



January 30, 2015

The Honorable Lamar Alexander  
Chair, Senate Health Education, Labor and Pensions Committee  
455 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Alexander:

The National Center for Special Education in Charter Schools (NCSECS) is dedicated to ensuring that students with disabilities have equal access to charter schools and that public charter schools are designed and operated to enable all students to succeed. We write to provide feedback on the Every Child Ready for College and Career Act of 2015 (ECRCCA) which seeks to amend the Elementary and Secondary Education Act (ESEA). We appreciate this opportunity and seek to provide input to both the Title I provisions which impact all public Title I schools, including charter schools, as well as Title V which specifically authorizes the use of federal funds for state entities to fund charter schools, create access for underserved populations of students and strengthen the charter authorizing process.

NCSECS would first like to thank you for paying particular attention to maintaining several key provisions of the current ESEA law and making updates and improvements to Title V that we fully support. **The provisions we are pleased to see as part of ECRCCA and want upheld in a final bill are:**

- the requirement that states develop standards aligned with entrance requirements, without the need for academic remediation, for an institution of higher education in the State Sec. 1111(b)(1)(D);
- disaggregation of data by student subgroup (Sec. 1111(b)(2), Sec. 1111(d)(1), and Sec. 1111(d)(4));
- the 95% student participation rate in annual assessments (Sec. 1111(b)(3));
- the explicit statement that one of the purposes of Title V is to expand opportunities for students with disabilities to meet challenging state standards (Sec. 5101 (5));
- the explicit statement that one of the purposes of Title V is to support efforts to strengthen the charter school authorizing process (Sec. 5101 (6));
- allowing the use of weighted lotteries in school admissions that comply with state and federal law including guidance that weighted lotteries may not be used for the purpose of creating schools exclusively to serve a particular subset of students (Sec. 5103(c)(3));
- the assurance that charter authorizers ensure charter schools meet the requirements of the Act, part B of the Individuals with Disabilities Education Act, title VI of the Civil Rights Act of 1964, and section 504 of the Rehabilitation Act of 1973 (Sec. 5103(f)(2)(C)(i));
- requiring that a state [entity] list and explain how they will carry out the objective to meet the educational needs of their students, including students with disabilities (Sec. 5103(f)(1)(A)(x)).

In addition to these important provisions included in ECRCCA, NCSECS wants to ensure that the 2.5 million K-12 students attending public charter schools nationwide – including the nearly 200,000 IDEA-eligible students – are fully supported within state accountability systems that drive progress toward college and career readiness. As such, we offer key summary recommendations to improve the education opportunities of all students.

Following the summary recommendations, we provide our full rationale for the requested changes to the draft ECRCCA.

## Summary Recommendations

### Standards and Assessments

- Require a cap on application of the alternate achievement standards for students with the most significant cognitive disabilities to no more than 1 percent of all students.
- Require annual, statewide standardized reading and math assessments in grades 3-8 and once in high school.
- Eliminate State approval of local assessments in lieu of state-designed assessments; prohibit the use of an alternate assessment on modified achievement standards; prohibit development or use of additional alternate assessments.
- Cap participation in alternate assessments on alternate achievement standards (AA-AAS) for students with the most significant cognitive disabilities to no more than 1 percent of all students.

### Accountability and Reporting

- Ensure further and better alignment between the ESEA and The Individuals with Disabilities Education Act (IDEA) as states develop and implement their State Performance Plans.
- Require growth and status targets for student achievement, accelerated progress for students and groups starting further behind and graduation rates in the aggregate and disaggregated by student characteristics (i.e., subgroups).
- Require schools and districts to implement effective and targeted intervention(s) and monitoring of students' progress with direct accountability back to the Secretary regarding use and effectiveness of Title I funds.
- Require states and districts to report results including data related to enrollment and performance for all subgroups with the only exception being if an "n" size in a cell falls below 10.

### Funding and Oversight

- Eliminate the portability provision and maintain or strengthen the targeting of Title I dollars to high-poverty schools and districts.
- Require states and districts to ensure all Title I schools encourage and promote meaningful engagement and input of all parents/guardians and that schools communicate and provide information and data in ways that are accessible to all parents (e.g. written, oral, and translated).
- Allow the Secretary to approve plans, ensure state implementation and enforce the law when states fail to meet their obligations under Title I to close achievement gaps for any/all student groups.

### High Quality Charter Authorizers and Charter Schools

- Require as part Program Authorization stronger charter authorizing.
- Require charter entities as described in the law to solicit and gather input from parents and other community members on the implementation and operation of each charter school receiving funds (e.g., form parent advisory groups or recruit parents to serve on charter boards).
- Ensure consistent use of the terms *recruitment*, *enrollment* and *retention* throughout Title V.

### **Rationale for Recommendations**

The core of the charter concept is to create new and high quality education opportunities for students by extending autonomy in exchange for robust accountability systems. Absent rigorous accountability structures that include clear consequence for failure to meet performance metrics explicitly outlined for both Title I, and charter contracts, the charter concept is unlikely to reach its potential. Data emerging from states with weak accountability systems confirm the critical importance of such systems. In an effort to ensure charter schools meet their potential to provide individuals students with a quality education and catalyze broader system improvement, meaningful accountability is essential.

#### **Standards and Assessments:** Title I: Sec. 1111

**Alternate standards:** Although there are a very small number of students for whom the regular grade level content standards may be inappropriate and alternate standards are more appropriate, there must be a Federal cap on the number of students who may be excluded from the State's regular content standards -- no more than 1% of all students, which is almost 10% of all students with disabilities. This cap is necessary to ensure that the overwhelming majority of students with disabilities, who do not have significant cognitive disabilities, are included in the regular classroom and have access to the general curriculum and grade level content standards. States and districts should not be permitted to preclude students from attempting to earn a regular diploma. This cap is also necessary to ensure that evident racial disparities in special education [in some states] and certain special education classifications do not have the effect of excluding more students of color from the regular classroom and general curriculum and instruction.

**Annual Assessment of All Students:** ESEA must continue to require annual, statewide standardized assessments for all students (in grades 3-8 and at least once in high school) and measure each student's progress toward meeting robust state reading and math standards that prepare students to be able to succeed in college absent the need for costly remediation. The standards should be valid and reliable and meet all other requirements now in ESEA, Title I, Sec. 1111(b)(3) and assessments must include the provision of appropriate accommodations for students with disabilities.

**Alternate Assessments on Alternate Achievement Standards:** Students with disabilities must be included in all state and district-level assessments. The vast majority of students will participate in the general assessment with accommodations as needed. The Alternate Assessment aligned with Alternate Achievement Standards (AA-AAS) for students with the most significant cognitive disabilities must include a limitation on the number of IDEA-eligible students who can be assigned to this assessment in order to avoid misuse. We recommend limiting the number of students who can participate in state assessment systems via an AA-AAS to no more than one percent of all students assessed which is almost 10 percent of students with disabilities. This cap, as data show, easily accommodates the small number of students with significant cognitive disabilities reported as attending schools across the U.S. Data also show that assignment to an AA-AAS may lead to reduced access to the general curriculum and limit a student's access to earn a regular diploma. NCSECS contends that many children with intellectual, cognitive, and other disabilities can make grade level achievement with regular assessments, particularly with appropriate accommodations, universal design for learning, and full accessibility.

**Accountability and Reporting:** Title I: Sec. 1111(b)(3)(B) and Sec. 1111(b)(3)(C)(ii) respectively

**State to Federal Accountability:** State-designed accountability systems are integral to ensuring the college [and] career readiness of all students; however, we recommend that ESEA continue to include a requirement that States, districts and/or schools set goals for when all students or groups of students will meet that standard. Under ECRCCA, whole schools and districts, or subgroups in schools and districts, could make no or little

progress towards the goal of college and career readiness without triggering attention, support or intervention. A robust educational system must include growth and status targets for student achievement, accelerated progress for students and groups starting further behind and graduation rates in the aggregate and disaggregated by student characteristics. Furthermore, schools and districts must be required to implement effective and targeted intervention(s) and monitoring of students' progress within a timeframe that benefits the student. When school or district designed interventions aren't working, schools must implement alternative approaches to promote and support academic progress for students. When progress is not made or is not sufficient, states and districts must be held accountable for their use of Title I dollars.

**N Size:** The current draft allows an exception to the disaggregation of student data where "the number of students in a category is insufficient to yield statistically reliable information." NCSECS recommends striking this and requiring states and districts to report results including data related to enrollment and performance for all subgroups with the only exception being if an "n" size falls below 10. We can have access to the most useable data while continuing to protect student privacy.

**Funding and Oversight:** Title I: Sec. 1111 and Sec. 1128 respectively

**Title I Funding:** Title I has historically recognized the additional burden placed on children and their schools as a result of concentrated poverty. The draft moves significantly away from current law. NCSECS recommends that Title I dollars: target historically underserved students and schools; are used to provide extra (supplemental) resources needed by high-poverty schools to close achievement gaps and improve student outcomes; ensure that states, districts and schools serving the highest-need student populations receive more funding than others; and are targeted to meet the educational needs of the most vulnerable children including youth in juvenile and criminal justice systems; Native American children; English learners; homeless; migrant students as well as those in foster care.

**Meaningful Engagement with Parents:** Not only should Title I Require states and districts to ensure all Title I schools encourage and promote meaningful engagement and input of all parents/guardians. ECRCCA must include the necessary requirement that schools communicate and provide information and data in ways that are accessible to all parents (e.g. written, oral, and/or translated).

**Secretarial Authority:** NCSECS strongly recommends that ESEA must allow the Secretary of Education to approve plans and statewide assessments including alternate assessment on alternate achievement standards, ensure state implementation and enforce the law when states fail to meet their obligations outlined in Title I to close achievement gaps for any/all student groups.

**High Quality Charter Authorizers and Charter Schools:** Title V

NCSECS recommends the following additions to Title V:

**Pg. 220 line 4: Insert new** (D) 'stronger charter school authorizing.' **Renumber.**

This addition is consistent with the House bill (HR 10 113<sup>th</sup> Congress) and ensures the authority is in place between both the state and the authorizer to create and support better decision making as well as use of the authorized funds.

**Pg. 230, line 7: Insert new** (iii) a description of how the eligible applicant will solicit and consider input from parents and other members of the community on the implementation and

operation of each charter school receiving funds under the State entity's program.

**Renumber.**

This addition is consistent with the House bill (HR 10, 113<sup>th</sup> Congress) and assures that parents and other community members are a priority and part of the original planning process.

**Pg. 233, line 13, Insert '*retaining*'** after 'enrolling'.

This addition is consistent with Title V's focus on *recruitment, enrollment and retention* practices that encourage specific disadvantaged groups of students to apply and assures concentrated investments in exemplary programs and focus on developing effective practices that benefit all students, including students with a wide range of disabilities and continue to be underserved by charter schools.

NCSECS appreciates the opportunity to comment and make recommendations to improve ESEA. We know that together, we can develop a law that supports our mutual goal to support the academic success of all students whether they attend traditional public schools or charter schools. Please let us know if we can be of assistance as you proceed with the reauthorization of ESEA.

Sincerely,

A handwritten signature in blue ink that reads "Lauren Morando Rhim". The signature is written in a cursive style and is contained within a thin blue rectangular border.

Lauren Morando Rhim, Ph.D.

cc: Ranking Member Patty Murray

**NCSECS.ORG**

National Center for *Special Education* in Charter Schools