

The logo for the Education Law Center features the words "EDUCATION" and "LAW CENTER" stacked vertically in white, uppercase letters. The text is centered within a dark blue rectangular box. This box is flanked by two horizontal yellow bars, one above and one below, creating a stylized, modern design.

**EDUCATION  
LAW CENTER**

February 2, 2014

The Hon. Lamar Alexander  
Chairman  
Health, Education, Labor and Pensions Committee  
U.S. Senate  
Washington, D.C. 20510

The Hon. Patty Murray  
Ranking Member  
Health, Education, Labor and Pensions Committee  
U.S. Senate  
Washington, D.C. 20510

Dear Senator Alexander and Senator Murray:

Thank you for inviting comments on the reauthorization of the Elementary and Secondary Education Act (ESEA) and the Every Child Ready for College or Career Act of 2015 (ECRCCA) Discussion Draft. The Education Law Center is a non-profit legal advocacy and education organization dedicated to ensuring that all children in Pennsylvania have access to a quality public education. We pursue this mission by advocating on behalf of the most vulnerable students -- children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, English Language Learners, and those experiencing homelessness. With forty years of experience working on education issues, we write to share our recommendations on ESEA reauthorization on behalf of the hundreds of families we represent each year.

The reauthorization of the ESEA offers an opportunity to update our nation's primary federal education law to build upon the lessons learned since the last reauthorization. The Education Law Center urges Congress to reauthorize the ESEA in 2015 and address the following priorities:

**Maintain a strong federal role in promoting equity and accountability.** The ECRCCA Discussion Draft limits the authority of the Department of Education and the Secretary of Education to regulate and thereby implement federal education law and policy. We encourage the Committee and Congress to maintain sufficient authority for the Secretary of Education to enforce Federal education laws and monitor compliance with other Federal protections, including

civil rights laws. The Secretary must be empowered to ensure equity and protect disadvantaged students. The Secretary of Education should ensure state implementation of federal law through oversight and enforcement, take action if states fail to meet their obligations to close achievement gaps, and provide equal educational opportunities for all students.

**Encourage states to fund schools equitably.** The ECRCCA Discussion Draft correctly requires publically reported per-pupil expenditure data, but Federal financial incentives should be provided to encourage states to develop, adopt, and implement equitable financing mechanisms that provide funding sufficient for every student to meet state standards. Money matters in education, and children attending well-resourced schools perform better. Pennsylvania is one of only three states that creates budgets without using a statewide education funding formula. As a result, the quality of a child’s education often depends on his or her zip code. High-poverty public schools in Pennsylvania spend an annual average of \$3,000 less per student compared to wealthy schools, adding up to a funding gap of \$75,000 in a classroom of 25 students.

**Protect Title I dollars for the poorest schools and districts.** Provisions in the ECRCCA Discussion Draft would direct existing Title I dollars away from higher-poverty districts and schools towards lower-poverty districts and schools. Title I funding should NOT be made portable. Such a proposal undermines Title I’s fundamental purpose of assisting public schools with high concentrations of poverty and high-needs students. Title I has always been focused on ensuring that districts and schools serving large concentrations of students in poverty receive a greater portion of federal funds to address the compounded impact of poverty on student learning—this focus must remain. Portability poses a significant threat to the historic intent of Title I and the education of children living in poverty.

**Act to end school pushout and dismantle the school-to-prison pipeline.** The ECRCCA Discussion Draft does not address the School-to-Prison Pipeline and does not require attention to critical school climate measures and other areas where students of color, students with disabilities, and other vulnerable students may experience discrimination or bias. Since the last reauthorization of ESEA, evidence has mounted of the existence of a school-to-prison pipeline. Local leaders know that Congress must provide funding and incentives aimed at improving school climate, reducing the use of exclusionary discipline, and limiting the flow of students from schools to the juvenile and criminal justice systems. Increasing the availability of federal funds will encourage schools to replace exclusionary discipline with evidence based alternatives such as Positive Behavior Support and restorative justice practices, as well as a greater reliance on school-based mental health providers. Districts and states should be held accountable for educating students instead of pushing them out of school. The ECRCCA is an opportunity to require the collection and reporting of (on an annual basis) school-level disciplinary and climate data – disaggregated by race, gender, disability status, socioeconomic status, and English proficiency – from all schools and districts, including all charter schools and alternative schools. Further, Congress should establish a process by which unusually high disciplinary rates – as well as pronounced disparities in such rates along race, gender, disability, socioeconomic status, and language lines – trigger required technical assistance and support, rather than punishment, from state and local educational agencies. The goal should be to ensure that schools showing these

characteristics adopt proven, positive approaches to improving school climate and limiting school exclusion.

**Increase educational support, continuity, and stability for children in foster care.** Children in foster care need to be assured of educational stability to help them succeed. Congress should ensure that children entering foster care or changing placements remain in their same school or, if such placement is not in their best interest, promptly enroll in the school where they will be living, mirroring the provisions of the *Fostering Connections Act*. Congress should ensure full, partial and retrieval credit transfers when children in care change schools.

**Strengthen supports for children in juvenile detention facilities.** Children in juvenile detention facilities have needs that require special resources. Part D of Title I should be strengthened to ensure that children have access to quality education while in detention and have assistance to successfully transition to their community schools.

**Improve Educational Outcomes for Children Experiencing Homelessness.** The ECRCCA Discussion Draft does not address the unique challenges faced by students experiencing homelessness. ELC encourages Congress to amend the definition of “school of origin” to include designated receiving schools for all feeder schools and require states to have procedures that ensure that these students receive credit coursework completed at a prior school and for work completed after enrollment in a new school, as well as appropriate due process procedures when a District disputes a child’s homelessness. Congress should require local liaisons to ensure that: notice of the educational rights of children experiencing homelessness are incorporated, provided, and disseminated; unaccompanied homeless youth are enrolled in school; and all students experiencing homelessness have access to academic supports and extra-curricular activities.

**Ensure access to early childhood education for the most vulnerable students.** The ECRCCA Discussion Draft does little to expand access to early learning opportunities. Early learning is not a new concept in ESEA. In fact, there are dozens of references to “early childhood” in the existing law. Children who are economically disadvantaged and children with disabilities, ages birth to 5 years, should have access to high quality early childhood education. Further, we urge Congress to include provisions that align and coordinate federal responsibilities across all early childhood laws and policies.

Thank you for your consideration.

Sincerely,



Nancy Potter, Esq.  
Staff Attorney  
Education Law Center