

113TH CONGRESS  
1ST SESSION

# H. R. 1386

To support the local decision-making functions of local educational agencies by limiting the authority of the Secretary of Education to issue regulations, rules, grant conditions, and guidance materials, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 2013

Mr. SCHOCK (for himself, Mr. MEEHAN, Mr. VALADAO, Mr. RODNEY DAVIS of Illinois, and Mr. KIND) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To support the local decision-making functions of local educational agencies by limiting the authority of the Secretary of Education to issue regulations, rules, grant conditions, and guidance materials, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Local School Board  
5 Governance and Flexibility Act”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of the Congress that—

1           (1) the responsibility for education resides with  
2           the States, which have delegated to local school  
3           boards the power and authority to adopt policies, es-  
4           tablish priorities, and provide accountability to direct  
5           the operation of neighborhood schools;

6           (2) local school boards are held accountable by  
7           local voters to represent the interests of students,  
8           parents, local businesses, civic organizations, tax-  
9           payers, and the community at large in determining,  
10          subject to State laws and policies, the direction, val-  
11          ues, climate, and financial support of the schools in  
12          their community;

13          (3) the vital national interest in local self-gov-  
14          ernance of local educational agencies has been weak-  
15          ened through Department of Education require-  
16          ments that are either unnecessary to achieve the  
17          specific direction of legislation enacted by the Con-  
18          gress, or that impose unnecessary limits on the flexi-  
19          bility needed by local educational agencies in order  
20          to meet local, State, and Federal goals in education;  
21          and

22          (4) to support the local decisionmaking function  
23          of local educational agencies, the Secretary of Edu-  
24          cation should engage only in issuing regulations,  
25          rules, grant conditions, guidance materials, and

1 other requirements under the jurisdiction of the De-  
2 partment that are—

3 (A) specifically required to implement Fed-  
4 eral legislation, and

5 (B) demonstrated to be educationally,  
6 operationally, and financially within the capac-  
7 ity of local educational agencies to implement.

8 **SEC. 3. AUTHORITY OF THE SECRETARY.**

9 Unless specifically authorized by Federal law, the  
10 Secretary may not issue a Federal regulation, rule, grant  
11 condition, guidance material, or other requirement per-  
12 taining to a State educational agency or a local edu-  
13 cational agency that—

14 (1) conflicts with the power and authority of  
15 the local educational agency delegated by the State  
16 regarding the operation of the schools (including the  
17 school system's mission and goals, organization,  
18 local budget and budget priorities, education pro-  
19 gram, curriculum, or extra-curricular activities), stu-  
20 dent health services and safety, transportation and  
21 school boundaries, procurement policies, staffing and  
22 personnel policies, capital construction, authority to  
23 levy taxes, issue bonds, acquire land, and other func-  
24 tions essential to the daily operation of the schools

1 within the jurisdiction of the local educational agen-  
2 cy;

3 (2) results in additional costs to the local edu-  
4 cation agency for reporting, grant administration,  
5 and general operations unless fully funded from  
6 Federal funds;

7 (3) conflicts with the power and authority of  
8 the local educational agency to determine how to en-  
9 gage or act upon community participation and ad-  
10 vice;

11 (4) imposes requirements on a local educational  
12 agency that would limit or adversely affect its au-  
13 thority to function as a legislative, executive or  
14 quasi-judicial agency;

15 (5) conflicts with the authority of a State to de-  
16 termine the appropriate governance structure of its  
17 local educational agencies, or the authority of a local  
18 educational agency to determine the appropriate gov-  
19 ernance and management of its schools;

20 (6) establishes reporting requirements for local  
21 educational agencies that duplicate existing Federal  
22 requirements or that are issued without first con-  
23 ducting a fiscal impact statement related to the  
24 costs to local educational agencies, including re-  
25 quests for data and recommendations from local

1 educational agencies and national education organi-  
2 zations consistent with the provisions of section 4(a);  
3 or

4 (7) places conditions or requirements on a  
5 grant to a State or local educational agency that are  
6 not directly related to or support the intent of the  
7 specific purpose of the grant or the legislation au-  
8 thorizing such grant.

9 **SEC. 4. OPPORTUNITY FOR COMMENT REGARDING LOCAL**  
10 **IMPACT.**

11 (a) IN GENERAL.—During each fiscal year (begin-  
12 ning with the fiscal year following the fiscal year in which  
13 this Act is enacted), the Secretary of Education shall pro-  
14 vide local educational agencies and the major national edu-  
15 cation organizations, including those representing local  
16 school boards, local school superintendents, principals, and  
17 teachers, a minimum of 60 days in order to provide writ-  
18 ten comments regarding the local impact of implementing  
19 Federal regulations, rules, grant conditions, guidance ma-  
20 terials, or other requirements for any applicable program  
21 or activity of the Secretary.

22 (b) REPORT.—The Secretary of Education shall pre-  
23 pare and publish a report based on the comments received  
24 pursuant to subsection (a), which shall be forwarded to  
25 the chairs and ranking members of the Education and

1 Workforce Committee of the House of Representatives and  
2 the Health, Education, Labor and Pensions Committee of  
3 the Senate not later than July 1 of each year and shall  
4 be simultaneously posted on the Department of Edu-  
5 cation's website.

6 **SEC. 5. EFFICIENCY IN IMPLEMENTING FEDERAL PRO-**  
7 **GRAMS.**

8 (a) **ELIMINATING REPORTING DUPLICATIONS.**—Not  
9 later than 180 days after the date of the enactment of  
10 this Act, the Secretary of Education shall conduct a review  
11 of existing reporting requirements applicable to local edu-  
12 cational agencies resulting from programs and activities  
13 under the jurisdiction of the Department of Education to  
14 determine duplications and make modifications as nec-  
15 essary to eliminate such reporting duplications.

16 (b) **PROHIBITION.**—The Secretary may not promul-  
17 gate any regulation, rule, guidance material, grant condi-  
18 tion, or other requirement pertaining to a State edu-  
19 cational agency or a local educational agency, without first  
20 taking the following actions:

21 (1) Requesting data and recommendations from  
22 local educational agencies and the major national  
23 education organizations representing local school  
24 boards, local school superintendents, principals, and  
25 teachers regarding the educational, financial, and

1 operational costs involved for implementation, and  
2 publishing the data and recommendations provided  
3 upon issuance of such regulation, rule, guidance ma-  
4 terial, grant condition, or other requirement and  
5 posting that information on the Department of Edu-  
6 cation's website.

7 (2) Verifying, based on the data set forth in  
8 paragraph (1), that local educational agencies will  
9 have the financial resources and the technical assist-  
10 ance they may need to successfully implement the  
11 regulation, rule, guidance material, grant condition,  
12 or other requirement including any Federal require-  
13 ment that would extend beyond the time that Fed-  
14 eral assistance is available for that purpose.

15 (3) Providing local educational agencies and the  
16 national education organizations identified in para-  
17 graph (1) with not less than 60 days notice following  
18 the Secretary's publication of a notice of intent to  
19 issue any regulation, rule, guidance material, grant  
20 condition, or other requirement to respond, unless a  
21 shorter time period is needed to meet an emergency  
22 such as a declared natural disaster.

23 (4) Ensuring that maximum flexibility is pro-  
24 vided to local educational agencies in implementing

1 any regulation, rule, guidance material, grant condi-  
2 tion, or other requirement.

3 (c) REVIEW AND RESPONSE.—If a local educational  
4 agency or an organization identified in subsection (b) pro-  
5 vides the Secretary of Education with a written statement  
6 demonstrating that a regulation, rule, guidance material,  
7 grant condition, or other requirement does not meet the  
8 substantive or procedural requirements of this Act, the  
9 Secretary, or the Secretary’s designee, shall review the  
10 merits of that statement, provide a written response within  
11 60 days, and post that response on the Department of  
12 Education’s website, including what action, if any, the  
13 Secretary will take to correct any deficiency that the Sec-  
14 retary determines exists.

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