

**Subject:** Leg. Update

**DATE** March 15, 2007

**COMMITTEE** U. S. House of Representatives Committee on Education and the Workforce Jointly with the Senate Health, Education, Labor and Pensions Committee

**SUBJECT** Joint Hearing on "*Elementary and Secondary Act Reauthorization: Improving NCLB to Close the Achievement Gap,*"

**HEARING DATE** March 13, 2007

**WITNESSES**

Gov. Roy Barnes  
Aspen Institute Commission on No Child Left Behind

Elizabeth Burmaster  
Council of Chief State School Officers

Mike Casserly  
Council of Great City Schools

Wade Henderson  
Leadership Conference on Civil Rights

Ed McElroy  
American Federation of Teachers

Arthur J. Rothkopf  
Business Coalition for Student Achievement

Reg Weaver  
National Education Association

**Opening Statements**

Chairman *George Miller* (D-CA) opened the hearing by referring back to the case of *Brown v Board of Education*. He contended that despite the decision, too many children do not get the education they deserve. He complained of the achievement gap being delegated to the back burner for many years and he insisted that closing the gap must be a national priority. He said that notwithstanding the good points of No Child Left Behind (NCLB), Congress must seek out new and better ideas for achieving its educational goals. Finally, the Chairman identified the measurement of student progress and the recruitment and retention of teachers as the two priority areas for reauthorization.

Ranking Minority Member *Howard McKeon* (R-CA) reflected on the progress made by NCLB over the last five years. He cited the fact that the achievement gap is beginning to close. He also noted that the discussion of how to improve education has expanded beyond the classroom to kitchen tables and boardrooms. Rep. *McKeon* presented a chart of appropriations from 1995 to the present, making the point that Republican funding increases were higher than those of previous administrations. He also stressed the fact that NCLB provides options, such as charter schools, for parents and children. Rep. *McKeon* presented three principles for NCLB reauthorization:

1. The law cannot back away from holding schools accountable.
2. The law must give more options to parents.
3. The law must be improved by providing more choice, recruiting the best teachers and striking a balance between flexibility and accountability.

Chairman *Edward Kennedy* (D-MA) promised that the two Committees would work closely on reauthorization. He listed his goals as setting high standards, closing the achievement gap, strengthening schools and ensuring a good education for all children. He cited the need for more effective ways to measure student achievement and to recognize schools, rather than punish them. Sen. *Kennedy* insisted that English language learners (ELL) deserve the full benefit of the law, but admitted that more must be learned about how to measure their progress. He also saw the need for better teachers and for states to develop high standards. Sen. *Kennedy* concluded by citing the need to give schools adequate resources, insisting that financial charts notwithstanding, 3.2 million children are left out and left behind.

Substituting for Sen. *Mike Enzi*, who had a conflict in his schedule, Sen. *Johnny Isakson* (R-GA) simply asked that Sen. *Enzi's* remarks be placed in the record.

Governor Barnes framed the issue as to whether or not the United States is, and will remain for the next fifty years, a competitive society. He said the Aspen Institute had developed 75 recommendations for reauthorization, but he only addressed two or three of them. He asserted that teacher effectiveness is the biggest issue, and it is necessary to look at teacher qualifications differently. Specifically, he proposed looking at effectiveness, not credentials. He recommended that student learning gains should be part of the equation, along with positive principal ratings. He also suggested that Adequate Yearly Progress (AYP) should be a three year process, based on a data driven system. Finally, he recommended that bad teachers not be punished; instead, poor performance should trigger professional development.

Mr. Henderson identified the twin pillars of democracy as the right to vote and an access to a high quality education. His recommendations included raising academic standards, applying them equally to all children and holding schools accountable for the

performance of their students.

Mr. Rothkopf stated the primary issue in education as being the production of an educated workforce. He presented data showing poor performance and a lack of proficiency among high school graduates. However, he contended that NCLB is paying off, shown by improved student achievement and a lessening of the achievement gap. Rothkopf voiced six areas for improving NCLB through reauthorization:

1. States must raise their standards.
2. NCLB must emphasize science and math, not just reading.
3. There is an absence of good, reliable data.
4. Replace the highly qualified teacher provisions with those that measure teacher/principal effectiveness based on student achievement.
5. Strengthen accountability.
6. Invest in school improvement and innovation.

Mr. Casserly characterized the law as being helpful in strengthening the standards movement, introducing accountability and stressing the quality of teachers. However, he also enumerated its flaws as including insufficient focus on good instructional practice, too much focus on testing, and sanctions that force schools to arbitrarily change practices before they has a chance to work. His proposals for reauthorization include:

- o Implement national standards in math, science and reading, with tests tethered to standards.
- o Replace annual sanctions with a three year period free of sanctions. During this time, specify the use of 30% of funds to research proven strategies such as professional development, benchmark standards, etc.
- o Permit schools to be their own supplemental education services provider.
- o Build data systems linking standards and achievement
- o Prohibit hiring of poor teachers in NCLB schools
- o Provide a three year window for ELL students to meet achievement standards.

Mr. McElroy pleaded for proper funding for NCLB and he discussed the flaws his organization saw in NCLB, including:

- o The assessment and accountability provisions do not capture actual gains and

schools are misidentified as not making gains.

- o Schools are penalized, rather than given help.
- o Instructional focus is on test drills, not on instruction, and the curriculum has been narrowed.
- o Standards and curriculum are not aligned.
- o Supplemental educational services are unproven and drain local education agency (LEA) services.
- o Schools do not use enough research based methods and effective professional development.

Mr. Weaver argued that a great public school is a basic right for every child in America. He criticized NCLB for too many uncertified and untrained teachers and not enough access to remediation programs. He stressed that accountability should be about improving schools (not punitively placing blame) and the evaluation system should be based on multiple measures. He recommended that states that set a reasonable starting salary should be rewarded and financial incentives should be provided for teachers who teach in high poverty schools.

Superintendent Burmaster observed that state reform efforts, which in 2001 were spotty, are now in place. She said that it is time to shift the focus of NCLB from prescriptive compliance to a dynamic system of innovation. She submitted eight formal recommendations, based on the following three principles, for the record:

1. Create innovation for standards and assessments.
2. Build local and state capacity.
3. Increase the investment on research, evaluation a technical assistance.

### **Questions and answers**

Rep. *Miller* asked Casserly to comment on his suggestion that a longer window should be provided for accountability sanctions, rather than the year to year cascading sanctions in the present legislation. Casserly proposed combining the present system of sanctions with a three year system that looks at improvement in various ways; e.g., if failure only relates to one or a few subgroups, don't force draconian measures, simply require a focus on these subgroups. Burmaster responded to the same question by pointing out how schools that miss AYP by a little face the same sanctions as schools that miss by a lot. Rep. *Miller* then commented that three years in a child's life is a long time.

Rep. *McKeon* expressed his concern about how more supplemental educational services

can be gotten and how it can be ensured that more people know about the available services. He also expressed concern about how special education children are handled by NCLB and how quality teachers are measured. Rep. *McKeon* also addressed the issue of national standards, admitting that it is a problem, but declaring that the Constitution cannot be changed. He then asked Henderson if minority parents are receiving enough and timely information regarding options and if there are enough choices available to them. Henderson deflected the question, insisting that the promise of Brown has not been fulfilled and pointing to the sub-par education system in the District of Columbia as an indictment. He said that choice is not the problem and it is a much more complex matter than Rep. *McKeon*'s question had suggested.

Sen. *Kennedy* raised the issue of school dropouts. He pointed out that of 150,000 Philadelphia school children, 80,000 do not show up at one time or another and expressed concern that there are more problems now than there were five years ago. Sen. *Kennedy* asked Henderson about how worked up [members of Congress] should be. Henderson indicated that poverty is more severe today than five years ago and Barnes added that he agreed that there was cause for concern. He explained that students drop out in the ninth grade because of their frustration with math in the eighth grade and he advised that middle schools needed to be remade. Rothkopf contended that many dropouts do not see the relation between their curriculum and the workplace, a point with which Casserly agreed. McElroy and Burmaster suggested a focus on the early years and Weaver pleaded for more funding.

Sen. *Isakson* proposed that after five years of NCLB experience, combined with another four years after it is "tweaked", there should be a tremendous impact. He asked the witness what alternative procedures for certifying teachers they might suggest. Citing that 40% of teachers leave the profession after three years and 50% in five years, Barnes claimed that the problem is not training, it is retention. He reiterated his previous point that unsuccessful teachers should be given professional development. Sen. *Isakson* then asked if a properly constituted growth model would reduce teacher turnover. Barnes agreed that it would, because teachers who do not help students would not be branded.

Rep. *Kildee* mentioned that he had always believed that education is a local function, a state responsibility and a federal concern. Noting that how the quality of education in Flint, Michigan has deteriorated since 1965, despite federal concern, he asked how local and state education agencies could be prodded to do more. Barnes advised that that good leaders who believe in education should be elected. He also explained that state standards are deceptive and do not match NAEP scores. Casserly maintained that the best urban systems have a clear sustained vision of program improvement, good institutional professional development and data systems - all locked together systemically. Burmaster mentioned the importance of quality early childhood education, while Rothkopf suggested aligning the K-12 curriculum with business and higher education standards. Henderson recommended federalizing the education system, because the current system of funding moves too slowly to produce changes.

Rep. *Peter Hoekstra* (R-MI) attacked the movement toward a national curriculum,

expansion of tests to other areas and national standards. He asked [rhetorically and sarcastically] how you could have national standards, but not federal standards. Turning his attention to Burmaster, he praised her for being the only witness with “a concept of freedom.” He rebuked all of the other witnesses for talking only of changing the rules and admitting that without federal involvement, they could not do it. He said that Burmaster was the only witness to declare that if she had more flexibility, she could do it. He also castigated Rothkopf, declaring [again sarcastically] that if what business wants was reflected in the testimony, he could not wait to see his economical development plan and suggesting that maybe the federal government should take responsibility for that too. Rep. *Hoekstra* then asked Burmaster how she saw the improvement of NCLB being done. She responded that it is ultimately a local issue and parents must be involved to determine the best intervention for their children. She also advised that communities must be brought together and pointed out that the problems are larger than simply education. Weaver also agreed that parental involvement is an important element of education.

Rep. *Donald Payne* (D-NJ) reminisced that in World War II, the Army found that draftees were malnourished and that that started the school lunch program. He argued that local governments would never have done it on their own. He declared that national involvement was necessary because the will does not exist on the local level to improve education. He accused proponents of vouchers of never talking about it in their own districts. Rep. *Payne* also proposed that teaching attitude is the biggest factor in education, claiming that when teachers believe that children can learn, they do. McElroy commented that the issue is how to retain teachers, and he suggested the institution of grants and incentives, as well as creation of an appropriate environment. Weaver recommended mentoring programs and better pay.

Rep. *Michael Castle* (R-DE) recapped what he thought that he heard from the witnesses: that NCLB is good, but that it needs some change. He thought that the reauthorization would be likely to include some sort of growth model and he asked for comments on the U.S. Department of Education (ED) models. Barnes related that the Aspen Institute had recommended a growth model, but he cautioned that data systems were a prerequisite and that they were expensive. He noted that ED has allowed limited waivers. Henderson warned that the pilots had not been assessed and that the Leadership Conference on Civil Rights had concerns, especially for ELL students, who exhibit high initial progress. Rothkopf said that they should be tried, but expressed apprehension about the movement away from rigorous standards and the possibility of not meeting the 2014 goal. Weaver also expressed support, but with reservations.

Rep. *Robert Andrews* (D-NJ) wanted to know how AYP was calculated. He said that in New Jersey the performance of 8th graders are matched against the performance of last year’s 8th graders. He asked if it would not make more sense to test longitudinally. Barnes proposed that the question should be “What should an 8th grader know to be successful in work or higher education?” Rep. *Andrews* asked Barnes if he supported longitudinal testing. He replied that he did, but not to take the place of NAEP testing. When Rothkopf suggested that data are needed, Rep. *Andrews* objected, saying that it is not a data problem, it is an interpretation problem. He also commented that he did not

believe that a school should be held accountable on the basis of comparing two different years, because they may be different groups.

Rep. *Judy Biggert* (R-IL) related that she has been told often that there is so much pressure to meet AYP that teachers are forced to teach to the test. She also speculated whether the curriculum is being limited by too much emphasis on math and science and wondered how vocational education students attain math and science skills. Finally, she suggested there is something to the premise that children learn better with physical education as part of the curriculum. Weaver agreed that NCLB has narrowed the curriculum and supported the inclusion of civics, arts and physical education. Casserly also felt that the law should be reoriented to include broader curriculum areas.

Rep. *Bobby Scott* (D-VA) asked if funding is necessary to fulfill Brown. Henderson replied that it is, but that the Elementary and Secondary Education Act was never intended to equalize funding within states. He contended that intra-state equalization is a state responsibility and one that they have neglected. Rep. *Scott* then turned to the subject of sanctions, asking if there should be sanctions for schools that do not make AYP and do not address the matter. Burmaster responded that they should be subject to sanctions. Rep. *Scott* observed that dropouts raise achievement gains and he wondered if they are being counted correctly and if schools with high dropout rates are being punished enough. Casserly noted that the issue is a huge national problem, regardless of the measures used. Rep. *Scott* then asked if growth models address the question of children who have substantial gain scores, but still fail. Barnes indicated that there is no agreement on this.

Turning to the issue of teaching math and science, Rep. *Vernon Ehlers* (R-MI) remarked that he had known that if it did not improve, we would lose to China and India, and he claimed that we are. He proposed that the Eisenhower Professional Development program should be reinstated and he asked for comments. All of the witnesses indicated that they supported the program's reinstatement.

Rep. *John Tierney* (D-MA) questioned the witnesses on the importance of a universal pre-school program, asking them to rate it on a scale of one to five. All of the witnesses but Rothkopf rated it at or close to the highest rating and Rothkopf indicated that there are areas of higher priority.

Sen. *Wayne Allard* (R-CO) asked the witnesses if they support or oppose the expansion of testing to high school. With the exception of Rothkopf (who felt testing should not be administered every year) and Burmaster (who argued for a 12th grade test) the rest opposed it. Finally, Sen. *Allard* raised the issue of the disconnect between state and federal [i.e., NAEP] test scores, asking if the tests should be aligned and how. All the witnesses agreed that they should be, but admitted that they did not know how.

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