

An Overview of "No Child Left Behind"

Public Law 107-110, the No Child Left Behind Act of 2001, is one of the most comprehensive education reform plans ever passed by the U.S. Congress. This 1,200 page document significantly impacts public education. While the former Elementary and Secondary Education Act ("ESEA") was the province of mostly large urban and low-income districts and federal program coordinators, reauthorization of ESEA as it was revised by NCLB, profoundly affects all school districts. The following is an overview of some of the major requirements of this comprehensive new law.

Testing, adequate yearly progress and consequences

❖ Testing and meeting AYP

The law requires all public school students in grades three through eight as well as one year in the 10th-12th grade span to take state-administered tests in reading/language arts and math no later than the 2005-06 school year. Beginning in the 2007-2008 school year, a science assessment annually must be added in each of the following grade spans: 3-5, 6-8, and 10-12. Connecticut will assess science in grades 5, 8 and 10. States are responsible for establishing a minimum proficiency level and for bringing all students up to that level by the year 2014. States and school districts are required to report progress on several identified subgroups, including economically disadvantaged students, students from major racial and ethnic subgroups, students with disabilities and students with limited English proficiency.

Schools must demonstrate they are making "adequate yearly progress," based on test scores, graduation rates for secondary schools and one other academic indicator chosen by the state. A compromise "safe harbor" is included for school districts that are making progress in student achievement but have not technically met AYP requirements. The safe-harbor provisions apply when the number of students in each identified subgroup who are not proficient is reduced by 10% from the previous year.

❖ Consequences

Schools that fail to make AYP for two consecutive years are identified for improvement by the school district. These schools must adopt a plan for student improvement, receive technical assistance and must provide parents with notice that their student is enrolled in a school identified for improvement. The notice must describe proposed corrective actions and the available school choice options.

Public school choice is available to all students enrolled in a Title I school identified as in need of improvement (i.e., has failed to meet AYP for two consecutive years, corrective action (four years) or restructuring (five years) for as long as the school remains so identified.

The school district must allow students to transfer to another public school, including a charter school, which has not been identified for improvement or as persistently dangerous. If all public schools under the district's control have been identified for improvement, or a school with the needed grade span is not available, the district, to the extent practicable, must establish a cooperative agreement with another area school district for transfers. Additional transportation costs are borne by the school district out of federal funds received under Title I, Part A. Schools may not use lack of capacity to deny students the option to transfer. Nor do healthy and safety concerns excuse a district from meeting the choice requirement.

Read more at: <http://www.ed.gov/offices/OESE/SASA/schoolchoiceguid.pdf>.

Low achieving students in schools that fail to make adequate yearly progress (AYP) for at least three consecutive years must be permitted to take advantage of supplemental services such as private tutoring or summer school programs. As with public school choice, the costs of these programs are paid out of the district's federal funds received under Title 1, Part A. Continued failure to reach progress goals carries obligations to enact stricter measures designed to improve instruction, including corrective actions such as replacing staff members, implementing new curriculum and expanding public school choice and supplemental service options, or reopening the school as a public charter school, replacing most or all of the staff, contracting with a private company to operate the school or having the state take control of the schools.

Read more at: <http://www.ed.gov/offices/OESE/SASA/suppsvcsguid.pdf>.

Qualification of teachers and paraprofessionals

NCLB requires all teachers hired on or after the first day of the 2002-03 school year that teach in programs supported with Title I funds to be "highly qualified." By the school year 2005-06, a local education agency that receives Title I funds must ensure all teachers in core academic subjects meet that standard. The core academic students are identified as English, mathematics, reading/language arts, sciences, world languages, arts, including music, history, geography, civics and economics. The term "highly qualified" is defined differently for new teachers as opposed to veteran teachers, and for elementary teachers as opposed to middle or high school teachers. The basic rule is that all teachers in public schools, other than charter schools, must hold full state certification for their assignments.

Elementary school teachers new to the profession must hold at least a bachelor's degree and have demonstrated subject knowledge and teaching skills by passing a rigorous state test (PRAXIS I and/or PRAXIS II in Connecticut) in the subject areas taught, or have completed an undergraduate or graduate degree majoring in each discipline, or equivalent coursework or advanced credentialing.

For veteran teachers to be considered highly qualified, they must either meet the applicable standards prescribed for new teachers or have demonstrated competence in each subject taught, based on a uniform state evaluation standard aligned with curriculum and student achievement standards.

A teacher, in Connecticut, is not highly qualified if certification requirements were waived on an emergency, temporary, or provisional basis. (See Commissioner Circular Letter C-24, dated 1/31/03.)

New paraprofessionals hired after Jan. 8, 2002, must have earned a high school diploma or its recognized equivalent, and must have completed at least two years of study at an institution of higher education, or obtained at least an associate's degree, or met a rigorous standard of quality and can demonstrate through formal state or local assessment knowledge of and ability to assist in instruction of reading, writing and mathematics. Paraprofessionals already on staff must meet these guidelines by Jan. 8, 2006. These requirements do not apply to paraprofessionals who work in schools that do not receive Title I funds.

Read more at: <http://www.ed.gov/offices/OESE/SASA/paraguidance.pdf>.

English language acquisition

NCLB makes changes in provisions regarding programs designed to teach English to limited English proficient children in the areas of parental rights, testing and accountability. Title III is a new entitlement program and all school districts receiving these funds must achieve the goals by implementing programs in five identified areas. (Circular Letter C-24)

School districts are required to provide notification informing parents of their child's need for placement in a specialized language instruction program. The notification must include reason(s) for identification, level of English proficiency, instructional methods to be used, types of programs available, exit requirements and parental rights. Parents have the right to choose among instruction programs if more than one type of program is offered and they have the right to immediately remove their child from a program. The act also requires school districts to implement effective means of parental outreach to encourage parents to become informed and active participants in their child's language instructional program.

Students who have attended school in the U.S. for at least three consecutive years and who participate in a program funded under Title III must be tested in English for reading and language arts. Waivers may be granted for an additional two years on a case-by-case basis for students who show need.

Each state is required to develop annual measurable achievement objectives to monitor the progress of LEP students in attaining English proficiency. Districts are required to notify parents of a program's failure to meet such achievement objectives for two years. After four years of failing to meet objectives, the state will require the district to modify its curriculum, program and method of instruction. The state will determine whether the district continues to receive funding and whether to require replacement of language instruction educational program personnel. The law also requires eligible entities receiving grant awards to complete an evaluation every year on the progress students are making towards learning English and achieving the same high levels of academic achievement as other students.

Miscellaneous provisions

The new law also contains several miscellaneous provisions of which school districts should be aware. In most cases, implementation began with the 2002-03 school year.

- ❖ **School prayer** – NCLB requires the U.S. Secretary of Education to publish biennially a guidance statement on the status of constitutionally protected prayer in public elementary and secondary schools. School districts must certify annually to the state's department of education that they have no policies prohibiting or denying student participation in constitutionally protected prayer, as defined in the guidance statement. States must report the certification or having been the subject of compliance complaints to the state.

Read more at: http://www.ed.gov/inits/religionandschools/prayer_guidance.html.

- ❖ **Smoking** - Federal, state and local education agencies cannot permit smoking to take place in indoor facilities they own or lease. A fine of up to \$1,000 per day is established for noncompliance with the law. The fine is imposed on the education agency rather than the individuals who do not comply. More restrictive state laws are not preempted.

- ❖ **Use of school facilities** - A school district that has established a "designated open forum" or "limited public forum" in its facilities may not deny the Boy Scouts the use of those facilities, solely on the basis of the Boy Scouts' membership or leadership criteria, or oath of allegiance to God and country. Under the law, a limited public forum exists when the school district permits one or more outside youth or community groups to meet on the school premises during non-school hours. The act does not require school districts to sponsor the Boy Scouts or similar groups.

- ❖ **Military recruiters access to student lists** - Military recruiters must be provided, upon request, in districts receiving funds under the Elementary and Secondary Education Act (ESEA), certain kinds of student directory information and they must be provided at least the same degree of access to secondary students as is permitted generally to postsecondary educational institutions or to prospective student employers. The directory information to be provided includes secondary students' names, addresses and telephone numbers unless the parent has "opted-out" of providing such information. School districts must notify parents of the option to request that this information not be disclosed without prior consent. This notice must be included as part of the directory information notice required under the Family Educational Rights and Privacy Act (FERPA). School districts receiving ESEA funds must also provide military recruiters the same access to secondary school students as they generally provide to post-secondary institutions or prospective employees. There is no "opt-out" provision for this requirement.

Read more at: http://www.ed.gov/offices/OM/fpco/pdf/h_ht100902b.pdf.

- ❖ **School transfers** - States must have a uniform policy allowing students who attend a "persistently dangerous" public school (as determined by the state education department in consultation with local educational agencies) or who become victims of a violent criminal offense on school grounds, to transfer to a "safe" public school.

- ❖ **Student privacy** - NCLB expands existing law prohibiting schools from requiring students, as part of a Department of Education program, to submit to a survey, analysis or evaluation that reveals certain types of information. The new law prohibits schools from requiring students to disclose information revealing religious practices, affiliations, or beliefs of the student or the student's parents; mental or psychological problems of the student or the student's family; sex behavior or attitudes; illegal, antisocial, self-incriminating or demeaning behavior; critical appraisals of other individuals with whom respondents have close family relationships; legally recognized or privileged relationships; such as those with lawyers, physicians and ministers; and income (other than that required by law).

Provisions have also been added requiring the development of local policies concerning student privacy, parental access to information and the administration of physical examinations to minors.

- ❖ **Supplemental Services** – Non-profit entities, including faith-based organizations can be supplemental service providers under NCLB. Other potential providers include for-profit entities, educational service agencies, local education agencies, public or private schools, charter schools and public and private institutions of higher education. Public schools and LEA's are not automatically considered approved providers but instead must go through the same approval process and be evaluated under the same criteria, to be used by the State Department of Education, as any other provider. Providers may use on-line, Internet-based approaches.

Read more at: <http://www.ed.gov/offices/OESE/SASA/suppsvcsguid.pdf>.

- ❖ **Title I Parental Involvement** – All districts receiving ESEA funds are required to have a written parent involvement policy, containing mandated statutory items, related to Title I programs.
- ❖ **Report Cards** – All states and districts, starting with the 2002-2003 school year, are required to issue annual report cards to the public which contain aggregate information on student achievement at each proficiency level, as well as disaggregated by race, ethnicity, gender, disability status, English proficiency and economic status.

CABE Policy Services has developed and/or revised policies to fulfill the NCLB mandates. These policies, many with accompanying administrative regulations and notification forms, contain NCLB's specific requirements. They are available upon request from CABE's Policy Department.

Policies mandated by NCLB include:

- Homeless Students 5118.1
- On-Campus Recruitment 5145.14
- Migrant Students 6141.312
- Internet Safety/Filtering 6141.323
- Surveys of Students/Student Privacy 6162.51
- Title I Parent Involvement 6172.4

Policies, not mandated, but recommended in light of NCLB provisions, include:

- Intra District Choice/Open Enrollment 5117.1
- Student Records 5125
- Directory Information 5145.15
- Programs for Limited English Proficient Students 6141.311
- Teacher Aides/Paraprofessionals 6159.1
- Title I Programs 6172.41
- Personnel Records 4112.6/4212.6
- Smoke Free Environment 1331