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EVERY STUDENT SUCCEEDS ACT: ARE SCHOOLS MAKING SURE EVERY STUDENT SUCCEEDS?

*Laura Adler-Greene**

I. INTRODUCTION

President Obama signed the Every Student Succeeds Act (hereinafter “ESSA”) into law on December 10, 2015¹ which took effect during the 2017-2018 school year. It reauthorized and revised the No Child Left Behind Act (hereinafter “NCLB”) enacted in 2001 during the George W. Bush administration.² Many areas of the act were revised including protocols concerning standardized testing, the requirements for highly qualified teachers, evaluating low performing schools and ensuring schools’ accountability toward students in need.³ By reauthorizing NCLB, the federal government took a very “hands

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To my family, thank you for all of your support. Whatever my endeavors are, they are always there for the ride. I especially would like to thank my best friend and husband, Richard Greene, for all of his love and patience, my beautiful daughter, Shayna Greene, for her grace and wisdom and my son, Jacob Greene, whose strength guides my life’s endeavors. To all the parents and caregivers of children with special needs, I applaud you and will continue my journey with all of you. Finally, to the advocates and teachers making a difference, continue on and don’t ever give up; we are all counting on you.

¹ Pub. L. No. 114-95, 129 Stat. 1802 (2015); The Conversation, *Why Every Student Succeeds Act Still Leaves Most Vulnerable Kids Behind*, U.S. NEWS & WORLD REP. (Dec. 14, 2015, 2:32 PM), <https://www.usnews.com/news/articles/2015-12-14/why-every-student-succeeds-act-still-leaves-most-vulnerable-kids-behind>.

² See generally Pub. L. No. 114-95, 129 Stat. 1802 (2015).

³ Alyson Klein, *The Every Student Succeeds Act: An ESSA Overview*, EDUC. WEEK (Mar. 31, 2016), <https://www.edweek.org/ew/issues/every-student-succeeds-act/index.html>.

off” approach toward regulating education and has deferred educational decision making to the states. Critics of NCLB argue that the act’s rigid requirements contained unrealistic expectations and set up school districts to fail, resulting in a lack of equal opportunities for all students.⁴ Proponents of the act believe that ESSA would better focus on fully preparing *all* students for success in college and future careers.⁵ Unfortunately, both NCLB and ESSA fail to address the individual needs of all students, regardless of their backgrounds. These acts ignore the underlying socioeconomic and racial issues affecting our nation’s students.

This article will address the effects that NCLB has had on the American education system for the past 15 years. It will then compare NCLB to ESSA, analyzing the potential benefits and limitations of ESSA on the current educational system. Part II will explore the positive and negative impacts that NCLB has had on the nation’s education system. Part III will analyze provisions of ESSA and whether states can fulfill their education responsibilities. The comparison in Part IV between NCLB and ESSA will reveal whether the nation’s education system is truly benefitting from the revised education protocol and how ESSA would affect future generations.

II. A DISSECTION OF NCLB

NCLB was enacted following a report released in 1983 claiming that the nation’s future was at risk.⁶ Students in the United States were falling behind in both math and reading as compared to their European and Asian counterparts.⁷ As a result, when President George W. Bush took office, he proposed significant changes in the federal government’s role in education, specifically the enactment of NCLB. The purpose of NCLB was to close the achievement gap in public schools for math and reading based on ethnicity, race and language.⁸ In doing so, the federal government laid out a set of goals that all states were expected to achieve. One particular goal, which

⁴ NO CHILD LEFT BEHIND: EARLY LESSONS FROM STATE FLEXIBILITY WAIVERS, U.S. DEP’T EDUC. (2013), <https://www.ed.gov/news/speeches/no-child-left-behind-early-lessons-state-flexibility-waivers>.

⁵ *Id.*

⁶ MITCHELL L. YELL, *THE LAW AND SPECIAL EDUCATION* 155 (4th ed. 2016).

⁷ *Id.*

⁸ *Id.* at 130.

was not accomplished, was for 100 percent of students to reach 100 percent proficiency in both reading and math by the 2013-2014 academic year.⁹ To do this, the federal government required each state by the 2005-2006 school year to assess every child's progress in both reading and math in grades three through eight and ten through twelve¹⁰ Additionally, by the 2007-2008 school year, each state was required to administer science assessments at least once during grades three through five, six through nine and ten through twelve.¹¹ Moreover, states had the option of testing students' knowledge in history, geography and writing. These NCLB testing requirements became known as the "one size fits all" solution to the achievement gap between high and low performing children including students with disabilities, students who come from low-income homes and students belonging to minority groups.¹²

Another requirement of NCLB was to ensure that teachers were highly qualified.¹³ Teachers had to demonstrate proficiency in core subject areas such as English and math.¹⁴ New teachers had to hold a bachelor's degree, obtain full state certification and demonstrate subject-matter competency.¹⁵ Districts had to prove that they had a significant amount of highly qualified teachers in order to be eligible to receive Title I funds, which are supplemental funds given to schools with large concentrations of low-income students.¹⁶ Districts also had to notify parents if their child's teacher was not deemed a highly qualified teacher or if a non-highly qualified teacher was teaching their child for four weeks or more.¹⁷ Parents were also notified if their child attended a school in need of improvement.

⁹ *Id.*

¹⁰ *No Child Left Behind: Standards and Assessments*, U.S. DEP'T EDUC., at 14-15, <https://www2.ed.gov/admins/lead/account/sai/standasissues.pdf> (last visited Jan. 3, 2019).

¹¹ *Id.* at 16.

¹² *Testing: Frequently Asked Questions*, U.S. DEP'T EDUC., <https://www2.ed.gov/nclb/accounability/ayp/testing-faq.html> (last modified Nov. 17, 2004).

¹³ ELEMENTARY AND SECONDARY EDUCATION ACT: COMPARISON OF THE NO CHILD LEFT BEHIND ACT TO THE EVERY STUDENT SUCCEEDS ACT, ASS'N FOR SUPERVISION & CURRICULUM DEV. 2015, https://www.ascd.org/ASD/pdf/siteASCD/policy/ESEA_NCLB_ComparisonChart_2015.pdf.

¹⁴ YELL, *supra* note 6, at 148.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*; *Every Student Succeeds Act (ESSA)*, U.S. DEP'T EDUC., <http://www2.ed.gov/policy/elsec/leg/essa/index.html> (last modified Dec. 19, 2018).

Another NCLB teacher requirement was the high objective uniform state standard of evaluation (hereinafter “HOUSSE”).¹⁸ This assessment determined if an experienced teacher met the subject-matter competency requirements in the law. The point of the assessment was to provide objective information regarding the teacher’s understanding of core content in the academic subjects in which that teacher taught.¹⁹

Though NCLB restrictions made teachers more accountable to provide their students with the highest standard of education, the strict requirements made teachers feel forced to prioritize “teaching to the test.”²⁰ According to Thomson Reuters, “the centerpiece of [NCLB] is to ensure that struggling schools constantly improve—and to hold teachers and administrators accountable when they do not.”²¹ As a result, teachers, administrators and schools at large faced “high-stake” consequences if a district was failing or did not show adequate yearly progress.²²

In order to show adequate yearly progress, schools had to test at least 95 percent of the various subgroups of children within their district, including but not limited to students with disabilities and those with limited English proficiency.²³ The consequences for schools consistently failing to make adequate yearly progress ranged from parents placing their children in a school of their choice to the state taking over the operations of the school to schools completely shutting down. Unfortunately, the fear of suffering the aforementioned consequences sometimes unintentionally incentivized teachers to narrow their curriculum to prioritize high test scores as opposed to creating an environment that nurtured learning.

¹⁸ *NCLB: 20 Frequently Asked Questions About Highly Qualified Teacher Requirements*, TEACHING COMMUNITY, <http://teaching.monster.com/benefits/articles/1826> (last visited Jan. 3, 2019).

¹⁹ *Id.*

²⁰ Anne Obrien, *5 Ways ESSA Impacts Standardized Testing*, EDUTOPIA (Jan. 28, 2016), <https://www.edutopia.org/blog/5-ways-essa-impacts-standardized-testing-anne-obrien>.

²¹ *What Happens When a School Fails to Make Adequate Yearly Progress Goals?*, FINDLAW, <https://education.findlaw.com/curriculum-standards-school-funding/what-happens-when-a-school-fails-to-make-adequate-yearly-progress.html> (last visited Jan. 3, 2019).

²² Obrien, *supra* note 20.

²³ Scott Sargrad, *Hope for English-Language Learners*, U.S. NEWS & WORLD REP. (Jan. 13, 2016), <https://www.usnews.com/opinion/knowledge-bank/articles/2016-01-13/every-student-succeeds-act-brings-new-hope-for-english-language-learners>.

III. ESSA EXPLAINED

According to Randi Weingarten, president of the American Federation of Teachers, “high-stakes testing will no longer be the be-all and end-all of our kids’ education.”²⁴ In other words, under ESSA, accountability for student success would no longer be based on 100 percent proficiency in reading and math. Instead, factors such as attendance, school climate and access to advanced placement coursework would be included in measuring a portion of schools’ performance.²⁵ States would still have to submit accountability plans with goals to the Education Department, which would need to address proficiency on tests, English language proficiency for English language learners and graduation rates.²⁶ Additionally, states would still have to identify and intervene in the bottom 5 percent of low-performing schools where the high school graduation rate is 67 percent or less.²⁷ States, however, would only have to identify these schools once every three years.²⁸ The high schools with a graduation rate of 67 percent or less would have up to four years to improve. If the graduation rate does not improve during that period of time, more rigorous state interventions would be implemented and students would be allowed to transfer to other public schools within their district.²⁹ The requirement of testing students in reading and math in grades three through eight and once in high school would continue as well as the requirement to test 95 percent of children including various subgroups such as students with disabilities and those with limited English proficiency.³⁰

Proponents of ESSA are excited that English Language Learners are a compelling factor in the new legislation since English Language Learners were not a priority under NCLB.³¹ Under ESSA, states are expected to include improving English language acquisition as part of the state’s accountability plans. Each state is required to

²⁴ O'Brien, *supra* note 20.

²⁵ *Testing: Frequently Asked Questions*, *supra* note 12.

²⁶ Klein, *supra* note 3.

²⁷ *Id.*

²⁸ *Id.*

²⁹ Aharon Charnov, *Every Student Succeeds Act Primer: High Schools*, ALLIANCE FOR EXCELLENT EDUC. (Apr. 26, 2016), <https://all4ed.org/reports-factsheets/every-student-succeeds-act-primer-high-schools/>.

³⁰ Klein, *supra* note 3.

³¹ Sargrad, *supra* note 23.

report the number and target number of English Language Learners attaining proficiency on the state's English language proficiency assessment.³² In addition to the accountability plans, ESSA authorizes money under Title III of the law for programs supporting English Language Learners. Better teacher training and support for English language instructors and caregivers of English Language learners are critical to meet the demands of this population.³³

English Language Learners come from a variety of backgrounds and bring different experiences to the classroom. One student may have escaped the gang climate of El Salvador while another child may have lost both parents and is now living with relatives whom the child never met before while another student has an undiagnosed learning disability in his or her native language. Unfortunately, the reality is that the majority of states are not including English Language Learners as part of their accountability plans,³⁴ and teachers with the credentials to teach English Language Learners are few and far between.³⁵

Under ESSA, preparing students for college and vocational programs are a requirement of state standards. According to the Association for Supervision and Curriculum Development (hereinafter "ASCD"), under ESSA, a state is expected to go beyond the standards of their schools' teaching of reading, math and science at all grade levels and adopt academic standards that prepare students to achieve in the state's higher education system as well as the state's vocational and technical programs.³⁶ To achieve this goal, ESSA has eliminated the NCLB definition of "core academic subjects," which was used to focus only on subjects like math and English. Now, ESSA requires school districts to allocate 20 percent of Title IV funds to programs that support a well-rounded education, which includes counseling, music and arts, accelerated learning, foreign languages, history, and environmental activities.³⁷ However, according to ASCD, ESSA's

³² *Every Student Succeeds Act (ESSA)*, *supra* note 17.

³³ Christina A. Samuels, *State ESSA Plans Fall Short on Spec. Ed.*, *Advocates Say*, EDUC. WEEK (Oct. 9, 2018), <https://www.edweek.org/ew/articles/2018/10/10/state-essa-plans-fall-short-on-spec.html>.

³⁴ *Id.*

³⁵ Sargrad, *supra* note 23.

³⁶ ELEMENTARY AND SECONDARY EDUCATION ACT, *supra* note 13.

³⁷ *Title IV—21st Century Schools*, NAT'L ASS'N SECONDARY SCH. PRINCIPALS, <https://www.nassp.org/policy-advocacy-center/resources/essa-toolkit/essa-fact-sheets/title-iv-21st-century-schools/> (last visited Jan. 3, 2019).

approach to a well-rounded education would unfortunately eliminate 50 individual programs, including those that support physical education, science, technology, engineering and mathematics programs and school counseling.³⁸ Conversely, ESSA requires state plans to include conditions for learning, including reducing bullying and harassment and addressing adverse behavioral interventions that compromise student health and safety.³⁹

ESSA has eliminated the NCLB requirement that schools obtaining highly qualified teachers and the penalties of not achieving adequate yearly progress, including the sanctions for school districts which failed to make Adequate Yearly Progress. The federal role in teacher evaluations has also been eliminated, meaning that states are no longer required to include standardized assessment scores in teacher evaluations. Therefore, federal law reverts to whatever standard states have for state certification of teachers.

Additionally, the requirement of states providing parental notification if their child is attending a school in need of improvement, corrective action or restructuring has been eliminated.⁴⁰ Similarly, ESSA does not require parental notification when their child has been assigned to, or has been taught by, a teacher who is not highly qualified for four or more consecutive weeks. ESSA also does not require states to disclose information on teacher quality to parents.⁴¹

Under ESSA, school districts no longer have to prove that teachers are highly qualified in order to receive Title I funds. Instead, Title I states that “all teachers and paraprofessionals working in a program supported with funds under this part [Title I] meet applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification.”⁴² With the new changes, critics of ESSA are concerned that the states have the opportunity to develop standards and assessments with minimal to no oversight on how funds are spent.⁴³

³⁸ ELEMENTARY AND SECONDARY EDUCATION ACT, *supra* note 13.

³⁹ *Id.*

⁴⁰ *Every Student Succeeds Act (ESSA)*, *supra* note 17.

⁴¹ *Id.*

⁴² *Proposed Alternative to Highly Qualified Teachers (HQT)*, NAT’L EDUC. ASS’N, <https://www.nea.org/assets/docs/Background-HighlyQualifiedTeachers.pdf> (last visited Jan. 3, 2019) (alteration in original).

⁴³ Alan Singer, *Will Every Student Succeed? Not With This New Law*, HUFFINGTON POST (Dec. 6, 2016), https://www.huffingtonpost.com/alan-singer/will-every-student-succeed_b_8730956.html.

IV. COMPARISON BETWEEN NCLB AND ESSA

A common argument against NCLB is that it had devastating consequences for the special education population. Instead of an environment of inclusion, teachers and administrators feared that special education students would negatively impact their likelihood of making adequate yearly progress and prevent them from being able to receive Title I funds. Parents of children with special needs, including myself, were sent home letters from district superintendents asking them whether or not their child would take the assessment like the rest of their nondisabled peers, even though educators needed 95 percent of students to take the exams in order to meet their goals.⁴⁴ During this time of standardized testing and the requirement of school districts maintaining highly qualified teachers, teachers were terrified that the scores would show that they were ineffective and that students classified with disabilities would reflect poorly on the teachers' test scores even if those students were on a regents track. The school atmosphere changed from a climate of full inclusion and keeping children with their neighborhood peers to no longer welcoming special education students in their classrooms and placing students in self-contained classrooms or transferring special education students to a school outside of their district.⁴⁵

Unfortunately, ESSA is similar to NCLB because it is not fully inclusive of students with disabilities. ESSA requires each state to submit a plan on how it would implement the new education legislation.⁴⁶ In October of 2018, The National Center for Learning Disabilities analyzed each state's plan under three key areas: holding districts and schools accountable, helping struggling schools and collaborating to support all students.⁴⁷ The findings are the following:

- Thirty-three states do not separate out the performance of students with disabilities in their school rating systems, leading to concerns that a school could receive a good rating while still doing a poor job with special education.⁴⁸

⁴⁴ ELEMENTARY AND SECONDARY EDUCATION ACT, *supra* note 13.

⁴⁵ *How Effective has No Child Left Behind Been?*, QUORA, <https://www.quora.com/How-effective-has-No-Child-Left-Behind-been> (last visited Jan. 3, 2019).

⁴⁶ Samuels, *supra* note 33.

⁴⁷ *Id.*

⁴⁸ *Id.*

- Only 10 states have detailed descriptions of interventions meant for students with disabilities.⁴⁹
- More than half of the states do not plan to intervene with schools until they have demonstrated three or more years of low performance with a particular subgroup of students, such as students in special education.⁵⁰

The Individuals with Disabilities Education Act affirms that all states are required to lay out systematic improvement plans, which outline comprehensive goals to boost school performance for students with disabilities.⁵¹ Skeptics of ESSA suggest that special education advocacy groups should pay attention to school improvement plans to ensure that schools are meeting these requirements. According to Lynn Jennings, the director of National and State Partnerships for Education Trust, state plans have made promises to support students with disabilities in the state plans but the organization has been informed that “we (states) just don’t want to write it down in a plan.”⁵²

Poor and minority students would also be greatly affected by ESSA regulations. Proponents of ESSA believe that removing the harsh consequences of adequate yearly progress is significant in providing the schools with more flexibility in teaching. Additionally, proponents tout that ESSA requires that schools receiving Title I funds ensure that “poor and minority children are not taught by inexperienced, ineffective or out of field teachers at higher rates than other children.”⁵³ However, opponents argue that there is still a significant amount of low-performing schools throughout the nation and that the removal of adequate yearly progress regulations would not help solve the issues of achievement based on race, ethnicity and language.⁵⁴ Opponents add that students in poverty-stricken districts would not receive an education equal to that of their less impoverished counterparts.⁵⁵

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ ELEMENTARY AND SECONDARY EDUCATION ACT, *supra* note 13.

⁵⁴ Jennifer L. Hochschild & Francis X. Shen, *Race, Ethnicity, and Education Policy*, in THE OXFORD HANDBOOK OF RACIAL AND ETHNIC POLITICS IN THE UNITED STATES (David L. Leal et al. eds., 2014), <https://scholar.harvard.edu/jlhochschild/publications/race-ethnicity-and-education-policy>.

⁵⁵ *Id.*

According to the National Center for Education Statistics, many children were left behind during the NCLB years.⁵⁶ Black student performance was significantly lower than the performance of White students. Additionally, the achievement gap widened for Black students who attended racially segregated schools with large numbers of children from poor families. Civil Rights groups such as the Southern Poverty Law Center and the New York chapter of the NAACP Legal Defense and Education Fund are concerned that federal oversight of education, if any, would be too weak to ensure education for Black and Latino students in many Republican majority states. Furthermore, advocates worry that ESSA would not address disparities in school discipline procedures and suspension policies that target minority boys.⁵⁷

According to the Alliance For Excellent Education, the data collected under Title I of ESSA, State Plans and School Discipline Reform, would serve as an important resource in mitigating disparities in race for disciplinary purposes.⁵⁸ The Alliance For Excellent Education further explains that ESSA specifically requests that state plans lay out how there would be a reduction in the overuse of disciplinary practices that remove students from the classroom and the use of aversive behavioral interventions that compromise student health and safety.⁵⁹ Title II of ESSA advises states to provide in-service training to identify students who may have experienced trauma or are at risk for mental health issues.⁶⁰ Moreover, Title IV of ESSA awards Student Support and Academic Enrichment Grants to eligible states and districts acting as leaders creating healthy school environments, which include school discipline reform. The hope is that schools would turn to less punitive protocols when disciplining students and seek restorative practices such as mentoring and counseling programs.

No matter what terms are proposed in ESSA, students would have to trust that states would legitimately, without the oversight of the federal government, abide by the reforms initiated by ESSA. If the

⁵⁶ Singer, *supra* note 43.

⁵⁷ *Id.*

⁵⁸ EVERY STUDENT SUCCEEDS ACT PRIMER: REDUCING INCIDENTS OF SCHOOL DISCIPLINE, ALLIANCE FOR EXCELLENT EDUC. 1 (July 2016), https://all4ed.org/wp-content/uploads/2016/07/NAACP_School-Discipline-Reform-under-ESSA.pdf

⁵⁹ Charnov, *supra* note 29.

⁶⁰ *Id.*

states fail to accomplish what ESSA requires of them, then the acronym would stand for “*Excusing States for Student Abandonment*.”⁶¹

NCLB laid out methods of how to remediate low performing schools and the consequences of not doing so. ESSA, on the other hand, requires the state to wait three years before identifying a school in need of intervention but does not specify what those interventions should be.⁶²

In terms of accountability, many are concerned that with the greater flexibility given to states in designing accountability systems, states “may retreat to the days of stark racial and wealth gaps” that were largely hidden from public view.⁶³ Under NCLB, states were forced to publicly share information regarding the lowest performing schools and the data on the progress of their students.⁶⁴ Proponents of ESSA argue that the ESSA regulations to track non-native English speakers and their achievement are being conducted with more modern methods. Instead of looking at all English language learners together, states were asked to break down the academic performances of groups at the highest risk including immigrants and children who arrive to the United States behind grade level in their native language. Schools with a significant amount of this population would be subject to state intervention.⁶⁵

There are some NCLB regulations that ESSA has maintained. For instance, ESSA kept the 95 percent rule, which opponents argue displays the same excessive government intervention as NCLB displayed.⁶⁶ Opponents of ESSA also argue that keeping the 95 percent rule, where test completion by 95 percent of students is a condition of Title I funding, keeps the high-stakes testing system in place and poses a new threat to parents and communities that want to

⁶¹ Singer, *supra* note 43.

⁶² Gregory Korte, *The Every Student Succeeds Act vs. No Child Left Behind: What's Changed?*, USA TODAY (Dec. 11, 2015), <https://www.usatoday.com/story/news/politics/2015/12/10/every-student-succeeds-act-vs-no-child-left-behind-whats-changed/77088780/>.

⁶³ June Atkinson & Dale Chu, *ESSA's Success (or Failure) Is Up to All of Us*, EDUC. WEEK (Feb. 13, 2018), <https://www.edweek.org/ew/articles/2018/02/14/essas-success-or-failure-is-up-to.html?print=1>.

⁶⁴ The Conversation, *supra* note 1.

⁶⁵ Dana Goldstein, *Obama Education Rules are Swept Aside by Congress*, N.Y. TIMES (Mar. 9, 2017), <https://www.nytimes.com/2017/03/09/us/every-student-succeeds-act-essa-congress.html>.

⁶⁶ ELEMENTARY AND SECONDARY EDUCATION ACT, *supra* note 13.

opt-out of the testing.⁶⁷ Students, whose parents opt them out of the test, must be included in the 95 percent participation formula. Under the ESSA accountability system, states must annually measure 95 percent of their students and every subgroup of students while also penalizing schools that do not meet 95 percent through the state accountability system.

Under Obama, states implemented Common Core, which is a specific set of educational standards for teaching English and mathematics between kindergarten and twelfth grade.⁶⁸ The standards must include the same knowledge, skills and levels of achievement for all public school students in the state.⁶⁹ The rollout of Common Core was a complete disaster because it caused confusion not only among parents and students but among teachers and administrators as well since there was absolutely no guidance by the individual states on how to implement this new teaching method. Opponents of Common Core have said that it is similar to NCLB because it is completely unrealistic, highly unachievable and fails to address the learning issues of students of diverse backgrounds.⁷⁰ Obama also signed the American Recovery and Reinvestment Act that promised states educational grants if they implemented Common Core-aligned skill-based tests in public schools and used student scores to evaluate students, teachers, schools and school districts. Obama called it “Race to the Top.”⁷¹

V. CONCLUSION

NCLB, ESSA and other future reauthorizations share the common trend of politicians and policymakers failing to meet their obligations to students due to a lack of knowledge and understanding of the issues that students, advocates and teachers face on a daily basis. The wide range of examples include a six year old African American child with ADHD who is suspended from kindergarten on a weekly basis because supplementary aids and services are not being implemented; a young man with Autism who does not understand the intent of a classmate’s words or actions and perceives them as

⁶⁷ Singer, *supra* note 43.

⁶⁸ *About the Standards*, COMMON CORE ST. STANDARDS INITIATIVE, www.corestandards.org/about-the-standards/ (last visited Jan. 3, 2019).

⁶⁹ *Id.*

⁷⁰ Singer, *supra* note 43.

⁷¹ *Id.*

insulting, triggering him to act out; a 21-year-old young lady who has been in special education from K-12 plus and cannot get a job because she cannot read beyond a third grade level; a 16-year-old boy from Honduras with a fourth grade education level, who left his native country to escape violence and is harassed by gang members at his new school while also adjusting to living with family he had never met before; finally, a young African American teenager caught in the “school to prison pipeline” where children are profiled by the education system and funneled into the criminal and juvenile justice system. This is the reality of the past couple of decades. Elected representatives have and continue to underrepresent the most vulnerable of their constituents. Neither NCLB, ESSA nor any other future reauthorizations will be able to help the nation’s students until the reality of their situations are realized by those who govern.