

A CIVIL RIGHTS FRAMEWORK FOR THE REAUTHORIZATION OF ESEA



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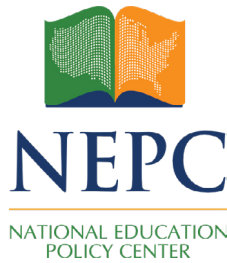
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I. Executive Summary

The last several years have been trying for students, communities, and schools. As states and local educational agencies work to meet the significant health and educational needs of students, and address the vast racial and socioeconomic inequities that have been heightened by the pandemic, the federal role in education is critical.

The federal government's limited but significant role in education remains vital nearly 60 years after the passage of the Elementary and Secondary Education Act (ESEA), as the U.S. grapples with a global pandemic, enduring racial and socioeconomic inequality, entrenched educational disparities, and attacks on democracy. Meanwhile vibrant, intersectional social movements have taken up and expanded the policy demands of predecessors for equitable, excellent, and just schooling. Because ESEA remains the federal government's most consequential mechanism to promote equity in public education, the upcoming (overdue) reauthorization of the law's latest version, the Every Student Succeeds Act (ESSA), presents an opportunity to re-envision this federal role in promoting access to quality educational opportunities by fostering racial and socioeconomic equity in alignment with the original intent of ESEA.

The reauthorization of ESSA gives Congress the opportunity to center equity and justice and revitalize the original civil rights focus of the law given persistent educational inequities and the likely long-term impact of the pandemic on learning and well-being. ESSA has nine titles, but they are fragmented, reducing their potential impact and minimizing opportunities for policymakers to coordinate efforts. As set forth in this policy brief, we have developed a civil rights framework to guide the redesign of ESSA. This **equitable, evidence-based, and ecological (EEE) framework** places students, staff, school systems, and cross-sec-

tor collaboration at the center of ESEA and considers the complexity of racial, socioeconomic, and other inequities along with the strengths nested within communities.

Sustained educational equity will only be achieved through systematic processes and procedures that eliminate intersectional disparities and improve student and teacher well-being and learning opportunities and outcomes. This process should center the voices, needs, and aspirations of students and families who have been minoritized and marginalized throughout the public education system. The approach outlined in this brief centers the health and the socioemotional well-being of students, families, and staff (teachers, counselors, psychologists, principals, and support staff) and accounts for the historical, structural, and environmental factors that have made educational inequity seemingly intractable.

ESSA can codify supports and formalize initiatives to advance an equitable and robust recovery for school communities and school systems. We urge Congress to integrate the EEE framework in the reauthorization of ESSA through the following recommendations. We ground these recommendations in research evidence on the myriad ways the pandemic has affected students, teachers, and school systems—and how it has exposed and deepened existing inequalities. These include unequal access to technology, outdated HVAC and ventilation systems, safe drinking water, unmet health needs, housing and food insecurity, and inadequate social and emotional supports for students and educators. We situate the ESSA reauthorization within the broader social and political context, including historic federal COVID relief to states and districts and ongoing political attacks against educators.

The recommendations build upon ESSA's core purpose and its critical history as being, first and foremost, a civil rights law. As such, the recommendations are designed to ensure it is responsive to racial and social inequities across systems that affect students' educational experiences and outcomes.

Recommendations

To best promote equity in crafting the next iteration of ESEA, federal policymakers should consider a structural approach that includes three main elements. First, ESSA should be restructured so that the law's titles focus on systems, students, and staff. Second, the law should be refocused on three principles: (a) racial equity, (b) an ecosystem approach to serve students' needs across policy silos (e.g., housing and health), and (c) a focus on research evidence. Third, Congress should develop and advance a coherent strategy for reauthorization with a focus on specific policy components focused on systems, students, and staff, as follows:

Systems:

- **Incentivize school racial, linguistic, and socioeconomic diversity and integration, including through regional equity enrollment strategies.**
 - This version of ESEA presents an opportunity to spur regional interdistrict inte-

gration programs and include features such as the provision of free transportation to effectuate school diversity.

- The federal guidance of the Obama administration should be incorporated into ESEA to provide states and districts with evidence-based tools to promote racial equity in education within our nation's current social and political context.
 - The reauthorized ESEA should revive federal support for diversity in the form of targeted funding, technical assistance, compilation of resources, and support for strategies to reduce racial isolation.
 - The reauthorized ESEA should promote cross-sector approaches to diversity—not just piecemeal strategies to address segregation, but comprehensive approaches at the state and local level to have an impact on regional equity.
 - Given the strong research on the benefits of school integration for all students, the law should explicitly include racial integration as a research-based practice for districts to adopt and specify that charter schools receiving federal dollars must reduce racial segregation (and that no charters should be in violation of federal civil rights law).
- **Improve targeting and equitable funding structures.**
 - ESEA should incentivize equity through grants for states that increase their equitable spending, such as the \$2 billion in grants that was proposed in the American Rescue Plan to better target equitable spending but was never approved.
 - To help to promote an ecosystem approach, the reauthorization should incentivize regional equity funding strategies such as regional tax levies that would be redistributed to address funding inequity.
 - States should be required to ground their plans to target funding and supports to schools identified in Civil Rights Data Collection findings as demonstrating racial disparities in discipline and advanced course-taking. The Office of Civil Rights (OCR) should ensure states immediately address civil rights violations in their state funding formulas.
 - **Incentivize and fund renovation to facilities and infrastructure.**
 - The reauthorization should provide grants to states that make commitments to undertake major infrastructure investments focused on equity and ensure that resources are available to address facility issues relating to ventilation, safe drinking water, lead and asbestos abatement, and technology infrastructure needs.
 - Promote cross-sector and inter-agency coordination.
 - Support for school and system redesign through multifaceted, multipronged, and community-driven approaches that engage multiple sectors including health and child welfare should be expanded and strengthened.
 - Federal policymakers should include language in ESEA requiring that local housing authorities align funding strategies with educational equity approaches.
 - The OCR's administrative purview should be extended to ensure that they are

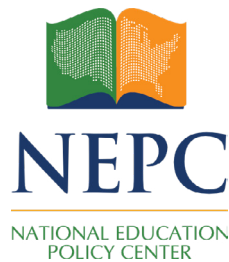
working collaboratively with ED's Office of Elementary and Secondary Education and play a larger role in approving and monitoring state plans.

Students:

- **Support students' individualized learning needs.**
 - Policymakers should give greater attention to how ESEA should support students with special learning needs in the current context, including those who are neuroatypical learners and those with physical disabilities, rejecting deficit-based approaches to academic interventions and supports.
 - Federal policymakers should provide support to states to design and strengthen authentic assessment systems that allow for ongoing diagnosis of needs and adjustments in resource allocation, and focus on both individual improvement and system of supports.
 - The reauthorization should support LEAs in developing a variety of measurement tools that focus on students' needs and on differential outcomes by gender, disability, race/ethnicity, socioeconomic status, and other areas to reallocate resources appropriately. The outcomes should include physical, mental, and socioemotional health.
- **Ensure that all families have access to high-quality early childhood care through our public education system.**
 - The reauthorization should include targeted resources expanding public support for 0- to 4-year-olds to ensure access to quality education and care at all ages and allow equity for single- or two-parent working households.
- **Improve supports for system-involved youth.**
 - Youth involved in the juvenile justice system require specific supports and specialists, as well as close connection between that system and the students' educational institutions, to ensure these students are not receiving subpar instruction in these or other alternative settings. In addition, policies or programs to support system-involved youth should be aligned with other sectors like social welfare and housing.
- **Target federal funds to support state and district efforts to promote student well-being and mental health.**
 - Investment in vital school-based mental health services and supports is needed, shifting resources away from police or resource officers and toward culturally appropriate mental health services. Federal policymakers can do this by directly targeting physical and mental health and providing more funding to states and LEAs to support these services.

Staff:

- **Provide high-quality ongoing professional development and updated and responsive pre-service education and training for teachers, counselors, and leaders.**
 - The reauthorization should require revamped training of educators to have a more eco-system, holistic, and racial justice understanding and perspective. A revised approach should support an ecological orientation to racial equity that would explicitly include anti-bias training.
 - Including counselors and support staff in culturally responsive training can help to ensure that everyone in the school is prepared to support students from various backgrounds and with varied needs.
 - Federal policy should ensure that school systems and preparation programs can support teachers, counselors, and leaders in developing and sustaining anti-racist policies, practices, and pedagogies.
- **Promote educator well-being and mental health.**
 - The reauthorization should incentivize state plans to use expenditures dedicated to teachers applying to receive paid semester leaves for professional renewal. It should also dedicate funding to pre-service and in-service adoption of measures to promote stress reduction and mental health supports.
 - Given the tremendous educational and mental health needs, it is time for higher education to revamp the preparation of teachers and leaders to better prepare them for the current needs of students, and for states to further develop the leadership roles and supports.
- **Provide and ensure workforce diversity, stabilization, and capacity building.**
 - The reauthorization should incentivize efforts to promote the racial diversity of all staff with the goal of strengthening the pipeline of well-prepared and supported teachers and administrators over the course of their professional trajectories.
 - To better meet students' needs, policymakers should initiate programs and funding streams that expand the paraprofessionals and teacher assistants in the system and create a stronger, racially and linguistically diverse pipeline toward teaching, investing in the particular development of special education or multilingual experts.



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II. Introduction

When former Texas teacher President Lyndon Johnson signed the Elementary and Secondary Education Act (ESEA) into law in 1965, he remarked that public education was “our national obligation to all of our children.”¹ This landmark bill, enacted in the same national moment as the Civil Rights Act and Voting Rights Act, served as a vehicle to promote federal, state, and local cooperation, support students’ civil rights, and expand access to quality educational opportunities.² A central element of federal educational policy thus originates in the Black-led, multiracial advocacy of the mid-century Civil Rights Movement.

ESEA provided the federal government with levers to ensure local compliance on equity-oriented interventions, particularly given the defiance of federal school desegregation orders by racist governors and local policymakers following the *Brown v. Board of Education* ruling.³ If states failed to comply with federal law, ESEA funding could be withheld.

By the 1990s, holding schools and districts accountable for students’ test scores and expanding parental choice of schools were the dominant federal approaches for addressing students’ civil rights, with civil rights narrowly framed as access to “quality” education as measured by limited outcomes. The 1994 ESEA reauthorization required states to set standards in math and English, test students regularly at multiple grades, and hold schools and districts accountable for outcomes.⁴

Next, the No Child Left Behind Act of 2001 (NCLB) required accountability for subgroup performance and identified sanctions for schools or districts not making “adequate yearly progress.” NCLB used federal power to push a policy agenda further toward markets and accountability, as the federal government and courts were also turning away from race-conscious education policies.⁵

Yet it soon became apparent that accountability for outcomes without consideration of inputs and supports to schools was undermining educational opportunity—particularly for historically marginalized and under-resourced schools.⁶ Standards and assessments have indeed been useful in clarifying goals and focusing attention on achievement. But the high-stakes testing accountability regime of the past 20 years, unaccompanied by sustained investments in curriculum, teaching, and school supports, has not improved schools or created educational opportunities.⁷

Due to the inability of many states to meet stringent standards and stalled efforts toward reauthorization, the Obama administration waived accountability requirements—as long as the states acquiesced to a menu of the administration’s preferred policies: expanded charter schools, development of teacher evaluation systems largely based on test scores, and adoption of standards like the Common Core State Standards—and thereby increased pressure on teachers to implement new curricula and meet benchmarks on newly developed tests.⁸ Finally, in 2015, President Obama signed the most recent ESEA authorization, the *Every Student Succeeds Act* (ESSA). The law was characterized by increased deference to states and a diminished federal footprint as it shifted key oversight responsibilities to states.⁹ The reauthorization included non-academic indicators, responding to calls to move away from an emphasis on testing.

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ESSA’s framework does not emphasize racial equity as a goal overall or in its components, and as such, has not been informed by advances in research evidence on school composition, fiscal equity, instruction, and teacher and leader diversity.¹⁰ Researchers have pointed out that the law’s increased deference to state policy prerogatives is a setback for the historic civil rights and equity goals of ESEA. These criticisms are about equitable funding, accountabil-

ity systems, and the impact of accountability-related school closings on students of color.¹¹ Despite these concerns, Hodge, Taylor, and Frankenberg observed ESSA’s potential for supporting integration, since it includes financial support for interdistrict magnet programs.¹²

In addition, the long-standing prohibition on use of federal funds to support transportation for school integration has been removed from federal law since the last reauthorization.¹³ Therefore, as George and Darling-Hammond have argued, this version of ESSA should encourage regional interdistrict school diversity programs that may include features such as the provision of free transportation to effectuate school integration.¹⁴

Secretary of Education John King (who succeeded Arne Duncan in 2016)¹⁵ refocused the Obama administration’s efforts on school diversity, including championing federal funding to spur communities to plan and implement voluntary integration programs. These efforts built upon the 2011 issuance of joint guidance to states and districts outlining evidence-based approaches to promoting school diversity to provide clarity following confusion about legally permissible school diversity strategies following the *Parents Involved* ruling.¹⁶ The administration’s efforts were informed by compelling evidence on the benefits of school diversity, including for improved academic outcomes.¹⁷ For example, Secretary King championed the

Opening Doors, Expanding Opportunities program (later dismantled by Secretary DeVos¹⁸), which provided funding and support to local educational agencies (LEAs) to increase socioeconomic diversity in schools as a means to improve achievement in the lowest-performing schools.¹⁹ The Obama administration also “sought to preserve the desegregation goals attached to federally funded magnet schools in a changing legal context.”²⁰ In 2016, the Departments of Education (ED), Housing and Urban Development (HUD), and Transportation issued a “Dear Colleague” letter urging state and local housing, education, and transportation policymakers to work collaboratively to promote housing and school integration, and to work to affirmatively further fair housing.²¹

The implementation of ESSA during the Trump administration took place in the context of a rollback of race-conscious educational policies. The administration’s 2018 decision to rescind the Obama-era guidance on the voluntary use of race in K-12 and in postsecondary admissions was another concrete move toward what they called “race-neutrality” in the law.²² At the administration’s request, Congress rescinded the ESSA regulations in their entirety, so all proposed measures that would have mandated greater within-district funding equity were gone²³—equity was optional.

The Trump administration was marked by was lax attention to civil rights overall. According to Kenneth Wong, “whereas President Obama relied extensively on executive and administrative tools to expand federal involvement to address inequality in K-12 education, Trump prioritized support for restraining the federal role and supporting state decision-making in public education.”²⁴ Wong observes that the administration “launched ongoing unilateral actions aimed at weakening enforcement of student rights and civil rights in public schools. Additionally, the Trump administration strongly promoted public and private school choice at the state level.”²⁵ This approach, combined with the administration’s failure to continue requiring collection of opportunity-to-learn measures through the Civil Rights Data Collection (CRDC) system, and the changes to investigating civil rights complaints, meant that states implemented ESSA within a context that neglected racial inequities.²⁶

President Biden has proposed tripling the budget for Title I and also attempted to incentivize equity through grants for states that increase their equitable spending, such as the \$2 billion in grants that was proposed in the American Rescue Plan to better target equitable spending.²⁷ But Congress has not adopted these proposals.

III. Review of the Literature

In this section, we elaborate on our framework for approaching these issues, which we describe as an equitable, evidence-based, and ecological (EEE) framework. We also discuss evidence on persistent educational inequities. Further, we cite, wherever relevant, existing recommendations from researchers—including one or more of us—for a reauthorized ESSA to address these inequities. We see this EEE framework as a starting point for the policy community to reconceptualize ESSA’s overall mission. Our approach is not to itemize technical provisions of a reauthorization bill; instead, we provide key policy recommendations and cite representative research studies upon which those recommendations are grounded. While it is not feasible for this brief to examine in any comprehensive way the body of pub-

lished research concerning ESEA and equity or civil rights, we also attempt to signal for readers when research on a point is underdeveloped or conflicting.

Equitable, Evidence-Based, and Ecological (EEE) Framework

While ESEA must include targeted programs, in order to deliver resources to those with the most needs, targeting is not the same as siloing, which leads to a fragmented approach that's inconsistent with the lives and needs of children and their families. This fragmentation appears to be the result of decades of separate bureaucratic and legalistic separation, with insufficient dialogue and coordination.²⁸ Our civil rights focus and EEE framework for guiding the redesign of ESSA places school systems, students, staff, and cross-sector collaboration at the center of ESEA. The “ecological” element of the framework highlights the complexity of racial, socioeconomic, and other inequities along with the strengths nested within communities. This framework is supported by the research on negative effects of a range of factors in children’s environments that contributes to reduced opportunities to learn and lower levels of achievement. For instance, Holme’s recent synthesis of studies on housing affordability and education found that high levels of student mobility are associated with negative academic, behavioral, and mental health outcomes.²⁹ The effects of residential racial segregation and poverty are associated with lower academic achievement.³⁰ Further, the effects of racial segregation are far-reaching for families and students, as this segregation not only creates a racialized hierarchy but limits access to opportunity for people of color in terms of the combined access to health, housing employment, transportation, childcare, education, and so on, resulting in negative consequences and outcomes.³¹ The reauthorization should account for and address this evidence.

An equitable, evidence-based ecosystem approach to the reauthorization recognizes the myriad challenges to learning and the strengths that students, especially those in high-poverty schools, bring to school.³² This approach to policy design centers the health and the socio-emotional well-being of students, families, and educators while also attempting to disrupt the structural racism that has exacerbated inequities for decades. As Holme and Finnigan argued, “growing spatial inequality has fomented political polarization that has thwarted regional equity in education and other areas that are closely linked, such as housing, economic development, and public health.” They added, “Broader [policy] approaches must include multiple school districts across a region, and integrate or align education policy with housing transit, economic development, and health.”³³

In developing our ecological framework, we build upon the work of Marcus Weaver-Hightower, who pointed out the many rational and linear approaches to policymaking and policy implementation, such as the often-overlapping and fragmented instructional services built into the categorical programs of ESSA, notwithstanding the complexity of educational problems.³⁴ Some research has found that federal policies can produce conflicting demands on schools and districts and the actors in them, leading to “significant program interference and cross-subsidy, thereby compromising their implementation and intended outcomes.”³⁵ Instead, the metaphor of an ecosystem and the concept of ecology can help to uncover the “complex, interdependent, and intensely political” nature of policy, particularly as it relates

to socially just policymaking. It is designed to leverage connections within the ESEA titles themselves, such that, for example, health and mental health may be incorporated at the local level. Perhaps more importantly, it is designed to address the unequal power distribution, political processes, and social and economic inequities that ESEA has not adequately tackled, despite its civil rights underpinnings.

The Evidence on Persistent Educational Inequities

Despite prior efforts to leverage ESSA to promote equity, significant disparities and inequities persist, including those impacting education systems, students, and staff, as outlined below.

Systems

ESEA has not adequately addressed the inequities that continue to plague segregated metropolitan systems. These systems frequently have urban core or inner suburban districts that predominantly serve students of color and students from low-income families, separated from suburban or more rural surrounding areas serving predominantly white and middle-to upper-class students.³⁶ These areas are impacted by accountability, zoning, and funding issues.³⁷

Researchers who have studied these regional inequities have called for greater sustained funding equity across school districts. These recommendations include the following four approaches: regionalism (i.e., coordination across districts within overall metropolitan areas), such as incentivizing regional interdistrict integration programs that may include features such as the provision of free transportation to effectuate school diversity;³⁸ interdistrict magnet school plans;³⁹ state-level reparations for Black Americans' education due to historical resource inequalities arising from the racial wealth gap;⁴⁰ and adequate funding for needed reforms at the state and local level, such as higher teacher compensation and reduced class sizes.⁴¹ In fact, recent hearings by the New York State Advisory Commission to the U.S. Commission on Civil Rights (USCCR) identified the state funding formula as a civil rights violation, calling on the state and the federal government to address these long-standing inequities resulting from the funding formula.⁴² Drawing on recent brain research, Hilton writes that "living in an area of concentrated poverty may alter the architecture of the developing brain" and that children inhabiting these areas "are more likely to experience significantly higher levels of stress and exhibit higher levels of cortisol, a marker of stress, than children from higher socioeconomic levels."⁴³ To counteract these harms, Hilton argues, "the federal government has the means and authority to assume a significant role in education policy, especially with regard encouraging integrated learning environments for all students."⁴⁴

But the federal government has generally failed to take such steps. In fact, some administrations have been hostile to addressing poverty, segregation, and civil rights abuses. Working with Professor Siegel-Hawley, we studied the changes in civil rights enforcement from the Obama to Trump administrations, documenting how:

deregulation became both agenda and tool under the Trump administration, used to curtail OCR activities in particular. Trump officials ushered in major changes to the way OCR handled civil rights complaints by focusing on the revisions to the case processing manual and rescinding Obama-era guidance. Proposed cuts to the federal civil rights survey and OCR regional offices also characterized the deregulation push, though interbranch pressure and administrative incompetence effectively staved off some of the changes.⁴⁵

For these reasons, it is vital that race-conscious policy guidance and law and policy enforcement be expressly restored to ESEA, including requirements for the CRDC data collection to be funded and mandated at the state level.⁴⁶

Since its passage, we and other researchers have called for the reauthorization of ESSA to promote coordinated and holistic approaches to diversity across the entire system. In particular, these calls have pointed to the need for comprehensive approaches at the state and local levels because of the structural and spatial nature of these as far as regional inequity.⁴⁷ Given the strong research on the benefits of school integration for all students, students would benefit from a reauthorization that explicitly includes racial integration as a research-based practice for districts to adopt⁴⁸ and that specifies that charter schools receiving federal dollars must reduce racial segregation (and that no charters should be in violation of federal civil rights law).⁴⁹ Recently published studies have reaffirmed the positive relationship between attendance at racially integrated schools and higher rates of high school graduation, declines in rates of adult incarceration, lower incidence of poverty in adulthood, and improved adult health status.⁵⁰

Others have focused on the need for ESSA to focus on promoting socioeconomic integration by providing greater incentives for interdistrict magnet schools, interdistrict transfer programs, and districtwide integration programs, such as New York State's socioeconomic pilot grant program.⁵¹ Also, as we recently observed, federal policymakers can include language in ESSA requiring that local housing authorities align funding strategies with educational equity approaches.⁵² Similarly, others have called for federal policymakers to target ESSA funding to families lacking access to not just stable housing, but also employment, health care, and other conditions predicting educational success.⁵³

Disparities across education systems begin even before kindergarten. Access to high-quality early childhood education is particularly important because of inequities that persist as a result of reliance on the fragmented, private and home-based system for a large proportion of early childhood care and schooling.⁵⁴ The resulting racially and socioeconomically segregated early childhood settings⁵⁵ have impacted learning and development.⁵⁶ Research has substantiated the strong link between high-quality early childhood education settings and longer-term, positive life outcomes.⁵⁷ Incorporating the early childhood education sector into the public education system can help to ensure adequate compensation, benefits, preparation and professional supports for staff, and it could support states in "building and maintaining a professional early childhood workforce."⁵⁸ Such a workforce would have the following characteristics: "uniform standards for preparation and training; a clearly defined pathway for career advancement; fair compensation and comprehensive benefits; and robust supports for continuing education and training."⁵⁹ This systemic change of incorporat-

ing birth to age 5 initiatives into the public system through ESEA reauthorization reinforces our focus on equity within the K12 system.⁶⁰

Students

While the systems level is necessary in thinking about large-scale ways to address the inequities across our system, a more targeted focus on students is also important given their varied needs. Current research has underscored the need for assessments based in learning theories and interventions that are responsive to learners' needs.⁶¹ Megan Hopkins and colleagues, for instance, have called for ESSA to hold states accountable for developing infrastructures to meet the instructional needs of English Learners (ELs), such as establishing methods and measures for identifying ELs and for considering EL population size and growth in addition to linguistic diversity.⁶² It will also be important for the reauthorization to be aligned with serving the learning needs of students with disabilities, including those who are neuroatypical. For instance, a recent National Council on Disabilities report recommended the need for ESSA to support states' alternative assessments for accommodations for students with Individualized Education Plans.⁶³

Another body of research indicates that students of color are being robbed of learning opportunities as a result of overly punitive school discipline policies and practices that push them out of the classroom.⁶⁴ These disparities have been deepened by over-investment in school police—which negatively impacts the outcomes of students of color⁶⁵—and other punitive approaches that fuel the school-to-prison-pipeline and undermine educational outcomes.⁶⁶ As Nicholas Triplett and colleagues have written, “Research shows that disproportional discipline contributes to student disengagement and alienation, as well as an increased likelihood of contact with law enforcement and the juvenile justice system. Discipline disparities are also mirrored in metrics related to student performance, including academic achievement, drop out rates, and instructional time.”⁶⁷ These researchers recommend that future amendments to the ESEA should explicitly include discipline data within the law's accountability provisions⁶⁸ and eliminate zero-tolerance policies.⁶⁹

Staff

Finally, we turn to staff—not just teachers but all staff within the educational system. Recent research underscores that teacher, staff, and leader morale and retention are primary concerns that impact educational equity. For example, research has documented the emotional and physical burdens placed on the teacher workforce during the pandemic and the concomitant burdens on school leaders.⁷⁰ Additional research indicates the need for greater compensation and benefits to promote retention and recruitment and support educators as they are forced to navigate students' increased needs.⁷¹ This is connected to the personal and professional toll of teachers who are unable to manage stress and burnout.⁷² The educational system, which had systemic problems with teacher and leader retention prior to the pandemic, has experienced an increase in problems with teacher morale. A July 2022 report from the American Federation of Teachers reported that 79% of teachers surveyed indicated that they were “dissatisfied” with their jobs; and 75% reported that conditions had “changed for the worse” over the last five years.⁷³ Many systems are reporting severe staffing shortag-

es.⁷⁴ And many staff—from teachers to paraprofessionals to bus drivers—work multiple jobs or receive poverty-linked social welfare resources to support their families.⁷⁵

Congress may reauthorize the Higher Education Act before it turns its attention to ESSA, so we should note here that federal policy and resources for higher education institutions are vital to ensuring that school systems and preparation programs can support teachers, counselors, and leaders in developing and sustaining anti-racist policies, practices, and pedagogies.⁷⁶ The interplay between the two laws also points in the other direction. Researchers have emphasized the need for a reauthorized ESSA to invest heavily in university-based teacher training programs, specifically those whose purpose is increasing the racial diversity of the teaching force and strengthening the pipeline of well-prepared and supported teachers over the course of their professional trajectories, as well as ensuring that teachers are trained to support diverse populations of students with multiple needs in a trauma-informed and culturally responsive way.⁷⁷ Researchers Superfine and DeVoto have written that ESSA should hold states responsible for developing coherent teacher workforce management systems, encompassing areas such as credentialing, induction, promotion, supervision, and evaluation of performance; “in other words,” as they write, “such systems should be strategically and systemically designed with a vision of how teachers ought to be developed throughout their careers, in light of particular contexts at state and local levels.”⁷⁸

Our focus on civil rights is, of course, not universally emphasized or even embraced. Some university-based researchers and think tanks or advocacy groups have argued for different next steps as far as the future direction of K-12 federal education policy through ESSA and generally. For instance, a Center for Reinventing Public Education survey documenting formidable challenges in confronting teacher and student “work discipline,” and diminishing political support, recommends contracting with external entities to do the work that presumably schools cannot.⁷⁹ Others like the Heritage Foundation have called for the allocation of federal funds for states to have wide latitude in spending, including school choice.⁸⁰ These measures are consistent with former President Trump’s emphasis on “school choice as a civil right,” deregulation, and race-neutrality, which Secretary DeVos attempted to use the

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opportunity of the pandemic to further.⁸¹ We have also observed calls for an intensified focus on single-solution proposals, such as high-dosage tutoring⁸² and for scaling up of “the science of reading.”⁸³ Still others have called for proposals to merely intensify a focus on test-based outcomes or rework accountability systems.⁸⁴

Our equitable, ecological, evidence-based framework rejects such narrow policy or instructional focuses. While policy proposals for intensification of high-dosage tutoring or applying the “science of reading” may be incorporated in parts of the framework, they are not solutions in and of themselves.⁸⁵ We argue for attention to children’s academic and socioemotional needs across developmental stages and across the policy silos. ESEA reauthorization should, we contend, address the broad needs within an embedded ecosystem of well-being that also accounts for civil rights and racial equity, post-pandemic issues and larger historic and structural inequities.

Across these three areas, ESSA requires a strong base of evidence-based programs from

which state plans should draw. Taking this approach, Orfield recommends a role for nonpartisan bodies such as the National Academy of Sciences and the National Academy of Education to synthesize the impacts of possible educational programs and practices.⁸⁶ We believe that critical to this step of identifying evidence-based research is a racial equity perspective that shifts or broadens our focus to understanding how the evidence itself is embedded in political dynamics, power relations, and economic conditions.⁸⁷

IV. Recent Developments

ESSA Reauthorization Within the Context of Recent Federal Policy and Politics

Two recent events have significantly impacted the nation's public education system and will likely shape federal education policy and politics for decades to come. The first was a global pandemic that exposed and exacerbated existing educational inequities.⁸⁸ The second was a seismic racial reckoning that has required the nation to face its past and grapple with its present—although this has not yet happened, and white supremacy is becoming more emboldened.⁸⁹

Below, we consider the ways that these events have impacted students, educators, and education systems, and we explain how this context shapes ESSA reauthorization and our EEE framework. We note in particular the cumulative effects of teacher demoralization, indicators of plunging levels of student mental health, the lack of healthful conditions regarding many schools' infrastructure, all against the backdrop of a continuing and growing focus on politically polarizing issues. Cumulatively, the factors point the way toward the need for a renewed national commitment to revitalizing public schools.

Systems

Public education systems have been dealt significant blows by the pandemic. For example, parental frustrations around virtual versus in-person instruction resulted in enrollment shifts away from traditional public schools,⁹⁰ with students moving to private, charter, or home schools, or families delaying kindergarten start.⁹¹ Many white and middle-class families moved to private schools to take advantage of in-person schooling, while many Black and Latinx families kept students home due to health concerns.⁹²

The pandemic also exposed a variety of long-standing inequities—most obviously, unfairness in state and local funding systems. Recent empirical work demonstrates that developing adequate and equity-oriented, cost-based funding formulae at the state level requires identifying and addressing the cost factors (such as those related to poverty and special needs) that are most important in alleviating funding disparities.⁹³ Other inequities concerned, for example, the need for infrastructure and facilities upgrades in many public schools.⁹⁴ Access to safe drinking water is a starting point, and ventilated and purified air is essential to ensure that children and staff do not experience worsening asthma, eye irritations, and allergies and, as the pandemic showed, to prevent circulation of viruses.⁹⁵ Prevailing estimates note

that it would cost \$72 billion to upgrade HVAC for the nation's schools.⁹⁶ As recent experiences with lead poisoning and asbestos exposures in Flint, Michigan and Philadelphia revealed, lead and asbestos abatement are needed as well, accompanied by resources devoted to reversing the harmful impact of these toxins on the learning and development of students of color and students living in poverty.⁹⁷

The federal government provided historic support to state and local education systems in the form of pandemic relief funding.⁹⁸ In January 2021, President Biden issued an Executive Order with the goal of ensuring that students receive high-quality education during the pandemic and that schools continue to operate and reopen safely.⁹⁹ However, much of the federal funding support included few guardrails or requirements for use. Unsurprisingly, given the flexibility embedded in these funds, there is great variability across state plans.¹⁰⁰ This funding flexibility presents a policy problem because it has not been appropriated through legislation that codifies accountability for civil rights and equity measures. Moreover, there is little evidence about benefits derived from the spending, and researchers and others have raised legitimate concerns about whether school staff hired with the relief money can be retained when the funding ends.¹⁰¹

Meanwhile, President Biden's expansion of the child tax credit in the American Rescue Plan supported students and families recovering from the effects of the pandemic in supplementary ways. Early data from the six-month expansion showed not only reductions in child poverty and hunger, but also positive effects on student learning.¹⁰² But the President's push to continue the expansion was killed in Congress, highlighting a monumental part of the context for ESSA reauthorization. Kantor and Lowe have written about how the U.S. has "educationalized" the welfare state—asking schools to step in to address the harms of poverty left unaddressed by a minimal social safety net.¹⁰³

A reauthorized ESEA could and should provide strong supports for integration and for racial-equity programs.

Racism and racial inequities shape another key part of this reauthorization context. Under the current statutory regime, only small steps are available. For instance, to help to promote school diversity and regional cooperation, Education Secretary Miguel Cardona released discretionary grant priorities building on earlier desegregation efforts by fostering school-level racial and socioeconomic integration and cross-district transfer programs.¹⁰⁴ A reauthorized ESEA could and should provide strong supports for integration and for racial-equity programs.

In addition to facing a global pandemic and racial reckoning, our nation has also been gripped by political polarization that is likely to increase as consequential elections approach—and education has become a lightning rod. For example, a moral panic has gripped the nation around Critical Race Theory (CRT),¹⁰⁵ with several Republican-majority states banning what they call CRT-related instruction in K-12 schools (and in higher education in some cases).¹⁰⁶ Many of these same states are passing anti-transgender bills.¹⁰⁷ Schools have become targets of legislative restrictions around discussions of systemic racism and equity,¹⁰⁸ and socioemotional learning and LGBTQ students have been vilified.¹⁰⁹ As part of this campaign, books on racism and LGBTQ issues are being banned.¹¹⁰ This polarization will make it more challenging to advance ESSA reauthorization, but it also underscores why attention to sys-

temic and interconnected issues of inequity across educational systems are more urgently needed than ever.

Students

Students have been confronted with uncertainty and loss created by the pandemic and racial unrest. The pandemic necessitated a shift to virtual learning, exposing inequities in broadband infrastructure and equipment access, known as the “Digital Divide,”¹¹¹ acutely felt in communities of color and low-income communities.¹¹² An estimated 16.9 million children nationwide lacked the high-speed internet access necessary for schooling.¹¹³ Black students were most likely to lack these necessary resources for online learning.¹¹⁴ Disparities in access to technology meant teachers and counselors were unable to connect virtually with all students.¹¹⁵

Disparities in instructional time and format also occurred. For example, a Department of Education report noted that, “[r]ural and high-poverty school districts faced especially stark challenges early in the pandemic”¹¹⁶ with 85% of districts dipping below four hours of instruction, compared with the pre-pandemic average of five instructional hours per day.¹¹⁷ Black, Latinx, and Asian students were less likely to be enrolled in full-time in-person instruction through spring 2021.¹¹⁸ Aligned with these patterns, student performance disparities widened. For example, a D.C. study found that Black and Latinx students and students from low-income families experienced dramatic decreases in academic performance.¹¹⁹ Other recent analyses of test score data have shown greater so-called learning losses due to remote instruction in high-poverty schools nationally during the pandemic.¹²⁰ Moreover, remote learning exacerbated the inequalities of (1) quiet learning spaces, and (2) access to in-home adult assistance with academics and technology, particularly given the disparities in which adults had jobs where they were able to work from home.¹²¹

As noted above, school disruptions brought on by the pandemic have led many researchers and journalists to focus narrowly on a slice of academic outcomes, referring to pandemic performance declines as “learning loss.” While addressing these outcomes is important, caution is warranted in light of the racially disproportionate impact of the pandemic, leading some to conclude that,

[r]esearch on the science of learning and development indicates that intensive remediation alone will not meet students’ needs and—if conducted in a way that is segregating, stigmatizing, and separated from children’s real-life concerns—could even deepen inequalities and exacerbate trauma.¹²²

Furthermore, the pandemic and related racial inequalities have affected the health and well-being of students, with more than 35 percent of parents very or extremely concerned about their children’s mental health,¹²³ and nearly 80 percent with some level of concern about their child’s mental or social and emotional health/development since the pandemic began.¹²⁴ Large proportions of students were disengaged and detached,¹²⁵ and chronic absenteeism reached high levels in all parts of the system.¹²⁶ We need to be wary of a narrow focus on “learning loss” as measured by academic assessments of some elements of reading and

math—the losses suffered by students went far beyond these elements,¹²⁷ and our responses must do so as well.

Moreover, as the pandemic continued into 2021-22, students were forced to cope with deaths of family members,¹²⁸ isolation, virtual platform fatigue, food and housing insecurity, teacher staffing changes, internet challenges, policy changes relating to schooling and masking, and difficulty negotiating social connections—all of which, not surprisingly, impacted the academic performance for many students.¹²⁹ The cumulative effects are formidable; “students and teachers say they are emotionally drained, and experts predict schools will be struggling with the fallout for years to come.”¹³⁰ ESEA, we argue, needs to direct substantial and direct resources toward mental health issues of teachers and students alike. While schools have used some of the ESSER aid for this purpose, a dedicated funding stream would ensure stability far beyond the funds’ expiration date.

Students’ trauma-related needs also extend to societal violence and its indirect and direct impact on schools. The tragic elementary school shooting on May 24, 2022, in Uvalde, Texas, in which 19 students and two teachers were murdered, is just one of more than 3,500 mass shootings that have occurred since the massacre at Sandy Hook Elementary School a decade prior. This ongoing gun violence at schools requires a variety of responses—most of which are beyond the scope of this policy brief. But it does highlight the need for ESEA to provide dedicated funding for research-based programs for children who have witnessed violence in their communities.¹³¹ Moreover, any interventions to address school violence must not further stigmatize or penalize students of color who are disproportionately over-policed and removed from school due to discriminatory school discipline practices.¹³² All students deserve to learn in schools where they truly feel safe and where their social, cognitive, and emotional needs are met.

Staff

This violence is one of many challenges and disruptions that also impact teachers and contribute to their demoralization and burnout. Nearly one quarter of teachers reported they would likely leave teaching by the end of the 2020-21 year,¹³³ and nearly all large districts reported staffing shortages.¹³⁴ The stress of the pandemic, coupled with its disproportionate effect on communities of color, imposed an immense emotional and mental burden on teachers of color, particularly Black teachers.¹³⁵ The potential teacher exodus comes on the heels of a pre-existing trend of declining numbers of teachers of color. Some researchers predict that at the very time that students most need stability and quality teachers, counselors, and leaders, more will choose to exit.¹³⁶

The recent racial unrest and violence linked to white supremacy has also increased the urgency of teachers, leaders, and counselors to receive revamped pre-service and high-quality ongoing professional development in culturally responsive pedagogy and socioemotional supports.¹³⁷ Again, this implicates the reauthorization of the Higher Education Act as well as ESEA.

School counselors in particular have also been affected by the demands of the pandemic. The enlistment of counselors into non-counseling work has stretched the system further,

especially in schools with staffing issues. A survey of 7,000 counselors found that one in three took on additional administrative tasks such as hall duty, with one in five assuming health-related duties such as temperature checks, while one in six substitute-taught.¹³⁸ As systems were in crisis, counselors had less time for much-needed counseling-related needs.¹³⁹ Unaddressed mental health issues, alongside a failure to adopt policies and practices that provide necessary supports, can compromise future well-being and education trajectories for students.¹⁴⁰

V. Discussion and Analysis

Federal policymakers must craft an ESSA reauthorization that provides states and localities with the support and tools needed to broadly address inequities and to specifically address the impact of the pandemic and systemic racial inequality on children and on public education. With a clear and coherent vision for the federal role in education that centers educational equity and civil rights and includes support, funding, and robust oversight, the next authorization of ESEA can better address the interrelated issues that impact educational experiences and outcomes—including issues of health and well-being, poverty, and racial inequality.

The next reauthorization of this legislation must, for example, focus directly on the unique needs of multilingual students, students experiencing housing insecurity, students who are dually diagnosed as having both behavioral needs and learning or educational needs, and those in the foster and youth justice systems. In addition, the layered and fragmented format of ESSA requires a re-envisioning and a clear link to improvement sciences and systemic approaches to change.¹⁴¹

As noted earlier, pandemic-related research documented a tenuous education labor force infrastructure, in part due to low pay and benefits for many workers who keep schools running—from bus drivers and paraprofessionals to custodial staff and lunch workers. As school districts faced staffing challenges, this research points to the need for more career pathways and stable employment lines became quickly apparent; schools must not be forced to rely on temporary or emergency staff or those without appropriate education and credentials. It is time to develop a new set of assumptions regarding the number and professional status of social workers, counselors, and psychologists required at each level of the system.

This rethinking would entail a holistic consideration of the needs of students, staff, and the larger system, ensuring that resources are allocated to provide equitable supports for culturally responsive teachers, counselors, and other staff to better support learning and development.¹⁴² In addition, the inequities in our system resulting from segregation have resulted in a concentration of needs in regions and states that cannot be adequately addressed with the current structure of ESSA and related federal legislation and thus require targeted attention.

ESSA's current framework does not emphasize racial equity. This would change if policymakers heeded current research evidence relating to integration, fiscal equity, instruction, and educator diversity and used our EEE framework. The past neglect of racial equity has been accompanied by understaffing and a lack of enforcement by the US Department of Ed-

education's Office of Civil Rights.¹⁴³ ESSA's upcoming reauthorization is an opportunity to help the public education system recover and become more equitable and just.

Similarly, there are opportunities to build upon the strengths within high-poverty communities.¹⁴⁴ ESEA can codify supports and formalize initiatives to advance an equitable and robust recovery that includes best practices for equitable schools, such as reduced reliance on exclusionary school discipline practices that remove students from the classroom and undermine their educational outcomes.¹⁴⁵ ESEA funds could support continuity in instruction; ensure resources are allocated to provide wraparound supports that include health, nutrition, counseling, and extracurricular activities in a more holistic way; and make sure we are measuring and tracking progress in ways that identify areas of need and call attention to racial and socioeconomic disparities.

An ecological approach necessitates a continuing, targeted funding stream to expand access and upgrade quality. In fact, many districts found it critical to spend their federal pandemic resources on meeting the immediate needs for children and families, from supplying food to hiring staff to support students, while still dealing with long-term inequities such as aging building and other infrastructure issues.

The federal government can use its resources and authority in strategic ways to support state capacity building in K-12 education, as it has in the past crises.¹⁴⁶ The next ESEA reauthorization is an opportunity to reimagine a well-designed, evidence-informed, effective federal role centered on equality of opportunity. Given the attacks on civil rights and the persistent poverty and racial inequality in the U.S., this reauthorization must focus on systemic factors that have led to educational inequalities and consider the interconnectedness between education and other sectors.

VI. Summary and Recommendations

Our EEE framework and our resulting recommendations are grounded in the view that this reauthorization is an opportunity to improve learning but also to recognize the strengths that students, especially those in high-poverty schools, bring to school. This approach to policy centers learning and development across the lifespan, the health and well-being of students and educators, and the structures and systems required to ensure an equitable educational system.

To best promote equity in crafting the next iteration of ESSA, federal policymakers should consider a structural approach that includes three main elements. First, ESSA should be restructured so that the law's titles focus on systems, students, and staff. Second, the law should be refocused on three principles: (a) racial equity, (b) an ecosystem approach to serve students' needs across policy silos (e.g., housing and health), and (c) a focus on research evidence. Third, policymakers should develop a coherent strategy through specific policy components focused on systems, students, and staff, as follows:

Systems:

- **Incentivize school racial, linguistic, and socioeconomic diversity and integration, including through regional equity enrollment strategies.**
 - This version of ESEA presents an opportunity to spur regional interdistrict integration programs and include features such as the provision of free transportation to effectuate school diversity.
 - The federal guidance of the Obama administration should be incorporated into ESEA to provide states and districts with evidence-based tools to promote racial equity in education within our nation's current social and political context.
 - The reauthorized ESEA should revive federal support for diversity in the form of targeted funding, technical assistance, compilation of resources, and support for strategies to reduce racial isolation.
 - The reauthorized ESEA should promote cross-sector approaches to diversity—not just piecemeal strategies to address segregation, but comprehensive approaches at the state and local level to have an impact on regional equity.
 - Given the strong research on the benefits of school integration for all students, the law should explicitly include racial integration as a research-based practice for districts to adopt and specify that charter schools receiving federal dollars must reduce racial segregation (and that no charters should be in violation of federal civil rights law).
- **Improve targeting and equitable funding structures.**
 - ESEA should incentivize equity through grants for states that increase their equitable spending, such as the \$2 billion in grants that was proposed in the American Rescue Plan to better target equitable spending but was never approved.
 - To help to promote an ecosystem approach, the reauthorization should incentivize regional equity funding strategies such as regional tax levies that would be redistributed to address funding inequity.
 - States should be required to ground their plans to target funding and supports to schools identified in Civil Rights Data Collection findings as demonstrating racial disparities in discipline and advanced course-taking. The Office of Civil Rights (OCR) should ensure states immediately address civil rights violations in their state funding formulas.
- **Incentivize and fund renovation to facilities and infrastructure.**
 - The reauthorization should provide grants to states that make commitments to undertake major infrastructure investments focused on equity and ensure that resources are available to address facility issues relating to ventilation, safe drinking water, lead and asbestos abatement, and technology infrastructure needs.
 - Promote cross-sector and inter-agency coordination.
 - Support for school and system redesign through multifaceted, multipronged, and community-driven approaches that engage multiple sectors including health and

child welfare should be expanded and strengthened.

- Federal policymakers should include language in ESEA requiring that local housing authorities align funding strategies with educational equity approaches.
- The OCR's administrative purview should be extended to ensure that they are working collaboratively with ED's Office of Elementary and Secondary Education and play a larger role in approving and monitoring state plans.

Students:

- **Support students' individualized learning needs.**

- Policymakers should give greater attention to how ESEA should support students with special learning needs in the current context, including those who are neurotypical learners and those with physical disabilities, rejecting deficit-based approaches to academic interventions and supports.
- Federal policymakers should provide support to states to design and strengthen authentic assessment systems that allow for ongoing diagnosis of needs and adjustments in resource allocation, and focus on both individual improvement and system of supports.
- The reauthorization should support LEAs in developing a variety of measurement tools that focus on students' needs and on differential outcomes by gender, disability, race/ethnicity, socioeconomic status, and other areas to reallocate resources appropriately. The outcomes should include physical, mental, and socioemotional health.

- **Ensure that all families have access to high-quality early childhood care through our public education system.**

- The reauthorization should include targeted resources expanding public support for 0- to 4-year-olds to ensure access to quality education and care at all ages and allow equity for single- or two-parent working households.

- **Improve supports for system-involved youth.**

- Youth involved in the juvenile justice system require specific supports and specialists, as well as close connection between that system and the students' educational institutions, to ensure these students are not receiving subpar instruction in these or other alternative settings. In addition, policies or programs to support system-involved youth should be aligned with other sectors like social welfare and housing.

- **Target federal funds to support state and district efforts to promote student well-being and mental health.**

- Investment in vital school-based mental health services and supports is needed, shifting resources away from police or resource officers and toward culturally appropriate mental health services. Federal policymakers can do this by directly targeting physical and mental health and providing more funding to states and LEAs

to support these services.

Staff:

- **Provide high-quality ongoing professional development and updated and responsive pre-service education and training for teachers, counselors, and leaders.**
 - The reauthorization should require revamped training of educators to have a more eco-system, holistic, and racial justice understanding and perspective. A revised approach should support an ecological orientation to racial equity that would explicitly include anti-bias training.
 - Including counselors and support staff in culturally responsive training can help to ensure that everyone in the school is prepared to support students from various backgrounds and with varied needs.
 - Federal policy should ensure that school systems and preparation programs can support teachers, counselors, and leaders in developing and sustaining anti-racist policies, practices, and pedagogies.
- **Promote educator well-being and mental health.**
 - The reauthorization should incentivize state plans to use expenditures dedicated to teachers applying to receive paid semester leaves for professional renewal. It should also dedicate funding to pre-service and in-service adoption of measures to promote stress reduction and mental health supports.
 - Given the tremendous educational and mental health needs, it is time for higher education to revamp the preparation of teachers and leaders to better prepare them for the current needs of students, and for states to further develop the leadership roles and supports.
- **Provide and ensure workforce diversity, stabilization, and capacity building.**
 - The reauthorization should incentivize efforts to promote the racial diversity of all staff with the goal of strengthening the pipeline of well-prepared and supported teachers and administrators over the course of their professional trajectories.
 - To better meet students' needs, policymakers should initiate programs and funding streams that expand the paraprofessionals and teacher assistants in the system and create a stronger, racially and linguistically diverse pipeline toward teaching, investing in the particular development of special education or multilingual experts.

Conclusion

While the challenges currently impacting our nation's public education system—deepened by the pandemic and ongoing racial injustice—seem overwhelming, they are not intractable.

ble. The reauthorization of ESEA presents an opportunity to both look back to the original purpose of the law as a civil rights bill and to look forward to promote new, innovative, and evidence-based strategies that support students, educators, and school systems. This brief has outlined ways that federal policymakers can ground the law in an evidence-based, equitable, and ecological approach that supports students' civil rights and exemplifies the true meaning of ESEA.

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