

The Legacy of Civil Rights in the Every Student Succeeds Act



"When a flower doesn't bloom, you fix the environment in which it grows, not the flower."

-Alexander Den Heijeru



Did You Know

The Every Student Succeeds Act is Rooted in Civil Rights

The Elementary and Secondary Education Act (ESEA) is the original piece of legislation that authorized federal funding for public schools. Situated in the midst of the Civil Rights Movement, ESEA authorized significant federal financial support through Title I funding. This legislation mobilized education policy throughout the country to focus on addressing inequitable educational opportunities within the United States (US). Specifically, through this mandate, policymakers tried to address ways to better support the education of children from working class families whose schools may not afford them comparable educational opportunities to their middle-class peers. By and large, this effort was made in concordance with Civil Rights and equity initiatives, but it was also met with criticism. Although federal Title I funds added support to bolster the education of children in working class communities, some criticized the potential for federal over-reach (Thomas & Brady, 2005), specifically that the mandates tied to Title I funding threatened states' autonomy in managing and governing their own schools (Thomas & Brady, 2005). To address this criticism, provisions within ESEA stated that the federal government could not control curriculum, instruction, or otherwise govern schools that received Title I funding (Thomas & Brady, 2005). Another critique of ESEA was the opportunity for the federal government to allocate federal funds to private schools (Thomas & Brady, 2005).

ESEA has been reauthorized every five years since its development. In 2001, former President George W. Bush reauthorized ESEA as the No Child Left Behind Act (NCLB). NCLB, like previous reauthorizations, kept much of ESEA intact. However, this piece of legislation, for the first time, featured accountability measures that included students with dis/abilities. Upholding the spirit of civil rights and equitable education for all students, this had the potential to be an important step in holding schools accountable for all students in their buildings. Again, though, NCLB faced critique of not only federal over-reach, but of the ways in which accountability was operationalized through high-stakes testing that provided a direct path for potential takeover. Critics of this law cite how these accountability measures had profound consequences for teaching and learning, particularly in regard to literacy and social studies in urban schools (Chapman, 2007). This potential for state takeover, again, threatened the autonomy and community-focus of local schooling (Laguardia & Pearl, 2009).

ESEA has most recently been reauthorized as the [Every Student Succeeds Act](#) (ESSA). This iteration of educational civil rights legislation has new outlines for school accountability that may provide avenues to more holistic approaches to

teaching students, and gives states the opportunity to expand these accountability markers to include indicators of learning that are not solely academic, including opportunities to learn (Darling-Hammond, Bae, Cook-Harvey, Mercer, Podolsky, & Stosich, 2016). It is now incumbent upon state departments of education to understand and examine the breadth of the implications of considering the ways in which state and local education initiatives include equitable opportunities for learning (Franquíz & Ortiz, 2016). This examination is complicated by the ways in which policies are appropriated and enacted by local actors (Levinson, Sutton, & Winstead, 2009). Additionally, like ESEA, ESSA faces some critique surrounding the availability of funds to private entities (Franquíz & Ortiz, 2016). Different from ESEA, however, is that at this moment in history, the expansion of charter schools with public funds is more commonplace than it was in the 1960s.

Although civil rights education policies (e.g. anti-sex-based discrimination policies), operationalized by legislation (e.g. Title IX regulations), have roots in establishing equitable learning opportunities for all students, a critical interpretation and understanding of the ways in which policy is interpreted, implemented, and otherwise appropriated by those who are in schools doing the work is essential to remembering and realizing the spirit of civil rights in education. Generally, these policies have the opportunity to positively affect and redress inequitable learning opportunities for all students including those who have been historically marginalized through the US public education system. This opportunity has to be seized by those who do the work in schools (e.g. state leaders, administration, teachers, and general school personnel). By remembering the spirit of these laws, school actors can interpret the law and implement localized policies to increase opportunities for equitable learning conditions for all students in their state, district, and schools.



Why It Matters

It is Up to Educators to Remember the Spirit of Civil Rights in Interpreting Contemporary Policy

The interpretation and implementation of federal education policy is dependent on those who do the work of education in our country's schools. It is important to remember how local actors (e.g. school district personnel, teachers, and community members), may respond to policy in general, and more specifically, ESSA. Members of school communities must not only ensure they are meeting the requirements of the law, but also realizing the spirit of the law by remembering that ESEA is socio-historically situated in the midst of the powerful activism of the Civil Rights Movement; a period of history that propelled the country away from express, de jure segregation and Jim Crow laws. In remembering this, schools can avoid

simply shifting toward de facto segregation. As an example, consider how children with dis/abilities are educated today as a result of not only anti-discrimination legislation that requires schools to educate students with dis/abilities, but also as a result of NCLB. Without remembering that the point of anti-discrimination laws and NCLB accountability measures were to increase inclusion and access for students with dis/abilities, the law can become skewed in practice. Even if schools are meeting accountability measures for students with dis/abilities, what does it mean if these students are still educated in segregated settings, away from the general education setting? Does that maintain the spirit of the law? Although we know that de facto segregation is contemporarily and systemically maintained by institutional structures, including schooling, the question at hand is how can schools remember and realize the original, historical intent of educational civil rights legislation so that developing equity plans in current context becomes more than filling in line items or checking boxes for accountability? What does it mean for a school to be equity-oriented, and how can that foundational orientation subsequently meet the requirements of ESSA?

Even though students with dis/abilities are included, for example, what does it mean when these students are not being educated equally or in segregated environments? Does that maintain the spirit of the legislation, or are we reaching one aim by foregoing another?



For Equity Now

Educators Can Help Ensure that ESSA Maintains the History of Educational Civil Rights

How can we make sure ESSA lives up to its predecessors as a legacy of the Civil Rights Movement? One step in ensuring that ESSA state plans foreground equitable circumstances for all students is to be a critical consumer of policy. Thinking critically about policy means understanding the motivations of the policy, the multiple possible outcomes of the policy, and your own local implementation of policy.

One way to [critically examine policy](#) is to think about it as a “practice of power” (Levinson, Sutton, & Winstead, 2009, p. 767). That means to understand that policy implementation is a “social practice” (Levinson, Sutton, & Winstead, 2009, p. 767). Levinson, Sutton, & Winstead (2009) list guiding questions for school practitioners to consider what it means to interpret policy as a social practice:

1. How can we put action back into the text and conceptualize the entire policy process as a complex set of interdependent sociocultural practices?

2. How can we see the practice in policy, and how can we harness that vision to modify the technocratic landscape of most education policy initiatives which obviate the promise of fuller democratic participation? (p. 768)

These guiding questions can help school practitioners re-situate policy, which is often considered a governing mandate (Levison, Sutton, & Winstead, 2009, p. 767), within sociopolitical contexts that have the potential for wide-reaching effects that will have varying impacts on students' lives. The charge, then, is to consider these varied impacts while interpreting and enacting policy in local contexts. Local policymakers, administrators, and educators can begin to examine these issues through [critical reflection](#) on their current policies. This [Policy Equity Analysis Toolkit](#) (PEAT) provides a thorough opportunity for educators to reflect on policies as they are designed and implemented. As educators learn to think through how teachers and school personnel interpret and enact policy, imagining the potential, even unintended effects, becomes more probable. Through this critical awareness, school practitioners can begin to ameliorate unwanted effects. Enacting policies with fidelity to the original spirit of the law can help ensure that civil rights concerns that all students should have access to a quality, public education is realized.

Meet the Authors

This July 2017 issue of Equity Dispatch was written and edited by:
M. Nickie Coomer, Nick Pearce, Cesur Dagli, Seena M. Skelton, Tiffany S.
Kyser, and Kathleen King Thorius

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