



May 2004
Volume 2, Issue 1

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Background Brief on...

The No Child Left Behind Act

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Background

On January 8, 2002, President George W. Bush signed into law the revised Elementary and Secondary Education Act (ESEA), also called the No Child Left Behind Act (NCLB) of 2001. It has been described as the most significant change in federal education policy in a generation. The goal of the law is to educate every student to high quality standards—regardless of his or her income, ability or background and guarantee that all students, regardless of socioeconomic factors, achieve a "proficient" level of education by the 2014-2015 school year.

It builds upon the foundation laid down by the 1994 Improving America's School Act. That legislation required states to develop "... challenging curriculum content and performance standards, assessments aligned with content standards, and accountability systems to assess schools' and districts' progress in raising student achievement."

If a state fails to comply with the requirements of the NCLB, it may all or some of its federal Title I funding—about 8 percent of a state's education budget. Federal Title I funds are targeted to high-poverty schools and districts and used to provide educational services to students who are educationally disadvantaged or at risk of failing to meet state standards.

Highlights of the Law

The No Child Left Behind Act contains a number of far-reaching requirements.

- State testing in reading, math, and science (by 2005-06)
- Adequate yearly progress of all students
- A progression of sanctions for failing schools
- Data collection of student performance
- Regular reporting of test results to parents and the public
- Qualified teachers and paraprofessionals in every classroom

Annual Tests

States must develop standards, along with assessments aligned with those standards, in all grades between three and eight in the subjects of reading and math. Science tests must be developed and implemented once at each of the three grade spans (3-5, 6-9, 10-12) by the 2007-2008 school year.

Each of these standards must have discernable levels of achievement—"partially proficient," "proficient" and "advanced." Testing and standards systems are subject to the approval of the Secretary of Education. States will also be expected to participate in national education tests.

Adequate Yearly Progress

Adequate yearly progress (AYP) is an accountability measure that holds schools responsible for bringing 95 percent of all students to the "proficient" level on state assessments. A school is making acceptable progress if it is improving at a rate that will allow it to reach the 95 percent proficiency level within 12 years. A school may hit the performance target overall, but if the economically disadvantaged students didn't hit it, then AYP is not met. This year, 40 percent of students must meet reading benchmarks, and 39 percent must meet math benchmarks.

In 2004, 30 percent of all public schools failed to meet the law's standards, and education experts say the number could increase this fall.

Sanctions for Low-Performing Schools

If a school fails to meet AYP, it will face a progression of sanctions.

Two Years of Failure: If a school fails for two consecutive years, the school is identified as needing improvement. The school will receive technical assistance from the state, and, in the next school year, the school must allow the student to transfer to a better public school.

Three Years of Failure: If a school fails to meet AYP for three consecutive years, in addition to the provision of public school choice, that school must provide its pupils with supplementary instructional opportunities from service providers of the student's choice. States must identify and inform students about approved providers. The school district is

responsible for transporting students to the site of these supplemental services.

Four Years of Failure: If a school fails to meet AYP for four consecutive years, it will face a series of corrective actions. These actions may include replacing school staff, implementing new curricula, decreasing administrative authority at the school level, providing an outside expert to advise the school, extending the school day or school year, or changing the organizational structure of the school.

Five Years of Failure: If a school fails to make AYP for five consecutive years, it will be restructured. This could take the form of reopening the school as a charter school, replacing the staff, having the state take over the school, or other major actions.

Data Collection

NCLB requires all states to gather extensive data regarding student performance, and that this data be disaggregated into the following categories:

- Economically disadvantaged students
- Major racial or ethnic groups
- Students with disabilities
- English language learners
- Gender
- Migrant status

The state must also track and report the quality of teachers in high poverty schools, attendance and dropout information.

Oregon's Database Initiative Project, begun in 1997 and staffed by the Oregon Department of Education (ODE), tracks student data and is a model for other states.

Report Cards

NCLB requires that student performance scores be reported at the school, district, and state levels. States, in turn, must report their performance measures to the Secretary of Education and to Congress. Report cards must include information about the quality of a school's teachers and the achievement levels of students by subgroup.

Highly Qualified Teachers

Another component of the NCLB is the requirement that there be a highly qualified teacher in the classroom, with the goal of increasing student

achievement by improving the overall quality of instruction. School districts must ensure that all teachers who are teaching core subjects meet the state standard of “highly qualified” by the 2005-06 school year. “Core” content areas are English, math, science, the arts, second languages, and social science.

A “highly qualified” teacher has a state certification or has passed a state licensing exam, including any state-established alternative routes to certification, and holds a bachelor's degree. These requirements apply to all teachers, whether newly hired or those currently teaching and does not include a teacher with only an emergency license. Beginning in 2002-03, districts are prohibited from using federal funds to hire new teachers who do not meet the “highly qualified” requirement.

All new paraprofessionals hired with Title I funds beginning in 2002-2003 must meet a new standard of quality; existing paraprofessionals have until the 2005-2006 school year to meet these requirements.

All paraprofessionals must have an associate's degree or higher or complete 72 quarter hours of post-secondary coursework or pass a rigorous state or local assessment.

States are allowed the flexibility to develop their own tests and standards. Schools that receive Title I funds must notify parents if their child is in a class without a highly qualified teacher.

Charter school teachers, vocational education teachers, and JROTC teachers are not exempt from NCLB requirements.

Criticisms

According to the National Conference of State Legislatures, nearly 24 states have considered either pulling out of the program, requesting full federal funding, or seeking changes in the law.

In a 2004 poll taken by the Public Education Network and Education Week, 28 percent of respondents said they opposed the law compared with 8 percent in 2003. A 2004 survey by the Winston Group showed 52 percent favored the law, and 33 percent were unfavorable.

While nearly all support the goals of the act, a number of criticisms have been made.

Quality Teachers: Because teachers need to be certified in the areas they teach, many middle school teachers that teach multiple, integrated subjects and rural teachers are not “qualified.” Rural area teachers, working where it is difficult to attract teachers, may be called upon to teach several subjects or subjects for which they were not initially licensed. Some teachers say they will quit teaching before they will return to school for the necessary endorsement. Many paraprofessionals are hired for their bilingual abilities and are without education backgrounds.

Adequate Yearly Progress: Some believe the hurdle of AYP is too high and punitive. The federal law does not recognize progress below the set goals. The consequences of failure, such as allowing students to transfer and have access to tutoring, further drain the school's ability to catch up.

Fourteen states asked the Bush administration in March 2004 for permission to use alternative methods for showing academic gains under the No Child Left Behind law. The 14 states, most of whom had their own systems for raising academic performance in place before the federal No Child Left Behind law took effect two years ago, charged that as currently written, the law would brand too many schools “in need of improvement,” and thus squander limited resources.

Cost: Some view the requirements under NCLB as unfunded or underfunded mandates. Only a few cost studies have been attempted for NCLB. The requirements have hit some states harder than others—states that did not already have some of the components in place. Some states have considered forfeiting their federal funds and not implementing NCLB. It is difficult to assess the cost of NCLB, because costs such as tutoring, additional transportation, and additional teacher education are unknown at this time.

The National Conference of State Legislatures named a 22-member task force in April 2004 to identify problems, suggest solutions, and ensure adequate funding for NCLB. The panel will present its recommendations this fall.

NCLB Rule Changes

While the actual law has not been amended, interpretations of the law by the U.S. Department of Education have changed.

Rural Teachers: Teachers who teach more than one core subject in rural districts now have three years to become licensed in each subject they teach.

Participation: The law requires 95 percent participation in tests or else the school fails to meet AYP. Rules have been relaxed to allow 95 percent average participation rate over two or three years. A student may be excluded from a school's calculation in the case of a serious medical emergency.

English-language learners: Schools are no longer required to give children with limited proficiency in English their state's regular reading test if such students have been enrolled in a U.S. school for less than a year. The department will permit states to count students who have become proficient in English within the past two years in their calculations of adequate yearly progress for English-language learners.

Special Education students: Those students with significant cognitive disabilities will be allowed to take an alternate assessment; the number is capped at one percent of students at all grade levels tested.

NCLB in Oregon

According to the National Conference of State Legislatures, Oregon was one of only 17 states in compliance with the 1994 ESEA requirements at the time of the act's passage. Because of this, Oregon was better positioned to meet the new standards than many states.

Oregon already had developed standards, assessments aligned with the standards, report cards, and a sophisticated data collection system.

Standards and Assessments: Oregon had developed tests for students in grades 3, 5, 8, and 10 for its education reform act, and has expanded these tests to meet federal requirements. Oregon's standards and tests have been approved by the U.S. Department of Education. Oregon has a history of participating in the National Assessment of Educational Progress (NAEP) testing.

Adequate Yearly Progress: The 2004 (based on 2002-03 data) report card found 330 schools (31.25 percent) failing to make "adequate yearly progress" (AYP). Marshall and Jefferson High Schools in Portland are in their fourth year of failing to make AYP.

Report Cards: Oregon made a number of changes to its report card to comply with federal law. Added to the annual report cards are teacher credentials, class sizes and a breakdown of school test scores by ethnicity, gender and family income. (Oregon continues to rate schools using its own criteria, so the federal rating may differ from the state's, and both will be on the card.)

Highly Qualified Teachers: The ODE found 82 percent of all classes taught in public schools in Oregon have a "highly qualified teacher." The national average is less than 55 percent, according to the Education Commission of the States. In classrooms where students have the same teacher all day, 94 percent have highly qualified teachers. However, in high poverty schools, only 71 percent of classes met the requirement.

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