

**Testimony of Dr. Carol Johnson, Superintendent of the Memphis City Schools
On
Current and Prospective Flexibility Under the No Child Left Behind Act
Before
The Early Childhood, Elementary and Secondary Education Subcommittee
Of the
Education and Labor Committee
U.S. House of Representatives**

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Good morning Chairman Kildee, Congressman Castle, and members of the Subcommittee. I am Carol Johnson, Superintendent of the Memphis City Schools. Thank you for the opportunity to testify on flexibility issues under the *No Child Left Behind Act* (NCLB), legislation that we have worked hard to implement.

The Memphis City Schools (MCS) is a large urban school district comprised of 191 schools and 118,000 students. Approximately 77 percent of our students receive a free or reduced-price lunch. We serve a predominantly African-American student population, but have a growing enrollment of English language learners who now number over 4,800 students from a variety of countries. Some 14.4 percent of our students are enrolled in special education programs, of which about 12 percent are gifted. We are very proud to serve this diverse group of young people.

We are also proud of the work of our administrators, teachers, and community leaders. They are striving every day to improve the academic achievement of our students. This school year, the State of Tennessee declared our district to be in “Good Standing” under *No Child Left Behind* for the first time. In 2004, we had 62 schools that were deemed “High Priority” by the state, i.e., in need of improvement. Today, we have about half that number—36.

Our academic gains, in fact, were highlighted recently in the Council of the Great City Schools’ latest *Beating the Odds* report. The report not only recognized our progress but also pointed out that we are improving at a rate that far out paces statewide improvements. Nevertheless, we know that we still have considerable work to do.

I am pleased to be testifying today on the issue of flexibility under NCLB. Flexibility, of course, means different things to different people. To a school superintendent, flexibility can mean the ability to move human and financial resources around to meet specified needs. But it can also mean the freedom to give the wrong contract to an unqualified group. To a principal, flexibility can mean the ability to hire the team he or she wants in order to meet AYP targets. It can also mean the latitude to hire a workshop speaker he or she heard at a recent convention. To a teacher, flexibility can mean trying a new pedagogical technique. It can also mean closing the classroom door and doing whatever he or she feels like that day. To a state, flexibility can mean experimenting with alternative assessments for English language learners. It can also

mean excluding those students by setting high N sizes. Or it can mean defining one's own definition of academic proficiency.

What gives flexibility its meaning and power is accountability, and the ability to hold people responsible for attaining expected goals—often in exchange for that latitude.

I am a strong believer in flexibility and the accountability that should accompany it. The Council of the Great City Schools on whose Executive Committee I sit also believes in this general principle. As a group, we continue to support NCLB and have developed a series of recommendations for its reauthorization that expands maximum flexibility while retaining strong accountability. We have also proposed ways to fix the law's operational problems, and shift funds into activities with greater promise for raising student achievement and narrowing achievement gaps. We have retained the overall framework of the Act, but have suggested modifying its internal operating gears so that its initial promise is better realized.

1. Proposed Intervention and Improvement Framework

I would like to take a few minutes to describe how the nation's urban schools would modify the "school intervention and improvement" provisions of the law. The chart attached to my testimony illustrates our proposal and how it compares with current law.

We propose that a school not making Adequate Yearly Progress (AYP) would begin school improvement planning immediately, rather than waiting another year. The school plan would have to focus on low-performing students, particularly those in low-performing subgroups. A school with large numbers of students who were not proficient would have a more extensive plan than a school with a lesser numbers or percentages of low-performing students. During this one-year planning phase, schools would have the flexibility to begin staff development immediately and the latitude of using Title I funds to acquire necessary instructional materials or technical assistance.

We would then consolidate the current School Improvement I, School Improvement 2, and Corrective Action phases of the current law into a single, three-year school intervention and improvement period. This three-year period would allow a school to use its funds for well-researched instructional strategies that have been shown to raise student achievement—such as differentiated instruction, coaching, research-based reading programs, tiered interventions, benchmark testing, professional development, and the like. The school would be required to use up to 30 percent of its Title I funding for professional development, choice, and supplemental educational services, but would have the flexibility to fund these activities at a variety of levels as long as parents retain the option of transferring to another school or pick an external, private SES provider. We would follow this initial improvement period with serious but more differentiated consequences than the law currently provides.

This overall approach would have a number of advantages over current law. First, it would allow schools the time to pursue promising instructional programming under the direction of the school districts without changing activities each year in pursuit of the cascading sanctions the law now requires. Second, it would allow enough time for the instructional strategies to work before sanctions were levied. Third, it would give schools additional flexibility in the use of funds. Fourth, it would mute the effects of late test data from the states because the school's status would be determined for a multi-year period. Fifth, it would retain parental choice. Finally, it would keep the most serious sanctions but place them at the end of a process that was devoted to raising achievement and narrowing gaps.

The Council's emphasis on good instructional strategies during this initial intervention and improvement period is consistent with what we are doing in Memphis to raise student achievement, and what the organization has learned from its highly successful Strategic Support Teams. In Memphis, we use a series of strategies to assist and support our "High Priority" schools, including—

Districtwide Strategies for All Grade Levels

- Administrative leadership training
- School monitoring and "walkthroughs"
- Cross-functional instructional teams
- DATA (Directing Achievement through Accountability)
- Formative assessments
- Professional learning communities to sustain improvement and change
- Behavioral supports (Blue Ribbon Initiative)

Elementary School Strategies

- Literacy academy at selected schools
- Voyager interventions— Grades 2-5 districtwide

Middle School Strategies

- Read 180
- Striving Readers (eight schools)
- Increased honors-level courses
- Making Middle Grades Work (district implementation)

High Schools

- High Schools That Work
- Small Learning Communities (9th grade academies)

I also have made a number of organizational changes to increase support for students, teachers, and schools by establishing an Office of Academic Affairs, an Office of Student Engagement, an Office of Research, Evaluation and Assessment, and establishing a new associate superintendent's position to lead professional development.

2. Differentiated Consequences and Restructuring

The Council's proposals follow this initial period of intervention and improvement with a series of differentiated consequences, a concept that has received much attention as of late. We would distinguish between two types of schools: schools that persistently and pervasively fail to make progress with a majority of its students, and schools that fail to make progress with students who comprise fewer than half their students. Schools in the first category would be required, after a planning year, to comprehensively restructure or close. Schools in the second category would be required, after a planning year, to pursue a restructuring strategy that was more explicitly focused on the students or subgroups that were not making progress and staff members delivering services to them.

The first category of schools under our plan would warrant comprehensive restructuring or closure if they could not make any academic progress. The second category of schools would not necessarily warrant closure if the majority of its students or subgroups were making AYP targets or showing progress. These schools, instead, would have to focus their efforts and strategies—under the supervision of the district—on the students not making headway. We would cap the number of these schools in either category at a manageable 10 percent of all schools in a large district.

In the past three years, I have restructured eight schools in Memphis, and will begin restructuring four additional schools in 2007-2008. Of the eight schools that have been restructured, six have now made Adequate Yearly Progress after having failed to make AYP for six consecutive years.

Before deciding to restructure a school, our Memphis staff have to document the specific intervention and support strategies that have been implemented. If these measures prove unsuccessful, the district then contracts with an external group to conduct a management and instructional review of the school. The results of this review are used to determine whether restructuring is in the best interest of students. If restructuring is called for, then we engage school staff, parents, and the school community to support the restructuring and reform efforts.

The Memphis City Schools restructuring model is known as "Fresh Start." Our program begins by replacing the principal of the identified school. The new principal is then given the authority to appoint a new administrative support team that will work together to interview and hire an entirely new faculty and school support staff. Teachers in "Fresh Start" schools are paid for two additional weeks of professional development—one before the school year starts and one later. Teachers in "Fresh Start" schools are

eligible for financial bonuses based on the school's progress toward student achievement goals.

This overall restructuring approach is not easy or free of controversy, but it can be more effective. The Council's proposal also makes sense because it matches the sanction more closely to the severity of the problem without letting schools with small numbers of subgroups off the hook. Finally, this proposed approach more fairly balances an emphasis on instructional improvement and budgetary and programmatic flexibility with the need for strong accountability at the end of the day. That balance is out of kilter under current law because of its overemphasis on punishment and under-emphasis on what it takes to meet the Act's goals—good instruction.

3. Other Areas of Flexibility, Authority, and Reduced Restrictions

a) Growth Models. Virtually every commentator on NCLB suggests that the law include a growth model that would consider academic progress as part of the Act's accountability system. We agree with adding this feature to the law. Because not every state will want to use this flexibility, however, the Council recommends that school districts with the data capability be allowed to use an approved growth model from another state as part of that district's accountability system under NCLB. For example, Denver or Omaha could adopt the Tennessee or North Carolina model to assess progress and determine AYP.

We in Memphis have benefited from participation in the Tennessee Growth Model Pilot Program. It has given us a more accurate picture of the impact of the school's educational program on individual student academic growth. And it has given us better data to inform instruction. Still, Congress should know that growth models are not the panacea for long lists of "failing" schools if the models are based on a "universal proficiency trajectory" tagged to 2013-14. Less than a dozen schools made AYP using the Tennessee Growth Model. Even fewer did using the North Carolina Growth Model because both models are simply variations on the current status model and do not provide much credit for actual growth across the range of student achievement. The Council has made a number of recommendations for the "safe harbor" provisions that would give more credit for growth even if the school and students remained below the target proficiency levels. We think this would help improve flexibility.

b) Improved Data Systems. An essential component of any growth model is the state and local data system necessary to implement and support it. The Council suggests that local school districts have the flexibility to use up to 1 percent of their federal education funds for improving local data systems.

c) District Provision of SES or Extended Learning Programs. The Council has recommended retaining NCLB's SES program but proposes making it part of the schools' intervention and improvement program. With that change would come the flexibility to use dollars on efforts that are more likely to boost the overall academic performance of children. Data collected by the Council also indicate that the numbers of

participating students increase when the school district itself is a provider. The Council is urging that school districts be allowed explicitly the flexibility to provide those services.

d) Recruitment, Support, and Deployment of Staff in High Poverty Schools. The Council acknowledges that there is a serious national problem with the disproportionate placement of inexperienced teachers in high poverty schools. We would urge that school districts have the flexibility to use their ESEA funds for teacher recruitment, induction, mentoring, and other strategies to recruit, deploy, and support experienced and effective teachers in high poverty schools rather than mandating more requirements that schools cannot comply with.

e) Restrictions on ESEA Transferability. The Council proposed the transferability of ESEA funds in 2001 as part of the original NCLB authorization. We made this recommendation to allow school districts the flexibility to concentrate funding on a particular problem area while protecting the funding for the child-centered programs under Title I and Title III. Congress reduced this flexibility, however, when it limited the percentage of funds that could be transferred and further limited the flexibility for districts in improvement status under section 1116. Some school districts previously using funds for school improvement activities are currently being prohibited from continuing these initiatives. Moreover, regulatory restrictions from the Department of Education have discouraged districts from transferring funds into Title I. The reauthorization should remove the percentage restrictions and regulatory constraints and encourage the use of the transferability provisions for school improvement purposes.

I—like most of my urban colleagues--have supported *No Child Left Behind* from the outset, although I see all the same problems with the law that its detractors see. NCLB's focus on disadvantaged and minority student achievement is precisely the role that the federal government envisioned when it passed the original Elementary and Secondary Education Act in 1965. Unfortunately, it has taken until the beginning of the 21st century and the passage of NCLB for federal policy to get serious about the unconscionable achievement gaps that persist in our country. I hope that my comments today and the pragmatic recommendations from the Council of the Great City Schools will assist the Committee in revising the law in a way that will recapture the nationwide, bipartisan support that NCLB enjoyed at its enactment. Thank you.

Accountability Timeline for Schools that Do Not Make AYP Each Year

