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Inside this Brief

- **Highlights of the Law**
- **Annual Tests**
- **Adequate Yearly Progress**
- **Sanctions for Low-Performing Schools**
- **Data Collection**
- **Report Cards**
- **Highly Qualified Teachers**
- **Comments on NCLB**
- **NCLB Rule Changes**
- **NCLB in Oregon**
- **Staff and Agency Contacts**

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Background Brief on ...

The No Child Left Behind Act

On January 8, 2002, President George W. Bush signed into law the revised Elementary and Secondary Education Act (**ESEA**), also known as 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 goals of NCLB are to educate every student to high quality standards regardless of his or her income, ability, or background, and to guarantee that all students, regardless of socioeconomic factors, achieve a “proficient” level of education by the 2013-2014 school year. The law was scheduled for reauthorization by Congress in 2007, but to date that has not yet occurred.

NCLB builds upon the foundation laid down by the 1994 Improving America’s School Act. The Act requires 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.” A 2002 revision significantly expanded the scope of the federal law by requiring accountability information on student performance to be published for every school in the state, not just for schools receiving federal funds.

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

Highlights of the Law

NCLB contains a number of far-reaching requirements:

- State testing in reading, math, and science;
- Adequate Yearly Progress of all student groups;
- Progressive sanctions for schools not making Adequate Yearly Progress;
- Data collection of student performance;
- Regular reporting of test results to parents and the public;
- Qualified teachers and paraprofessionals in every classroom; and
- Information, choices, and services for parents.

Annual Tests

States must develop academic content standards, along with assessments aligned with those standards, in all grades between three and eight and in high school for the subjects of reading, math, and science. Science tests were required to be developed and implemented once at each of the 3 grade spans (3-5, 6-9, 10-12) by the 2007-2008 school year. Oregon has implemented a science assessment at grades four, seven, and ten.

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 U.S. Secretary of Education. States are also required to participate in national education tests known as the National Assessment of Educational Progress (NAEP).

Adequate Yearly Progress

Adequate Yearly Progress (AYP) is an accountability measure that holds schools responsible for bringing 100 percent of all students to the “proficient” level on state assessments by 2013-2014. A school is considered to be making adequate progress if it has reached the annual target for the number of students meeting state standards that will allow it to reach the 100 percent proficiency level by 2014. A school must hit the performance target overall and for each identified subgroup. This year, and through 2010, 60 percent of students must meet reading and math benchmarks. These targets gradually increase toward 100 percent by 2014.

In 2008-2009, 377 (29.9 percent) of Oregon public schools failed to meet the law’s standards.

Oregon applied to participate in a pilot project through the U.S. Department of Education to utilize measurement of student growth in achievement over multiple years as an additional way of meeting AYP, but this application was denied in 2006.

Sanctions for Low-Performing Schools

If a school fails to meet AYP requirements, it faces 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 district must allow the students to transfer to a public school that did make AYP.

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 parents’ choice. States must identify and inform parents 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 faces a series of corrective actions that 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 is restructured. This can take a form of reopening the school as a charter school, replacing 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 to disaggregate this data into the following categories:

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

The state must also track and report on the quality of teachers and their equitable distribution in all schools, attendance, dropout information, and expulsions due to weapons. The Oregon Department of Education (ODE) has developed a student-level data collection system to meet the new requirements for school data.

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 U.S. 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 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 had to ensure that all teachers in core subjects met the state standard of highly qualified by the 2005-2006 school year. Core subject areas are english, math, science, the arts, second languages, and social science.

A "highly qualified" teacher has a state certification, has passed a state licensing exam in their content area, and holds a bachelor's degree. These requirements apply to all teachers, whether newly hired or those currently teaching, but do not apply to teachers with only an emergency license. Beginning in the 2002-2003

school year, districts were prohibited from using federal funds to hire new teachers who did not meet the "highly qualified" requirement.

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

States are allowed flexibility to develop their own tests and standards for teachers. 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 Junior Reserve Officer Training Corps teachers are not exempt from NCLB requirements if they teach core academic subjects.

Comments on NCLB

Polls and public hearings conducted by the Public Education Network in 2004 and 2006, showed that participants supported accountability but felt that the current NCLB accountability system was too narrow. They rejected the idea that a single test can create an accurate portrayal of how well a school is performing. The recommendations from the public included more community and parental involvement, use of improving student achievement over time for accountability, more support for low-performing students, and more investment in teacher preparation and ongoing support for teachers.

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 considered qualified. Rural area teachers who work where it is difficult to attract teachers may be called upon to teach several subjects or subjects for which they were not initially licensed. Many paraprofessionals are hired for their bilingual abilities and are without educational backgrounds. Additional flexibility has been provided for rural and special education teachers.

Adequate Yearly Progress: Some respondents asserted that the hurdle of AYP is too high and punitive. 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, are seen by some as a further drain on a school's ability to catch up. Use of federal funds for school improvement strategies is limited to Title I schools. Currently, non-Title I schools that have failed AYP do not have additional funds available at either the federal or state level.

Fourteen states asked the Bush administration in March 2004 for permission to use alternative methods for showing academic gains under NCLB. The 14 states, most of which had their own systems for raising academic performance in place before NCLB took effect, 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 under-funded mandates. Only a few cost studies have been attempted for NCLB. The requirements have hit some states harder than others—particularly those 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, as costs such as tutoring, additional transportation, and additional teacher education are unknown at this time.

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 a minimum of 95 percent participation in tests or else the school fails to meet AYP. Rules have been relaxed to allow a 95 percent average participation rate over 2-3 years. A student may

be excluded from a school's calculation in the case of a serious medical emergency. Oregon's online assessment system provided expanded opportunity to meet this requirement.

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

Special Education Students: Students with significant cognitive disabilities are 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 1 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 three, five, eight, and ten for its education reform act and has expanded these tests to meet federal requirements to include grades four, six, and seven. Oregon has a history of participation in NAEP testing. As part of a regular cycle of monitoring standards and assessments by the U.S. Department of Education, Oregon's standards and assessments were completely reviewed in 2006-2007.

Adequate Yearly Progress: In 2008-2009, 377 schools (29.9 percent) failed to make AYP. Data from the same period indicates that 882 of 1259 (70 percent) of elementary and middle and 141 of 315 (44.8 percent) of high schools met AYP.

During the same period, 70 Title I schools did not meet AYP in the same content area for two or more years and are subject to program improvement. Another five Title I schools are in program improvement for not meeting AYP for two years in a row, but met AYP this year. If these schools meet AYP for a second consecutive year, they will be removed from program improvement status. There are 31 more Title I schools identified as failing to meet AYP for 2008-2009 than for 2007-2008.

Report Cards: Oregon made a number of changes to its report card program to comply with federal law. House Bill 2263 (2007) incorporated all of the data required by NCLB into the state report card. Oregon continues to rate schools using its own criteria, so the federal rating may differ from the states, and both are on the card.

Highly Qualified Teachers: As of the 2008-2009 school year, ODE found 94 percent of all classes taught in public schools in Oregon have a “highly qualified teacher.” In classrooms where students have the same teacher all day, 98.2 percent have highly qualified teachers. The percentage of highly qualified teachers in high-poverty schools is 94.6 percent.

Nationally, according to the U.S. Department of Education, 97.5 percent of teachers in low-poverty, elementary classes are highly qualified. In low-poverty, secondary classes 96 percent of teachers are highly qualified. In high-poverty, elementary and secondary classes 94.9 percent and 89.6 percent of teachers respectively are highly qualified.

Assessment provider: Oregon’s online assessment system, the Technology Enhanced Student Assessment (TESA), was the subject of a contract dispute between ODE and the contractor, Vantage Learning. The dispute began in 2006 and culminated with the contractor’s decision to discontinue providing access to Oregon students to TESA in March 2007. ODE subsequently resorted to paper-and-pencil testing and there is an ongoing legal dispute between the ODE and Vantage Learning. ODE has since contracted with another vendor, American Institutes for

Research, for its online assessment. The current system was renamed to Oregon Assessment of Knowledge and Skills.

The 2007 Legislative Assembly enacted House Joint Memorial 3 requesting that the U.S. Secretary of Education and U.S. Department of Education work with Oregon authorities when determining if AYP was met for 2006-2007 if Oregon assessment scores or participation rates dropped to a level suggesting that disruption was caused by the discontinuation of service by the assessment contractor.

The 2007 Legislative Assembly also enacted Senate Joint Memorial 12 urging Congress to amend NCLB to provide a waiver for states with high student achievement and to exempt states from any provisions that are not adequately federally funded.

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