



**CONSORTIUM FOR CITIZENS  
WITH DISABILITIES**

Testimony of Katy Beh Neas  
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Committee on Education and Labor  
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My name is Katy Beh Neas and I speak to you today as one of the four co-chairs of the Consortium for Citizens with Disabilities Education Task Force. I am also Director of Congressional Affairs for Easter Seals.

The Consortium for Citizens with Disabilities is a coalition of nearly 100 national consumer, advocacy, provider and professional organizations headquartered in Washington, D.C. Since 1973, CCD has advocated on behalf of people of all ages with physical and mental disabilities and their families. CCD has worked to achieve federal legislation and regulations that assure that the 54 million children and adults with disabilities are fully integrated into the mainstream of society. Approximately 50 national organizations participate in the Education Task Force. Thank you for this opportunity to speak to you today regarding the Miller-McKeon Discussion Draft of the Reauthorization of the Elementary and Secondary Education Act.

Let me begin by stating that the Elementary and Secondary Education Act, as amended in 2002, has been good for students with disabilities. These amendments enhanced improvements made to the Individuals with Disabilities Education Act (IDEA) over the past decade. As you know, IDEA has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public education and in improving educational results for children with disabilities.

When Congress reauthorized IDEA in 1997, several important provisions were added to this landmark civil rights law. First, students with disabilities were to have access to the general curriculum. When IDEA was first enacted in 1975, there was a thought that kids with disabilities have the right to physically attend public school. In 1997, that right was clarified to mean that not only should students with disabilities have the ability to physically enter a school, but that these students should be taught the same material as their non-disabled peers.

Second, Congress required students with disabilities to be included in state and district-wide assessments, with appropriate accommodations where necessary. For students who cannot take the regular assessment, their progress was to be measured based on an alternate assessment. The purpose of these two provisions was to raise expectations about the academic achievement of students with disabilities. Our national policy was that students with disabilities should do more than simply attend school. They should be expected make academic progress that is similar to their non-disabled peers.

With the enactment of the 2002 ESEA amendments, federal education policy continued on this path of high expectations. The amendments required all students with disabilities to participate in academic assessments and to be taught by highly qualified teachers. States were required to measure and report the progress of all children, with direct attention placed on the progress of students with disabilities as a subgroup. We now have meaningful data on the academic progress of students with disabilities.

Nationally, students with disabilities represent about 13 percent of the total student population. I have prepared for each committee member a chart that indicates the breakdown by disability category of students in their states. Although their disabilities do range across a wide spectrum, we know that 85 percent of students identified do not have a cognitive disability. Moreover, nearly 50 percent of students with disabilities spend more than 80 percent of each school day in the regular classroom with their peers. We also have data that indicates that test scores for students with disabilities are distributed across the performance range similar to general education students.

Thanks to ESEA and IDEA, students with disabilities are setting high goals and reaching them.

Today, I have been charged with commenting on the positive elements of the draft bill and providing suggestions on how the draft can be improved.

Let me start with the positive elements. First, disability advocates are very pleased that bill does not establish a student's Individualized Education Program (IEP) as the accountability measure for students with disabilities. The purpose of the IEP, as currently configured in IDEA, is to spell out the special education and related services that a student needs to benefit from education, including the frequency, duration and scope of these services. IEPs are not designed or used as tools for holding schools accountable for whether students with disabilities are taught to the academic content and achievement standards established by the state for all students. Rather, the IEP sets goals and objectives that the school and parents hope the child will achieve as a result of receiving special education and related services. Unfortunately, not every IEP goal is measured or measurable.

Additionally, we are pleased that the draft bill contains a number of policies that will directly benefit students with disabilities, including:

- Maintenance of the requirement for disaggregation of performance and participation data by student groups and adequate yearly progress (AYP) to be based primarily on academic assessments;
- Addition of graduation rate as a factor in adequate yearly progress;
- Addition of student growth as an allowable factor to be incorporated into AYP (with specific criteria);
- Requirement that the number of students in groups for disaggregation not exceed 30 (with allowable exception not to exceed 40);
- Requirement for each state to have an accommodations policy;
- Recognition of school-wide positive behavioral supports that can help create school environments that are conducive to learning; and
- Requirement for state education agencies to provide an assurance of the development of a comprehensive plan to address implementation of universal design for learning (UDL).

There are a few areas in which the disability coalition would like to see the bill improved. We would like to see dropped from the bill the provisions that would allow a local education agency to exclude up to 40 percent of students with disabilities, some 2.4 million students, from the grade-level academic standards. We appreciate that states have created appropriate policies to measure the progress of students with the most significant cognitive disabilities, along with assessments for students who are expected to achieve grade level academic standards. We also agree there are students with disabilities who are not achieving grade-level proficiency, and that the means by which their progress can be measured are limited. However, there simply is no empirical evidence to demonstrate that exempting a significant number of students from grade-level academic achievement standards is the appropriate response.

Many students with disabilities can achieve grade-level work when given the right access to high quality instruction, with qualified teachers and appropriate accommodations for both instruction and assessment. Nationally recognized experts have questioned how a policy – that will require alternate

assessments and modified curriculum for as more than 2 million students – can be justified when the regulation for the students with the most significant cognitive disabilities effectively covers the number of students whose IEPs would deem them eligible for an alternate assessment. The bill should require states to develop modified assessments that can appropriately measure the knowledge and progress of these students.

While the bill allows for the Secretary to reexamine and re-promulgate regulations as appropriate, we find it disconcerting that Congress would place into law a provision that clearly continues to be experimental. Committing this provision to statute does substantially limit the Secretary’s ability to use regulatory powers when findings indicate significant changes.

In addition, we are concerned about several provisions related to alternate academic achievement standards. Particularly disturbing is the provision stating that students assessed on this standard are only entitled to be included in the general curriculum “to the extent possible” and the provision that merely requires the alternate academic achievement standards to “promote” rather than “provide” access to the general curriculum. These provisions undermine the alignment of ESEA and IDEA, which ensure that all students with disabilities are involved in and make progress in the general education curriculum.

Equally disturbing is the omission of language that would align assessments on alternate academic achievement standards to the state content standards “for the grade in which the students are enrolled.” This omission is significant since the language does appear in the provisions for assessments on modified academic achievement standards. The Department of Education guidance indicates that the alternate achievements standards are to be aligned to the grade in which the child is enrolled.

Lastly, we would like to see Title I funds be available for early intervening services.

I’d like to share with you thoughts that one mom shared with a member of our task force.

*Rachel is about to start her junior year of high school. She has been on an IEP for six years for a specific learning disability in reading: dyslexia. During her sophomore year, Rachel decided that she was going to take Advanced Placement American History. This is considered a college level course and Rachel reads significantly below grade level. She is cognitively able to handle the material, but the reading is her biggest challenge. Upon the request of her parents, the district supplied her text book on CD so she could listen to the text. In addition, the school tutor read course materials to her as needed throughout the school year.....Interestingly, Rachel scored at the advanced level on the state graduation test in the area of social studies during the Spring of her sophomore year. No doubt the quality of the teaching in her A.P. U.S. History course influenced such high achievement. Rachel’s cognitive ability is well above average, yet her significant disability in reading prevents her from demonstrating even higher achievement in testing situations.*

We know that student success is predicated on a skilled teacher along with appropriate special education and related services. The ESEA must not construct barriers to grade level academic achievement standards for students like Rachel.

In closing, I’d like to reaffirm my belief that students with disabilities have reaped significant benefits from the amendments to the Elementary and Secondary Education Act. Students whose progress is measured get taught. Today, every principal in every school has the ability to know the progress of

each child in his or her school. Schools are making decisions on how to best get more children to achieve at the proficient level, including students with disabilities. Students with disabilities are being educated in a challenging environment where the expectations of their academic progress are not automatically set at the lowest bar. I am hopeful that when the data is reported in a decade from now, that we will see the graduation rate of students with disabilities go through the roof, where more students with disabilities complete college and have enviable lives.

Thank you for the opportunity to speak with you today. I am happy to answer any questions you may have.