

John J. Castellani
President
Business Roundtable
on behalf of the
Business Coalition for Student Achievement (BCSA)

Before the U.S. House of Representatives
Committee on Education and Labor
on the
Reauthorization of the Elementary and Secondary Education Act of 1965

September 10, 2007

Statement of John J. Castellani
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Chairman Miller, Senior Republican Member McKeon and other distinguished Members of the Committee. On behalf of the Business Coalition for Student Achievement (BCSA), I am pleased to be here today to discuss the Coalition's views on the reauthorization of the Elementary and Secondary Education Act (ESEA) of 1965 and specifically our views on the Committee's staff discussion draft for reauthorization of Title I of this law. I also am here because education reform is such a high priority for the CEO members of the Business Roundtable.

The BCSA represents business leaders from every sector of the economy and believes that improving the performance of the K-12 education system in the United States is necessary to provide a strong foundation for both U.S. competitiveness and for individuals to succeed in our rapidly changing world.

As employers, we understand the important role the U.S. business community must play in ensuring the American education system prepares our youth to meet the challenges of higher education and the workplace. It is for this reason BCSA has been a staunch supporter of education reform and continues to stand firmly behind the principles underlying the No Child Left Behind (NCLB) Act.

We are also part of a broad coalition – NCLB Works – which includes business, education, community, and civil rights groups working to strengthen and reauthorize the Act. We share the common belief that this law has been instrumental in focusing our nation on improving academic achievement for all students and we stand behind NCLB's goal of all students being able to read and do math on grade level by the 2013-2014 school year.

As this Committee moves forward with reauthorization, we strongly urge that you resist any changes to the law that would undermine or reduce this fundamental focus.

At the same time, there are areas where NCLB needs improvement and expanded flexibility, and we formally shared our ideas with the Committee earlier this year. For example, BCSA supports allowing States to implement well-designed growth models to determine adequate yearly progress (AYP). We also believe school districts should have

- Significantly weakens the process for identifying schools in need of improvement. It allows schools to ignore shortfalls in proficiency in math and reading just because the lack of improvement happens to shift subgroups from year to year. It overly limits the identification of schools in need of the most assistance to improve student achievement;
- Dramatically reduces the availability of public school choice and supplemental educational services and substantially reduces funding available for such options; and
- Establishes a difficult to understand, explain, and implement multiple measures framework. This framework runs counter to NCLB's current transparent accountability system. It also creates a confusing accountability system to address the critical need to increase high school graduation rates.

We want to ensure this reauthorization does not result in masking what NCLB has exposed. The fact is that too many students – many from economically disadvantaged backgrounds – are not getting a high-quality education and are moving through our schools without the basic skills necessary to be successful and productive citizens.

Mr. Chairman, you have conducted a remarkably open process and we have great respect for your leadership and commitment, as well as that of Representative McKeon. The reauthorization of NCLB provides an opportunity to take the next, and important, step of not just identifying schools in need of improvement, but ensuring they have the tools necessary to reach higher levels of achievement.

Again, thank you for this opportunity to testify, and we look forward to working with the Committee as this reauthorization moves forward.

BUSINESS COALITION
FOR
STUDENT ACHIEVEMENT

September 5, 2007

The Honorable George Miller
Chairman
Committee on Education and Labor

The Honorable Howard P. "Buck" McKeon
Senior Republican Member
Committee on Education and Labor

The Honorable Dale E. Kildee
Chairman, Subcommittee on Early
Childhood, Elementary and Secondary
Education

The Honorable Michael Castle
Senior Republican Member, Subcommittee on
Early Childhood, Elementary and Secondary
Education

Dear Chairmen and Senior Republican Members:

On behalf of the Business Coalition for Student Achievement (BCSA), representing business leaders from every sector of the economy, we are pleased to have the opportunity to respond to your request for comments on the staff discussion draft for the reauthorization of Title I of the Elementary and Secondary Education Act (ESEA).

BCSA recognizes the significant effort of the Committee to gather input on the reauthorization of ESEA over the past two years, and we appreciated the opportunity earlier this year to submit recommendations on the reauthorization.

Central to these recommendations is the belief that any changes to the No Child Left Behind Act (NCLB) should not undermine or reduce the current law's focus on ensuring that all students are expected to reach at least a state-defined level of proficiency in both reading or language arts and mathematics by the 2013-2014 school year.

At the same time, BCSA has recognized the need for NCLB to provide expanded flexibility in certain areas. In particular, BCSA has been supportive of allowing States to implement well-designed growth models to determine adequate yearly progress (AYP). In addition, BCSA believes school districts should have the ability to target the most significant interventions (related to restructuring) to those schools that are the furthest behind in ensuring all of their students are proficient.

With respect to Title I, our previously submitted recommendations also call for the need for a greater focus on high schools and for schools to ensure graduates have the skills necessary to be competitive in today's workforce and succeed in postsecondary education.

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BCSA is pleased the draft proposal addresses many of these issues. In particular, we support the following aspects of the discussion draft:

- math and reading proficiency by 2013-14
- postsecondary and workplace readiness
- accountability and rigor for high school
- student growth models
- uniform N-size

However, as we detail in the attached comments, we are deeply concerned about provisions included in the draft that we believe would undermine the current accountability for all students to reach proficiency and would provide a path by which many States would create accountability systems so complex as to be rendered meaningless. While we do not believe it is the intent of the Committee to reduce accountability, the cumulative impact of the implementation of provisions related to multiple measures, indexing and local assessments, among others, would be significantly adverse.

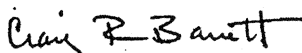
We want to ensure this reauthorization does not result in masking what NCLB has exposed. The fact is that too many students – many of whom are from economically disadvantaged backgrounds – are not getting a high-quality education and are moving through our schools without the basic skills necessary to be successful and productive citizens.

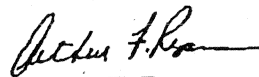
The reauthorization of NCLB provides an opportunity to take the next, and important, step of not just identifying schools in need of improvement, but ensuring they have the tools necessary to reach higher levels of achievement.

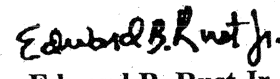
The attached comments reflect our views on provisions we feel need to be addressed to strengthen this historic and critically important law.

Again, BCSA thanks you for this opportunity to comment on this draft, and we eagerly look forward to working with the Committee as this reauthorization moves forward.

Sincerely,


Craig Barrett
 Chairman
 Intel


Arthur F. Ryan
 Chairman & CEO
 Prudential Financial, Inc.


Edward B. Rust Jr.
 Chairman & CEO
 State Farm

The Business Coalition for Student Achievement – representing business leaders from every sector of the economy – is committed to supporting policies that improve the performance of the K-12 education system in the United States. The Coalition is co-chaired by Craig R. Barrett, Chairman of Intel; Arthur F. Ryan, Chairman and CEO of Prudential Financial, Inc.; and Edward B. Rust Jr., Chairman and CEO of State Farm, and is coordinated by Business Roundtable and the U.S. Chamber of Commerce.

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Business Coalition for Student Achievement (BCSA)

Comments to:

The Staff Discussion Draft for the Reauthorization of Title I of the Elementary and Secondary Education Act of 1965

BCSA has identified the following provisions as areas of serious concern due to their potentially adverse impact on maintaining strong accountability for our nation's schools.

1. SYSTEM OF MULTIPLE INDICATORS (Sec. 1111(b)(2)(E))

Some education groups have expressed a strong desire to allow schools that have otherwise been unable to make Adequate Yearly Progress (AYP) to demonstrate other ways to "make up" for the lack of improvement in the proficiency rates of students in math and reading through the use of multiple indicators.

BCSA believes that while States should be encouraged to implement multiple indicators for holding schools accountable, such measures should be in addition to and not in lieu of the current requirements that 100 percent of students be expected to reach proficiency in both math and reading by 2014.

Subgroup Credit Against Proficiency

Under current law, States may use multiple indicators to set a higher bar for what schools should achieve in areas such as decreases in grade-to-grade retention. However, such additional measures may not reduce the number of schools that would otherwise be designated as not meeting AYP. Clearly, by allowing (as the staff legislative draft does) schools the ability to "shave off" up to 25% of their annual target (in the case of secondary schools) for meeting AYP, the impact would be a large-scale roll-back in the number of schools that would be required to take the steps necessary toward getting all students to proficiency. For example, a subgroup in a high school getting the full 25% credit in a State where the annual measurable objective is 75% for math and reading would instead have to ensure that just 56% of this subgroup be proficient in these subjects in order to meet AYP. Furthermore, by 2014, schools would be required to demonstrate that essentially only 75% (not 100%) of their students are proficient in math and reading.

Multiple Complexities and a Lack of Transparency

BCSA believes the current law provisions related to multiple measures should be retained. The proposed language, in addition to being significantly complex, presents a myriad of problems and questions related to the ability of schools to operationalize the additional measures in a fair and accurate way. The system would also create additional confusion for parents and others on whether students in a particular school are actually learning the basics of reading and math.

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Under the proposed language, schools could receive credit toward meeting their annual measurable objectives in math and reading by meeting or making progress on a specified list of additional measures. For example, up to a 5% credit would be given for increasing the percentage of students who move from below basic level to the basic level and the proficient level to the advanced level. While such a goal is in and of itself laudable, the mechanics of implementing the process to determine if a school would be able to get credit for meeting such a goal are substantial and very complex. For this measure alone, the discussion draft describes a system in which a state would have to determine the “average rate of percentage point growth of the top 20 percent of schools in the State that demonstrate the largest gains in performance,” (e.g. in moving students from below basic to the basic level and the proficient level to the advanced level). Alternatively, a state would determine if it would be better off to base the credit on the “difference between the actual performance” of each of the disaggregated groups on this measure as used by the State “prior to the year the State implements its system of multiple indicators and the universal goal over a period of ten years.” The time, money and effort required to implement just this one measure is immense.

Rigorous Courses

Another proposed measure also poses serious questions. Specifically, the ability to get up to a 10% credit for “increases in the percentages of students passing rigorous, objective, independent end of course exams” is also laudable. However, the requirement that “such courses are available in all schools in the State” begs the question if the same course needs be offered in all schools, or just rigorous courses need to be offered in all schools. If the latter, it assumes there can be a way to equate what it means to pass these different courses. For example, passing an Advanced Placement with a score of 3 or above is likely to be a greater challenge than passing other courses that may also be deemed rigorous by the State. It also assumes that the scores used on an AP test (1-5) can be equated to a raw score that might be used on a locally developed rigorous test. As a result, this indicator would either be ignored by states as too difficult to implement, or implemented in a way that can be easily manipulated at the school level in order to get the 10 percent credit provided for meeting the measure.

College Enrollment Rates

Increasing “college enrollment rates and percentages of secondary school graduates enrolling” in higher education is another measure that at first glance appears appropriate. However, the measure assumes a degree of data-gathering that despite being required as part of the new longitudinal data section of the bill within four years is subject to significant verification requirements. Several practical questions emerge from this measure. At what point are graduates counted as enrolling? By the summer after they graduate? The next year? What if they enroll but don’t attend? Does the school still get credit? Should the school get credit if the students that graduate have to take remediation courses as soon as they enter postsecondary education?

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Graduation Rates

The most troubling indicator deals with providing up to 15% credit for secondary schools meeting the State's graduation rate growth target. As explained below, States may use an interim rate to measure or estimate the number of students receiving a standard high school diploma in the exit year as compared to the number of students entering the school in the entry year. This rate, which may be used through 2012, provides significant room for error and manipulation.

Furthermore, the clearly unintended consequence of this measure would be to encourage schools to move more students through their school and to graduate those students – regardless of whether they are proficient in math and reading. Graduation is clearly of utmost importance, but not at the expense of giving a student a diploma he or she is unable to read.

RECOMMENDATION:

BCSA believes that while States should be encouraged to implement multiple indicators for holding schools accountable, such measures should be **in addition to and not in lieu of**, the current requirements that 100 percent of students be expected to reach proficiency in both math and reading by 2014.

2. **PERFORMANCE INDEX** (Sec. 1111(b)(2)(G))

Under Sec. 1111(b)(2)(G), States would be allowed to use a performance index to determine whether a school or local educational agency makes adequate yearly progress.

The full ramifications of this provision are not clear. BCSA is interested in learning how this index system would operate. In particular, would this index allow States to factor in other measures besides those related to reading and math? Would States be able to further backload the proficiency rates required of all students by 2013-2014? Most important, what is the potential impact on those students who are furthest behind when states are allowed to get additional credit for moving more students from advanced to proficiency?

RECOMMENDATION:

BCSA believes this provision should be removed unless there is a far more clear and justifiable reason that states should be given the ability to implement such a system.

3. **PILOT PROGRAM TO INCLUDE LOCALLY DEVELOPED MEASURES** (Sec. 1125)

The draft proposal would for the first time allow States to enable local districts to develop and utilize local assessments for determining AYP. While such assessments would be required to be aligned with State standards and meet other criteria with respect to comparability, these requirements are weak and provide little guarantee that the current

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system, which enables clear and accurate comparability among schools across a state, would not be effectively eliminated.

Under this proposal, 15 States would be immediately eligible to participate. (It should be noted that roughly 35% of the US population lives in just five States.) After three years, all States would be able to participate in this pilot. The ability of all states to reduce the number of schools identified as not meeting AYP gives BCSA serious concerns with this provision.

RECOMMENDATION:

This section raises significant concerns for BCSA. The overall concept of a locally based measure is at odds with the fundamental principles of NCLB accountability. This section should be removed from the discussion draft.

4. IDENTIFICATION OF SCHOOLS IN NEED OF IMPROVEMENT (Sec. 1116(d)(1))

Under current law, schools are not considered as meeting AYP and are subject to school improvement if any group of students in any subject fails to meet annual measurable objectives for two years. The proposal loosens this current accountability by requiring that the same group of students and in the same subject miss annual measurable objectives for two years in a row in order for the school to be designated for improvement. The impact of this change would be significant in terms of the overall number of schools identified for improvement.

This approach fails to recognize that the year after year occurrence of an entire subgroup missing its annual objectives – regardless of whether it is the same group – points to a serious issue with respect to curriculum and/or instruction that is impacting students across the entire school.

RECOMMENDATION:

Maintain current law.

5. DESIGNATION OF HIGH PRIORITY SCHOOLS (Sec. 1116(b)(4))

Under the draft proposal, local educational agencies must designate schools not meeting AYP after two years as either “priority” or “high priority” schools. BCSA believes the proposed criteria to be used by a local educational agency for the designation of a school as “high priority” is overly broad and would result in very few schools ever being designated as such.

Specifically, there are three criteria for how a school can be designated as high priority. For secondary schools, the criteria is based upon having a graduation rate of 60 percent or less. However, based upon how States will be able to determine graduation rates (at least for the next four to five years prior to a longitudinal data system being in place), there will likely be very few schools not deemed as meeting this target.

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The second criteria would require more than half of all students in the school not to be proficient in reading or mathematics. This however, undermines the concept of ensuring that all groups of students be held to high expectations. A school with one or even several subgroups nowhere near proficiency could avoid severe consequences.

The third criteria attempts to address the above concern by also looking at individual groups. However, it sets a higher bar by requiring that a school be identified as a high priority if half of the students in any single group are not proficient in both reading and mathematics. In essence, a school would face no consequences even if an entire subgroup had a zero proficiency rate in math, but did moderately well in reading so that half of the students were proficient.

Furthermore, the ability of States to develop their own alternative process to identify high priority schools would undoubtedly further water-down the criteria used to designate these schools.

Taken together, these provisions raise serious concerns with respect to how many, if any, schools would find their way to be designated as high priority. This is all the more troubling given the fact that under the current draft, students from these schools are the only ones who would be guaranteed access to public school choice and supplemental educational services.

RECOMMENDATION:

The concept of a "high priority" school may indeed have merit and is worth further discussion and consideration. However, the current criteria for placement into this status is too loose and would need to be strengthened. For example, setting a higher threshold for graduation rates and requiring this measure to be used only after the implementation of a longitudinal data system would be an improvement. In addition, merging the second and third criteria so that any group and in any subject in which there is a gap between the highest performing group and lowest performing group of 20 percent or more would be designated as high priority would also improve this concept.

6. SCHOOL IMPROVEMENT AND ASSISTANCE MEASURES (CONSEQUENCES FOR PRIORITY SCHOOLS) (Sec. 1116(d)(2)(A))

Under current law, after missing AYP for two consecutive years, all schools receiving Title I funds must provide students the option to transfer to another public school and pay for the transportation costs necessary to attend such school. After three years, the school must also provide all eligible students (those from low-income families) the opportunity to receive free tutoring (supplemental educational services.) All schools that continue to fall short of meeting AYP targets must also take corrective action and ultimately restructure.

Under the proposal, a vast number of schools that currently must offer school choice and supplemental educational services would instead be designated as "priority" schools and have the option to provide students public school choice and supplemental educational services. Alternatively, these schools would have the ability to take other measures to help

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turn around their school, but those options would not provide the type of empowerment to students and parents currently required under NCLB.

It is highly unlikely that any school district would subject itself to providing school choice or supplemental educational services, but would instead take the far more convenient and amorphous measures specified in the draft such as "improving curriculum," "creating contextual learning opportunities," and promoting "professional collaboration."

Over a half million students were enrolled in free tutoring during the last school year, a number that has been roughly doubling every year since passage of NCLB. Allowing a vast majority of schools currently required to provide these services an out would drastically reduce the number of students having the opportunity to receive these services.

RECOMMENDATION:

All schools that have missed AYP (applying current law requirements) for two years should offer students the opportunity to attend another public school as in current law and at the same time should offer all low-income students the opportunity to receive free tutoring.

7. **SCHOOL REDESIGN** (Sec. 1116(h))

The draft proposal requires local educational agencies to designate certain schools not meeting "school improvement and assistance completion criteria" as priority and high priority redesign schools. BCSA agrees that such designations are appropriate as a way to focus the most rigorous interventions to those schools demonstrating the greatest degree of failure at ensuring all students are proficient in at least math and reading.

However, BCSA is concerned with several of the specific provisions under the school redesign language that would likely result in little, if any, changes in these schools.

Specifically, schools designated as "high priority redesign" schools would be subject to one of four interventions as part of its redesign. On a positive note, this list of interventions drops a widely criticized provision from current law that enabled districts to demand very little in terms of restructuring. However, the list of interventions continues to include other loopholes that would have a similar impact as current law. Specifically, a school would have the option to replace "all or some" of the school's leadership and staff. This departs from even current law, which requires "replacing all or most of the school staff... who are relevant to the failure to make AYP." A much greater loophole is language that enables a school to "enter into a contract with a nonprofit entity with demonstrated expertise and effectiveness in whole school reform." At a minimum, this language should be clarified to require that these entities actually implement such reforms and that the reforms meet some level of minimum rigor related to restructuring.

Given that the number of schools in a district that may be designated as a "high priority redesign" is limited to just 10% of all schools (or 50 schools, whichever is lower), it is

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critical that these interventions are rigorous. In addition, after two years, these schools, regardless of any success in improving the proficiency of their students, are considered a "new school" for purposes of AYP. This too provides little incentive for taking the serious steps necessary to turn these schools around.

With respect to the 10% cap, paragraph (9) of subsection (h) states that after two years of not making AYP, a priority redesign school shall be presumed to be a high priority school. It is not clear if such schools fall under the 10% cap. Also, what happens if greater than 10% of schools meet this criteria? What criteria would a district use to determine which schools should be deemed to be in high priority redesign?

As with the high priority redesign schools, the interventions required of priority redesign schools also raise questions as to their relative rigor. Specifically, these schools would be allowed to meet the redesign requirements by instituting "significant revisions in the instruction and leaderships programs...[for] students who are not proficient." However, a similar provision is already included as part of the plan that schools must implement before ever being designated as a priority redesign school. A second requirement is that the LEA "review the performance of the school leadership and all staff serving the students...and may make appropriate staffing changes." Such actions are marginal and would likely have little, if any, impact on improving a school that by all measures is failing a great number of its students.

RECOMMENDATION:

BCSA believes this language should be clarified to address the aforementioned questions to ensure a strong intervention for these high priority redesign schools.

8. GRADUATION RATES (Sec. 1124)

BCSA is pleased the draft proposal raises the critical issue of improving graduation rates in our nation's schools. This is an issue of utmost importance to the business community and there is a need to have a far greater grasp of the crisis facing this nation in terms of accurately measuring graduation rates from state to state and certainly within states and districts.

We are particularly concerned that the draft would allow States to use an interim rate that must measure or estimate the number of students receiving a standard high school diploma in the exit year, as compared to the number of students entering the school in the entry year. This rate, which may be used through 2012, provides significant room for error.

Using this graduation rate, schools and districts would have to define a baseline and show marginal (2.5%) annual growth targets until a 90 percent graduation rate is reached. If a district meets this target, the State may give credit to a school of up to 15 percent of the school's AYP determination. The language also allows States to develop an alternative growth target that would require all groups to make progress toward a 90 percent graduation rate by 2019-2020.

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The clear consequence of these provisions would be for schools to provide relatively weak estimates for their current graduation rate (baseline) and over the course of the next five years show marginal increases. This would allow schools to receive a drastic reduction in their targets for getting all students to proficiency in math and reading.

RECOMMENDATION:

While we understand the need for an interim rate, we believe that any such definition must be strengthened as not to allow the manipulation of graduation data and that such interim rate not be used for any purpose related to AYP designations.

9. REQUIRED EXPENDITURES FOR SCHOOL IMPROVEMENT AND ASSISTANCE MEASURES (Sec. 1116(f))

The draft proposal includes several significant changes to the current law provisions related to required expenditures for schools in need of improvement. Specifically, under current law, any district with a school required to offer public school choice and supplemental educational services must set aside an amount equal to 20 percent of the district's annual allocation under Title I. The draft proposal modifies this set-aside to be an alternative amount equal to "at least 20 percent of each identified school's allocation." The net impact of this provision would be for many districts to set aside a significantly smaller amount of funding for these purposes than is currently required, providing far fewer opportunities for students to receive public school choice and free tutoring.

RECOMMENDATION:

Maintain current law with respect to the required set-aside for school improvement expenditures.

10. ASSESSMENTS FOR ENGLISH LANGUAGE LEARNERS (Sec. 1111(b)(3)(D)(xi)(VII))

The draft proposal makes several important modifications to the current requirements related to the standards and assessments for English language learners. In general, BCSA supports many of these provisions which are necessary to yield more accurate data on the proficiency of English language learners.

However, BCSA is concerned with language, including sec. 1111(b)(3)(D)(xi)(VII), that would allow academic assessments of reading or language arts to be given in a language other than English or another form until a student has attended school in the United States for five years, with the ability to grant an additional two years on a case-by-case basis. The impact of this provision would be to allow a 5th grader entering the United States for the first time never to be tested on an assessment that is written in English before graduating from high school. BCSA believes the current law provision that allows non-English assessments for the first three years with an additional two-year extension on a case-by-case basis to be sufficient.

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RECOMMENDATION:

BCSA supports provisions in the staff draft related to providing additional accommodations for English language learners. However, we believe it is important to maintain the current law provisions providing a three year exemption and a two year extension for tests given in a language other than English.

11. SCIENCE ASSESSMENTS

BCSA believes that in addition to being held accountable for bringing all students to proficiency in mathematics and reading/language arts, schools must also ensure that all students are proficient in science.

RECOMMENDATION:

While the draft includes science as one of the potential multiple indicators, BCSA believes that given the current standards and assessments already in place under NCLB for science, the results of these assessments (which are provided in grade spans, not annually) should be included as part of calculations for determining adequate yearly progress.

12. DATA SYSTEMS AND REQUIREMENTS (Sec. 1123)

The discussion draft requires that States develop longitudinal data systems within four years of enactment. Reliable data is needed to ensure successful implementation of growth models and various elements of school accountability systems. BCSA agrees that quality data systems are essential and supports the Committee addressing this need. However, the discussion draft needs some refinement in this section to ensure the successful implementation of longitudinal data systems.

RECOMMENDATION:

BCSA suggests a redrafting of Section 1123 to incorporate a more-detailed framework of how data can be collected and used in compliance with FERPA, perhaps drafted with implementation guidance from the Department of Education.

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