



Why the No Child Left Behind Reauthorization (HR 5) Must Be Defeated

The following is a non-exhaustive list of fatal problems with HR 5.

1. Although proponents cite the inclusion of new language prohibiting the U.S. Department of Education (USED) from, for example, coercing states into adopting the Common Core national standards:
 - a. That language largely replicates existing protections (see Robert Eitel & Kent Talbert, *The Road to a National Curriculum*, PIONEER INSTITUTE, no. 81 (2012));
 - b. As with existing protections, the proposed provisions **fail to provide an enforcement mechanism for the states** and thus depend on the goodwill of USED or congressional action (which was non-existent when USED foisted Common Core on the states);
 - c. HR 5 negates the protections anyway: A stated purpose is for state alignment to the same “college-and-career-ready” standards — language that is code for Common Core. Secs. 1001, 1111. See further discussion below.
2. HR 5 continues the master-servant relationship between USED and the states, requiring state plans and giving the Secretary enormous authority to approve or disapprove them. Secs. 1111(a)(1); 1111(e)(2)(B), (D); 1111(e)(3); 1111(f)(2); 1111(g).
3. Under HR 5, states must submit their state plans to a “peer-review process” before they are presented to the Secretary. This peer-review team, *which is appointed by the Secretary*, must operate within the highly prescriptive parameters of the federal legislation. Sec. 1111(e)(1)(B).
4. HR 5 extends federal tentacles beyond elementary and secondary schools to preschool (**replaces** No Child Left Behind’s application to “*all public elementary school and secondary school students*” **with** “*all public school students*”). Sec. 1111(b)(1)(B), (C).
5. HR 5 considers a state legislature to have waived “the State’s rights and authorities to act inconsistently with any requirement that might be imposed by the Secretary” if the legislature even approves an overall state budget that includes any money from the federal education programs. Sec. 6561(a-b). This will give the federal executive branch a club to pound legislators into submission; state legislators are often part-time, have few, if



- any, staff, and are working under a time-crunch, as they must, to balance the state-budget.
6. HR 5 requires the alignment of state standards, assessments, and accountability systems to the Common Core.
 - a. The Statement of Purpose in Sec. 1001 of HR 5 is defined using the exact same language as Common Core's college-and-career-ready: "[T]o graduate from high school prepared for postsecondary education and the workforce without remediation." (Sec. 1001). It is a requirement in HR 5 that state standards, assessments, and accountability systems align with the statement of purpose in Sec. 1001.
 - b. If the Secretary claims that any part of the plan submitted by the state fails to fulfill the requirements of the Act – that is, that in his opinion, it fails “to [prepare students to] graduate from high school prepared for postsecondary education and the workforce without remediation” – the Secretary can deny the state plan. Sec. 1111(e)(2).
 - c. States will be pressured into keeping the Common Core rather than risk having their plans disapproved for using different standards or aligned assessments.
 7. HR 5 does nothing to unravel the Common Core tangle created under Race to the Top and its fetters.
 8. HR 5 reinforces the postsecondary/workforce alignment by including it as a requirement for state accountability systems: “demonstrate that the State has developed and is implementing a single, statewide accountability system to ensure that all public school students graduate from high school prepared for postsecondary education and the workforce without the need for remediation.” Sec. 1111(b)(3).
 9. The prohibition on the Secretary's forcing particular standards through the accountability system applies only to accountability systems “developed and implemented *in accordance with this paragraph*” – that is, systems that meet the Secretary's definition of preparing students for postsecondary education or the workforce. Sec. 1111(b)(3)(C). Otherwise, the Secretary is not bound by the prohibition. See also the discussion above in par.1.
 10. HR 5 prohibits the Secretary only from mandating “*specific elements*” of academic standards or the accountability system. Sec. 1111(e)(2)(D). This exact language was present in the General Provisions Section of No Child Left Behind when the Secretary forced the states into Common Core. If it didn't work then, why would it work now? There are no enforcement



- mechanisms for the states to override the Secretary's decision ----- the Feds have the last, and only, say.
11. HR 5 retains federal mandates that children be tested for math and English in each grade 3-8 and for science once in each of the following grade spans: 3-5, 6-9, and 10-12. It also requires that these test scores be used as part of a school's grade to determine which schools will be identified for interventions, thus continuing the "teach-to-the-test" environment of NCLB. Sec. 1111(b)(3)(B)(i), (ii)(I).
 12. HR 5 dictates particular types of testing that are extraordinarily expensive, have a history of failure, and are designed to inject more intrusive psychological data-collection and psychological profiling/manipulation into the assessments. Sec. 1111(b)(2)(B)(viii), (xiv).
 13. HR 5 maintains NCLB's requirement that the state assessment produce not just test scores, but "individual student interpretive, descriptive, and diagnostic reports." Unlike NCLB, HR 5 requires assessment on behavioral/skills-based standards rather than truly academic standards. The data produced under this language could resemble a psychological profile of the student. Sec. 1111(b)(2)(B)(xi). States in the PARCC or Smarter Balanced assessment consortia are obligated to make those profiles available to USED.
 14. HR 5 removes protection against socioemotional profiling in the statewide assessments (eliminating NCLB's prohibition against including assessment items that "evaluate or assess personal or family beliefs and attitudes") and fails to protect against other psychological data-gathering in any other federal education program covered by the Elementary and Secondary Education Act.
 15. HR 5 mandates that schools enforce the requirement that 95% of all their students take the state assessment. This is an attack on parental rights and the Opt-Out movement. Sec. 1111(b)(2)(B)(xiii).
 16. HR 5 does nothing to stop the National Assessment of Educational Progress (NAEP) from implementing its planned and unconstitutional affective probing of students' "mindsets," "grit," or other psychological traits.
 17. HR 5 restructures state government: it creates unelected committees (and prescribes the make-up of those committees) within states to which the state must submit rules and regulations before they become effective. Sec. 1403.
 18. HR 4 enshrines in statute the federal practice of using federal money to drive states to change their statutes, regulations and policies. Sec. 1403.



19. HR 5 risks, through its portability provision, inserting federal control and Common Core into private schools. Sec. 1128.
20. HR 5 continues NCLB's limitations on private-school autonomy and religious freedom while participating in Title I services for special education, instruction, counseling, mentoring, *etc.*, by requiring these services be provided "independent of such private school and of any religious organization" and be "under the control and supervision of such public agency." Sec. 1120(d)(2)(B).
21. HR 5 relies on an outdated and severely weakened federal privacy law (FERPA). Sec. 1111(i).
22. HR 5 diminishes parental authority to the right to "participate in" – not control ----- the education of their children. Sec. 1001(3).
23. HR 5 doesn't eliminate federal programs, it merely consolidates them.
24. HR 5 *increases* the funding levels of NCLB by \$1.5 billion dollars. The 2015 appropriated amount for NCLB was \$21,871,395 billion. HR 5 increases the spending level to \$23.2 billion. Sec. 3. (Authorization of Allocations).