

## **ESEA Reauthorization Creeps Forward**

Myrna R. Mandlawitz, Esq.  
LDA Policy Director

Congress has had the reauthorization of the Elementary and Secondary Education Act (ESEA, currently known as No Child Left Behind) on its plate since 2007. Through changes in administration, changes in majority party, and other political machinations, congressional staff has continued to work on crafting legislation. On October 21, the Senate Health, Education, Labor and Pensions (HELP) Committee passed a comprehensive bill out of the committee. All Democrats, joined by three Republican Senators – Enzi (WY), Alexander (TN), and Kirk (IL) – voted for the bill.

### *LDA Activities*

Passage of the ESEA with strong supports for students with learning disabilities is the top priority for LDA currently. LDA produced recommendations for the reauthorization of ESEA in 2007 and has updated them several times over the course of the last few years. These recommendations have been shared and discussed with all members of the Senate and House education committees, and LDA staff has been working behind the scenes to move our recommendations forward.

With the committee passage of the Senate ESEA bill, LDA staff has been reading the 800+ pages, carefully considering the many major changes the HELP Committee has put forward. We have communicated our concerns and our appreciation to Committee staff and will continue to work with senators on and off the HELP Committee as we move toward consideration of the bill by the full Senate.

### *LDA Recommendations and the Senate Bill*

LDA is pleased that some of our recommendations are reflected in the Senate bill. We will be strategizing over the next month about those that did not find their way into the bill and whether or not we can find champions to offer amendments once the bill comes to the Senate floor.

Following is a brief review of the status of the LDA ESEA recommendations:

- *Provide students with learning disabilities access to the general education curriculum.*  
The underlying premise of current law and continued in this bill is that all students will participate in the general education curriculum. To assist students with SLD in accessing curriculum, the bill references universally designed curriculum and assessments and also includes a new literacy program (birth through grade 12) that has received LDA's strong support. Language is also included on professional development for educators in appropriate use of accommodations.
- *For accountability purposes, maintain "students with disabilities" as a specific subgroup.*  
The accountability system has changed significantly in this bill (elimination of adequate yearly progress and annual measurable objectives; addition of "college and career

readiness"; moving much of the accountability from federal to state systems). However, the focus on the four subgroups remains, including state and local reporting on progress of those groups through disaggregation of data. Also, LDA had been concerned that the IEP would be used as the accountability tool for students with disabilities. This bill does not move in that direction.

- *Allow appropriate out-of-level assessments for all students.* The legislation allows states in designing their accountability systems to use a growth measure to assess student progress. However, the bill does not allow specifically for out-of-level testing.
- *Identify students with learning and behavioral challenges early and provide targeted instruction before referral for special education services.* The Senate bill includes a number of references to the use of "multi-tier systems of support" (MTSS) as a good instructional strategy. The bill also references "positive behavioral supports." LDA believes including MTSS and PBS in the ESEA would put these initiatives where they belong – in general education before a student is referred for special education.
- *Allow the use of a growth-based accountability model to measure student improvement.* As noted above, growth measures are allowed, if states wish to incorporate them, as part of a state accountability system. States may show how a student who is not "on-track" on academic performance will attain a rate of growth to move them to "on-track" performance within a specified number of years.
- *Ensure teachers deemed "highly qualified" have skills and knowledge to address the academic and behavioral needs of the students for whom they are responsible.* The issue of "highly qualified" teacher received a lot of discussion during the committee's consideration of the bill. Currently the definition of "highly qualified" is similar to current law.
- *Empower family members and students to be effective advocates through specific training and technical assistance.* The bill enhances the current parent involvement provisions. However, language requested by LDA on self-advocacy is not in the bill.
- *Ensure all students are afforded graduation pathways that provide quality educational programming which fulfills their interests, talents, and career goals.* The legislation is built around "college and career readiness" and allows for graduation in more than the traditional four years. However, there is little acknowledgement of other pathways to success.
- *Include a definition of Universal Design for Learning and incorporate these principles throughout the ESEA.* The Senate bill includes the definition of UDL that was included several years ago in the Higher Education Act and a number of references to the use of UDL as an important instructional strategy.
- *Require schools to determine and assure the availability of social and mental health services.* The bill adopts the term "conditions for learning" and provides grant funds for

school districts to do surveys and assess their capacity. However, current strong language on school mental health services has been taken out of the bill.

### *Next Steps*

The HELP Committee bill must now go to the full Senate for consideration. There were around 150 amendments during the committee consideration, and there will most likely be many floor amendments, as well. The bill may not reach the floor until after the first of the year, although Chairman Tom Harkin (D-IA) would like to have it done before the winter recess in December.

LDA staff is working behind the scenes daily to ensure the final ESEA legislation supports the needs of students with learning disabilities. We will keep you updated as the process unfolds.