December 2, 2015

Dear Chairman Alexander, Ranking Member Murray, Chairman Kline, Ranking Member Scott:

The Council of Parent Attorneys and Advocates (COPAA), an independent, nonprofit organization who works to protect the civil rights and secure excellence in education on behalf of the 6.5 million children with disabilities in America, writes in regard to passage of S. 1177, the Every Student Succeeds Act (ESSA) to reauthorize the Elementary and Secondary Education Act (ESEA). COPAA has worked diligently – as an independent voice as well as in key coalitions with business, disability and civil rights organizations – to inform and support your work to help ensure that every child continues to have equal access to a high-quality education as well as equal opportunity to achieve his or her full academic potential. Students with disabilities have benefited greatly from the ESEA. As a result of key accountability provisions in ESEA more students with disabilities have been afforded the opportunity to learn, master grade level academic content and successfully graduate with a regular diploma.

We congratulate you on developing a reasonable compromise to reauthorize ESEA. Although we have concerns about certain provisions of S. 1177, we write to let you know that we support the conference report and urge its adoption. We do remain wary of how states will seek to implement a law that provides a new level of autonomy in designing and implementing an accountability system in particular but offer our support today with awareness and understanding of the many compromises made to craft this bill. COPAA believes the ESSA is stronger than ESEA waivers. We understand and appreciate that it maintains a focus on student academic achievement with requirements to focus Title I dollars on the annual measurement, reporting and basic accountability for the achievement of all students including students of color, students with disabilities and English learners.

In particular, COPAA appreciates the bill’s emphasis on promoting access to the general curriculum for students with the most significant cognitive disabilities. Key provisions in ESSA seek to prevent the overuse and abuse of applying alternate standards and utilizing alternate assessments through a required state-level participation cap on these tests. The cap will help states work with districts to ensure that only the students for whom it is appropriate are placed on a state’s alternate academic achievement standard and therefore tested via an alternate assessment. Unfortunately, COPAA knows too well the children who have had limited or no access to the general classroom and taken off track for a regular diploma as a direct result of a decision to utilize the alternate assessment. Parents unfamiliar with the process and the long-term implications may agree to their child being placed on an alternate assessment; yet too often, the decision is due to lowered expectations by a school team that may also dramatically limit the child’s access to a regular education and a regular diploma. When the parents want their child placed back on the state level standard and general assessment, schools frequently refuse. We believe the ESSA provisions focused on students with the most significant cognitive disabilities will help every student with a disability to be held to high expectations and have access to the general curriculum so that they may learn and thrive in school and become career and/or college ready.
COPAA also appreciates that the bill includes a requirement for states to articulate a framework to support districts and improve school conditions by reducing bullying, the overuse of disciplinary practices and aversive practices (e.g. seclusion and restraint); all of which national data show have a disproportionate impact on students with disabilities. COPAA has long advocated for schools to train teachers in managing challenging behaviors through positive behavior intervention and support and other research-based practices. We view this addition to Title I as a tremendous step toward creating a positive school climate for all students.

COPAA remains concerned about the flexibility provided to states and districts with regard to subgroup accountability. Without federally defined timeframes to guide the implementation of intervention, schools and districts now have an obligation to ensure the timely provision of evidence-based and targeted support. Student subgroups who struggle to meet state standards must be closely monitored and teachers must receive the training and support necessary so that students can make adequate gains. We worry that the long-held biases against students with disabilities will prevent quick action. Best practice has shown that when held to high expectations and provided evidence-based instruction and intervention, students with disabilities can work at grade level alongside their peers. COPAA will actively work to assure that federal monies are not used to undermine the accountability expectation of the ESSA in alignment with other key federal laws.

Finally, Title IV of the ESSA includes Pay for Success, a troubling provision that allows federal money to be used in combination with social investment funds as part of the Safe and Healthy Schools grant program among other uses. COPAA is adamantly opposed to Pay For Success because there have been recent abuses under Pay For Success in a state-run program, which encouraged districts to violate Child Find under the Individual with Disabilities Education Act (IDEA) while the state looked the other way. COPAA urges you to work with us to ensure the promotion and allowance of Pay for Success in ESSA does not support states or districts in abrogating their responsibilities under IDEA or other federal laws. We also have concern due to the lack of credible data that supports braiding limited federal funds with private funds for this purpose.

Thank you for your bipartisan leadership and partnership to complete the work on ESSA. COPAA will continue to work with you and other partners to ensure that students with disabilities have every opportunity to obtain a quality public education and achieve high standards with their peers. The right to a quality education – that prepares every student for meaningful employment, higher education and lifelong learning – is at the heart of COPAA’s mission. We will strive to promote every tenet of ESSA that will fully support students in this important journey.

Sincerely,

Denise Marshall
Executive Director

COPAA is an independent, nonprofit organization who works to protect the civil rights and secure excellence in education on behalf of the 6.5 million children with disabilities in America. COPPA’s mission is to serve as a national voice for special education rights and is grounded in the belief that every child deserves the right to a quality education that prepares him or her for meaningful employment, higher education and lifelong learning.