

February 10, 2015

Chairman John Kline
Committee on Education and the Workforce
U.S. House of Representatives
2181 Rayburn House Office Building
Washington, D.C. 20515

Ranking Member Robert "Bobby" Scott
Committee on Education and the Workforce
U.S. House of Representatives
2101 Rayburn House Office Building
Washington, D.C. 20515

RE: OPPOSITION TO STUDENT SUCCESS ACT, H.R. 5

Dear Chairman Kline and Ranking Member Scott:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (LDF), we write to state our opposition to the *Student Success Act*, H.R. 5.

Founded seventy-five years ago by Thurgood Marshall, LDF is the nation's foremost civil rights legal organization. Since our inception, the advancement of equal educational opportunity for African-American students has been central to our mission. As the organization that successfully litigated *Brown v. Board of Education* over sixty years ago, LDF believes that H.R. 5 undermines equal educational opportunity for students of color, students with disabilities, and low-income students, and diminishes the critical federal role in protecting students' civil rights upon which the *Brown* decision was premised.

The *Brown* decision acknowledged the critical federal role in ensuring that states provide quality education on an equal basis to all public school students. After the *Brown* ruling, schools opted to shut their doors rather than comply with federal desegregation orders. Following this widespread opposition to the *Brown* ruling, Congress passed the Civil Rights Act of 1964 to prohibit race discrimination in public schools. One year later, Congress enacted the Elementary and Secondary Education Act of 1965 (ESEA) to ensure state compliance with federal civil rights laws and to create equal educational opportunity for low-income students.

Unfortunately, racial disparities still permeate the public education system. African-American students are disproportionately impacted by resource inequities, with limited access to quality facilities, rigorous college-and-career-ready courses, and extracurricular opportunities, and are taught at higher rates by inexperienced and non-credentialed teachers. As a result, their

educational outcomes are significantly compromised. In large measure, these disparities are vestiges of the racial segregation outlawed by *Brown*.

As the House Committee on Education and the Workforce seeks to reauthorize the ESEA in its 50th Anniversary year, we are hopeful that it can engage in a thoughtful, bipartisan process that advances educational equity and ensures that all students have access to quality instruction. We also urge the Committee to ensure that parents and students have a meaningful voice by promoting transparency and inclusion in this process.

Instead of advancing quality education for all students, H.R. 5 perpetuates inequality by undermining the federal oversight role in protecting students' civil rights, diluting Title I funding intended for low-income school districts, and divesting states of the responsibility to ensure that all children meet quality national academic standards. We remind Congress that our nation has previously left the provision of public education to the sole discretion of states, which relegated students of color, students with disabilities, and low-income students to sub-standard educational opportunities. We cannot afford now to turn our backs on *Brown* and the recognition by Congress fifty years ago of the importance of the federal role in ensuring that all of our nation's students attain quality educational opportunities.

LDF urges the Committee to adopt a bipartisan bill that truly advances educational equity and fulfills the promise of *Brown*. We recommend that the following principles be adopted:

I. Maintain the Federal Oversight Role

LDF believes that H.R. 5 undermines Congress' intent behind the ESEA of 1965 to maintain a strong federal oversight role by eliminating the Secretary of Education's ability to hold states and districts accountable for non-compliance with civil rights and other federal laws in the provision of education. The bill eliminates the Secretary's ability to set national standards for academic achievement, leaving states to set standards without any guidance or recommendations for supporting low-performing schools. This removes accountability for ensuring that state standards will actually prepare all students on an equitable basis to be college-and-career-ready and includes no oversight for ensuring that states act to assist low-performing schools.

The bill claims to return responsibility for student achievement to states, school districts, and parents, but instead it strips parents/caregivers of much recourse when states and school districts fail to provide quality education to all students on an equal basis, in violation of federal law. Without federal oversight and accountability, parents and students have little recourse under Titles IV and VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments Act of 1972 to address discriminatory actions on the basis of race, ethnicity, or gender by states and districts in the provision of education. History has shown that when states have sole discretion, the proliferation of educational inequalities persist without accountability. The prevalence of educational disparities today demonstrates that many states are still not fulfilling their obligations to provide all children with quality public educational opportunities.

LDF, along with several other civil rights, education, student and parent advocacy organizations, recognizes that No Child Left Behind is broken and that its sanctions were a disservice to states,

school districts, and students. However, the federal government has always played, and should continue to play, a key role in ensuring compliance with federal law, supporting states, and providing services. We urge retention of the Secretary's discretion, oversight, and federal enforcement power to ensure that all children are afforded the opportunity to learn and succeed on an equal basis as envisioned in the ESEA.

II. Maintain Targeted Title I Funding for Low-Income Students and High-Poverty School Districts

LDF strongly opposes H.R. 5's Title I "portability" provisions, which undermine the intent of targeting funding to support high-poverty school districts and low-income students. The stated purpose of Title I under the ESEA of 1965 is to "ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education."¹ In fact, President Lyndon Johnson envisioned ESEA as a weapon in the "War on Poverty,"² and a mechanism to ensure that districts serving low-income children, particularly those from rural and underserved areas, have the funding and support needed to provide quality educational opportunities as a lever out of poverty. Indeed, Title I is the very "foundation of the federal commitment to closing the achievement gaps between low-income and other students."³

This federal support is undermined by H.R. 5's changes to the Title I-Part A funding formulas, including Section 1128's changes that would allow Title I funds to "follow the low-income child" under state option. Essentially, this would permit Title I funds to be taken from high-poverty school districts and directed to higher-income school districts. This change ignores the sobering fact that many high-poverty school districts with low revenue bases are in dire need of Title I funding in order to accommodate the needs of the high number of low-income children in attendance. "Portability" would hinder the ability of high-poverty districts to provide quality instruction and supports to low-income students. The change compromises educational outcomes in high-poverty school districts and contradicts the very design of targeted Title I funding.⁴

¹ 20 U.S.C. §§ 6301 *et seq.*

² "Established in 1965 as part of Lyndon Johnson's War on Poverty, the ESEA . . . has provided federal assistance to schools, communities, and children in need . . . Title I, aimed at improving education for disadvantaged children in poor areas, remains the cornerstone of the Act." U.S. Department of Education, Archived Information, *Cross-Cutting Guidance for the Elementary and Secondary Education Act—September 1996*, Using Federal Resources to Support Reform: Background and Brief History of the ESEA, *available at* <http://www2.ed.gov/legislation/ESEA/Guidance/pt1.html>.

³ National Association for the Education of Young Children (NAEYC), *Title I-Helping Disadvantaged Children Meet High Standards*, *available at* <http://www.naeyc.org/policy/federal/title1>.

⁴ "[L]ow-income students attending school with high concentrations of similarly economically disadvantaged students need even more support to overcome the burdens and barriers erected by poverty. Title I is how the federal government attempts to meet its obligation to these students." Marchitello, Max, et al., Center for American Progress, *Robin Hood in Reverse: How ESEA Title I, Part A, 'Portability' Takes from the Poor and Gives to the Rest* (February 4, 2015), *available at* <https://cdn.americanprogress.org/wp-content/uploads/2015/02/ESEApportability-brief2.pdf>.

In addition, H.R. 5 further undermines targeted services and supports for low-income students by eliminating the current Title I requirement that 40 percent of funds for schoolwide programs go towards programs and supports for the unique needs of low-income students. By allowing the funds to be designated for all students, H.R. 5 ignores the unique supports and services needed by low-income students to address and overcome the impact of concentrated poverty and the attendant barriers that impact student academic performance.

While LDF is pleased that H.R. 5 retains the requirement that federal funds be used to supplement and not supplant local funds, its elimination of ESEA's "Maintenance of Effort" (MOE) requirement significantly undermines the efficacy of this provision by allowing states to reduce local education funding. Unlike more affluent districts, high-poverty districts receive the majority of their operating budgets from state funding.⁵ Without MOE requirements, states would be able to significantly reduce local education funding beyond the currently allowable 10 percent, leaving high-poverty districts which rely upon that funding most impacted. LDF urges the restoration of MOE requirements to ensure that high-poverty school districts have the support needed to provide quality instruction and services, even in the toughest of economic times. States and localities must invest funding in education so that federal funds are only truly used to supplement local funding.

III. Ensure Equitable Distribution of Resources, Including Qualified Teachers

Equity in education begins early with equal access to quality early childhood education programs. Children cannot be expected to compete when they start out on unequal footing. Research shows that children who participate in high-quality pre-kindergarten programs require fewer special education services, are less likely to repeat a grade or need child welfare services, and are likely to earn higher incomes as adults.⁶ While H.R. 5 specifies that preschool programs for some students are a permissible use of funds, LDF urges targeted investment in early learning opportunities to improve outcomes, especially for those children in high-poverty school districts most likely to have limited early learning opportunities.

For students in K-12, the current inequitable allocation of school resources exacerbates achievement gaps.⁷ African-American children disproportionately attend schools that are under-resourced and lack high-quality course offerings, qualified teachers, and adequate facilities. Their academic outcomes are compromised as a result. For instance, research shows that teacher

⁵ Association of Educational Service Agencies (AESA), *Maintenance of Effort Requirements in Title I and IDEA*, available at http://www.aesa.us/conferences/2014_eca_talking_points/Maintenance_of_Effort_Requirements_in_Title_I_and_IDEA.pdf.

⁶ Lynch, Robert G., *Enriching Children, Enriching the Nation*, Economic Policy Institute, 2007, Executive Summary, available at http://www.epi.org/publication/book_enriching/#exec.

⁷ U.S. Department of Education-Office for Civil Rights, Dear Colleague Letter: Resource Comparability (October 1, 2014), available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-resourcecomp-201410.pdf>.

quality is the most significant in-school factor impacting student academic success,⁸ and Titles I and II of ESEA and Title VI of the Civil Rights Act of 1964 require that students of color are not disproportionately taught by unqualified teachers. However, recent data show that approximately 7 percent of African-American students attend schools where more than 20 percent of teachers have not met state certification requirements, compared to about 2 percent of white students.⁹ The inequitable distribution of credentialed teachers can also be attributed to poor working conditions in under-resourced schools—including larger class sizes, diminished access to books, computers, and other curricula and instructional materials, and fewer instructional supports—and the inability of under-resourced school districts to pay teachers higher salaries.

To help address the inequitable distribution of credentialed teachers, LDF urges the Committee to prioritize funding for improving teaching conditions, including ongoing professional development opportunities for educators, mentoring programs, competitive teacher salaries, and differential and incentive pay. Differential and incentive pay should account for demographics of the school or school district and the experience and time spent by the educator on instruction and student support. LDF is concerned that H.R. 5 consolidates programs into a Teacher and School Leader Flexible Grant Program, and allows funding for increasing access to alternative licensure or certification requirements, rather than targeting funding to ensure that low-income students and students of color have access to credentialed teachers. LDF also recommends that ESEA require that comparability data include detailed information on teacher salaries, in order to provide more comprehensive picture of distribution of teachers and working conditions. This information can also be used to inform interventions where teacher equity is a problem.

While LDF supports H.R. 5's investment in professional development and programs targeted to increase teacher and school leader advancement, LDF also recommends that investment be placed in recruiting a diverse teacher workforce. With many educators reaching retirement age, it is important to direct federal investment in recruiting a diverse teacher workforce to work with an increasingly diverse student population.

Funds should be directed to ensure that high-poverty school districts can offer rigorous courses to ensure that students are college-and-career ready. Disparities in course offerings are particularly pronounced for students of color; one quarter of high schools with the highest percentage of African-American and Latino students do not offer Algebra II and one-third do not offer Chemistry.¹⁰ These courses are recognized as the gateway to college preparation and admission.

⁸ Linda Darling-Hammond, *The Flat World and Education: How America's Commitment to Equity Will Determine Our Nation's Future* (2010); Steven G. Rivkin, et. al, *Teachers, Schools, and Academic Achievement*, *Econometrics*, 73, No. 2 (March 2005).

⁹ U.S. Department of Education-Office for Civil Rights, Civil Rights Data Collection, Data Snapshot: Teacher Equity, *available at* <http://ocrdata.ed.gov/Downloads/CRDC-Teacher-Equity-Snapshot.pdf>.

¹⁰ U.S. Department of Education-Office for Civil Rights, Civil Rights Data Collection, Data Snapshot: College and Career Readiness (March 2014), *available at* <http://ocrdata.ed.gov/Downloads/CRDC-College-and-Career-Readiness-Snapshot.pdf>.

LDF asks the Committee to consider resource equity in context: it is not solely about per-pupil funding, but about the specific needs of school districts based upon demographics, including the particular needs of the student population and historical access to resources. Resource equity should concern the “equal allocation of educational opportunities for students.”¹¹

IV. Promote Diverse Learning Environments and Reduce the Effects of Racial Isolation and Concentrated Poverty

Research shows that *all* students benefit from racially diverse learning environments and are better able to succeed in a competitive global economy and diverse workforce. In fact, years before the Supreme Court in *Brown v. Board of Education* relied upon the findings of African-American psychologists Drs. Kenneth and Mamie Clark’s “Doll Test” to demonstrate the harm of racial isolation on African-American children, the Clarks documented the negative impact of racial isolation on the development of white children. Despite the longstanding recognized benefits of diversity in schools, the National Coalition on School Diversity (NCSD) finds that many schools and school districts are more racially isolated today than they were in the 1970s.¹²

LDF supports H.R. 5’s inclusion of and support for the Magnet School Program, as magnet schools are shown to promote school diversity. However, we are concerned about the emphasis on the expansion of public charter schools, which have been shown to employ discriminatory admissions policies resulting in the exclusion of students of color, students with disabilities, English language learners, and low-performing students, through mechanisms such as lotteries, with little accountability. LDF supports all publicly-funded schools that provide students with equal access and quality instruction. However, the exclusive admissions policies employed by many charter schools, as well as lack of due process in their disciplinary proceedings, raise concern about the lack of accountability of these publicly-funded schools. In May 2014, the Department of Education’s Office for Civil Rights issued guidance on Charter School Accountability, underscoring the responsibilities of charter schools to comply with federal civil rights laws.¹³ LDF is troubled by increasing federal support for charter schools without providing accompanying mechanisms to ensure compliance with their civil rights obligations.

V. Maintain Accountability for Student Growth and Improvement

LDF supports state, school district, and school accountability for student growth and achievement. LDF supports H.R. 5’s retention of provisions requiring detailed data, to be disaggregated by student subgroup, to provide a transparent and detailed picture of student growth and performance over time to parents/caregivers.

¹¹ U.S. Department of Education-Office for Civil Rights, Dear Colleague Letter: Resource Comparability (October 1, 2014), *available at* <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-resourcecomp-201410.pdf>.

¹² National Coalition on School Diversity (NCSD), at www.school-diversity.org.

¹³ Guidance “confirming that the same federal civil rights laws that apply to other public schools apply equally to public charter schools.” U.S. Department of Education, Office for Civil Rights, “Dear Colleague Letter on Charter School Guidance,” *available at* <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201405-charter.pdf>.

LDF also supports annual assessments, which provide information on student growth and achievement. However, H.R. 5's inclusion of grade span testing undermines the purpose of annual testing to provide a current picture of student growth. A grade span test, which compares a single grade level to the previous year's grade level, does not accurately measure student growth. While LDF agrees that many current assessments are burdensome and duplicative, research shows that the majority of current assessments are state and locally-mandated, not federal. A recent study from Ohio's Department of Education found that federal testing comprises only 32 percent of annual tests.¹⁴ Quality assessments that are aligned with curricula, and are part of multiple measures of achievement, can provide parents/caregivers and the public with valuable information on student growth. Further, LDF believes that high-stakes decisions should not be linked to testing and that information obtained from assessments should be used to target services and supports, and not sanctions.

VI. End Overly Punitive and Exclusionary Discipline Practices that Impact Students of Color and Fuel the School-to-Prison Pipeline

LDF believes it is imperative that any reauthorization of ESEA contain provisions designed to eliminate disciplinary practices that adversely affect the educational opportunities of students. Students of color and students with disabilities are disproportionately impacted by overly punitive discipline practices that remove them from the general classroom and push them out of school and into the juvenile justice system. Exclusionary discipline practices push students out of the classroom and fuel what is known as the "School-to-Prison Pipeline," which refers to school-based policies, practices, and conditions that contribute to the criminalization of students in schools.¹⁵ Racial disparities in discipline begin as early as preschool: African-American preschool students are subjected to 48 percent of all out-of-school suspensions, while comprising only 18 percent of preschool enrollment.¹⁶ African-American students are suspended or expelled at three times the rate of their white peers, despite data showing that they do not misbehave more frequently.¹⁷ African-American girls are suspended or expelled at a rate that is six times the rate of white girls and more than most boys.¹⁸ Discipline disparities are influenced by implicit bias¹⁹ that manifests in student discipline referrals.

¹⁴ Ohio Department of Education, Ohio Testing Report and Recommendations (January 2015), *available at* <https://education.ohio.gov/getattachment/Topics/Testing/Ohio-s-State-Tests/Testing-Report-and-Recommendations-2015.pdf.aspx>.

¹⁵ Morris, Monique W., *Searching for Black Girls in the School-to-Prison Pipeline*, National Council on Crime & Delinquency (March 18, 2013), *available at* <http://www.nccdglobal.org/blog/searching-for-black-girls-in-the-school-to-prison-pipeline>.

¹⁶ U.S. Department of Education, Office for Civil Rights, Data Snapshot: School Discipline (March 2014), *available at* <http://ocrdata.ed.gov/Downloads/CRDC-School-Discipline-Snapshot.pdf>.

¹⁷ "Investigations of student behavior, race, and discipline have yielded no evidence that African American overrepresentation in school suspension is due to higher rates of misbehavior, regardless of whether the data are self-reported or based on an analysis of disciplinary records." Simson, David, *Exclusion, Punishment, Racism, and Our Schools: A Critical Race Theory Perspective on School Discipline*, 61 UCLA L. Rev. 506, 524 (2014).

¹⁸ Leticia Smith-Evans, Janel George, Fatima Goss Graves, Lara S. Kaufmann & Lauren Frolich, *Unlocking Opportunity for African American Girls: A Call to Action for Educational Equity*, *available at*

Discriminatory discipline policies and practices violate Title VI of the Civil Rights Act of 1964. LDF recommends that detailed data on school climate and school discipline be collected and disaggregated by student subgroup to help identify, address, and eliminate discipline disparities. LDF also suggests requiring schools and districts with significant discipline disparities to detail how they plan to address such disparities, including reducing suspensions, expulsions, or law enforcement referrals. These states and districts should also be required to implement alternative discipline practices to address discipline disparities that negatively impact school climate and student achievement. LDF recommends that funding be prioritized for alternatives to punitive discipline practices and policies, including restorative practices, Social and Emotional Learning (SEL) curricula, and Schoolwide Positive Behavioral Interventions and Supports (SWPBIS). In addition, funding should be targeted for ongoing professional development and training opportunities for teachers and school leaders on classroom management, implicit bias, cultural competency, and conflict resolution.

VII. Ensure that School Employee Hiring and Retention Practices are Consistent with Equal Employment Opportunity

Title VI of H.R. 5 provides that a state educational agency (SEA) or local educational agency (LEA) is ineligible for funds if the agency employs individuals who refuse a criminal background check, make false statements related to a background check, are registered sex offenders, or have been convicted of a certain felonies. LDF is committed to ensuring that children and youth are safe at school and believes that appropriate and properly used background checks would help to accomplish this goal. However, LDF believes that potential employees should be treated fairly during the hiring and retention process, and should not be treated in a manner inconsistent with state or federal civil rights protections in the name of school safety.

LDF believes that H.R. 5 would unjustly foreclose equal employment opportunities for persons of color with criminal records and restrict their ability to obtain or retain jobs for which they are otherwise qualified. The U.S. Equal Employment Opportunity Commission (EEOC) reports that the number of working-age individuals with criminal records has increased significantly over the past several decades; African Americans and Latinos have experienced the highest arrests and incarceration rates.²⁰ The EEOC predicts that, if these trends continue, 1 in 3 African-American men and 1 in 6 Latino men would be incarcerated during their lifetimes, compared 1 in 17 White

http://www.naacpldf.org/files/publications/Unlocking%20Opportunity%20for%20African%20American%20Girls_0.pdf.

¹⁹ “Implicit bias is defined as “the mental process that causes us to have negative feelings and attitudes about people based on characteristics like race, ethnicity, age, and appearance. Because this cognitive process functions in our unconscious mind, we are typically not consciously aware of the negative racial biases that we develop over the course of our lifetime.” Rudd, Tom, *Racial Disproportionality in School Discipline: Implicit Bias is Heavily Implicated*, Kirwan Institute Issue Brief, Kirwan Institute for the Study of Race and Ethnicity, The Ohio State University, February 2014.

²⁰ See U.S. Equal Employment Opportunity Commission (EEOC), *Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Records Under Title VII of the Civil Rights Act of 1964*, No. 915.002 at 3 (Apr. 25, 2012), available at http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm.

men.²¹ Moreover, research shows that racial disparities in arrests and convictions for drug offenses are not due to differences in drug use, but instead are the product of explicit or implicit racial biases manifested within the criminal justice system, leading to their overrepresentation in the criminal justice system.²²

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on race, color, national origin, sex or religion. The EEOC recently updated its longstanding guidance on the proper use of background checks for determining eligibility for employment to ensure that such criteria are not utilized in a manner that disproportionately impacts communities of color. The EEOC guidance warns that an arrest record should not alone disqualify a person for employment because arrests do not always result in convictions.²³ It is critically important for any employer to conduct an individualized assessment of an employee's fitness for a job by considering the type of crime committed, the relationship of that crime to job responsibilities, the time that has passed since commission of the crime and incarceration, if applicable, and other factors, such as previous work history and rehabilitation efforts.²⁴

Given the language of H.R. 5, LDF is concerned that potential employees with older or irrelevant criminal convictions may be excluded from school employment opportunities. We note that research demonstrates that, after a period of time with no arrests or convictions, individuals with criminal records are no more likely to commit an offense than individuals in the general public.²⁵ Additionally, H.R. 5 relies on the Federal Bureau of Investigation's (FBI) database and similar state databases for criminal history information, without requiring state and local educational agencies to ensure the accuracy of these databases. Research shows that 50 percent of the FBI's records contains incomplete information, such as missing final case outcomes.²⁶ Consequently, potential employees could be denied employment opportunities due to inaccurate recordkeeping.

LDF recommends adding language that would require SEAs and LEAs to offer an appeal process, allowing potential employees to dispute inaccurate criminal histories. Additionally, the proposed bill should require the development and implementation of a process for conducting individualized assessments of potential employees with criminal records. This process should

²¹ *Id.*

²² See, e.g., American Civil Liberties Union, *The War on Marijuana in Black and White* (June 2013), available at <https://www.aclu.org/files/assets/1114413-mj-report-rfs-rel1.pdf>; See also, Michelle Alexander, *The New Jim Crow*, 59-94, The New Press (2010).

²³ EEOC, *Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, as amended*, 42 U.S.C. §§ 2000e *et seq.* (April 25, 2012).

²⁴ *Id.*

²⁵ See, e.g., Alfred Blumstein and Kiminori Nakamura, *Extension of Current Estimates of Redemption Times: Robustness Testing, Out-of-State Arrests, and Racial Differences*, Final Report Submitted to the National Institute of Justice, 88-89 (Oct. 2012), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/240100.pdf> (last visited Feb. 6, 2015).

²⁶ Madeline Neighly and Maurice Emsellem, *Wanted: Accurate FBI Background Checks for Employment*, National Employment Law Project (July 2013), <http://www.nelp.org/page/-/SCLP/2013/Report-Wanted-Accurate-FBI-Background-Checks-Employment.pdf?nocdn=1> (last visited Feb. 9, 2015).

require the employer to inform the potential employee that he or she may be excluded from employment because of a criminal conviction, and allow the prospective employee an opportunity to demonstrate that he/she should be hired despite the criminal conviction. After considering the information provided by the potential employee, the employer could determine whether or not the conviction in question is related to the successful and safe performance of the job. This process could protect the potential school employee's right to be treated fairly.

Conclusion

LDF is committed to working with the Committee to ensure that the reauthorization of ESEA creates equal educational opportunity for all students. LDF opposes the current draft of H.R. 5 for the reasons outlined herein. We are most troubled by the bill's wholesale elimination of the critical role of the federal government in ensuring that states comply with civil rights and other federal laws. This federal oversight and enforcement role, upon which the *Brown v. Board of Education* ruling was premised, has been embedded in our educational system for decades. It should not be discontinued today as we celebrate the 50th Anniversary of the Act. We are also concerned about the dismantling of targeted Title I funds, including "portability" provisions and the elimination of "Maintenance of Effort," all of which undermine the provision of education for low-income students. This effort is contrary to the purpose of ESEA to level the playing field to ensure that all students, regardless of race, disability, or socioeconomic status, have equal opportunity to learn. LDF is also concerned about the lack of state accountability for interventions to support low-performing schools and the imposition of grade span assessments that do not measure student growth.

LDF hopes that the Committee will carefully consider our recommendations. We look forward to working with the Committee to produce legislation that promotes educational equity and achievement for all students. If you have any questions, please contact Janel George, Senior Education Policy Counsel, at jgeorge@naacpldf.org or 202-682-1300. Thank you.

Respectfully submitted,



Leslie Proll, Director, Washington Office
Janel George, Senior Education Policy Counsel
Monique Dixon, Senior Policy Counsel for Criminal Justice
and State Education Initiatives
Monique Lin-Luse, Assistant Counsel

cc: Members of the Education and Workforce Committee