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Principles for the Reauthorization of the Elementary and Secondary Education Act (ESEA)

NASDSE supports high standards and accountability for all students, including students with disabilities. Long before either the Individuals with Disabilities Education Act (IDEA) was reauthorized in 1997 or the Elementary and Secondary Education Act (ESEA) was reauthorized in 2001, NASDSE published a document, *Guiding Principles for an Inclusive Accountability System*, which called for a focus on improving outcomes for students with disabilities. However, NASDSE members believe that the ESEA and its implementing regulations as they currently stand after the 2001 reauthorization as the No Child Left Behind Act (NCLB) do not adequately address the needs of **all** students with disabilities. This document includes NASDSE's recommendations for the reauthorization of the ESEA and takes into account the individualized needs of students with disabilities as required by the IDEA.

High academic expectations for all students require flexibility in establishing meaningful expectations for students with disabilities

For many years, expectations for all students with disabilities were too low. The NCLB has stressed the importance of establishing high expectations for all students, including those with disabilities. NCLB emphasized how important it is for students with disabilities to have access to the general education curriculum and that the majority of students with disabilities should take the same assessments (with or without accommodations) as students without disabilities.

However, it has been well established that there is a small percentage of students who will not be able to achieve proficiency on grade level standards. NASDSE supports the current regulation that allows students with the most significant cognitive disabilities to be counted as proficient on alternate academic achievement standards so long as the number of students counted as proficient does not exceed 1% of all students in the grade assessed. We believe that there should be some limited flexibility built into the 1% cap to accommodate those communities that have attracted high numbers of families with students with disabilities because of exceptional programs designed specifically to meet the needs of these students.

At the same time, it is important to remember the emphasis that IDEA places on individualized instruction for students with disabilities. Therefore, there is still a need to allow for some additional flexibility for some students with disabilities who, although they do not fit into the 1% definition, may not reach grade-level proficiency, yet may demonstrate significant growth that is consistent with high expectations for them. Their academic growth must be recognized and validated. (For further discussion of this issue, see *Assessments* on page 3.)

It is important for parents to understand any consequences connected to being held to alternate academic achievement standards. For example, these students may not meet state requirements for a standard diploma and parents need to be informed about these or other consequences and there should be written documentation that they have been so informed.

With the new emerging initiative around a common core of content standards, it is important to ensure that students with disabilities have access to instruction based on the common core, if it is adopted by their state. Both instruction and any assessments tied to the common core should include the same flexibility described above.

Incorporate into the Elementary and Secondary Education Act (ESEA) concepts from the Individuals with Disabilities Education Act (IDEA) that should apply to all students

There are several concepts that special educators have developed that apply to all students and should be included in the ESEA. These are:

- implementing early intervening services to address the needs of struggling learners before referrals to special education are considered or become necessary;
- addressing the academic and behavior support needs of all students through problem solving or a multi-tiered system of support (e.g., response to intervention (RTI) and the use of positive behavior intervention supports (PBIS); and
- using technology, including technology with the principles of universal design for learning (UDL) and assistive technology devices to ensure access to the general education curriculum for all students, including students with disabilities.

Incorporate into the ESEA language on the use of Response to Intervention (RTI) in order to identify struggling learners as quickly as possible

RTI is a framework that is being successfully used around the country to meet the needs of all students, including struggling students. It is the practice of providing high-quality instruction and behavioral interventions matched to student needs based on a problem-solving model, monitoring progress frequently to make decisions about changes in instruction or goals and applying student response data to important educational decisions. It is a data-driven approach that is consistent with the data-driven approach contained in the current NCLB. 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.

Incorporate into ESEA principles of Universal Design for Learning (UDL)

NASDSE recommends that language incorporating the principles of UDL be included in ESEA and extended to instructional methods, materials and assessments to make them accessible to all students. UDL is a framework and set of principles that provide flexibility in how information is presented, how students respond or demonstrate knowledge and how students are engaged in learning. Focused on ensuring that all students have equal opportunities to learn, it allows educators to choose from a menu of tools and strategies embedded in the curriculum. Curriculum barriers are reduced, learning is supported, students gain knowledge, skills, and enthusiasm for learning and their learning is validly assessed. UDL also complements other school reform initiatives, such as RTI and PBIS.

Highly qualified/effective teachers

The NCLB 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 pedagogical knowledge that general education teachers need to teach diverse students, including students with disabilities, 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 all types of diverse students, including students with disabilities, in order to be highly qualified. All teachers should have knowledge of, and the capacity to work with, universally designed curricula and materials. General and special education teachers and related service providers need to work collaboratively to ensure that appropriate accommodations are provided in the classroom.

States should continue to have the authority to establish the criteria for highly qualified teachers in their states. There should be a system of flexibility that would facilitate the ability of teachers who are designated as highly qualified in one state to be recognized as highly qualified in another state under a simplified process.

In addition, NASDSE recommends that if teachers are rated on their effectiveness in terms of student achievement, that consideration must be given to the diversity of their students and their individual growth (e.g., using a growth model) so that teachers who are making gains with challenging students as well as those students who may not make a year's growth in a year's time are recognized for the accomplishments of their students.

Assessments

All students, including students with disabilities, should be included in a state's accountability system. Some students with disabilities may need accommodations in order to access the state's assessment. All students should be able to access state assessments, either through the use of accommodations, assessments designed with the UDL principles, computer adaptive assessments, or for those students with significant cognitive impairments, through an alternate assessment that is linked to alternate academic achievement standards. NASDSE believes that if the principles of Response to Intervention (RTI) and universal design for learning (UDL) are applied both in classroom instruction and assessments, then there is no need to continue the current 'carve out' for 2% of students with disabilities to take an alternate assessment based on modified academic achievement standards. However, until such time as UDL and RTI are fully implemented nationwide, NASDSE believes that the ESEA should permit this '2% 'carve out' in the ESEA regulations. At the same time, it is important that the U.S. Department of Education correctly define this population of students in the regulations and extend its approval of states' proposed 2% assessments so that students will have this option available to them in the short term.

Use of Growth Models for Determining 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 student outcomes.

It is important that the law recognize the need for differentiated strategies in helping students achieve to high levels. This might mean that some students will follow a different trajectory for growth than their peers. We support the use of growth models as a means of addressing the need for differing trajectories. However, we reject outright the current growth model criteria

required for the existing pilot projects that all students, including students with disabilities be proficient by 2014. That requirement led many of the pilot states to exclude students with disabilities from their pilot initiatives and flies in the face of the definition of a true growth model. Further, NASDSE believes that it would be unnecessarily complicated and expensive to develop a system that requires states to develop both trajectory growth models *and* status models.

Graduation Rates

NASDSE understands that the Administration's goal is that all students should graduate from high school college and career ready and that the generally accepted standard for completion of high school is four years. Yet IDEA recognizes that some students with disabilities or other students may need extra time to complete high school in order to meet this standard. We believe that it is important to have this high standard and to recognize that it may take some students – even some without disabilities – longer to reach it. Therefore, while it is important to encourage states to develop and implement a system of common definition of graduation and strive towards improving our nation's dismal graduation rates, it is most important to focus on the goal – graduating college and career ready – and less important to focus on whether it takes four, five or even six years to reach that goal. Therefore, NASDSE believes if graduation rates are to be included as a key measurement factor in ESEA, it is the overall graduation rate for schools that should be calculated, and not the number of years that it takes students to graduate. Once again, it is important to acknowledge and celebrate the successes that may include previous dropouts returning to school and struggling learners who have held on and stayed in school to reach their goals.

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 (AYP) than it does on providing 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.

Funds should be used to improve instruction by hiring more highly qualified teachers; purchasing supplemental teaching materials and using universally designed materials; providing professional development to struggling teachers; implementing school-wide support systems as part of early intervening services that includes RTI and PBIS systems; providing effective after-school tutoring; 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.

The law should recognize the difference between those schools that have significant problems related to making AYP and those schools with fewer issues. It is important to target scarce resources to those schools most in need. Therefore, the law should require LEAs to rank their schools in need of improvement and target their scarce resources to those with the greatest need. Schools with few numbers of students who fail to make proficiency are usually well equipped to address these issues with minimal intervention.

Existing law 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. The impact of school restructuring on students with disabilities is best illustrated by turnaround approaches in many, if not most, school districts where there are shortages of highly qualified special education personnel. Other, more individualized, approaches to addressing schools that need improvement should be allowed. 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.

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 students 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 focuses 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 focus on the individual needs of each student with a disability.