



# NSBA Advocacy Institute 2014 CALIFORNIA BACKGROUND Reauthorization of ESEA

---

The Elementary and Secondary Education Act (ESEA), the major federal law supporting K-12 education, was last authorized in 2002 as the No Child Left Behind (NCLB) Act. Enacted in 1965, ESEA established federal policy and authorized federal funding to states and school districts to improve the academic performance of students enrolled in public schools. ESEA was scheduled to be reauthorized in 2007; however, since that has not occurred, provisions of the law continue to be in force through the congressional appropriations process.

The intent of Congress in enacting NCLB was to improve the academic achievement of all students, with an emphasis on English language learners, students in poverty and students with disabilities. However, the design of the accountability framework is seriously flawed. What has evolved is a measurement framework that bases its assessment of school quality only on student tests with no other inputs about student performance and then mandates a series of sanctions shown to not have significant impact on improving student or school performance compared to other options.

## *The Administration's Activities*

In March of 2011, President Obama called on Congress to fix NCLB before the start of the 2011-12 school year. He laid out three priorities for a new education law:

- A fair accountability system that shares responsibility for improvement and rewards excellence;
- A flexible system that empowers principals and teachers; and
- A system focused on schools and students who are at risk.

Much of what the President called for in early 2011 and continues to call for today is contained in his "*Blue Print for Education Reform*" which can be found at:

<http://www2.ed.gov/policy/elsec/leg/blueprint/blueprint.pdf>

In September 2011, the Administration launched its Education Flexibility program which provides states the ability to apply for a waiver from 11 provisions of NCLB including adherence to the 100 percent proficiency requirement and allows districts to shift certain ESEA funds between categories. However, this would be in exchange for state and school district adherence to four distinct principles:

- College- and career-ready expectations for all students;
- State-developed differentiated recognition, accountability and support;
- Supporting effective instruction and leadership; and
- Reducing duplication and unnecessary burdens.

To date, 42 states, the District of Columbia and Puerto Rico have received waivers. California applied for a waiver but it was declined by USDOE stating that "a State must agree and be

prepared to take on the rigorous reforms required by all of the principles of ESEA flexibility in exchange for that waiver.”

California then decided to apply for a general waiver due to concerns over the requirements for the teacher evaluation system and the potential costs of implementation at both the state and local levels. Further, in order for California to be eligible issues such as instructional materials and professional development for common core standards and teacher evaluation processes would have to be addressed by the state’s legislature. Again, this waiver was not approved.

On August 6, 2013, the California Office to Reform Education (CORE) received approval from the USDOE of its ESEA flexibility waiver on behalf of eight school districts, including the Los Angeles, Long Beach, Fresno, Santa Ana, San Francisco, Sacramento, Oakland and Sanger Unified School Districts. Under the waiver, the CORE districts will create new performance targets and accountability procedures and will be exempt from some of the spending requirements of ESEA.

In June, Secretary Duncan announced an additional waiver that States could apply for to avoid “double-testing” of students as they begin to pilot new assessments aligned with the Common Core. Under the waiver, States could apply to use just one test in a given school. Each school could have its students take either the regular State assessment or a “field test” for the new assessments. During this transition year, the “field test” assessments based on the new standards would not have to be included in State accountability decisions. Instead, a State could choose to “freeze” the accountability status of schools that are piloting the new assessments at the previous years’ levels. States have pointed out repeatedly that using two assessments in one year would take up a lot of additional instruction time. California has applied for a waiver, but as of yet has not heard if it has been approved.

**CSBA supports the state’s “double testing” waiver application as it is consistent with legislation that was approved this year to change the state’s testing system to incorporate the SBAC tests that are based on the adopted California Common Core Standards.**

### *Congressional proposals*

In July, the House approved its version of ESEA, *The Student Success Act* (HR 5). While no Democrats voted for the bill that passed on a vote of 239-187, nine Democrats did support an amendment that specifically provides greater authority and flexibility to local school boards. Representatives Jared Huffman (D-San Rafael) and Raul Ruiz (D-Palm Desert) voted for the amendment.

The Senate Health, Education, Labor and Pension Committee passed its version of ESEA, *Strengthening America’s Schools* (S 1094) in June of last year. However, the Senate has not yet scheduled the floor vote. The bill does make some improvements to current law but it would significantly increase local data collection, reporting and plan developments without any recognition that school districts do not have the technological capacity or the fiscal or personnel resources to meet these expanded requirements.

## *Reauthorization Issues*

### *Standards and Assessments*

CSBA has established a strong record of active support for challenging standards and rigorous assessments. CSBA has been especially opposed to the “soft bigotry of low expectations,” wherein historically low-performing student populations are held to lower standards than their higher achieving counterparts. Nothing could be more antithetical to CSBA’s vision that the “futures of all children are driven by their aspirations, not bounded by their circumstances.”

At the same time, the difficulty that many students have in achieving desired outcomes is not solved by simply imposing higher standards and tougher tests. Yet, this has been the focus of the Administration through RTTT and, by extension, ESEA reauthorization.

CSBA recognizes the central role and value of standards. They provide focus and direction and establish a common basis for assessment and—therefore—accountability. However, the setting of standards and the use of standards-based assessments do not—by themselves—automatically lead to improved curriculum and classroom instruction.

In fact, recent research suggests that the current focus on common core standards and the key to school improvement is misplaced, because there is no statistically significant association between a state’s scores on the National Assessment of Educational Progress (NAEP) and the rigor of that state’s content standards as ranked by the Fordham Foundation.<sup>1</sup> What matters more is curriculum, broadly defined as course content, sequencing of content, and the materials and teaching methods used to deliver that content.

Further, a Brookings Institution study found that curriculum-based interventions had a much larger effect size<sup>2</sup> than alternative interventions, including charter schools, merit pay for teachers, expanded preschool, and raising state standards. In fact, the effect size for charter schools and raising state standards in mathematics was zero, indicating no impact on student performance. The effect size of merit pay in pay-for-performance program in India was 0.15. This means that the program raised the reading and math scores of students by 15 percent of one standard deviation—not much. By contrast, curriculum-based interventions had effect sizes of from 0.30 to 1.00.

**CSBA believes that, while standards and assessments are important, research shows that focusing directly on the improvement of curriculum and instruction has better outcomes. Therefore, federal policy and funding should be redirected to these areas.**

### *Data Systems*

**CSBA has a strong record of support for the development of a statewide student data system that would allow the longitudinal tacking of student performance, and supports the**

---

<sup>1</sup> Grover J. “Russ” Whitehurst, “Don’t Forget Curriculum.” Brown Center Letters on Education #4. Washington, DC: Brookings Institution, March 4, 2010.

<sup>2</sup> Effect size is a way of representing numerically the strength of a relationship between an educational intervention and a student outcome. Effect sizes can be standardized to allow comparisons across interventions.

**Administration's efforts in this area.** However, CSBA cautions against the overreliance on data. Data should be used to inform decision making, not to trigger actions. Moreover, data should be used along with other sources of information (locally-designed assessments, classroom observation, etc.), and not by themselves to make decisions.

### *Teacher and Principal Effectiveness*

Over the last few years, the Obama Administration has focused almost exclusively on using student performance data to evaluate teachers and principals and make decisions about compensation, promotion, placement and retention. The apparent assumption is that feedback on performance is—by itself—sufficient for improvement. A major sub-theme is using data to ensure the equitable distribution of effective teachers and principals in high-poverty or high-minority schools.

**CSBA agrees that student performance data should be a component of teacher and principal evaluation. Data should be used as part of a broader evaluation system to make informed judgments about performance. Data—by itself—should not be used to trigger actions regarding compensation, retention, or placement.**

**CSBA also believes federal policy should have a stronger emphasis on identifying, disseminating, and adopting professional development programs that have demonstrated effectiveness in improving student outcomes through improved teacher and principal performance.**

### *Turning Around Low Achieving Schools*

As currently proposed, the Administration intends to continue the requirement, as provided through the RTTT, that there are only four models to turn around persistently low performing schools:

- Closing the school and sending the students elsewhere;
- Converting the school to a charter school or turning it over to an educational management organization (EMO);
- Replacing all or most of the staff; or
- “Transforming” it through changes in personnel and other areas.

These models are based on strategies employed by No Child Left Behind (NCLB) that research shows are rarely effective.<sup>3</sup> At the same time, the Administration's plans exclude the use of alternative strategies that research has shown to be more effective than the four models.

The Administration and Congress both seem particularly intent on promoting charter schools. Not only is the conversion to charter status one of the four allowable turnaround models, states have been required to remove any restriction on the growth of charter schools as a condition of eligibility for RTTT funds.

Most national studies have concluded that there is no significant difference between charter schools and non-charter schools in terms of student performance on standardized tests.<sup>4</sup> A more recent

---

<sup>3</sup> “Improving Low-Performing Schools: Lessons from Five Years of Studying School Restructuring under No Child Left Behind.” Washington, DC: Center on Education Policy, December 2009.

study of charter school performance in 16 states conducted at Stanford University, however, found that charter schools actually underperform traditional public schools more than twice as often as they outperform them.<sup>5</sup> This is not the first study to find that charter schools underperform traditional public schools. A 2006 study by the U. S. Department of Education (which received scant attention from both the media and Washington, DC policy makers) concluded, “After adjusting for student characteristics, charter school mean scores in reading and mathematics were lower, on average, than those for public non-charter schools.”<sup>6</sup>

This is not to deny that there are some very good charter schools or that charter schools can play a role in improving public education in general. But there is no empirical evidence to support a policy that prescribes charter schools as a solution for underperforming schools. In fact, the empirical evidence points in the opposite direction.

Meanwhile, there is research to support the conclusion that alternative interventions are more effective than chartering, private management, or replacing the school staff. Interestingly, some of the research comes from Secretary Duncan’s own Chicago Public Schools. There, a program called Strategic Learning Initiatives, using an approach called Focused Instruction Process (FIP)<sup>7</sup>, has helped formerly low performing schools make significant improvements. An independent study of the program found that “all but two of the 10 FIP schools had ISAT Reading gains in the percent of students at or above proficient that exceeded the Chicago city average and that as a group, the gains in the FIP schools were nearly twice the city average.”<sup>8</sup> Not only has FIP been shown to be more effective, it is less expensive than the models promoted by the Administration.

California’s own experience with successful School Assistance and Intervention Teams shows that intensive intervention with existing school staff can be an effective, relatively low cost way to turn around low performing schools.

**CSBA believes the list of interventions allowed under federal law should be expanded to permit the use of alternative field-tested and/or research-based strategies that have a strong chance of success.**

### *Over-Arching Concerns Regarding ESEA Reauthorization*

As can be seen from the above discussion, there is a wide gap between Secretary Duncan’s pronouncement that the Administration is moving away from a top-down, prescriptive approach

---

<sup>4</sup> Grace Chen, “Charter Schools vs. Traditional Public Schools: Which One is Underperforming?” *Public School Review*, July 10, 2009.

<sup>5</sup> “Multiple Choice: Charter School Performance in 16 States.” Center for Research on Education Outcomes (CREDO), Stanford University, July 2009.

<sup>6</sup> Braun, H., Jenkins, F., and Grigg, W. (2006). *A Closer Look at Charter Schools Using Hierarchical Linear Modeling* (NCES 2006–460). U.S. Department of Education, National Center for Education Statistics, Institute of Educational Sciences. Washington, DC: U.S. Government Printing Office.

<sup>7</sup> Focused Instruction Process has four main components: shared leadership, targeted professional development, continuous improvement, and parent engagement. It uses an eight-step process to ensure that students master skills by providing focused lessons, formative assessments, reteaching after assessing where each student stands, and a reassessment to measure student progress. A trained facilitator monitors fidelity to the process in each school.

<sup>8</sup> Steven Leinwand and Sarah Edwards, “Validating the Impact of Strategic Learning Initiatives’ Focused Instruction Process (FIP) Model.” Washington, DC: American Institutes for Research, July 29, 2009.

and the actual details of its proposal. The Administration is already taking credit for RTTT competition, compelling states to expand charter school opportunities, adopt data-based teacher and principal evaluation systems and authorize the closure of under-performing schools. In other words, the Administration is falling into the same trap of setting expectations **and** prescribing how to achieve them.

In the meantime, while Congress has introduced legislation that does provide for more local-based decision making and moves away from many of the federal dictates in current law, neither the House nor the Senate has been able to make progress in forwarding their legislation to the President's desk.

**CSBA strongly supports the intent “to move from a simple focus on rules, compliance, and labeling of insufficient achievement, toward a focus on flexibility for states and local education agencies (LEAs) that demonstrate how they will use program funds to achieve results, and on positive incentives and rewards for success.” CSBA urges that the details of the current Administration education policies match this intent and that any proposal for reauthorization imbed this intent into the program.**

## TALKING POINTS:

In general, CSBA believes:

- **Federal education policy should (1) be consistent with the intent to permit state and local flexibility while holding LEA's accountable for results, and (2) that it be guided by what research and experience show actually works.**
- **Standards and assessments are important, research shows that focusing directly on the improvement of curriculum and instruction has better outcomes. Therefore, federal policy and funding should be redirected to ensure high-quality, valid and reliable assessments for all students, especially for English language learners and students with disabilities.**
- **Multiple measures of academic achievement that more accurately determine students' knowledge and performance and reflect the education necessary to be successful in the 21<sup>st</sup> Century economy should be used instead of a single assessment.**
- **CSBA supports the state's "double testing" waiver application as it is consistent with legislation that was approved this year to change the state's testing system to incorporate the SBAC tests that are based on the adopted California Common Core Standards.**
- **In the development of a statewide student data system that would allow the longitudinal tracking of student performance and has a strong record of support for this type of system. However, we caution against the overreliance on data. Data should be used to inform decision making, not to trigger actions. Moreover, data should be used along with other sources of information (locally-designed assessments, classroom observation, etc.) and not by themselves to make decisions.**
- **Student performance data should be a component of teacher and principal evaluation but it should only be used as part of a broader evaluation system to make informed judgments about performance. Data—by itself—should not be used to trigger actions regarding compensation, retention, or placement.**
- **Federal policy should also have a stronger emphasis on identifying, disseminating, and adopting professional development programs that have demonstrated effectiveness in improving student outcomes through improved teacher and principal performance.**
- **The list of interventions allowed under federal law should be expanded to permit the use of alternative field-tested and/or research-based strategies that have a strong chance of success.**