



Tightening Up Title I

Reauthorization of the Elementary and Secondary Education Act Offers a New Chance to Improve Education

Joint Recommendations on Needed Changes to Title I

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Introduction

The Elementary and Secondary Education Act, or ESEA, began as a component of the Great Society reforms of the 1960s. Seven reauthorizations have changed the law in myriad ways, but perhaps never to such great effect as with the accountability provisions of the most recent reauthorization—the No Child Left Behind Act of 2001, or NCLB. Because of No Child Left Behind the law is now equated in the public mind with the Title I requirement mandating elaborate frameworks of school and district accountability for student achievement in multiple academic subjects, as measured by controversial end-of-year tests.

The question of whether and how to reshape the law’s accountability requirements dominates current debate around the reauthorization of ESEA, which is already overdue by half a decade. On the one hand, the accountability debate is exciting because it is informed to an unprecedented extent by fine-grained data and sophisticated analyses. But on the other hand, all the contention surrounding accountability threatens to prevent a number of other important Title I requirements from receiving the share of policymakers’ attention that they deserve.

Recognizing this danger, the Center for American Progress and Frederick Hess, director of education policy studies for the American Enterprise Institute, have collaborated to raise the public profile of a suite of hugely important but often overlooked Title I provisions apart from those around accountability for student achievement. Toward this end we commissioned a set of seven papers from experts on various facets of Title I. Each paper describes a problem and marshals existing knowledge to construct a number of recommendations for federal policymakers. This brief details those recommendations we jointly embrace and explains why.

By design we chose not to wade into fundamental questions about the federal role in public education or the broader contours of a reformed ESEA. These topics would not be fertile ground for agreement. Instead, we have chosen to focus on specific ways to improve ESEA in the event that federal policymakers reauthorize the law relying largely on No Child Left Behind as a foundation.

Admittedly, our joint recommendations and the papers undergirding them focus on requirements that are often regarded as obscure, technical, or otherwise unglamorous. And while it is certainly true that No Child Left Behind’s accountability system gets the lion’s share of the attention, we would argue that these seemingly mundane provisions may well prove more significant when it comes to what goes on in America’s schools and school systems day-to-day. Some requirements are known informally as “set-asides”

and others as “caps.” These requirements ensure that minimum or maximum levels, respectively, of agencies’ Title I allocations serve specific purposes. Fiscal requirements lie at the heart of compliance regimes that have grown up with ESEA with the nominal purpose of ensuring that Title I funds heed congressional intent.

We did not tackle every set-aside, cap, or fiscal requirement on the books, nor could we stay entirely away from the subject of accountability. Yet our project provides an entry point for a wide range of stakeholders, from families served by Title I to chief state school officers to U.S. Department of Education officials. Moreover, our joint recommendations, if adopted, would entail momentous shifts away from “standard operating procedure” in elementary and secondary education. We’re certain there’s a lot to chew on here, beginning with the following jawbreaker.

Supplement, not supplant

The supplement-not-supplant, or SNS, requirement aims to prevent school districts from using Title I funds to free up state and local funds for purchasing goods and services they would not otherwise have been able to afford or to provide tax relief. In their paper, “How the Supplement-Not-Supplant Requirement Can Work Against the Policy Goals of Title I,” attorneys Melissa Junge and Sheara Krvaric—founders of the Federal Education Group, a firm that helps clients comply with federal regulations—offer several options for modifying this long-standing requirement. We embrace the option that would make SNS amenable to innovation while greatly reducing the burden of compliance. The idea is to replace the primary test currently in use with a simpler, more objective test, specifically:

- If districts can document that the manner in which they allocate state and local resources to schools is “Title I neutral,” they should be clear of suspicion around supplanting nonfederal funds with Title I dollars.

The neutrality test does not arise out of thin air. It’s rooted, as the authors explain, in a test originally designed for schoolwide Title I programs. But the neutrality test does represent a major departure from the traditional cost-by-cost approach required to refute presumptions of supplanting.

This departure makes sense to us for the following three reasons:

- First, the cost-by-cost approach is inherently hostile to innovation. Each purchase of a good or service made with Title I funds is matched with an unobserved, counterfactual speculation about whether the purchase would have been made in the absence of Title I funds. Thus, the subjective judgments of state auditors play a prominent role in SNS enforcement, and it’s simply wrong to characterize SNS as a crisp fiscal require-

ment. Rather, it's an idiosyncratic, psychological one. What's more, SNS gives school officials strong incentives to perpetuate past spending practices—even hopelessly ineffective ones—that did not tar them with an audit exception.

- Second, cost-by-cost analysis is burdensome, in addition to the fact that devoting scarce resources to compliance is wasteful in the face of an alternative approach, especially one that frees local officials to take conscious steps toward using Title I funds to improve student achievement.
- Third, a switch to the neutrality test would pave the way for consolidation of federal funds in schoolwide Title I programs that serve 87 percent of students receiving Title I funds.¹ This practice is allowable under federal rules and the flexibility it affords in bypassing cost-by-cost reporting, for example, should be popular. Fund consolidation, however, is rare in some states and virtually unknown in others. Such is the stifling nature of the current supplement-not-supplant requirement.²

School-level expenditure reporting

Jennifer Cohen of the New America Foundation and CAP's Raegen Miller, by shedding light on Title I's comparability requirement, point out that some of the nation's poorest schools are being shortchanged when it comes to funding. In their paper, "Evidence of the Effects of the Title I Comparability Loophole," using a dataset including school-level expenditures and other information on 2,500 Florida schools over seven years, the authors find compelling evidence that high-poverty schools tend to enjoy fewer state and local resources, when measured in actual dollars per pupil, than low-poverty schools in the same districts. These findings corroborate existing research on school-level expenditure patterns,³ and they are utterly unremarkable given that the majority of school funds go to teacher salary. Salary closely tracks teacher experience, and experienced teachers tend to migrate to the low-poverty schools in their districts in search of better working conditions.

Yet the findings are remarkable in that they have no bearing on whether districts in Florida are in compliance with the Title I comparability requirement. The reason for this seeming contradiction is that the existing requirement specifically excludes salary differentials due to teacher experience in determinations about whether a district's Title I and non-Title I schools receive reasonably comparable shares of state and local resources.

We see this exclusion as a form of dishonesty. And while we differ on what federal policymakers should do to redress districts' failures when it comes to comparability, we agree on how comparability should be assessed. Accordingly, we jointly embrace two of the recommendations advanced by Cohen and Miller:

- Districts should annually report school-level expenditures to the Department of Education.
- These school-level expenditure figures in actual dollars—including all dollars devoted to teacher salary, as experience differentials or otherwise—should be used as the basis for comparability determinations.

It is important to make clear that together we take no further stance on the manner of comparability determinations or on what consequences should befall a district that fails to ensure comparable services in Title I and non-Title I schools. Our recommendations above are strictly meant to foster transparency in government and simple “truth in advertising.”⁴

Further, policymakers should leverage momentum toward greater transparency in education funding created by a one-time reporting requirement embedded in the American Recovery and Reinvestment Act.⁵ The Department of Education’s analyses of the school-level expenditure data gathered under the Recovery Act highlighted difficulties that some districts and states had in producing what should be routinely available numbers. That’s reason enough to keep collecting these data, which also happen to show that the patterns detected by Cohen and Miller in Florida are widespread.⁶

In an era of chronic fiscal challenges, school leaders, district officials, and policymakers need to become accustomed to asking tough questions about resource allocation. Yet traditional budgeting and reporting practices—allocating staff instead of actual dollars and reporting district-level averages instead of school-level figures—shield the parties from operating with data of appropriate granularity or validity. And relatedly, yielding substantial gains in student achievement will require that districts allocate resources more strategically—with an eye toward results rather than what’s politically expedient. An annual appraisal of how resources are allocated to schools, where the rubber hits the road, is a prerequisite for strategic-resource allocation.⁷

Improving productivity

Martin West of Harvard University extends the argument for school-level expenditure reporting in his paper, “The Federal Role in Improving Educational Productivity.” West’s recommendations stem from the observation that one of the nation’s strengths, entrepreneurial creativity, is effectively neutralized by other forces within elementary and secondary education. Innovation is not magic. It can be cultivated but not in the absence of rich information about the costs and benefits of different approaches to providing educational services.

West offers a set of recommendations that allow federal policymakers to help the forces of innovation, especially private-sector actors, gain traction in public education. The overarching idea behind his recommendations is that No Child Left Behind's notion of accountability is incomplete. While No Child Left Behind brought unprecedented focus to questions around outcomes such as student achievement and graduation rates, the law failed to bring to the surface information about productivity. Between two otherwise identical schools, the one yielding greater gains on outcome measures per-unit-cost should not be inconspicuous, as it is under No Child Left Behind.

We jointly support West's following recommendations, paying special note to one recommendation that speaks specifically to Title I, punctuating the reporting requirements mentioned above and situating it within a productivity-oriented view of accountability.

- Condition the receipt of Title I funds on the timely disclosure of comparable measures of per pupil spending at the state-, district-, and school-level, alongside the test-based metrics that now dominate school report cards. Crucially, school-level expenditure figures should reflect actual teacher salaries.

The other recommendations reach beyond Title I, or even ESEA. They push the federal government, by example and action, to facilitate scrutiny and expose incentives, thus making public education more susceptible to innovation:

- The Department of Education should set an example for states and school districts by prioritizing productivity in its own funding decisions, a spirit already embodied by the Investing in Innovation Fund (i3) grant competition process, and suggesting high priority on programs like the Teacher Incentive Fund, meant to catalyze transformation.
- Require that statewide longitudinal data systems funded with federal dollars incorporate program participation and cost information needed to analyze the cost effectiveness of specific programs.
- Encourage states to eliminate self-imposed barriers to the expansion of new education-delivery models, especially those leveraging online technologies, with the potential to reduce costs.

Supplemental educational services

West's last recommendation puts a spotlight on the role of competition among service providers in improving educational productivity. Policymakers' efforts to enable such competition should draw lessons from a set-aside provision of Title I that arrived with No Child Left Behind. In their paper, "The Implementation and Effectiveness of Supplemental Educational Services," Carolyn J. Heinrich of the University of Texas and

Patricia Burch of the University of Southern California reviewed the literature on the uptake and effects of the largest and perhaps most controversial set-aside provision ever to visit ESEA.

The provision in question requires districts to devote 20 percent of their Title I allocations to furnishing choice-related transportation and supplemental-educational services to students in schools identified for improvement, corrective action, or restructuring. As implemented, the efficacy of supplemental-educational services, which generally consists of tutoring provided by private companies, is suspect. In prior research the authors and their colleagues found no effect of supplemental-educational services participation on student-achievement gains.⁸ While the set-aside provision effectively stimulated demand for supplemental-educational services, districts lacked the discretion and parents lacked the information needed to enforce competition on the basis of quality.

Heinrich and Burch offer specific recommendations should policymakers decide to refine the supplemental-educational services set-aside provision:

- Districts should be allowed and encouraged to negotiate performance-based contracts with supplemental-educational services providers that facilitate greater control over hourly rates and minimum supplemental-educational services hours provided, tutor qualifications and curriculum (particularly for serving English language learners and student with disabilities), and other programmatic and financial-management factors.
- States could similarly negotiate performance-based contracts with district-operated providers. Effective design and management of performance-based contracts militate for some fraction of Title I resources to be used in this way.
- States and districts should assess what online providers offer in a supplemental-educational services session—including quality and differentiation in the curriculum. They should also consider, along with their assessments of other providers, what criteria or key elements should be used (and with what weight) to set the hourly rate of supplemental-educational services providers. Information gathered on provider performance on these criteria should be communicated widely to students and parents.
- Where agencies must establish additional eligibility criteria beyond stricter low-income requirements, such criteria should target supplemental educational services resources, at levels above the threshold of impact, toward students who are most severely underperforming.

Parent involvement

Title I's parent-involvement set-aside provision involves far less money than the supplemental-educational services set-aside, but it has a longer history in ESEA. Like the supplemental-educational services provision, the parent-involvement provision is ripe for refinement. In her paper, "Title I and Parent Involvement," Karen Mapp of Harvard University reviews the history of parent involvement in federal education policy, building a case for recommendations addressing the current set-aside for parent involvement.

Districts receiving more than \$500,000 in Title I funds must use at least 1 percent of those funds to implement parent-involvement programming. Except in the largest districts, the set-aside simply can't cover the costs of full-time professional personnel devoted to parent involvement. Districts can exceed the minimum set-aside, but absent a vision for increasing parents' capacity to engage the district and a framework to focus this engagement, it's unlikely that additional personnel will yield improved academic achievement.

We jointly adopt one of Mapp's recommendations that speaks to the vision and framework, what one might call the "necessary conditions for effective use of the parent involvement set-aside funds."

- Clarify in statute that parent-involvement policies and compacts should align with the goals and strategies of school-improvement efforts.

Legislated prescriptions for parental engagement are liable to produce boilerplate documents and compliance-oriented activity. We don't need that. What we do need, however, is for policymakers to offer a clear signal that parental engagement and school improvement efforts be mutually grounded in concern for improved academic outcomes.

State education agencies

One of the most common complaints heard about education funding is that too much money fails to make its way to the classroom, which is the sentiment behind policies such as Texas's "65 percent rule."⁹ Such policies put state education agencies at a distinct disadvantage in securing a generous slice of the education funding pie. Yet an emerging body of work highlights the crucial and largely unfulfilled role of state education agencies in fostering improved educational outcomes.¹⁰

State education agencies need to take a more active role in providing services and supports that respond to districts' needs around improving achievement overall and closing achievement gaps. This role is quite different than the traditional one of distributing funds and ensuring compliance with state and federal laws and regulations. Given their augmented Title I responsibilities, it is reasonable to ask whether state education agen-

cies should be able to hold back a greater share of Title I funds than currently allowed by a provision that caps their share of states' Title I allocations at 1 percent for administration and up to 4 percent for school-improvement activities.

Asking doesn't hurt, but Brenda Turnbull and Leslie Anderson of Policy Studies Associates, Inc. know a nonstarter when they see one. They begin their paper, "Government that Works for Schools and Children," with this observation: "Problems at many state education agencies are structural and longstanding, which means that simply adding more money so they can handle their current Title I responsibilities is probably not the best solution, and certainly not the only solution."

They had us at "problems," and we agree that the authors' recommendations are sensitive to the history of federal involvement in education and relevant to the debate around reauthorization of ESEA. The following recommendations for federal policymakers address what we see as a disconnect between state education agencies' responsibility for implementing Title I and their capacity to do so:

- Focus on a more manageable subset of the current 588 state responsibilities.
- Promote state participation in mutual assistance consortia.

We jointly endorse these recommendations, and offer another one inspired by the authors. Current law allows the Department of Education to "bypass" state education agencies under specific circumstances such as failure or inability to carry out a duty imposed by federal law. Rather than augment such bypass authority, as Turnbull and Anderson suggest, we urge policymakers to craft a process that would allow more duties traditionally performed by state education agencies to be awarded to alternative providers when they are better equipped for the task at hand and willing to commit to hitting superior performance targets (with funding contingent on results).¹¹

District management perspective

The last of the seven papers we commissioned offers a district perspective on the "back office" requirements of Title I. In their paper, "The Consequences of Distrust," Jon Fullerton of Harvard University and Dalia Hochman, an independent consultant, explain how Title I requirements support an apparatus and culture of compliance inimical to the goals of the program—enhancing the educational experience of children living in concentrated poverty. We jointly endorse two of the authors' thoughtfully presented recommendations. In fact, we've already supported these recommendations, which bear repeating:

- Base supplement-not-supplant on the test of Title I neutrality, as detailed by Junge and Krvaric.
- Base the comparability requirement on actual expenditures, as introduced by Cohen and Miller, and driven home by West.

Reauthorization of ESEA is an infrequent, semiregular but nonetheless critical opportunity for federal policymakers to steer the course of K-12 education. This brief has laid out a number of recommendations for changing key “back office” provisions of Title I, the law’s signal program. Both CAP and Frederick Hess believe these policy options, if enacted, would go a long way toward improving the alignment of the ambitious goals of Title I and its implementation.

About the authors

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Prior to joining the Center, she was an independent education consultant who advised and wrote for local and state school systems, education associations, foundations, non-profit organizations, and a corporation. From 1986 through September 2001, Brown served as director of the Resource Center on Educational Equity of the Council of Chief State School Officers. She was appointed by President Jimmy Carter as the first assistant secretary for civil rights in the U.S. Department of Education (1980). Prior to that position, she served as principal deputy of the Department of Health, Education and Welfare’s Office for Civil Rights. Subsequent to this government service, she was co-director of the nonprofit Equality Center. Before the Carter administration, she worked for the Lawyers’ Committee for Civil Rights Under Law, the Children’s Defense Fund, and began her career in the HEW Office for Civil Rights as an investigator.

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School Reform, Revolution at the Margins, and Spinning Wheels, and pens the *Education Week* blog “Rick Hess Straight Up.” His work has appeared in scholarly and popular outlets such as *Teachers College Record*, *Harvard Education Review*, *Social Science Quarterly*, *Urban Affairs Review*, *American Politics Quarterly*, *Chronicle of Higher Education*, *Phi Delta Kappan*, *Educational Leadership*, *U.S. News & World Report*, *The Washington Post*, *The New York Times*, and *National Review*. He has edited widely cited volumes on education philanthropy, stretching the school dollar, the impact of education research, and *No Child Left Behind*. He serves as executive editor of *Education Next*, as lead faculty member for the Rice Education Entrepreneurship Program, on the Review Board for the Broad Prize in Urban Education, and on the Boards of Directors of the National Association of Charter School Authorizers, 4.0 SCHOOLS, and the American Board for the Certification of Teaching Excellence. A former high school social studies teacher, he has taught at the University of Virginia, the University of Pennsylvania, Georgetown University, Rice University, and Harvard University. He holds an M.A. and Ph.D. in government from Harvard University as well as an M.Ed. in teaching and curriculum.

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Raegen’s work in education policy is grounded in many years of practice and service. He taught mathematics in the United States and abroad, in traditional public schools and in charter schools, and in urban and suburban settings. Raegen completed his teacher training at Stanford University, and he holds an M.S. in mathematics from Cal Poly, San Luis Obispo. He was a trustee of Prospect Hill Academy Charter School in Somerville, Massachusetts, and he served as president of his local teachers’ union in Palo Alto, California.

Endnotes

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