



## **The Elementary and Secondary Education Act: Why Congress Should Reauthorize Section 9506 to Protect Home Schools and Nonrecipient Religious and Private Schools**

**May 25, 2010**

As Congress prepares to reauthorize ESEA, we respectfully urge Congress to retain Section 9506 in ESEA to protect home schools and nonrecipient religious and private schools from any regulation by the federal government.

Section 9506 was inserted into the No Child Left Behind Act in 2001. We believe that Section 9506 has protected home schools and private schools – and the millions of students being educated in these schools – from unnecessary federal regulation that could hurt student achievement. At the same time, this section has not kept the federal government from enacting education programs that are designed to help state and local education associations, public schools, and public school students. For these reasons, we urge that Section 9506 be retained unchanged.

- **Section 9506 [20 U.S.C. 7886]: Protection of home schools**

““SEC. 9506. PRIVATE, RELIGIOUS, AND HOME SCHOOLS.

“(a) APPLICABILITY TO NONRECIPIENT PRIVATE SCHOOLS.—

Nothing in this Act shall be construed to affect any private school that does not receive funds or services under this Act, nor shall any student who attends a private school that does not receive funds or services under this Act be required to participate in any assessment referenced in this Act.

“(b) APPLICABILITY TO HOME SCHOOLS.—Nothing in this Act shall be construed to affect a home school, whether or not a home school is treated as a home school or a private school under State law, nor shall any student schooled at home be required to participate in any assessment referenced in this Act.

“(c) RULE OF CONSTRUCTION ON PROHIBITION OF FEDERAL CONTROL OVER NONPUBLIC SCHOOLS.—Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.

“(d) RULE OF CONSTRUCTION ON STATE AND LOCAL EDUCATIONAL AGENCY MANDATES.—Nothing in this Act shall be construed to require any State educational agency or local educational agency that receives funds under this Act to mandate, direct, or control the curriculum of a private or home school, regardless or whether or not a home school is treated as a private school under state law, nor shall any funds under this Act be used for this purpose.”

### **Why section 9506 is important to home schools, private schools, and religious schools**

Although the federal government’s contribution to education funding only totals around 10.5%<sup>1</sup> of the total amount spent on education, the states rely on the federal government’s contribution and thus must follow the requirements that Congress institutes through legislation.

Home schools and nonrecipient religious and private schools have opted to not receive federal education funds. We believe that their desire to provide an independent education and be exempt from federally instituted educational regulations should be respected. That is the purpose of Section 9506. It is important to include private schools with home schools in this section because in fourteen states, state law treats home schools as private schools.<sup>2</sup>

These home schools and nonrecipient religious and private schools are already regulated under state law. Since they do not receive any federal funds, the federal government should not include them in the regulations that apply to public schools and private and religious schools that do receive federal funding.

Furthermore, there are concerns that a state or local educational agency could interpret certain provisions in ESEA to mean that the SEA or LEA has the authority to enforce them against a home school or nonrecipient religious or private school. Section 9506 prohibits an SEA or LEA from interpreting ESEA in this way.

Home school parents and religious and private schools have demonstrated that they are succeeding in successfully educating their students without any regulation by the federal government. Section 9506 recognizes this and protects the right of home schoolers, religious schools, and private schools to continue to educate children as they see fit, free of regulation by the federal government.

---

<sup>1</sup> U.S. Department of Education webpage, *The Federal Role in Education*, 7/31/2007, available at <http://www.ed.gov/about/overview/fed/role.html>

<sup>2</sup> These fourteen states are AK, AL, CA, IL, IN, KS, KY, MI, NE, LA, OH, PA, TN, and TX.