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## CONGRESSIONAL HEARING REPORT

**DATE** September 30, 2005

**TO** Interested Parties

**FROM** Jane West, Kristine Neuber, Lyndsay Pinkus

**COMMITTEE** U.S. House of Representatives  
Committee on Education and the Workforce

**SUBJECT** "Closing the Achievement Gap in America's Schools: the No Child Left Behind Act,"

**HEARING DATE** September 29, 2005  
10:00 – 12:00

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### WITNESSES

- The Honorable Margaret Spellings, Secretary of Education, U.S. Department of Education, Washington, D.C.
- Ms. Kati Haycock, Director, Education Trust, Washington, DC
- Dr. Deborah Jewell-Sherman, Superintendent, Richmond Public Schools, Richmond, VA

### MEMBERS PRESENT

- Republicans: Chairman John Boehner, OH; Thomas Petri, WI; Howard McKeon, CA; Michael Castle, DE; Vernon Ehlers, MI; Judy Biggert, IL; Tom Osborne, NE; Joe Wilson, SC; John Kline, MN; Cathy McMorris, WA; Kenny Marchant, TX; Tom Price, GA; Luis Fortuno, PR; Charles Boustany, LA; Virginia Foxx, NC; and Thelma Drake, VA.
  - Democrats: Ranking Member George Miller, CA; Dale Kildee, MI; Major Owens, NY; Donald Payne, IL; Bobby Scott, VA; Lynn Woolsey, CA; Ruben Hinojosa, TX; Carolyn McCarthy, NY; John Tierney, MA; Ron Kind, WI; Dennis Kucinich, OH; Rush Holt, NJ; Susan Davis, CA; Betty McCollum, MN; Danny Davis, IL; Raul Grijalva; Chris Van Hollen, MD; Tim Ryan, OH; and Tim Bishop, NY.
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### Opening Statement

Chairman John Boehner, R-OH

**Chairman Boehner** noted that NCLB has precipitated a fundamental shift in America's educational system, fostering a culture of accountability that is producing significant gains in student achievement. Achievement has been notable particularly among disadvantaged students who have in the past been allowed to fall between the cracks. He highlighted the fact that "The Nation's Report Card" showed the highest level of student achievement in the history of the long-term trends analysis with larger gains seen among minority students in the last five years than in the last three decades.

**Boehner** acknowledged that implementation of No Child Left behind has seen "a few bumps" along the way. He commended Secretary Spelling for working with local and state officials to ensure that flexibility

exists in order to avoid a one-size-fits-all approach. While Boehner acknowledged the need for flexibility in areas such as assessing students with disabilities and limited English proficiency, obtaining highly qualified teachers and providing supplementary education services, he was quick to also say that flexibility must not be confused with weakening the law's demand that all children be given a high quality education. "We will not compromise on the idea that no child should be left behind," he said.

## Testimony

### The Honorable Margaret Spellings, Secretary of Education, US Department of Education

After acknowledging the efforts in the Gulf Coast, Secretary Spellings moved on to talking about the implementation of NCLB in schools. She cited statistics to make the case that more progress has been made in the improvement of National Assessment of Educational Progress (NAEP) scores in the last five years since NCLB implementation, than in the whole history of the NAEP.

Spellings discussed the implementation of the supplemental education services (SES) provisions of the law, and referenced recently announced "pilot flexibility" for Chicago and Virginia school districts. (See the September 2, 2005 issue of Washington Partners, LLC's *The Education Report*, for coverage of these regulations.) She mentioned the importance of working groups to examine the development of modified assessments for students with disabilities, growth models for adequate yearly progress, better ways to measure the progress of English language learners and the measurement of the subgroup achievement gap.

Spellings noted that in the year 2020, 80 percent of jobs available to our students will require an education beyond high school. Spellings noted that high school reform is not just an education issue, but "an economic, social, civic and national security issue." Spellings cited statistics illustrating that little progress has been made in improving student's achievement at the high school level. She said this demanded attention, in such areas as reading, math and science.

## Questions and Answers

**Boehner** responded by noting that "we are on track and moving in the right direction." He went on to say that it is the right of every person to grow as much as they can. "Education is the new civil right of the twenty-first century," he noted. "As you can see, I get wound up about this," he reflected. He acknowledged that no law is perfect and it is difficult to reach 100% proficiency by 2014. Parents say it is unrealistic. Boehner said jokingly, "Should we set the bar at 95 percent proficiency, effectively saying 5% of students can be thrown overboard?" He said that one challenge for the reauthorization of NCLB would be better quantifying and defining what it is we expect students to achieve. He expressed reservations about growth models as a way to measure progress, noting that they must be pegged to something. He asked Spellings about her thoughts on AYP and how we should deal with measuring progress.

**Spellings** responded by saying that our expectation should be that 100% of students will achieve proficiency. That is our goal. She went on to say that we must continue to make progress, accelerate instruction, spend more time on task and provide supplemental educational services. Spellings also pointed out that it is not too much to ask that students achieve on grade level.

**Boehner** talked about the fact that we are losing 100 students a day who are dropping out. He suggested that we are not losing these students in high school; instead we are losing them by not lighting a fire under them in 1<sup>st</sup> through 3<sup>rd</sup> grade. He said that we should focus on Head Start and the early grades to prevent high school dropouts. Boehner added that he thinks the focus on early grades, which appears to be improving student achievement in the earlier grades, will inform what we need to address at the high school level. He rearticulated a sentiment he has articulated before, that he "doesn't want to overburden our schools so quickly that they burn out and walk away on us."

**Miller** commented that there has been equal opportunity criticism from both sides of the aisle for NCLB. He addressed six areas of concern (1) Highly qualified teachers. He emphasized the importance of maintaining a deadline for providing highly qualified teachers to students, noting that putting a highly qualified teacher in front of all students will benefit everyone. (2) Growth models. He stressed the importance of making sure that students are growing “towards a destination” and not just growing without an ultimate goal of reaching a target. (3) Supplemental educational services. He noted that precious dollars are being spent in this area and stressed the importance of fiscal management of the funds as well as putting funds towards programs proven or most likely to work. 4) Students with disabilities. He said he appreciated the flexibility provided for this group but it seems some districts are interpreting this as an exemption for special education students. He noted that there needs to be a better focus on these students. 5) Katrina students. Miller wanted to be sure that school districts are accountable for students who have been displaced by Katrina and are new to their schools.

Finally, Miller commented that he hears from school districts with 15% or 20% proficiency that are all worked up about not being able to meet the 100% target. He said he wants to tell them, “Come see me when you are at 85% and we’ll talk!” He noted that the law is working in some places and we have to remember that. He urged Sec. Spellings to look at the high school reform legislation he introduced that would involve federal matching funds for programs that foundations have invested in.

**McKeon** shared a personal story of his grandson who has had trouble reading and as a result began to dislike school and feel “stupid”. He is getting help now. McKeon said he thought there are millions of kids like his grandson. He asked Spellings how we could ensure an ongoing implementation and commitment to helping these kids. **Spellings** responded by saying that we need to continue to focus on results and balancing reasonableness with expectations, noting that without data driven decision making and accountability students can be forgotten.

**Kildee** brought up the issue of teacher qualifications and the implementation of HOUSSE as an alternative way for teachers to gain highly qualified status. He questioned how it was being monitored when states are free to “do whatever they want.” He also noted that the teachers who are highly qualified are not located in the rural school districts where they are needed most.

**Spellings** noted that the HOUSSE provision is for veteran teachers. She said that one of the “dirty little secrets” in education is that the best educators are in the least challenging environments. Highly qualified teachers are most needed in the most challenging environments, she noted; otherwise, we will not close the achievement gap. Kildee noted that the HOUSSE provisions need to be monitored.

**Castle** asked Spellings to rank in importance what she sees as changes that need to be made during NCLB reauthorization. He noted that the Administration’s proposal for high school reform – which would have been funded by eliminating vocational education - was not very strong.

**Spellings** noted that the use of some sort of growth model to measure AYP should be considered. She warned that we need to be sophisticated in using growth models and that annual assessments, regular data collection and reaching proficiency by 2014 must continue to be part of the system. She said that there is a “dearth of information about the problem” in our high schools. “We THINK they dropout because they can’t read, and we THINK there are disengagement issues,” she said, “but we don’t really know.”

**Castle** was particularly excited about the work of the National Governors Association, which has led to a majority of governors agreeing to a common graduation rate. Spellings and Castle commiserated about the challenge of obtaining accurate data. **Castle** concluded that “we shouldn’t wait” until reauthorization of NCLB to explore what needs to be done at the high school level.

**Susan Davis** described the success of the AVID program in helping low income minority high school students go on to enroll in postsecondary education. She asked what the Department was doing to promote good programs. Spellings noted that the Department funds AVID, and as part of its Advanced Placement and other programs, is “building an appetite” for successful interventions. **Spellings** added that AVID is successful because it is individualized.

**Ehlers** focused on the country's math and science education needs. He noted that we are spending less on math and science education now than we did before NCLB was enacted. Other countries have national standards and programs that emphasize the sequential nature of both subjects, he said. Without this agreed upon sequencing students who move from one district to another lose the necessary sequencing of instruction and receive a deficient education. While it is not the job of the federal government to establish a national curriculum, he asked Spellings what role the federal government could play in addressing this sequencing and moving problem.

**Spellings** answered that "we need to do for math what we did for reading," including gaining a better understanding of math education. Spellings noted that she has convened a math task force to look at this issue.

In the most dramatic interaction of the hearing, **Rep. Holt** continued the questioning on math and science. He noted that funding for math and science is about one third of what it once was and that the Administration's requested a decrease in funding for the National Science Foundation despite the tremendous needs for math and science education. He also noted that funds that were used for math and science professional development in the past are now lumped with other funds and they can be used for activities like reducing class size.

**Holt** initiated an exchange about the science assessments that are required this year, under NCLB. Holt noted that Congress intended that this assessment be included as part of the AYP calculation, but he is hearing that it will not be. **Spellings** answered that the science assessments will be used to "shine a bright line" on science achievement. **Holt** interrupted her to say, "so the tests are for no purpose?" She said "no" and noted that when she worked with then-Governor Bush in Texas, the science tests were included in AYP. **Holt** reiterated his point, asking would it be enough just to assess in reading without including the scores in AYP. She again said "no." **Holt** called on Spellings to provide "needed leadership from Washington to teach science." Holt concluded by asking if teaching "intelligent design" was supported by the Department of Education. Spellings said that the Department is prohibited from determining curriculum.

**Rep. Kline (R-MN)** noted that there was a lot of complaining about the rigidity of NCLB. He noted that his position is that we should try as hard as we can and then see where changes are needed. He asked her what were the most common areas of the law that she heard about as vexing issues.

**Spellings** said the top three were: 1) special education students – understanding their range and abilities and who should and should not be included in the accountability system; 2) LEP students – we have not cracked the code yet; and 3) progress – is it realistic to meet full proficiency for all students by 2014?

**McCollum** noted that Minnesota had its own reform system before NCLB and that they had been penalized because their system pre-dated NCLB. Spellings acknowledged that there were challenges for states that had accountability systems in place before NCLB.

Because of scheduling demands, Spellings had to leave the hearing at 11:15.

## Panel II

### Testimony

#### Dr. Deborah Jewell Sherman, Superintendent, Richmond Public Schools

Superintendent Sherman began her testimony explaining the progress Richmond City Public Schools has made in their commitment to providing a "world-class" education. Sherman reported progress in meeting NCLB standards with fifty-two percent of Richmond City schools making AYP and 97 percent of teachers meeting highly qualified standards.

Sherman noted that the increase in the performance of the overall student population was also shown in the subgroup populations as five of the six subgroups reported showed improvement. She commented that Richmond City schools are focusing their attention on those students in greatest need.

#### Kati Haycock, Director, Ed. Trust

Haycock began her testimony saying that everyone is talking about NCLB. She noted that the comments are not all positive but the law is having positive impact on American education. She said that educators around the country agree that the law has improved achievement and works toward closing the achievement gap. She made five main points in her testimony:

First, criticism of NCLB is inevitable because it is bringing to the forefront issues of class and racial inequality. She noted that in the past accountability systems “accommodated rather than challenged patterns of failure.”

Second, the next focus needs to be on high schools where achievement has been stagnant or declining. Haycock advocated for more resources and effective strategies in this area.

Third, the lack of available resources to help failing schools is problematic. Haycock suggested that Congress could provide needed resources to failing schools by funding school improvement grants in section 1003(g) of the No Child Left Behind Act.

Fourth, Haycock noted that despite the importance of teacher quality, the most vulnerable students continue to have the least qualified teachers. She asked “What’s happened with all the new money and all the new focus on teacher quality? No one knows,” she responded to her own question. She held that the Department has not actively implemented the teacher quality provisions and that their guidance has been erratic and inconsistent. She indicated that the Department has done nothing to dispel common misunderstandings of the law including a) teachers will lose their jobs if they don’t meet their state’s “highly qualified” definition and b) school districts will lose federal funds if teachers do not meet the definition. “It is inexplicable that the Department has not been able to clarify the most rudimentary issues with respect to teacher quality provisions,” she concluded.

Fifth, Haycock addressed supplemental education services noting that the Department of education has failed to enforce provisions that evaluate quality and effectiveness, instead relying solely on “the market” to serve as an arbiter of quality.

Haycock concluded by expressing the belief that we are on the right track with NCLB and we need to “stay the course on demanding that all students count.”

#### **Questions and Answers**

**Biggert** asked if the low level of funding for IDEA was affecting NCLB. Haycock said she thought they were different conversations. Biggert asked if there was a commonality in schools that had turned around from being low performing. Haycock said there were 4 common factors: 1) clarity on standards for students; 2) teachers who know their subject areas; 3) curriculum support for teachers and 4) extra instructional time for students.

**Woolsey** asked three questions: 1) If you could change one thing about AYP, what would it be? 2) If you could change NCLB to help low performing schools rather than punish them, what would you change? 3) How can schools keep their curriculums broad and avoid teaching to the test and focusing on just a few curriculum areas?

**Dr. Sherman** noted that if schools that received additional funds because they had been low performing could keep those funds after their performance improves, that would make a big difference. She said that the incorporation of some sort of growth model would be helpful and indicated that they had missed making AYP one year because their participation rate in assessments was .6% below what was required.

**Haycock** said the high school application of NCLB needed to be improved. She noted that states need more capacity to help low performing schools – then there will not be a “teach to the test” mentality and a narrowing of the curriculum.

**Osborne** noted that rural schools are having a hard time with the highly qualified requirements because a teacher may have to teach so many subjects. Haycock replied that we basically have two options: 1) slap a label on all teachers and say they are “highly qualified or 2) give teachers the support and education in the content area they need. She noted that people have rushed to say we cannot do this – let’s just declare everyone “highly qualified.” Lots of states have not stepped up to the plate on this, she said. Perhaps higher education could play a bigger role here, with distance education, she suggested.

**Scott** noted that there was a perverse incentive built into NCLB whereby low performers were dropping out.

**Tierney** noted that some states have set the bar high and some states have set the bar low. He noted that it was a charade when a state with a low bar received a high score and a state with a high bar received a low score. He noted that the law provides a disincentive for raising the bar because of this. He said that the NAEP tests reveal the discrepancy. In other words, a state could receive 80% proficiency in a subject but only 20% score at grade level on NAEP.

Boehner adjourned the hearing at noon.