THE ESEA, ENDING THE GRADUATION RATE CRISIS AND THE USE OF EARLY WARNING SYSTEMS

Only very recently has improving high school graduation rates for poor and minority students gained traction as a central goal. Moving forward, the ESEA should emphasize graduation rate accountability for high schools, including subgroup accountability. Further, the ESEA should not treat struggling schools as independent entities. For every dropout factory, the ESEA should require a review of early warning signs in the factory-feeding middle schools. These indicators should include extraordinarily high rates of disciplinary exclusion and grade retention, and other known predictors of future school failure.

The failure of high poverty schools to graduate Hispanics, Native Americans and African-Americans is acute. The percentages of students who fail to graduate are most severe among the economically disadvantaged, LEP, and students with disabilities.[1] Minority students are statistically overrepresented in each of these groups. When graduation rate data are disaggregated by race and ethnicity, Blacks, Native Americans and Hispanics fare the worst with national rates hovering between 50 and 60 percent. [2] The 2009 report "Cities in Crisis," covering the nation's 50 largest metropolitan areas, showed an average graduation rate of 52.8 percent for the principal districts serving these cities, with 10 principal districts having rates of 45 percent or lower.[3]

Racially and socio-economically isolated schools and districts tend to have the lowest graduation rates. The majority of "dropout factory" schools with exceedingly low graduation rates serve minority students in urban and rural high-poverty school districts, often in racially isolated schools.[4] The negative impact of minority isolation on graduation rates remains--even after holding constant the effects of a variety of other school performance indicators. [5]

School policies and practices contribute to low graduation rates. Many school-controlled factors influence graduation rates significantly.[6] For example, impersonal schools with few resources for remedial support that do not coordinate with community health and social service agencies, and instead frequently resort to suspensions and expulsions, increase significantly the odds that struggling students will never graduate.[7]

Improving graduation rates is an economically rewarding antidote to juvenile delinquency. Economists report that boosting graduation rates would produce tremendous dividends, more productive communities, and lower social costs.[8] One study predicts that increasing high school graduation rates would decrease violent crime by 20 percent and drug and property crimes by more than 10 percent.[9] The economists also calculated that each additional high school graduate yielded an average of $26,500 in lifetime crime-related cost savings to the public.[10]

The requirements for accurate public reporting of "four-year" graduation rates must be strengthened in the ESEA.[11] Most states have developed longitudinal data systems and the capacity to accurately report graduation rates.[12] Even states that use

longitudinal data, however, can artificially inflate graduation rates if their policies for counting and tracking students are not strict and transparent.[13] District report cards should include accurate graduation rate data disaggregated by gender with race, ethnicity, disability, SES and EL status. The Every Student Counts Act's annual reporting of a 4-year graduation rate for all subgroups contains the critical changes needed to ensure the integrity of graduation rate analysis across districts and over time.

In addition to 4-year graduation rates, the ESEA should require high schools to publicly report the number of 1st time 9th graders, based on an October enrollment date. High schools should also be required to report the percentage of students repeating grade 9, disaggregated by subgroups.[14] This data will help flag struggling high schools based on one year's worth of data, and will be especially important for use by states and districts that have not yet developed a reliable method for tracking graduation rates using longitudinal individual student identifiers.[15] Further, states should not create an enrollment baseline for calculating the "on time" 4-year graduation rates any later than October. Otherwise, large numbers of students who drop out of school during the first semester of their freshman year will go uncounted, artificially inflating a school's 4-year rate.

The ESEA's accountability measures should reward schools for ensuring that students who need more time, including previous dropouts and court-involved youth, earn real diplomas. The new accountability incentives should be aligned to keep students in school and also to reach out to those who have dropped out (and won't graduate with their four-year cohort). An effective system will provide incentives for schools and districts to support those who need more time to earn diplomas without being relegated to a GED program or low-tracked for an alternative certificate. Schools that are not designed on a traditional model and seek to help youth who have dropped out once already, or have been incarcerated, should be evaluated in light of the special populations they serve.

ESEA high school interventions should foster more diverse educational environments. When students from racially isolated schools have had an opportunity to attend more diverse schools, they tend to have higher graduation rates and are more likely to go on to college.[16] Where dropout factories are racially or socio-economically isolated, the ESEA provisions should provide incentives to ensure that transfers or other school choice opportunities enable students to attend "high performing" and more diverse high schools.[17] For this reason, the ESEA should also promote diversity by employing magnet high schools as one of the possible "turn-around" interventions.

The ESEA should target supports for failing high schools along with the middle schools that feed into them. Approximately 33 percent of students dropout before they enter grade 10.[18] The predominance of 9th grade dropouts indicates that many entered high school without adequate preparation. Researchers have identified several middle school predictors such as failing a core academic course, being retained a grade, or being suspended.[19] Therefore, efforts to improve high school outcomes should include supports for middle schools with high percentages of students that are predicted to drop out.[20]

Sky-high urban middle school suspension rates may be contributing to higher dropout rates and court involvement. The nationally known organization of law enforcement agents, Fight Crime, Invest in Kids, has criticized the reliance on out-of-school discipline for increasing the risk of juvenile crime and called for greater supports for firm but effective alternatives.[21] New data on middle school suspension rates shows risks are especially high for Black urban middle school students whose suspension rates nationally average over 28 percent![22] For example, according to 2006 OCR data, approximately half of all Black middle school males in Milwaukee, Des Moines and Palm Beach County were suspended at least one time during the year.[23] Furthermore, across the sample of 18 large urban districts in the same 2006 study, a total of 175 middle schools were found to have suspended over one third their Black male students. For white males in the same districts, the report found that 53 middle schools exceeded this high rate of exclusion. Where ESEA seeks to improve the lowest performing schools, the law must attend to counter-productive school disciplinary policies and practices that often characterize low performing high schools and middle schools.

There are schools and districts that achieve better test scores and graduation rates while suspending fewer students. Perhaps the best recent example is that of Baltimore City, Maryland where suspensions were cut by tens of thousands and graduation rates have risen.[24] There, Superintendent Alonso reversed the culture of frequent disciplinary exclusion, which he opposed, and replaced it with one of firm yet fair discipline policy aimed at keeping kids in school. Sources credit the reduction to increases in mediation, counseling and parent conferences.[25] Elsewhere, such as the state of Indiana, research suggests that after controlling for many factors including poverty, principals who enforced clear rules with a sense of fairness, and resorted to suspension only as a last resort, had higher average student achievement than those who emphasized the need to punish misbehaving students with exclusion to maintain order.[26]

The ESEA should promote effective ways to improve student behavior that do not require students to be kicked out of school. The ESEA should expand support for the well-documented investments in school-wide positive behavioral systems.[27] Research also suggests that more support for professional development of teachers in classroom and behavioral management would benefit students.[28]

ESEA reporting requirements should ensure that the public knows which schools regularly suspend large numbers of students. When school performance is reviewed, parents should have access to the rates of disciplinary exclusion on equal footing with information about test scores and graduation rates. Currently, the IDEA requires annual public reporting of discipline rates for students with disabilities.[29] When the ESEA is reauthorized, states should similarly be required to include discipline data in annual reports, with additional information on district and school rates (while fully respecting limits on privacy).

[1] D.R. Johnson, M.L. Thurlow, & K.E. Stout (2007). "Revisiting Graduation Requirements and Diploma Options for Youth with Disabilities: A National Study." Available at http://cehd.umn.edu/NCEO/OnlinePubs/Tech49/TechReport49.pdf

[2] See e.g. Christopher B. Swanson, "Crisis in Cities: Closing the Graduation Gap," at 1 EPI (April, 2009). Available at www.edweek.org/media/cities_in_crisis2009.pdf.

[3] See Id. at p. 14 Table 4.2 "Graduation Rates for the Principal School Districts Serving the Nations's 50 Largest Cities" 2009.

[4] R. Balfanz (2009) "Can the American High School Become an Avenue of Advancement for All?" in C.E. Rouse & J. Kemple, eds. *America's High Schools, Future of Children* 19(1) 17-37. R. Balfanz, C. Alemedia, A. Steinberg, J. Santos, & J.H. Fox . *Graduating America: Meeting the Challenge of Low Graduation Rate High Schools* (Everyone Graduates Center and Jobs for the Future, 2009).

[5] Christopher B. Swanson, *Who Graduates? Who Doesn't? A Statistical Portrait of Public High School Graduation, Class of 2001* (Washington, D.C.: The Urban Institute, 2004).

[6] *See generally* Russell W. Rumberger, "Why Students Drop Out of School*,"* in *Dropouts In America: Confronting The Graduation Rate Crisis,* Gary Orfield ed., (Harvard Education Press, 2004). See also James McPartland & Will Jordan, "Essential Components of High School Dropout Prevention Reforms" (Presented at the Conference on Dropouts in America, Harvard University, January 13, 2001);

[7] See e.g., Rumberger *supra* note 8; G. Orfield & M. Kornhaber, *Raising Standards or Raising Barriers: Inequality and High-Stakes Testing in Public Education* (New York: The Century Foundation Press, 2001).

[8] Henry Levin, Clive Belfield, Peter Muennig, & Cecilia Rouse, *The Costs and Benefits of an Excellent Education for America's Children,* Working Paper, Teachers College, Columbia University (2006). http://www.cbcse.org/pages/cost-benefit-studies.php.

[9] Henry Levin, Clive Belfield, Peter Muennig, & Cecilia Rouse, "The Costs and Benefits of an Excellent Education for America's Children." Working Paper, Teachers College, Columbia University (2006). http://www.cbcse.org/pages/cost-benefit-studies.php. Crimes and arrests were considered in deriving the impact of education on the commission of specific crimes because crimes greatly exceed arrests. Data on specific crimes was taken from the annual Uniform Crime Report. *Id.* at 41.

[10] Levin, et al., *The Costs and Benefits of an Excellent Education for All of America's Children,* at 14, Table 9 (Columbia Teachers College, January 2007).

[11] Not until the recent regulations has there been a requirement of uniform graduation rate reporting using a reliable method for calculating the rates. For a history of the problems of reporting accurate rates see P. Kaufman, "The National Dropout Data Collection System: History and the Search for Consistency," in *Dropouts in America: Confronting the Graduation Rate Crisis*, Gary Orfield, ed. (Harvard Education Press, 2004).

[12] A report by the Data Quality Campaign suggests that, despite surveys demonstrating commitment by most states to track longitudinal outcomes using unique student identifiers, states are just beginning to implement these goals. "Only ten states are sharing individual progress reports with educators, and fewer than half of states provide reports to stakeholders using aggregate-level statistics." See Data Quality Campaign, Inaugural Overview of States' Actions to Leverage Data to Improve Student Success (2010) available at http://www.dataqualitycampaign.org/resources/846.

[13] D. Losen, R. Balfanz, & G. Orfield (2006) "Confronting the Graduation Rate Crisis in Texas". Available at www.civilrightsproject.ucla.edu/research/dropouts/texas_10-17-06.pdf

[14] Because repeating a grade is a predictor of failing to graduate in four years, public reports that distinguish repeaters from first time members of a cohort used to calculate 4 year graduation rates would provide immediate feedback on the likely success of attempts to turn around existing schools and whether newly reconstituted schools were on track to meet graduation rate improvement goals.

[15] Thomas C. West, *Still a Freshmen: Examining the Prevalence and Characteristics of 9th Grade Retention in Six States* (Baltimore: Everyone Graduates Center, 2009). Even if repeaters are not explicitly reported, disaggregated data on 1st time 9th graders can be compared to enrollment demographics reported to the CCD annually. This cohort data, if reported publicly, will lend an important degree of transparency to education reform attempts, and allow the public and independent researchers to detect early any initiatives that may unintentionally reduce graduation rates.

[16] Jonathan Guryan, "Desegregation and Black Dropout Rates," *American Economic Review* 94(4) (September 2004): 919-943; L. S. Rubinowitz & J. Rosenbaum, *Crossing the Class and Color Lines From Public Housing to White Suburbia* (Chicago, IL: University of Chicago Press*,* 2000); J. Rosenbaum, S. DeLuca, & T. Tuck, "New Capabilities in New Places: Low Income Black Families in Suburbia," in X. Briggs, ed., *The Geography of Opportunity: Race and Housing Choice in Metropolitan America* (Washington, D.C.: Brookings Institution, 2005).

[17] For example, some funds under Title V of the ESEA designated for improvement recently supported the New Haven Voluntary Public Schools Choice Program. The project expands efforts to provide students attending low–performing Title I schools with high-quality school choice options like inter and intra-district magnet schools, charter schools and a transfer program called Project Choice that has as an explicit goal of creating diverse and high-achieving schools. See U.S. Department of Education, Innovation and Improvement, Fiscal Year 2010 Budget Request at f-91 available at: http://www2.ed.gov/about/overview/budget/budget10/justifications/f-iandi.pdf

[18] Editorial Projects in Education, ―Diplomas Count 2007: Ready for What? Preparing Students for College, Careers, and
Life After High School,‖ special issue, Education Week 26, no. 40 (2007).
[19] See e.g. Balfanz supra note 4; Rumberger supra note 6.
[20] Some states are actively using middle school early warning reports that include suspensions in hopes of improving graduation rates. See e.g., Vaznis, J., (2010, November 29) Thousands called dropout risks. *The Boston Globe*. Available at http://www.bosoton.com/news/education/k_12/articles/2010/11/29/thousands_called_dropouts_risks/
[21] Fight Crime: Invest in Kids. (2009). *Comments Pursuant to Notice of Proposed Information Collection Request*. New York: The non-profit organization of 5,000 police chiefs, sheriffs, prosecutors and other law enforcement leaders recently stated: "While school safety must be maintained and truly dangerous students removed from the school community as appropriate, suspension and expulsion often provide troubled kids exactly what they do not need: an extended, unsupervised hiatus from school that increases their risk of engaging in substance abuse and violent crime." The organization calls for more data to "…help educational authorities track suspensions and expulsions to evaluate their approach to school discipline and ensure students are not inappropriately placed at risk."
[22] See Losen, D.L., & Skiba, R.J. (2010, September). *Suspended Education: Urban Middle Schools in Crisis*. The Civil Rights Project at UCLA and The Southern Poverty Law Center. Available at ://civilrightsproject.ucla.edu/research/k-12-education/school-discipline/suspended-education-urban-middle-schools-in-crisis/Suspended-Education_FINAL-2.pdf
[23] The actual percentages are 46% for Des Moines, 53% for Palm Beach, and 51% for Milwaukee. For Black females Milwaukee's rate was 52%. See Losen, D.L., & Skiba, R.J. (2010, September). *Suspended Education: Urban Middle Schools in Crisis*. The Civil Rights Project at UCLA and The Southern Poverty Law Center. available at http://civilrightsproject.ucla.edu/research/k-12-education/school-discipline/suspended-education-urban-middle-schools-in-crisis/Suspended-Education_FINAL-2.pdf
[24] Tavernise, S., (2010, December 1). A Mission to Transform Baltimore's Beaten Schools., *New York Times.,* retrieved December 3, 2010 from
http://www.nytimes.com/2010/12/02/education/02baltimore.html?emc=eta1&pagewanted=print
[25] Id.
[26] Rausch, K. M., & Skiba, R. J. (2005, April). *The academic cost of discipline: The contribution of school discipline to achievement.* Paper presented at the Annual Meeting of the American Educational Research Association: Montreal, Canada.
Skiba, R. J., & Rausch, M. K. (2006). Zero tolerance, suspension, and expulsion: Questions of equity and effectiveness. In C. M. Evertson, & C. S. Weinstein (Eds.), *Handbook for Classroom Management: Research, Practice, and Contemporary Issues* (pp. 1063-1089). Mahwah, NJ: Lawrence Erlbaum Associates.
[27] Research on SWPBS in elementary schools in Hawaii and Illinois indicated improvements in the proportion of third graders meeting or exceeding state reading assessments. Horner, R.H., et al. (2009). A Randomized Wait-List Controlled Effectiveness Trial Assessing School-Wide Positive Behavior Support in Elementary Schools. *Journal of Positive Behavior Interventions, Vol. 11* at p. 133.
Similarly, another randomized control trial found that implementation of PBS in elementary schools was related to (a) reduction in office disciplinary referrals, (b) reduction in suspensions, and (c) improved fifth grade academic performance: Bradshaw, et al. (2009, April). *Examining the Effects of School-Wide Positive Behavioral Interventions and Supports on Student Outcomes: Results from a Randomized Controlled Effectiveness Trial in Elementary Schools.* Further, a study of 28 K-12 schools and early childhood programs indicated that implementation of PBS resulted in a reduction of 6,010 office discipline referrals and 1,032 suspensions, with middle and high schools experiencing the most benefit. These reductions helped recover 864 days of teaching, 1,701 days of learning, and 571 days of leadership. Implementation was associated with academic gains in math for the vast majority of schools who implemented with fidelity. Muscott, H.S. et al. (2008). *Positive Behavioral Interventions and Supports in New Hampshire: Effects of Large-Scale Implementation of Schoolwide Positive Behavior Support on Student Discipline and Academic Achievement. Vol. 10 at* 190; See also, Osher D., Bear G.G., Sprague, J.R. & Doyle W. (2010). How Can We Improve School Discipline? *Educational Researcher, Vol 39, (1)*. 48-58. Retrieved December 10, 2010 from http://er.aera.net; Sugai, G. & Horner, R., (2002). The Evolution of Discipline Practices: School-Wide Positive Behavior Supports. *Child and Family Behavior Therapy*,.24(1/2), 23-50; Jared S. Warren et al. (2006). Schoolwide Application of Positive Behavior Support in an Urban High School. 8 *JOURNAL OF POSITIVE BEHAVIOR INTERVENTIONS.* 131-145;Lassenet, S.R. et al. (2006).The Relationship of School-Wide Positive Behavior Support to Academic Achievement in an Urban Middle School, 43 *PSYCHOLOGY IN THE SCHOOLS.* 701-712; Carol W. Metzler et al. (2001). Evaluation of a Comprehensive Behavior Management Program to Improve School-Wide Positive Behavior Support, 24 *EDUCATION AND TREATMENT OF CHILDREN.* 448-479.
[28] See, Green, E. (2010, March 7). Can Good Teaching Be Learned? *New York Times Magazine.* pp 30-46.
[29] 20 U.S.C. § 1418 (a).