

Key Principles for ESEA Reauthorization

The National Coalition on School Diversity

ESEA Should Further Its Original Purposes: Providing High Quality, Equitable Opportunities for All Children and Countering the Effects of Concentrated Poverty and Racial Isolation

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Today, public schoolchildren are more racially isolated than at any time in the past four decades. And, racially isolated schools are overwhelmingly high-poverty schools: indeed nine out of ten of highly segregated schools serving African-American and Latino students are schools of concentrated poverty. With rare exception, racially isolated, high-poverty schools remain unequal - by any measure - and fail to provide students with the skills necessary to participate in our economy and society. As President Obama has observed, “segregated schools were and are inferior schools. . . 50 years after *Brown v. Board of Education*. And the inferior education they provided, then and now, helps explain the pervasive achievement gap between today’s black and white students.”

To close the achievement gap and prepare students to participate meaningfully in our democracy and global economy, all students must learn to live and work together across race and class lines. Reflecting the high importance that schools and communities have placed on efforts to unlock concentrated disadvantage and segregation in schools, the United States Supreme Court recently acknowledged that promoting diversity and avoiding racial isolation are compelling interests that schools can and should pursue.

Accordingly, the reauthorization process must take account of the fact that race and class still matter deeply in the education schoolchildren receive, and efforts to address the impact of concentrated poverty and racial isolation in schools can and should be of paramount importance.

Problem #1: A large and increasing share of U.S. students of color are forced to attend racially isolated schools with high levels of concentrated poverty and poor educational quality.

Attending a high-poverty, racially isolated school is a leading predictor of academic failure. Concentrated poverty has an “independent” negative impact on educational outcomes, regardless of race or whether a particular student is poor. Children of color, however, disproportionately confront this problem, as they attend schools with the highest levels of concentrated poverty. Recognizing the serious threat of concentrated poverty, Congress originally enacted Title I to direct more money to students who

attended the most disadvantaged schools. In conjunction with Title VI of the Civil Rights Act of 1964, Title I funds also created more leverage to prompt reluctant school districts to desegregate. Through these means, Title I has historically helped increase the educational opportunities for children attending schools of concentrated disadvantage.

Unfortunately, a huge proportion of today's poor Black and Latino children have no choice but to attend low performing high-poverty schools. Although the ESEA includes a provision for students in underperforming schools to transfer, those transfers most often are only available to other schools within the same school district, since other districts are not required to admit them. Transferring within the same district, however, often serves little purpose because these schools have poverty and achievement levels that are the same as, or similar to, those at the schools the students are attempting to leave. Thus, students remain trapped in the very situation Title I was designed to help ameliorate. Even worse, Title I's funding formulas provide incentives for school districts to maintain high poverty levels and no incentive to deconcentrate poverty or to foster voluntary transfer or assignment policies with surrounding districts. Indeed, Title I makes it financially beneficial for school districts to maintain the status quo.

Solutions: Title I can help to deconcentrate school-based poverty and provide students a viable alternative to their underperforming schools by:

- a) *Retaining and strengthening ESEA's right-to-transfer provisions, including requiring states to ensure that every low-income child assigned to a school that consistently underperforms on ESEA's accountability standards has the guaranteed right to enroll in a high performing school. If no such school is available within the school district, or if the district as a whole is underperforming, the student shall have the right to enroll in a high performing school outside the district that has available seats and, if such schools receive federal funds, they must be required to accept the students. Title I money and the state per-pupil foundational grants and/or expenditures would follow the child.*
- b) *Providing resources and services to families who exercise their right to transfer schools, including requiring districts to establish offices and/or services that educate and counsel parents as to their children's transfer rights. Funding should also be included in ESEA to support transportation of students to their new schools.*
- c) *Creating financial consequences for states and/or school districts that enact policies or practices that increase the concentration of poverty and/or exacerbate racial isolation in particular schools or school districts from one year to the next.*
- d) *Creating financial incentives to reward states and/or school districts that enact policies or practices that promote school diversity, address the harms of*

racial isolation and/or decrease the concentration of poverty in particular schools or school districts from one year to the next.

- e) *Applying the foregoing principles and requirements to any new programs, grants, or funding streams that become part of the reauthorized ESEA.*

Problem #2: Inequitable distribution of state and local resources, both within and among school districts, shortchanges many children in high-poverty and racially isolated schools. Federal Title I dollars cannot and should not be used to replicate or “buy out” unconscionable resource gaps.

Title I originally required strict levels of financial and resource equity between Title I and non-Title I schools within a school district. Subsequent revisions to Title I intentionally made these provisions meaningless. The largest part of school budgets—teacher salaries—are now exempt from equity analysis. As to the remaining portion of their budgets, districts can maintain a variance of plus or minus ten percent between their Title I and non-Title I schools. As a result, large funding and resource disparities exist within school districts, making it even more difficult for Title I schools to attract and retain high-quality teachers. The larger problem, however, is that Title I does not require any level of inter-district equity, where the greatest disparities exist. Moreover, because of the inequitable school finance structures that states create, these disparities exist notwithstanding the extraordinary financial efforts of some poor districts. On average, states spend nearly one thousand dollars less per student per year in high-poverty districts than in low-poverty districts. This problem is compounded by the reality that poor students require more resources, not less, than their better-off counterparts, and that need grows exponentially in schools with high levels of poor students. Thus, Title I does not provide additional or equitable opportunities for poor children, but simply closes part of the gap that states—with a federal wink and nod—create themselves.

Solutions: For Title I to meet its goal of offering low-income students supplemental and equal opportunities, it must restore true comparability measures by:

- a) *Applying the existing comparability requirements to all school resources by addressing the teacher salary loophole.*
- b) *Narrowing the comparability standards beyond the current requirement that school districts provide Title I schools with at least 90 percent of the resources available at other schools.*
- c) *Enforcing existing teacher-equity and quality provisions and require highly qualified and effective teachers to be fairly and equitably distributed between high- and low-poverty schools and school districts.*
- d) *Scrutinizing any statewide or inter-district resource inequities that exist in school districts that underperform on ESEA’s accountability measures, and*

requiring states to eliminate those gaps after accounting for the varying geographic and student-need cost variances.

- e) *Applying the foregoing principles and requirements to any new programs, grants, or funding streams that become part of the reauthorized ESEA.*

Problem #3: Children and taxpayers are cheated when recipients of federal funds disregard critical requirements of Title I. Widespread noncompliance is occurring, and this demands real enforcement tools.

Unlike other civil rights legislation that guarantees equitable educational opportunities, Title I does not include any means for students or their parents to enforce their rights. Thus, they have no real guarantee of their educational rights. The knowledge that families have the ability to enforce their rights has been instrumental elsewhere in encouraging schools to voluntarily comply with the law. Without it, however, many of Title I's provisions are merely aspirational rather than tools to ensure educational quality and fairness.

Solutions: Students' rights can be guaranteed and voluntary compliance achieved by making ESEA rights expressly enforceable through varying mechanisms, including but not limited to offering individuals the ability to assert their rights through an administrative or judicial process and providing the Secretary with the authority to sanction non-compliant states or school districts.

The National Coalition on School Diversity is a network of national civil rights organizations, university-based research institutes, local educational advocacy groups, and academic researchers seeking a greater commitment to racial and economic diversity in federal K-12 education policy and funding.