reporting of thousands of data points - most collected at the school level. Data is collected by the Department of Education to support valuable research, oversight and accountability and to otherwise guide and inform policy decisions at all levels of government. States **strongly agree** with the need to strategically collect critical data to support accountability and inform policy decisions, but strongly oppose data collection for the sake of data collection. In collecting data, priority should be given to supporting improved student achievement and other data collections need to be thoroughly screened to determine if they are truly needed.

Federal education data collection is often redundant and generally lacks a coherent and comprehensive vision. The absence of a unified data strategy arose out of inconsistencies and redundancies in federal statute, but also multiple offices within the Department of Education collecting the same data. The Department does not have a central process for ensuring that the same data (or very similar data) is not being collected by multiple offices. These problems are compounded by data requests not clearly linked to federal statutory objectives, collection requirements that sometimes change year-by-year (limiting decision-makers' ability to compare data over time), and lack of timely notice about new reporting requirements. It is noteworthy that the Department of Education is aware of these issues and has been working with CCSSO to identify possible solutions.



To be clear though, we are still working with the Department to further explore and better define this challenge. A CCSSO commissioned preliminary data collection analysis detailed 625 separate federal data reports and within them 241 discrete data elements that were reported more than once. For example, Student Limited English Proficiency Status is required in 73 different files. Moreover, we discovered that the same data element is often collected up to 3 different times a year. Since states are required to report data in aggregate table formats there is no simple way to report an individual piece of data. Thus each time a data element is collected or recollected there is a cost associated with valuable staff time at the school, district and state level that is expended to obtain, verify and then report these figures; cost and time that could be better spent focused on supporting efforts to improve low-performing schools or other important areas. We are in the early stages of this data burden analysis and will keep the committee apprised as we gather further information.

The data collection problem is compounded by redundant requirements and changing obligations year-by-year. For example, after the 2004 reauthorization of the Individuals with Disabilities Education Act, the Department of Education issued regulations requiring the collection of data around 20 additional indicators. The Department subsequently reworked or changed nearly all of these requirements, some of them more than once, over the past six years. This moving target unnecessarily burdens states and localities and makes it very difficult to establish solid baselines or compare any of the data from year to year. Furthermore, the data elements collected for three of the indicators are already collected as part of *EDFacts*.

As a result of the existing burdens, states have spent so much on their current data collections that they have no additional resources to support meaningful research or add additional elements on the link to improved student achievement.

### **Accountability and Adequate Yearly Progress Regulations**

In preparing for today's hearing, our members highlighted a range of regulatory requirements linked to outdated statutory provisions currently under review by Congress. While the statutes themselves are not the intended focus of today's



hearing, it is difficult for some important areas to logically separate statute from regulation, so I want to highlight several such examples raised by our members.

In many respects, federal regulations are responding to outdated statutory requirements. This is the case with federal regulations that prescribe a one-size-fits-all accountability system that over-identifies schools as failing, mandates rigid improvement actions, and misallocates scarce resources that should be focused on states' persistently lowest performing schools. For example, the current Adequate Yearly Progress system reflected in statute and regulation does not allow most states to create accountability systems that give schools credit for student improvement over time. Under an existing pilot program, the Department of Education allows a small number of states to use growth models for this purpose, but federal requirements forbid the majority of states from using such systems for accountability determinations. This dated requirement was created before states developed the longitudinal data systems needed to track student progress over time - which in turn allows for the creation of evaluation systems to measure educator effectiveness and support instructional improvements. States capable of implementing a fair and reliable growth model should be empowered to do so integrating them into their accountability systems. These statutory and regulatory requirements have inhibited states from implementing innovative assessment and accountability models, including the use of high quality adaptive assessments that can better meet the needs of individual students. 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.

### **Highly Qualified Teacher Regulations**

As with accountability above, federal highly qualified teacher requirements and regulations have not kept pace with practice. The regulations have become a strain on states' abilities to move toward models of teacher



effectiveness tied to student achievement, and the regulations have also become increasingly complex to address implementation realities, particularly in rural areas. Current requirements overemphasize the value of credentials as an indicator of a teacher's ability to succeed in the classroom, fail to fully address the unique needs of small and rural communities, and burden states' abilities to dedicate staff and resources to developing educator evaluation systems focused on outcomes, not inputs. Requirements do not withstand examination of student achievement results in the classrooms of some HQT teachers and the regulatory framework diverts time and attention from the need to ensure that all students are taught by an effective teacher. Leading states are now exploring the implementation of next generation educator evaluation systems, which will substantially rely on student achievement results to measure an educator's performance, even as they continue to help their schools satisfy HQT requirements.

Despite the national transition to output based effectiveness models the Department of Education continues to rigidly enforce the agency's HQT regulations, which have grown increasingly more complex as the Department struggled to create workable regulatory exceptions focused on small and rural schools, special education teachers, and to enable needed alternative certification pathways. These complicated exceptions and the burdensome compliance and reporting associated with them, could be minimized by formally shifting federal law to a teacher quality policy-set focused mostly on student outcomes and other related variables, and not educator inputs. In order to have an effective teacher in front of every student in this country, these inconsistencies must be rectified and the focus needs to be on outputs instead of simply credentials.

If states all permitted to implement growth-based models for Adequate Yearly Progress, then the same data used in those models can be integrated into educator effectiveness models that are based on student performance and outcomes, rather than educator inputs. States' longitudinal data systems can link student data across years to determine growth and those same growth data can be included in educator effectiveness measures. These data can also become important in the identification of effective



professional development programs and activities that can assist educators in improving their practices.

## **Federal Program Monitoring Visits and Tracking Federal Funding**

Regulatory requirements focused on tracking and accounting for federal funding lack a focus on outcomes. The federal government's current system mandating how funds must be spent and accounted for by recipients is "stove piped" and does not focus on whether funds are well used. As the stewards of state funds, **chiefs agree that a public, transparent accounting of taxpayer dollars is critically important, but the system must be efficient to ensure that scarce resources are not being unnecessarily diverted from the needs of students.** For example, independent programs and separate staffs are often created, each with their own purposes and agendas. Too much time and effort is spent inefficiently accounting for federal funds program by program – including engaging in burdensome audits and program reviews focused on these issues -- which has nothing to do with whether the funds are well spent on students. This challenge flows in part from the statute, but is compounded by the broad range of Office of Management and Budget circulars and regulations that detail how recipients must account for funds.

Lastly states often face auditing or site visits from multiple Department of Education entities at separate times and the reports developed following monitoring visits are sometimes not delivered to states in a timely fashion. Furthermore, follow-up by the Department to state responses is often slow, while States are given a short window to respond to findings. While monitoring visits serve an important purpose, the overall burden associated with them could be minimized by eliminating unnecessary regulations and instead focusing more on a given program's outcomes for children.

In closing, CCSSO supports a meaningful federal role in ensuring strong accountability and efficient oversight. The federal government must not, however, unnecessarily burden states and local districts with regulations that stifle or limit innovation. One state recently reported to us that it has had to shift staff into compliance oriented positions in order to meet their federal obligations and estimates that well over half of its state agency time



is spent dealing with federal regulations – I'm sure we would all agree that spending time that way is missing the mark.

States seek a fundamental shift in federal law that rightly raises the bar in terms of education goals, but clears-away unneeded regulation and returns power and judgment to states and districts with regard to the means of achieving those goals. This approach will result in a new and better federal policy-set that expects and promotes innovation, evaluation, and continuous improvement in state policies, instead of relying on a one-size-fits-all approach riddled with regulatory requirements that may discourage or prohibit effective evidence-based reform. States seek this proposed new state-federal partnership, because the elimination of burdensome regulations alone will not resolve the complex challenges facing the nation's low performing schools, even though such changes are critically important to state and local leaders' abilities to help all students succeed.

In accordance with this approach I submit for the record a recent letter CCSSO sent to Congress outlining a new state-federal partnership. Our collective goals must be to raise student achievement and turnaround low-performing schools. In the state school chiefs around the country you have true partners towards this end.

