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## Congress of the United States

### House of Representatives

COMMITTEE ON  
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REGULATORY AFFAIRS

ENERGY POLICY, HEALTH CARE,  
AND ENTITLEMENTS

**TESTIMONY BY CONGRESSMAN DANNY K. DAVIS**

**SUBMITTED TO THE COMMITTEE ON RULES**

**IN SUPPORT OF HIS AMENDMENT TO H.R. 5, THE STUDENT SUCCESS ACT, THAT  
ENSURES RIGOROUS ASSESSMENTS FOR STUDENTS WITH DISABILITIES**

**JULY 17, 2013**

Federal statute has a long, bipartisan history of safeguarding equal educational opportunity for students with disabilities. The *Elementary and Secondary Education Act* includes critical provisions to ensure that students with disabilities have access to high-quality curricula, demonstrate on-grade-level academic achievement, and enjoy strong expectations for academic performance. Specifically, the *Elementary and Secondary Education Act* and its related regulations require participation and proficiency of students with disabilities for accountability purposes as well as limit to one percent the use of alternative assessment scores for accountability purposes for students with significant cognitive disabilities. Together, these provisions serve as important civil rights protections for students with disabilities.

Shockingly, H.R. 5 undermines current federal safeguards that promote the achievement of students with disabilities by reducing accountability, eliminating the one-percent cap on alternative assessments, and permitting schools to provide less rigorous curricula and assessments to an *unlimited* number of students with disabilities. For example, removing the alternative-assessment cap creates an incentive to exclude students from the general assessment and accountability system. Deciding that students should take alternative assessments has serious consequences for the educational opportunities of students with disabilities given that taking an alternative assessment removes a student from the general accountability system and eliminates the possibility of a traditional diploma. The current one-percent limit ensures that schools only exempt from accountability the one percent of students with the most profound disabilities, with experts recognizing one-percent as an appropriate limit to address the proportion of students who need the alternative assessment. Removing the cap simply reduces accountability and the quality of education for students with disabilities.

To ensure equal educational opportunity for and rigorous assessments of students with disabilities, I offer my amendment to delay elimination of the one-percent limit on alternative assessments for students with significant cognitive delays until the Secretary of Education determines that removing the cap will not result in overreliance on the use of less rigorous assessments for students with disabilities. This approach represents commonsense policy to protect students with disabilities. Allowing the Secretary the time to thoroughly review the implications of the statutory change prior to implementation provides the appropriate caution needed to protect the civil rights of students with disabilities. All students deserve equal access to a rigorous education curriculum regardless of their ability status. As lawmakers, we must advance policies that ensure high-quality education for students with disabilities.