

Agenda

Informing the Debate: Bringing Civil Rights Research to Bear on the Reauthorization of the ESEA

Thursday, April 21, 2011

10:00 - 10:05 Welcome and Introductions: by Gary Orfield

10:10 – 10:50 Research and Recommendations: 40 minutes
(each for 8 minutes)

Subgroup Accountability and Turnarounds: Gary Orfield, Co-Director, The Civil Rights Project/Proyecto Derechos Civiles

Graduation Rates Accountability and Reporting: Christopher Swanson, Research Director, Editorial Projects in Education

Improving Graduation Rates and Addressing Early Warning Drop Out Indicators:
Daniel Losen, Director, The Center for Civil Rights Remedies at The Civil Rights Project/Proyecto Derechos Civiles

Accountability, Testing and Support of English Learners: Patricia Gándara, Co-Director, The Civil Rights Project/Proyecto Derechos Civiles

School Choice and Diversity: Erica Frankenberg, Assistant Professor, Pennsylvania State University

10: 55 – 11:05 Responses by Legislative Staffer:
Bethany Little, Senior Education Advisor, Senate HELP Committee, Sen. Tom Harkin

11:10 – 11: 25 Responses by Civil Rights Advocates:
(each for 5 minutes)

Damon Hewitt, Director of the Education Practice, NAACP Legal Defense and Educational Fund
Jim Ferg-Cadima, Regional Counsel, Mexican American Legal Defense and Educational Fund

Barbara Arnwine, Executive Director, Lawyers' Committee for Civil Rights Under Law

11:30 – 12:00 Q & A

ACCOUNTABILITY REFORMS: TURNAROUNDS AND SUBGROUPS

Accountability has been the watchword of school reform for three decades. The fact that more than four-fifths of our schools are now branded officially as failures shows that we haven't yet gotten it right.¹ We need a system of accountability and reform that produces and rewards progress, measures more outcomes of schooling, reverses the narrowing of curriculum, and helps attract and hold strong teachers in the schools that most need them. We need standards and tests that are strong and informative and used to improve instruction and interventions that are tightly focused, based on serious research, and within the capacity of state and local officials to implement. Accountability must include graduation rates as a major factor because the U.S. has for decades fallen behind all of its peer nations in increasing the rate of completion of high school, particularly for minority students, with severe social and economic consequences.

From a civil rights perspective the part of the NCLB that has been most unambiguously positive is the requirement of subgroup data. You cannot cure what you don't know and you cannot know without data. The law should maintain existing data and require graduation data by subgroup. Maintaining the requirement for subgroup data is one clear point of consensus among many civil rights organizations and experts in school research. Because the new federal categories for reporting data are different from the old ones, comparability is severely threatened and those categories should be changed to be more consistent with categories used for four decades in education statistics and those now used by the Census.

The move toward common core standards and tests is good idea since test data has been impossible to compare and understand across state lines. The emerging standards and tests can be better integrated with the development of related instructional materials. Federal assistance for these efforts is appropriate. It is very important, in this process, to create valid instruments for fairly assessing the educational progress of EL students as a basic element. **Tests should be administered in ways that provide rapid data to improve teaching, not primarily to retroactively label and sanction schools.**

New standards need to have a basis in actual experience of school reform. Requiring districts and schools to do things that have never been achieved on scale or attaching high stakes to measurement strategies that are not yet adequately developed would be repeating the mistakes of the past.² Standards should not demand the most from the most troubled schools in the most impoverished and unequal schools, or unfairly punish the teachers and administrators working in them if they are making reasonable progress. The continuous growth of segregation by race and poverty during the last 20 years has made the schools more unequal since segregation is directly related to unequal teacher qualifications, course offerings, and graduation levels. Branding these schools and their staffs inappropriately has made it less likely that good experienced teachers and administrators would want to work at those schools, or stay there, undermining the NCLB's important goal of "highly qualified" teachers in all classrooms.³

The decision of the proposed Obama Administration’s Blueprint to focus attention on “turning around” the most troubled five percent of schools is positive in two respects but requires great care in implementation. First, it recognizes that there are small groups of schools which have very deep problems, schools such as the “dropout factories” where very large fractions of students never graduate. These are schools that need massive help and sometimes need drastic interventions. The turnaround model would often involve carrying out a sweeping educational reform by closing schools and creating what are, in effect, new schools in the buildings occupied by failing schools, dissolved or deeply altered under the reform. These are good goals so long as they are carried out in ways that produce a committed staff and a coherent reform pursued over years of transformation.

Neither state departments of education nor local school districts have the knowledge and capacity to effectively intervene in vast numbers of failing schools. Decades of experience with state interventions and takeovers with small numbers of schools and districts has shown no transformative results in much less challenging circumstances.⁴ Knowledge about large scale models for successful interventions is limited and reform requires strong leadership and consistency over time. The worst result would be the creation of another round of paper school improvement plans of little consequence or poorly planned turnarounds that disrupted a weak school only to create what became another one in the same building.⁵ For example, although there are some outstanding charter schools, it is wrong to see implementing charters as an automatic solution. The best evidence shows that charter schools have no better average achievement than public schools serving the same students and they are more segregated, on average, and less accessible to English language learners and special education students.⁶

Schools that fail on multiple dimensions when fairly assessed, and cannot attract and retain leaders and faculty able to devise and carry out an internal reform, may require such drastic measures. “Reconstitution” of schools with profound problems began on a substantial scale nearly 30 years ago in San Francisco, as part of the effort to improve education under the desegregation consent decree negotiated between the NAACP, the San Francisco school system, and the state of California. Six schools were emptied out. Three were reconstituted and three new schools were created. New principals were named, new staffs were recruited nationally outside of normal teachers’ contracts, and the district provided substantial additional funding and administrative support. There were systematic plans to make the schools attractive enough to integrate them with students choosing to come from other parts of the city. When evaluated nine years later, longitudinal data showed that the minority students in the reconstituted schools had made significantly more gains than those in other schools, initially less troubled, which were given money to implement their locally designed plans. The gains, however, took about four years to clearly show up and some of the schools experienced declines in the early years after radical reorganization.⁷ On the strength of this data and negotiations among the parties, reconstitution was revived and expanded to a number of other schools, with more mixed results in the 1990s.⁸ It required a major investment by district leaders and the selection of excellent principals.

There were obvious costs to the process. It produced serious conflict with teachers’ organizations and required backing from the court. When schools were designated for reconstitution, there was serious opposition by the faculty and the community, and learning suffered for the remainder of the year before the faculty was replaced. The initial long period of

reconstitutions permitted a national search for new staffs but produced months in which students were taught by angry dismissed teachers. When the decisions were later made near the end of the academic year, there was not enough time to recruit and organize strong new staffs because most strong teachers and principals were already committed for the next year by that time. Since the decisions were made on the record of the entire school, individual teachers could fairly claim that they were being judged on the basis of other people's work. As reconstitution continues, a growing number of a district's teachers are affected and negative attitudes can deepen. When reconstitution is pursued without ample funding, strong administrative support for several years, and selection of very strong leadership,⁹ then it can fail. A study by the Center for American Progress and the Broad Foundation recently concluded that turnarounds "need intensive problem-solving support as well as help from other central functions, such as human resources and special education, to make the radical changes needed in school structure, staffing, and instruction. This should include particular attention to helping school leaders attract the right mix of teaching skills and experience to the school..."¹⁰ These are tough requirements and must be continued for years if a reform is to take root and be sustained.

The message from the reconstitution experience is that it should be pursued only if there is no other workable alternative that is less disruptive and/or less costly. And, if it is to be pursued, it must be well supported with a recognition that it will take years of effort.¹¹

Reconstitutions done quickly without the necessary conditions are likely to be unfair and are much less likely to be successful. The Chicago experience deserves special attention. In 1997, Chicago engaged in a series of rapid reconstitutions, or turnarounds, firing many teachers in the process, without the necessary planning, recruitment and support to give it a reasonable chance of success and the policy was soon halted. The result was a great deal of controversy, charges of discrimination for the firing of a substantial number of minority teachers, and, in some cases, the need for another major change in the same school within a few years.¹²

The focus on intense intervention with a small group of schools is appropriate but it is important to avoid solutions that are excessively prescriptive. Transformative reform with the existing staffs should give priority to programs and policies documented as having beneficial impacts by the federal What Works Clearing House or other professional research syntheses. Untested interventions should be seriously evaluated by highly qualified researchers independent of the school district and the resulting studies published on-line to benefit other schools.

The school closing alternative should be used only where the problems seem irreversible and there are clearly better schools available for the students since closing is disruptive and produces deep divisions within schools and communities and research has shown that mobility among schools is a serious risk factor for dropping out and lower academic achievement.¹³

All schools of choice should be treated equally and subjected to the same qualification and evaluation standards, if implemented as solutions in the 5% schools—including charter, magnet and pilot schools and district-wide choice and transfer programs. There is no research basis to justify preference for charter schools over other models. If choice is part of the answer then competition among choice providers should be an integral part of the strategy. Since there is abundant evidence that choice without civil rights provisions for strong parent information and recruitment, diversity goals, transportation, provision for children needing special education and EL children is highly likely to increase stratification and inequality among

schools, civil rights policies should be an integral part of all choice remedies for targeted schools.

Interventions requiring major restructuring of schools should be evaluated over a multi-year framework since the disruption caused by deep institutional change is likely to have a negative impact in the short term even if the surgery is ultimately a solid success. Since deep intervention requires special treatment from school districts and can be undermined if special provisions, such as staffing arrangements, are not continued, there should be a long-term plan to sustain the changed schools. Since the success or failure of the efforts will ultimately be in the hands of the teachers and successful school level reforms require support from teachers, teachers should be actively included, though not in control, of planning what to do and how to carry out the turnarounds when drastic external intervention is determined to be essential.

A New Strategy for Using Subgroup Data to Stimulate Local Reforms

The bipartisan commitment to subgroup accountability in NCLB -- built on the premise that our public schools must no longer accept the status quo of persistently low performing minority groups, English learners, and students with disabilities -- represents a tremendous conceptual breakthrough in educational policy. Unfortunately, the federal mechanisms built around this important concept were poorly conceived and not grounded in research. While serious corrections must be made to our federal system of accountability, we must be sure to retain data to foster efforts to remedy the very low performance of historically disadvantaged students in many schools.

As we move forward to redesign a public school accountability system that includes subgroup accountability, we must take into consideration that the number of schools needing interventions vastly exceed the capacity of state and local officials to implement serious reforms and simply branding them as failures solves nothing. Reform has become considerably more difficult and contentious with the very severe fiscal crisis, which means that many thousands of teachers will lose their jobs in the coming year and many reform efforts will be abandoned or gravely weakened. Primary responsibility should rest at the school level and the goal would be to help rather than sanction schools.

The goal is to preserve essential data and the requirement that school leaders pay attention to the inequalities with plans that include performance benchmarks and possible interventions designed to raise the educational performance of those groups that are far behind. At the same time we must avoid the flaws of NCLB system by encouraging the adoption of attainable goals and setting forth reasonable and constructive consequences for schools that are struggling. The new system should identify problems early, stimulate plans that are adapted to the various groups and local conditions, actively involve teachers and principals, provide support for schools, and monitor and release the results.

Local educators should take the lead and these efforts should be evaluated in terms of feasible improvements. There are many problems in schools that are not in the bottom 5% that educators and community groups need to address. Even very successful schools can show grim statistics for some subgroups of students. It is one of the clear lessons of subgroup data in schools where these problems were often ignored because of the overall success. The policy problem is how to produce progress in those schools without arbitrary requirements. The task

should be primarily the responsibility of local schools and districts. The goals should be derived from actual record of subgroup academic growth for schools in the top quartile of the state or of the district, the latter in the case of a large urban district, not requirements from Washington.

There should be a committee chaired by the superintendent and representing community, civil rights, teachers, and parents' organizations as well as experts from the school district and local colleges to set out goals for raising the achievement of groups in the bottom quartile of state achievement. The committee should make recommendations about the allocation of funds and receive and evaluate progress in implementing the school plans. Consistent failure to meet progress goals set out in these plans should trigger district intervention, but the basic goal would be to effective support positive school change.

Since reforms that are not understood and accepted by local educators seldom work, teacher involvement is vitally important. Further, the new system should be focused on supporting reforms, reserving any sanctions as measures of last resort. The policy would ensure that schools and districts that are diagnosed as underperforming in some important aspect are given assistance and only held accountable for meeting realistic benchmarks toward attainable goals. Where some school contexts may require further interventions, they should be driven by the particular local, school or district level diagnosis and the responsibility for their implementation should be appropriately shared by the school, district, and state.

The following recommendations for subgroup accountability are for schools that are not selected for turnarounds. The intensive forms of school accountability that are reserved for the bottom 5% of schools in a state should remain wholly distinct from the consequences for local subgroup accountability.

- I. Title I should require subgroup data from all schools and accountability should be focused on ensuring that when subgroups have very disproportionate numbers of low-performing students, steps are taken to bring up their achievement, attendance and completion levels of the lowest performing groups and to ensure that extra attention and resources are provided.** The funds used for SES could also be used for this purpose since there is little evidence that SES expenditures are productive. All schools that have one or more subgroup that is seriously low performing should be required to have an approved plan for raising the performance of that group.
- II. Reasonable and flexible responses to diagnosis for subgroups:** Data and plans may reveal systemic inequities. For example, unequal access to “in-field” teachers, insufficient educational resources for English learners, or insufficient support for the inclusion of students with disabilities, are all systemic issues that the district can assist in remedying at the school level. In all cases, the consequences would be constructive and responsive to a diagnosis of the factors contributing to the low performance, and not punitive. Attention would focus on subgroups performing in the bottom quartile in comparison to statewide averages for all students. Schools where almost all subgroups fall into this low level of performance should be considered as “impacted schools” and should focus on school-wide reforms.
- III. Most Title I recipient schools and districts with low performing subgroups would be required to have an improvement plan:** As a condition of Title I eligibility, states

would ensure that all districts that had *individual schools* with any subgroup performing in the bottom quartile of the state (in reading and math, and in other subjects states may test, based on statewide performance for ALL students and graduation levels in high schools), would be required to develop a plan to target Title I resources to raise the performance of these low performing subgroups in the school over time. Each improvement plan would describe expected interim improvements in academic achievement, aligned with goals created by the state, based more on standards actually met by more successful schools in the state with similar groups of students not on arbitrary numbers.

- IV. Flexible benchmarks for improving subgroup performance:** growth benchmarks would be part of the school improvement plan initially developed by the school and left to each district to approve. The district's overall plan would be subject to review of state and federal officials but would be a local plan. The required school improvement plan would be highly contextual and reported to the local school's public to help ensure parental awareness and monitoring. The school and district's obligation to implement the plan would last until the lowest performing subgroups had moved out of the lowest quartile for two successive years.
- a. **Focus on growth:** Schools with achievement gaps would have to bring up the level of performance of the students originally identified at the bottom of the distribution. The consequence would be greater attention and educational resources so they may achieve at significantly higher levels.
 - b. **Recognition for closing achievement gaps:** Gap closure achieved as the result of an increase in performance of the lowest performing subgroups should be recognized and rewarded.
 - c. **Plans and oversight required for coordinated and flexible interventions:** Each school plan would be implemented for a minimum of three consecutive years. Districts and schools that failed to provide a plan could be subject to administrative withholding.
- V. Community agency involvement in plan development and implementation:** "Subgroup" plans would be encouraged to include a description of how the school district would facilitate coordination and support from community agencies such as health care, social work, adult literacy, foster care, housing assistance, and parent training and information and other important community service providers.
- VI. Public Reporting:** The improvement plan and a detailed progress report on the relevant benchmarks would be included in the school level report cards. However, there would be no federal or state labeling of schools on the basis of this data. The data on the progress made by schools with low performing subgroups would be required to be reported by the district publicly at least annually. The goal is to focus attention on needed improvements, develop and publish plans, and provide data on progress achieved and goals remaining.
- VII. Research Based Technical Assistance Required:** Required Technical assistance, similar to that required under the current Title I provisions found at 1116 (b)(4) (although

no longer connected to “school identified for school improvement”) would be maintained. The technical assistance provided would have to be based on sound research and include parental involvement, identifying and implementing professional development, and improving instructional strategies where needed.

VIII. Source of Funds: Funds for technical assistance for subgroup school accountability would come from the core Title I budget and the SES set-asides, not from separate school improvement grants earmarked for turn-around schools.

IX. Subgroup accountability consequences: Consequences would be triggered where the persistent low performance of a subgroup, once identified, worsened or was not improved in any significant way over a multi-year period. Consequences would require that increasing percentages of a school’s Title I funds be used to address the needs of *all the persistently low-performing* subgroups.

X. Rewards to Schools for Subgroup Improvement and Gap Closing: Schools showing the greatest progress in improving the performance of a low performing subgroup would be publicly recognized by each district and state each year. Schools and districts that were among the most successful at having subgroups meet the performance goals would also be eligible for bonus points for competitive grant applications related to maintaining or expanding these efforts. Districts would be asked to document the most successful models and disseminate them to other schools and districts. Competitive federal grants to states would award more points to states demonstrating that a high percentage of their schools were succeeding in closing the achievement gap. The most successful schools in a state would be eligible for an award to pay for independent research on their success to help others replicate their most effective changes.

XI. Transfer Rights: Members of subgroups in schools persistently failing to make progress would receive special priority in eligibility for transfer to schools where members of their subgroup performed above the statewide average for the subgroup. These transfers could be either intra- or inter-district in nature and transportation would be provided as needed.

¹ Jackyung Lee, “Two Takes on the Impact of NCLB on Academic Improvement,” in Gail Sunderman, ed., *Holding NCLB Accountable: Achieving Accountability, Equity, and School Reform*, Thousand Oaks, CA: Corwin Press, 2008, chapter 5; Jackyung Lee, *Tracking Achievement Gaps and Assessing the Impact of NCLB on the Gaps, An In-depth Look into National and State Reading and Math Outcomes Trends*, Civil Rights Project, 2006; B. Fuller, K. Gesicki, E. Kang, and J. Wright, *Is the No Child Left Behind Act Working? The Reliability of How States Track Achievement*, Berkeley: Policy Analysis for California Education, 2006; the problems now apparent in AYP were predicated before enactment by researchers.

² Heinrich Mintrop and Gail L. Sunderman, “Predictable Failure of Federal Sanctions-Driven Accountability for School Improvement and Why We May Maintain It Anyway,” *Educational Researcher*, Vol. 38, NO. 5 (2009), pp. 353-364; See analyses by Daniel Koretz, Robert Linn, and Mindy Kornhaber, G. Sunderman, *Holding NCLB Accountable: Achieving Accountability, Equity and School Reform*, Corwin, 2008, chapters 1-3.

³ “Listening to Teachers: Classroom Realities and NCLB,” in Sunderman, Kim and Orfield, chapter 5.

⁴ H. Mintrop, *Schools on Probation: How Accountability Works (And Doesn't Work)*, Teachers College Press, 2004.

⁵ G. Sunderman and G. Orfield, “Domesticating a Revolution: No Child Left Behind Reforms and State Administrative Response,” *Harvard Education Review*, Winter 2006.

⁶ CREDO, *Multiple Choice: Charter School Performance in Sixteen States*, Stanford University Hoover Inst, 2009; Myron Orfield, *Failed Promises Assessing Charter Schools in the Twin Cities*, University of Minnesota Inst. on Race and Poverty, Nov. 2008.

⁷ Consent Decree Advisory Committee, Federal District Court, San Francisco, "Desegregation and Educational Change in San Francisco: Findings and Recommendations on Consent Decree Implementation," July 1992; Consent Decree Advisory Committee, Federal District Court, "Progress Made, Challenges Remaining in San Francisco School Desegregation" San Francisco NAACP v. San Francisco Unified School District, January 1999; Kent McGuire head of the San Francisco teachers union which opposed the approach conceded that the initial reconstitutions involved a "concentration of energy and effort and intelligence" which "did bring about some measurable improvement." (*Chicago Catalyst*, Sept. 2008)

⁸ A report by the California State Monitor found that 22 years after the initial reconstitutions, three of the six affected schools were still performing very strongly. Annual Report No. 22 of Consent Decree Monitor, San Francisco, *NAAC v. San Francisco Unified School District*, August 2005, pp. 5-7.

⁹ Maureen Kelliher, "Great Principals Needed to Rescue Intervention," *Chicago Catalyst*, Aug. 1, 2000

¹⁰ Karen Baroody, *Turning Around the Nation's Lowest-Performing Schools: Five Steps Districts Can Take to Improve Their Chances of Success*, Washington: Center for American Progress and Broad Foundation, January 2011.

¹¹ J. Rice and B. Malen, "School Reconstitution as an Education Reform Strategy: A Synopsis of Evidence," National Education Association, 2010.

¹² S. Spote and M. de la Torre, *Chicago High School Redesign Initiative*, Consortium on Chicago School Research, University of Chicago; One of the Chicago high schools reconstituted in 1997, Orr High School, was then judged to be still failing and broken up into several small high schools a few years later.

¹³ R. Audette, R. Algozzine and M. Warden, "Mobility and School Achievement," *Psychological Reports* 72: 701-702 (1993); G. Benson, J. Haycraft, J. Steyaert and D. Weigel, "Mobility in Sixth Graders as Related to Academic Achievement, Adjustment, and Socioeconomic Status," *Psychology in the Schools*, vol. 16 (1979), pp. 444-447.; S. Pribesh and D. Downey, "Why Are Residential and School Moves Associated with Poor School Performance?" *Demography*, vol. 36 (1999), pp 521-534; Ream, R. & Rumberger, R. (2008). Student engagement, peer social capital, and school dropout among Mexican American and non-Latino White students. *Sociology of Education*. April, 2008, Vol. 81, No. 2, pp. 109-139.

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).

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- 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.boston.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](http://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).

The ESEA, Graduation Rates and Early Warnings

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Balfanz Study of Incarcerated Youth

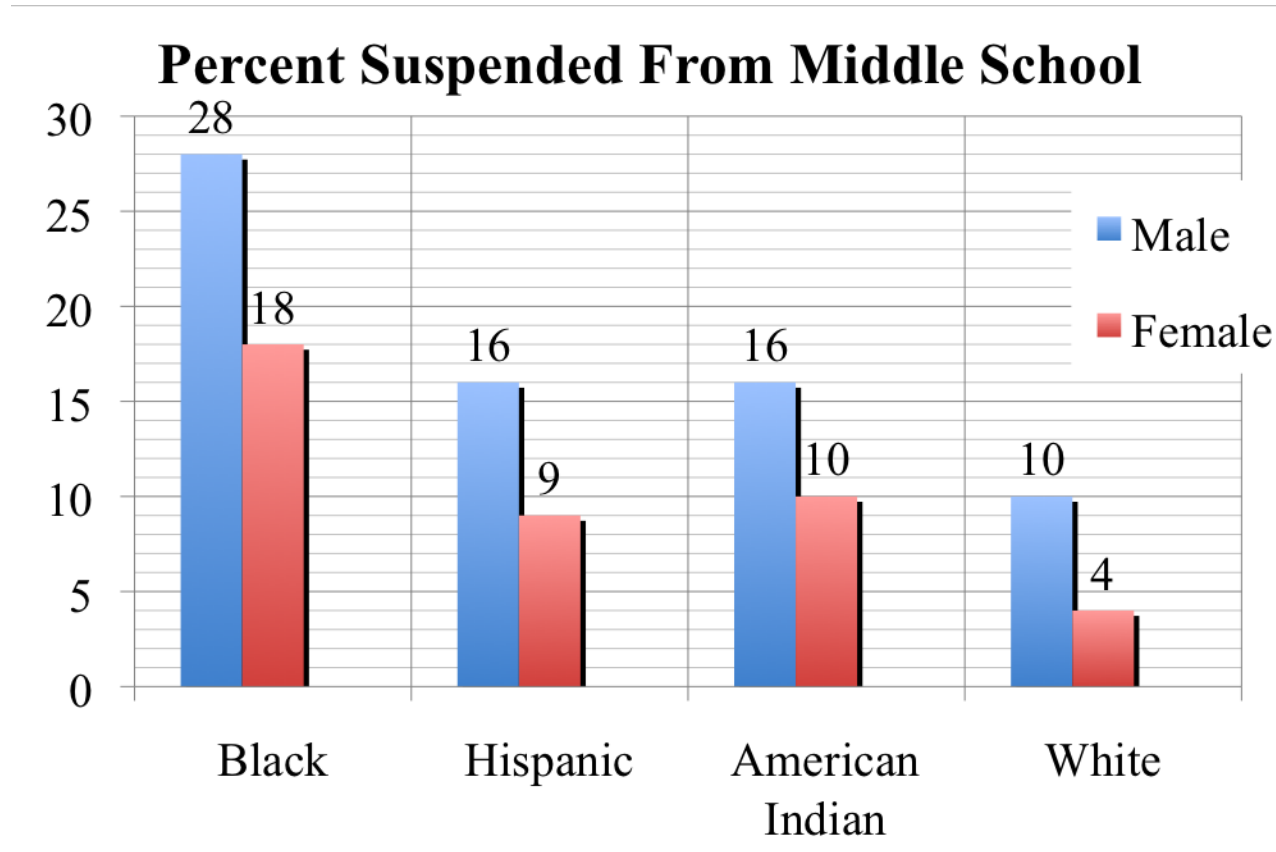
- According to Balfanz's research, the typical ninth grader who went to prison attended school only 58% of the time, failed at least $\frac{1}{4}$ of their classes, and read at a sixth grade level at the end of 8th grade. $\frac{2}{3}$ had been suspended at least once in eighth grade.

Close the Dropout Factories?

- 33% of all dropouts are 9th Graders.
- Many dropouts spend less than one year in high school.
- What middle schools are feeding these factories?
- If the high-school is the end of the production line, then earlier supports and responses are also necessary to address the crisis.

Suspension Rates Disaggregated by Race with Gender in Middle Schools in U.S. (Data

Source: CRDC 2006)



Several Large Districts (of the 18 studied) Suspended About 50% of Their Black Males

- Des Moines 46%
- Milwaukee 51%
- Palm Beach County 53%

From Losen and Skiba, *Suspended Education: Urban Middle Schools in Crisis*

Across 18 Districts...

- **179 middle schools suspended one third or more Black males**
- **57 middle schools suspended one third of more White males**
- **43 ...one third or more Hispanic males**
- **95 ...one third or more Black females**
- **29 ...one third or more White females**
- **14 ...one third or more Hispanic females**

Legislative Change

- **When dropout factories are identified and slated for possible intervention:**
- **Also look at the middle schools that feed the factories.**
- **Look at rates of suspension, grade retention and other predictors of dropping out.**
- **The improvement plan should include the middle school analysis and interventions as necessary.**
- **The ESEA should ensure that states and districts provide technical assistance to address the particular middle school needs.**

Legislative Change

- Annual reporting of school discipline data
- Disaggregated
- Cross tabulated with gender
- Publicly reported at district and school level to the extent permitted by privacy limitations.
- Much of this is already required under the IDEA

No ESEA Information on Use of Suspension

- No regular reporting of suspension data required in current law.
- School discipline data are not a regular part of NCLB's school evaluation.
- Perverse push out incentives exist to raise test scores on backs of exiting low achievers.
- Invisible children: We only count those whom we care about....

The End

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the Civil Rights Project at UCLA

New Report: Losen and Skiba, Suspended
Education: Urban Middle Schools in Crisis

New Book: Kim, Losen and Hewitt, The School
to Prison Pipeline: Structuring Legal Reform,
NYU Press. Call 800-996-6987

<http://www.civilrightsproject.ucla.edu/>
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NEXT STEPS IN FEDERAL EDUCATION POLICY REGARDING ENGLISH LANGUAGE LEARNERS

More than 10.5 million –or 20 percent of all—U.S. students speak a language other than English at home, and more than 5 million lack sufficient proficiency to be taught in English without support. In four states, between 15 and 25 % of all students are ELL.¹ It is now a fact that states with large ELL populations cannot make significant progress in closing achievement gaps if they do not meet the challenge of better educating ELLs, and nationwide the failure to bring these students to a level of academic proficiency will continue to retard reform efforts.

Although immigration has leveled off in recent years, the percent of students who are English learners will remain high because overwhelmingly these students are born in the United States; more than three-fourths of Elementary school EL students are native born². In addition to language difference, most ELs must also confront the disadvantages of poverty, as at least two-thirds of these students are also low-income.³

Despite their large and increasing numbers⁴ the data on ELL students indicate that we are failing to educate them well. According to federal NAEP data, in 2009, only 12 percent of English learners were proficient in 4th grade math compared to 41 percent of all students. What is worse is that the achievement gaps grow as they go up the grades. By 8th grade only 5 percent of ELLs are proficient in math compared to 34 percent of all students. As a result of these very low academic proficiency levels, schools with high concentrations of ELL students are more likely to be failing AYP than schools with high concentrations of any other group except students with disabilities.⁵ Finally, ELLs also have very low graduation rates – well below 50 percent according to recent data.⁶ Students who are doing very poorly in school are at high risk of dropping out.⁷ Contributing factors to the poor overall performance of English Language Learners is the failure to accurately assess what they know and can do, the stigma and demoralization that attaches to failing tests when they do not understand the language of the test, and the failure to monitor these students' progress for a sufficiently long period of time after they have been reclassified as English proficient.

It is critical to maintain and strengthen subgroup accountability. Schools and districts are unlikely to address achievement gaps without consistent attention focused on subgroup performance. NCLB has been widely credited with bringing attention to subgroups that had formerly gone unnoticed in aggregate data, and for attaching consequences for failing to improve their achievement. It would be a grave mistake to reduce this focus on such a large and underperforming subgroup.

ESEA should adopt a system of monitoring ELL students for purposes of determining their academic progress, including graduation rates, from entry until the time they leave school under a category called Total English Learners (TELS). For all other purposes, students should continue to be identified as ELL when they lack sufficient proficiency in English to be mainstreamed into regular classes, and should be reclassified as English Proficient when they reach an adequate level of English

proficiency. However, solely for the purpose of monitoring their mid-term progress and their long term outcomes, all present and former ELLs should be captured in a category we call Total English Learners (TELs). Current law provides for EL students to remain in the category for up to two years after they have been reclassified as fluent in English, but this results in (1) too little time to chart the progress of these students, and (2) an “emptying out” of the EL category of successful students. Struggling ELLs remain in this category the longest, distorting the schools’ successes under Title I accountability provisions. When these students do exit the category, many continue to need, but do not receive, academic and language support. These longer-term needs, originating in language problems, are often then overlooked. Many studies suggest that as re-classified (deemed proficient in English) former ELs move through the grades and academic content becomes more challenging, their performance deteriorates.⁸ This suggests that such students need continuing support and/or that they may have been re-classified prematurely.⁹

In violation of ESEA requirements, many states assess EL students for academic achievement with tests that are neither valid nor reliable for ANY purpose. The GAO’s recent report on the assessment of EL students noted: “Education’s recent NCLBA peer reviews of 38 states found that 25 did not provide sufficient evidence on the validity or reliability of results for students with limited English proficiency, although states have been required to include these students in their assessments since 1994.”¹⁰ The WIDA consortium of 25 states has developed English language proficiency (ELP) measures that begin to standardize ELP assessment in those states, but the instruments do not test academic achievement.

Invalid and unreliable assessment, as well as the failure to assess what students know in their primary language, results in poor instructional programming. Without assessment in a language and/or form they can understand, students often are required to repeat material they have already learned in their primary language, and the opportunity to build on what they already know is lost. EL students are often held back unnecessarily, and their schools are unfairly penalized because these students cannot demonstrate their knowledge adequately in English.¹¹

The ESEA should require states, in conjunction with test makers, to certify the validity of their tests for purposes of determining academic achievement of EL students, adhering to the Joint Standards¹², which include that ELL students must be incorporated in the development of the tests.

The ESEA should make parent involvement a high priority for ELL students. In a period of fiscal constraints it is imperative to identify ways to improve schooling outcomes by tapping into underutilized resources. Parents of ELL students are one of these resources. These parents are much less likely to be involved with their children’s schooling than are native born and English speaking parents¹³ and yet this is a critical asset in improving the academic outcomes for all students. A large body of research has now established the critical link between parent involvement and student academic outcomes.¹⁴ Recent research demonstrates that parental support for the school’s goals,

such as reading with children, monitoring homework, and providing a quiet space to study, can be more important than simply attending school meetings,¹⁵ and these are things virtually all parents can do if provided with guidance and support. However, it has been shown that schools do not reach out to immigrant and non-English speaking parents as effectively as they do with middle class and English speaking parents.¹⁶

Recruiting teachers who speak the languages of ELL students is one of the most cost-effective ways to increase parent involvement and tap critical, underutilized resources for ELL students. One reason for this is that most teachers of ELL students are not proficient in the students' language and therefore are reluctant to reach out to their parents. Recent research conducted by Civil Rights Project researcher, Megan Hopkins, demonstrates that teachers who speak the same language as their students are significantly more likely to outreach to non-English speaking parents and these parents are significantly more likely to share their questions and concerns about their child's schooling with these teachers.¹⁷

Additionally, while there is substantial evidence that teachers of ELLs need specialized skills,¹⁸ ESEA is silent on the definition of a "highly qualified teacher" for ELL students. Nonetheless, Hopkins¹⁹ has shown that teachers who speak the language of their students actually use a wider range of research-based pedagogical strategies than teachers who are unable to communicate with their students in the same language.

Recruitment incentives in the ESEA should be used to encourage the hiring and retention of multi-lingual teachers and staff.

¹ The states are California, Texas, Arizona, and Nevada.

² Migration Policy Institute: ELL Facts (2010). http://www.migrationpolicy.org/news/2010_8_17.php

³ Capps, et al. found that two thirds of limited English proficient students in elementary grades nationally lived in homes with incomes below 185% of the poverty level [R. Capps, M. Fix, J. Murray, J. Ost, J. Passel, & S. Herwanto, *The New Demography of America's Schools: Immigration and the No Child Left Behind Act* (Washington DC: Urban Institute, 2005)]; In California, with more than 30% of the nation's EL students, the Legislative Analyst's Office found that 85% of that state's EL students were eligible for free and reduced price lunch, the state's measure of low income [Legislative Analysts Office, *Analysis of the 2007-08 Budget: English Learners* (Sacramento: LAO, 2008)]. http://www.lao.ca.gov/analysis_2007/education/ed_11_anl07.aspx

⁴ While the number of all pre-K-12 students increased by 8.5 percent, from 46.0 million in 1997-1998 to 49.9 million in 2007-2008, the number of ELL students increased by 53.2 percent (from 3.5 million to 5.3 million) in the same period. http://www.migrationpolicy.org/news/2010_8_17.php

⁵ In California (which educates about one-third of all EL students), having a high percent of English learners is a significant predictor of failing to meet AYP. In 2008, those districts in Program Improvement status had a median EL percentage three times greater than those meeting AYP (30.6 versus 10.2). ELs in English Language Arts constituted the most common AYP target category missed (62% of identified districts) after students with disabilities (Crane, et al., *Characteristics of California School Districts in Program Improvement: 2008 Update* (San Francisco: Regional Educational Laboratory at West Ed, 2008. Table 5, page 7). In 2007, 51% of high concentration EL high schools in the state were in "program improvement" compared to 12% of other California high schools; 89% of high concentration EL high schools will not meet AYP in math in 2010 compared to 61% of other California high schools [Institute for Democracy, Education and Access (IDEA), *Latino Educational Opportunity Report* (Los Angeles: University of California, 2007)].

⁶ The U.S. Department of Education collects data on the graduation rates for EL students in all 50 states. Data reported for Texas show that only 39% of ELs graduated on time compared to 78% for non-EL; for New York the figure was 40% compared to 75% for other students. [US Department of Education, SY 2007-2008 Consolidated State Performance Reports. Data refer to the previous school year, <http://www.ed.gov/admins/lead/account/consolidated/sy07-08part1/index.html>]. Data analyzed by the Civil Rights Project in 2006 for Los Angeles Unified School District found that only 27% of EL students who began the 9th grade in the district graduated 4 years later. [Unpublished data analyses, Civil Rights Project/Proyecto Derechos Civiles, UCLA, 2006.]

⁷ S. Reardon & M. Kurlaender, *Effects of the California High School Exit Exam on Student Persistence, Achievement, and Graduation*, Berkeley & Palo Alto (Policy Analysis for California Education, October 2009); M. Uriarte, et al., "Impact of Restrictive Language Policies on Engagement and Academic Achievement of English Learners in Boston Public Schools," in Gándara & Hopkins

(eds), *Forbidden Language: Restrictive Language Policies and English Learners*, pp. 65-85 (New York: Teachers College Press, 2010).

⁸ P. Gándara, R. Rumberger, J. Maxwell-Jolly, & R. Callahan, "English learners in California Schools: Unequal Resources; Unequal Outcomes," *Educational Policy Analysis Archives*. <http://epaa.asu.edu/epaa/v11n36/>; de Jong, 2004, found in an examination of the achievement patterns of two states with high EL enrollment that do report such data, Florida and California, that former ELs tend to lag behind fluent English-speaking peers, particularly at the secondary level. In Florida, for example, the Florida Department of Education (2001) reports that between 12 and 20 percent fewer former ELs pass the state's test than fluent English speakers in math and reading at grades 4, 5, 8, and 10. Second, former ELs tend to perform better on math tests than on reading or content area (science, social studies) tests. SAT-9 data from California show that about 10-12% fewer former ELs score above the 50th percentile in science and social studies (Grades 9-11). See E. de Jong, "After Exit: Academic Achievement Patterns of Former English Language Learners," *Educational Policy Analysis Archives*, 12 (50) (September 22, 2004): ISSN 1068-2341.

⁹ The Civil Rights Project worked closely over the last year and a half with the ELL Working Group (<http://ellpolicy.org>) thus recommendations for certification of valid and reliable testing and establishment of a TEL subgroup are consistent with the recommendations of that group.

¹⁰ GAO (General Accounting Office) (2006). No Child Left Behind Act. Assistance from Education Could Help States Better Measure Progress of Students with Limited English Proficiency. Washington DC, page 4.

¹¹ R. Callahan, "Tracking and High School English Learners: Limiting Opportunity to Learn," *American Educational Research Journal* 42 (2008): 305-328.

¹² APA/AERA/NCME "Standards for Educational and Psychological Testing

¹³ Hill, N., & Torres, K. (2010) Negotiating the American Dream: The Paradox of Aspirations and Achievement among Latino Students and Engagement between their families and schools, *Journal of Social Issues*, 66, 95--112; Lareau, A., (1987). Social class differences in family-school relationships: The importance of cultural capital, *Sociology of Education*, 50, 73-85.

¹⁴ Desforges, C. (2003). The impact of parental involvement, parental support, and family education on pupil achievements and adjustment: A literature review. Department for Education and Skills, Great Britain.

http://bgfl.org/bgfl/custom/files_uploaded/uploaded_resources/18617/Desforges.pdf; Jeynes, W., A meta-analysis of the relation of parental involvement to urban elementary school student academic achievement, Urban Education, May 2005.

<http://uex.sagepub.com/content/40/3/237.full.pdf+html>; Keith, P.B, and Lichtman, M. (1994). Does parental involvement influence the academic achievement of Mexican-American eighth graders? Results from the national education longitudinal study. *School Psychology Quarterly*, 9 (4), 256-272.

¹⁵ Hill, N., & Torres, K. (2010) Negotiating the American Dream: The paradox of Aspirations and achievement among Latino students and engagement between their families and schools, *Journal of Social Issues*, 66, 95—112.

¹⁶ Gershberg, A., Danenberg, A., and Sánchez, P. (2004). *Beyond Bilingual Education*. Washington DC: Urban Institute.; Suárez-Orozco, C. & Suárez-Orozco, M. (2001). *Children of Immigration*. Cambridge: Harvard University Press; Hill and Torres, Negotiating the American Dream: The Paradox of Aspirations and Achievement Among Latino Students and Engagement between their Families and Schools. . .

¹⁷ Hopkins, M. (2011). *Drawing on our Teaching Assets: Bilingual Educators' Pedagogy and Policy Implementation*. Ph.D. Dissertation, University of California, Los Angeles.

¹⁸ Tellez, K. & Waxman, H. (2006). *Preparing Quality Educators for English Language Learners. Research, Policies, and Practices*. Mahwah, NJ: Lawrence Erlbaum.

¹⁹ Hopkins, Drawing on our teaching assets. . .

Federal Education Policy Should Promote Diversity

American schools will soon be half nonwhite. They are increasingly segregated and unequal. With massive racial change in suburban rings underway, many schools in metropolitan areas are resegregating.¹ More than nine in ten segregated minority schools are also schools of high poverty.² Educational opportunities in these racially and socio-economically isolated schools are disparate for many reasons. One is that qualified and experienced teachers tend to leave schools when poverty and race become highly concentrated. Aside from some exceptions, segregated nonwhite schools rarely offer equal education in terms of test scores, graduation rates or other achievement outcomes. While substantial desegregation is not possible in all cities, many metropolitan areas have been desegregated for decades, and many want to avoid resegregation and its consequences for neighborhoods, schools, and educational success.³

There are great benefits from more diverse educational settings that should not be ignored if we are serious about closing the achievement gap and competing in a global economy. At a time of dramatic growth of the under-18 non-white population, all students, including whites, need to learn to understand and work effectively across racial/ethnic lines for the future health of our multiracial communities. By fostering greater diversity, federal policy would generate important positive outcomes for all children.⁴

By fostering diversity, our schools could better meet the goals of closing the achievement gap, promoting career readiness, and building stronger communities. Fifty-seven years after *Brown v. Board of Education*, we are at a crossroads. Research has established that diverse educational environments benefit students academically, as well as in the development of social understanding and skills. These latter advantages are well-established as important employment qualifications. Furthermore, when students from racially isolated schools have an opportunity to attend more diverse schools, they tend to have higher graduation rates and are more likely to go on to college.⁵ In fact, research and industry spokespersons suggest that a diverse education is essential for "career readiness." More broadly, federal support for successful, stably integrated schools would pay large dividends in terms of social and economic success of communities.⁶ Offering support for school districts that want to voluntarily address racial diversity goals would be a good investment in educational achievement.⁷ This is why the Supreme Court has repeatedly stated that governments have a compelling interest in fostering diversity within educational settings.⁸ In December 2010, the Department of Education included promoting diversity as a competitive funding preference in future competitive grants, which is a promising step and should be expanded to all federal education funding.⁹

Measures are needed to prevent the harms from further racial and socio-economic isolation. Just as diversity is beneficial, increased isolation is harmful.¹⁰ Unfortunately our nation's schools are becoming increasingly isolated, both racially and socio-economically segregated to levels witnessed in the late 1960's.¹¹ For example, approximately 40 percent of Black and Latino students attended schools that were 90-100 percent minority during 2006-07, while whites remained the most isolated from students of any racial group.¹² Given the harm that accompanies segregation in our schools, ESEA should contain explicit safeguards to help prevent racial and socio-economic isolation from intensifying,¹³ particularly when African-Americans are almost as residentially segregated now from whites as they were in the 1940s.¹⁴

The goal of a highly qualified and experienced teacher in every classroom is systematically undermined by the continuous loss of such teachers from racially isolated minority schools. Schools containing the highest degree of racial and socio-economic isolation have the highest teacher mobility and the lowest percentage of experienced teachers in their field. Conversely, experienced teachers tend to stay in stably diverse schools,¹⁵ which tend to have higher performance and graduation levels and less overwhelming concentrations of the multiple problems that face poor children attending schools of concentrated poverty.

ESEA's teacher equity requirements could be met by state access plans that encourage inter-district transfers. The current law requires states to ensure that "poor and minority students are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers"¹⁶ Research suggests that this provision has been poorly implemented and inadequately enforced.¹⁷ Given the importance of access to these aspects of teacher quality to improved achievement, the ESEA should re-double their efforts to attract and retain qualified and experienced teachers to teach in isolated high poverty schools. ESEA should also encourage more states to develop teacher equity plans that enable students to transfer across district lines in order to attend high performing diverse schools that will provide the necessary access to experienced, in-field and highly qualified teachers at the same rate as other children.

ESEA school choice policy should also foster integration. Some forms of school choice support lasting integration while others speed the spread of segregation and inequality.¹⁸ Using the multiple and powerful levers of school choice, we can use ESEA to combine concrete outcome objectives and better educational options with advantageous diversity goals. 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 an explicit goal of creating diverse and high-achieving schools.¹⁹ This funding should be expanded and allow for the use of funds to effectively incorporate transfer students, to promote family engagement, and to provide staff development for receiving schools.

Existing transfer rights triggered by school failure have been ineffective.²⁰ The NCLB choice provisions that give students in persistently underperforming schools the right to transfer to better performing schools have failed, in part because often the option entails the right to transfer from a failing school to one that is only marginally better.²¹ While the current law's school improvement requirement calls for the establishment of "cooperative agreements with other local educational agencies in the area," the agreements are only triggered "if all public schools served by the local agency to which a child may transfer are identified for school improvement."²² For the reauthorized ESEA, we suggest that students attending failing schools subject to "turnaround" provisions be provided inter-district transfer choices with transportation.

Expanding ESEA incentives to encourage greater inter-district opportunities could yield greater diversity and improve academic outcomes. The vast majority of school segregation is that which exists across district boundary lines.²³ Currently, cooperative agreements triggered by accountability have been underutilized. The reauthorized ESEA, with a new focus on incentives and promoting greater choices, could go far in promoting more cooperative inter-district

agreements, both through voluntary choice funding incentives and through inter-district transfer choices whenever students are given transfer rights to leave persistently failing schools. Specifically, the ESEA should fund more choice programs like the ones in New Haven (and other Connecticut metropolitan areas) which sought to increase opportunities for students attending low performing schools to enroll in schools that were very high performing and more diverse. Research shows improved academic and social benefits for students participating in Connecticut's inter-district choice programs.²⁴ A recent study in Montgomery County, Maryland which found that public housing residents who moved to affluent neighborhoods, where their children attended more economically advantaged schools than peers moving to more economically distressed neighborhoods, speaks to the benefits of attending diverse schools and, indirectly, the benefits that many students in urban areas might attain if inter-district transfers permitted them to attend schools in wealthier districts.²⁵ Just as Race to the Top has demonstrated the power of large incentives to change state policies, with substantial incentives built into the ESEA, more districts would likely consider voluntarily entering into inter-district relationships, including multi-district charters and magnets. Further, because not all inter-district transfers foster diversity, Congress could give larger incentives to those transfer agreements that do. Ideally, the current use of federal funds for intra-district transportation would be maintained for inter-district transfers as well. Finally, ESEA accountability provisions should prohibit the reconstitution of failing schools in any manner that will intensify racial or socio-economic isolation in the reconstituted school.

Transportation and outreach to underserved communities could improve the diversity benefits of choice programs. With improved outreach and access to federally funded transportation for inter-district transfers (available now for intra-district transfers), there could be far more opportunities for students in chronically low performing schools to attend high performing schools, especially if all districts receiving Title I funds were required to participate and had adequate federal support to do so.

ESEA's magnet school provisions should be strengthened and expanded to allow magnet schools as a conversion option for low-performing schools. The current law gives priority to districts that specify how magnet schools will reduce racial isolation, and to magnet schools that have been effective.²⁶ Unfortunately, while funds for charter schools have increased, magnet schools have only seen a small increase in funding in the President's proposed budget.²⁷ Many magnet schools have very explicit requirements that ensure they promote diversity.²⁸ Our recent research shows that some of these schools continue to implement the kinds of policies required by the legislation for decades, and that they are more diverse. By increasing its support of magnet schools in the ESEA, Congress would foster additional choice opportunities and promote greater diversity. Magnet schools were initially funded by Congress as part of desegregation efforts. Those racial diversity goals should be strengthened within the magnet school program, and funding levels, which had proposed modest increases in the FY 2011 budget that were not enacted, should rise.²⁹

Charter school expansion provides an excellent opportunity to increase diversity. Our recent findings suggest that certain changes to charter school policies could reverse the likelihood that expansion would intensify racial and socio-economic isolation. The FY2011 Charter School Program for state educational agencies included as a competitive preference priority "projects

that are designed to promote student diversity, including racial and ethnic diversity, or avoid racial isolation.”³⁰ If charters can be located to offer opportunities across traditional district boundaries, with federal support for transportation, and outreach to a diverse student body, charter schools could foster school integration.³¹ Further, Congress could provide extra incentives for charter schools that voluntarily adopted many of the magnet school diversity goals. And charter schools that serve more than one district should be promoted, so long as their demographic policies ensure that their enrollment does not intensify racial or socio-economic isolation in any of the sending districts.³² In this way, Congress can encourage the creation of charter schools that explicitly encourage diversity and prevent increased isolation.

Safeguards are needed to prevent increased isolation from charter school expansion.

Charter schools currently exacerbate racial and socioeconomic isolation, yet several policy changes could stop these trends.³³ For example, charter schools that are created through ESEA accountability or innovation incentives could also embed demographic plans to ensure that they are, at a minimum, not more racially or socio-economically isolated than the district they serve. Funding priorities should include stronger state accountability for charter school authorization and include a wider set of evaluative measures including the enrollment, attrition, discipline, and achievement of student subgroups. Charter schools should also be encouraged to be open to all students, and not prioritize district residence. Even within district lines, we can promote outreach to populations that charters have historically underserved.

For school choice to help close the achievement gap, charter school efficacy must be transparent. There is much debate about the efficacy of charter schools, especially once performance is adjusted by race, class, disability status and EL status.³⁴ Data on charter enrollment disaggregated by free and reduced lunch and EL status is often difficult to acquire. Similarly, recent studies suggestive of some benefits associated with charter schools were unable to account for the potential impact of school attrition.³⁵ Where effective charter replication is the goal, we need more information to distinguish truly effective charters from those that add no benefits when poverty and other factors are accounted for. ESEA must add monitoring provisions to ensure that charters are held to the same data reporting requirement as all other schools.³⁶

¹ G. Orfield & E. Frankenberg, *The Last Have Become First: Rural and Small Town America Lead the Way on Desegregation* (Los Angeles: Civil Rights Project/Proyecto Derechos Civiles, January 2008).

² E. Frankenberg, G. Siegel-Hawley, & J. Wang, *Choice Without Equity: Charter School Segregation and the Need for Civil Rights Standards* (Civil Rights Project/Proyecto Derechos Civiles, UCLA January 2010).

³ G. Orfield, “Public Opinion and School Desegregation,” *Teachers College Record* 96, no. 4 (1995): 654-670; T. Wilkerson, “Student Assignment Survey: Summary of Findings,” (Louisville: Wilkerson & Associates, July 1996).

⁴ Evaluations of the federal desegregation assistance program of the 1970s, which supported teacher training, creating magnet schools, and developing positive relationships within schools, were highly positive in producing both academic gains and positive relationships. See G. Orfield, *Must We Bus? Segregated Schools and National Policy* (Washington D.C.: The Brookings Institution, 1978: chapter 9).

⁵ 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).

⁶ A. Orley, W. Collins, & A. Yoon, “Evaluating the Role of *Brown vs. Board of Education* in School Equalization, Desegregation, and the Income of African Americans.” Working paper, National Bureau of Economic Research, Cambridge, Mass., 2005; J. Kaufman & J. Rosenbaum, “The Education and Employment of Low-Income Black Youth in White Suburbs,” *Education Evaluation and Policy Analysis* 14 (1992): 229-40; A.S. Wells & R.L. Crain, “Perpetuation Theory and the Long-

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- ⁷ See generally R. L. Linn & K. G. Welner, (eds.) *Race-Conscious Policies for Assigning Students to Schools: Social Science Research and the Supreme Court Cases* (Washington, DC: National Academy of Education, 2007); G. Orfield, E. Frankenberg, & L.M. Garces, “Statement of American Social Scientists of Research on School Desegregation to the U.S. Supreme Court” in *Parents Involved v. Seattle School District and Meredith v. Jefferson County, Urban Review* 40 (2008): 96-136; Patricia Gurin, et al., “Diversity and Higher Education: Theory and Impact on Educational Outcomes,” *Harvard Educational Review* 72, no. 3 (2002): 330-66.
- ⁸ Opinion of J. Kennedy in *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701 (2007): p. 101.
- ⁹ Federal Register on December 15, 2010 (75 FR 78486).
- ¹⁰ R. Balfanz & N. Legters, “Locating the Dropout Crisis: Which High Schools Produce the Nation’s Dropouts?” in *Dropouts in America: Confronting the Graduation Rate Crisis*, ed. Gary Orfield (Cambridge, Mass.: Harvard Education Press, 2004): 85-106; K. Borman, et al., “Accountability in a Postdesegregation Era: The Continuing Significance of Racial Segregation in Florida’s Schools,” *American Educational Research Journal*, 41, no. 3 (2004): 605-31.
- ¹¹ See Table 7 in G. Orfield, *Reviving the Goal of an Integrated Society: A 21st Century Challenge* (Los Angeles: Civil Rights Project/Proyecto Derechos Civiles, UCLA, January 2009).
- ¹² Less than one in four students in the typical white students’ school is of another race. See G. Orfield, *Reviving the Goal of an Integrated Society: A 21st Century Challenge* (Los Angeles: Civil Rights Project/Proyecto Derechos Civiles, UCLA, January 2009). See also G. Orfield & E. Frankenberg, *The Last Have Become First: Rural and Small Town America Lead the Way on Desegregation* (Los Angeles: Civil Rights Project/Proyecto Derechos Civiles, January, 2008); Charles T. Clotfelter, *After Brown: The Rise and Retreat of School Desegregation* (Princeton, N. J.: Princeton Univ. Press, 2004).
- ¹³ The provision of these safeguards was sanctioned by the controlling opinion in *PICS*, which found diversity to be a compelling educational interest. Opinion of J. Kennedy, in *Parents Involved in Cmty. Sch. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701 (U.S. 2007): p. 101.
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- ¹⁵ E. Frankenberg, “The Segregation of American Teachers,” *Education Policy Analysis Archives* vol. 17, no. 1 (2009). Similar patterns of teacher inexperience disproportionately among schools with few white students found in CRP’s forthcoming analysis of 2007-08 Schools and Staffing Data. See also H.G. Peske & K. Haycock, *Teaching Inequality: How Poor and Minority Students Are Shortchanged on Teacher Quality* (Washington D.C.: The Education Trust, 2006); L. Darling Hammond & G. Sykes, “Wanted: A National Teacher Supply Policy for Education: The Right Way to Meet the ‘Highly Qualified Teacher’ Challenge,” *EPAA*. Vol. 11 (2003). Retrieved 2.1.10 at <http://epaa.asu.edu/ojs/article/view/261>
- ¹⁶ Sec 1111(b)(8)(C).
- ¹⁷ William Taylor, Diane Piche, Crystal Rosario, The Continuing Challenge, Report of the Citizens’ Commission on Civil Rights pp 7-9 (February 2008) Describes a near complete lack of compliance with the equity provisions of the ESEA specific to “poor and minority students” in state plans citing a 2006 review by the Education Trust finding only 10 states could even track whether students were getting a fare share of qualified teachers. This was followed by the Department of Education calling for revision and resubmission. All but two plans (Hawaii and Puerto Rico) were approved. CCCR’s report on five newly approved state plans (CA, IL, MD, OH, TX) showed that as a group they “struggled in particular to meet” the requirement that focused on equity. No state met all of the peer review criteria, and Texas and California met none. <http://www.cccr.org/doc/TheContinuingChallengeReport.pdf>
- ¹⁸ See J. Scott, (ed.) *School choice and diversity* (New York: Teachers College Press, 2005); E. Frankenberg & G. Siegel-Hawley, *Equity Overlooked: Charter Schools and Civil Rights Policy* (Los Angeles: Civil Rights Project/ Proyecto Derechos Civiles, 2009). See also *Green v. Bd. of Educ. of New Kent County*, 391 U.S. 430 (1968).
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- ²⁰ J.J. Holme & A.S. Wells, “School Choice Beyond District Borders: Lessons for the Reauthorization of NCLB from Interdistrict Desegregation and Open Enrollment Plans,” in *Improving on No Child Left Behind*, R. Kahlenberg (ed.), (New York: The Century Foundation, 2008); Center for Education Policy, *From the Capital to the Classroom: Year 4 of the No Child Left Behind Act* (Washington, D.C.: Center for Education Policy, 2006).
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- ²² Sec 1116(b)(11). Similarly states may authorize inter-district transfers pursuant to 1116(c)(10)(C)(vii).
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²⁷ E. Frankenberg & G. Siegel-Hawley, *Equity Overlooked: Charter Schools and Civil Rights Policy* (Los Angeles: Civil Rights Project/ Proyecto Derechos Civiles, 2009).

²⁸ Supra note 26.

²⁹ The National Coalition on School Diversity has made similar recommendations for the inclusion of magnet schools. See <http://prrac.org/pdf/DiversityIssueBriefNo3.pdf>

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³² *Wright, et al. v. Council of the City of Emporia, et al.*, 407 U.S. 451 (1972). See also *Berry v. School District of Benton Harbor*, 56 F. Supp. 2d 866 (W. D. Mich. 1999); *Davis v. East Baton Rouge Parish School Board, et al.*, C.A. No. 56-1662 (M.D. La. 1999).

³³ E. Frankenberg, G. Siegel-Hawley, & J. Wang, *Choice Without Equity: Charter School Segregation and the Need for Civil Rights Standards* (Los Angeles: Civil Rights Project/ Proyecto Derechos Civiles, January, 2010).

³⁴ M. Carnoy, R. Jacobsen, L. Mishel, & R. Rothstein, *The Charter School Dust-up: Examining the Evidence on Enrollment and Achievement* (New York: Teachers College Press, 2005); Center for Research on Educational Outcomes. “Multiple Choice: Charter School Performance in Sixteen States” (Stanford: CREDO); R. Zimmer, et al., *Charter Schools in Eight States: Effects on Achievement, Attainment, Integration, and Competition*. (Santa Monica, CA: Rand Corporation, 2009).

³⁵ Multicultural Education, Training and Advocacy (META). Charter Schools and English Language Learners in Massachusetts: Policy Push without the Data (2009). Retrieved 11.2.09 at <http://www.edweek.org/media/metacharterschoolbrief.pdf>

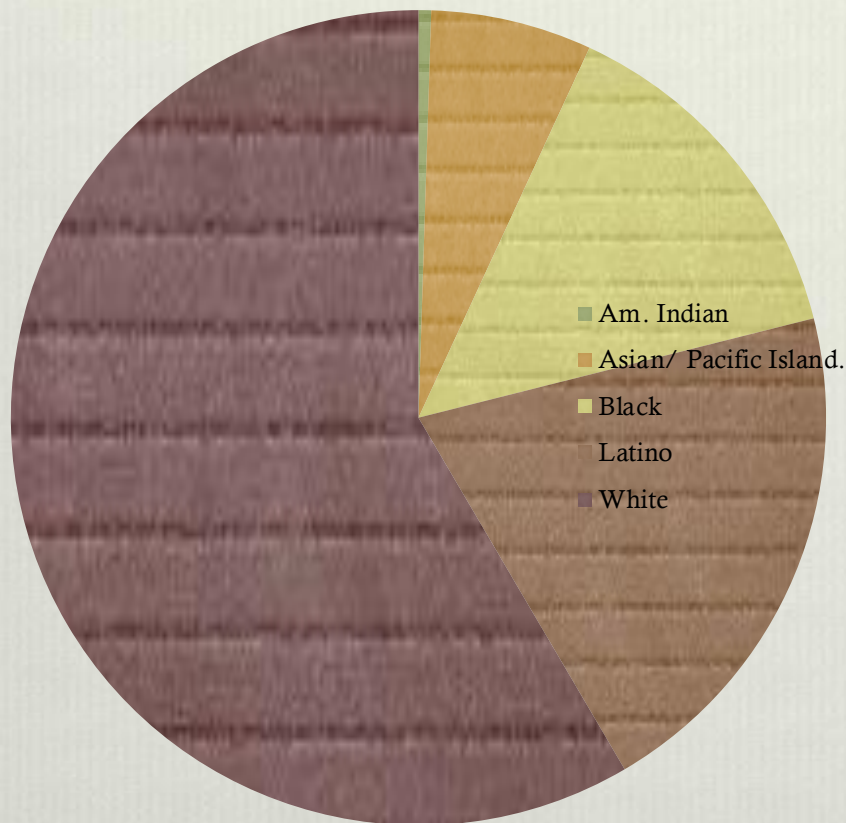
³⁶ In January 2011, the Civil Rights Project submitted comments regarding the National Charter School Resource Center Authorizer Survey, 75 Fed. Reg. 69985 (November 16, 2010) asking the Department of Education to “conduct a comprehensive review of the impact of each authorizer on the opportunity for the students served to be educated in diverse educational environments” before declaring a charter school authorizer to be high-quality. In addition to modifying the proposed survey, the reauthorizing of ESEA should require these basic data reporting requirements for any school receiving federal funds.

Federal Education Policy Should Promote Diversity

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Multiracial nature of students in largest metropolitan areas

Suburban Enrollment, 2007



- ❖ More than one-third of black & Latino suburban students in 90-100% non-white schools
- ❖ Thirty percent of all Latino students in suburban schools of largest metro areas

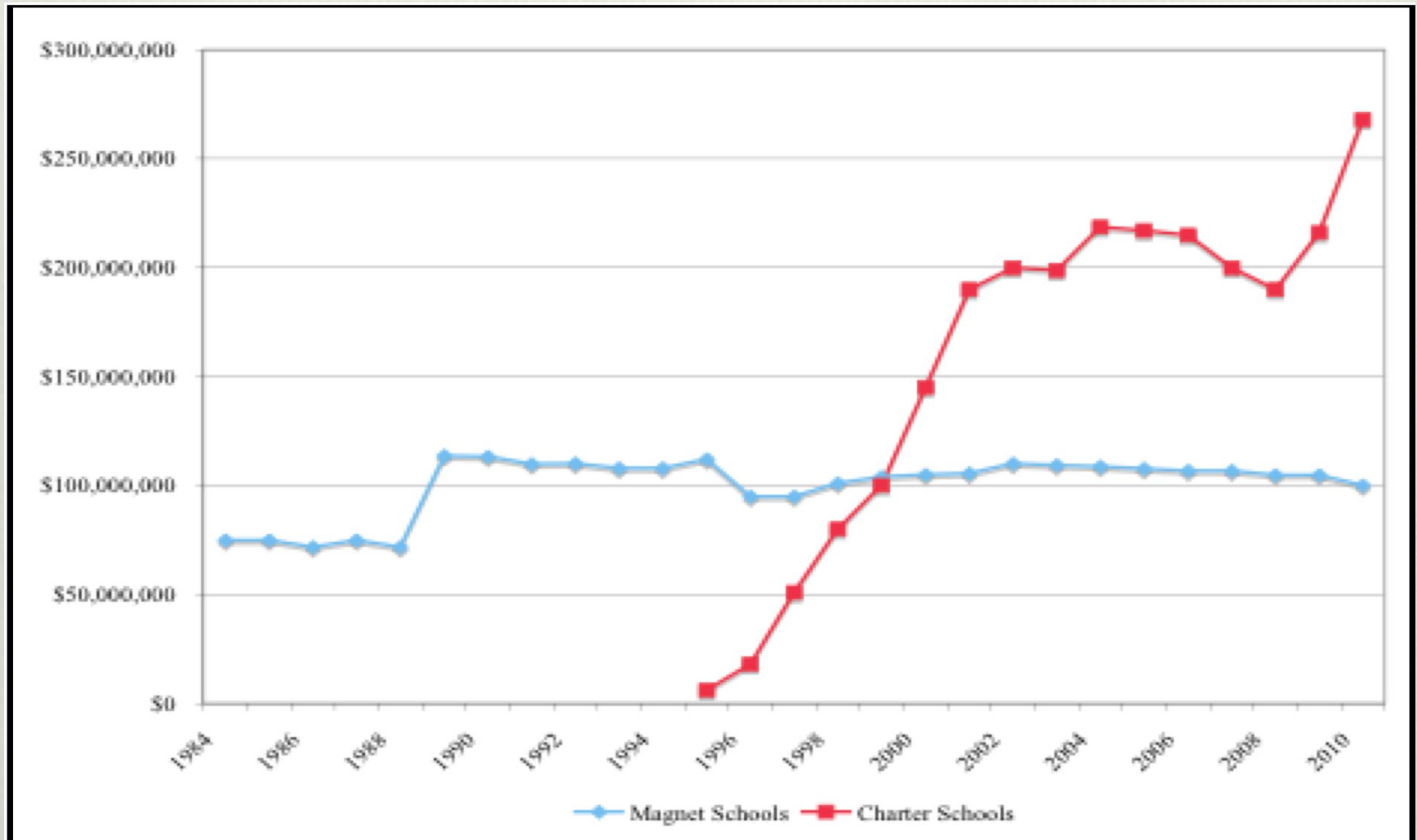
Why Diversity Matters

- ❖ Benefits of Diversity
 - ❖ Social and academic benefits
 - ❖ Improve career-readiness and college access
 - ❖ Helps the social and economic success of communities
- ❖ Harms of Racial Isolation
 - ❖ Qualified, experienced teacher mobility
 - ❖ Educational achievement, attainment
 - ❖ Overlap with poverty concentration
- ❖ Supreme Court cases and some federal policies reflect these research findings

School Choice Could Foster Integration

- ❖ Some types of school choice produce integration; others, segregation
- ❖ NCLB transfer provision:
 - ❖ expand to interdistrict options
 - ❖ provide transportation
 - ❖ Require outreach to underserved communities
- ❖ Give priority to interdistrict magnet and charter options to improve integration and academic opportunity
- ❖ Expand funding and allow for a range of educational uses (family engagement, staff development)

Annual Federal Appropriations for Magnet School and Charter School Programs



Magnet schools

- ❖ Many magnet schools have explicit requirements to promote diversity
 - ❖ MSAP recipients promote racial integration, prevent resegregation, and improve academic outcomes
 - ❖ Current MSAP funding cycle prioritized funding districts whose magnet schools would reduce isolation
- ❖ Expand support for magnet schools
- ❖ Include as option for conversion of low-performing schools

Charter Schools

Percentage of Charter and Public School Students in Segregated Minority Schools, by Race-Ethnicity, 2007-08

	Charter			Public		
	50- 100% Minorit y	90- 100% Minority	99- 100% Minorit y	50- 100% Minority	90- 100% Minority	99- 100% Minority
White	19%	2%	0%	13%	1%	0%
Black	89%	70%	43%	72%	36%	15%
Latino	83%	50%	20%	77%	38%	9%
Asian	60%	23%	9%	55%	15%	1%
American Indian	61%	31%	11%	49%	20%	9%
All Students	58%	36%	19%	38%	15%	4%

Source: 2007-08 NCES Common Core of Data

Charter Schools

- ❖ FY 2011 Charter School Program for SEAs included competitive preference for promoting diversity or avoiding isolation
- ❖ Provide incentives for conditions that might improve racial isolation in charters
 - ❖ Transportation
 - ❖ Outreach to diverse groups
 - ❖ Serve more than one district
 - ❖ Location
 - ❖ Adopt magnet school diversity goals

Charter Schools

- ❖ Stronger state accountability for charter school attrition
- ❖ Wider set of evaluative measures
 - ❖ Enrollment, attrition, discipline, achievement of subgroups
- ❖ Require same data reporting requirements for all public schools to be able to distinguish truly effective charter schools

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The Civil Rights Project



Proyecto Derechos Civiles

Resources

www.civilrightsproject.ucla.edu

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