

Reauthorization of ESEA (Elementary and Secondary Act)

Background

In 2001, the Elementary and Secondary Education Act (ESEA) was reauthorized by Congress as the No Child Left Behind Act (NCLB) in an effort to improve the education of America's students. Specific language was included in the bill which protected the freedoms of private, religious, and home schools (section 9506), and also allowed for equitable participation for private schools in some programs, specifically programs designed to help disadvantaged students and to further the professional development of teachers and principals. In addition, the NCLB Act prohibited the establishment of a national curriculum (section 9527), national testing (section 9529), mandatory national teacher certification (section 9530), and a national student database (section 9531).

In addition, we have concerns regarding the increased push for the adoption of “common” or national standards, and the inclusion of federal funding for early education in ESEA reauthorization. Using federal funds to incentivize states to adopt the common standards will only serve to advance a centralized educational system, decreasing local control and threatening the autonomy of private, faith-based, and home schools. Federal involvement in early education does not recognize the primary role and responsibility of parents play in the early years of a child’s life, and is not the answer to improving the quality of education for America’s students.

Protection of Private, Faith-Based, and Home Schools

- Religious, private, and home schools are already regulated under state law.
- Religious, private, and home schools have strong accountability to the parents.
- A very high percentage of religious, private, and home schools do not receive federal (or state) funds.
- Religious, private, and home schools have demonstrated that they are succeeding in educating their students without governmental educational regulations.

Dangers of a National or Common Standards

- A national standard would create a *de facto* national curriculum and national test and could give the federal government control over all school curricula, thereby diminishing the ability of each state to meet its schools' diverse cultural and educational needs.
- A national standard jeopardizes the freedoms of private, religious, and home schools to teach the curricula which best reflect their core educational and cultural beliefs.
- A national standard would be susceptible to having its content politicized, and could be easily influenced by controversial societal norms which would influence the values and beliefs under girding the teaching-learning process.
- A national standard would lead to a national curriculum that would limit the individualized instruction essential to helping students with special needs.
- A national standard limits parental involvement in their children's education.
- A national standard could lead to the establishment of a national student database which jeopardizes the privacy of children and their families, and demonstrates a “big brother” philosophy of monitoring and tracking young citizens.

Dangers with Federal Involvement in Early Education

- Federal involvement undermines the philosophy that parents have the primary responsibility, rights, and privilege of providing the best education for their young children. Quality parenting is the best indicator of a child’s future academic success and should be the focus in a child’s early education.
- Federal involvement in early education will produce adverse effects on the existing private day care and preschool centers by leading to a “crowding-out” of the private sector which currently makes up 80% of the preschools nationwide.
- The “need” for increased federal involvement in early education is based on inconclusive research, much of which shows federal run programs are failing. Furthermore, the research shows a limited impact on academic achievement and some studies have even found an increase in negative behavioral effects for some children.
- Increased federal funding of early education creates an unnecessary subsidy for middle- and upper-income families.

ODACS requests that the following protective language from the 2001 No Child Left Behind Act be included in the current reauthorization of ESEA:

- **Section 9506 [20 U.S.C. 7886] in its entirety:**

““SEC. 9506. PRIVATE, RELIGIOUS, AND HOME SCHOOLS.

“(a) APPLICABILITY TO NONRECIPIENT PRIVATE SCHOOLS.— Nothing in this Act shall be construed to affect any private school that does not receive funds or services under this Act, nor shall any student who attends a private school that does not receive funds or services under this Act be required to participate in any assessment referenced in this Act.

“(b) APPLICABILITY TO HOME SCHOOLS.—Nothing in this Act shall be construed to affect a home school, whether or not a home school is treated as a home school or a private school under State law, nor shall any student schooled at home be required to participate in any assessment referenced in this Act.

“(c) RULE OF CONSTRUCTION ON PROHIBITION OF FEDERAL CONTROL OVER NONPUBLIC SCHOOLS.— Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.

“(d) RULE OF CONSTRUCTION ON STATE AND LOCAL EDUCATIONAL AGENCY MANDATES.—Nothing in this Act shall be construed to require any State educational agency or local educational agency that receives funds under this Act to mandate, direct, or control the curriculum of a private or home school, regardless or whether or not a home school is treated as a private school under state law, nor shall any funds under this Act be used for this purpose.”

- **Section 9527 [20 U.S.C. 7907] in its entirety:**

““SEC. 9527. PROHIBITIONS ON FEDERAL GOVERNMENT AND USE OF FEDERAL FUNDS.

“(a) GENERAL PROHIBITION.—Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school’s curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

“(b) PROHIBITION ON ENDORSEMENT OF CURRICULUM.—Notwithstanding any other prohibition of Federal law, no funds provided to the Department under this Act may be used by the Department to endorse, approve, or sanction any curriculum designed to be used in an elementary school or secondary school.

“(c) PROHIBITION ON REQUIRING FEDERAL APPROVAL OR CERTIFICATION OF STANDARDS.—

“(1) IN GENERAL.—Notwithstanding any other provision of Federal law, no State shall be required to have academic content or student academic achievement standards approved or certified by the Federal Government, in order to receive assistance under this Act.

“(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to affect requirements under title I or part A of title VI.

“(d) RULE OF CONSTRUCTION ON BUILDING STANDARDS.— Nothing in this Act shall be construed to mandate national school building standards for a State, local educational agency, or school.”

- **Section 9529 [20 U.S.C. 7909] in its entirety:**

““SEC. 9529. PROHIBITION ON FEDERALLY SPONSORED TESTING.

“(a) GENERAL PROHIBITION.—Notwithstanding any other provision of Federal law and except as provided in subsection (b), no funds provided under this Act to the Secretary or to the recipient of any award may be used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

“(b) EXCEPTIONS.—Subsection (a) shall not apply to international comparative assessments developed under the authority of section 404(a)(6) of the National Education Statistics Act of 1994 and administered to only a representative sample of pupils in the United States and in foreign nations.”

- **Section 9530 [20 U.S.C. 7910] in its entirety:**

““SEC. 9530. LIMITATIONS ON NATIONAL TESTING OR CERTIFICATION FOR TEACHERS.

“(a) MANDATORY NATIONAL TESTING OR CERTIFICATION OF TEACHERS.—Notwithstanding any other provision of this Act or any other provision of law, no funds available to the Department or otherwise available under this Act may be used for any purpose relating to a mandatory nationwide test or certification of teachers or education paraprofessionals, including any planning, development, implementation, or administration of such test or certification.

“(b) PROHIBITION ON WITHHOLDING FUNDS.—The Secretary is prohibited from withholding funds from any State educational agency or local educational agency if the State educational agency or local educational agency fails to adopt a specific method of teacher or paraprofessional certification.

- **Section 9531 [20 U.S.C. 7911] in its entirety:**

““SEC. 9531. PROHIBITION ON NATIONWIDE DATABASE. “Nothing in this Act (other than section 1308(b)) shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this Act.”