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Reauthorization of the Elementary and Secondary Education Act (ESEA) NASDSE Reauthorization Priorities

NASDSE supports the high standards and accountability for all students, including students with disabilities, as called for by the No Child Left Behind Act (NCLB). In fact, long before either the Individuals with Disabilities Education Act (IDEA) was reauthorized in 1997 or NCLB was enacted, NASDSE published a document, *Guiding Principles for an Inclusive Accountability System*, that called for a focus on improving outcomes for students with disabilities. However, since NCLB was enacted, NASDSE members have recognized that the law and its current implementing regulations do not adequately address the needs of **all** students with disabilities. This document includes NASDSE's recommendations for reauthorization of the Elementary and Secondary Education Act (ESEA) and takes into account the individualized needs of students with disabilities as required by the Individuals with Disabilities Education Act (IDEA).

1. High academic expectations for all students requires flexibility in establishing meaningful expectations for students with disabilities.

For many years, expectations for all students with disabilities were too low. NCLB has stressed the importance of establishing high expectations for all students, including those with disabilities. While this is critical to ensuring that students with disabilities achieve to their maximum potential, high expectations alone cannot eliminate every child's disability. The majority of students with disabilities should take a regular assessment (with or without accommodations) based on regular state standards. However, it has been well established that there is a percentage of students who will not be able to achieve proficiency on regular standards. Although there is limited research on what that percentage is, based on communication with the state directors of special education, we believe that is between 2-3 percent of all students or approximately 10-30 percent of students with disabilities. This does not mean that we don't need high expectations for these students. Indeed we do. However, these expectations should be realistic and should be set based on state guidelines. IDEA requires that students with disabilities have instruction and services tailored to their needs and it is of critical importance that this requirement extend to decisions regarding which assessments are the most appropriate for them.

2. Incorporate language from the Individuals with Disabilities Education Act (IDEA)

Language in the recently reauthorized IDEA emphasizes certain aspects of addressing the needs of students, including:

- early intervening services to address the needs of struggling learners before referrals to special education are considered or become necessary;

- addressing the over-identification of minority students for special education;
- the use of technology, including technology with universal design principles and assistive technology devices, to maximize accessibility to the general education curriculum for children with disabilities;
- addressing the behavior support needs of all students; and
- providing differentiated instruction to diverse learners in the general education setting.

NASDSE recommends that the reauthorization of the ESEA include comparable language to ensure that the needs of diverse learners are met in the general education setting.

3. Incorporate language on the use of Response to Intervention (RtI) in order to identify struggling learners as quickly as possible.

IDEA includes concise language on the use of RtI. However, it is tucked into a specific section of the law that deals solely with the identification of students with learning disabilities. RtI is a much broader concept that is being successfully used around the country to meet the needs of all students, including struggling students. RtI is the practice of providing high-quality instruction and interventions matched to student needs, monitoring progress frequently to make decisions about changes in instruction or goals and applying child response data to important educational decisions. It is a data-driven approach that is consistent with the data-driven approach contained in the No Child Left Behind Act. RtI is **not** something that happens in special education. Rather, it is a method for teaching all students that needs to be driven by general education teachers in the general education classroom. For this reason, NASDSE urges that specific language regarding the use of RtI to meet the needs of all students be added to the ESEA.

4. Highly qualified teachers

The NCLB has focused on ensuring that teachers are highly qualified by virtue of having subject matter knowledge of the courses that they teach. In addition, IDEA requires special education teachers to be fully certified in special education and have content knowledge. However, NCLB is silent as to the knowledge that general education teachers need to teach diverse students in the general education classroom. NASDSE recommends that language be added to the ESEA to require teachers to have knowledge and proficiency to work with diverse students, including students with disabilities, in order to be highly qualified. All teachers should have knowledge of, and the capacity to implement, universally designed curricula and materials. General education teachers need to work collaboratively with special education teachers and related services providers to ensure that appropriate accommodations are provided in the classroom. Special education teachers should be viewed as providing support to general education teachers to assist with the implementation of universal design and the use of assistive technology in the classroom and response to intervention.

States should continue to have the authority to develop their own systems for setting high, objective, uniform standards (HOUSSE) for teachers and the HOUSSE system should continue in effect in order to give states additional flexibility (e.g., the capability to certify as highly qualified teachers who move from one state to another where certification requirements differ).

Further, NASDSE believes that because states are responsible for licensing teachers, they should retain responsibility for defining what constitutes a highly qualified teacher.

5. “N” size and subgroups

Under current law, states select a number, referred to as the “n” size, for the size of subgroups of students that will be reported at the school level as to their proficiency levels. If the number of students in the school is below the “n” size, then that subgroup of students will not be broken out for reporting purposes. Each state sets its own “n” size, subject to the approval of the U.S. Department of Education. Currently, “n” sizes range from as small as 5-10 to as large as 100-150. The reason for “n” sizes has to do with having enough students for the subgroup to be statistically significant and to protect the privacy of students.

NASDSE is concerned that the focus on the results of each subgroup detracts from the ability of schools and school districts to focus on the needs of individual children. We are equally concerned that the focus on subgroups and “n” sizes has pressured schools to change their eligibility determination process for identifying students with disabilities so as not to “upset” their “n” size calculations. We believe that the focus of ESEA should be on improving outcomes for all children and that this can best be accomplished by focusing on the progress of individual students rather than the particular subgroup in which they happen to be counted. NASDSE believes that an accountability system that examines the progress of each student on an individual basis is much more powerful than an accountability system based on subgroups and we would prefer to see such a system implemented under ESEA.

Education reform across this nation is focusing on improving outcomes for all students through progress monitoring and early intervening. This approach is sensitive to the needs of all students on an individual basis. Progress monitoring of individual students should substitute for the current process of calculating AYP. It would hold schools accountable for student outcomes for all children and no longer allow the masking that occurs with the use of “n” sizes.

Accountability under this system would require schools to demonstrate the application of effective scientifically based practices with individual learning plans for all students experiencing delayed progress in achieving proficiency against the state standards. While this may seem revolutionary in its approach, it clearly is more directly linked to accountability for improved student outcomes than the current system of calculating adequate yearly progress.

We recognize that opposition to the elimination of subgroups is intense (even if a better system were to be put into place). While we will continue to strive for an accountability system that directly addresses the needs of individual students, at a minimum we recommend that individual learning plans be developed for all students who fail to demonstrate proficiency on their assessments.

6. Alternate assessments

NASDSE members are deeply concerned about the different kinds of assessments that NCLB mandates and the costs associated with developing these assessments. Under current law, students with disabilities have the option of:

- taking the regular assessment based on grade-level achievement standards without any accommodations;
- taking the regular assessment based on grade-level achievement standards with accommodations;
- taking an alternate assessment based on grade-level achievement standards (consistent with modifications required by a student's Individualized Education Program (IEP), e.g., in a Braille format);
- taking an alternate assessment based on alternate achievement standards (for those with significant cognitive impairments only); or
- taking a modified assessment based on modified grade-level achievement standards (regulations pending).

NASDSE strongly believes that the ESEA should continue to allow a small subset of students with significant cognitive disabilities to take an alternate assessment based on alternate achievement standards. In addition, NASDSE believes that an additional subset of students be allowed to take and be counted as proficient on a modified assessment. States should establish guidelines and criteria for LEAs and IEP teams to determine how these students are to be identified and it should be up to the IEP team to determine which assessment a student should take. States and local school districts should have flexibility (according to state requirements) in determining which students meet these criteria. NASDSE recommends that SEAs and LEAs have flexibility in determining the total number of students who can be counted as proficient on either an alternate or modified assessment so long as the total number of students counted for purposes of proficiency does not exceed three percent of all students. SEAs and LEAs should be allowed to exceed this cap if they can provide a justification (with documentation supported by current data) for doing so. This may be particularly warranted in smaller jurisdictions where small numbers of students can "skew" results. This flexibility should be available in every state because there are students with disabilities in every state.

The law should provide a broad definition of students who might be considered for the two percent category. These are students, who, even with all of the best educational supports and services, are not working on grade level and are unlikely to be able to do so. This includes, but is not limited to, students with moderate cognitive disabilities as well as students with severe behavioral, emotional, and/or sensory disabilities. These students have often been referred to as "gap students." These are students who may not be able to understand and/or complete all required grade-level content, but they do not have "significant cognitive impairments" as currently defined under current ESEA regulations.

At the same time, NASDSE believes that the current focus on groups of students in the NCLB Act diminishes the focus and the importance of achieving results for each student. Under the current system of judging schools solely on the basis of adequate yearly progress, schools focus on "group" numbers and not on the achievement of individual

students. A more effective accountability system would focus on progress monitoring for each student and individualized student learning plans for those who need them.

Further, NASDSE believes:

- States need to be supported in meeting the costs associated with this ever expanding list of options.
- Focusing the accountability system on progress monitoring of individual students with verification that schools are implementing individual learning plans based on scientifically proven strategies will take the pressure off of the current preoccupation with a search for an assessment system that will finally meet the needs of all children.
- If Congress chooses not to implement an accountability system based on progress monitoring of individual students, then consideration should be given for reducing some of the expenses found in the current assessment system by allowing states to use off-level assessments for some students.

7. Adequate Yearly Progress and Proficiency

NASDSE recommends that the ESEA retain a target goal of proficiency for all students, understanding that proficiency can be determined in a number of ways. Punishments for a failure to reach the 100% proficiency level should be eliminated. Schools and states that do not reach 100% proficiency need targeted assistance to improve.

Schools should be given credit when students demonstrate growth and movement toward proficiency upon exiting from school. NCLB needs to recognize what IDEA already does, namely that some students with disabilities may take until the age of 21 to graduate from high school and schools should be given “credit” for these students as well. In doing so, it is important that the law recognize the need for differentiated strategies in helping students achieve to high levels. This may mean that some students will follow a different trajectory for growth than their peers. Growth models are one suggested means of addressing the need for differing trajectories; however, the criteria currently being used for the pilot projects are so restrictive that they fail to acknowledge a realistic notion that some students, even with all the best supports and services, will not become proficient based on regular state achievement standards.

8. Accountability plans

Likewise, NASDSE recommends that states have the flexibility to develop their own accountability plans and systems, including the use of progress monitoring, consistent with the goals of ESEA and with appropriate input from the citizens of the state. The U.S. Department of Education should review the plans to ensure that they are consistent with the overall goals of ESEA and that appropriate public input was obtained.

9. Focus on improving schools, not abandoning them

NASDSE believes that current law focuses more on strategies that punish schools for not making adequate yearly progress than it does to provide supports and services to helping low performing schools succeed. For example, districts are forced to spend scarce funds to transport students to other schools, in effect abandoning these schools instead of investing in the necessary resources and strategies to improve them. Low performing schools must not be abandoned. Students should be provided supplemental

services in their schools (or elsewhere in their own neighborhoods) and other improvement strategies need to be implemented in the schools themselves.

Scarce funds should be used to improve instruction by hiring more highly qualified teachers; purchasing supplemental teaching materials; providing professional development to struggling teachers; implementing school-wide support systems as part of early intervening services that includes RtI and positive behavior support systems; providing effective after-school tutoring in school; implementing progress monitoring and individualized learning plans; and developing school leadership initiatives. Inadequate federal funding of ESEA does not allow school districts to adequately support all of these activities. NASDSE recommends that scarce dollars be spent on improving schools instead of transporting students, which does nothing to improve the quality of schools.

Furthermore, the law should recognize the difference between those schools that have significant problems related to making adequate yearly progress and those schools with fewer issues. It is important to target scarce resources to those schools most in need. It is impossible to target resources to "every school." Therefore, the law should require LEAs to rank their schools in need of improvement and target their scarce resources to those at the top of the list. Schools with few numbers of students who fail to make proficiency are usually well equipped to address these issues by themselves.

10. Restructuring of schools under ESEA

The NCLB provides for the restructuring of schools that have failed to show improvement over a six-year period of time. NASDSE is concerned about the impact of school restructuring on students with disabilities. NASDSE recommends that language be added to ESEA to ensure that the needs of students with disabilities are met during any restructuring activities and that management, oversight and control of IDEA funds be handled separately from any restructuring activities.

11. The overall system

It is clear that our nation's schools have a way to go to improve outcomes for all students, including those with disabilities. Supporters of NCLB point to the current adequate yearly progress system as the driver of improved student test scores. However, others maintain that it is the methodology that schools are using to improve achievement scores, e.g., the application of scientifically based intervention strategies to children who have been identified as being in need of interventions and the use of progress monitoring as far more effective strategies. Improved achievement for struggling learners occurs one child at a time. It is imperative that the structure of the accountability system focus on holding schools accountable for implementing proven intervention strategies for each student who has not achieved proficiency. Accountability can be achieved with flexibility and still be able to address the individual needs of each student with a disability.