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KLINE INTRODUCES STATE AND LOCAL FUNDING FLEXIBILITY ACT: Bill Would Allow States and School Districts to Move Money Among Education Programs, Receives Criticism from Democrats

On July 7, **House Education and the Workforce Committee Chairman John Kline (R-MN)** introduced the State and Local Funding Flexibility Act, which would allow states and school districts to move dollars out of one program and spend them on a wide range of activities authorized under the Elementary and Secondary Education Act (ESEA), currently known as No Child Left Behind (NCLB).

“Superintendents and principals from across the nation repeatedly tell me they need more freedom to decide how federal education dollars should be used to support students. Washington bureaucrats cannot dictate how money is best spent in the classroom—those decisions should be left to the teachers, school administrators, superintendents, principals, and state leaders who have an integral knowledge of the needs of our kids,” [Kline said](#). “The State and Local Funding Flexibility Act will help get the federal government out of the way of student achievement and encourage more innovative education reforms on the local level.”

The bill, which is the third in a series of education reform bills designed to revamp ESEA, drew sharp criticism from Democrats, who said it would siphon away money intended for poor and minority students. Miller added that the bill makes it “much more difficult” to continue in a bipartisan manner to rewrite ESEA.

“This back-door attempt at fulfilling campaign promises to dismantle the federal role in education will turn back the clock on civil rights and especially harm low-income and minority students,” [said Representative George Miller \(D-CA\), top Democrat on the House Education and the Workforce Committee](#). “Pretending like the federal government doesn’t have a role won’t change why it exists, it won’t change the history of separate but equal, but it will endanger our schools, our economic stability, and our global competitiveness. The implications of a bill like this are disastrous for students, communities, schools, and the future of this country.”

Republicans say that funneling funding through separate programs limits states’ and school districts’ ability to apply federal funds to local education priorities that best serve the needs of their students.

Conversely, Democrats argue that the bill would allow school districts to use those funds arbitrarily for purposes for which the money was not intended. They also point out that there are

several provisions in current law to promote flexibility, yet few states or school districts choose to utilize the options available.

Although much of the education policy community is against the bill, it has drawn support from some education groups, including the American Association of School Administrators (AASA). In a [letter](#) to Kline, AASA said the bill is “based on trust and confidence in teachers, principals, superintendents, and school boards” and will provide flexibility at the local level while “maintaining a sharp focus on the disaggregation of data and program reporting needed for prudent state and federal oversight.”

A spokesman for **U.S. Secretary of Education Arne Duncan** told [Education Week](#) that the bill “doesn’t fix the real problems with NCLB and runs the risk of short changing students with the greatest needs.”

According to *Education Week*, states would be allowed to shift money out of the following programs: School Improvement Grants (SIGs) (state administration); Title I administrative funds; Migrant Education Program (MEP); Neglected and Delinquent program; Improving Teacher Quality State Grants; English Language Acquisition Grants; 21st Century Community Learning Centers; and the Education Jobs Fund. Additionally, school districts could transfer funds from Title I grants for disadvantaged kids; Migrant Education Program; Neglected and Delinquent program; Improving Teacher Quality State Grants; English Language Acquisition State Grants; Indian Education; and the Education Jobs Fund.

Money moved from these programs could go to the SIG program; Title I grants to districts; Reading First; MEP; Neglected and Delinquent program; Improving Teacher Quality State Grants; Mathematics and Science Partnerships; English Language Acquisition State Grants; 21st Century Community Learning Centers; Innovative Programs; Grants for State Assessments program; rural education programs; Indian Education Formula Grants; and services for early intervention under the Individuals with Disabilities Education Act.

DUNCAN RESPONDS TO REPUBLICANS’ REQUEST FOR MORE DETAILS OF WAIVER PLAN

Last month, **House Education and the Workforce Committee Chairman John Kline (R-MN)** and **House Early Childhood, Elementary, and Secondary Education Subcommittee Chairman Duncan Hunter (R-CA)** [wrote a letter](#) to **U.S. Secretary of Education Arne Duncan** asking him to explain the U.S. Department of Education’s legal authority for requiring states and schools to abide by certain changes in exchange for regulatory relief.

In a [July 6 letter](#) containing his response, Duncan cites section 9401 of NCLB, which authorizes the U.S. Department of Education to waive most statutory and regulatory requirements if needed to “increase the quality of instruction for students and improve the academic achievement of students.” Duncan said that waivers “would not be a permanent solution but a temporary one,” while reauthorization moves forward.

A spokeswoman for Kline told [Education Week](#) that Duncan’s letter eluded questions on what the waivers will look like, when the waiver plan will be finalized, how waiver requests will be reviewed, and when the waivers would become effective. “Instead of touting murky alternatives, the secretary should lend his support to the House Education and the Workforce Committee’s ongoing efforts to advance targeted education legislation,” she said.



TO WAIVE OR NOT TO WAIVE: New CRS Report Finds Secretary of Education's Waiver Authority Is "Very Broad" Under NCLB, but Does Not Include Power to "Unilaterally Impose" New Requirements on Grantees

A new report from the Congressional Research Service (CRS) finds that the U.S. Secretary of Education may waive "any statutory or regulatory requirements" of the Elementary and Secondary Education Act (ESEA), currently known as No Child Left Behind (NCLB). However, it also finds that the secretary cannot "unilaterally impose" new requirements on grantees—a finding that could throw a wrench into **U.S. Secretary of Education Arne Duncan's** plan to waive certain requirements in NCLB in exchange for states taking on certain reforms.

"If the Secretary did, as a condition of granting a waiver, require a grantee to take another action not currently required under the ESEA, the likelihood of a successful legal challenge might increase, particularly if [the U.S. Department of Education] failed to sufficiently justify its rationale for imposing such conditions," the report reads. "Under such circumstances, a reviewing court could deem the conditional waiver to be arbitrary and capricious or in excess of the agency's statutory authority."

At the same time, however, the report seems to give Duncan a way to get around that obstacle by suggesting that the U.S. Department of Education "could theoretically" invite applications for waivers and "implicitly or explicitly condition their approval on a grantee's willingness to submit to new conditions."

The report notes that the law sets forth a waiver request process and specifies provisions that are not subject to waiver but adds that the secretary's waiver authority is otherwise "very broad." It acknowledges that individual waivers may face legal challenges and may even be struck down on occasion, but courts will generally uphold an agency's exercise of its statutory waiver authority so long as the agency "develops an adequate record regarding its decision to grant a waiver and ensures that the waiver is granted consistent with the statutory purposes and procedures set forth in the section authorizing such waivers. In this instance, the section in question is section 9401 of NCLB, which authorizes the U.S. Department of Education to waive most statutory and regulatory requirements if needed to "increase the quality of instruction for students and improve the academic achievement of students."

CRS lists several requirements that the secretary is not allowed to waive, including those affecting allocation of funds, parental participation and involvement, and civil rights requirements, among others.

The report also considers the secretary's waiver authority in several specific instances, including academic standards and assessments; accountability requirements, including proficiency timeline; corrective action and restructuring requirements; and public school choice requirements. In each instance, CRS concludes that the department has the authority to waive these requirements as long as it develops an adequate record regarding its decision to grant a waiver and ensures that the waiver is granted consistent with the statutory purposes and procedures set forth in Section 9401 of the law.

The report also finds that the department can use its waiver authority to require states to focus interventions on the lowest-performing 5 percent of schools, but only if it is in response to a

waiver request submitted by a grantee. It finds that the department does not appear to have the authority to “spontaneously” issue a waiver requiring states to focus on the lowest-performing schools.

The complete report is available at

http://edworkforce.house.gov/UploadedFiles/June_28_2011_CRS_report.pdf.



SENATORS INTRODUCE SECONDARY SCHOOL REFORM ACT: Legislation Targets Low-Performing High Schools and the Middle Schools that Feed Into Them

On June 30, **Senators Kay Hagan (D-NC), Sheldon Whitehouse (D-RI), Patty Murray (D-WA), and Herb Kohl (D-WI)** introduced the Secondary School Reform Act, which targets high schools serving low-income students with graduation rates below 75 percent that do not receive School Improvement Grant funding. Middle schools that feed into these high schools would also be eligible for funding under the legislation.

“Without a high school diploma, our young people face a lifetime of lower wages and limited opportunities,” [Hagan said](#). “We need to identify students at risk of dropping out early and provide schools with the resources and flexibility required to lead them to success. At the same time, we must encourage innovation in our low-performing high schools so every child possesses the tools to achieve in today’s twenty-first-century economy. I look forward to working with Senator Whitehouse and all of my colleagues in a bipartisan matter to include the Secondary School Reform Act in the reauthorization of No Child Left Behind.”

The Secondary School Reform Act would fund partnerships between high-need school districts and external organizations, such as nonprofits and institutions of higher learning, to implement effective secondary school reforms. At the school district level, these reforms could include a districtwide early-warning indicator and intervention system to identify students at risk of dropping out, address their needs, and get them back on track for graduation. It could also provide credit recovery opportunities for struggling students and share information with students, their families, and school staff about high school graduation requirements and college entrance requirements.

At the high school level, the legislation would fund comprehensive, customized, and effective secondary school reform strategies, such as ongoing monitoring of student academic achievement to ensure students are on track for on-time high school graduation as well as individual graduation plans for each student to help define their postsecondary and career goals and create the pathways necessary to reach those goals. For middle schools, the bill would provide students with a personalized learning environment and additional academic guidance, and provide teachers and school leaders with quality professional development and other support to strengthen instruction.

“When emergency medical personnel arrive at an accident scene, they immediately deliver treatment to the most severely injured,” said **Bob Wise, president of the Alliance for Excellent Education and former governor of West Virginia**. “Similarly, boosting the national graduation rate requires performing educational triage on the nation’s lowest-performing middle and high schools. By focusing reform efforts on high schools with graduation rates below 75

percent and the middle schools that feed into them, the Secondary School Reform Act does just that. By using such strategies as early-warning indicator systems, career academies, and other reform efforts, this legislation will help to strengthen the nation's graduation rate and prepare the students of today for the jobs of tomorrow."

Read more about the Secondary School Reform Act at http://www.all4ed.org/files/SecondarySchoolReformAct_summary.pdf.



CIVIL RIGHTS DATA COLLECTION: New Data from U.S. Department of Education Reveals Wide Disparities in Education Resources and Opportunities

New data released by the U.S. Department of Education on June 30 reveals wide disparities in the educational resources and opportunities that are available to students. Known as the Civil Rights Data Collection (CRDC), the data was garnered through a survey of approximately 7,000 school districts and more than 72,000 schools around the country.

"To meet President Obama's goal to lead the world in college graduates by 2020, we need efficient, practical, and accessible information like this to help guide our path," said **U.S. Secretary of Education Arne Duncan**. "These data show that far too many students are still not getting access to the kinds of classes, resources, and opportunities they need to be successful."

According to the data, 3,000 schools serving nearly 500,000 high school students offer no Algebra II classes and more than 2 million students in about 7,300 schools have no access to calculus classes. The data also reveals that schools serving mostly African American students are twice as likely to have teachers with one or two years of experience than are schools within the same school district that serve mostly white students.

"To know that there are large numbers of schools, particularly schools that primarily serve students of color, that do not even offer higher-level classes that would lead to college and career readiness, that's a significant finding and something that districts need to address," **Robert Rothman, senior fellow at the Alliance for Excellent Education**, told the [*Christian Science Monitor*](#).

The data also finds that a significant percentage of students with limited English proficiency are not taking higher-level math in high school. Specifically, these students make up 6 percent of the high school population, but they represent 15 percent of the students for whom algebra is the highest-level math course taken by the final year of their high school career.

"Despite the best efforts of America's educators to bring greater equity to our schools, too many children—especially low-income and minority children—are still denied the educational opportunities they need to succeed," said **Assistant Secretary for Civil Rights Russlynn Ali**. "Transparency is the first step toward reform and for districts that want to do the right thing, the CRDC is an incredible source of information that shows them where they can improve and how to get better."

Part 1 of the CRDC collected primarily enrollment data, while Part 2, which will be released in the fall, collected cumulative and end-of-year data and will include the numbers of students

passing algebra, taking Advanced Placement (AP) tests, and passing AP tests; retention data by grade; and teacher absenteeism rates, among other indicators.

The database with Part 1 of the data includes both district- and school-level information and is available at <http://ocrdata.ed.gov>.



IMPROVING LOWER SECONDARY SCHOOLS IN NORWAY: OECD Report Offers Lessons for All Nations to Improve Student Performance in Middle Grades

A new report from the Organisation for Economic Co-operation and Development (OECD) offers advice for improving student performance in the middle grades based on the challenges it observed in Norway and other countries. The report, *Improving Lower Secondary Schools in Norway*, focuses its recommendations on teacher quality, school success, student pathways, and on the process of effective policy implementation. It is a result of the OECD's effort to support making reform happen across OECD and partner countries.

The report calls the middle grades a “critical point for maturation” as children's roles in school and society change. “It is a key stage of basic education, in transition between primary and upper secondary. The first years of secondary education are the best chance to consolidate basic skills and to get the students at risk of academic failure back on track,” the report reads. “This is typically a time when young people go through profound transitions in their social, physical, and intellectual development, as they leave childhood behind and prepare for adult responsibilities.”

The report defines lower secondary education as the level that caters to early adolescents and starts between the ages of ten and thirteen and ends between the ages of thirteen and sixteen. It identifies two complementary objectives for lower secondary education: (1) to offer all students the opportunity to obtain a basic level of knowledge and skills considered necessary for adult life, and (2) to provide relevant education for all students as they choose either to continue their study in academic or a more vocation route or to enter the labor market.

Acknowledging that there is “much diversity” across countries, the report identifies three specific challenges faced by most countries. First, the middle grades fail to engage all students. According to the report, one-quarter of students in OECD countries are disengaged with school at age fifteen. It blames this disengagement on a gap—possibly caused because students did not acquire basic skills in elementary school—between what is taught and the practices that are most likely to engage students. To be more responsive to adolescent students' needs, schools need to provide student-centered teaching and learning strategies; challenging and relevant curriculum; and support, the report finds. It argues that these practices “can have positive effects on engagement and potentially contribute to higher performance and lower dropout rates.”

Because some countries have difficulties ensuring high academic achievement among their students, many students fall behind at this stage and eventually drop out when they get to upper secondary schools (i.e., high school). Although the report notes that research on the middle grades is noticeably absent compared to research on elementary and high schools, it does find evidence that students lack motivation at this age and that the configuration and practices for schooling at this level may not adequately cater to students' specific development needs. Specifically, the report says that students entering middle grades experience a gradual decline in

academic motivation, self-perception, and school-related behaviors over their early adolescent years. However, classrooms during this time are characterized by greater emphasis on discipline and less on personal teacher-student relationships during a time when students' desire for control over their own life is growing. "Teachers need to be prepared to deliver the curriculum effectively and are required to have solid content knowledge and teaching strategies that specifically cater to this age group," the report notes.

The final challenge the report identifies is the transition from elementary to middle school and from middle to high school. It notes that there is often a decline in student engagement in the transition from elementary to middle school when students change schools, but implies that this decline is not present when the grades are offered together as part of a K–8 school. The report also finds that students who undergo two transitions (elementary to middle and middle to high school) have larger risks of falling behind than those who undergo one. The report argues that easing the negative impact of transitions is key to facilitating higher achievement and preventing students from falling behind and dropping out. Some transition strategies the report identifies include reducing the total size of a group of students, or cohort, and providing personalized support to students.

The rest of the report deals with circumstances specific to Norway. It identifies several strengths in Norway's lower secondary education, including high scores on the Programme for International Student Assessment (PISA) and its teachers' strong motivation to teach. But it also notes challenges such as lower secondary grade teachers who are not sufficiently prepared to teach in their subject area and too many students entering lower secondary with weak basic skills.

The report offers four recommendations to bring together the four key policy levers—governance, teachers, schools, and students—to improve the quality of lower secondary education in Norway:

- Align the different levels of governance and resources to ensure effective policy implementation.
- Raise the status of teaching and improve teacher performance through better initial teacher education, professional development, standards, and incentives.
- Ensure that every school has the capacity and is effective in meeting the learning requirements of all its lower secondary students.
- Ensure that all primary school leavers are prepared to succeed in lower secondary, and that lower secondary students are prepared to succeed in further education and later in their professional lives.

The complete report is available at <http://bit.ly/nzuZ6O>.

Straight A's: Public Education Policy and Progress is a biweekly newsletter that focuses on education news and events in Washington, DC and around the country. The format makes information on federal education policy accessible to everyone from elected officials and policymakers to parents and community leaders. Contributors include Jason Amos, editor and Kate Bradley, copyeditor.

The Alliance for Excellent Education is a national policy and advocacy organization that works to improve national and federal policy so that all students can achieve at high academic levels and graduate from high school ready for success in college, work, and citizenship in the twenty-first century. For more information about the Alliance, visit <http://www.all4ed.org>.