

June 18, 2013

The Honorable John Kline
Chairman
Committee on Education and the
Workforce
United States House of Representatives
2439 Rayburn House Office Building
Washington, DC 20515

The Honorable George Miller
Ranking Member
Committee on Education and the
Workforce
United States House of Representative
2205 Rayburn House Office Building
Washington, DC 20515



*Working with and
Through our State
Associations, NSBA
Advocates for Equity
and Excellence in
Public Education
through School
Board Leadership*

Re: *National School Boards Association Comments on the Student Success Act, H.R. 5, to Reauthorize the Elementary and Secondary Education Act (ESEA)*

Dear Chairman Kline and Ranking Member Miller:

The National School Boards Association (NSBA), representing over 90,000 local school board members across the nation, supports the significant overall improvements that H.R. 5 would bring to school districts across the nation. However, in supporting passage of the bill out of committee, we strongly urge that the state maintenance of effort (MOE) provisions be reinstated and the hard freeze on authorized funding levels over the six year duration of the legislation be raised.

Despite positive features in the No Child Left Behind Act, there are too many other significant provisions that are educationally and operationally dysfunctional, including those that have wrongfully worked to erode public confidence in our public schools. H.R. 5 builds on the constructive features of current law and eliminates many of those requirements that have negatively misdirected the federal role.

Additionally, since the time NCLB was enacted nearly twelve years ago, both Congress and the Administration have acknowledged that the law's accountability framework is seriously flawed and the mandated sanctions on school districts is costly with mixed success in improving student or school performance. These and other operational flaws re-affirm the need for greater authority and flexibility to be returned to States and local school districts so they can effectively address the unique circumstances and innovations needed to improve student achievement and in closing the achievement gap within their local school populations.

Local Flexibility in Implementing Federal Goals

We are particularly appreciative of provisions to restore greater flexibility and governance to local educational agencies. By providing more freedom for states to develop accountability systems based on rigorous standards that are aligned with high quality assessments, students will be better served. By providing more freedom for school districts to develop home-grown approaches to improve student achievement overall, especially in low performing schools, student outcomes will also be better served. Given tight school budgets and the diversity among school districts, providing local school boards with

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expanded discretion to transfer funds from one federal program to another will produce better on-the-ground decisions for the use of federal funds, provided funding is not transferred out of Title 1.

We also support provisions in Title I and Title V that re-affirm the proper role of the U.S. Department of Education in its relation to the state and local levels and congressional oversight. For example, the prohibitions on specific activities by the Department of Education and the waiver process for states and local school districts contained in Title V can go a long way in preventing an overreach in the federal role that can stifle innovation and lead to a one-size-fits-all approach that is not well suited for a nation as large and diverse as ours. Further, while H.R. 5 retains valuable data requirements, such as the disaggregation of student academic performance by subgroup, it is designed to eliminate many current and potentially unnecessary requirements that would otherwise hamper classroom effectiveness.

However, these provisions can be further improved by broadening the scope of activities that the Department of Education is prohibited from undertaking in the absence of specific legislative authority and narrowing the range of administrative mechanisms at its disposal to avoid providing meaningful consideration to local reaction to its proposals. To achieve that goal, we urge you to incorporate the language of the *Local School Board Governance and Flexibility Act*, H.R. 1386 into the bill.

In urging the committee to act favorably on the bill, the following provisions raise serious concerns.

Maintenance of Effort

H.R. 5 includes language to eliminate State maintenance of effort (MOE) requirements. While economic challenges still face some states, the elimination of MOE would significantly lower states' incentive to even maintain their investment in education at a time when our public schools need more support to design and implement educational services to successfully compete in the global market. Especially, with federal programs in other areas retaining their maintenance of effort provisions, eliminating MOE for K-12 programs creates a federal policy that rewards states to lower their education priority in favor of other federally funded areas, despite education's long term value for individual opportunity and economic success of the nation. It is imperative that the MOE provision be reinstated.

Funding Caps

H.R. 5 also holds the authorization of appropriations for the first year to current sequestration levels and then freezes those levels for the ensuing five years. While projections for the cost of doing business in schools is not precise, a modest 2-3% annual rise can lead to a real service cut approaching 20% in the out years, despite the high leverage value of these federal programs. We strongly urge that the authorized funding levels be raised to more responsively meet the educational needs of our nation's schoolchildren.

Local Capacity Building.

Despite the flexibility provided in the bill, local school districts will be required to prepare for and make many changes in the educational delivery system over the coming years. Although H.R. 5 does allow states to support local capacity building for several specific purposes, we recommend that more comprehensive language be added for states to describe in their state plan how they will support local requests for capacity building in terms of technical assistance and adequate funding for such activities as the acquisition of

educational materials, professional development of all teachers, the purchase and maintenance of data systems, and curriculum development to meet the goals of set by H.R.5.

Teacher Provisions

There are many strong features to Title II of the bill. However, it is recommended that there be more flexibility to ensure that teacher evaluation policies do not have an unintended negative impact in specific communities that have designed better approaches for their local needs whether they collectively bargain or don't bargain with teachers. We also recommend eliminating the 3 year deadline for LEAs to implement teacher evaluation systems, as this timeframe may be unworkable due to state and local circumstances. Further, in states where LEAs directly apply to the Secretary for Title II funds, assurances should be in place that LEA grants are truly locally driven, unlike Race to the Top – District grants, that are largely shaped by States and other stakeholders.

Charter Schools

H.R. 5 significantly encourages the expansion of charter schools as a public school alternative to traditional neighborhood public schools. Research shows that charters have yet to prove as effective as they ought to be with only 17% out-performing traditional public schools, with twice that percentage performing worse, and the remainder about the same. Accordingly, in order for parents to make the best choices possible for education of their children as well as to protect taxpayer dollars, we recommend that the reporting requirements for charter schools, including charter cyber-schools, be strengthened to incorporate the same public reporting as the state requires for traditional public schools regarding the academic achievement of students and the qualifications of teachers. Similarly, publicly funded charters should disclose their finances, the identity of its governing board members, the managers and owners of the school or entity that owns the school, and identify authorizers who have a personal or family interest in any charter that it authorizes. To ensure that there is adequate coordination between charters and the local schools in the community in which they are located, it is also recommended that local school boards be given a preference as the authorizing entity and the opportunity to evaluate the charter in its community regardless of whether it is the authorizer.

Conclusion

NSBA supports passing the bill out of committee and we look forward to working with you and the members of your staff in finalizing key policies affecting our public schools. If you have any questions or concerns please contact Reginald M. Felton, assistant executive director for Congressional Relations at 703-838-6782, or by e-mail, rfelton@nsba.org.

Sincerely,



Michael A. Resnick
Associate Executive Director