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Autism National Committee, Inc.

23 years of advocacy for children and adults with autism

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June 18, 2013

The Honorable John Kline
Chairman
Education & the Workforce Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable George Miller
Ranking Member
Education & the Workforce Committee
U.S. House of Representatives
Washington, DC 20515

Re: *Student Success Act- Opposition to H.R.5*

Dear Chairman Kline and Ranking Member Miller,

The Autism National Committee is deeply concerned that the Student Success Act (H.R. 5) will turn back the clock on the progress made to provide students with disabilities with strong educations that prepare them for college and career success. We are therefore opposed to H.R.5, the Majority bill. Instead, we urge the House Education and Workforce Committee to adopt the substitute amendment by Congressman Miller and the Minority to ensure that all American children receive the quality education that our global economy demands. We are dismayed by the absence of bipartisanship on the bill. There are stark contrasts between the Majority and Minority proposals, and the Majority bill will do very little to ensure accountability or a good education for students with disabilities.

The Majority Bill (H.R. 5) will let schools discriminate against students with disabilities by taking them off track to graduate high school and be college and career ready. It will slash academic expectations for students with disabilities, allowing schools to provide a poor and inadequate education with no accountability. Congressman Miller's bill will continue to ensure that students with disabilities are educated and assessed at grade level with their peers, and provide accountability to ensure their success. This is critical as one looks to the future and the global economy, where more jobs will demand greater education.

The substitute language proposed by Congressman Miller and the Minority affirms performance targets for all students—which is absolutely essential for students with disabilities to be held to the high expectations necessary for their academic success. The substitute confirms that schools must take action to address gaps in academic performance for all students and requires all subgroups, including students with disabilities, to make annual progress towards performance targets and achievement goals. The accountability provisions proposed in your substitute would help students with disabilities climb the ladder of success through school to graduation and beyond. Only 10 percent of jobs in 2018 are expected to be open to high-school dropouts. Yet, high school graduation rates for students with disabilities are 66% or lower in 30 states.

The Minority Substitute will help ensure that most students with disabilities are assessed using grade-level assessments. Under the Minority Substitute, only students for whom the alternate assessment based on alternate achievement standards (AA-AAS) is appropriate may have their progress measured and reported using this standard. This assessment will be limited only to the very tiny portion of students with the most significant cognitive disabilities who--even with appropriate accommodations and supports--would never be able to make grade-level academic achievement. The bill will use a cap of 1% or less. It will eliminate the alternate assessment based on modified achievement standards (AA-MAS). This policy change will remove the barrier faced by too many students who have disabilities that do not preclude them from mastering grade level work. Many children with disabilities can make grade level achievement with regular assessments, particularly with appropriate accommodations and universally designed learning. The bill will allow these students the opportunity to pursue a standard high school diploma. Earnings for an adult with a high school diploma are \$9,000 greater on average than a dropout; earnings for a person with a bachelor's or associates' degree, even higher.

By contrast, the Majority bill (H.R. 5) will allow unlimited use of alternate assessments to alternate achievement standards. It would allow schools to give as many students as they wish the alternate assessments by lifting the 1% cap. In reality, schools could provide vastly inferior educations, since they would not have to ensure proficiency at grade level. It would also allow states to create other alternative assessments with few conditions. Under H.R. 5 no one would be accountable for making sure that students actually learn what they need to graduate and succeed. If a child struggles to read, the school could simply use an alternate achievement standard--rather than provide the extra assistance he needs to learn to read at grade level. And if children cannot read, they cannot succeed. . **The Majority bill allows schools to take millions of students with disabilities off track for a regular high school diploma as early as 3rd grade when assessment decisions are made in schools.** This will relegate them to lower career and college expectations—simply because they receive special education services.

The Minority Substitute requires schools to implement universal design for learning, a critical concept for ensuring success of all students by giving every student an equal opportunity to learn. The substitute requires states to ensure that their regular assessments are universally designed to be accessible to students with disabilities with reasonable adaptations and accommodations. Assessments designed this way enable students to show what they learned, rather than having the assessment really test the student's disability. The Minority substitute also ensures the use of multi-tiered systems of support.

The Minority Substitute will require report cards and data collections that measure achievement and academic growth for all students to determine whether schools and districts are properly meeting their targets and preparing students to graduate college and career ready. It requires the disaggregation of data and the interaction of race, disability, ethnicity, English proficiency, and gender (as measured via cross-tabulation). This will help ensure that schools and districts work to ensure that all students make the required progress and receive the appropriate learning supports. Data collection and reporting creates sunshine that helps secure accountability, particularly for the subgroups like students with disabilities who have historically received inadequate educations.

The Minority Substitute prioritizes a safe and healthy learning environment for all students, including students with disabilities. It will require data collection to improve school climate through a variety of mechanisms.

Finally, the Minority substitute recognizes that all students have the right to be free from physical or mental abuse, and aversive behavioral interventions. Through incorporation of *The Keeping All Students Safe Act*, the Minority Substitute makes clear that restraint and seclusion must only be used in emergencies threatening physical safety when less restrictive measures will not prevent the harm. It requires prompt parental notification and bans dangerous mechanical and chemical restraints, and those that impair breathing. It makes clear that restraint and seclusion are never a substitute for appropriate educational or behavioral support. Of critical importance, the Minority Substitute prioritizes the implementation of school-wide positive behavioral interventions and supports. ESEA must require evidence-based, positive and preventative strategies to promote a positive school culture and climate and keep all students, including students with the most complex and intensive behavioral needs, and school personnel safe. Congressman Miller's bill seeks to do so.

Unfortunately, the Majority bill introduced by Chairman Kline does not. **Under the Majority bill (H.R.5), a river or a road marking the state border will continue to determine whether children get strong, poor, or no protections from restraint and seclusion. Families moving from Pennsylvania to New Jersey, Minnesota to North Dakota, or Alabama to Mississippi, will still find their protections vanished.** It is time to create a national policy to protect all children. In 2009, the Government Accountability Office documented the use of seclusion and restraint upon hundreds of school children, resulting in death, injury, and trauma. Stories included a 7-year-old girl dying after being held face down by staff, kindergarteners tied to chairs with duct tape and suffering broken arms and bloody noses, and a young teen who hung himself while unattended in a seclusion room. For over 20 years, evidence of the great physical and psychological toll caused by restraint and seclusion has accumulated. It is time for protection of all children nationwide.

We urge the House Education and Workforce Committee to adopt the minority substitute bill.

Sincerely,
James Butler
Government Affairs Chair
Autism National Committee