

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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September 19, 2012

Secretary Arne Duncan
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202

Dear Secretary Duncan:

On behalf of the U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region, I am writing to share our concerns regarding the waivers the U.S. Department of Education provided under the Elementary and Secondary Education Act (ESEA), and the resulting state accountability plans that were approved. Under the guise of providing a bridge to reauthorization, many of these state plans remove accountability from a significant number of schools, and provide fewer options to families.

The business community has long advocated for an education system that produces graduates ready for college and the workforce. The Chamber supports a limited but important role for the federal government, and believes that it is fundamental for U.S. competitiveness to dramatically improve the performance of the K-12 education system in the United States. As you know, the U.S. education system is currently falling woefully short of that goal.

The Chamber fully acknowledges the need to update ESEA as described in our May 2011 policy statement on reauthorization. We are disappointed that Congress has not passed legislation to make the necessary updates. The law is clearly overdue for reauthorization, especially with regard to the timelines and deadlines that are currently laid out in the law.

While we understand the Department's desire to use its administrative authority given Congress' inaction, we are concerned that the sheer number of waivers and the complexity of the process will significantly stifle any Congressional efforts to reauthorize the law. With 34 waivers currently granted, Congress is now under little pressure to reauthorize the law. In addition, the law's waiver authority was meant to allow states and districts to still meet the law's goals and requirements in alternative ways. These waivers, however, disregard basic tenets of the law, including the mandate to hold all schools accountable and provide options to parents and families.

We also have several significant concerns with the substance of the waivers and the state accountability plans that were approved. We intend to work closely with state and local

Chambers and the business community to carefully monitor these issues as implementation occurs and accountability systems drastically change.

Our concerns regarding the waivers include the following issues:

- We are concerned that the waivers ask states to only focus on the lowest-performing 15 percent of schools and that many states did not outline interventions or any level of accountability beyond those 15 percent of schools. This threshold is completely arbitrary, ignoring the reality that only 34 percent of fourth graders are proficient in reading and 40 percent are proficient in math on the Nation's Report Card. We expressed similar concerns with Congressional bills that limited consequences to an arbitrary number of schools, thereby trapping thousands of kids in schools that have consistently not been provided a high-quality education despite not being in the lowest 15 percent of schools. Based on the concern for the students in these schools, we are disappointed that many states did not outline any accountability for these schools.
- We are concerned that some states no longer require annual accountability decisions for schools. Some states will only identify the lowest-performing schools every two, three, or in some cases four years, instead of annually. Parents deserve more than to have to wait four years for schools to change when their children should be on grade level now.
- We are concerned about the retreat from subgroup accountability in some states. The greatest gains in student achievement over the past ten years have been for poor, minority, and special education students. States that are moving to merging these subgroups together into a "super subgroup" for accountability purposes risk slowing down the improvements in student achievement we have seen over the past decade. It is especially worrisome that the Department allowed some states to set lower expectations for certain subgroups of kids with no expectation of closing the gap over time.
- We are concerned that accountability for high school graduation rates has been weakened. It is not enough to just require reporting on the four-year adjusted cohort graduation rate; accountability is also key. After bipartisan agreement was reached in 2008 on accountability for high school graduation rates, it is troubling that states are renegeing on those accountability requirements.
- We are concerned that the Department allowed states to remove options for parents and kids in low-performing schools. The implementation of public school choice and tutoring options stood to see vast improvement, and these options were one of the few lifelines that families had to immediately gain a better education. A primary contributor to the low take-up rates of school choice and tutoring has been the poor implementation by school districts. *That* is the issue calling for a remedy, not the removal of these options for parents and families.
- Finally, we are concerned about the confusing nature of the new accountability systems that have been approved. The new indices and grading systems that states created are in too many instances incomprehensible to parents and taxpayers. In some cases, states have created one way to measure schools for designation in the lowest-performing 15 percent of schools and another way to measure schools for grades in their state accountability system. The confusing nature of these accountability systems makes empowering families and communities especially difficult.

In a recently released report by the Center for American Progress (CAP) they identified specific examples that illustrate our concern areas. Some examples include the following:

- “Maryland, North Carolina, and Ohio would **only identify priority schools every three years, while Wisconsin would identify them every four years.** North Carolina and Ohio would only identify focus schools every three years. Waiting three or four years to identify new underperforming schools, in our view, means those schools will fly under the radar for too long.” (CAP report, page 29)
- “In Arkansas **subgroup performance would be used to identify focus schools but not priority schools.** Iowa would only label a school as “focus” if every single subgroup was underachieving. Illinois would create a super subgroup but not include Asian students.” (CAP report, page 26)
- “Iowa would ask all schools to score an 85 percent on an achievement index within 10 years. The index would include multiple factors, a somewhat **complicated scoring formula**, and would not necessarily indicate 85 percent of students are achieving goals. It is thus **hard to discern if 85 percent is indeed a lofty goal.**” (CAP report, page 23)
- “It is difficult to even understand Nevada’s goal. Its goal would vary for proficiency, growth, and college- and career-ready categories. The goals would be calculated by norming performance on 2011 state assessments and awarding maximum points for schools that then achieve at the 95th percentile in subsequent years. Of course, **if state performance was low in 2011, being at the 95th percentile does not necessarily indicate rigor.**” (CAP report, page 23)

The Chamber hopes that as the Department considers future waivers it will take these comments into account. It is also the Chamber’s expectation that the Department will devote significant resources to monitoring states under these waivers and hold them to account for improving educational achievement for students across the country.

Sincerely,



R. Bruce Josten