



Great Public Schools for Every Student

**PROS AND CONS OF HARKIN-ENZI ESEA REAUTHORIZATION BILL
POST-MARKUP VERSION - November 7, 2011**

Positives include:

- **AYP framework.** The current draft eliminates the arbitrary deadline for 100 percent proficiency. Instead, it requires all schools to demonstrate “continuous improvement.” While this would appear to eliminate AYP, the proposal does not eliminate accountability. The draft also retains disaggregation of student achievement data – a critical piece to monitor achievement gaps among disadvantaged student populations. It also requires monitoring of the five percent of schools with the greatest achievement gaps in the state.
- **Growth models.** The current draft provides flexibility to states and districts and schools to measure “student growth” and take actions to improve student achievement. However, we would prefer that movement toward measuring growth in the achievement of academic content standards be required, rather than optional as in the current draft.
- **College and career-ready standards.** The current draft includes positive movement toward college and career ready standards by 2013-2014 without federal control over the content. This is in sync with NEA’s support of and work with the development and implementation of the Common Core Standards.
- **Class size reduction.** Reducing class size is an allowable use of funds under Title II.
- **English Language Learners.** The current draft requires high quality ELL standards aligned with reading and math standards by 2014. It also extends to two years the time certain ELL students are required to be enrolled in school before being required to take the English language assessment in English. And, the bill retains a two-year extension after three consecutive years in a public school if the student would be better assessed in another language.
- **Comparability.** The draft includes a new comparability requirement that increases equity in per-pupil expenditures between wealthy and poor schools. Districts will not be required to transfer school personnel as a result of this new requirement. However, it does not address comparable services, conditions, or resources.
- **Positive behavioral supports.** The current draft includes language on positive behavioral intervention.
- **Supplemental Education Services (SES).** SES and public school choice are not mandatory uses of funds under the current draft, which means that precious Title I funds are not required to be diverted to interventions proven to be ineffective as compared to other interventions. However, offering public school choice would be still required for persistently low-achieving (i.e., the bottom five percent) schools.
- **Collective bargaining.** Collective bargaining rights are preserved under Title I (testing/accountability/turnaround). However, there is no specific protection in Title II (the section on teacher and principal effectiveness, including teacher evaluation required under the Teacher Incentive Fund) or other Titles of ESEA.
- **Parental involvement.** The draft provides a stronger focus on strategic, evidence-based parent/family engagement requirements and strategies. However, it does not provide enough

equitably distributed funding for parent/family engagement, capacity-building and Parent Information Resource Centers.

- **Well-rounded education, technology, and innovation.** The current draft improves student access to a well-rounded education, 21st Century Community Learning Centers, technology and innovation, including access to computer adaptive assessments.
- **HQT flexibility.** The current draft provides flexibility to teachers in small, rural, or remote schools and makes allowances for native tribal language instruction and visiting teacher exchange programs.
- **Additional student populations.** The current draft strengthens programs/initiatives for gifted and talented students as well as for children in foster care.

Our major concerns include:

- **No requirement for true multiple measures of school or student performance.** The draft allows, but does not require, multiple measures of school performance (including school climate, resources, or other conditions of teaching and learning). Nor does it require multiple measures of student learning that are not assessment-based, except for purposes of implementing the Teacher Incentive Fund.
- **Lack of clear protection of collective bargaining agreements and the role of collective bargaining agreements in constructing teacher evaluation systems required under competitive grant programs.**
- **Lack of coherent NCLB transition plan.** Under the current draft, states would be forced to continue using NCLB-era tests until 2015-2016, and to identify persistently low-achieving and achievement gap schools by 2013-2014 based on the NCLB-era assessments that are not deemed valid and reliable for determining school performance.
- **Federal involvement in teacher evaluations.** The current draft now encourages, but does not require, significant development and implementation of teacher evaluation systems through an expansion of the competitively funded Teacher Incentive Fund (TIF) program. Teacher and principal evaluations in the competitive TIF program are mandated based in significant part on evidence of improved student achievement, among other measures. Districts are required to develop multiple categories of teacher/principal performance. Multiple measures of teacher performance, besides student achievement and classroom observations, are optional. Teachers are required to be “consulted” (as opposed to “involved in”) in the design and development of teacher evaluation and performance-based compensation systems. NEA believes that current, low-quality state standardized tests are not valid or reliable instruments on which to base any portion of a teacher’s evaluation, and that the federal role in evaluation should be limited to ensuring that states attest that every district has a rigorous, comprehensive system developed jointly between school districts and educators (in the context of collective bargaining where applicable and with representatives of local educators elsewhere) and designed to improve the practice of teaching and quality of instruction. Further, we support the current regulations that state that elements in TIF should be in compliance with collective bargaining contracts, or where bargaining contracts do not exist, the demonstrated support of 75 percent or more of the teachers in each participating school. This language is not included as part of the current draft.
- **Continued focus on testing in narrow subject areas.** There is no less testing in the current draft than under current law. There is still annual standardized testing in math and reading in grades 3-8 and once in high school. Mandatory science testing once per three grade spans is still required. The draft does not address sufficiently our concerns regarding the narrowing of

the curriculum. In addition, the bill does not address significant concerns around ensuring the appropriate testing of students with disabilities. Instead of entrusting local IEP teams (which include parents) with decisions regarding which assessment is best for a student, it retains the 1 percent cap on inclusion of alternate assessments for students with disabilities in overall accountability reporting and eliminates the allowance for modified assessments.

- **Troubling school turnaround models.** The current draft expands the number of turnaround models from four to seven, but only one involves whole school reform using evidence-based strategies. One of the models now gives States the flexibility to use their own school improvement strategy. Most of the models involve staff replacement. The transformation model in the current draft, which NEA supported under current regulations, has been changed to require all staff to reapply for their jobs. Schools reclassified as persistently low-achieving for a second time could choose only closure or restart. (Restart has been broadened to include magnet and other innovative schools in addition to charter schools).

The draft continues the practice of negative labeling and a punitive focus – referencing “persistently low-achieving” schools rather than “priority schools.” In addition, “achievement gap” schools will be cut off from extra supports or funding after three consecutive years in this category – the opposite of how to help struggling schools.

- **No charter school accountability or public transparency.** The current draft does not address the need for charter school transparency and accountability to taxpayers for the use of federal funds. This is counter to NEA’s position. Charter schools must be held to the same accountability standards as other public schools, and should have to answer to parents and taxpayers for all of their funding sources. In addition, the bill continues to allow state charter laws to determine whether charter schools are subject to Title I accountability, despite their receipt of federal resources.
- **Codification of untested competitive grant programs.** The bill would imbed Race to the Top and the Teacher Incentive Fund in ESEA, despite the fact that major provisions of the program are not supported by evidence of improving school performance or student learning.
- **Privacy concerns.** While the current draft prohibits publicly reporting information or data about individual teachers or principals that would reveal their identities, it does not apply to all appropriate parts of Title II.
- **Proliferation of unregulated teacher and principal academies.** The current draft treats “certificates of completion” from such academies—which would receive greater flexibility and reduced requirements compared to other postsecondary teacher preparation programs—as equivalent to a master’s degree in education, and would encourage States to allow candidates at such academies to teach or work in public schools prior to receiving a certificate of completion or state teaching license.
- **Protections against discrimination and bullying.** The current draft omits key protections to provide for safe and healthy schools and prevent discrimination.