



**Statement of Jack Jennings,  
President, Center on Education Policy,  
Before the Committee on Education and Labor,  
U.S. House of Representatives  
September 10, 2007**

Since 2002, the Center on Education Policy has been conducting a comprehensive study of the implementation and effects of the No Child Left Behind Act. Our recommendations for proposed amendments to the Elementary and Secondary Education Act are based on that research and are appended to this testimony, and I respectfully ask you to review them. Today, I will limit my remarks to the process used by the committee and to the key features of the draft legislation.

Chairmen Miller and Kildee, and Ranking Members McKeon and Castle, you are to be commended for having such an open process for considering these amendments. Through your earlier hearings, discussions of proposed amendments, Web-based distribution of draft legislative language, effort to be bipartisan, and now these hearings, you have shown a commendable openness to criticisms and willingness to hear a variety of proposed solutions.

Your draft legislation represents a good start in addressing the major problems in the current law, and refinements in the legislative process could bring about further improvement. For my remaining time, I will comment briefly on the key features of your proposal, and mention some of the changes we would recommend.

### *Multiple Indicators*

In our state and school district surveys, case study interviews, and other research, state leaders and local educators have often criticized the narrowness of the accountability measures now required in NCLB, which rely so much on just reading and math test results. The proposed amendment to broaden these measures to include other objective measures of academic performance acknowledges that concern. CEP recommends also including measures other than those listed if they meet criteria established by the National Academy of Sciences and the National Academy of Education.

### *Growth Models*

For years, educators have been calling for the use of growth models, and this feature is to be applauded. However, if your legislation keeps the goal of proficiency for all by 2014, using growth models will probably not make much difference in terms of identifying schools for improvement. CEP instead recommends linking the degree of growth expected of all districts and schools each year to the average rate of gain over two or three years in the districts or schools within a state that rank at the 75<sup>th</sup> percentile. For instance, if the top quarter of schools and districts that made gains on state tests had rates of improvement in the percentage of students achieving at the proficient or above levels that averaged 3% per year, then adequate yearly progress might be defined as a 3% increase for all schools and districts. That is a high goal, but within reach with sufficient effort.

### *English Language Learners and Students with Disabilities*

Testing policies for English language learners and students with disabilities have been a matter of major controversy for years, with educators asking for more flexibility for both subgroups. The set of amendments for ELL students addresses many of the concerns raised in our surveys and interviews. As explained in our recommendations, however, we suggest that you consider giving greater weight to the results of English language proficiency tests and less to the results of academic content tests for students who have

very limited proficiency in English, then adjusting these relative weights as these students gain English language proficiency.

For students with disabilities, the basic requirement should be to assess these students using the same tests as those given non-disabled students; however, the individualized education program (IEP) could modify this presumption by presenting clear evidence that a particular student should be permitted test accommodations, an alternate assessment based on modified achievement standards, or an alternate assessment based on alternative achievement standards. There should be no percentage limitation on how many students' scores can be counted as proficient using these different ways of assessing students.

### *School Improvement*

Our research has repeatedly identified problems with requiring the same treatment for schools in which one subgroup falls short of adequate yearly progress as for schools in which many subgroups fall short. The draft addresses that concern by creating a graduated system of aid for schools depending on the degree of problems. An assurance that significant action must be taken even in a school with only one subgroup not achieving adequately would ensure that the noble goal of NCLB of requiring that all lagging students be helped would not be lost. A further recommendation is that schools be identified for improvement only when the same subgroup of students does not meet the state AYP target in the same subject for two or more consecutive years.

Another recommendation from CEP related to school improvement involves supplemental educational service providers. In our surveys, school district officials expressed concern that the tutoring services provided through NCLB are not always effective in raising student achievement. Outside providers of supplemental services should be held accountable just as school districts are—namely by requiring them to show improvement in test scores in two years or be barred from providing services.

A further recommendation concerns schools that improve achievement enough to exit school improvement status. When schools improve sufficiently, they lose the extra

financial assistance and other aid that helped them to do better. We urge you to continue this assistance in these schools for three years after they improve, so they can institutionalize the practices that helped them.

### Conclusion

The draft bill addresses many of the major concerns raised by educators and state officials in our five years of research. Of course, people who care about schools and children will disagree about particular solutions to those problems. But the committee has made a good start, and the bill should move through the legislative process. If there is no legislation, then the current law would apply for one or two more years, and the problems identified by our research and that of others will not be addressed.

Let me finish by raising a general concern expressed repeatedly by educators in our surveys and interviews. The No Child Left Behind Act seeks to raise achievement for low-performing students through a test-driven accountability system. Certainly, it is important to use standardized measures of achievement, but tests are imperfect instruments with limitations in what they can measure well. Educators express frustration that this test-based system is leading to a narrow vision of education and hope that our nation could pursue a more comprehensive vision of how to make American education the best in the world.

Could we establish a national commission or use some another means to think deeply about schooling and the best means to help all American students become well educated? I know that today's session is concentrated on particular legislative language, but can't we find a way to think more broadly and creatively so that future federal laws, state policies, and local actions can lead the way to a better educated citizenry?

Thank you for this invitation and opportunity to share what we have learned.