

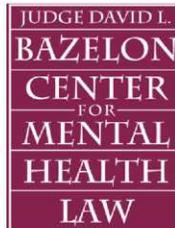
# ACCOUNTABILITY PRINCIPLES FOR ESEA REAUTHORIZATION

A Joint Statement of Civil Rights Leaders

April 2011

Asian American Justice Center,  
a member of the Asian American Center for Advancing Justice  
American Association of University Women (AAUW)  
American Civil Liberties Union  
Bazon Center for Mental Health Law  
Children's Defense Fund  
Disability Rights Defense and Education Fund  
Mexican American Legal Defense and Educational Fund

Lawyers' Committee for Civil Rights Under Law  
League of United Latin American Citizens  
NAACP  
NAACP Legal Defense and Educational Fund, Inc.  
NCLR (National Council of La Raza)  
National Women's Law Center  
Poverty and Race Research Action Council  
Southeast Asia Resource Action Center



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April 5, 2011

The Honorable Tom Harkin  
Chairman  
Committee on Health, Education,  
Labor and Pensions  
United States Senate  
731 Hart Senate Office Bldg.  
Washington, DC 20510

The Honorable Michael Enzi  
Ranking Member  
Committee on Health, Education,  
Labor and Pensions  
United States Senate  
379A Russell Senate Office Bldg.  
Washington, DC 20510

The Honorable Jeff Bingaman  
Committee on Health, Education,  
Labor and Pensions  
United States Senate  
703 Hart Senate Office Bldg.  
Washington, DC 20510

The Honorable Lamar Alexander  
Committee on Health, Education,  
Labor and Pensions  
United States Senate  
455 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Harkin, Ranking Member Enzi, Senator Bingaman and Senator Alexander:

The U.S. Supreme Court's decision in *Brown v. Board of Education* recognized that the access to education is fundamental to ensuring equal opportunity for all Americans. But *Brown* was momentous not simply because it affirmed the right of black and brown children to be treated equally in the classroom, but also because it reinforced a core principle: that equity is central to our democratic society. While *Brown* energized the civil rights movement, we know that making its promise a reality has proved challenging, to say the least. The enactment of the Elementary and Secondary Education Act (ESEA) was one way of implementing the civil rights principles fought for in *Brown*.

At its core, the ESEA is a civil rights law. Passed amidst the War on Poverty, ESEA brought national attention to profound educational inadequacies and served to spur compliance with school desegregation orders. Since it was reauthorized as the No Child Left Behind Act (NCLB) ten years ago, the law has also brought to light rampant educational disparities for students of color, students living in poverty, English language learners (ELLs), and students with disabilities. NCLB fell short of full transparency, however, by not taking into account a variety of factors, including the gender of students within each of those subgroups or the specific ancestry of students within major racial or ethnic groups. Similarly, NCLB did not provide a mechanism to address the continued racial and ethnic isolation of students and the dramatic increase of, and disparities in, counter-productive school discipline practices.

Reauthorization of ESEA requires an approach to accountability that allows for targeted interventions that are tailored to properly address the spectrum of challenges that schools face in improving achievement and graduation rates, closing gaps, and reducing barriers to learning.

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However, NCLB's narrow approach to accountability, with a singular emphasis on test scores, may have unintentionally provided incentives to push out low-achieving students. A recalibration and reauthorization of ESEA is critical in order to end the "dropout crisis" and ensure that our nation does not fall behind in an increasingly competitive global economy.

As you work to reauthorize ESEA, we know you have heard a clear call, from our community and others, to revise the law's accountability structure. We urge you to do so in a manner that permits tailored improvement to the unique needs of individual schools, while preserving the necessary federal accountability that the civil rights community has fought long and hard to secure. Furthermore, this reauthorization should take steps to reduce and eliminate inequities. Thus, although competitive grant structures to inspire state-level reform are useful in certain contexts, we strongly believe that federal accountability should not be contingent upon such programs. Rather, a meaningful federal accountability framework should directly protect historically disadvantaged subgroups of children.

We recognize that some differences exist in the methods recommended to achieve the goal of a quality reauthorization bill that will help all children. As civil rights organizations, our primary responsibility is to seek to close and ultimately eliminate the opportunity and achievement gaps experienced by communities of color, low-income students, ELLs, and students with disabilities, notwithstanding the financial implications. This work should start by lifting the achievement and graduation rates of low-performing subgroups of students while also removing barriers to learning that threaten their potential.

The following proposals acknowledge the need for flexibility in pursuing this goal. Our experience with NCLB has made clear that *targeted, tailored intervention options* are needed to improve schools and districts. Our recommendations pair flexibility on these interventions with meaningful federal and state oversight. This combination will support the development and effective use of innovative strategies that lead to achievement for all students.

The parameters for state educational plans outlined in detail in this document include categories that are neither covered under current law nor, to our knowledge, addressed by current Administrative or Congressional proposals. Yet we share the widely-held goal of college- and career-readiness. And though we believe tests convey important diagnostic information and should be part of the federal accountability system, we join the President in his recent critique of high-stakes testing and of placing too great an emphasis on the outcomes of standardized tests, as the overemphasis on test results can erect further barriers to educational opportunity.

To this end, we focus not only upon eliminating "achievement gaps" based upon test scores, but also upon eliminating barriers to learning as a means to academic success. Our proposal reiterates the importance of teacher preparedness, professional development and equitable distribution of resources in the classroom. And we highlight the importance of greater data collection and transparency as a means to identify problems and target tailored interventions. Lastly, we encourage state flexibility as a means for improvement, but not at the expense of ignoring the need for federal intervention, without which our nation will fail another generation of children.

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Please note that the attached recommendations are limited to the issue of accountability under Title I, Part A of the ESEA and do not include other provisions that are high priorities for our organizations, including Title II (teacher quality), Title III (Language Instruction), Title IV (Safe & Drug-Free Schools), and Title V (school choice programs). We wish to work with your office and others soon to flesh out the priorities identified in this framework document and, of course, those issues that arise outside the four corners of this submission.

If you need any additional information or have any questions, you can contact Damon T. Hewitt at the NAACP Legal Defense and Educational Fund, Inc. ([dhewitt@naacpldf.org](mailto:dhewitt@naacpldf.org)), Deborah J. Vagins at the ACLU Washington Legislative Office ([dvagins@dcaclu.org](mailto:dvagins@dcaclu.org)), or Tanya Clay House at the Lawyers' Committee for Civil Rights Under Law ([tclayhouse@lawyerscommittee.org](mailto:tclayhouse@lawyerscommittee.org)).

Sincerely,

Asian American Justice Center, a member of the Asian American Center for Advancing Justice  
American Association of University Women (AAUW)  
American Civil Liberties Union  
Bazelon Center for Mental Health Law  
Children's Defense Fund  
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NCLR (National Council of La Raza)  
National Women's Law Center  
Poverty and Race Research Action Council  
Southeast Asia Resource Action Center

cc: Members of the Senate Committee on Health, Education, Labor and Pensions

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## ACCOUNTABILITY PRINCIPLES FOR ESEA REAUTHORIZATION FROM THE SIGNED CIVIL RIGHTS ORGANIZATIONS

### A. STATE ACCOUNTABILITY SYSTEMS AND ELIGIBILITY REQUIREMENTS

As a prerequisite for federal funding under Title I of the ESEA, states should be required to demonstrate, through peer review and secretarial approval, that their accountability systems include all of the following elements:

#### 1. High Academic Standards

Improving educational achievement and attainment for all students is impossible without setting high academic standards. Too many of our nation's students graduate from high school without the preparation necessary to succeed in college or in their careers. To address this:

- a. States should adopt academic content standards that describe, by grade and in each subject, what students should know in order to graduate from high school prepared for postsecondary education or entry into a career.
- b. State plans should ensure that the standards will be the same for all students in all schools in the state.
- c. Mastery of standards by 12<sup>th</sup> grade should mean that a student is fully prepared to enroll in the state's four-year public higher education system without the need for remediation.
- d. States should create and implement a state-wide Early Warning System to identify students who are not on track or are most at risk.

#### 2. Equitable and Adequate Resources

Meeting high standards is impossible without providing the resources necessary to do so. Yet, too often, the amount of resources a student or school receives is more closely related to one's zip code than one's need. Just as alarming, the highest need schools are often staffed heavily with the least prepared and least effective teachers. Furthermore, a weakened comparability provision in Title I's fiscal requirements allows districts to fund Title I and non-Title I schools inequitably, which further exacerbates issues that lead to achievement gaps and diminished access to educational opportunity. To ensure that all schools and students can reach high standards, ESEA state accountability plans should address the following:

- a. *Equal access to curriculum aligned with college- and career-ready standards*  
States should provide evidence or realistic plans to ensure that all students are provided equal access to curriculum, coursework materials (including technology) and other supports aligned with the standards (*e.g.*, college-preparatory courses in middle and high

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schools; college-credit-eligible classes like AP, IB, dual enrollment programs, and high quality career and technical education programs). Provision of college-preparatory curricular options should be part of a well-rounded education that includes necessary areas of study and development such as art, physical education, and music instruction.

- i. With respect to ELLs, states should ensure meaningful access to content in core subjects, consistent with obligations under Title VI of the Civil Rights Act of 1964, the Equal Educational Opportunities Act, and *Lau v. Nichols*, 414 U.S. 563 (1974).
  - ii. With respect to students with disabilities, states should ensure effective instruction, placements in the least restrictive environment, and accommodations, including assistive technology, to enable students to access the content in core subjects.
- b. *Equitable Distribution of Teachers and Principals*
- States should provide evidence or realistic plans to ensure, on both an inter- and intra-district basis, that students of color, low-income students, ELLs, and students with disabilities are not taught at greater rates than other students by inexperienced, unqualified, out-of-field, or less effective teachers. States should also develop and implement plans to ensure equitable assignment of highly trained and effective principals.
- i. State plans should define “qualified” teachers to include only those who are fully prepared to effectively teach a full-time class load as the teacher of record and meet full state certification standards (including those standards required to teach specific student subgroups in the field she or he teaches, such as students with disabilities and ELLs).
  - ii. Furthermore, to be deemed “effective” under a state plan, entering teachers should pass a robust, valid, field-specific teacher performance assessment.
  - iii. State plans should require that experienced teachers be evaluated by trained assessors on the basis of professional teaching standards and appropriate and multi-faceted evidence of their contributions to student learning.
  - iv. States should provide evidence of, or realistic plans to use, teacher evaluation systems to determine equitable access to effective teachers by students of color, low-income students, ELLs, and students with disabilities, compared to other students, and have a system in place to correct any inequities.
  - v. State plans should address intra-district funding inequities borne out of a failure to provide comparable funding to Title I and non-Title I schools and to high-poverty and low-poverty schools. These inequities deprive high poverty schools of the resources needed to attract and retain better prepared and more effective teachers.
  - vi. States should provide support for measures designed to achieve an equitable distribution of teachers. These measures may include the development of current and future educators through professional development and incentives in order to reach this goal (including additional compensation for teaching in high-need schools and shortage areas such as special education, ELL instruction, mathematics, and science).

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- vii. States should provide evidence of, or realistic plans to use, principal evaluation systems that will measure the effectiveness of school leaders as well as equitable access to effective principals.
  - viii. States should provide support for measures designed to achieve equitable access to effective principals.

c. *State Resource Equity Plans*

Each state plan should identify, report, and describe how it will accomplish the following:

- i. Measure and remedy inequitable distribution of core instructional resources within and among LEAs (including intra-district comparability with respect to teachers) and require LEAs to fully report actual dollars spent on salary expenditures for teachers and other instructional staff, non-instructional staff, and non-personnel expenditures such as technology and staff support costs.
- ii. Target sufficient additional resources to LEAs and schools where the neediest students are concentrated to enable those students to meet high common academic standards.
- iii. Provide adequate state and local resources (which may be combined with other federal funding streams, *e.g.*, from USDA and HHS) to ensure that the most fundamental out-of-school barriers to learning are addressed, including, at a minimum, provision of basic health screening and referrals and nutritional programs for children from birth through high school completion.
- iv. Provide equitable access to high quality, early childhood education, full-day pre-kindergarten and full-day kindergarten.

### 3. **Measurement**

The development and implementation of valid and reliable assessments that measure all students' knowledge and skills should be a priority for this ESEA reauthorization. To encourage progress on this front, Congress should:

- a. Require that state-wide assessments be aligned with college- and career-ready (CCR) standards adopted by the state. States should demonstrate that their assessments are aligned with CCR standards.
- b. Maintain current assessments until they are aligned with CCR standards can be validly and reliably used for school and LEA accountability purposes. To ensure standards are high and consistent, validity and reliability should be based explicitly on the widely recognized and accepted "Joint Standards" (the "Standards for Educational and Psychological Test" of the American Psychological Association, American Association for Educational Research, and the National Council on Measurement in Education).
- c. Add improvements to ensure and support the following:

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- i. Full inclusion of ELLs and students with disabilities in state assessment systems through the use of fair, reliable, and accurate CCR-aligned assessments of these students' knowledge and skills, with appropriate accommodations determined by the unique needs of the students in each subgroup or, in the case of students with disabilities, each individual.
  - ii. Accountability systems should provide supports for students who are no longer considered ELLs but still have limited proficiency in English.
  - iii. Development and use of formative assessments to inform and improve instruction.
  - iv. Development, field testing, validation and training of teachers on the use of project and performance-based assessments that are aligned with CCR standards, and the technology used to administer these assessments.
  - v. Educate parents regarding assessment scores and what they indicate regarding subgroup and school performance.
- d. Require measurement of additional indicators for evaluating schools and LEAs, including, but not limited to, graduation rates, disciplinary action, and school climate.
  - e. Require use of an Early Warning System to identify ineffective practices of teachers and other staff, and to identify and target supports to the students most at risk in K-8 schools, using data points including the following:
    - i. Year-end grades in English & Math (students with failing grades in either or both and schools with high concentration of students with failing grades in these subject areas);
    - ii. Attendance (average attendance rates of 80% or less);
    - iii. Discipline statistics (including the largest disparities in disciplinary statistics or the highest overall disciplinary rates);
    - iv. Bullying and harassment statistics;
    - v. Teen (and pre-teen) pregnancy rates and birth rates; and
    - vi. School climate surveys of teacher/student relationships.

#### **4. Performance Standards and Targets**

The current ESEA asks states to define expectations for student, school, and LEA academic progress. A reauthorized ESEA should retain these provisions and further require states to describe how they will set future performance standards and targets based on CCR standards.

In revising the ESEA's performance standard requirements, Congress should require the following:

- a. Performance standards should be the same for all students, subjects, grades and schools/LEAs.
- b. In high school, performance standards and targets should include multiple measures, with analysis by subgroup and gender including, but not necessarily limited to:

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- i. multiple measures of academic achievement (*e.g.*, state assessments, portfolios, completion of college-prep courses).
  - ii. progress in improving both holding power and graduation rates (as described in Section 5 below).
  - iii. progress in improving school climate, including preventing and addressing bullying and harassment, eliminating corporal punishment, and reducing excessive use of exclusionary or overly-punitive disciplinary practices.
- c. Any performance standards and targets based on “growth models” should ensure that:
- i. the expectation is growth to college- and career-readiness, not “growth to nowhere.”
  - ii. each student is expected to make at least a year’s worth of progress during each academic year.
  - iii. schools will be expected to implement measures designed to accelerate academic growth for students who are furthest from the standards for their grade levels.
  - iv. other measures of performance are used for students for whom growth cannot be measured (*e.g.*, students who move to or from a grade with no comparable assessment; those who move and whose records cannot be matched).

## **5. Graduation Rates**

A necessary step to understanding, and ending, the dropout crisis is having a uniform definition of graduation rate. Yet NCLB did not provide a standard definition and instead allowed each state to determine what it meant to graduate from high school. In reauthorizing ESEA, Congress should ensure that schools are accountable for meeting performance targets for increasing the graduation rates of all subgroups, and limiting the extent to which states can count substandard diplomas (*e.g.*, certificates of attendance or completion, special education diplomas) toward graduation rates. A reauthorized ESEA should require state plans to:

- a. use a uniform definition, such as that in the 2008 regulations or provided in the Every Student Counts Act (S. 618); and
- b. disaggregate graduation rate data by gender for each subgroup.

## **6. Public Reporting**

Educators, policymakers, and, most of all, parents and community members have a right to know and understand what is happening in their schools, including charter schools and alternative school placements. NCLB took positive steps to shine a light on academic disparities, but there are other essential indicators of the health and success of schools that parents and others need to see. This is most apparent in juvenile justice facilities and disciplinary alternative schools, where parents have little-to-no access to data on their children’s schooling. Fortunately, most of the data that parents need to see is already collected by the federal government under other laws. Unfortunately, however, this data is

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rarely accessible to parents. To avoid any undue burden, LEAs and SEAs may re-report these required data without having to collect them again to fulfill a separate federal obligation. The ESEA's public reporting provisions should be revised to address the following:

- a. All schools and LEAs should collect and publicly report data. This should include, but not be limited to, charter schools, disciplinary alternative schools, alternative schools for pregnant and parenting students, and juvenile justice facilities.
- b. Data should be provided online in a user-friendly manner and reported in a language and format that is meaningful, accessible, and understandable to parents and community members.
- c. Data should be disaggregated by gender for each subgroup currently identified in Sec. 1111(b)(3)(C)(xiii), cross-tabulated for all subgroups, and further disaggregated by ancestry for major racial and ethnic groups (*e.g.*, for subgroups of Asian American and Pacific Islanders).
- d. Data should include:
  - i. information that compares individual student performance and average performance for similar students at the school, LEA and SEA levels, as well as a comparison to NAEP scores;
  - ii. graduation rates (as described in Section 5 above);
  - iii. a school-by-school listing of per-pupil expenditures, similar to the requirements for School Improvement Grant (SIG) recipients under the American Recovery and Reinvestment Act of 2009;
  - iv. actual dollars spent on all staff and instruction services;
  - v. percent of teachers in training programs;
  - vi. percent of teachers deemed "qualified," as defined in section 2 of this letter;
  - vii. school climate data, including:
    - 1) student and teacher surveys that inquire about, among other things, instances of bullying and harassment;
    - 2) disciplinary data (including in-school suspensions, out-of-school suspensions, expulsions, arrests, referrals to law enforcement, corporal punishment and enrollment in disciplinary alternative schools);
    - 3) data on racial and ethnic isolation and diversity;
  - viii. progress in closing achievement gaps;
  - ix. progress in reducing disparities in discipline; and
  - x. progress in improving the performance of all students and subgroups that are currently performing below the state performance targets for college- and career-readiness.
- e. States should maintain rich data systems, including longitudinal systems, that facilitate access by the public, are capable of generating customized reports, and are easily accessible from typical entry points (*e.g.*, Internet search engine, home page of LEA or school or SEA website, and student report cards and other printed materials) without undue privacy invasions of students and student records.

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## 7. School Classifications and Categories

NCLB’s reporting requirements exposed inequities by identifying K-12 schools with incredibly poor academic performance and extreme academic disparities, as well as high schools with terrible graduation rates as defined by the states. However, some of the greatest barriers to learning were not addressed by NCLB’s approach to accountability and school improvement. For example, NCLB did not explicitly require states and districts to measure and assess the impact of counter-productive disciplinary practices (such as suspension, expulsion, corporal punishment, seclusion and restraint) or exposure to dangers such as bullying and harassment. Moreover, NCLB’s “AYP” requirement has been criticized as being both too rigid in some circumstances and too flexible in others.

In reauthorizing ESEA, Congress should require that states target remedies to the specific needs of schools and LEAs. Initially, LEAs should have flexibility to implement remedies based upon a broader menu of options. Where schools and LEAs succeed in addressing those needs on their own, states should be able to reward them for their efforts as described below. Where they fail, they should be required to implement remedies from a menu of more prescriptive interventions.

Under our proposal, the most intensive interventions would be reserved for the schools with the very lowest achievement and graduation rates. This means that most schools will not be required to undergo austere “turnaround” models of the type required under NCLB and the School Improvement Grant (SIG) program – approaches that educators, administrators, and communities alike often find problematic.

With this type of targeting and flexibility in mind, state accountability plans should be approved by the U.S. Secretary of Education and provide for targeted interventions for the following types of schools and LEAs:

a. *“Priority Schools”*

State plans should provide options for interventions for each of the Priority Schools categories listed below. LEAs should modify and strengthen existing plans for Previously Identified Schools based on factors described in the needs assessment below.

**i. Identification of Priority Schools:**

“Priority Schools” should consist of the following:

- 1) **Lowest Performing Schools:** the bottom quartile of schools in the state that enroll the highest percentages and number of students furthest from meeting state academic standards;
- 2) **All “Dropout Factories”:** high schools with a promoting power of less than 60%, and feeder schools, where applicable;
- 3) **All Schools with Substantial or Persistent Gaps in Achievement or Graduation Rates (“Gap Schools”):** schools that exhibit gaps in

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student achievement or graduation rates, between any of the following subgroups:

- a) students of major racial or ethnic groups, disaggregated within each group by gender and disability;
- b) economically disadvantaged students and their more affluent peers;
- c) ELLs and native English speakers;
- d) students with disabilities and their non-disabled peers;

- 4) **All Schools with Substantial or Persistent Barriers to Learning (“Barrier Schools”):** schools with high rates or substantial or persistent subgroup disparities in indicators of student engagement, including:
  - a) exclusionary or overly-punitive disciplinary practices, referrals to law enforcement, or corporal punishment;
  - b) bullying and harassment;
  - c) attendance;
  - d) truancy (*i.e.*, unexcused absences).

- 5) **Previously Identified Schools:** schools that are currently in school improvement or restructuring under Title I of ESEA shall remain in school improvement or restructuring. However, the LEAs governing those schools should modify current improvement plans to incorporate the additional factors as described in the needs assessments below.

- ii. **Needs Assessment for Priority Schools:** For each Priority School, the SEA shall conduct a thorough and inclusive needs assessment of the school (as well as feeder schools for Dropout Factories) that:

- 1) includes the meaningful input and involvement of parents and the community;
- 2) utilizes a team of state-appointed educational experts to conduct the needs assessment;
- 3) examines both academic and non-academic barriers (*e.g.*, school discipline, school climate, and resource needs) to student and school success; and
- 4) includes an evaluation of teacher and principal effectiveness as well as an evaluation of access to effective teachers and principals.

- iii. **Plans for Priority Schools:** Based on the recommendations of the needs assessment, the LEA should develop a plan – to be approved by the state – that tailors interventions to the needs of individual schools. While each school’s plan may be unique, all plans should include the following:

- 1) benchmarks and plans for annual improvement for school and subgroup performance to increase student performance and growth

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(in graduation rates, student achievement, and/or academic disparities as identified);

- 2) interventions that address non-academic barriers to learning (*e.g.*, negative school climate, resource inequities, disciplinary disparities) as revealed in the needs assessment;
- 3) inter- and intra-district transfer options to higher-performing schools;
- 4) targeted assistance to feeder schools (when the Priority School is a high school), based on Early Warning System data, academic deficiencies or other needs as identified in the needs assessment; and
- 5) the remaining “School Plan” requirements under Section 1116(b)(3) of the current ESEA.

*b. “Priority LEAs”*

State plans will be required to identify LEAs in which over half the schools are classified as Priority Schools. SEAs should conduct thorough needs assessments in the manner described above for Priority Schools.

- i. Plans for Priority LEAs:** Based on the recommendations of the needs assessment, the SEA and LEA should jointly develop a plan for improvement that:

- 1) incorporates the individual plans for the LEA’s Priority Schools;
- 2) builds capacity within the LEA to address the needs of Priority Schools; and
- 3) delineates SEA and LEA responsibilities for fulfilling the plan.

*c. “Reward Schools” & “Reward LEAs”*

State plans may also identify LEAs that have demonstrated the greatest success in increasing student achievement, particularly at Priority Schools, closing achievement or graduation gaps (including between subgroups), and reducing barriers to learning, such as a reduction of bullying and harassment incidents.

- i. Additional Bases for Awards:**

Other bases for rewards may include some combination of the following:

- 1) making significant efforts to de-concentrate poverty, reduce racial or ethnic isolation, or open intra- or inter-district transfer paths to higher performing, lower poverty, racially diverse schools;
- 2) significant increases in high school graduation and college attendance,
- 3) meaningful progress in developing best practices to assess and achieve learning gains for ELLs and students with disabilities;
- 4) meaningful progress in the equitable distribution of effective teachers to high needs/high poverty schools;
- 5) lowered rates of suspension, expulsion, or assignment to disciplinary alternative schools;

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- 6) partnerships with health and wellness providers to reduce out-of-school time caused by treatable illnesses and health concerns;
  - 7) increased positive school climates through the elimination of corporal punishment and other harsh and counter-productive methods of discipline;
  - 8) improved retention and graduation rates for pregnant and parenting students; or
  - 9) the development of robust parent and community partnerships that support student achievement.

**ii. Types of Rewards:**

Rewards are encouraged for those schools successfully closing achievement gaps or making significant gains. Examples include public celebrations, competitive grant preference, or financial rewards. However, only high poverty schools may receive financial “rewards” for closing achievement gaps or making significant gains. Rewards for closing achievement gaps and making significant gains should be graduated and designed to incentivize continuous improvement. (Exception: rewards should not include “flexibility” from complying with federal fiscal requirements, standards, civil rights laws or anything else that undermines student success).

**d. All Other LEAs and Schools:**

Any grant of “greater flexibility” to LEAs and/or schools should be limited to those LEAs and schools that meet performance targets and close gaps, provided that the states describe the improvement remedies they will require if and when such LEAs or schools fail to meet their targets or close gaps.

**e. Failure to Implement State Plan:**

If an SEA fails to submit and implement a plan as required by this section, the Secretary may impose the following penalties until the SEA has fulfilled the requirement:

- i. Withholding of administrative funds under Title I of the ESEA;
- ii. Ineligibility for federal educational competitive grants; and/or
- iii. Ultimately, the withholding of all Title I funds.

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## **B. INTENSIVE INTERVENTIONS**

Should the remedies identified for schools and LEAs fail to result in meaningful improvement, the states and LEAs should work with the U.S. Department of Education to implement a more rigorous improvement strategy. The goal of this phase of interventions is to quickly address the reasons for poor school performance and infuse local and state efforts with federal support.

### **1. Trigger for intensive interventions**

- a. State plans identified above will govern interventions at all schools and LEAs as applicable but within the parameters set forth in this section. For three years, SEAs will determine remedies for the Priority Schools and Districts and Previously Identified Schools, as identified above.
- b. However, if after three years under an SEA-approved plan, a Priority School or District does not make sufficient improvement on the targets articulated in its plan, it shall be identified for more rigorous interventions to be selected from a list of approved options provided by the Department of Education.
- c. For schools currently identified for “School Improvement” or “Corrective Action” under Section 1116 of the current law, any years the school has spent in improvement status are counted towards the trigger (*e.g.*, a school in need of improvement that has failed to make AYP for two years under its current improvement plan would be one year away from triggering the federal options described below).
- d. Schools currently designated for “Restructuring” under the current law would automatically trigger the federal options described below.

### **2. Selecting intensive interventions**

- a. For all Priority Schools and LEAs, as well as schools three years into improvement or in restructuring, a broad array of evidence-based intervention options, based on scientifically valid research, should be available. And the nature of the intervention(s) should be tailored in a manner that is responsive to the specific needs of the school or LEA.
- b. SEAs and LEAs should select at least one option from this federal menu for each identified school and LEA, to be approved by the Secretary.
- c. Regardless of the selection, each LEA should continue to provide both inter- (where available) and intra-district transfer options (as well as transportation).
- d. Where low performance is the product of persistent under-resourcing of an LEA, the SEA should report raw data on state allocations of funding.
- e. The intensive interventions offered by the Department of Education are intended to address the specific problems of individual schools. Therefore, LEAs and schools will select a base option for intervention and then tailor such interventions to fit their particular needs.

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### 3. Menu of intensive interventions

These intensive interventions should include, but not be limited to, the following:

- a. *Interventions for “Barrier Schools”*
  - i. Implementing school/district-wide disciplinary reforms aimed to decrease use of suspension, expulsion, and referral to law enforcement or to alternative schools (e.g., School-Wide Positive Behavior Support and restorative justice practices) and reduce and address instances of corporal punishment and bullying and harassment; or
  - ii. For secondary schools, implementing a program that addresses push-out factors for pregnant and parenting students and provides academic and related services that help to improve retention, graduation rates, and post-secondary attainment for those students.
  
- b. *Interventions for “Gap Schools”*

Any of the options offered in Section B(2)(a) as well as the following:

  - i. Demonstrating that students in lowest performing subgroups receive instruction from effective teachers; or
  - ii. Professional development for teachers (that includes cultural competence and techniques for engaging parents).
  
- c. *Interventions for “Dropout Factories”*

Any of the options offered in Sections B(2)(a) & (b) as well as the following:

  - i. Implementing a comprehensive community-based model at the school including on-site social and wraparound services for students and families;
  - ii. Implementing aggressive dropout prevention and recovery programs;
  - iii. If needs assessment reveals deficit of effective instruction, placing a core team of effective teachers at the school; or
  - iv. Instituting other successful reform model(s) (i.e., those that have resulted in a significant reduction in dropouts, substantial increase in academic performance) used within the district at a similar school.
  
- d. *Interventions for the “Lowest Performing Schools”*

Any of the options offered in Sections B(2)(a) through (c) as well as the following:

  - i. Offering extended learning time opportunities; and
  - ii. Converting school to a magnet school.
  
- e. *Interventions for Schools Currently in “Restructuring”*

Any of the options offered in Sections B(2)(a) through (d).
  
- f. *Interventions for “Priority LEAs”:*
  - i. Establishing offices managed jointly by the LEA and SEA, with staff trained in school turnaround strategies;
  - ii. Replacing LEA personnel relevant to persistently low performance, gaps and other barriers to learning, and low high school graduation rates;

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- iii. Authorizing students to transfer from schools operated by the LEA to a higher-performing public school operated by another LEA and providing students transportation (or the costs of transportation) to such schools;
  - iv. Re-purposing LEA administrative funds to fund activities intended to increase school performance (*e.g.*, to pay for incentive programs to attract a corps of effective teachers to low performing schools, implement support services for particularly vulnerable school populations, create high school drop-out recovery programs);
  - v. Appointing, through the SEA and with the input of parents, students, and other stakeholders, a receiver or trustee to administer the affairs of the LEA in place of the superintendent and school board.

#### **4. Insufficient Progress after Intensive Interventions**

For schools that fail to make meaningful improvement under intensive interventions:

- a. After two (2) years of failure to make meaningful improvement through intensive interventions, the Secretary may disqualify an LEA with identified schools from participating in competitive grant competitions.
- b. After three (3) years of failure to make meaningful improvement, the Secretary may:
  - i. Redirect SEA administrative funds to technical assistance for Priority LEAs; and/or
  - ii. Provide federal oversight until at least four (4) consecutive years of progress as identified within the state plan have been made. After such time, the LEA or state should apply for release from federal oversight at the Secretary of Education's discretion.