

Update on ESEA Reauthorization

The 89th Congress of the United States passed S.370 on January 12, 1965 named The Elementary and Secondary Act of 1965 (ESEA). There have been six reauthorization Acts since that date. The latest effort occurred in July of this year. Two bills emerged from both houses of Congress.

The Every Child Achieves Act (S1177)

The Student Success Act (HR 5)

The Senate Bill passed on a bipartisan basis (81-17). The House bill passed with no Democratic support by a vote of 218-213).

Congress returns from vacation today Sept 8, to tackle a reconciliation of the two bills through a process known as CONFERENCE. This reconciliation impacts 100,000 schools, 15 million children and 3.5 million teachers.

- Both bills leave testing requirements in ELA, math, and science. The controversial AYP construct is now gone and both bills allow state or local education agencies to determine which schools need improvement and what if anything—the school would be required to do about it.
- Both bills require that test results continue to show disaggregated data by race, ethnicity, gender, poverty level and other criteria.
- Both bills limit the ability of the US Department of Education to issue regulations.
- Both bills prohibit the federal government from mandating a prescription for teaching evaluations on the occasion of receiving dollars from the federal grant.
- Both bills limit the power of the Secretary of Education (this of course will go beyond Secretary Arne Duncan and the Obama administration. It remains to be seen as to how this will impact a Republican or Democratic administration in the years to come.
- Both bills expand access to early childhood education. Indeed as the *New York Times* summarized “both bills returns some main powers to local government but the two bills differ on the oversight role of the federal government and funding.”

There are areas of contention, tension, and concern with components of both bills:

1- Title I portability-the House bill includes a provision for allowing federal tax dollars through Title I funding to follow low income students to public schools of their choice. The Senate rejected this in their bill but the House bill has retained this provision. The administration has indicated that this is a *no-fly*. The final passage of the House bill also includes an opt-out provision that allows states to decide whether parents could exclude the children from standardized tests.

2- A strong point of contention has to do with accountability and federal oversight. A significant number of civil rights organizations have expressed concern illustrated by the following questions-: Does the designated bill go far enough to hold schools accountable for the lowest achieving schools and does it provide opportunities for those schools to receive appropriate support?

-What assurances are there that states “unfettered” will protect the original intent of ESEA as they spend billions of tax payer’s dollars at the Federal level?

As reported in *Bellweather Education Press* “States have a history of taking the politically convenient route and ignoring the most vulnerable students”.

Senate Democrats led by Murray (D-Washington) Warner (D-VA) Murphy (D-CT) and Coons (D-) submitted an amendment designed to gain acceptance from both parties but it failed. That amendment would have provided oversight by the federal government to ensure accountability and to ensure the civil rights of low income students.

Commentary from various civil rights included:

- Liz King at the Leadership Conference on Civil and Human Rights, who said, “Instead of leveling the playing field for all children and setting a course for future opportunities and economic independence, the act turns its back on the original ESEA by stripping the bill of any meaningful accountability. While the bill includes data reporting requirements to show achievement gaps or resource in equities, it does not include incentives for states to address opportunity for achievement gaps or eliminate disparities such as discipline

disparities. Critically, the bill strips any federal oversight and accountability to assure that states provide access to quality education for all children.”

- Legal Defense Fund (LDF) President and Director– Counsel Sherilyn Ifill expressed her disappointment. She said, “We all wanted to eliminate the prescriptive nature and punitive sections of No Child Left Behind which only stigmatize and penalize states and schools. But we wanted that replacement to be strong... and we didn’t get that here.”
- LDF’s Washington, DC director Leslie Prolle stated, “The original was drafted to ensure that states receiving federal dollars funding streams were consistent with the law's commitment to creating educational opportunities and closing achievement gaps. The Every Child Achieves Act turns its back on this commitment.”

According to Sen. Chris Murphy (D-CT) the issue of accountability for low-income students is going to be the high priority for the President Obama heading into conference. We want to lay down a marker for what we think is ultimately a fair compromise. The core of the issue has to do with what local control really means at the state and federal level.

3- A significant legislative push during the entire seven-year rewrite was a formula amendment to the bill to ensure fair Title I funding (See ACE bill on NABSE website). NABSE, AASA and the Rural Trust were able to get a bill authorized for conference committee negotiations in the 113th Congress. Unfortunately, the traction that occurred between the two houses in the summer of 2013 stopped the bill from going forward. However, Representative Glenn Thompson (R-PA) has been able to get some language into the House Bill to be considered for conference negotiations. We will be looking at that very carefully and mounting an action alert to help get language that addresses over the long-term inequities of the current Title I funding formula.

Prior to Congress leaving for vacation, a bipartisan leadership group met to begin negotiating a proposal that can pass the House and Senate. Sen. Alexander (R-TN) indicated that he felt "a deal" could be reached by the end of 2015. Both Murray (D-WA) and Scott (D-VA), Democratic members of the bipartisan leadership, are negotiating for stronger equity and accountability measures. Scott, the ranking minority member, stated, “The right to educational

opportunity knows no state boundaries, and federal law must protect this right for all students regardless of race, income, disability or language status.” He also said, “I am confident that working together, will produce a comprehensive reauthorization that fulfills the ESEA's original civil rights legacy. I stand committed to producing a bipartisan bill that eliminates resource inequities and effectively addresses achievement gaps.”

Congress returns to a full agenda September 8, 2015. Its work includes votes on Iran nuclear weapons, a budget act to prevent government shutdown, a vote on Planned Parenthood defunding, and a vote on Highway funding. Though these issues will take up their time, Klein (R-Minn), chair of the conference committee, told reporters at a Minnesota fair late this summer that there is a 50 – 50 chance “We can get a bipartisan deal on the President's desk by the end of the year.”

NABSE legislative committee members will be monitoring on a daily basis the work of the conference committee. When necessary, we will alert our membership for a call of action.