

November 16, 2015

Senator Lamar Alexander
Chairman
Senate HELP Committee
455 Dirksen SOB
Washington, DC 20510

Senator Patty Murray
Ranking Member
Senate HELP Committee
154 Russell SOB
Washington, DC 20510

Secretary Arnie Duncan
Department of Education
400 Maryland Avenue, SW
Room 7W301
Washington, DC 20202

Representative John Kline
Chairman
House Committee on
Education & Workforce
2439 Rayburn HOB
Washington, DC 20515

Representative Bobby Scott
Ranking Member
House Committee on
Education & Workforce
1201 Longworth HOB
Washington, DC 20515

Re: NHLA Recommendations for ESEA in Conference

Dear Senators Alexander and Murray, Representatives Kline and Scott, and Secretary Duncan:

On behalf of the National Hispanic Leadership Agenda (NHLA), a coalition of 40 leading national Latino civil rights and advocacy organizations, we write to request your support to improve the Elementary and Secondary Education Act (ESEA) in conference, to a version of the bill that NHLA could support.

ESEA is not a general education bill; it is a civil rights bill, whose purpose is to ensure equal access to a quality education. First enacted in 1965, ESEA was part of a set of civil rights bills including the Civil Rights Act of 1964 and the Voting Rights Act of 1965. In the fifty years since its enactment, Congress has repeatedly updated ESEA to meet the needs of our evolving nation. Within those fifty years, the Latino community has grown from roughly three percent of the nation, to seventeen percent today. Latinos are also disproportionately young, representing over twenty-five percent of students in public schools. It is because of this growth in the Latino community that students of color are no longer the minority, but the new majority of students in our nation's public schools. Congress must update ESEA to meet the needs of our nation's new demographics, not roll back longstanding civil rights protections in this important civil rights law.

NHLA has high hopes that the Elementary and Secondary Education Act (ESEA) could be reauthorized during this Congress in a way that would improve educational outcomes for the Latino community, which, given the size and growth of the Latino population, is essential to the future success of our entire nation. Throughout this year, NHLA has repeatedly weighed in on both H.R. 5, the Student Success Act, and S. 1177, the Every Child Achieves Act (ECAA). Unfortunately, NHLA was forced to oppose both bills, because both bills removed civil rights protections that exist in current law, and neither bill met the needs of the emerging Latino community.

NHLA will consider the vote on final passage of ESEA in developing its congressional scorecard for the 114th Congress. NHLA continues to believe that ESEA could become a bill worthy of its history during the conference process, and has compiled a list of priorities that it would need in order to support an ESEA bill out of conference. Because of the Senate bill's bi-partisan nature, NHLA will base its recommendations on the ECAA, which NHLA expects would be used as the base bill in conference.

MEMBER ORGANIZATIONS

Alianza Americas
American G.I. Forum
ASPIRA Association
Avance Inc.
Casa de Esperanza: National Latin@ Network
Congressional Hispanic Caucus Institute
Cuban American National Council
Farmworker Justice
Hispanic Association of Colleges & Universities
Hispanic Federation
Hispanic National Bar Association
Inter-University Program for Latino Research
Labor Council for Latin American Advancement
Latino Justice PRLDEF
League of United Latin American Citizens
MANA, A National Latina Organization
Mexican American Legal Defense and Educational Fund
National Association of Hispanic Federal Executives
National Association of Hispanic Publications
NALEO Educational Fund
National Association of Latino Independent Producers
National Conference of Puerto Rican Women, Inc.
National Council of La Raza
National Hispana Leadership Institute
National Hispanic Caucus of State Legislators
National Hispanic Council on Aging
National Hispanic Environmental Council
National Hispanic Foundation for the Arts
National Hispanic Media Coalition
National Hispanic Medical Association
National Institute for Latino Policy
National Latina Institute for Reproductive Health
National Puerto Rican Coalition
Presente.org
SER Jobs for Progress National
Southwest Voter Registration Education Project
United States Hispanic Chamber of Commerce
United States Hispanic Leadership Institute
United States-Mexico Chamber of Commerce
U.S.- Mexico Foundation

I. NHLA cannot support the ECAA without the following improvements:

1. Ensure that states and districts will intervene to address the needs of all subgroups of students that do not meet state-established goals.

The ECAA requires states to collect data, and set proficiency and graduation rate targets for racial and ethnic groups, as well as English learners, students with disabilities, and economically disadvantaged students. Unfortunately, the ECAA does not require states to do anything if those goals are not met for a group of students. For instance, a school or school district could fail to reach state-established proficiency targets for Latino students for an indefinite number of years, yet the state, school district, and school would have no affirmative obligation to take steps to improve Latino performance in that school. This is a fundamental flaw with the bill that erodes an essential civil rights protection that exists in current law.

The nation cannot afford to allow ESEA to become law without significantly strengthened subgroup accountability language. This should include mandatory intervention after two years of missed goals, and a guarantee of supports or intervention where any group of students, in any school, fails to meet state established proficiency goals of student academic performance. We are all accountable to our future, and projected demographics of the United States mandate subgroup accountability to meet that obligation.

2. Require states to intervene where there are disparities in access to educational resources.

The ECAA increases reporting on educational resources, including per-pupil expenditures. While this is a welcome improvement, merely shining a light on educational inequity is not enough. ESEA must require states to have a plan to address those inequities, including timelines to progress significantly toward equity.

3. Guarantee that the Federal government has a meaningful role in ensuring that states do not circumvent the civil rights purpose of ESEA.

The ECAA expressly prohibits the Secretary of Education from, among other things, denying state educational plans based on student benchmarks, targets or goals, and on whether a state is “meaningfully” or “substantially” meeting the requirements of the law. NHLA cannot support a reauthorization of ESEA without meaningful federal oversight to ensure states act in good faith with the federal funds they receive. History tells us that the federal government has an essential oversight role with respect to civil rights issues. Depriving it of that role takes ESEA away from its legacy as a civil rights law.

II. NHLA cannot support ESEA if the following elements of ECAA are not preserved, in order to align it with H.R. 5:

1. Existing programs that serve Latinos and English learners must be included, and not be block-granted.

NHLA was disappointed that H.R. 5 block-granted Title III, Language Instruction for English Learners, and Title I, Part C, the Migrant Education Program. These programs are crucial educational programs to the Latino community, and NHLA could not support an ESEA reauthorization without them. Failing to earmark this federal support practically ensures that the resources will be diverted to other communities viewed as possessing more political clout at the state or local level.

2. Title I funding should be targeted at low-income schools, and not spread across all schools.

Current law targets Title I funding at low-income schools; NHLA was happy to see that the ECAA kept this requirement. NHLA cannot support a reauthorization of ESEA that would water down funding for low-income students by spreading funding across all schools.

3. Assessments should be statewide and annual, and all students must be assessed as under current law, including English learners and students with disabilities.

The ECAA maintained current law as it applies to assessments: assessments are annual and statewide, 95% of all students must be assessed, recently-arrived English learners may only be exempted from assessment for one year, and alternative assessment for students with disabilities is limited to the 1% most cognitively disabled. Unfortunately, each of these factors was removed from H.R. 5 by: allowing local assessment in lieu of statewide assessment; allowing students to opt out from the 95%; exempting recently arrived English learners from math exams for 2 years, and from English language arts for 3 years; and removing the 1% cap on alternative assessment for students with disabilities. ESEA must target supports and interventions at those students who most need it, and, without accurate data on student performance, ESEA cannot meet this goal. NHLA cannot support an ESEA bill if it does not assess student performance as outlined above.

4. English language proficiency of English learners should remain in Title I accountability.

NHLA was happy to see that English language performance of English learners was added into the Title I accountability system in the ECAA. This is an important development in ensuring that states, districts, and schools provide English learners the services they need to succeed. NHLA cannot support an ESEA reauthorization if it does not include English language performance of English learners in the Title I accountability system.

5. Data should remain available cross-tabulated.

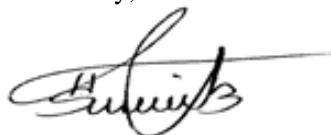
NHLA advocated for the Warren cross-tabulation amendment to be adopted on the Senate floor, and was happy to see that it passed by voice vote. NHLA cannot support an ESEA reauthorization that does not keep or expand the cross-tabulation of data.

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NHLA is optimistic that ESEA can be reauthorized in a way that furthers the civil rights legacy of ESEA, and serves the Latino community in the ways outlined above. Assuming ESEA comes to a final vote, **NHLA will consider votes cast on ESEA in developing its congressional scorecard.** If the issues outlined above are addressed, NHLA will score ESEA positively, and would be happy to whip with you for a yes vote. Otherwise, NHLA will score a vote on final passage negatively, advocate against the bill, and will call for President Obama to veto it.

For additional information, please do not hesitate to contact Adam Fernandez of MALDEF, at afernandez@maldef.org; Luis Maldonado of HACU, at luis.maldonado@hacu.net; or Teresa Acuña, NHLA's Director of Policy and Leadership Programs at teresa@nationalhispanicleadership.org.

Sincerely,



Hector Sanchez
Chair, NHLA
Executive Director, Labor Council for
Latin American Advancement



Thomas A. Saenz
Vice-Chair, NHLA
Co-Chair, NHLA Education Committee
MALDEF, President and General
Counsel



Antonio R. Flores
Co-Chair, NHLA Education Committee
HACU, President and CEO

CC: Members of the Senate Committee on Health, Education, Labor, and Pensions
Members of the House Committee on Education and the Workforce
Congressional Hispanic Caucus
Valerie Jarrett, Senior Advisor to the President
Cecilia Muñoz, Director of the White House Domestic Policy Council
Roberto Rodriguez, Special Assistant to the President for Education Policy
Joseph Conaty, Department of Education, Senior Advisor to the Secretary
Samuel Myers, Department of Education, White House Liaison
Senate Health, Education, Labor, and Pensions Committee