



March 2007

## **NCLB ISSUE BRIEF**

### **SINGLE ACCOUNTABILITY DESIGNATION FOR ADEQUATE YEARLY PROGRESS**

#### **CURRENT LAW**

NCLB makes states responsible for continuous student academic improvement, known as “adequate yearly progress” (AYP). State education departments must (1) design and secure U.S. Department of Education approval for school and school district accountability plans based on academic standards that states develop; (2) ensure that schools, in turn, are held responsible for their students’ academic performance; and (3) publicly report test results and test data analyses.

Schools are required to designate student subgroups and measure and report their academic progress. New York has designated these subgroups of students: all students; students with disabilities; economically disadvantaged; limited English proficient; white; American Indian/Alaskan; Asian; black; and Hispanic. A student may be classified as and their academic performance reported as part of more than one subgroup. Schools that fail to make AYP for poor academic performance for any one or more subgroups in any one subject (English language arts, mathematics, and a third, state designated subject) are treated under NCLB as if the entire school failed AYP achievement benchmarks.

States are required to conduct and report publicly on several different measurements of accountability under NCLB and other federal programs. Currently, state education agencies (SEAs) are required to measure and designate:

- Schools and districts In Need of Improvement for failing to make Adequate Yearly Progress (AYP) under Title I. (Adequate Yearly Progress is continuous improvement toward all students being academically proficient, i.e. performing at grade-level, by 2014. Title I mandates improving the academic achievement of disadvantaged students.)
- Schools and districts that do not meet requirements for highly qualified teachers (HQT) under Title I and Title II(a). (NCLB requires 100% of teachers of core academic subjects—English, mathematics, science, history, civics, geography, economics, the arts, and foreign language—to be highly qualified by the end of 2006-2007. To be highly qualified a teacher must have at least a bachelor’s degree, full state certification, and demonstrate knowledge of the subject they teach.)
- Districts that do not meet the state’s Annual Measurable Achievement Objective (AMAO) under Title III. (Title III mandates language instruction for limited English proficient (LEP) and immigrant students (English language learners, or ELL). AMAO is the level of performance that LEP and ELL students must demonstrate for a district to be deemed to have achieved AYP.
- Districts in Need of Assistance or Intervention under IDEA (Individuals with Disabilities Education Act, which governs special education). These determinations are made based on

graduation rates, drop out rates and scores on 4<sup>th</sup> and 8<sup>th</sup> grade mathematics and English Language Arts (ELA) assessments.

Often, schools and districts end up on more than one list and are sanctioned for poor performance in different ways, depending on which list they are on. Under NCLB the sanctions apply to the entire school or district, even though only one student subgroup may be underperforming academically in only one subject.

### **RECOMMENDATIONS**

- Permit states to use Title I criteria alone, including the assessments of student subgroups, to determine when a school or district is “in need of improvement.”
  - If a school district achieves Adequate Yearly Progress using Title I criteria for all its subgroups in all subjects—mathematics, English language arts and a third, state selected academic indicator (e.g. science or student attendance rate)—and meets the high school graduation rate, the district should not be sanctioned for its performance on any other measure under any other NCLB title or IDEA.
  - Accountability measures under NCLB Title III and IDEA should be used only to determine how to meet the additional needs of ELL and LEP students and special education students
  - Permit schools to report test scores to the public as letter grades that represent bands or ranges of scores rather than as precise numerical scores (e.g. scores ranging from 90.0-100.0 would equal an “A”). Numerical scores would continue to be reported to the SEAs and the U.S. Department of Education.

### **RATIONALE**

- Using a single set of measures to determine students’ academic performance would promote comprehensive planning, allow for more targeted remediation (intervention), and encourage more coordinated use of school and district resources. Using one accountability measure of academic proficiency for students in English language arts and mathematics would make the system easier for the public to understand and avoid the “list fatigue” that occurs when multiple designations are released over the course of the school year.
- Labeling an entire school in need of improvement and thus triggering school-wide interventions when only one subgroup may be in need of additional assistance is a waste of staff and fiscal resources at the state, district and school levels.
- Parents with school age children make decisions about where to live based on the academic performance of students in particular school districts. This, in turn, affects property values and the desirability of certain communities. Reporting scores to the public as letter grades would create a more equitable opportunity for communities to be selected as desirable places to live.

### **FACTS**

It is not clear that multiple measurements add additional value. School districts do not have the resources to devote to unnecessary remediation. In New York there is a large overlap in schools and districts placed on the various lists:

- Of the school districts that failed to make AYP under NCLB Title I, 40% also failed to meet requirements for highly qualified teachers, 60% also failed to meet the adequate measurable achievement objective for LEP students and 54% also failed to meet IDEA goals.
- Of the 828 schools that failed to make AYP in the 2005-2006 school year, 51% were designated in need of improvement due to the performance of only one subgroup, students with disabilities.

## **RESEARCH**

There is no conclusive research on this issue. However, the results of compliance with current law appear to support our recommendations. This is a sample of current research:

*Educational Measurement: Issues and Practice*. Winter 2005

*Educational Measurement* is the journal of the National Council on Measurement in Education. This special issue is devoted to empirical research on current accountability systems, i.e. their structure, their relationship to policy, and their impact on school reform movements.

*Standards for Educational Accountability Systems*. National Center for Research on Evaluation, Standards, and Student Testing. Robert Linn, et. al. Policy Brief 5. Winter 2002.

This policy brief highlights the components necessary for a fair accountability system as defined by measurement experts.

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## NCLB ISSUE BRIEF

### GROWTH MODELS FOR STATE ACCOUNTABILITY

#### **CURRENT LAW**

NCLB requires schools to show increases in the percentage of students reaching proficiency in reading and math toward the goal of having all students performing at their appropriate grade level by 2014. This is called making Adequate Yearly Progress (AYP).

States must use a “status model” to measure students’ academic progress. A status model measures progress by tracking improvement in the same grade over time. For example, a status model might compare the performance of students in fourth grade in a school in 2006-07 against the performance of a different group of students in fourth grade in 2005-06. In contrast, a “growth model” measures the scores of the same students over time. So, a growth model might measure the percentage of fourth grade students in a school in 2006-07 who are proficient compared to the percentage of those same students who were proficient when they were third graders in 2005-06. A growth model would allow schools to determine which individual students need remediation help and target assistance to those students.

Recognizing the potential of growth models for state accountability plans under NCLB, the U.S. Department of Education (USED) instituted a growth model pilot project in November 2005 under which it would approve up to 10 proposals. To date, Arkansas, Delaware, Florida, North Carolina and Tennessee have approved projects.

#### **RECOMMENDATIONS**

- States should have the option of using a growth model, a status model, or a combination of both as they develop assessment and reporting systems that can support those options.
- Use of a growth model should be permitted as an alternate to or an addition beyond the Safe Harbor provision of NCLB as a means to demonstrate Adequate Yearly Progress. Safe harbor allows a student subgroup to be considered as making AYP if it demonstrates at least a 10% reduction in the gap between having all students proficient and their performance in the prior year. Safe harbor saves schools from being designated as in need of improvement.
- Growth models should be based on students demonstrating progress toward proficiency in English language arts (ELA) and mathematics for graduation.

#### **RATIONALE**

- The status model, used currently, does not account for significant progress made by schools and districts with historically low levels of achievement.
- The goals of a growth model are to:

- ensure that states, districts, and schools can measure the degree to which students are making progress at a sustained rate so that students will achieve academic proficiency by the time of graduation from high school;
- provide states, districts and schools with information so they can better target resources to the districts, schools, and groups of students within schools that are not on track towards proficiency within an acceptable timeframe and have the most need for remediation assistance;
- ensure that schools and districts in which students may be underperforming but are making appropriate progress towards proficiency are not categorized as poorly performing.

By using both a status model and a growth model, states can better determine which districts and schools need targeted interventions and which can serve as models for moving the most challenged student groups towards proficiency.

- Measuring the same group of students from one year to the next indicates how each individual student is performing and progressing academically.
- USED should explore conducting a pilot project on “value-added” models for state accountability. A value-added model is a type of growth model that uses a student’s detailed background information and achievement data to predict growth and isolate the primary reason for a student’s academic progress or lack of progress.
- Governor Eliot Spitzer has proposed that New York use a growth model by the 2008-09 school year, subject to U.S. Department of Education approval.

## **RESEARCH**

There is no conclusive research at this time on this issue. Current practice appears to support these recommendations. Some of the research cited here discusses “value-added” models.

*Educational Measurement: Issues and Practice*. Winter 2005

*Educational Measurement* is the journal of the National Council on Measurement in Education.

This special issue is devoted to empirical research on current accountability systems, i.e. their structure, their relationship to policy, and their impact on school reform movements. As the U.S. Department of Education did not approve growth accountability systems at the initial implementation of NCLB, this is the first cut of research on the impact of states’ status models and testing policies. It is important work as it highlights both strengths and weaknesses of the first set of accountability systems and informs thinking as policy-makers weigh movement to growth systems.

*Value Added Models in Education: Theory and Applications*. Edited by Robert Lissitz (2005).

This work contains 10 chapters authored by measurement professionals exploring the impact and structure of value-added modeling. The work is highly technical and all articles contain research as well as statistical models that value-added research may employ. Of particular note are articles on the design and implementation of differing value-added models for the Dallas School District and Tennessee’s experience.

*Longitudinal and Value Added Modeling of Student Performance*. Edited by Robert Lissitz (2005).

This work contains 14 chapters that research and discuss the statistical methodologies that can be employed in value-added modeling for accountability systems. The book presents a variety of chapters regarding the theory and application of longitudinal (growth) modeling and value-added determinations of student achievement. The researchers who contributed to this work are recognized measurement experts from universities and testing houses.

*Standards for Educational Accountability Systems*. National Center for Research on Evaluation, Standards, and Student Testing. Robert Linn et. al. Policy Brief 5. Winter 2002

This policy brief highlights the components necessary for a fair accountability system as defined by measurement experts.

*Policymakers' Guide to Growth Models for School Accountability: How Do Accountability Model Differ*. Council of Chief State School Officers. October 2005

This policy guide clearly articulates the differences between status and growth models and explains the conditions necessary to evolve systems towards growth.

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## **NCLB ISSUE BRIEF**

### **TARGETED INTERVENTIONS AND DIFFERENTIATED CONSEQUENCES FOR SCHOOLS AND DISTRICTS IDENTIFIED AS IN NEED OF IMPROVEMENT**

#### **CURRENT LAW**

Under NCLB, states must use a school's failure to make Adequate Yearly Progress (students' continuous academic improvement) for two consecutive years as a determinant that the school is not on track to achieve universal proficiency by the 2014 school year, and thus should be labeled "in need of improvement". Schools may be designated in need of improvement if one or more subgroups of students (e.g. Hispanic, students with disabilities, limited English proficient) do not meet targets for improved academic performance or if less than 95 percent of students in a subgroup take an assessment (this is called the participation rate). The participation rate requirement keeps schools from selectively eliminating students (e.g. students with disabilities or limited English proficient) from taking an assessment.

States publicly identify schools in need of improvement. The schools are required to develop and submit a plan outlining a series of reforms designed to lead to improved academic performance. As the years pass, provisions of NCLB are triggered that initiate a series of mandated school choice options and school district interventions. During the first year of identification as in need of improvement (after a school's second consecutive year of missing an AYP target), NCLB requires the district to offer students the option of transferring to another public school not identified as in need of improvement (this is called school choice). After the second year of a school's being labeled in need of improvement (three consecutive years of failing to meet AYP), low income students must be offered free supplemental educational services (SES), such as tutoring, in addition to school choice.

NCLB assumes all students in a school designated as in need of improvement need remedial help even though only one subgroup of students may have fallen short of the AYP target. School districts are required to set aside up to 20 percent of their Title I program funding to implement school choice and SES for low-income students. They do not have to offer SES or school choice beyond what can be supported by that 20 percent and funds that are set-aside, but not used, can be returned to the general education program.

#### **RECOMMENDATIONS**

- States should not be required to impose NCLB mandated sanctions (school choice and supplemental educational services) on schools or districts because of the failure of one or several subgroups of students to meet Adequate Yearly Progress targets.
- Schools should be able to target remediation, or interventions, based on the nature and extent of their failure to make Adequate Yearly Progress.
- Schools and districts should have the flexibility to decide when and in which order to offer school choice and supplemental educational services. Schools should be allowed to work with parents to determine which option best meets family and student needs and when to implement it.

- Additional, targeted funding should be provided to school districts for implementation of school choice and SES.

### **RATIONALE**

- Not all schools that fail to make AYP have systemic problems requiring school-wide interventions. Interventions such as school choice and supplemental educational services should be given first to the students who are underperforming academically. For example, if students with disabilities fail to meet AYP targets, resources and remediation should be focused on those students.
- Some school districts, particularly those in inner cities, which must offer school choice have only a few schools or no schools that are not also in need of improvement to which to send students. For example, most of New York's smaller districts may have only one high school; if it is identified as in need of improvement there is no other place to send the students. Or a small city may have two middle schools; if one is identified, often the other is too. In New York City, there are too many students eligible for school choice and too few schools that are making Adequate Yearly Progress to accommodate them. It would be more efficient and effective to allow school districts to determine whether and how to implement school choice and SES, depending on their circumstances.
- There is a distinction between a school district's failing to make AYP for an inadequate participation rate and failing for students' academic performance. If a district is cited for an inadequate participation rate, there is no way to determine from this how students are performing academically. Yet, NCLB requires that states impose school-wide interventions for failure to meet the 95 percent participation rate mandate.

### **FACTS**

- In New York, preliminary data show that for the 2005-06 school year, 37 percent of the schools identified as in need of improvement were so designated because of the underperformance of one subgroup: students with disabilities, and 51 percent were designated because a single subgroup, mostly, students with disabilities, underperformed on the grades 3-8 English Language Arts exams.

### **RESEARCH**

There is no conclusive research available on this issue.

- In November 2003 the U.S. Department of Education awarded over \$600,000 to the Center for School Change at the University of Minnesota's Hubert Humphrey Institute and the National Governors Association Center for Best Practices for a three-year project to help states develop the most effective and efficient ways to create and administer school choice systems that will produce improved student achievement.
- In 2005 the U.S. Department of Education instituted a pilot program that allowed the Boston public schools and the Chicago public schools to become supplemental educational services providers. (NCLB does not allow schools in need of improvement to use its staff to provide SES.)
- Also in 2005, USED allowed four school districts in Virginia to reverse the required order of offering school choice first, then SES by offering SES first.

- USED invited all states to apply for the school choice/SES pilot program on behalf of their school districts for the 2006-07 school year.
- USED has not yet published the results of these pilots.

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## NCLB ISSUE BRIEF

### ASSESSING LIMITED ENGLISH PROFICIENT AND ENGLISH LANGUAGE LEARNER STUDENTS

#### CURRENT LAW

NCLB requires states to administer an English language arts (ELA) assessment to Limited English Proficient (LEP) and English language learner (ELL) students who as of January 3, 2007 have been enrolled in school in the United States, excluding Puerto Rico, for one year or more.

#### RECOMMENDATIONS

Revise assessment systems and accountability practices for Limited English Proficient and English Language Learner students:

- Recognize that LEP/ELL students have differing educational needs (language and grade levels)
- Identify specific accountability subgroup populations within the LEP/ELL population, e.g. newly arrived, native born and students with interrupted formal education (SIFE). Use appropriate assessment(s) for each designated population within the single LEP/ELL subgroup.
- Provide states the flexibility to determine through research at what point in their education LEP/ELL students would be expected to take the English language arts (ELA) assessment.
- Provide fiscal and programmatic incentives to states to implement best practices that utilize the native language of LEP/ELL students as assets rather than liabilities through increasing their English language skills while at the same time promoting multilingual skills for English-speaking students.
- Provide incentives to states to implement programs at the elementary and secondary levels that have been demonstrated to be effective in increasing the achievement level of LEP/ELL students.
- Provide adequate funding to support services and programs for LEP/ELL students, including: professional development for teachers, teacher training and recruitment, program development and evaluation, student services and support for school staff and parents.
- Allow LEP/ELL students who enter the country at the high school level more than four years to graduate and be counted for accountability.

#### RATIONALE

U.S. census figures and statistics show that LEP/ELL students are the fastest growing subgroup of school age population in the country. However, under NCLB the LEP/ELL population has made little or no academic progress on state assessments. LEP/ELL students have the highest dropout rate for high school students and the lowest graduation rate in the nation.

States need the flexibility to design and implement testing and accountability policies suited to the LEP/ELL populations they serve. For example, two issues that must be considered when developing a testing policy for LEP/ELL students are that students have not all been in the U.S. the same length of time, and when they enter the school system they arrive with different levels of proficiency in both their native language and English.

The goal must be to provide LEP/ELL students the programs and support they need to enable them to learn English while maintaining and improving their native language skills. They will be better equipped to participate in the global, multilingual community.

**FACTS**

- Number of LEP/ELL students in New York: 192,425

**Distribution of 2006 LEP/ELL Students by Grade Level**

<b>Grade</b>	<b>Number</b>	<b>Percent</b>
K	24,102	12.5
1	25,632	13.3
2	23,046	12.0
3	18,860	9.8
4	14,896	7.7
5	13,227	6.9
6	10,925	5.7
7	12,111	6.3
8	12,118	6.3
9	14,148	7.4
10	12,659	6.6
11	6,808	3.5
12	2,667	1.4
Ungraded K-6	818	0.4
Ungraded 7-12	277	0.1
Unspecified	131	0.1
<b>State Total:</b>	<b>192,425</b>	<b>100.0</b>

- The vast majority of New York’s LEP/ELL student population is in New York City (134,300 students or 69.8% of all LEP/ELL students).
- The largest number of LEP/ELL students are in the early grades: K-3 (between 18,000 and 26,000 in each grade); an average of 12,000 in grades 3-10; fewer than 7,000 in grade 11; and fewer than 3,000 in grade 12.
- The 2006 New York LEP/ELL student population reported over 160 home languages. Top 10: Spanish (58.8%); English (6.2%); Chinese (2.2%); Bengali (2%); Arabic (1.9%); Russian (1.8%); Haitian Creole (1.7%); Korean (1.1%); French (0.8%); Albanian (0.7).
- In 2006, only 34.2% of all New York’s LEP/ELL public school students scored “proficient” on the state’s language acquisition exam. Just over 40% scored “advanced;” close to 19% scored “intermediate;” and 6.6% scored “beginning.”

**RESEARCH****How long does it take to learn English?**

*The most frequently asked question of English as a Second Language professionals by mainstream teachers, administrators, and even politicians concerns how long it should take English language learners to acquire English, by Judie Haynes*

The most comprehensive work done in this field is the research conducted by Wayne Thomas & Virginia Collier. Thomas & Collier studied the language acquisition of 700,000 English language learners in a longitudinal study from 1982 to 1996. They wanted to find out how long it took students with no background in English to reach native speaker performance (50th percentile) on norm-referenced tests [norm-referenced tests measure student performance against the averaged performance of various comparison groups, such as students of the same grade, age, gender, racial/ethnic group or economic class]. In addition, they looked at variables such as socioeconomic status, first language, programs used to learn English, and number of years of primary language schooling. In their study, Thomas & Collier found that *the most significant variable in how long it takes to learn English is the amount of formal schooling students have received in their first language.*

- Students who were between 8-11 years old and had 2-3 years of native language education took 5-7 years to test at grade level in English.
- Students with little or no formal schooling who arrived before the age of eight took 7-10 years to reach grade level norms in English language literacy.
- Students who were below grade level in native language literacy also took 7-10 years to reach the 50th percentile. Many of these students never reached grade level norms.

This data holds true regardless of the home language, country of origin, and socioeconomic status. (Thomas & Collier, 1997).

**Early Childhood Education**

Baker, C. (2000) *A parent's and teacher's guide to bilingualism*. Tonawonda, NY: Multilingual Matters, Inc. [NCELA Resource ID: [BE020884](#)]

This book provides readers with a list of the advantages of being bilingual, which include: wider communication (extended family, community, international links, employment); broader in-culturation, a deeper multiculturalism, and two "language worlds" of experience; greater tolerance and less racism; sensitivity to communication; raised self-esteem; secure identity; increased curriculum achievement, and employment benefits.

Barnett, S., Yarosz, D., Thomas, J., & Blanco, D. (n.d.).

Two-way and monolingual English immersion in preschool education: An experimental comparison. National Institute for Early Education Research (NIEER) New Jersey: New Brunswick. <http://nieer.org/resources/research/TwoWay.pdf>

This study focused on the implementation of bilingual program models, such as two-way immersion programs, and their effect on bilingual and English language acquisition in young children. The results of the study showed that children in two-way immersion made similar gains to those in monolingual English immersion programs.

## **Accommodations**

Sireci, S. G., Li, S., & Scarpati, S. (2003). *The Effects of Test Accommodations on Test Performance: A Review of the Literature*. (Center for Educational Assessment Research Report number 485.) Amherst, MA: University of Massachusetts.

<http://www.education.umn.edu/NCEO/OnlinePubs/TestAccommLitReview.pdf>

This document provides an in-depth review of research pertaining to the use of accommodations for students with disabilities and English language learners. The authors note that most studies on accommodations for ELL students focus on the psychometric properties of accommodated tests while their study focuses on the effects of accommodations on test performance. The review identifies and describes 12 studies involving the test performance of ELL students; the results are somewhat inconclusive, although there is some general agreement pertaining to simplified English and the use of glossaries.

Albus, A., Bielinski, J., Thurlow, M., & Liu, K. (2001). The effect of a simplified English language dictionary on a reading test. (LEP Projects Report 1.) Minneapolis, MN: University of Minnesota, National Center on Educational Outcomes.

<http://education.umn.edu/nceo/OnlinePubs/LEP1.html>

The study examined whether the use of monolingual simplified English dictionary as an accommodation on a reading test improved the performance of middle school Hmong ELL students as opposed to their regular education peers. Students were administered two reading passages with the dictionary available and two without the dictionary: 96% of students felt an English dictionary would help them.

## **Secondary English Language Learners**

Advocates for Children of New York and the New York Immigration Coalition. (2002, June). *Creating a formula for success: Why English language learner students are dropping out of school, and how to increase graduation rates*. New York, NY: Author.

<http://www.advocatesforchildren.org/pubs/formulaforchange.doc>

This report provides an overview of statistical data collected and maintained by the New York City Board of Education (NYCBOE) and New York State Education Department documenting the rise in school dropout rates among English language learners (ELLs) and their educational outcomes. In addition to city and state data, the report also incorporates students' voices about these topics. The report suggests the State Education Department and the NYCBOE failed to provide adequate support services and educational intervention services in accordance with established laws and policies to ensure the school success of ELLs. The report also includes recommendations to improve the education of ELLs and increase graduate rates and lower dropout rates.

Coady, M., Hamann, E. T., Harrington, M., Pacheco, M., Pho, S., & Yedlin, J. (2003). *Claiming opportunities: A handbook for improving education for English language learners through comprehensive school reform*. Providence, RI: The Education Alliance at Brown University.

[http://www.alliance.brown.edu/pubs/claiming\\_opportunities/index.shtml#download](http://www.alliance.brown.edu/pubs/claiming_opportunities/index.shtml#download)

This document seeks to address a disconnect between comprehensive school reform (CSR) and English language learner (ELL) educational reform by presenting the existing research on both CSR and ELL educational reform and suggesting how the two educational improvement efforts can be integrated. It provides information, strategies, and tools for using the No Child Left

Behind Act's Comprehensive School Reform program as an opportunity to make schools more responsive to and responsible for ELLs.

### **Resources About Newcomer Programs**

Short, D. (1998). *Secondary newcomer programs: Helping recent immigrants prepare for school success*. <http://www.cal.org/resources/digest/short001.html>

This digest reports on data collected through a study of secondary newcomer programs; it introduces the common factors and range of practices found in secondary newcomer programs across the United States, and describes how schools are meeting the needs of immigrant students, many of whom are placed below the expected grade level for their age. It discusses the needs of secondary immigrant ELLs who must learn English, take the required content courses, and catch up to their native-English-speaking peers before high school graduation.

Suarez-Orozco, M. (2001). *Globalization, immigration, and education: The research agenda*. *Harvard Educational Review*, 71, 345-365. [NCELA Resource ID: [BE022309](#)]

This article examines conceptual and empirical work on immigration and globalization, highlighting scholarly issues pertinent to the education of immigrant children. Most research indicates that some immigrant children will thrive in the era of globalization and are academically outperforming native-born children. However, many immigrant students attend inadequate schools and are not getting the education needed to navigate today's global economy. The paper recommends research on globalization and work, globalization and identities, and globalization and belonging.

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## NCLB ISSUE BRIEF

### ASSESSING STUDENTS WITH DISABILITIES

#### **CURRENT LAW**

Title I, Part A, Section 1111(b)(3) – Academic Assessments

- States are required to implement academic assessments in mathematics, reading or language arts and a third state selected indicator (in New York, science) to be used as the primary means of determining Adequate Yearly Progress (AYP) (students' continuous academic improvement toward 100 percent proficiency in 2014).
- Alternate assessments may be used for students with the most significant cognitive disabilities, which 34 C.F.R. §200.13(c)(1)(ii) presently limits to 1 percent of all students in the grades assessed.

#### **RECOMMENDATIONS**

Revise assessment systems and accountability practices for students with disabilities:

- Allow states to develop modified assessments that measure the performance of a student with a disability toward modified state standards at the student's appropriate instructional level, as designated by the Individualized Education Program (IEP) team. These assessments should be designed to show what students know and to measure their growth over time.
- Allow certain students with disabilities to participate in general education assessments based on general education learning standards that align with their instructional levels rather than their chronological age. The assessment levels should be determined by the IEP team and may be different levels for different content areas.
- Establish a lower expected threshold for improvement for students with disabilities or authorize states to establish their own realistic and appropriate benchmark targets for incremental performance improvement to be applied uniformly at the state, district and school levels.
- Authorize states to establish a threshold for the percent of students with disabilities that should be scoring at the proficient and advanced levels on alternate and modified standard assessments as well as instructional-level assessments that are not aligned with students' current grade level or with their chronological age. States should justify their decisions to the U.S. Department of Education (USED) when a threshold exceeds three percent of the total population tested.
- Continue to allow states to include the proficient scores of students with the most significant cognitive disabilities based on alternate assessments in its calculations of AYP, provided that such scores do not exceed one percent of all students tested in the grades assessed in reading/language arts and in mathematics.

- Direct USED to conduct research to identify the characteristics of the modified assessment population of students (e.g., the 2-3 percent) to ensure consistency of criteria across IEP teams, school districts and states.
- Permit states to include as a third indicator of meeting AYP targets assessments that measure modified learning standards at the high school level reflecting postsecondary goals of competitive employment and independence when a regular high school diploma is not an appropriate outcome given the nature and severity of a student's specific disability.

## **RATIONALE**

NCLB does not ensure appropriate assessment options for the range of instructional levels and abilities of students with disabilities. Subjecting students at specific chronological ages to grade-level assessments that are measuring skills well beyond their capabilities and that do not reflect content that they have actually been exposed to is not true participation and does not provide meaningful data to measure progress toward the standards.

Holding schools and school districts accountable for inappropriate achievement standards does not recognize the true value of a student's educational program and does not serve to challenge schools to improve results for students with disabilities. As a result, students with disabilities are tested on what they have never been taught instead of being able to demonstrate what they have learned.

The U.S. Department of Education's (USED) proposed regulatory language regarding a modified standards and assessment option for an additional 2 percent of students (above the 1 percent of the most cognitively disabled) is not responsive to this issue, as it requires an assessment based on grade-level content standards with reduced depth and breadth that leads toward a regular diploma.

Students in special education have a wide range of instructional levels, including those who learn at variable rates but can achieve a regular diploma, and those whose developmental disabilities result in a cognitive range that exceeds the alternate assessment levels—the 1 percent of the most cognitively disabled—but does not equal their nondisabled peers. This latter group constitutes students who require modified standards that may focus on career and technical programs leading to competitive employment rather than modified grade-level content that leads to a regular diploma.

If, as USED has indicated, modified learning standards and assessments must both simplify the required general education content and lead to a regular diploma, it is, in essence, requiring a reduction in states' graduation criteria for a portion of the population. This exceeds the federal authority to dictate a state's graduation standard.

## **FACTS**

- In the 2005-06 school year in New York, 7,205 students with significant cognitive disabilities participated in the alternate assessment at the elementary, middle and high school levels. This is 0.9 percent of all enrolled students tested on elementary level examinations and 0.8 percent of all students tested on middle level examinations.
- New York assessment data shows that even in low and average need school districts where there is a higher level of expenditure per pupil, between 2 and 3 percent of the total population tested are students with disabilities with intellectual and cognitive disabilities that

do not permit them to master the state's general education learning standards even with appropriate instruction. The results in these high resource districts show a lack of performance at the proficient level and failure to graduate with a regular diploma at a rate that generally exceeds 3 percent of the population.

## **RESEARCH**

- On December 15, 2005, USED published in the *Federal Register* (Volume 70, Number 240) proposed rules to amend regulations under NCLB Title I regarding school accountability for students with disabilities beyond those students with significant cognitive disabilities (1 percent of the total population) identified for participation in the alternate assessment. The notice stated "...recent research indicates that there are other students, who, because of their disability, have significant difficulty achieving grade-level proficiency, even with the best instruction." The proposed regulations would permit States to develop modified achievement standards and assessments to address the needs of this segment of students with disabilities.

The federal notice further stated, *"the best available research and data indicates that 2 percent, or approximately 20 percent of students with disabilities, is a reasonable cap."*

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## NCLB ISSUE BRIEF

### HIGHLY QUALIFIED TEACHERS

#### CURRENT LAW

NCLB, Title I, Part A, Section 1119 – Qualifications for Teachers and Paraprofessionals

- Local education agencies (LEAs), i.e. school districts, must hire only highly qualified teachers to teach core academic subjects in schools receiving Title I (Improving the Academic Achievement of the Disadvantaged) funds starting in the fall of 2002.
- LEAs and state education agencies (SEAs) must have plans in place to ensure that:
  - 100 percent of teachers of core academic subjects are highly qualified by the end of 2005-2006, although the U.S. Department of Education (USED) extended the deadline to the end of 2006-2007, and
  - Teachers receive high quality professional development to enable them to be highly qualified and successful classroom teachers, with professional development defined in section 9101(34).

NCLB Title I, Part A, Section 1111 – State Plans

- SEAs must ensure that, through transfers, providing professional development, recruitment programs, or other effective strategies, low-income students and minority students are not taught by unqualified, out-of-field, or inexperienced teachers at higher rates than other students.

**Core Subjects.** Core academic subjects include English, reading or language arts, mathematics, science, history, civics and government, geography, economics, the arts and foreign language. Teachers of students with disabilities and students who are English language learners (ELLs) must be highly qualified if they teach core academic subjects.

**Definition of Highly Qualified Teacher.** Section 9101(23) requires highly qualified teachers to: (1) have a bachelor's or higher degree; (2) be fully state certified, as defined by the state; and (3) demonstrate that they know the subject(s) they are teaching using one of the ways prescribed in section 9101(23). Teachers can demonstrate subject knowledge with college courses, state examinations or, in some cases, a "high objective uniform state standard of evaluation" (HOUSSE). Each state can create its own HOUSSE based on coherent and objective information about a teacher's teaching experience, college courses, professional development and evidence of subject knowledge. The HOUSSE is an option only for veteran teachers, new special education teachers and new teachers in rural LEAs.

**Accountability.** Section 2141 of the NCLB establishes an accountability system for teacher qualifications that requires states to set predetermined targets, or Annual Measurable Objectives (AMOs) for LEAs and to intervene when an LEA fails to meet its AMOs and fails to meet Adequate Yearly Progress (AYP) for student achievement. States must impose sanctions on LEAs that do not meet AMOs and AYP, including collaborative planning and, at worst, restrictions on an LEA's use of federal funds.

**RECOMMENDATIONS**

- *Feasible Targets.* Set feasible targets for all teachers of core academic subjects to be highly qualified. Clarify that an SEA or an LEA will not face financial penalties or restrictions on its use of federal funds if it has 95 percent of core classes taught by highly qualified teachers and all teachers who are not highly qualified are on track to become highly qualified within three years.
- *HOUSSE.* Clarify that SEAs and LEAs may continue to use HOUSSE for determining whether veteran teachers, new special education and new rural teachers are highly qualified.
- *Equitable Distribution of Teachers.* Retain flexibility for states to define inequities in the distribution of highly qualified teachers as it applies to their state's circumstances.
- *Teacher Effectiveness.* Provide financial incentives for states to pilot different definitions of teacher effectiveness and to implement comprehensive approaches in high-need schools that include innovative teacher preparation and recruitment, better working conditions, professional time for planning and collaboration and instructional career ladders.
- *Innovation.* Provide more funds for NCLB Title II, Part C programs for innovative teacher recruitment, such as Troops to Teachers and Transition to Teaching. Provide financial incentives to states to pilot definitions and accountability systems for effective school and district leaders.
- *Accountability.* Preserve the flexibility that enables SEAs to work with LEAs that do not meet AMOs (Annual Measurable Objectives) and AYP (Adequate Yearly Progress) to develop credible plans for improvement in the context of each LEA's needs and circumstances. Provide SEAs with more funds for interventions with LEAs and to develop comprehensive, longitudinal (growth model) data systems that track individual student academic performance over time.
- *Professional Development.* When scientifically-based or evidence-based research, as defined by the U.S. Department of Education's (USED) Institute for Education Sciences (IES), is not available for a specific professional development need, permit the highest level of available research to be used as the basis for the professional development. Provide additional funding to renew or develop online courses, with priorities for courses in high-need content areas (such as inclusive classrooms with general education and special education students and English language learners) and courses for paraprofessionals. Permit federal professional development funds to be used for Public Broadcasting System's TeacherLine and Ready to Teach products
- *Funding Levels and Allocation Formulas.* Fully fund Title I and Title II. Change the Title II, Part A allocation formula to enable SEAs to target funds to LEAs that are the farthest from meeting teacher quality goals. Retain factors for population and poverty, eliminate the "hold harmless" provision for funding, add a "rural" factor to target funds to sparsely populated areas that have difficulty recruiting and retaining teachers, and give SEAs flexibility to adjust the weights for each factor in the formula.
- *Evaluation.* Revise the Higher Education Act Title II reporting requirements, which require states to report on teachers with "waivers" (those who are not certified) by subject area, so

they match the NCLB reporting requirements, which require states to report on the number of core classes not taught by highly qualified teachers.

## **RATIONALE**

NCLB will be more effective at attaining its important student achievement and teacher quality goals if it sets feasible goals and provides more resources and flexibility for reaching them while continuing to hold states and school districts accountable.

## **FACTS**

**Teacher Shortages.** New York may not have enough qualified teachers in all subject areas and geographic regions to reach NCLB's teacher quality goal by the end of school year 2006-2007.

- In 2005-2006, teachers who did not meet the definition of highly qualified taught 5.5 percent of classes in core academic subjects in New York, compared to 7.9 percent in the prior year. However, in 2005-2006, teachers who were not highly qualified taught 8.1 percent of core classes in high poverty elementary schools and 17.4 percent of core classes in high poverty middle and secondary schools. Teachers in high poverty schools were less likely than other teachers to be highly qualified because they were less likely to be appropriately certified for what they were teaching, and, in New York City, were less likely to have had prior teaching experience.
- In 2005-2006, there were shortages of certified teachers in many subjects, with the most prevalent core subjects being the arts, languages other than English, and mathematics. There were also severe shortages of teachers for students with disabilities in middle and secondary grades. New York City and two of the other large cities (Syracuse and Rochester) had the largest gaps, but there were some shortages in nearly every region. In some subjects, New York did not certify enough new teachers to fill vacancies for them. In addition, not every certified teacher is available to teach wherever there is a vacancy.
- In 2005-2006, 43 percent of teachers in New York were age 45 or more, with 17 percent of them over age 54. Demand for new teachers will persist as these baby boomers age out of the workforce and as new policies expand early childhood education, reduce class size and provide tutoring and other support to help every student succeed.

**Importance of Innovation.** P-16 partnerships are effective in addressing teacher shortages. For example, a federally funded partnership of the State Education Department, the New York City Department of Education and independent colleges and universities in the New York City area yielded hundreds of new teachers in shortage areas for New York City. It is not known yet whether this model can be extended to other regions without needing funds to do it.

**New Approaches to Accountability.** New York has comprehensive policies that promote teacher quality from preparation through certification, first year mentoring, professional development and annual professional performance reviews. In addition, Governor Eliot Spitzer has called for new approaches, such as Contracts for Excellence, new tenure standards and a review of the effectiveness of teacher preparation programs. Resources are needed to test and refine new approaches.

## **RESEARCH**

### **Why teacher quality resources should be targeted to schools and districts where they are needed most**

Nationwide, low-income and minority students are more likely than other students to be in high-need schools with fewer qualified, in-field and experienced teachers. (Peske and Haycock, 2006). Teachers continue to leave these schools at higher rates than teachers at any other type of school (Marvel 2006). In New York, three large cities with high percentages of low-income and minority students are more likely than other schools to have out-of-field teachers and, in the case of New York City, inexperienced teachers (New York State Education Department, forthcoming). NCLB must permit states to target teacher quality funds to the districts and schools where they are needed most.

### **Why states need funds to develop comprehensive, longitudinal data systems**

The Data Quality Campaign is an organization supported and endorsed by dozens of educational and other national organizations. Its 2006 survey found that only one state, Florida, had an educational data system that met its national standards. Standards and survey results are at [http://www.dataqualitycampaign.org/survey\\_results/](http://www.dataqualitycampaign.org/survey_results/).

### **Why funds are needed to promote innovative approaches to teacher preparation and recruitment**

NCLB's Transition-to-Teaching program has provided seed money in many states for dozens of projects that enable high-need districts recruit and retain highly qualified teachers through alternative teacher preparation and certification. Performance reports are at <http://www.ed.gov/programs/transitionteach/performance.html>. As alternative teacher preparation models gain the credibility and recognition they deserve, interest in them is increasing. For example, Governor Spitzer seeks to increase opportunities in them in New York. Seed money enables programs to start with enough strength so they can continue when external funding ends.

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