

The Elementary and Secondary Education Act: A Primer on Reauthorization in 2010

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Analysis

The House Education and Labor Committee, chaired by Congressman George Miller (CA), is accepting comments for reauthorization from stakeholders until Friday, March 26, 2010. While their timeline for writing a proposal is unclear, AASCU expects a proposal to reach the floor of Congress by the summer of 2010. AASCU encourages presidents, chancellors, and deans of schools of education to contact their members of Congress and the Chairmen of the House Education and Labor Committee and the Senate HELP Committee with constructive feedback and policy recommendations for ESEA reauthorization.

Context

Nearly every student entering a postsecondary institution has been shaped by the nation's K-12 system. President Lyndon B. Johnson signed into law the Elementary and Secondary Education Act (ESEA) in 1965 as the federal government's "definitive entry into public education."¹ ESEA, by and large, governs federal policy that addresses K-12 education.

Since passage in 1965, ESEA has been reauthorized numerous times, including a major revision in 1994 following the release of the groundbreaking study *A Nation at Risk*. President George W. Bush signed into law the most recent reauthorization of ESEA in January 2002 known as the No Child Left Behind Act (NCLB). NCLB, touted as the most far-reaching bipartisan education legislation, emphasized standardized assessments, local control of schools and funding tied to accountability.

Despite bipartisan support for NCLB, considerable criticism has been levied since its implementation. Congress has attempted for several years to overhaul NCLB, with little to show for its efforts. The election of President Barack Obama and the appointment of Arne Duncan as Secretary of the U.S. Department of Education, however, have reinvigorated the effort for in overhauling this legislation. The Administration released *A Blueprint for Reform: The Reauthorization of the Elementary and Secondary Education Act* on March 14, 2010. AASCU expects Congress to consider a proposal for reauthorization as early as spring 2010.

AASCU is asking four critical questions in anticipation of this reauthorization:

1. What issues will ESEA reauthorization address?

2. What is at stake for institutions of higher education?
3. What policy changes does AASCU seek to advance in the reauthorization of ESEA?
4. How can higher education play a meaningful role in the reauthorization process?

This paper will demonstrate that the higher education community not only has a role to play in the reauthorization discussions, but should be viewed as a critical partner with state and local school districts in implementing new policies. AASCU strongly encourages institutions of higher education to take an active interest in the reauthorization process.

History

The signing of ESEA in 1965 signaled the federal government's interest in improving public education for the nation's children. In 1980, Congress established the Department of Education as a Cabinet level agency. Since 1965, the federal government's role in education has grown significantly, with the Department of Education providing funds to low-income schools, funding school libraries and setting benchmarks for teacher quality, to name a few. In the last two decades, the federal share of K-12 spending has increased dramatically and now accounts for roughly 8.3 percent of total K-12 spending.² During this same time, the federal government has also required an increasing amount of reporting from local and state school districts.

Congressman George Miller (D-CA), Chairman of the House Committee on Education & Labor (Education & Labor), championed the effort in the 110th Congress to reauthorize NCLB with sharp criticism of the legislation as "not fair...not flexible...and not funded."³ In 2007 and 2008, Chairman Miller held seven hearings on salient topics for the reauthorization, including hearings about increasing quality in the teaching profession, promoting school safety, closing the achievement gap and improving measures of progress. During the same Congress, the Senate Committee on Health, Education, Labor, and Pensions (HELP), chaired by the late Senator Ted Kennedy (D-MA), also held a series of hearings addressing K-12 education reform. Hearing topics included modernizing middle and high schools, engaging parents and communities and promoting school improvement. While progress was made toward a comprehensive

overhaul of NCLB, neither chamber of Congress saw formal committee or floor action on specific legislation.

Following a campaign in which the newly elected President Barack Obama promised change⁴ in education and with a newly appointed Secretary taking the helm of the Department of Education, discussion of reauthorizing NCLB resurfaced in early 2009. In September 2009, Secretary Duncan delivered a speech entitled “Why We Can’t Wait,” outlining his goals for reform that included encouraging high academic standards, supporting struggling schools, closing the achievement gap, strengthening the field of education, reducing the dropout rate and boosting college access.⁵ Further, Secretary Duncan ceased referring to the law as NCLB and reverted to its original name, ESEA. The Secretary recognized the importance of the K-12 pipeline in meeting President Obama’s challenge of leading the world again in the number of people with a college credential by 2020.⁶ “We want to be first in the world again and to get there we cannot waste a minute...And so the work of reauthorizing ESEA begins in states and districts across America—among educators and policy makers, parents and community leaders. This work is as urgent as it is important,” the Secretary said.⁷

This September 2009 speech was delivered as Secretary Duncan and his staff were engaged in a series of forums, called the Listening and Learning Tour, in which they traveled to 15 states to gain a broad range of perspectives about education reform. As part of the tour, the Department hosted a series of seven Stakeholders Forums at its headquarters in Washington, DC on a variety of topics including preparing college- and career-ready graduates, training great teachers and leaders, utilizing technology in education and encouraging innovation in education, among other topics. This series of events brought parents, teachers, education policy experts and students together to discuss priorities for education reform. The close of 2009 marked the Administration’s end of the comment period for ESEA.

Prospects for ESEA Reauthorization in 2010

The President and Secretary have consistently called on Congress to consider reauthorization in 2010. But do conditions to pass an overhaul of major education legislation exist? Many skeptics point to challenging political dynamics, electorally and otherwise, as a major barrier to reauthorization. Congress is on the brink of passing a comprehensive overhaul of health care—a top domestic priority for President Obama—

and an overhaul of the student aid system in higher education. Perhaps because of the intensely partisan debate around health care, Congress may find it difficult to build bipartisan coalitions to move other major domestic legislation through the process. Further, November 2010 elections are quickly approaching and the likelihood that this Congress will tackle a potentially divisive issue—massive education reform—is questionable. Others would argue, however, that the stars have aligned for reauthorization; with new leadership in the White House and Department of Education, a strong majority in Congress, and a historic investment of federal funds in state education reform, prospects for reauthorization are excellent. To further support the drive for reauthorization, two major national organizations have joined forces to develop and promote common academic standards—a key feature to reform efforts.

Movement Toward Common Core State Standards

In early 2009, the Council of Chief State School Officers (CCSSO) and the National Governor’s Association (NGA) joined forces to launch the Common Core Standards Initiative. Together, CCSSO and NGA, with the support of 48 states and the District of Columbia, took much of 2009 to develop a set of core standards in English Language Arts and Mathematics for students in kindergarten through 12th grade. This initiative is the highest-profile national effort to create rigorous, uniform academic standards preparing students across the country for success in postsecondary education and the workplace. Currently each state sets its own standards for all core academic disciplines, meaning that students graduating from high schools across the country are held to different expectations and are learning at different levels. As the Alliance for Excellent Education highlights, students graduating from high school in West Virginia are expected to compete in the same global economy as students graduating from high school in Washington State. In a system where all states establish their own standards, many students are put at a disadvantage; minority and low-income students, too often, are included in this group.⁸ The National Center for Education Statistics (NCES) released a report in October 2009 mapping state proficiency standards onto the National Assessment of Educational Progress (NAEP) achievement scale. By mapping proficiency standards onto NAEP reading and math scales, NCES was able to evaluate the differences in rigor in reading and math standards across states. NCES found that these standards varied greatly throughout states. In fact, the difference between the states

with the five highest standards and the five states with the lowest across both content areas is equal to the difference in what NAEP considers “proficient” and “basic competency.” Further, NCES found that the variation between states in terms of the number of students scoring as “proficient” on state assessments can be attributed in large part to the variation in rigor between state standards. This, in part, explains why fewer students pass state assessments in states with higher standards than in states with lower proficiency standards.⁹

The work of NGA and CCSSO through the Common Core State Standards Initiative strives to hold all students graduating from public schools in all states to the same set of rigorous “college and career readiness” standards,¹⁰ ensuring that these students possess the content knowledge and skills necessary for success in both college and the workplace. This effort to develop common standards has been explicitly stated; however, the Department of Education has encouraged states to consider adopting these standards once they are released. Once the standards have been developed, reviewed and approved by stakeholders, states may voluntarily adopt and implement them. State boards of education have the option of adding to the standards if, for example, existing standards are more rigorous than the common core state standards. CCSSO and NGA are expected to announce the final common core state standards in spring 2010.

The Federal Stimulus: Incentivized Reform

As NGA and CCSSO have been developing a new set of standards for the country’s students, the nation has been in the midst of the worst recession since the Great Depression. In February 2009, President Obama signed the American Recovery and Reinvestment Act (Recovery Act), investing billions of dollars in education, infrastructure and small businesses aimed at job creation. The Recovery Act provided an unprecedented investment in education through the State Fiscal Stabilization Fund and the Race to the Top fund. The Race to the Top fund, a \$4.35 billion investment in education, is a competitive program that will allocate funds to selected states in two phases to spur innovation and reform in state education policy and to create a new set of assessments aligned to new common academic standards. While 40 states and the District of Columbia submitted applications, only 15 states and the District of Columbia have been named finalists for Race to the Top Phase I awards. Winners for Phase I of

Race to the Top will be announced in April 2010. Applications for the next phase of Race to the Top are due in June 2010 and will be awarded in September 2010.

In creating a competitive grant program for the states, the Department has encouraged states to create conditions for major state-level education reform. In order to be eligible to apply for the funds, many state legislatures found it necessary to change state laws. For example, some states had to remove barriers in state law to collect data across K-12 and postsecondary education and accommodate the creation of new charter schools.¹¹ The federal government, through the Race to the Top fund, has extended a very enticing carrot to states to make major changes in education reform. To be sure, Race to the Top has also signaled to lawmakers in Washington, DC that the administration is committed to education reform in Congress.

President Obama's FY 2011 Budget Proposal

On February 1, 2010, President Obama released his fiscal 2011 budget, outlining his priorities for federal spending during the next fiscal year. In the Department of Education budget, the President took the opportunity to again push for an aggressive ESEA reauthorization agenda. Taken as a whole, the Administration's budget emphasizes competitive funding, flexibility for states and local school districts and reforms as reflected in the Race to the Top application criteria. This proposed budget provides a outline for ESEA reauthorization, confirming the Administration's priorities and putting forward a new structure for channeling funds to states, local education agencies and institutions of higher education. By proposing a budget predicated on the passage of ESEA reauthorization, the Administration sends another strong message for reform to Congress. In fact, the President has committed to submitting a budget amendment for up to an additional \$1 billion for ESEA programs if the Congress passes ESEA reauthorization during this session.

The Congress appears to be answering the President and Secretary's calls for reauthorization of ESEA. Under the leadership of the House Education and Labor Committee Chairman Miller and the newly appointed Senate HELP Committee Chairman Tom Harkin (D-IA), the Committees will follow an ambitious schedule of hearings through the spring and hope to mark up legislation by the end of June.¹² If the committees are able to mark up legislation by then, the Congressional calendar may allow for final passage of a conference bill by the close of this Congress.

The Administration's budget proposal taken together with the development of common core state standards, the Race to the Top fund requirements, Congressional action in the direction of reauthorization and the Administration's rhetoric present a compelling case for ESEA reauthorization even in the face of challenging political dynamics.

Major Issues in Reauthorization and Implications for Higher Education

The final guidelines for applications under Race to the Top challenge states to anchor education reform in four key areas:

1. Common, rigorous, and internationally benchmarked standards
2. Effective teachers and school leaders
3. Data-driven policy and classroom decision making
4. Turning around the lowest performing schools

It is no coincidence, these have been the most significant topics in discussions about reauthorizing ESEA. Despite the fact that the legislation focuses almost exclusively on programs for K-12 students, the Administration's reform agenda will have widespread implications for the higher education community.

College- and Career-Ready Standards

What does it mean to be college-ready? In speeches, testimony and informal discussions, Secretary Duncan emphasizes the need for "graduating every student college- and career-ready."¹³ To achieve this goal, he prescribes the adoption of rigorous and internationally benchmarked standards by all states. These college- and career-ready standards will "define the knowledge and skills students should have to succeed in entry-level, credit-bearing, academic college courses and in workforce training programs."¹⁴ These standards, according to NGA and CCSSO, will be aligned with college and workplace expectations and prepare students for success in the global economy.

Success under the Common Core State Standards Initiative will be defined broadly in two ways. Achieve, Inc, a member of the Common Core State Standards Initiative advisory board, defines *academic* success and college ready as "being prepared for any postsecondary education or training experience...[with] the English and mathematics knowledge and skills necessary to qualify for and succeed in entry-level,

credit-bearing college courses.”¹⁵ Further, according to a January 5, 2010 telephone conversation with Gene Wilhoit, Executive Director of CCSSO, successfully meeting *career* standards means students graduating from high school have the skills required to move into careers with potential for continued growth and economic reward.

Under NCLB, the end goal for students graduating from high school is proficiency in core curricular areas as measured by state assessments. Under a newly reauthorized ESEA, the Administration proposes that the goal for students is to graduate from high school college- and career-ready. This shift of focus in student outcomes requires that students graduating from high school should no longer need remedial education courses to be fully integrated into academic life on college campuses. With almost 30 percent of today’s four-year college students requiring noncredit remedial coursework,¹⁶ this shift in focus may come as a welcome change for institutions of higher education. Presumably, more rigorous and relevant standards for high-achieving graduating seniors will not alter the dynamics of admissions or entry-level coursework for the most selective institutions of higher education. But for other institutions of higher education, higher standards for entering college freshmen may relieve resource constraints and affect admissions requirements.

Additionally, in those states that do not accept the common core state standards proposed by NGA and CCSSO, the Administration has proposed an important role for public colleges and universities. The President has indicated that in those states that choose not to adopt the common core state standards, public institutions of higher education will work with the state to ensure that the upgraded standards allow students to bypass remedial coursework in college.¹⁷

Teacher Education

ESEA reauthorization will not only set new standards for student achievement, but also for teachers in K-12 classrooms and teacher preparation programs. The administration proposed major changes to funding university-based teacher education in the fiscal year 2011 budget. The proposed budget consolidates the only competitive grant program for which higher education is eligible, the Teacher Quality Partnership grant program (TQP), into a funding stream with five other programs. The TQP grants support intensive partnerships between high-need school districts, high-needs P-12 schools and institutions of higher education to prepare highly effective teachers. The

Higher Education Opportunity Act, passed by Congress in 2008, requires that college teacher preparation programs provide at least a one-year clinical component and two years of high-quality mentoring and guidance to ensure that prospective teachers possess the necessary skills to raise student achievement in the classroom. Numerous research studies have shown that rigorous clinical experience and support are key to teacher effectiveness and retention. Partnerships between local school districts and schools of education are a key component to clinical training. Of the 28 TQP awards made in 2009, AASCU institutions were awarded 14 grants. Most notable about this policy change is that institutions of higher education will no longer be eligible to apply for funds to foster cooperation and collaboration with local education agencies (LEAs). Only LEAs will be eligible to apply directly for funds, according to the recently released budget documents. There is concern that LEAs, with limited resources at the local and state level, may not have the capacity, financially or otherwise, to replicate the TQP program in its current form. The full details of this proposal are unclear, as the Administration's *Blueprint for Reform* did not address this issue specifically. However, the President's budget paints a stark picture for federal funding for university-based teacher education.

The budget proposal comes after a series of speeches and discussions with presidents of colleges and universities and deans of education in which Secretary Duncan has called for "the need for a sea-change in our schools of education."¹⁸ Schools of education across this country are "mediocre," he says, not adequately preparing teachers for the challenges of today's classroom of diverse learners with diverse needs. Schools of education—notably at AASCU institutions—have been on the road to reform for some time, bolstered by the revamping of Title II in the Higher Education Act in 1998 and 2008. The Christa McAuliffe Award, for example, recognizes innovative teacher education programs at AASCU institutions that document success in their preparation programs by examining student success in K-12. AASCU has honored 19 institutions for excellence since 2002. Unfortunately, the Administration proposes directing funds away from schools of education rather than providing federal budget resources to further reform and strengthen schools of education to meet the needs of today's K-12 students. The vast majority of tomorrow's teachers will be trained at universities, in colleges of education. In the information age, the university's role in preparing a generation of great teachers schooled in the science of teaching reading, writing, biology, special education,

chemistry, English Language Learners, physics and math is more important than ever. Strengthening the schools of education that train the next generation of teachers will require a meaningful partnership between the Department of Education and the higher education community.

In addition to the proposed shift in the federal government's support of university-based teacher education, the requirements for new teachers will also likely change in ESEA reauthorization. NCLB required that all teachers be highly qualified by the 2005–2006 school year. Under existing law, being highly qualified means that a teacher holds a bachelor's degree, is certified or licensed by the state in which the teacher teaches and has mastered the content that he or she is assigned to teach. Recent rhetoric by Department of Education officials and requirements for Race to the Top applications indicate that the emphasis for teachers' training and performance is shifting from highly qualified to highly effective. Teachers may be deemed highly effective on the basis of student growth and other factors.¹⁹ New federal requirements for states regarding teacher qualifications will undoubtedly have a tremendous affect on teacher preparation programs, mentoring of newly hired teachers, the assessment of in-service teachers and partnerships between local school districts and institutions of higher education.

Accountability

Finally, accountability remains central to this administration's priorities in ESEA reauthorization. The Recovery Act invested \$250 million in statewide data systems to build capacity across the states to support sophisticated accountability tools. The Race to the Top application requires that states implement ambitious plans in many areas, including "building data systems that measure student success and inform teachers and principals in how they can improve their practices."²⁰ Comprehensive longitudinal data systems, tying student achievement across grade levels to teacher performance, will be the key element in any accountability provisions proposed by the Administration and Congress in ESEA reauthorization.²¹ These data systems will be used to drive state, local, and classroom decision making, in addition to program evaluation. Institutions of higher education, at the end of the education pipeline, will be expected to contribute to the development of statewide longitudinal data systems.

Institutions of higher education will also be evaluated based on the data from these state systems. Data on teacher performance will indicate the strengths and weaknesses of education programs that will better help direct reform efforts. AASCU has consistently supported accountability provisions, including student data systems, in order to further demonstrate institutional success and promote improvement.

Recommendations

There are many questions for higher education left unanswered in this march toward reauthorization: Will “college- and career-ready” standards become the entry-level requirements for institutions of higher education? Will the standards developed by CCSSO and NGA really assure college readiness? How will public institutions of higher education be held accountable for their teacher education programs? This much is clear: ESEA reauthorization will have great impact on institutions of higher education—both the types of students that higher education will receive and the programs that higher education institutions will offer. For this reason, state colleges and universities should be considered a critical partner in the development of any proposal brought before Congress to reauthorize ESEA.

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ESEA reauthorization will be a top priority for AASCU’s federal relations team during the second session of the 111th Congress. AASCU has joined forces with the American Association of Colleges of Teacher Education (AACTE), the American Council on Education (ACE), the Association of Public and Land Grant Universities (APLU), the Association of American Universities (AAU), the National Association of Independent Colleges and Universities (NAICU) and the Association of Jesuit Colleges and Universities (AJCU) to maximize institutions of higher education’s ability to strengthen university-based teacher education in the reauthorization. AASCU will continue to

partner with Congressional staff, Administration officials, higher education associations and AASCU members to work toward a reauthorization that creates conditions for student success and strengthens the nation's institutions of education to prepare both exceptional teachers and highly prepared college graduates. AASCU will keep members up to date on the progress of ESEA reauthorization discussions through member advisories and Web site updates.

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