

PHOTOCOPY
PRESERVATION



"Christopher Edley, Jr." <edley@law.harvard.edu>
03/23/99 10:16:29 AM

Record Type: Record

To: Maria Echaveste/WHO/EOP
cc: Elena Kagan/OPD/EOP
Subject: Fwd: Academic Bill of Rights Is Sought

High Price, leading us again. I'll bet you dinner the President likes this. And I'll bet you a vacation that no one every gave him an opportunity to DECIDE whether he likes it.

You see? I am resolute in lack of diplomacy. Feel free to forward to Podesta.

>Date: Mon, 22 Mar 1999 17:09:59 -0500
>Subject: Academic Bill of Rights Is Sought
>Sender: mkennedy@sover.net
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>From: mkennedy@sover.net
>
><http://www.nytimes.com/aponline/a/AP-Minority-Standards.html>
>
> March 22, 1999
>
> Academic Bill of Rights Is Sought
>
> Filed at 3:55 p.m. EST
>
> By The Associated Press
>
> WASHINGTON (AP) -- Minority children, who often attend
> poor or struggling schools, could suffer under new efforts to
> make schools more accountable for their students'
> performance, some civil rights leaders say.
>
> President Clinton's education proposals, which include tying
> a child's promotion or graduation to rigorous testing, should
> include plans to fix city schools and provide better teachers
> there, said Hugh B. Price, National Urban League president.
>
> The civil rights organization has called for an academic bill of
> rights that would require school districts to prove they are
> giving minority children an equal education before adopting
> such test-based promotion plans.

>
> ``Accountability begins with quality," Price said. ``Few
> urban districts can claim that the key ingredients are available
> to all students, especially low-income minority pupils."

>
> Advocates for minority children have long complained that
> high-stakes testing and other changes rarely address the real
> needs of children: more qualified teachers, better equipped
> classrooms, stronger courses and more money in general.

>
> Education Department officials say their proposals to change
> federal law to push for accountability will include money and
> support to target minority areas.

>
> Some states, such as Texas and Ohio, have resisted the idea
> of excluding minority children from tests, arguing that all
> students should be held to the same higher standards.

>
> Studies show schools with high minority enrollments are
> more likely to have less-experienced teachers and older
> equipment, as well as lower test scores. Many, especially
> black children, are also more likely than white children to
> have low birth weights, poor health care and come from
> impoverished families, all factors that usually hinder learning
> ability.

>
> Memphis City Schools Superintendent Gerry House says the
> district, which is 85 percent minority, holds all children to the
> same standards, but also recognizes that many children don't
> have computers at home or parents who read to them, so it
> set up after-school programs to compensate.

>
> ``We must not literally or figuratively fail our children
> because it's easier than recognizing our own failures," said
> House.

>
> New standards should aim to rid poor schools of low-level
> courses and programs, said Vinetta C. Jones of the College
> Board, who noted that many high-school math courses in
> schools with poorer students don't emphasize algebra or
> calculus.

>
> Budgets and grants computed from lower property taxes and
> census undercounts mean less money for poor communities,
> said Wade Henderson, director of the Leadership
> Conference on Civil Rights, a civil rights law watchdog
> group.

>
> ``We need to compensate for years of deprivation," said
> Henderson.

>-----
> Michael Kennedy or Anne Wheelock
> Brattleboro, Vermont ---- mkennedy@sover.net
>-----

Draft

February 23, 1998

MEMORANDUM FOR THE SECRETARY OF EDUCATION

SUBJECT: Helping Schools End Social Promotions

The lynchpin of our efforts to strengthen public education has been to raise standards and expectations for all students. As a result of state and local efforts, and with the support of Goals 2000 and other federal education programs, students in every state in the country are beginning to benefit from higher academic standards and more challenging curriculum.

If our efforts to promote higher standards are to lead to increased student achievement, the standards must count. Students must be required to meet them, and schools must provide each student with adequate preparation.

At present, too often standards don't count. Students are passed from grade to grade often regardless of whether they have mastered required material and are academically prepared to do the work at the next level. For many students, the ultimate consequence is that they fall further and further behind, and leave school ill equipped for college and without the skills needed for employment. This is unacceptable for students, teachers, employers and taxpayers.

That is why I have repeatedly challenged states and school districts to end social promotions--to require students to meet rigorous academic standards at key transition points in their schooling career, and to end the practice of promoting students regardless of how much they have learned. As every parent knows, students must earn their promotion through effort and achievement, not simply by accumulating time in school.

This is especially important in the early grades, where students must acquire a firm foundation in reading in order to learn other subject and in later grade levels. Students should not be promoted past the 4th grade if they cannot read independently and well, and should not enter high school without a solid foundation in math. They should get the help they need to meet the standards before moving on.

Neither promoting students when they are unprepared nor simply retaining them in grade is the right response to low student achievement. Both approaches presume high rates of initial failure are inevitable and acceptable. Ending social promotions by simply by holding more students back is the wrong choice. Students who are

required to repeat a year are more likely to eventually drop out, and rarely catch up academically with their peers. The right way is to ensure that more students are prepared to meet challenging academic standards in the first place.

Schools must implement those proven practices that will prepare students to meet rigorous standards the first time. Schools must provide smaller classes, especially for the most disadvantaged students. They must be staffed with well prepared teachers. Schools should use specific grade by grade standards and a challenging curriculum aligned with those standards. They must identify those students who need extra help early on, and provide it immediately. There must be after school and summer school for students who need it. The entire school staff must be accountable for results, and must work together as a team to achieve them for every child.

If steps such as these are taken in every school as part of an overall effort to require students to meet academic standards, we would see a dramatic rise in student achievement and a decline in student retention rates. Our Administration must help states, school districts and schools take these steps.

A small but growing number of states and school districts are responding to the challenge of ending social promotion. A recent study by the American Federation of Teachers shows that seven states now require school districts and schools to use state standards and assessments to determine if students can be promoted at key grades. We must encourage more to take this step.

Chicago has also ended social promotions, and instituted a program that provides after-school programs for students who need extra help, and mandatory summer school for students who do not meet promotion standards. In Cincinnati, student promotion is now based on specific standards that define what students must know and be able to do. The standards are designed to prepare students to pass the state's ninth-grade proficiency test. Our Administration's proposal to establish Education Opportunity Zones in high poverty urban and rural communities will help more local school systems take these are related steps to help students meet challenging standards.

As more states and localities move to end social promotions, we must help them design and implement approaches that will succeed.

Therefore, I am directing the Department of Education to take the following actions within 6 months:

1. Produce and Widely Disseminate Guidelines for Educators and Policymakers on Effective Approaches to Ending Social Promotions. Drawing on the lessons from research and practice, these guidelines should provide educators and policymakers with practical advice on how to design and

implement policies that require students to meet academic standards at key transition points before being promoted. The guidelines should help schools:

- o implement strategies that will prepare all students to meet the standards on time;
- o end the use of remedial strategies that have been shown to be ineffective;
- o provide students who do not meet the standards with immediate and effective extra help--such as after-school tutoring programs and summer school--so they can be promoted on time;
- o implement effective interventions for students who must be retained; and,
- o make appropriate use of tests and other indicators of academic performance in determining whether students should be promoted.

2. Help States and School Districts Use Federal Education Resources to Implement Effective Practices. The Education Department should develop a plan to inform states, school districts and schools how Department of Education programs and resources, such as Title 1, Goals 2000, the 21st Century Schools Program, the Comprehensive School Reform Program and others, can be used to implement the recommendations in the guidelines described above.

Together, these initiatives can help ensure that our students receive a solid foundation in the basic skills of reading and math, and master advanced subject matter as well. They can help improve the quality of teaching and learning in our schools, and ensure that students who need extra help get it without delay. They can help strengthen our public schools by raising standards, raising expectations and restore accountability.

Edward W. Correia

08/04/98 12:31:17 PM

Record Type: Record

To: Maria Echaveste/WHO/EOP, "Christopher Edley, Jr." <edley @ law.harvard.edu>

cc: Leslie Bernstein/WHO/EOP, Laura Emmett/WHO/EOP

Subject: Re: CR Mtg 5

Here is my suggested list of issues for our civil rights overview. Please let me know if other issues should be on the list. (We don't have to talk about all of these, but I will try to be prepared on all of them.)

Education

Higher education admissions, including current private litigation (Michigan, Hopwood, etc.) and investigations of the use of standardized tests (Univ. of California)

High stakes testing in other contexts -- e.g., elementary and secondary schools

Bilingual education, including the California and Denver situations

Single sex schools

School desegregation, the Indianapolis and St. Louis cases

Other Title IX issues -- abortion, sexual harassment

Magnet schools and use of race

School funding

Employment

Civil rights division enforcement strategy

Employer testing

EEOC and testers

Broadcasting -- pending case involving EEO rules, ownership initiatives

Diversity and Title VII (follow-up to Piscataway)

Environmental Justice

ADA enforcement and policy development

Procurement -- 8(a) reform, benchmarking implementation

Housing -- enforcement and broader integration issues

Process issues

Particular issues raised by OCR; Civil Rights Division; and EEOC

Generally, how should the White House monitor and oversee enforcement policy?

OPTIONS FOR MOVING THE ADMINISTRATIONS' ENDING SOCIAL PROMOTION POLICY FORWARD

SUGGESTED CHANGES TO CURRENT LANGUAGE PER CIVIL RIGHTS LEADERS—

- 1) Strengthen provisions to support students who fail to meet promotion standards
- 2) Clarify and amplify message about multiple indicators. Do not single out a valid assessment as the one primary indicator and then merely mention weak indicators as others factors for consideration. Make the other indicators a richer part of the process.
- 3) Be more explicit on the sanctions for States, schools and districts for failing to put the educational opportunities in place

COMPROMISE OPTIONS

Option A: Phase-in Social Promotion Policy in Waves

- Focus attention in the first five years on ending social promotion in the elementary grades (e.g. transitioning from the key grades of third to fourth), while at the same time putting in quality educational strategies and opportunities in the later years.
 - This proposal would allow States and districts more time to put in place educational interventions and opportunities in the early grades to help children meet the elementary transition point. After four years, States and districts would be required to end social promotion in the fourth grade. After six years, they would have to end social promotion in the middle grades (e.g. 8th), and after eight years they would have to end social promotion at graduation (e.g. 10th grade exit exam).
- The pros for this option are: timeline that is more realistic for States and districts to meet while continuing to send a strong message that we will not sit idle while students are promoted without learning the material; potential support from the Civil Rights groups as a compromise position; and, builds on our broader ESEA message to help secondary schools catch up with elementary schools in their reform and improvement efforts.

Option B: Require States and Districts to Have Educational Opportunities in Place Before Holding Kids Accountable by Ending Social Promotion

- Develop list of key education strategies that must be fully implemented prior to requiring an end to the practices of social promotion, including early intervention strategies, smaller class-sizes, and qualified/certified teachers. States and districts would be held accountable for putting these educational practices into place by the

end of four years, but only if they were fully implemented would States be required to end the practice of social promotion.

- The pros for this option include: the Federal government should first hold adults accountable for putting quality education opportunities in place before holding kids accountable; the Civil Rights community would offer strong support for this option.
- The cons with this option include: Congress may add a never-ending list of strategies and opportunities that need to be in place before student accountable is implemented, measuring success could become murky when looking at the success of implementing practices such as an early intervention program, this message could provide a disincentive for States and districts to put good practices in place.

Option C (not mutually exclusive): Offer Rewards to States and Districts that implement High-Quality promotion strategies in a timely manner

- Develop a reward system for States and districts that successfully ended social promotion in a timely and reasonable fashion, including implementing quality educational opportunities for early intervention, quality teachers, etc. The Secretary could offer distinguished recognition, as well as rewards ranging from greater flexibility to monetary awards (as suggested in the Educational Accountability Act rewards section).

Option D: Change the Policy to End Social Promotion into a Public Accountability Strategy by Requiring Reporting by Schools at Critical Transition Points

- States and districts would be required to hold schools accountable for reporting on data regarding students that meet standards on time, students that are promoted yet haven't met standards, students retained in grade (State assessment would be used as measure).

Option E: Submit Bill to End Social Promotion Separately from ESEA

- Shift the social promotion policy debate away from ESEA by offering up a separate bill to end social promotion.

Using the Draft provided by the Department:

Under the purpose section: delete subsection (1) and renumber subsections 2-5.

Delete under Section entitled "Promotion and Graduation Policy" the "IN GENERAL" section in its entirety and subsections (1), (2), (5) of the "POLICY" section.

Insert the following:

CONTINUOUS AND TIMELY ACHIEVEMENT POLICY

"Sec ____ (a). IN GENERAL. A State that receives assistance under this Act shall not engage in unsound educational practices of

A) "social promotion," defined as the failure to undertake early diagnostic assessment of academic achievement and to provide comprehensive and effective interventions for students who are not meeting challenging State academic standards at the point at which the State or local education agency determines that the student is at-risk of or, in fact, failing to meet such standards, or

B) "retention in grade," defined as requiring a student to repeat a grade, placing students in inappropriate age settings, and/or the failure to provide comprehensive and effective interventions which are not repetitive of instructional methods that have already proven unsuccessful in getting a student to meet challenging State academic standards.

(b) POLICY. A State continuous and timely achievement policy shall --

"(1) require all schools to assess and determine whether children are at-risk of or failing to meet challenging state academic standards at three key transition points as determined by the State,

(2) in accordance with subsection (d) require the use of multiple measures to determine whether a student is at-risk of or failing to meeting challenging State academic standards,

(3) [remains as drafted]

(4) [substitute "challenging State academic standards" for "promotion standards" throughout section]

(5) require its local education agencies to provide multiple and varied strategies for

students to meet challenging State academic standards;

(6) [substitute “challenging State academic standards” for “promotion standards” throughout section]

(7) [substitute “challenging State academic standards” for “promotion standards” throughout section]

Educ-social promotion



UNITED STATES DEPARTMENT OF EDUCATION

THE DEPUTY SECRETARY

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Washington, DC 20202-0500

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FAX COVER SHEET

TO: Bruce Reed

FAX: 456-5542

FROM: Bridget Bradley for Mike Smith

NUMBER OF PAGES TO FOLLOW, INCLUDING COVER SHEET: 2

IF YOU DID NOT RECEIVE THE COMPLETE TRANSMISSION, PLEASE CALL
(202) 401-1000.

MESSAGE:

(b) Policy. A State policy under subsection (a) [Student Progress and Promotion] shall—

(1) require the State, its local educational agencies, and schools [add parents and students?] to ~~take whatever steps are necessary~~ to ensure that all students will meet the challenging academic performance standards required under section 1111(b) (1)(A) of this Act at three key transition points, as determined by the State, consistent with section 1111(b)(2)(D) of this Act, so that all students will progress through school and graduate having mastered the challenging material needed for them to meet high standards of performance;

take whatever
provide services + other ~~steps~~
steps needed to ensure
and

Ans

"step"

- includes retention
- Secy's intent entitled to inference
- Secy goes to opposite place

SEC. XXX5. Title XI of the Elementary and Secondary Education Act, as redesignated by section XXX1(1), is further amended by adding a new part B to read as follows:

"PART B—IMPROVING EDUCATION THROUGH ACCOUNTABILITY

"SHORT TITLE

"SEC. 11201. This part may be cited as the "Education Accountability Act of 1999."

"PURPOSE

"SEC. 11202. It is the purpose of this part to improve academic achievement for all children, assist in meeting America's Education Goals under section [], promote the incorporation of challenging State content and performance standards into classroom practice, enhance accountability, and improve the effectiveness of programs under this Act and the educational opportunities of the students that they serve, by requiring State and local educational agencies to—
> Insert A <

"(1) Hold local education agencies and schools accountable for the results, including identifying and turning around low performing schools and assuring the educational progress of students;

"(2) adopt policies or guidance, including policies concerning promotion, that will assure that students progress through school on a timely basis having mastered the challenging material needed for them to reach high standards;

"(3) Ensure that classroom teachers everywhere are certified and qualified in the subject area they teach;

"(4) Adopt and implement sound discipline policies; and

"(5) Broadly disseminate information annually on the status of education and educational progress in the State, its local educational agencies, and its schools.

~~STATE AND LOCAL ACCOUNTABILITY~~

SEC. 11203

STATE AND LOCAL ACCOUNTABILITY

~~ACCOUNTABILITY~~ - (A) If a State has developed, and is implementing, a statewide system for holding local educational agencies accountable for student performance (and for those agencies to hold participating schools accountable for that performance) that meets the following criteria, it shall describe that system in its State plan under this section and demonstrate that its system meets those criteria:

"(i) It is based on the State content and student performance standards described in paragraph (1) and on the assessments described in paragraph (2), and includes multiple indicators, such as attendance and dropout rates.

"(ii) It includes all students in the grades assessed under paragraph (2), in accordance with that paragraph.

"(iii) It holds local educational agencies and schools accountable for student achievement in at least reading or language arts and mathematics.

"(iv) It holds local educational agencies and schools accountable for continuous gains in achievement for the lowest performing students.

"(v) It uses rigorous criteria to identify local educational agencies and schools in need of improvement.

(B) Any State that is not implementing a system described in subparagraph (A) shall include in its State plan a description of the State's system for holding local educational agencies accountable for student performance under this part, and for those agencies to hold participating schools accountable for that progress, including information about how the system-

"(i) is based on the State content and student performance standards described in paragraph (1) and on the assessments described in paragraph (2), and includes multiple indicators, such as attendance and dropout rates;

"(ii) includes all students in the grades assessed under paragraph (2), in accordance with that paragraph;

"(iii) holds local educational agencies and schools accountable for student achievement in at least reading or language arts and mathematics;

"(iv) includes rigorous criteria for identifying local educational agencies (and for those agencies to identify schools) in need of improvement that-

"(I) are based on those agencies' or schools' failure to make continuous and substantial gains in overall student performance and in the performance of the lowest performing students; and

"(II) reflect an expectation that all students will reach State standards within a reasonable timeframe.

"(C) Each State plan shall also describe how-

"(i) the State will recognize and reward local educational agencies that have met or exceeded the State's standard for progress over a three-year period under section 1116(c) (2) and how it will recognize distinguished schools under section 1117(c) (2); and

"(ii) the State will carry out its responsibilities, under sections 1116(c) and 1117, with respect to local educational agencies and schools in need of improvement and, in particular, how it will take corrective actions, in accordance with those sections, to improve those schools and agencies.

Section 1111
and under
Section 11207

As described in section 1116 and 1117, such corrective action shall include substantial changes in the governance and operations of the school or local education agency coupled with policies allowing children to transfer out of failing schools.

~~"PROMOTION AND GRADUATION POLICY"~~

~~"SEC. 11207 (a) IN GENERAL. A State that receives assistance under this Act~~

shall, at the time it submits its accountability plan under section 11207, have ^{adopted} ~~in effect~~ a promotion policy ~~or provided guidance~~ designed to ^{ensure} ~~insure~~ that students progress through school on a timely basis having mastered the challenging material needed for them to reach high standards.

The components of state policy ^{or guidance} under this subsection shall be as follows:

~~"(b) POLICY. A State promotion policy under this section shall determine whether students are meeting~~

^{a determination of} ~~"(1) require all students to meet~~ challenging academic performance standards under section 1111(b)(1)(A) or (C) of this Act, ~~as the case may be~~ before being promoted at three key transition points (one of which shall be graduation from secondary school), as determined by the State, consistent with section 1111(b)(2)(D);

~~"(2) in accordance with subsection (d), require the use of multiple measures to determine whether a student has met applicable standards for promotion, including—~~

~~"(A) the use of at least one assessment that is valid and reliable for the purpose of promotion, including that it fairly and accurately measures what the student has been taught; and~~

"Provide that" instead of "require"

shall determine

(2) A determination of whether local educational agencies and schools are meeting the requirement for continuous educational progress set forth in Section 1111(b)(2) by using, among other indicators, a measure of whether students are being promoted without having mastered the challenging material needed for them to reach high standards (i.e., "socially promoted") or whether students are being required to repeat whole grades because they have not mastered such material (i.e. "retained in grade")

Write
(3) ~~Where States determine that students are not progressing through school on a timely basis having mastered challenging material, the state promotion policy shall provide:~~ *not?*

(A) for intensive interventions, including, but not limited to, extended learning time such as after school and summer programs that are designed to enable students to continue or to resume as rapidly as possible their progress through school on a timely basis; ✓

(B) other specific interventions with appropriate instructional strategies to enable students with limited English proficiency and students ✓

with disabilities to continue as rapidly as possible their progress through school on a timely basis;

(C) for the identification, with precision, of the subject matter areas in which students have not attained proficiency to permit concentration on those areas for remediation purposes;

(D) for the development by schools of plans to give students who have not attained proficiency individualized attention including provisions to assure that such students are placed in age-appropriate settings and move forward as soon as they attain proficiency without awaiting a new semester;

(E) for full communication by the school with parents of students who have not attained proficiency, including a description and analysis of the students' performance, how it will be improved and how parents will be involved in the process;

(F) in cases where significant numbers of children have failed to reach proficiency, a state review of whether corrective action pursuant to section 1117 with respect to the school or LEA is required.

(4) Any assessments used by a state, local educational agency or school for purposes of implementing a promotion or graduation policy shall:

(A) be separate from the assessments used for holding local educational agencies and schools accountable under section 1111(b)(3);

NO
GOOD
DELETE

(B) be aligned with the state's challenging content and performance standards and provide coherent information about student attainment of such standards;

(C) consist of multiple measures including teacher evaluations and offer multiple opportunities for students to meet standards;

any
assessment is
shall count

(D) be valid and reliable for the purposes for which they are used including that they fairly and accurately measure what students have been taught;

(E) provide reasonable adaptations and accommodations for students with diverse learning needs;

student
with
disability

(F) provide that students with limited English proficiency be assessed to the extent practicable in the language and form most likely to yield accurate and reliable information on what such students know and can do;

1

~~“(6) require its local educational agencies and schools to disseminate widely their promotion policies in a format that is concise and that parents can understand; and~~

~~“(7) include goals for continual improvement in helping all students meet the promotion standards.~~

“(c) PLAN CONTENT. A State shall include in its accountability plan under section 11207—

“(1) a detailed description of its policy under subsection (b);

“(2) the strategies and steps (including timelines and benchmarks) that the State will take to ensure that its policy is fully implemented no later than four years from the date of the approval of its accountability plan; and

“(3) the steps that the State will take to ensure that the policy is disseminated to all local educational agencies and schools in the State and to the general public.

“(d) TITLE I ASSESSMENT OF LIMITED ENGLISH PROFICIENT STUDENTS. If an assessment in reading or language arts under section 1111(b)(2)(F)(v) of this Act is used for promotion purposes for limited English proficient students who have attended school in the United States (not including Puerto Rico) for three or more consecutive years, that assessment must be determined to be valid for such purposes and must be used in conjunction with another assessment, which must be in the student's native language, and other appropriate indicators, as determined by the State, such as teacher evaluations.

"ENSURING TEACHER QUALITY

"SEC. 11204 (a) IN GENERAL. A State that receives assistance under this Act shall, at the time it submits its accountability plan under section 1120, have in effect a policy that—

"(1) is designed to ensure that there are qualified teachers in every classroom in the State; and

"(2) meets the requirements of this section.

"(b) POLICY. A policy to ensure teacher quality under this section shall include the strategies that the State will carry out to ensure that, within four years from the date of the approval of its accountability plan—

"(1) not less than 95 percent of the teachers in public schools in the State are certified or—

"(A) have a baccalaureate degree and are enrolled in a program, including an alternative certification program, leading to full certification in their field within two years; or

"(B) have full certification in another State and are establishing certification where they are teaching;

"(2) not less than 95 percent of the teachers in public secondary schools in the State have academic training or demonstrated competence in the subject area in which they teach;

"(3) there is no disproportionate concentration in particular school districts of teachers who are not described in paragraphs (1) or (2); and

"(4) its certification process for new teachers includes an assessment of

content knowledge and teaching skills.

“(c) PLAN CONTENT. (1) A State shall include in its accountability plan under section 11207 the benchmarks by which it will annually measure progress in—

“(A) decreasing the percentage of teachers in the State teaching without full licenses or credentials; and

“(B) increasing the percentage of secondary school classes in core academic subject areas taught by teachers who—

“(i) have a postsecondary-level academic major or minor in the subject area they teach or a related field; or

“(ii) otherwise demonstrate a high level of competence through rigorous tests in their academic subject.

“(2) In its accountability plan under section 11207, a State shall assure that, in carrying out this policy, it will not decrease the rigor or quality of its teacher certification standards.

“SOUND DISCIPLINE POLICY

“SEC. 11207 (a) IN GENERAL. A State that receives assistance under this Act shall, at the time it submits its accountability plan under section 11207, have in effect a policy that requires its local educational agencies and schools to have in place and implement sound ^{and equitable} discipline policies, in order to ensure a safe, orderly, and drug-free learning environment in every school.

learning environment without excessive situations in classroom receive assistance and be monitored for improved performance NO

"(b) POLICY. A State discipline policy under this section shall require local educational agencies and schools to have in place and implement disciplinary policies that—

"(1) focus on prevention and are coordinated with prevention strategies and programs under title IV of this Act;

"(2) apply to all students and are enforced consistently and equitably;

"(3) are clear and understandable;

"(4) are developed with the participation of school staff, students, and parents;

"(5) are broadly disseminated;

"(6) ensure that due process is provided;

"(7) are consistent with applicable Federal, State and local laws, including the Individuals the Disabilities Education Act; and

"(8) in case of students who are suspended or expelled from school, include a plan for helping such students continue to meet the State's challenging standards, which may include such approaches as in-school suspensions, make-up classes after school or on weekends, or educational services in alternative settings.

"(c) PLAN CONTENT. A State shall include in its accountability plan under section 11207 an assurance that it has in effect a policy that meets the requirements of this section.

"EDUCATION REPORT CARDS

16
"SEC. 11206. (a) IN GENERAL. (1) A State that receives assistance under this

Act shall, at the time it submits its accountability plan under section 11207, have in effect a policy that requires the development and dissemination of annual report cards regarding the status of education and educational progress in the State and in its local educational agencies and schools that meet the requirements of this section.

"(2) Report cards under this section shall—

"(A) be concise;

"(B) be disseminated in a format and manner that parents can understand; and

"(C) focus on educational results.

"(b) CONTENT OF STATE -LEVEL REPORT CARD. (1) The State shall, at a minimum, include in the annual State-level report card information regarding—

"(A) student performance on statewide assessments, set forth on an aggregated basis, in both reading (or language arts) and mathematics, as well as any other subject area for which the State requires assessments;

"(B) attendance and graduation rates in the public schools of the State;

"(C) average class size in each of the school districts in the State;

"(D) school safety, including the incidence of school violence and drug and alcohol abuse; and

"(E) the professional qualifications of teachers in the State, including the number of teachers teaching with emergency credentials and the number of teachers teaching out of their field of expertise.

"(2) Student achievement data in the report card shall contain statistically sound, disaggregated results for the following categories:

"(A) gender;

"(B) racial and ethnic group;

"(C) migrant status;

"(D) students with disabilities, as compared to students who are not disabled;

"(E) economically disadvantaged students, as compared to students who are not economically disadvantaged; and

"(F) students with limited English proficiency, as compared to students who are proficient in English.

"(3) A State may include in such report cards any other information it determines appropriate to reflect school quality and student achievement, such as information on—

"(A) longitudinal achievement scores from the National Assessment of Educational Progress or State assessments;

"(B) parent involvement, as determined by such measures as the extent of parental participation in school parental involvement policies;

"(C) participation in extended learning time, such as after school and summer programs; and

"(D) the performance of students in meeting physical education goals.

“(c) CONTENT OF LOCAL EDUCATIONAL AGENCY AND SCHOOL

REPORT CARDS. (1) The State shall ensure that each local educational agency and each school in the State includes in its annual report card, at a minimum—

“(A) the information described in subsections (b)(1) and (b)(2);

and

“(B)(i) in the case of a local educational agency—

“(I) the number of schools identified as low-performing schools, such as schools identified under section 1116(c)(1) of this Act; and

“(II) information that shows how students in its schools performed on the statewide assessment compared to students in the rest of the State; or

“(ii) in the case of a school—

“(I) whether it has been identified as a low-performing school; and

“(II) information that shows how its students performed on the statewide assessment compared to students in the rest of the local educational agency and the State.

“(2) A local educational agency and a school may include in its annual report card the information described in subsection (b)(3) and any other appropriate information.

“(d) DISSEMINATION AND ACCESSIBILITY OF REPORT CARDS. (1)

State-level report cards under subsection (b) shall be posted on the Internet, disseminated

to all schools and local educational agencies in the State, and made broadly available to the public.

“(2) Local educational agency report cards under subsection (c) shall be disseminated to all schools in the school district and to all parents of students attending these schools, and made broadly available to the public, through such means as posting on the Internet.

“(3) School report cards under subsection (c) shall be disseminated to all parents of students attending that school and be made broadly available to the public, through such means as posting on the Internet.

“(e) PLAN CONTENT. A State shall include in its accountability plan under section 11207 an assurance that it has in effect a policy that meets the requirements of this section.

“EDUCATION ACCOUNTABILITY PLANS

“SEC. 11203 (a) IN GENERAL. Each State that receives assistance under this Act on or after July 1, 2000, shall have on file with the Secretary an approved accountability plan that meets the requirements of this section.

“(b) CONTENT. An accountability plan under subsection (a) shall include—

“(1) the information or assurances called for by sections 11203, 11204(c), 11205(c), and 11206^(e) ~~(f)~~ ^{and (e)}

“(2) an indication that the Governor and the State educational agency concur with the plan; and

"(3) any other information that the Secretary may reasonably require to ensure the proper and effective administration of this part.

"(c) REPORTS. (1) A State shall report annually to the Secretary, in such form and containing such information as the Secretary may require, on its progress in carrying out the requirements of this part, and shall include such report in its consolidated State performance report under section 11308.

"(2) In reporting on its progress in implementing its social promotion policy under section 11203, a State shall assess the effect of its policy, and its implementation, in improving academic achievement for all children and otherwise carrying out the purposes specified in section 11202.

"(d) RELATIONSHIP TO CONSOLIDATED PLAN. (1) If a State submits a consolidated State plan under section 11302, it shall include in that plan its accountability plan under this section.

"(2) If a State does not submit a consolidated State plan, it shall submit a separate accountability plan under this section to receive assistance under the Act.

"(e) APPROVAL. (1)(A) The Secretary shall approve an accountability plan under this section if the Secretary determines that it complies substantially with the requirements of this part.

"(B) The Secretary may accompany the approval of a plan with conditions that are consistent with the purposes of this part.

"(2) In reviewing accountability plans under this part, the Secretary shall employ the peer review procedures under section 11302(e).

“(3) If a State does not submit a consolidated State plan under section 11302, the Secretary shall, in considering that State’s separate accountability plan under this section, employ such procedures, comparable to those set forth in section 11302(e), as the Secretary may determine.

“AUTHORITY OF SECRETARY TO ENSURE ACCOUNTABILITY

“SEC. 11208 (a) REMEDIES FOR SUBSTANTIAL FAILURE. If the Secretary determines that a State has failed substantially to carry out a requirement of this part or a provision in its approved accountability plan under section 11207, or that its performance has failed substantially to meet an indicator in such plan, the Secretary shall take one or both of the following steps to ensure that the purposes of this part are carried out—

“(1) providing, or arranging for the provision of, technical assistance to the State educational agency in question; or

“(2) requiring a plan for corrective action.

“(b) REMEDIES FOR PERSISTENT FAILURE. If the Secretary determines that a State has ^{after having been afforded an opportunity to comply voluntarily,} ~~persistently~~ failed to carry out substantially a requirement of this part or a provision in its approved accountability plan under section 11207, or that its performance has persistently failed to meet substantially an indicator in such plan, the Secretary shall,

^{in light of all the circumstances, including the degree to which the State failed to meet its} ~~in light of all the circumstances, including the degree to which the State failed to meet its~~ accountability indicators under this part, take one or more of the following steps, consistent with applicable due process procedures, to ensure that the purposes of this part are carried out ^{promptly} ~~promptly~~

“(1) Suspending or terminating authority to receive waivers under

applicable ED-Flex authority.

“(2) Suspending or terminating eligibility to participate in competitive programs under this Act.

“(3) Withholding, in whole or in part, State administrative funds available under this Act.

“(4) Withholding, in whole or in part, program funds available to such State under the Act.

“(5) Imposing one or more conditions upon the Secretary’s approval of a State plan or application under this Act.

“(6) Taking other action authorized under part D of the General Education Provisions Act, such as a cease-and-desist order or compliance agreement,

or a referral to the Department of Justice for litigation

“(7) Taking any other appropriate accountability step that is consistent with this Act.

(all caps) (c) Effective Remedies. If a remedial step undertaken ^(by the Secretary) under subsection (b) fails to produce compliance by a State, the Secretary shall take other steps authorized by the subsection.

“RECOGNITION AND REWARDS

“SEC. 11209 (a) IN GENERAL. If the Secretary determines that a State has demonstrated significant, statewide achievement gains in core subjects, as measured by the National Assessment of Education Progress for three consecutive years, is closing the achievement gap between low-and high-performing students, and has in place strategies for continuous improvement, the Secretary shall, in light of all the circumstances, including the size of those gains, recognize and reward the State, as described under subsection (b).

add: an effective anti-S.P. promotion policy, coupled w/ a signif reduction in water

“(b) REWARDS. The Secretary shall establish, through regulation, a system for recognizing and rewarding States described under subsection (a). Such rewards may include—

“(1) conferring priority in competitive programs under this Act;

“(2) increased flexibility in administering programs under this Act, consistent with maintaining accountability; and

“(3) supplementary grants or administrative funds to carry out the purposes of this Act.

“(c) AUTHORIZATION. There are authorized to be appropriated for fiscal year 2001 and each of the four succeeding fiscal years, such sums as may be necessary to carry out subsection (b)(3).

“BEST PRACTICES AND MODELS

“SEC. 11210. In implementing this part, the Secretary shall, after consulting with State and local educational agencies and other agencies, institutions and organizations with experience or information relevant to the purposes of this part, and disseminate information about best practices, models, and other forms of technical assistance.

“CONSTRUCTION

“SEC. 11211. Nothing in this part shall be construed as affecting home schooling or the application of the civil rights laws or the Individuals with Disabilities Education Act.”.



"Cohen, Mike" <Mike_Cohen@ed.gov>
05/04/99 11:47:23 AM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Laura Emmett/WHO/EOP
Subject: FW: FW: Social promotion update

FYI

> -----Original Message-----
> From: Bruce_N_Reed@opd.eop.gov [SMTP:Bruce_N_Reed@opd.eop.gov]
> Sent: Tuesday, May 04, 1999 11:12 AM
> To: Cohen, Mike
> Subject: Re: FW: Social promotion update
>
> That language doesn't work. Requiring students to take steps is not the
> same as requiring students to meet standards.
>
> Your plan sounds right to me. Keep me posted.
>

Message Sent To:

"Smith, Mike" <Mike_Smith@ed.gov>
"O'Leary, Ann" <Ann_O'Leary@ed.gov>
"Johnson, Judith" <Judith_Johnson@ed.gov>
"Rogers, Diane" <Diane_Rogers@ed.gov>
"Fleming, Scott" <Scott_Fleming@ed.gov>
Elena Kagan/OPD/EOP



"Cohen, Mike" <Mike_Cohen @ ed.gov>
05/14/99 01:17:03 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: New Social promotion idea

I have a new idea for how we might bridge the remaining gap with the civil rights groups, while retaining our language requiring state policies to require kids to meet standards before being promoted. In our conversation, Bill and Jenell were convinced that our language would require retention of kids who didn't meet the standards, even after receiving all of the "continuing comprehensive interventions" that we now require. Bill in particular has consistently been concerned that we are leaving no choice but retention for kids who are still not making it after all this help.

What if we added something to our proposal, requiring local districts to have a procedure for determining the appropriate placement and instructional program that is reasonably calculated to best help the student meet standards and progress through school, for a student who does not meet promotion standards, even after receiving all of the comprehensive interventions we already require. This "last chance" approach would leave districts a range of options, from retention to promotion to anything in between, depending upon what it thinks will work best for the kid. I think this might satisfy Bill.

While this may create a giant loophole (though it shouldn't if we write it so it is clear it is a last resort), it's not without precedent. I've been reviewing descriptions of state and local social promotion policies that Judith Johnson's staff has assembled, and have found that a number of state/local policies have explicit escape hatches, permitting schools to decide to promote kids even if they haven't met the standards. For example:

California permits a student's teacher to recommend against retaining a student, with a written determination that specifies the reasons that retention is not appropriate and with recommendations for appropriate interventions.

Delaware requires kids who don't meet standards to attend summer school--and then requires an individual improvement plan for a kid who still doesn't meet standards after summer school.

Louisiana allows for a variety of options (retention, remediation, alternative placement, or anything else that will work) for kids who don't meet proficiency levels.

North Carolina permits an appeals committee of teachers, principals, and parents to waive the retention if the teacher or parent provides documentation (e.g., examples of student work) that the kid is on grade level.

What do you think?

Message Sent To:

Bruce N. Reed/OPD/EOP
Elena Kagan/OPD/EOP
Barbara Chow/OMB/EOP
"Smith, Mike" <Mike_Smith @ ed.gov>
"Johnson, Judith" <Judith_Johnson @ ed.gov>
"O'Leary, Ann" <Ann_O'Leary @ ed.gov>

Educ - social promotion -
and
bilingual



"Cohen, Mike" <Mike_Cohen@ed.gov>
05/20/99 10:55:06 AM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Barbara Chow/OMB/EOP
cc: Laura Emmett/WHO/EOP, Cathy R. Mays/OPD/EOP
Subject: GOOD NEWS FROM NANCY ZIRKIN

Nancy just called me to express, on behalf of LCCR, her chagrin over the handling of LEP issues in Title 1. She also informed me that she will take MALDEF to meet with Clay after Mr. Clay introduces our bill. So we just dodged the final bullet and are on our way!



"Cohen, Mike" <Mike_Cohen@ed.gov>

05/20/99 10:29:32 AM

Record Type: Record

To: "'Bruce_N._Reed@opod.eop.gov'" <Bruce_N._Reed@opod.eop.gov>, Elena Kagan/OPD/EOP, Barbara Chow/OMB/EOP

cc: Laura Emmett/WHO/EOP, Cathy R. Mays/OPD/EOP

Subject: Social Promotion/Civil Rights Update

I just talked to Nancy Zirkin about last evening's civil rights groups meeting on Title 1 and Title XI. Here's the basic update:

1. They are "fine" (not happy, but willing to live with) with our responses to the three issues they raised earlier this week, and will pursue a fix with Clay on the two social promotion issues. Nancy and I are discussing language and she will share with me what they are going to ask Clay to do. There are no surprises in this for us.
2. As a result of their collective review of our language, they have a whole new bunch of issues. Nancy, Bill (who probably has the longest list) and Wade have basically convinced the group not to ask us or Clay to address those issues before introduction.
3. The one outstanding issue in this regard is MALDEF's opposition to the Title 1 requirement to test LEP kids in English after 3 years. They want 4 years. Nancy reports that Bill Taylor is reasonably confident that he can get that back in the box by tonight.

I hope so--because I'm afraid that if he can't the pressure to have Clay make all of the language changes they want will grow between now and Tuesday.