

It's time to redefine the federal role in K-12 education

The U.S. Congress passed the Every Student Succeeds Act in 2015, but it's not too soon to begin drafting a new federal education law.

By **Jack Jennings**



In December 2015, when President Barack Obama signed into law the Every Student Succeeds Act (ESSA) — replacing the No Child Left Behind Act (NCLB) of 2001— congressional leaders on both sides of the aisle breathed a deep sigh of relief. Not only had NCLB grown increasingly unpopular among the American public, but it was long overdue for an update. Since 2007, when NCLB was supposed to have been reauthorized, the House and Senate had been stuck in neutral, making no progress toward a revision of the law.

It was Lamar Alexander, the Republican chair of the Senate education committee, and Democratic Sen. Patty Murray who finally broke the stalemate by brokering a

compromise: If Congress couldn't agree on a bold new vision for federal education policy, then it could at least address the existing policy's most glaring flaws (e.g., too much testing of students, too much blaming of teachers, and too much intrusion into local decision making). ESSA diminished the federal government's role in school reform, and it gave much more authority to states to implement the law, measure their students' progress, intervene in their lowest performing schools, and evaluate the work of their teachers and principals.

When it comes to its underlying logic and design, though, ESSA is more or less the same as its predecessor. Like NCLB, it requires states to adopt challenging aca-



democratic standards, test students annually, report out the test results for all students and by major subgroups, set state targets for improving achievement, and hold teachers and schools accountable for the results.

In that case, should Americans be optimistic that ESSA will enable every student to succeed, as its title suggests?

Much will depend on the actions of individual states. Judging by the ESSA plans they have submitted to the U.S. Department of Education, states will vary greatly in their goals for student achievement, their indicators of success, and their approaches to holding educators accountable and assisting underperforming schools. But even in the best of circumstances — where state leaders define clear and ambitious goals, measure student progress carefully, and commit to support school improvement — the fact remains that ESSA rests on the same faulty foundation as NCLB: the assumption that pressuring teachers and administrators to raise test scores will lead to better instruction and greater learning for all students. After 15 years of this sort of test-driven reform, there is no solid evidence to suggest that this strategy works.

So where do we go from here?

ESSA was enacted only two and a half years ago, but it's not too soon to begin drafting a new law. Sooner rather than later, Congress must come up with a genuine replacement for NCLB, not just a watered-down version of it. The question is, what theory of action should guide the federal government's approach to school improvement? If test-based accountability is the wrong way to raise student achievement, then what's the right one? What should be the federal strategy for K-12 education, and how should Washington balance its authority with that of states and localities?

The necessity for federal involvement

During the NCLB years, federal involvement in school reform became closely associated with standardized testing, teacher evaluation, and aggressive efforts by the U.S. Department of Education to shape the school reform agenda. In previous decades, though, the federal government played very different roles in public education, often responding to great challenges that states and local school districts could not, or would not, handle on their own.

Many of these instances are noteworthy. For example, from 1785 to 1958, whenever a U.S. territory petitioned to become a state, Congress made its admission contingent

on the agreement to create public schools, using donated federal lands to finance the work (Usher, 2011). After the Civil War, when Southern states refused to educate former slaves, Congress created federal schools to do so. In the early 20th century, when immigrant populations swelled in many parts of the country, Congress funded vocational education programs to train these newcomers for employment. In the 1950s and '60s, after the Soviet Union launched a satellite into space, Congress funded major new efforts to teach science and mathematics, in hopes of overtaking the Russians in the race to develop advanced technology. In the 1960s and '70s, when it was found that states were neglecting to provide an adequate education to African-American children, children with disabilities, children from low-income families, and others, Congress created programs targeted to those children's needs, while also passing complementary civil rights laws (Center on Education Policy, 1999). And I could easily go on to discuss important federal policies related to special education, career and technical education, higher education, education research in various fields, and more.

Further, over the last three decades, Republican and Democratic presidents alike, often working closely with Congress, have embraced the responsibility not just to help states provide programs and services for needy students but also to boost educational achievement across the board, as a way to strengthen the economy, promote social mobility, and bolster national security. To be sure, some of their marquee initiatives (most notably No Child Left Behind and Race to the Top) had major flaws, but they also had some positive effects on local practices. Schools and districts focused more on improving the lowest performing schools. They made efforts to align curriculum and instruction, analyzed test data more closely, and paid more attention to achievement gaps and to the needs of specific populations of students (Jennings & Rentner, 2006).

Today, the imperative to improve our public schools is only becoming more urgent, and the challenges are becoming even harder for states to solve on their own. In 2015, for the first time in 50 years, more than half of our public school students were from low-income families (Layton, 2015). Also increasing are the numbers of students from immigrant families and those who speak a language other than English at home (Camarota, Griffith, & Zeigler, 2017). At the same time, the nation's economic well-being is becoming ever more dependent on the knowledge and

JACK JENNINGS (jackjenningsdc@gmail.com; @jackjenningsdc) is the former president and CEO of the Center on Education Policy, now housed at George Washington University. From 1967 to 1994, he served as subcommittee staff director and then as a general counsel for the U.S. House of Representatives' Committee on Education and Labor. He is the author, most recently, of *Presidents, Congress, and the Public Schools* (Harvard Education Press, 2015). This article is partially adapted from that book and from a new epilogue written for the Japanese edition, to be published in 2018 by Harvard University and the University of Tokyo.

When it comes to its underlying logic and design, ESSA is more or less the same as NCLB.

skills of its workers. As the National Conference of State Legislatures (2016) put it in a recent report, “The U.S. workforce, widely acknowledged to be the best educated in the world half a century ago, is now among the least well-educated in the world . . . At this pace, we will struggle to compete economically against even developing nations, and our children will struggle to find jobs in the global economy.”

Federal policy makers made serious mistakes during the NCLB years — they chose a flawed approach to raising student achievement, did too little to help states pay for the changes they mandated, and trampled on the authority of state and district leaders to make their own decisions about school reform. But these errors are a good reason to *rethink* the federal strategy, not diminish the government’s ability to contribute to school improvement. There is both strong precedent and an urgent need for the federal government to continue to play an active role in K-12 education. Certainly, it should try to stay out of decisions that are best left to governors, state legislators, school boards, superintendents, and teachers, but when local leaders are unable or unwilling to provide for all children’s needs, federal policy makers have an obligation to become involved.

Toward a new federal policy agenda

As I describe at length in an earlier publication (Jennings, 2015), nearly 50 years working in and around Capitol Hill — including 27 years as the principal education expert in the U.S. House of Representatives — have taught me essential lessons about the nature and limits of federal policy making. First and foremost, I’ve learned that federal initiatives can be risky, involving political conflicts, unexpected costs and consequences, and other uncertainties. Thus, federal policy makers should be extremely judicious in choosing which challenges to address, focusing only on the most critical problems.

What matters most in education? At its core, education comes down to a student, a teacher, and something to be taught and learned. Everything else (e.g., testing, accountability systems, and teacher evaluations) is secondary, having an indirect influence, at best, on what happens in the classroom. A person with the desire and readiness to learn,

another person with the knowledge and skills to foster that learning, and the material to be learned. These are the fundamental elements of education (along with that additional element, money, without which public schooling cannot function), and they should be the starting points for any new federal policy agenda:

Readiness to learn

No state has yet come close to ensuring that all young children enter school with the early math, literacy, and other skills that will allow them to succeed. A wealth of research shows that high-quality preschool programs tend to be extraordinarily effective in helping kids become ready for kindergarten, but access to preschool is woefully inadequate in most of the country, especially for children from families below the middle class. Further, the quality of existing programs is wildly uneven, and many programs lack essential components that might enable them to improve, such as well-educated teachers, adequate salaries, careful teacher supervision, and assessment tools (Barnett, 2008).

Teacher quality

An equally pressing problem, which states have shown little ability to solve on their own, has to do with raising the quality of the teaching force, which will require efforts to improve teacher recruitment, preparation, and retention. In each of these areas, we have failed to keep pace with other developed nations. As the U.S. Department of Education’s Equity and Excellence Commission put it (2013), “Would a country serious about teacher excellence settle for having only 30% of its educators coming from the top third of the college pool when the best school systems in the world recruit nearly all of their school talent from the top third of the academic cohort?” Similarly, if we were serious about teacher recruitment, quality, and retention, would we pay our teachers such meager wages? On average, teacher compensation is equivalent to about 60% of what comparably educated college graduates earn in other fields, whereas in most other developed countries, teacher pay is more or less comparable to that of college graduates (Allegretto & Mishel, 2016; OECD, 2014).

Curriculum

Nor have states made sufficient progress on another critical priority for the nation's schools: ensuring that the K-12 curriculum prepares students well for college, careers, and civic life. In spite of the fierce opposition they've received from many quarters, the Common Core State Standards have helped states introduce more rigor and coherence to their math and literacy curricula. Also, over the last three decades, states have gradually increased their graduation requirements, improved their course sequences in career and technical education, and made it easier for high school students to participate in advanced studies, often for college credit. Still, there is much more to be done, and the federal government can and should (as it has done many times before) support curricular improvements in literacy, math, science, civics, language learning, and other subject areas.

Funding

Finally, the funding of public education needs to be overhauled, but few states have shown the will or capacity to make meaningful changes, particularly when it comes to the distribution of resources among school districts. According to the Organization for Economic Cooperation and Development, the American approach to school funding now stands out as one of the most dysfunctional systems in the world: "[The] vast majority of [advanced] countries either invest equally in every student or disproportionately more in disadvantaged students. The U.S. is one of the few countries doing the opposite" (Porter, 2013). In recent years, public interest lawyers have had some success in persuading the courts to order states to shift funds to chronically under-resourced school districts (on the grounds that those states' own constitutions oblige them to ensure that all students have adequate opportunities to learn). However, public schools in many states, particularly schools in low-income districts, continue to be woefully underfunded.

In short, I argue that federal education policy has important contributions to make in at least four key areas: preschool education, teacher quality, curriculum, and school funding. Further, I argue that Congress should apply another important lesson from 50 years of efforts to improve elementary and secondary education. Over that time, the nation's students have made far less academic progress than the creators of federal spending programs have anticipated.

Why have these programs had so little effect on achieve-

ment? The researchers David Cohen and Susan Moffitt (2009) have identified a likely culprit: Federal policy makers have assumed that the specifics of teaching, teacher education, curriculum, and other school practices fall entirely under the purview of state and local leaders, putting them "off limits to the central government" (p. 122). Thus, they've tried to influence school and classroom practices indirectly, by way of rewards, punishments, rules, and guidelines that are a few steps removed from the classroom itself. In short, say Cohen and Moffitt, recent federal programs have "sought to improve instruction without using the instruments that actually bear on instruction: teaching, teacher education, and curricula."

If we want to make serious improvements in the areas of preschool education, teacher quality, and curriculum, then federal policy should address these things directly. And, in fact, while federal policy makers are often reluctant to fund programs that focus on teaching and curriculum — fearing that this would intrude on local control — there are a number of precedents for doing so. For example, the federal government has for decades encouraged schools to use one or another approach to English language instruction (i.e., bilingual education or English immersion). Similarly, one might point to the Comprehensive School Reform Demonstration program, the Reading First program, the Mathematics and Science Partnerships, or many others.

Whether one regards these particular programs to be successes or failures, the point is that they did not violate the prohibition against federal control because they were voluntary initiatives and states chose to participate in them. In other words, the federal government most certainly can take the lead in bringing the nation's attention to serious educational problems and encouraging the use of particular school and classroom practices. The only caution is that those acts must be grounded in constitutional provisions, particularly the "spending clause" — which authorizes the federal government to use funds to improve the general welfare of the country — and be carried out as the U.S. Supreme Court has prescribed in a number of rulings; most important, Congress must ensure that states are aware of the conditions attached to receipt of federal aid.

An opening bid: The United for Students Act

A few years ago (Jennings, 2015), I outlined a proposed piece of legislation — which I call the *United for Students Act (USA)* — that would, I believe, embody the kind of strategy that I've described above.

In brief, my vision for the next reauthorization of the Elementary and Secondary Education Act (of which NCLB

When local leaders are unable or unwilling to provide for all children's needs, federal policy makers have an obligation to become involved.



and ESSA are just the two most recent iterations) is to embed policies to improve teaching and learning in a federal grant program. In exchange for increased funding in the form of general aid for their schools, states would be asked to design and pursue concrete plans to make progress in the four priority areas: readiness to learn, teacher quality, curriculum, and funding.

Note that this proposal seeks to draw on the federal government's two main areas of strength: the ability to set national priorities and the capacity to provide substantial funding. At the same time, it defers to state and local authority over the schools by leaving it up to them to identify and implement specific strategies.

Further, I recommend that the government adopt a fair and straightforward process to award grants and monitor states' progress. For example, the U.S. Department of Education could appoint an independent, nonpartisan panel of experts to review each state's grant applications and confirm that they show potential to bring significant improvement in the four areas described, in which case the secretary of education would be encouraged to approve the plan and/or extend its funding. Such an independent review process is crucial to assure taxpayers that federal funds will be used prudently to improve education, without usurping state and local authority over the schools.

Room for debate

The 2015 passage of the Every Student Succeeds Act was a welcome moment of bipartisan compromise in the U.S. Congress. However, while ESSA has weakened NCLB's least popular provisions, it leaves in place NCLB's deeply flawed theory of action, which presumes that testing and accountability systems will push teachers and school administrators to raise student test scores and, implicitly, improve their knowledge and skills. In short, ESSA is best viewed as a temporary placeholder, to be replaced as soon as Congress can agree on a different and more sensible federal strategy for addressing K-12 education's most urgent problems.

What should be the federal strategy for K-12 education, and how should Washington balance its authority with that of states and localities?

The federal government does indeed have a vital role to play in K-12 education, providing resources and leadership to solve problems that states are unable or unwilling to solve on their own. While the federal government must be careful to respect local authority over public schooling, it is well within its bounds to encourage states, by use of voluntary funding programs, to adopt specific priorities and strategies for school improvement. The most effective school reform initiatives tend to focus squarely on teaching and curriculum, rather than trying to influence teaching indirectly by way of tests, accountability systems, or other parts of the educational superstructure.

As I see it, Congress' best option is to encourage states to undertake difficult but crucial reforms in exchange for more and unrestricted federal aid. Specifically, I propose that the next iteration of the Elementary and Secondary Education Act provide grants to states — subject to approval by non-partisan, expert panels convened by the U.S. Department of Education — to design and implement their own solutions to critical problems having to do with early childhood education, teacher quality, curriculum, and school funding.

Of course, many details will need to be fleshed out (and to some extent, I've done so elsewhere; Jennings, 2015), having to do with how to ensure that the program is administered in a fair and nonpartisan fashion, how to assess progress and outcomes, how to decide on funding levels for each state,

and so on. But for now, the question is whether there's an appetite, among a broad range of policy advocates, to hash out such a vision. And if so, to what extent can we agree on the principles and premises that I've described above?

At the very least, policy advocates on all sides must recognize two basic truths about American education today: First, to ensure the future prosperity and cohesion of our nation, we must help our students achieve at higher levels than in the past; second, our schools do not currently provide all students with equal opportunities to become well educated. Given the urgency of the challenges posed, our politicians, educators, parents, business leaders, and other citizens must seek common ground on plausible solutions. We must get going, and fast. ◀

References

- Allegretto, S. & Mishel, L. (2016). *The teacher pay gap is wider than ever: Teachers' pay continues to fall further behind pay of comparable workers*. Washington, DC: Economic Policy Institute.
- Barnett, W.S. (2008). *Preschool education and its lasting effects*. Boulder, CO: Education and the Public Interest Center.
- Camarota, S., Griffith, B., & Zeigler, K. (2017). *Mapping the impact of immigration on public schools*. Washington, DC: Center for Immigration Studies.
- Center on Education Policy (CEP). (1999). *A brief history of the federal role in education: Why it began and why it's still needed*. Washington, DC: Author.
- Cohen, D.K. & Moffitt, S.L. (2009). *The ordeal of equality: Did federal regulation fix the schools?* Cambridge, MA: Harvard University Press.
- Jennings, J. (2015). *Presidents, Congress, and the public schools*. Cambridge, MA: Harvard Education Press.
- Jennings, J. & Rentner, D.S. (2006). Ten big effects of the No Child Left Behind Act on public schools. *Phi Delta Kappan*, 88 (2), 110-112.
- Layton, L. (2015, January 16). Majority of U.S. public school students are in poverty. *Washington Post*.
- National Conference of State Legislatures. (2016). *No time to lose: How to build a world-class education system state by state — Executive summary*. Denver, CO: Author.
- Organization for Economic Cooperation and Development (OECD). (2014). *Education at a glance — Indicator D3: How much are teachers paid?* Paris, France: OECD Publishing.
- Porter, E. (2013, November 6). In public education, edge still goes to rich. *The New York Times*.
- U.S. Department of Education. (2013). *For each and every child: A strategy for education equity and excellence*. Washington, DC: Author.
- Usher, A. (2011). *Public schools and the original Federal Land Grant Program*. Washington, DC: Center on Education Policy.