

Policy Implications of the No Child Left Behind Act of 2001

The No Child Left Behind Act of 2001 (NCLB) requires boards of education to change some of their policies or to adopt new policies. This can be a daunting task, complicated by the fact that not all districts will be equally affected depending on which federal funds the district receives and which federal programs in which the district participates. Federal regulations are still forthcoming.

School districts can use the following partial list as starting point. *(CABE policy codes in parentheses. Some policies may also have accompanying administrative regulations or forms. These are available upon request from member districts.)*

Admissions: Admission policies must be free of any barriers to enrollment by homeless children. (5111, 5118.1, 0521, 5141)

Discipline: NCLB §4114 requires districts to have a code of conduct that maintains a workable learning environment. Specifically, districts must have discipline policies that prohibit disorderly conduct, illegal possession of weapons, and the illegal use, possession, distribution and sale of tobacco, alcohol and other drugs by students. Districts must also report weapons offenses to local law enforcement officials. (5114, 5131, 5131.6, 5131.7, 5144)

Facilities: NCLB §4303 and §9525 specify that if the district has a designated open forum or limited public forum that allows groups to use district facilities it must afford the Boy Scouts and other similar groups to use facilities as well. The district must also prohibit all indoor smoking or face civil penalties. (1331, 6145)

Health Services: Title X, Part F §1061 specifies that the district must adopt policies concerning the administration of physical exams or screenings and notify parents of any non-emergency, invasive physical examinations or screenings of students that are required as a condition of attendance and that they have the option of opting their child out. This does not include hearing, vision and scoliosis screenings or screening required by the state for enrollment purposes. (6162.51)

Homeless Students: Title X, Part C of NCLB requires districts to adopt policies to ensure that homeless children and youth are not segregated or stigmatized, are provided transportation as necessary, and that all educational decisions are based on the best interest of the child. The district must also designate a homeless coordinator, regardless of whether they receive federal funds under this Act, provide parents with a written notice of a right to appeal placement decisions, and remove any enrollment barriers from current policies. Most significantly, unless the forthcoming regulations state otherwise, it appears that the definition of homeless has been significantly broadened to include children living in “trailer parks” and “substandard housing.” (5118.1)

Internet Safety: Section 2441 requires any district not already subject to the Children’s Internet Protection Act (CIPA), to adopt a policy on internet safety and install filtering devices. (6141.321, 6141.323)

LEP, Limited English Proficient Students: NCLB §1112 and Title III requires districts to adopt a parental involvement policy for all parents who have students participating in language programs. NCLB also requires notice to parents when their children are placed in an LEP program and their options concerning this placement. LEP students must be annually assessed for English proficiency and must participate with other students in math and reading/language arts assessments. Students who have been educated in the U.S. for three years must take the reading/language arts assessment in English. Districts that receive sub grants from the state must certify that teachers in the program are fluent in English as well other languages used for instruction. (6141.311)

MEP, Migrant Education Programs: NCLB, §§1301-1309, only addresses requirements of state plan for migrant programs. Local districts should be on the alert for state-issued requirements. The new law does specify that districts must have parent involvement policies for parents of children receiving MEP services just as they do for parents of students receiving other Title I services. (6141.312)

Paraprofessional Qualifications: Section 1119 requires all paraprofessionals hired after January 8, 2002 teaching in a program funded under Title I, Part A must have a secondary diploma or its equivalent and:

- Have completed at least 2 years at an institution of higher ed, or
- Obtained an associates degree or higher, or
- Have passed a rigorous state or local assessment demonstrating knowledge of and ability to assist in teaching math or math-readiness, reading or reading-readiness, and writing or writing-readiness

Already employed paraprofessionals must meet these requirements within four years, however, there is an exception for those who work as translators or whose duties exclusively consist of conducting parent involvement activities. (6159.1)

Parent Involvement Policies: Section 1118 of NCLB mandates that districts must adopt parent involvement policies for parents of all students in Title I programs including LEP and migrant programs. (6172.4, 6172.41)

Prayer: NCLB §9524 Districts must certify to the State Department of Education that they have no policies restricting a student’s constitutionally protected right to pray as defined in the policy guidance provided by the U.S. Secretary of Education.

Report Cards: NCLB §1111 indicates that local districts must distribute report cards identifying:

- The same types of data required on the State report card
- The number and percentage of schools identified for improvement and how long they have been so identified

- Information on how students in the district did on statewide assessments compared to state as a whole

Each school within a district must distribute a report card identifying:

- The same types of data required on the State report card
- Whether the school has been identified for improvement
- Student achievement on statewide assessments compared to local district as a whole and state as a whole
- Other indicators of adequate yearly progress compared to the local district as a whole and state as a whole

Districts can use existing report cards with modifications as necessary and may include additional information in the report cards not required by law.

School Improvement: All schools identified for improvement, as indicated in §1116, must notify parents that they have been so identified, what the identification means, and what options the parents have because of the identification. These options may include the ability to transfer from a failing school to another school in the district that is not failing or to receive supplemental educational services at district expense. A district that continually fails to meet performance standards will be required to take other action as well. (5117.1)

Sex Education: NCLB §9526 states that school districts cannot use any funds authorized under NCLB for programs or materials that promote any sexual activity, to distribute legally obscene materials to minors at school, to provide human sexuality or HIV-prevention education unless it is age appropriate and includes the health benefits of abstinence, or to distribute contraceptives. (6142.1)

Student Privacy/Surveys: The Protection of Pupil Rights Amendment (PPRA) currently mandates that students cannot be required to respond to surveys or evaluations funded by U.S. Department of Education money if they pertain to certain subjects. The NCLB, §1061, added, “religious practices, affiliations, or beliefs” to those subjects and requires districts to adopt policies governing surveys by third parties as well. NCLB also requires the district to provide notification and an opt-out option to parents if it collects, discloses or uses personal information obtained from students for marketing purposes or discloses the information to others who will market the information. (6162.51)

Student Records: The NCLB in §9528 makes clear that even though assessment results are publicly reported in a number of ways, reporting of individual results is still covered by the Family Educational Rights and Privacy Act (FERPA). The new law also amends FERPA by requiring districts to release student names, addresses, and telephone numbers to military recruiters and recruiters from institutions of higher education. The district must notify parents that it will release the information unless parents specifically object. (5125, 5145.14, 5145.15))

Teacher Qualifications: NCLB in §§1111,1119, 9101 (11) and (23) states that districts must provide notice to parents of all students at any school receiving Title I funds at the beginning of each school year that they can request information about the professional

qualifications of each teacher. Additionally, all teachers hired beginning with the first day of the school year following the date of enactment of NCLB teaching in a program funded under Title I, Part A must be “highly qualified” and all teachers of core areas must be “highly qualified” by 2005. Core subjects are English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, the arts, history, and geography. The definition of highly qualified varies depending on whether the individual is a current teacher or new to the profession. However, the basic idea is that “highly qualified” teachers are those that have a proper education and are certified by the state or are in the process of obtaining that certificate. (4112.6)