



October 13, 2011

Chairman Tom Harkin
Ranking Member Mike Enzi
U.S. Senate Health Education, Labor and Pensions Committee
Washington, DC 20510

Dear Members of the Senate Health, Education, Labor and Pensions Committee:

We write on behalf of the Education Task Force of the Consortium for Citizens with Disabilities to express our opposition to provisions of S.1571 that would amend the Elementary and Secondary Education Act (ESEA) to allow states to remove any number of students with disabilities from the general accountability system. This approach would obscure achievement gaps, and lower expectations for all students with disabilities, wiping out a decade of progress for students with disabilities that has assured their access to the general education curriculum and increased their full inclusion in general education classrooms throughout the country.

While everyone agrees that the No Child Left Behind Act (NCLB) needs revisions, certain key provisions have created a greater level of transparency about the achievement of our nation's students and must remain as a part of ESEA. One such provision, about which there is widespread agreement, is subgroup accountability; namely, the requirement that states, districts and schools disaggregate data by specific categories of students, including students with disabilities. This disaggregation includes participation in, and performance on, state assessments and graduation rates. This disaggregation requirement has provided information about student participation, achievement and graduation that is critical to students, parents, educators and communities. Access to these data – and the accountability provisions that accompany it – has resulted in greater emphasis on student populations that have traditionally been underserved. While gaps remain, this progress has been important and must continue. Unfortunately, if enacted, S. 1571 would reverse much of this progress. Thus, the undersigned groups urge you to reconsider the policies in S. 1571 because they will negatively affect students with disabilities in the following areas:

ALTERNATE ASSESSMENTS AND ACCOUNTABILITY

This legislation would allow states to administer different assessments – either an alternate assessment based on alternate academic achievement standards or an alternate assessment based on modified academic achievement standards – to any number of, or quite possibly all, students with disabilities. For purposes of accountability, it is important to note that both of these alternate assessments are different from the general education assessment. This is important because when a student with a disability takes a different assessment than a student without a disability, there is no way to compare their performance, no way to accurately measure achievement gaps and no way to know how well they have grasped the grade-level content. If large numbers or possibly all students with disabilities are given alternate or modified assessments, we will effectively – and under the proposed language – legally create a separate education system for students with disabilities.

The achievement gaps among student groups revealed under the current NCLB requirements have been the subject of much discussion and debate. Many do not like the critical information about subgroup performance that NCLB reporting revealed, and thus might be incentivized to use the provisions in S. 1571 liberally. The proposed provisions also could potentially act as an incentive to designate more students as having a disability as defined by the Individuals with Disabilities Education Act (IDEA) in order to remove them from having to take the general assessment. This is especially true because S. 1571 continues the requirement to include at least 95% of all students in state assessments – in total and by student group. Based on current information, it is highly likely that these students would be from subgroups where high achievement gaps currently exist – i.e. students that are poor, black, Hispanic, and/or English-language learners.

Thus, while there is general agreement that the disaggregation of data is critical for purposes of accountability and for make sound educational decisions about instructional strategies disaggregation means nothing if large numbers – or all -- students with disabilities are excluded from the general assessment and thus, effectively excluded from the accountability system.

GROWTH

While there is general agreement regarding the need to allow measures of student growth in accountability systems, there are currently no “nationally recognized professional and technical standards” for such measures, as S. 1571 appears to suggest. In fact, the growth models being used by those states that already have a growth model pilot approved by the U.S. Department of Education (USED) vary greatly, as do the results on student achievement. States need more research-based guidance from USED to understand appropriate parameters for creating valid and reliable growth models.

GRADUATION

Improving graduation rates for all students – particularly those students currently graduating at much lower rates than the overall population – is critical. Yet S. 1571 provides no requirements to improve graduation rates – either for all students or groups of students. This lack of attention to improving graduation rates, coupled with the expanded use of alternate assessments, will not help increase the numbers of students with disabilities who graduate from high school with regular diplomas, a goal about which there can be no disagreement.

SCHOOL IMPROVEMENT REQUIREMENTS

S. 1571 limits the requirement to address struggling schools to the bottom five percent of schools in a state. Unfortunately, this approach will ignore the need to address and support many other schools where the subgroup of students with disabilities is not making sufficient academic progress. In order to achieve its fundamental purpose, the ESEA should hold all schools accountable for the performance of all subgroups and for closing persistent achievement gaps.

The ESEA should require states and school districts to provide support in all Title I schools where subgroups, including the subgroup of students with disabilities, are not meeting college and career-ready standards. Without an expectation that all of America’s students will be college and career ready and an accountability system that holds all schools accountable for the performance of all historically underperforming students, we will lose a critical focus on the academic achievement of students with disabilities – a disproportionate number of whom are poor and/or minority. No reauthorization of ESEA should sacrifice these vital advances made over the past 10 years, especially for students with disabilities.

Everyone agrees disaggregation of data is important. The reason it’s important is because of what it tells us about the achievement gap. But data means nothing if large numbers of students with disabilities – or possibly all - are excluded from the general assessment and thus, inappropriately reported within an accountability system. Therefore, we ask that you reconsider including these provisions.

Thank you for considering our perspective and for your work on the education issues of our day. We would be happy to provide any further information or answer any questions.

Sincerely,

ACCSES	National Association of Councils on Developmental Disabilities
American Association of People with Disabilities	National Association of School Psychologists
American Music Therapy Association	National Association of State Directors of Special Education
American Occupational Therapy Association	National Council for Independent Living
Association of Assistive Technology Act Programs	National Disability Rights Network
Association of University Centers on Disabilities	National Down Syndrome Congress
Autism National Committee	National Down Syndrome Society
Bazelon Center for Mental Health Law	National Parent Teacher Association
Children and Adults with Attention Deficit/Hyperactivity Disorder	School Social Work Association of America
Council of Parent Attorneys and Advocates, Inc.	Teacher Education Division, Council for Exceptional Children
Council for Exceptional Children	The Advocacy Institute
Council for Learning Disabilities	The Arc of the United States
Disability Rights Education Defense Fund	The National Center for Learning Disabilities
Easter Seals	The National Coalition on Deaf Blindness
Epilepsy Foundation	The National Rehabilitation Association
Helen Keller National Center	Tourette Syndrome Association
Higher Education Consortium for Special Education	United Cerebral Palsy
Learning Disabilities Association of America	Urban Special Education Leadership Collaborative
Mental Health America	
National Alliance on Mental Illness	

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cc: Members of the Senate Health, Education, Labor and Pensions Committee

The Consortium for Citizens with Disabilities is a coalition of nearly 100 national consumer, advocacy, provider and professional organizations headquartered in Washington, D.C. Since 1973, the CCD has advocated on behalf of people of all ages with disabilities and their families. CCD works to achieve federal legislation and regulations that assure that the 54 million children and adults with disabilities are fully integrated into the mainstream of society. For more information, please contact:

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