

June 17, 2013

John Kline
Chairman, Education and Workforce Committee
U.S. House of Representatives
2439 Rayburn House Office Building
Washington, DC 20005

Dear Chairman Kline:

On behalf of the over 30,000 members of the Council for Exceptional Children (CEC), who work on behalf of children and youth with disabilities and/or gifts and talents as teachers, local administrators, higher education faculty, related service personnel and other professionals, we are writing to express our concerns with the *Student Success Act* (H.R. 5), which would reauthorize the Elementary and Secondary Education Act (ESEA).

We appreciate your efforts and those of your staff, in addressing the pressing issue of ESEA reauthorization. States and local school districts need additional resources and flexibility to provide a quality education to all students, including students with disabilities and/or gifts and talents. We are pleased that H.R. 5 eliminates the arbitrary deadline of 2014 and along with it adequate yearly progress. Additionally, we support the legislation's focus on disaggregating student achievement data by subgroup and public reporting of such data. However, we are troubled by the overall lack of accountability and great weakening of the federal role this legislation represents. Specifically, we oppose the following:

- **Reduction of Accountability for Students with Disabilities:** NCLB brought students with disabilities and the educators who serve them to the table in new and important ways. Due to this increased focus and inclusion in the accountability system, students with disabilities increased participation rates, academic achievement on grade level reading and math assessments and more generally in having increased access to the general curriculum and higher expectations for student achievement. We believe these gains are due largely to the requirement that the participation and proficiency of all subgroups be measured, reported, and used for the planning of interventions needed for improvement. H.R. 5 lacks this focus and, if enacted, CEC fears many students with disabilities will be excluded from the accountability system.
- **Elimination of the 1% Cap:** CEC opposes the elimination of the current 1% cap on the use of assessment scores for accountability purposes for students with significant cognitive disabilities. It is important to note that students who take an alternate assessment are removed from the general accountability system and are unable to receive a regular high school diploma. Experts recognize that the 1% amount is important, widely accepted and well addresses the proportion of students who may need to take an alternate assessment. Removing this cap may create an incentive to exclude students from the general assessment and place them on an alternate simply to increase the statistical view of achievement in a district. It is not a needed change and as such, we cannot support it.
- **Elimination of Highly Qualified Teacher Provisions:** All requirements that entering teachers meet any minimum qualifications are eliminated. This lifts a protection for our most vulnerable students, including many students with disabilities, who are often placed in classrooms with new entering teachers. Under H.R. 5, these students fall into an unprotected loophole and simply are not guaranteed a qualified teacher.
- **Lack of Focus on Professional Development:** Nothing in this legislation requires ongoing professional development, despite evidence that this is needed by the field and leads to gains in student achievement and student growth. Although Title II funds *may* be used to support professional development, this bill backs away

from the federal government's long-standing commitment to support education professionals. This support is needed now, more than ever.

- **Reduced, Capped and Eliminated Funding:** This legislation locks into place post-sequester funding levels which cut over \$1.3 billion to ESEA programs last year alone. Should this bill become law, locking in the sequester levels as the authorization levels through FY 2019 would prevent the Congress from increasing funding for ESEA programs even if the sequester were replaced or revised at any time in the next six years. Furthermore, CEC opposes setting caps on Title I funding and eliminating Maintenance of Effort provisions. Eliminating safeguards will not ensure accountability and achievement. States and districts need more resources in this environment and are working under ever decreasing budget measures. These waves of cuts have come at a time when enrollments have increased, more children are living in poverty, and schools and students have endured deep state and local budget cuts.
- **Increased Privatization:** CEC opposes using public funding to support private schools. CEC opposes vouchers for children and youth and those with disabilities because they contradict and undermine the central purposes of civil rights laws including these measures. Vouchers deprive students of rights and protections they have while in public schools. This is especially critical for students with disabilities who lose all protections under the Individuals with Disabilities Education Act when they leave public schools and attend a private school.
- **Fails to include the Keeping All Students Safe Act:** CEC is deeply concerned that H.R. 5 does not include the *Keeping All Student's Safe Act*. CEC has worked for years to ensure that our nation has strong, consistent policies about the use of restraint and seclusion techniques and meaningful access to professional development around their use for all educators. The Keeping All Students Safe Act addresses both of these concerns and would ensure our nation has meaningful data across states about their use. Embedding this important legislation in ESEA is critical.
- **Ignores the Needs of High-Ability Students:** H.R. 5 eliminates the only federal program dedicated to addressing the needs of high-ability students from disadvantaged backgrounds, the Jacob K. Javits Gifted and Talented Students Education Act. Additionally, H.R. 5 eliminates the definition of "gifted and talented" and fails to incorporate any of the comprehensive changes proposed by the TALENT Act (H.R. 2338), CEC endorsed legislation which seeks to close achievement gaps at the top performance levels between low-income and/or minority students and their more advantaged peers, known as the "excellence gap".

CEC looks forward to continuing to work with you to ensure that our education system raises expectations for students with disabilities and ensures that all educators are prepared to meet their needs.

Sincerely,



Deborah A. Ziegler, Ed.D.
Associate Executive Director
Policy and Advocacy Services