May 7, 2010

The Honorable Tom Harkin
Chairman
Health, Education, Labor and Pensions Committee
U.S. Senate
Washington D.C. 20515

The Honorable Mike Enzi
Ranking Member
Health, Education, Labor and Pensions Committee
U.S. Senate
Washington D.C. 20515

Dear Chairman Harkin and Ranking Member Enzi:

Fourteen million children in rich America live in poverty. More than 20 percent of children under age five are poor, including more than 40 percent of Black children and more than 33 percent of Hispanic children. The best hope these poor children have of lifting themselves out of poverty is a quality education. As President Obama has said, education is the strongest weapon against social inequality and the best path to opportunity in America. Without a good education, millions of children will remain poor throughout their lives and many will become trapped in the cradle-to-prison pipeline that leads to dropping out of school, arrest and incarceration.

For far too long, poor children in America have been denied a good education. Inequities in educational funding, resources and opportunities have placed poor and minority children in low-performing schools with inadequate facilities and ineffective teachers. Tragically, instead of being "the great equalizer," American education has perpetuated inequality, with the result that poor children stay poor, poorly educated and unskilled. As sociologist Ray Rist has forcefully argued, "if one desires this society to retain its present social class configuration and the disproportional access to wealth, power, social and economic mobility, medical care, and the choice of life styles, *one should not disturb the methods of education [operating in America*, which develop and perpetuate] . . . a 'caste' within the classroom."[1]

Today, when so many of our children lack family and community supports – when America's children most need a nurturing school environment, the attention of caring and talented teachers who *know* their students can learn, and a rigorous curriculum that gives *all* students the skills to succeed in college and the workplace – our nation's public schools are failing our children.

Secretary Duncan has pledged to correct these inequities and to level the playing field for all children. He has already taken significant steps to "disturb the methods of education" in America by creating incentives for states and districts to fundamentally change the status quo. In uncertain economic times, the Secretary has shown an unwavering commitment to invest in education – not by pouring money into a failed system but by supporting evidence-based innovation and scaling up proven strategies and successful programs and systems. He has built upon No Child Left Behind's (NCLB) emphasis on accountability and avoided that law's pitfalls of misaligned incentives and disabling sanctions. By consistently focusing on teacher and leader *effectiveness* rather than on *credentials* and emphasizing the value of formative assessments and measures of growth over summative assessments and measures of failure, Secretary Duncan has changed the way we think and talk about education, always bringing it back to its rightful center: student learning. And in every program, every speech, and every

publication, he has made it clear that a top priority of the Department's reforms is leveling the playing field so that poor and minority children in low-performing and failing schools have an equal chance to learn and thrive.

The Children's Defense Fund (CDF), whose mission is "to ensure every child a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start* and a *Moral Start* in life and successful passage to adulthood with the help of caring families and communities" wholeheartedly supports the Secretary's goal of providing all children everywhere with a "world class education" so that they graduate from high school "college and career ready." We are especially pleased to see many of CDF's education priorities highlighted in the Department of Education's *Blueprint for Reform for the Reauthorization of the Elementary and Secondary Education Act* (ESEA), including

- highly effective teachers and leaders,
- high quality literacy instruction, preK-12,
- effective after-school and summer learning,
- formative assessments that measure student growth and the knowledge and skills that students need,
- parent and community engagement,
- students who are safe and healthy, both in and out of school,
- closing achievement gaps,
- addressing the needs of high poverty, low-performing schools and rural schools, and
- leveling the playing field for all children, especially poor and minority children.

Each of these soundly evidence-based and tested priorities is a component of a fair and equitable system of education. However, CDF believes that other components, priorities not highlighted in the *Blueprint* and not adequately addressed in the existing law, are necessary as well. These must be addressed if our most vulnerable children are to have a fair and equal chance to succeed, and we ask the Committee to consider each of them carefully as you work together to craft a new Elementary and Secondary Education Act that will provide at-risk children with a way out of the cradle-to-prison pipeline and a way into a pipeline to college, career, and successful and responsible adulthood. We present our priorities below and we recommend solutions to each. We appreciate the opportunity to submit our recommendations to your Committee.

Title I Funding Equity

Title I was created "to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education" by leveling the playing field for poor children. However, both the formula that determines the distribution of Title I funds and the Title I "comparability requirement," which requires districts to allocate state and local funds equitably, are stacked against the very children the law was intended to help: those struggling to grow up surrounded by concentrated poverty. These children need more support, not less.

Challenge #1: The current Title I funding formula is inequitable. The current formula (a complex combination of four formulas added over the course of the last four decades) favors large districts regardless of their child poverty rate while children trapped in areas of concentrated poverty in small mid-sized districts are seriously disadvantaged. The inequities are blatant – between and within states. For example,

- Mississippi, the state with the *highest* concentration of students eligible for Title I (27.2%, second only to the District of Columbia) and the highest concentration of child poverty (30.4%), is allocated an average of $1,318 for each Title I eligible student.

  Maryland, which has the *lowest* concentration of students eligible for Title I (11.0%) and a very low child poverty rate (10.2%) receives an average of $1,866 for each Title I eligible student – **a difference of $548 per child.**

- In Virginia, Buchanan County Public School District, with 30.32% of students eligible for Title I funds and a 28% child poverty rate, receives just $1,363 per eligible student; Henrico County Public School District, with only 9% of all students eligible for Title I and a low (10%) child poverty rate, receives $1,943, **almost $600 more for each eligible student.**[2]

This resource inequity – which denies children in areas of concentrated poverty a way out of the cradle-to-prison pipeline – is fueled by two provisions in the current formula: the use of **number weighting** and **statewide average per pupil expenditures.**

Number Weighting: Two of the four formulas used to allocate Title I funding (the Targeted and Education Finance Incentive Grant (EFIG) formulas) direct funding to high-poverty districts by "weighting" the district's Title I student count. The weighted student count is calculated in two ways: (1) based on the *percentage* of Title I eligible students in the district, and (2) based on the total *number* of Title I eligible students in the district irrespective of poverty concentration. A district's Title I allocation is then determined using the greater of its two weighted student counts. Those districts which receive a higher weighted student count under "number weighting" are therefore favored at the expense of small and mid-sized districts – districts which together educate half or more of all children living in poverty.[3]

Statewide Average Per Pupil Expenditures (SAPPE): Currently, the Title I formula uses SAPPE as a factor to reflect differences between states in the cost of providing education. While accounting for differences in the cost of providing education is necessary in determining funding allocations, the use of SAPPE unfairly allocates funding based on state-to-state differences in wealth and political commitment to funding education. As a result, SAPPE reinforces inequality by allocating greater funding to wealthy states that already spend significantly on education. In other words, the rich get richer – and millions of at-risk children in our poorest states are being left behind.

Recommendation

The formula for Title I must be changed to ensure that it serves those children it was intended for: those struggling to grow up surrounded by concentrated poverty.

Guiding Principles for the Title I Formula:

CDF believes that a revised and more just formula must be informed by two guiding principles.

First, since poor children in concentrated poverty grow up in the face of challenges that arise not only from their own poverty but the poverty of their neighborhoods and classmates, **an equitable funding formula will ensure that Title I allocations are proportional to a district's concentration of poverty.** In other words, children living and attending school in

areas that have the highest concentrations of poverty should receive the most per pupil support from Title I.

Second, **no child should be left with fewer resources than they currently receive as a result of a revised formula.** We recognize that increasing equity by revising the Title I formula will redistribute allocations among states and districts which serve poor children. While increasing equity in Title I funding is necessary, we must also ensure that no child is left worse off when the formula is revised. Those states and districts which would receive reduced Title I allocations as a result of a formula change must be held-harmless.[4]

Revising the Formula:

In order to ensure fairness, a revised formula for Title I must allocate funding in a way that reflects:

- The *concentration* of poverty in states and districts – regardless of their size;
- The *real cost* of providing education – which varies among and within states;
- The *effort* made by states to fund education adequately and equitably.

Furthermore, the inequities in the current formula which are fueled by the number weighting and statewide average per pupil expenditure provisions must be addressed:

1. Eliminating the effect of number weighting. The weighting scheme used to determine Title I allocations under the Targeted and EFIG grants must be revised to eliminate the effect of "number weighting" so that per-pupil Title I funding increases with poverty *concentration* – not with the raw numbers of children in a district.

2. Replacing or revising the use of Statewide Average Per Pupil Expenditures (SAPPE). While the cost of providing education must be accounted for in determining Title I allocations, the current use of SAPPE as a proxy for cost must be replaced or revised so that the poorest states are not underfunded. The Title I formula should account for cost using research-based factors which reflect the variation in educational costs among and within states.[5]

Challenge #2: Comparability

The "comparability" provision of Title I requires that a school district allocate comparable state and local funding to its poor schools and its non-poor schools. The comparability requirement was added to ensure Title I funds actually supplement and do not supplant or substitute for state and local expenditures in the poorest schools. When state and local funding for poor schools is equal to that for non-poor schools in the same district, federal Title I funding can do what it was intended to do: provide poor children with the *extra* support they need. However, loopholes in the comparability requirement permit districts receiving Title I funding to shortchange Title I-eligible children.

For example, in New York City in 2007, non-Title I schools received $16,745 per-student state and local funding. Half of the city's 500 Title I schools received less than that amount – as much as $2,241 less per student.[6] Similar gaps in state and local per pupil funding between a district's non-poor schools and its poor schools can be found across the country.[7]

Loopholes: The inequities in average per-pupil expenditures provided by state and local funds are the result of loopholes in the comparability requirement which allow districts to

"demonstrate" comparability without actually equalizing expenditures between Title I and non-Title I schools:

> **Loophole #1**: **Teachers' salary differentials are excluded from comparability.** Federal law directs districts to exclude differentials in salaries based on years of experience from any determination of per pupil expenditures. Since more affluent districts routinely have more experienced and higher-paid teachers, the exclusion of the salary differentials based on years of experience disadvantages Title I schools.
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> **Loophole #2: Teachers' aides = teachers.** The law allows districts to demonstrate comparability through comparable student-to-instructor ratios; but it allows them to "count" teachers' aides and paraprofessionals the same way they "count" classroom teachers – as "instructional staff." Therefore, a district's comparability report might indicate that student/teacher ratios in poor and non-poor schools are equivalent when, in fact, the poor schools have a much higher ratio of students to actual classroom teachers.
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> **Loophole #3: "Written assurance" of comparability is sufficient**. The law permits districts to demonstrate comparability by merely providing written assurance that their poor and non-poor schools have comparable resources, without backing up the assurance with data.

Recommendation: The loopholes that permit districts to underfund poor students must be closed in a reauthorized ESEA. The revised law must require that in order to demonstrate comparability and provide for accountability districts do the following:

- Equalize per-pupil state and local spending throughout the district, so Title I schools receive at least as much per pupil funding as non-Title I schools.

- Include all resources and expenditures in the determination of per pupil funding, specifying in dollars, the salaries of classroom teachers (including their base pay and differentials), instructional support staff and non-instructional support staff in the determination of per-pupil funding, among other items.

- Track and publicly report per-pupil expenditures, broken down into specific categories (e.g. classroom teacher salaries, instructional support staff salaries, computers, etc.) by school building.

Early Learning

Challenge #1: The early years, from birth to five years old, are critical years in child development.[8]

These are the years when children develop social, emotional and cognitive competencies that lead to healthy development, self-efficacy and academic success. But the ravages of poverty and the lottery of geography, which provide children in some states more support than children in other states, prevent many children from reaching their full potential. Poor children at nine months are already behind their higher income peers in cognitive development; the gap is even wider by 24 months.[9] By kindergarten, it is almost impossible for poor children to catch up.

Although Secretary Duncan has professed a deep commitment to the education of very young children and the Administration's proposed budget includes increased funding for Head Start and Early Head Start and the Child Care Development Fund, early learning is scarcely mentioned in the Department's *Blueprint for Reform.* Early learning needs to be a major focus in a reauthorized ESEA, for our children's sakes and for the sakes of our communities and our nation. As Professor Jack Shonkoff of Harvard's Center on the Developing Child has observed, "The healthy development of children provides a strong foundation for healthy and competent adulthood, responsible citizenship, economic productivity, strong communities, and a sustainable society."[10]

Recommendation:

Require Early Learning Challenge provisions for children birth to five be incorporated into a reauthorized ESEA. ESEA must include adequate provisions for quality early learning opportunities for very young children so that they begin school ready to succeed.

CDF recommends that Early Learning Challenge provisions, similar to those originally included by the House of Representatives as part of the Student Aid and Fiscal Responsibility Act, be included in the reauthorization of ESEA. The language could be inserted as a stand-alone section, as an addition to the "Promote Innovation and Continuous Improvement" Section or in another compatible section. The Early Learning Challenge program will encourage school districts to coordinate and collaborate with other programs for young children, such as those addressed by the Early Childhood Advisory Councils (established through the 2007 Head Start Act). These challenge grants should also promote the development of data systems that help states track the impact of various programs and activities on child outcomes.

Challenge #2: Counting Poor Young Children

The youngest children are the poorest children. More than 1 in every 5 young children are poor; 2 in 5 Black young children; and 1 in 3 Hispanic young children. We know that the experiences that occur in the earliest years determine a child's readiness for kindergarten and for life, and we also know that quality early childhood programs can counter the adverse effects of poverty on early cognitive development. **Yet the current Title I funding formula does not include young children in Title I-funded infant and pre-school programs.**

Recommendation:

Children birth to 5 in Title I supported programs must be included in any determination of Title I allocations.

Challenge # 3: Title I funds available for early learning are underused. The Department of Education reports that currently districts only spend an estimated 3 percent of Title I funds on preschool programs. Many states and districts are not even aware that Title I funding can be used for that purpose. Ed-Flex, which would allow states flexibility in directing funds to programs for very young children, is also underused – in part because a waiver is difficult to obtain.

Recommendation

CDF recommends that ESEA reauthorization include a requirement that the Department of Education provide specific guidance to states concerning the availability of Title I

funds for pre-school programs, specifying the ways Title I funds can be used to support early care and education programs. **Ed-Flex authority should be extended** in the reauthorized ESEA. **Eligibility requirements for Ed-Flex should be revised** to allow states with mid to high percentages of low performing schools to direct funds to schools and districts that support early childhood programs and encourage innovative programs for children preK-3rd grade.

ESEA reauthorization should **require that states track the use of Title I funds for early care and education programs for preschool children.** The data collected and reported to the Department of Education must, at a minimum, include: the ages of children prior to kindergarten entry participating in Title I funded activities, number of early care and education teachers supported through professional development activities, and types of early care and education programs supported in whole or in part with Title I funds including center-based programs, home-based parent education programs and Head Start partnerships.

Teacher Training: The Challenge

Teachers in high poverty schools are more likely to have less experience, less training and fewer advanced degrees than teachers in low poverty schools. The children in these schools, who often face the greatest disadvantage, need the best teachers and principals.

Recommendation

The Department is clearly aware of this challenge. Its *Blueprint for Reform* proposes to "continue and improve formula grants to states and school districts to improve the effectiveness of teachers and leaders, and ensure that students in high-need schools are being taught by effective teachers in schools led by effective principals."[11] CDF recommends that a reauthorized ESEA require that teachers in Challenge schools (the lowest-performing 5 percent of schools in each state) receive the training they need to effectively support student learning in their classrooms. Training should address:

- **The needs of children in the most vulnerable circumstances** – children whose needs can be better met if teachers understand them and are aware of the protective factors that can help them survive and thrive. These children include those who are homeless, abused or neglected, or living in foster family homes or group care settings. Many are children with multiple special needs who may have been victims of trauma.

- **The impact of poverty on children's social and emotional development and learning** and ways schools and teachers can engage parents in children's learning. It is essential that teachers understand the social, emotional and cognitive development of children living in poverty.

- **Appropriate instructional practices for teachers working with English language learners** and their parents and other special populations.

It is also critically important that these professional development activities include teachers and staff working with young children as well as school-age children. At a minimum they should include teachers in publicly-funded early childhood programs, whether they are preK teachers or teachers in schools or in community-based settings such as child care and Head Start programs.

The Most Vulnerable Children and Youths

Although the *Blueprint* focuses on strategies that will keep most students in school and learning through high school graduation (e.g. good teaching and leadership, high standards for all students, and the importance of graduating "college and career ready"), it ignores the needs of those vulnerable children and youths who are most in danger of becoming trapped in the cradle-to-prison pipeline: those who are suspended and expelled from school, those who drop out of high school, those in the juvenile justice system, and those who are in foster care. We urge the Committee to make sure that a reauthorized ESEA addresses the needs of our most vulnerable children and youths.

Zero Tolerance and Out-of-School Suspensions: The Challenge

"Zero tolerance" school discipline policies, which treat minor violations such as pushing and innocent mistakes like having a pocket knife in your backpack at school the same way they treat a major offense such as bringing a gun to school, feed the cradle-to-prison pipeline. Under zero tolerance, students who are perceived as disruptive are arrested in school by a police officer, handcuffed, and taken to the police department. Even if they are not convicted of any crime, arrested are suspended from school, sometimes for weeks or even months at a time; out of school and on the streets, they fall behind academically and many become involved in delinquent or criminal activity.

Zero tolerance policies are applied unevenly along racial lines. Poor Black students are suspended at three times the rate of White students.[12]

Recommendation:

End zero tolerance policies and require that schools adopt positive discipline programs. A reauthorized ESEA needs to acknowledge that one-size-fits-all zero tolerance policies only send children into the cradle-to-prison pipeline, and that even the best-behaved students can become unruly. CDF recommends that ESEA **bar** schools and districts from adopting zero tolerance policies. ESEA also should **require Challenge schools to adopt positive, consistent, and fair discipline programs** that keep students in school and learning. Incentives should be provided to encourage states to implement Positive Behavior Support (PBS) and similar evidence-based programs that train teachers in effective ways to maintain a safe and productive learning environment "while ensuring that children are removed from school only as a last resort." At schools that have adopted PBS or similar programs, school climate, discipline and learning have improved dramatically. [13]

High School Dropout: The Challenge

Our nation's dropout crisis is not mentioned in the Education Department's *Blueprint*, although elsewhere the Department has made it clear that transforming the nation's 2,000 dropout factories is a high priority. Poor and minority children are far more likely to drop out of school than their non-poor White peers.

Recommendation

CDF urges the Committee to make the "dropout crisis" a priority in the ESEA reauthorization. ESEA should require districts to adopt evidence-based strategies of dropout prevention, including early identification of and delivery of services and supports to at-risk students through proven predictors (e.gs. excessive absence in early grades, 6th

grade failure in math or reading, chronic behavior problems). Schools should be required to provide these students with the help they need to stay in school and succeed. High schools with high dropout rates should be required to put in place dropout recovery and reenrollment strategies and to offer multiple pathways to graduation, such as credit recovery, early college high school, and school-to-work programs. In addition, districts should be required to maintain and monitor records of attendance, course failure, and dropout for every child.

Children in Juvenile Justice Facilities: The Challenge

Once children and youths become involved with the juvenile justice system, their chances of dropping out of school and into the cradle-to-prison pipeline increase dramatically.

Recommendation

Provide effective educational support and stability for children in juvenile justice facilities and in their transition to their home communities. In order to reduce recidivism and help children trapped in the prison pipeline to escape, the ESEA reauthorization must require that children and teens in juvenile facilities receive a high quality education, coordinated with the public school curriculum, and that schools facilitate students' successful transition back to the classroom.

Increase funding for Title I, Part D. The funding for Part D of Title I, which specifically addresses the needs of children and youths in the juvenile justice system, has historically been inadequate, and there is no increase proposed in the Department's 2011 budget. An expanded and fully funded Part D could help support successful state juvenile justice systems, such as the one in Missouri that has reduced recidivism dramatically. We urge you to increase funding for Part D so that children and teens trapped in the cradle-to-prison pipeline might have a quality education while in detention and the opportunity to return to school and enter a pipeline to college, career, and productive adulthood.

Require that the Department report to Congress on Part D. In addition to increasing funding for educational support and services for these children and youths, CDF also recommends that the ESEA reauthorization require the Department of Education to prepare and submit a report to the relevant committees in Congress on how funds under Title I, both Parts D and A, are currently being used by states to improve educational opportunities for children and youths who are delinquent and neglected. The report should include:

- The educational supports and special services being provided to these youths while they are in institutions or community-based programs and when they transition to their communities;

- An analysis of the evaluations that state and local educational agencies are to conduct at least every three years on the effectiveness of the program for children and youths, by gender, race, ethnicity and age; (The analyses should include the educational achievement and progress of these youths, their accrual of school credits, their transition to other school programs, their completions of secondary school or equivalency requirements, and their obtaining employment and, as appropriate, participating in postsecondary education and job training.)

- An assessment of the extent to which states set aside funds for transition services for these youths in Part D, Subpart 1 and a compilation of the activities for which the funds are being used; and

- Recommendations for the future of the Part D program and the best way to ensure that the education needs of these vulnerable children and youths be addressed.

In preparing the report and recommendations, the Department should be required to consult with other relevant agencies that provide services to these youth, specifically the Departments of Health and Human Services and Justice, and should consult with and convene other relevant agencies and advocates working with these youths at the national level and in states and communities.

Children in Foster Care: The Challenge

The nearly 800,000 children in foster family homes, group homes and child care institutions during the course of a year, many of whom have multiple special needs, often face unique educational challenges. They must confront numerous barriers to their success in school: the trauma of the initial abuse and neglect as well as the removal from their homes, separation from their siblings and often multiple moves from home to home and school to school.

School Performance Lags Behind

- Three different studies found that more than one-third of youths in foster care had repeated at least one grade.[14] Another found that twice as many children and youths in foster care had repeated a grade compared to those not in care.[15]

- In Washington State, research found that children and youths in foster care attending public schools scored 16 to 20 points below youths who were not in foster care on statewide standardized tests given in 3rd, 6th, and 9th grades.[16]

- According to the Midwest Evaluation, over 40 percent of youths in foster care did not have a high school degree at age 19, compared to only 13 percent of their peers who were not in foster care. By age 21, nearly one quarter still did not have their diploma, compared to 11 percent of their peers.[17]

Frequent Moves

- Children have an average of one to two placement changes per year while in foster care and research shows that each change in school placement for a child results in the loss of up to six months of educational progress.[18] In at least one study of foster care alumni, youths who had one fewer placement change per year were almost twice as likely to graduate from high school before leaving care.[19]

- Over one third of young adults report having five or more school changes while in foster care.[20] Another study of young adults in foster care found that more than half had experienced seven or more school changes from elementary through high school.[21]

In order to improve educational outcomes for children in foster care, the children need the assurance of educational stability, which requires:

- **Maintaining a child in his original school when an initial placement or a new placement becomes necessary unless it is not in the child's best interest.** Efforts are increasingly being made by child welfare agencies to find placements for children close to home. But where that is not possible, when a child is removed from his home or to a new placement, the child welfare agency must coordinate with the school district to ensure that the child can remain in his or her original school. There also must be a process for determining that such a placement is in the child's best interest and for resolving disputes about what is in the child's "best interest" when they arise.

- **Immediate and appropriate enrollment in a new school.** To keep children in foster care from losing valuable school time, enrollment in a new school must occur within days rather than weeks. Too frequently there are reports of children being out of school for months when they are moved to new foster placements.

- **Prompt transfer of school records when a school change is necessary and appropriate**. A delay in the transfer of school records may result in a child being kept out of school, placed in the wrong grade or without appropriate special education services, and experiencing lost credits or delayed graduation.

- **Payment of transportation costs.** Ensuring transportation is provided to a child's original school prevents the lack of transportation from being a barrier to educational stability for children in foster care.

Ensuring successful educational outcomes for children and youths in foster care must be the joint responsibility of the child welfare agencies that have responsibility for the care and custody of the children and the education agencies that are responsible for providing all children a free appropriate public education. The *Fostering Connections to Success and Increasing Adoptions Act of 2008* (P.L. 110-351, *Fostering Connections*) placed the obligation on state and local child welfare agencies to coordinate with education agencies to ensure the above protections for children in their care. The act also provided federal reimbursement to state child welfare agencies to help with the transportation of about half of the children in foster care to their original school of origin when necessary.

Joint child welfare and education efforts to ensure educational stability of children in foster care are underway in some states and localities, building sometimes on relationships established under the *McKinney Vento Homeless Assistance Act* (*McKinney Vento*). In many localities, however, child welfare agencies have been rebuffed by education agencies that felt no special responsibility for these children or, in some cases, believed that their state education laws or policies, such as those governing residency and records requirements, would not allow them to keep children in their original schools or to immediately enroll the children in new schools.

Recommendation

The Children's Defense Fund recommends that the ESEA reauthorization includes obligations on state and local educational agencies that complement those that *Fostering Connections* placed on child welfare agencies, so the promise of *Fostering Connections* will be fulfilled and children in foster care will be provided educational stability and opportunities to help them succeed in school and in life. These protections are similar to the education stability protections already provided to homeless children in ESEA through *McKinney Vento* and to those proposed in the *Fostering Success in Education Act* (S. 2801). These obligations in ESEA must include:

Coordination and collaboration, and the establishment of foster care liaisons, to ensure that children in foster care are afforded the enforceable protections they need for educational stability including, at a minimum:

- The right to remain in the school they are enrolled in at the time of placement, unless that would not be in the child's best interest;
- A procedure to resolve disputes when there is a dispute about what is in the child's "best interest";
- Immediate enrollment in a new school when remaining in the original school is not in the child's best interest;
- Prompt transfer of the child's school records to the new school; and
- A shared responsibility, when necessary, with the child welfare agency for transportation to the child's original school.

- **A method for collecting data and tracking information** to document advances in providing children these educational stability protections. For example it is important to know more about efforts being made to help children remain in their original schools and whether delays continue to occur when decisions are made for children to move to new schools.

- **Funding for states and local educational agencies** to assist them in meeting these new obligations on behalf of children in foster care and to oversee the implementation of the educational stability protections.

Rural Education: The Challenge

There are more than 10.5 million students enrolled in rural schools in America. [22] More than 22 percent of these students live in poverty, higher than the child poverty rate in urban areas.[23] Furthermore, 50 of the 51 counties with the highest child poverty rates are located in rural America.[24]

Simply stated, poverty is profoundly felt in rural America. The consequences of rural poverty are exacerbated by the lack of sufficient state and local resources for schools in rural areas. Steps must be taken to increase funding and extend more flexibility to rural schools and school districts with high concentrations of children in poverty.

Recommendation

It is encouraging that the Administration recognizes the difficulties facing rural schools in its *Blueprint*, and gives rural schools priority attention in a number of areas. However, the Children's Defense Fund recommends that additional steps be taken in the ESEA reauthorization to address the challenges facing the 2.5 million children enrolled in rural schools. We strongly recommend that:

- Increased funding be provided for both the Rural and Low-Income School Program and the Small, Rural School Achievement Program. These programs – funded now at $176 million per year – fall far short in promoting advances in rural areas.

- The "REAP Flex" authority, which allows eligible small districts to use other federal education funds flexibly, be strengthened. The Urban Institute found in a recent evaluation of the "REAP Flex" authority that the program was underutilized. The

Department of Education should be directed to be more aggressive in its promotion of the "REAP Flex" program among qualifying districts. Additionally, as outlined in the *Blueprint,* eligibility for "REAP Flex" authority should be expanded to include districts that qualify for funding under the Rural and Low-Income School Program.

We appreciate your leadership and look forward to working with you to ensure that a reauthorized ESEA gives poor children fair and equal access to a quality education.

Sincerely yours,

Marian Wright Edelman

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[1] Rist, R. 1970. "Student Social Class and Teacher Expectations: The Self-Fulfilling Prophecy in Ghetto Education." Harvard Educational Review 40 (3): 411-451. (emphasis added). Note: In the 2002 introduction to a reprint of his groundbreaking 1973 study, *The Urban School: A Factory of Failure* (New Brunswick: Transactions Publishers), Rist's indictment of American education is almost as searing as it was thirty years before: "American schools are an important force in sustaining American inequality—reacting to and concurrently reinforcing the social class differences the children bring with them to the front door of the school. And what happens inside those doors continually contradicts some of our most sacred myths about the schools as engines of equality and fairness."

[2] Data on Title I eligibility and per student Title I allocations for states and districts from: Rural School and Community Trust, January 2010 analysis of data provided by the Congressional Research Service. Data on child poverty rates is from: U.S. Department of Commerce, Bureau of the Census, 2008 American Community Survey, Table B 17001. Calculations by the Children's Defense Fund.

[3] Personal communication with Raegen Miller, Associate Director for Education Research, Center for American Progress. Estimates come from the 2008 Small Area Income and Poverty Estimates, Census Bureau, U.S. Department of Commerce.

[4] The Center for American Progress has advocated for the use of an "equity fund" which would allow the Department of Education to make whole allocations to those districts projected to lose Title I funding under a new formula. See Cynthia Brown and Raegen Miller, "Spoonful of Sugar." Washington: Center for American Progress, 2010, available at http://www.americanprogress.org/issues/2010/02/equity_fund.html.

[5] The damaging effects of SAPPE could be eliminated or reduced in a number of ways. For example, SAPPE could be replaced with the Comparable Wage Index to better track cost (see Raegen Miller and Cynthia Brown, "Bitter Pill, Better Formula." Washington: Center for American Progress, 2010, available at http://www.americanprogress.org/issues/2010/02/bitter_pill.html.), SAPPE values could be adjusted to reflect the concentration of low-income students in a state using a poverty index, or by raising the minimum SAPPE factor from 80 percent to 90 percent of the national average to increase the allocations for those states that spend the least on education (see proposals by the Rural School and Community Trust: "A Better Way to Take State Education Spending in Account Under Title I" available at http://www.formulafairness.com/state_spending_remedies).

[6] The Education Trust (March, 2010): "Close the Hidden Funding Gaps in Our Schools," 2.

[7] See "How Districts Shortchange Low-Income and Minority Students" (2006), in The Education Trust's *Funding Gaps*, and The Center for American Progress's "Ensuring Equal Opportunity in Public Education," June, 2008.

[8] The neural circuits of the brain-- for vision, hearing, language, and cognitive function-- are wired during this period, with 700 synapses formed per second. Shonkoff, J. 2009. power point presentation: "The Science of Early Childhood Development and the Foundations of Prosperity." Baton Rouge: Louisiana Legislative Briefing, April 29.

[9] Halle, T., Forry, N., Hair, E. 2009. "Disparities in Early Learning and Development: Lessons from the Early Childhood Longitudinal Study—Birth Cohort (ECLS-B)" Washington, DC: ChildTrends.

[10] Shonkoff power point, op.cit.

[11] *Blueprint for Reform for the Reauthorization of the Elementary and Secondary Education Act.* 2010. The U.S. Department of Education. p. 14.

[12] March 18, 2010, *New York Times.*

[13] Ibid.

[14] Advocates for Children of New York, Inc. *Educational neglect: The delivery of educational services to children in New York City's foster care system*. New York: Advocates for Children, 2000; Courtney, M.E., Terao, S., and Bost, N. *Midwest evaluation of the adult functioning of former foster youth: Conditions of youth preparing to leave state care*. Chicago, IL: Chapin Hall Center for Children at the University of Chicago, 2004; Pecora, P., et. al. *Assessing the effects of foster care: Early results from the Casey National Alumni Study*. Seattle, WA: Casey Family Programs, 2003.

[15] Burley, M. and Halpern, M. *Educational attainment of foster youth: Achievement and graduation outcomes for children in state care.* Olympia, WA: Washington State Institute for Public Policy, 2001.

[16] Ibid.

[17] Courtney, M.E., et.al. *Midwest evaluation of the adult functioning of former foster youth: Outcomes at age 21*. Chicago, IL: Chapin Hall Center for Children at the University of Chicago, 2007.

[18] Temple, J. A., and Reynolds, A. J. "School mobility and achievement: Longitudinal results from an urban cohort." *Journal of School Psychology* 37.4 (1999): 355-377.

[19] Pecora, P., et. al. *Assessing the effects of foster care: Early results from the Casey National Alumni Study*. Seattle, WA: Casey Family Programs, 2003.

[20] Courtney, M.E., Terao, S., and Bost, N. *Midwest evaluation of the adult functioning of former foster youth: Conditions of youth preparing to leave state care*. Chicago, IL: Chapin Hall Center for Children at the University of Chicago, 2004.

[21] Pecora, P., et. al. *Improving family foster care: Findings from the Northwest Foster Care Alumni Study*. Seattle, WA: Casey Family Programs, 2005.

[22] O'Hare, W.P. (2009). The Forgotten Fifth-Child Poverty in Rural America. A Carsey Institute Report #10. University of New Hampshire. The Carsey Institute.

[23] Ibid.

[24] Ibid.