



April 13, 2015

The Honorable Lamar Alexander  
Chair, Senate HELP Committee  
455 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Patty Murray  
Ranking Member, Senate HELP Committee  
154 Russell Senate Office Building  
Washington, DC 20510

Dear Chairman Alexander and Ranking Member Murray:

On behalf of the undersigned organizations that are part of the Consortium for Citizens with Disabilities (CCD), we thank you for your leadership and dedication to reauthorizing the Elementary and Secondary Education Act (ESEA). Under the current version of ESEA, students with disabilities, who make up 13 percent of public school enrollment, have been given the opportunity to make progress as all other students. Since the No Child Left Behind Act was enacted, we have witnessed the powerful role policy and best practice can have in shaping the future college and career opportunities for America's six million students with disabilities:

- scores on the National Assessment of Educational Progress have risen;
- high school graduation rates have increased;
- dropout rates have decreased;
- more students with disabilities have had access to the general education curriculum and are transitioning to post-secondary education and employment.

With the pending reauthorization of the ESEA, there is an opportunity to maintain strong education policy based on high-expectations and well prepare students with disabilities to become successful and independent members of society.

CCD asks that the reauthorization of ESEA continue to provide meaningful access to rigorous standards for all students and fully include students with disabilities in our local education system. We are pleased to see bi-partisan support for many of the provisions we previously recommended within the current draft of the *Every Child Achieves Act*. We know they will contribute to the academic success of students with disabilities.

### **The 1% Cap on the Alternate Assessment**

CCD commends you for including in the *Every Child Achieves Act of 2015* the responsible assessment policy for students with disabilities that only allows up to 1% of all students – those who have the most significant cognitive disabilities – to take an Alternate Assessment based on Alternate Achievement Standards (AA-AAS).

### **Additional Areas of Support in ECAA of 2015**

In addition, CCD is pleased to see that the ECAA:



- 1) Maintains annual assessments of all students in grades 3-8 and once in high school in reading and math;
- 2) Prohibits states from developing additional alternate or modified standards for children with disabilities;
- 3) Includes all students with disabilities in state and district-level assessments;
- 4) Ensures that students in every state who take the AA-AAS- are not precluded from attempting to complete the requirements for a regular diploma;
- 5) Ensures that parents are involved in the decision that their child will take an alternate assessment;
- 6) Ensure that students with disabilities are kept on track to graduate high school by requiring that students with disabilities are involved in and make progress in the general education curriculum;
- 7) Allows only for pilots of LEA assessments that are comparable, valid, reliable and include all students, with the intent that such an assessment will become a statewide test;
- 8) Maintains the requirement to include no less than 95% of all students and each student category in annual assessments
- 9) Calls for disaggregation of data by student categories in current law;
- 10) Provides support to states and school districts to ensure that teachers have the skills and knowledge necessary to instruct diverse learners;
- 11) Includes the “parent right to know” provision, requiring that parents be informed that they may request information regarding qualifications of the student’s classroom teacher;
- 12) Includes provisions on charter schools (Title V, Part A) mirroring the version supported by CCD in the last Congress;
- 13) Requires states and LEAs to describe how they will implement multi-tier system of supports (e.g. RTI), universal design for learning and school-wide positive behavioral interventions and supports;
- 14) Maintains funding for competitive grant programs that address the social/emotional, physical and mental health needs of students;
- 15) Ensures that all assessments are designed and implemented to the best extent possible using Universal Design for Learning; and
- 16) Preserves maintenance of effort (MOE) provisions with some changes.

### **Need for Subgroup Accountability**

Despite many strong components in ECAA, we have a number of concerns. The many positive protections for students with disabilities included in this bill will be worthless without meaningful subgroup accountability. The accountability requirements in Title I of ECAA dismantle the important facets of the accountability structure in current law and provide no substantive alternative. The accountability requirements must be strengthened in several key ways.



The ECAA establishes only a loose description of how states must set goals for student groups to meet accountability requirements for states, districts, and schools when it comes to the academic achievement of subgroups of students. The establishment of goals for subgroups and triggers to provide interventions to improve student performance missing from the requirements in Title I are critical. Without criteria to trigger interventions, subgroups of children could be permitted to languish for years in situations that provide inadequate instruction and support. In addition, if schools are free to set easily-attainable goals, the public will not have an accurate sense of how students with disabilities are performing or which schools need assistance by the district or state.

States must be required to identify and support the lowest performing schools – both schools where all students are underachieving and schools where particular subgroups of students are not meeting robust proficiency goals. States take steps to close the gap between the lowest performing schools and the highest performing schools and between all subgroups.

States must also require LEAs to intervene in those low-achieving schools and provide assistance to improve performance of struggling students. If states and LEAs do not set challenging goals for all students, there are no triggers for requiring interventions to address low achievement and close the achievement gap, countless students will struggle and be invisible within this façade of an accountability system and never receive the intervention they need to succeed.

### **Additional Areas of Concerns**

In addition to the lack of robust accountability requirements, CCD is also concerned that there are other critical provisions not addressed by ECAA that will harm students with disabilities. CCD recommends that ECAA should include:

- 1) A requirement that teachers are “fully” certified. Students with disabilities are disproportionately taught by teachers who are not fully prepared to be teachers. With the elimination of the “highly qualified” provision, the only requirement teachers must meet is that they are state certified. States have multiple levels of certification, some of which do not reflect full preparation or full qualification, such as temporary or provisional certification;
- 2) Transparent data on the number of students who are being taught by teachers who are less than fully certified disaggregated by subgroups of students, including students with disabilities in order to monitor the extent to which students with disabilities, and other subgroups, are being taught by teachers with less than the highest levels of certification or licensure;
- 3) Requirements for the SEAs and LEAs and schools to report results for all subgroups with the only exception being if an “n” size in a cell falls below 10;
- 4) That all assessments and curricula are designed and implemented, not only using Universal Design for Learning, but in a way that is fully accessible to all students;
- 5) Dedicated funding to assist states in increasing investments to expand high-quality inclusive early learning opportunities for all children beginning at birth. These



investments must ensure access to appropriate supports and services so that children with disabilities can fully participate in high quality early educational programs in their communities;

- 6) A prohibition of seclusion, and the limitation of restraint to emergencies that directly threaten anyone's physical safety;
- 7) A prohibition on the transfer of funds between Titles II and IV; and
- 8) Sufficient Secretarial authority to ensure the law is appropriately implemented and the most vulnerable students are protected.

As the debate regarding the *Every Child Achieves Act of 2015* and ESEA reauthorization continues, we commend you for your bipartisan leadership and urge you to support only those policies that reinforce high-expectations for students with disabilities and best prepare them for future postsecondary and career opportunities. We look forward to working with you throughout this process to develop legislation that creates opportunities for all students to succeed. Please do not hesitate to contact us with any questions.

Sincerely,

American Foundation for the Blind  
Association of University Centers on Disability  
Autistic Self Advocacy Network  
Bazelon Center for Mental Health Law  
Conference of Educational Administrators of Schools and Programs for the Deaf  
Council of Parent Attorneys and Advocates  
Disability Rights and Education Defense Fund  
Easter Seals  
Epilepsy Foundation  
Higher Education Consortium for Special Education  
Institute for Educational Leadership  
Mental Health America  
National Association of Councils on Developmental Disabilities  
National Association of School Psychologists  
National Center for Learning Disabilities  
National Down Syndrome Society  
National Disability Rights Network  
Teacher Education Division of the Council for Exceptional Children  
The Advocacy Institute  
The Association of Assistive Technology Act Programs  
The Arc



cc: Members of the U.S. Senate

*The Consortium for Citizens with Disabilities is a coalition of 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 physical and mental disabilities and their families. CCD has worked 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 additional information, please contact:*

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