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ESEA Reauthorization

Objective

To secure improvements in the equitable distribution of services to private school students and teachers in certain programs authorized by the *Elementary and Secondary Education Act* (ESEA) as reauthorized in 2001 by the *No Child Left Behind Act*.

Rationale

The reauthorization of ESEA is a major education priority for the current Congress. Many provisions within ESEA have a direct impact on students and teachers in private schools, and some of those provisions go back as far as the mid-1960s, when Congress determined that federal education aid should be directed toward helping children in need, regardless of the type of school they attend. However, certain inequities have developed in recent years that have seriously disadvantaged students and teachers in religious and independent schools.

CAPE believes that federal programs that benefit public school students and teachers should provide equitable benefits to comparably situated private school students and teachers. Such equity is mandated in much of federal education law. It is based not only on a commitment to fairness, but also on the practical recognition that America's children are educated in a variety of schools and that the nation is best served when all its children are well-educated. In keeping with this rationale and to address the inequities that have developed, CAPE supports the following proposals.

Action

Priority Issues for Ensuring Equitable Services

1. Require that all funds generated by the count of private school students be clearly set aside for the benefit of such students and be spent for the benefit of such students. Allocations to benefit private school students should be determined before any "off the top" reservations are made for purposes that do not include such students and should not be dependent on how a state or school district elects to use ESEA funds under its waiver authority.
2. Include in consultation requirements an examination of options for directing administrative and program funds set aside for the private school community through a public administrative agency or a third-party contractor who would be responsible for administering programs provided through ESEA to private school students and teachers.
3. Require that equitable participation requirements for State Grants for Teacher Quality under Title II-A be determined on the basis of the full allocation of the grant, rather than only on the portion spent on professional development activities by the LEA.

Funding Equitable Services

4. Calculate at the state level all funds earmarked for services to students and teachers in private schools and indicate to the LEA separate allocations for services for both private and public school teachers and students.
5. Require school districts to expend in a timely manner funds generated by private school students for services to such students during the school year for which the funds have been appropriated. If funds are not expended during the appropriate school year, require school districts to expend any remaining funds for services to private school students at the start of the subsequent school year in addition to any new allocations.

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6. Require school districts to provide private school officials the option to transfer or not transfer funds to benefit private school students and teachers under either Title VI or the waiver authority.

Establishing Equitable Services

7. Provide for the participation of private school students and teachers in any combined or newly proposed formula or competitive grant programs as well as in existing programs that are not currently available to them.
8. Establish a new section of ESEA that consolidates all provisions relating to services to private school students and teachers, or, as an alternative, include applicable private school provisions relating to the equitable participation of private school students currently found in Title I within each of the appropriate titles.
9. Allow participants in the Troops-to-Teachers program to teach in private schools.
10. Amend Section 1120(a)(1) to clarify that special education services provided to eligible students in private schools include, singly or in any combination, instructional services, counseling, mentoring, and tutoring. The school district would be required to provide these services and benefits at the school's request in order to best address the needs of participating children.

Consulting About Establishing Equitable Services

11. Require school districts to secure written affirmations from private school officials that timely and meaningful consultation has taken place in connection with all programs serving private school students and teachers. Provide a section on the written affirmation for private school officials to indicate that timely and meaningful consultation has not occurred, in order that the SEA might be informed about the process and results.
12. Require school districts that disagree with private school officials over any issues involved in the consultation process to provide in writing the reason why the LEA has chosen a different course of action.
13. Include among the topics of required consultation the issue of pooling funds generated by private school students for the purposes of improving services to students and teachers. Require that school districts honor the request by private school officials to pool funds.
14. Establish that the goal of consultation be to reach agreement between school district officials and private school officials on the various issues identified in the law as required topics for consultation.
15. Require states to include in their consolidated grant applications from school districts adequate and specific assurances that timely and meaningful consultation with private school officials has taken place.

Safeguarding Equitable Services

16. Streamline the bypass provision and the complaint process and shorten the bypass/complaint implementation timeline.
17. Establish a threshold for "substantial failure," as used in Sections 1120(e) and 9502(a), based on a fixed number or percentage of eligible students in private schools within a district who should be served but are not, that would automatically require the delivery of services (e.g., through a bypass or an alternative method).
18. Require each state education agency to identify a private school ombudsman to advocate for private schools and to monitor and enforce requirements regarding private school participation in federal education programs.

Approved by CAPE's Board of Directors: March 2013