

**Congressional Testimony of**  
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**Before the House Education and Labor Committee**  
**September 10, 2007**

Chairman Miller, Ranking Member McKeon and members of the committee.

Thank you for the privilege and opportunity to appear before the House Education and Labor Committee today to discuss the Committee's discussion draft relating to Title 1 of the Elementary and Secondary Education Act (ESEA). Mr. Chairman and Ranking Member McKeon, I first would like to commend you on the countless hours that you and your staffs have worked to produce the discussion draft. In my humble view, there are few pieces of legislation that this Committee will consider during this Congress that will be as important and have as long-lasting an impact on the future generations of our country than the reauthorization of the ESEA, or No Child Left Behind (NCLB) as it is widely referred to coast-to-coast.

Chairman Miller, it is particularly an honor to appear before you because I live in California and am a constituent of yours.

Today, Mr. Chairman, I am here representing the National Farm Workers Service Center which is one of the many high-quality, state-approved providers of Supplemental Education Services' tutorial services in California and across the country. We are also a member of the Education Industry Association (EIA), the industry trade group that represents many of the 3,000 approved SES providers. I am also co-chair of the Coalition for Access to Educational Resources (CAER) along with former Governor of Nevada Bob Miller. CAER is a national grassroots coalition committed to educating parents and policy makers about the options available under NCLB.

I would like to spend my brief time addressing the committee on the SES section of the discussion draft. First, let me give you the good news before I review the not so good news in the discussion draft. We know that SES is working, both in California and nationwide. The recent study conducted by the Rand Corporation found that participation in SES by students in nine school districts nationwide – including Los Angeles and San Diego – had a statistically significant, positive effect on students' achievement in reading

and math. We also know that SES is highly valued by parents and students alike. SES studies consistently demonstrate that some 80 percent of parents believe that SES has had a positive impact on their children. I can certainly assure you that many of the parents and students that I work with on a daily basis in California, are pleased that SES remains a critical element of school reform interventions that are recommended in the discussion draft. We are also encouraged that the Committee has taken steps that we believe will improve certain aspects of SES, particularly those related to better access to school facilities and to the provision of services to students with special needs and needs and others with limited proficiency in English.

At the same time, we are very concerned about a few significant items that we discovered while reviewing the discussion draft, and we hope that the Committee will change these provisions prior to formally introducing a final bill. As the EIA has described in the comments that the association submitted to the Committee, which I will outline shortly, we believe that several provisions included in the draft would: (1) significantly reduce the overall number of students in low-performing schools who can take advantage of and benefit from these services; (2) substantially cut the amount of total funds currently available for free tutoring; (3) not go far enough to ensure that all districts are taking the necessary steps to ensure SES is offered to all eligible students and (4) limit school district options in seeking both nonprofit and for-profit partners for school services beyond SES.

I would like to briefly touch on the issues of greatest concern to us.

### **Reduction of Universe of Students Eligible to Receive Free Tutoring**

The discussion draft includes several provisions, which taken together, would severely reduce the number of students likely to be eligible for free tutoring. Just a few days ago, Secretary Spellings announced her Department's finding that just half of the current number of SES students will get free tutoring should the proposed language become law. In particular, the draft provides States the option to develop a system of multiple indicators to help schools meet their annual measurable objectives by giving credit to those schools that might otherwise not be able to meet their annual goals of students proficient in math and reading.

The discussion draft would allow schools to use a new performance index measure to determine adequate yearly progress (AYP) and also create a pilot program (that could be extended to all 50 States within three years) encouraging a system of local assessments that would be used to determine AYP.

By reducing the number of schools identified as in need of improvement, these provisions would mean that a significant number of students would lose their access to free tutoring services – in spite of the fact that these same students would continue to be in the same schools that have not been able to demonstrate academic gains.

While our comments do not provide specific recommendations on the aforementioned concerns, we raise these issues in hope that we can have a more in depth dialogue with you and your staff regarding the likely impact of these provisions on the nearly 3 million students currently eligible for free tutoring under NCLB.

In addition to provisions which could fundamentally alter the current assessment and accountability systems at the State and local levels, we are also concerned with proposed language that would have the effect of significantly scaling back the instances in which SES would be offered to eligible students.

Specifically, under the draft proposal, schools would no longer be deemed as missing AYP unless the same group failed to meet the same proficiency target in the same subject for two consecutive years. This is a considerable departure from current law, which does not enable schools to avoid missing AYP simply because different groups within the school missed proficiency targets over the course of several years.

The draft proposal would also modify which schools in improvement would be required to offer SES. Under current law, all schools missing AYP for three consecutive years must provide SES. The discussion draft would allow districts to develop a new, less stringent category of “priority” schools which would have the option of providing SES. In all likelihood, once again, this change will greatly reduce the number of students who – under current law – have opportunities to receive free tutoring services.

## **Reduction in the Amount of Funds Available for Free Tutoring**

While the discussion draft maintains a set-aside of funds to be used to provide SES, the language actually makes considerable changes to current law that would result in significantly less funding being available to provide SES to eligible students. Specifically, current law requires any district with one or more schools that are required to offer SES to set aside district level funds in “an amount equal to 20 percent of its allocation under subpart 2 [Title I].” The discussion draft would drastically reduce this amount in virtually all school districts by requiring that only 20 percent of “*each identified school’s allocation*” be set aside for SES and public school choice options. To ensure that a proportional amount of funds are spent under the discussion draft as they are in current law, every Title I school in the district would have to be required to offer SES and public school choice – which is not a realistic expectation under current law or the provisions of the discussion draft.

## **Ensuring Funds Remain Available for SES**

The draft proposal begins to take steps to address the issue of local districts not fully spending their set-aside and ensuring that all eligible students are notified of these services. However, we believe the draft does not go far enough with respect to this issue and requires further changes that we have shared with the committee.

Let me briefly touch on a few more issues with which we have concerns before closing my comments.

## **Extended Learning Time Programs**

According to the National Assessment of Title I (February 2006), the percentage of identified Title I schools experiencing various types of interventions since identification for improvement (2004-2005) shows that 24 percent of schools in year 1 of improvement; 29 percent of schools in year 2 of improvement; 42 percent of schools in corrective action; and 31 percent of schools in restructuring are already using funds for extended learning time programs. In light of current, significant school expenditures and the new Expanded Learning Time Demonstration Program authorized under Part J, we believe that extended learning time opportunities are

adequately addressed in the discussion draft and no diversion of set aside funds is warranted.

That said, if language remains in the bill which will allow money set aside for SES and public school choice options to be used for extended learning time programs, it should be clarified to ensure that the set aside amounts to a maximum of 10 percent of the 20 percent described and equates to 2 percent of the LEA allocation.

### **Facility Access**

We are pleased the discussion draft addresses obstacles providers face in accessing school facilities to provide tutoring services. However, we would recommend that the language be clarified to ensure that SES providers have the same access to facilities on the same terms that are available to other groups that seek access to the school building.

### **Regulations**

We believe the provisions regarding regulations are not necessary as the Secretary is already able to regulate on these issues which are already included as part of the State process for identifying providers.

### **Role of For-Profit Entities Supporting Schools Beyond SES**

While the National Farm Workers Service Center is a non-profit entity, we believe that “No Child Left Behind” in general, and SES in particular, should offer SES-eligible families as many options for their children as possible. In addition, school districts themselves must be free to procure services from a broad array of vendors as they do under current law.

To that end, we believe that for-profit organizations, along with non-profit entities such as the Farm Workers, should be able to participate in any appropriate NCLB, including SES, drop out prevention and school redesign activities. Language in the discussion draft excludes profit-making organizations, and should be changed to be as inclusive as possible.

## **Conclusion**

I know that the Committee and the Congress have a lot of unfinished work regarding NCLB, but I also know that the issues that I outlined regarding SES are critically important to our children. Again, on behalf of the National Farm Workers Service Center, I appreciate the Committee's efforts to improve and strengthen SES for our children, and thank you for the opportunity to make our views known to the Committee today.