



from the Capital

to the Classroom



3



Year

of the No Child Left Behind Act



Center on Education Policy
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Summary, Recommendations, Sources, and Organization of the Report

Summary

During 2004, its third year of implementation, the No Child Left Behind Act became a significant force affecting the operations and decisions of states, school districts, and schools. Over the past year, the effects of NCLB grew more obvious and serious. States and districts stepped up their actions to meet approaching deadlines for testing more grades and ensuring all academic teachers and paraprofessionals are highly qualified. With the passage of time, additional schools have entered the later phases of the law's sanctions. And more than a thousand school districts were identified as being in need of improvement for the first time under the NCLB accountability requirements.

In 2004, the law also reached deeper down into classrooms, influencing what and how teachers teach, how teachers are trained, how students are grouped, and how much time students spend studying various subjects. At the same time, debates flared in state houses, school board rooms, and teachers' lounges about whether NCLB represented too much intrusion on state and local authority and whether the federal government was providing enough funding to carry out the escalating federal demands.

Since 2002, the Center on Education Policy, an independent nonprofit organization, has been studying federal, state, and local implementation of the No Child Left Behind Act. This is our third annual report of the most comprehensive, long-term national study of the Act. This year, our findings are based on a survey of 49 states, a nationally representative survey of 314 school districts, case studies of 36 districts and 37 schools, four special analyses of critical NCLB issues, and three forums exploring ways to address the law's key challenges.

At this point in NCLB implementation, we see early signs of some positive effects, but we also see clear warning signs of problems that could undermine the future success of the law if not addressed.

Hopeful Signs and Warning Signs

On the positive side, states and districts report that students' scores on the state tests used for NCLB are rising. Our surveys and case studies also suggest that the law has focused greater attention on the needs of lower-achieving groups of students. Districts and schools are providing extra instruction to struggling students and making greater use of test score data to inform decisions about teaching and learning. Districts also report progress in raising the proportion of teachers who are highly qualified according to the law's definition. Some of our case study districts note that NCLB is spurring more collaboration among classroom teachers, special education teachers, and teachers supported through the federal Title I program for disadvantaged children.

On the negative side, states and districts continue to struggle with implementing key aspects of the law. In our surveys and case studies, states and districts voiced continued

frustration with the NCLB testing requirements for students with disabilities and English language learners. Many state and district officials, as well as researchers, question the fairness and reasonableness of the overall approach to determining adequate yearly progress. Many state and local people we surveyed or interviewed believe the goal of 100% of students performing at proficient levels by 2014 is unrealistic and expressed doubt about their ability to meet state AYP targets. These targets, which are currently set at moderate levels in most states, must rise by the end of this school year and keep rising every few years.

The most serious sign of trouble ahead has to do with the capacity of states and districts—in terms of both funding and staffing—to help low-performing schools and students. The true success of the No Child Left Behind Act depends on the day-to-day actions taken in underperforming schools and the effectiveness of the interventions provided for low-achieving students. But states and districts told us they lacked the capacity to help all schools identified as in need of improvement. They also said they are not adequately prepared to monitor the quality of the entities providing tutoring under the law's requirements for supplemental education services.

The remainder of this summary gives an overview of our most notable findings, including more specific examples of hopeful signs and warning signs about NCLB implementation. Additional key findings from our study can be found at the beginning of each chapter of the report.

Student Achievement (Chapter 1)

Student achievement is improving on the state tests used for the No Child Left Behind Act, according to 73% of the states and 72% of the school districts we surveyed. States and districts were also more likely to report that achievement gaps between white and African American students, white and Hispanic students, and English language learners and non-ELL students are narrowing rather than widening or staying the same. Testing experts caution, however, that these achievement gains should be considered preliminary rather than definitive because high-stakes testing and accountability programs can cause early spikes in state test scores that do not persist over time or show up to the same extent on other tests. Long-term analyses, including measures of achievement independent of state tests used for NCLB, are needed to determine accurately whether students are learning more.

Improvement in Schools and Districts (Chapter 3)

Under NCLB, schools are identified as “in need of improvement” if they fall short of their state's performance targets for two or more years. According to our district survey, the number of schools identified for improvement has changed little over the past two years and now totals about 13% of all schools participating in the Title I program, or around 6,000 schools. Over time, however, these identified schools have become more concentrated in very large school districts and in urban areas. These types of districts tend to be more diverse, with more subgroups of students that must demonstrate adequate yearly progress.

In 2004, states carried out the additional responsibility of identifying entire school districts as in need of improvement. About 10% of the districts that participate in Title I were identified for improvement at the start of 2004-05. (About 93% of all school districts in the nation receive funds through the Title I program; throughout this report, we refer to them as “Title I districts.”)

Changes in federal guidelines and regulations and in state accountability plans have offered a bit more flexibility in NCLB implementation, thereby making it easier for both schools and districts to demonstrate adequate yearly progress, at least in the short term. But states and districts still report problems with NCLB accountability requirements, such as conflicts with pre-existing state accountability systems and difficulties meeting the law's timelines for reporting schools' adequate yearly progress status before the beginning of the school year.

Improvement Strategies, Curriculum, and Instruction, (Chapter 1)

At the heart of NCLB are the steps taken to raise student achievement in schools and districts identified for improvement. To boost performance in these schools, virtually all of the districts we surveyed said they are increasing their use of student test data to inform instruction (100% of districts), aligning curriculum and instruction with standards and assessments (99%), and providing extra or more intensive instruction to low-achieving students (99%). About 96% of the districts also said they are increasing the quality and quantity of teacher professional development. In addition, our case studies suggest that many districts are using “coaches” to revise reading and math curriculum, help teachers introduce more effective teaching strategies, or change the culture of underperforming schools.

More dramatic changes are occurring in schools identified for corrective action or restructuring, the later stages of sanctions under NCLB. Some districts have replaced school principals and teachers. Others have closed low-performing schools, in some cases reopening them as new schools with different staff and management structures (and a clean slate for demonstrating AYP).

About one-fifth of the districts we surveyed said that as a result of NCLB, they have changed their policies to require more instructional time in reading and math, the two main subjects tested under the Act. But these increases seem to come with a price. Some 27% of districts said they had reduced the time devoted to social studies somewhat or to a great extent, 22% reported reducing time for science, and 20% reported reducing time for art and music.

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Capacity and Funding (Chapter 2)

Lack of capacity is a serious problem that could undermine the success of NCLB. A great majority of states—45 states—reported that limited staff *size* posed a serious or moderate challenge in implementing NCLB, and 31 said that limited staff *expertise* presented a serious or moderate challenge. Furthermore, 42 states said that providing assistance to all schools identified for improvement was a serious or moderate challenge. Yet state departments of education are the entities that districts most often turn to for help in carrying out NCLB.

Most states and districts also indicated that federal funds are not sufficient to carry out all aspects of NCLB. Only 11 states felt NCLB allocations were adequate for them to provide technical assistance to all schools identified for improvement, and just 13 said these funds were sufficient to monitor the quality and effectiveness of supplemental education service providers. About 80% of the districts we surveyed also said they had costs associated with implementing NCLB that were not covered by federal funds, such as the costs of training teachers to meet NCLB qualifications, providing remedial services to students performing below grade level, and carrying out mandatory data col-

lection and analysis. Although NCLB has brought extra expenses and mounting federal demands, a large proportion of districts are receiving fewer Title I funds for this school year than for last school year.

Students with Disabilities and English Language Learners (Chapters 3 and 7)

In our surveys, states and districts most often cited the NCLB accountability requirements for students with disabilities and English language learners as their greatest implementation challenge. NCLB requires these two subgroups of students to take the same tests and meet the same targets for adequate yearly progress as other students, with few exceptions—requirements many state and local officials view as unfair, unrealistic, inappropriate, or instructionally meaningless. Although the U.S. Department of Education relaxed the requirements somewhat for both subgroups during the past year, many states and districts we surveyed indicated that the changes did not go far enough and that they continue to face serious problems making AYP for these subgroups.

Many survey respondents and forum participants noted that NCLB does not make adequate provision for “gap kids”—those who have mild mental retardation or other disabilities that seriously affect their learning but are not severely cognitively disabled. Under NCLB, these students must take tests geared to standards for their grade level rather than their learning level—an approach that many of our respondents feel is at odds with the individualized education plans and learning goals of the Individuals with Disabilities Education Act. Moreover, educators note, many students with disabilities have been placed in special education precisely because they cannot achieve at the same levels as other children and are in need of extra services.

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Our survey respondents and forum participants also pointed out that testing English language learners in a language they don’t understand fails to provide valid, reliable, or meaningful information about students’ knowledge of the subject being tested. But assessments in the students’ native languages are often unavailable and rarely aligned with state standards. Many also questioned the fairness of basing AYP for English language learners on their proficiency in reading/language arts when these students are receiving special services expressly because they have not mastered English. Moreover, states vary in both their definition of English language learners and their minimum subgroup size for ELLs to be counted for AYP purposes, which makes it difficult to have comparable data—or achievement results—across states.

On the positive side, however, several case study districts reported adopting more inclusive approaches for teaching students with disabilities in response to NCLB. And several states and school districts said that Title I has brought greater visibility to the needs of English language learners and additional services and resources for these students.

School Choice (Chapters 1 and 4)

Even though about 15% of districts have schools that were required to offer their students the choice of another public school in 2004–05, very few students—a minuscule 1% of those eligible—are taking advantage of this option. The choice requirement has disproportionately affected large districts and urban districts; in 2004–05, about 48% of urban districts had schools that were required to offer transfers. About a third of all Title I school districts reported having moderate to serious problems finding physical space for transfers and sticking to class size limits in receiving schools.

Only 3% of the school districts required to offer choice said they believed the choice option is improving student achievement; 28% of these districts said choice was having a minimal effect or no effect on achievement; and 69% did not know what impact choice was having on achievement. Given the low number of choice transfers, the limited capacity in receiving schools, and the degree of uncertainty about the effect of choice on learning, choice seems unlikely to become a primary strategy for addressing the needs of the vast majority of low-achieving students—which makes it all the more crucial for the federal government and states to target funding and technical assistance on fixing the schools students already attend.

Supplemental Education Services (Chapters 1 and 5)

This school year about 10% of Title I districts have schools required to offer tutoring, or supplemental education services, to their students. Only 18% of students eligible for these services are actually taking advantage of them—a proportion that nevertheless is higher than the percentage of eligible students participating in school choice under NCLB. Although 42% of school districts said they did not know what effect supplemental services are having on student achievement, 20% said they believe these services are raising student achievement at least somewhat—a greater share than those who had positive views about the impact of choice.

Private, for-profit companies constitute about half of the approved providers of supplemental services. School districts comprise 26% of approved providers, down from 37% last year, probably because the U.S. Department of Education has barred districts identified for improvement from directly providing supplemental services. States and school districts voiced concerns about the lack of sufficient oversight of outside tutoring providers; roughly three-fourths of the states surveyed reported that determining the effectiveness and quality of supplemental service providers was a serious or moderate challenge.

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Teacher and Paraprofessional Qualifications (Chapter 6)

Most of the nation's current teachers of basic academic subjects already meet the NCLB requirements for highly qualified teachers, according to our state and district surveys. So by their own account, states and districts are on schedule to comply with the requirement for all such teachers to be highly qualified by the end of school year 2005-06. But impediments to full compliance persist. States and districts report problems with ensuring that special education teachers, middle school teachers, and teachers in rural areas meet the law's requirements, even after the U.S. Department of Education granted some additional flexibility in these areas last year. School districts with large numbers or percentages of poor and minority students have the largest proportions of teachers who are not highly qualified in NCLB terms. States also report problems implementing the data systems necessary to track teacher qualifications.

NCLB requires paraprofessionals in Title I schools who have instructional duties to meet certain qualifications by the end of 2005-06. States and districts indicate that most Title I paraprofessionals already comply with this requirement.

Recommendations

The No Child Left Behind Act, which is only three years old, comes after years of work by state officials and local educators to improve schools. The Act has clearly brought a greater sense of urgency to state and local efforts to raise student achievement, but it has

also created difficulties for states and school districts because it is a very demanding piece of legislation and is layering its requirements on top of existing school reform strategies.

Some supporters of the Act contend that early gains in state test scores mean that the Act is being administered effectively and is succeeding, so no changes are needed. Our intensive study of the Act for the last three years leads us to disagree. We recommend that national leaders listen to the concerns raised by the state and district officials charged with carrying out the Act, and to respond wherever possible. A stubborn approach that allows no changes could fuel state and local frustrations with the law, weaken public support, and stand in the way of accomplishing the Act's broad goals. At the same time, requirements should not be relaxed so much that states and districts can find easy ways around the obligation to close achievement gaps and address the learning needs of all groups of students.

Some policy changes can be made in the short term under current law, through waivers or regulatory changes. We urge, at a minimum, that the Bush Administration take the following immediate actions to address legitimate concerns of state officials, school administrators, and educators:

1. Make further adjustments in testing and accountability requirements for students with disabilities and English language learners. Develop clear guidelines that allow for broader use of alternative and out-of-level assessments for students whose disabilities seriously affect their ability to learn to grade-level standards, while maintaining requirements to track and improve the achievement of these students. Develop common national criteria for classifying students as English language learners. Increase support to develop valid and reliable assessments, including native-language assessments, for ELLs.
2. Provide states and districts with additional funding and other resources and expertise to expand their capacity to help schools identified for improvement, especially districts with high poverty, high enrollments of minority students, and large numbers of identified schools.
3. Provide states and schools with the resources and staff to oversee supplemental education service providers to ensure these services are of high quality and relevant to students' educational needs.
4. Allow school districts identified for improvement to continue as supplemental service providers if they are operating effective tutoring programs.
5. Bring greater consistency and clarity to federal administration of the Act by providing plain and timely information to all states about policies the Department has approved in various state accountability plans.
6. Work with the Congress to provide increased funding for NCLB that is more in line with the law's demands and brings Title I appropriations closer to authorized levels.
7. In the upcoming reauthorization of the Higher Education Act, work with the Congress on amendments to address some of the disparities in teacher quality that NCLB has helped to reveal. For example, the federal government could provide guidance and resources to help districts with high enrollments of low-income, minority, and English language learner students to hire, retain, and support effective teachers and principals; and could encourage states to undertake special efforts toward this same goal.

Other longer-term changes will require amendments to the law and adequate time for states to prepare. Several suggestions for longer-term changes are raised throughout the report, reflecting ideas emerging from our surveys, case studies, and forums. Quite a few of these ideas are worthy of consideration by federal policymakers. An area that seems particularly important to address over the long term is the process for determining adequate yearly progress. In particular, we suggest that the Congress and the Administration:

8. Allow a limited number of states to experiment with different types of growth models for NCLB accountability that emphasize gains schools have made in student achievement rather than whether they have reached fixed achievement targets.

In sum, our study of the third year of NCLB implementation reveals support for the goals of the No Child Left Behind Act and encouraging signs of positive impact. But problems persist that have been exacerbated by the way the Act has been administered. Mid-course corrections must be made in federal administration, funding, capacity, and other areas if the nation expects to see long-term, sustainable improvements in student achievement.

Information Sources for This Report

The Center's study of Year 3 implementation of the No Child Left Behind Act is based on the following major data sources. More information about each of these sources can be found in Appendix A.

- *State survey.* Every year we survey state departments of education about the effects of NCLB. In fall 2004, 49 states responded to a detailed survey. To ensure the accuracy of the information, we maintain anonymity of individual state responses.
- *School district survey.* Every year we survey a nationally representative sample of school districts. The survey is constructed to provide a national picture of NCLB implementation at the district level and allow the results to be analyzed by size of district and by urban, suburban, or rural status. In 2004, we surveyed our sample of districts twice, once in the summer to get accurate numbers and observations about school year 2003-04, and again in the fall to obtain information about the first part of school year 2004-05.
- *School district case studies.* In fall and early winter of 2004, we conducted case studies of 36 school districts, selected to be diverse in geography and size and to include a proportion of urban, suburban, and rural districts that roughly parallels the national distribution. All of the case studies entailed in-depth interviews with district staff, and 15 case studies included site visits to the districts. In 16 of the 36 districts, our researchers also conducted case studies of individual schools to better understand the effects of NCLB at the school and classroom levels. Altogether, we collected information from 37 schools. Appendix A lists all of the case study districts. Examples from the case studies are included in all chapters of this report, and further details can be found in the individual case study reports for each district, accessible through the Center's website, www.cep-dc.org.
- *National forums.* During 2004, the Center sponsored three national forums to discuss problems with the Act and to solicit ideas from expert practitioners and researchers about ways to solve them. The issues addressed at these forums included the overall NCLB accountability system; accountability requirements for students with disabilities and English language learners; teacher quality requirements; and approaches being used under NCLB to improve student learning.

- *Special analyses.* During 2004, the Center’s staff and consultants conducted analyses of four special topics related to NCLB: Title I allocations to school districts, amendments to state accountability plans, the NCLB restructuring process in Michigan, and processes for identifying school districts for improvement.
- *Other reports.* The Center’s staff and consultants reviewed regulations, guidance, and policy letters from the U.S. Department of Education and information on state websites related to NCLB implementation. We also reviewed studies and reports about NCLB produced by other organizations and monitored daily media coverage of NCLB.

Definitions and Abbreviations Used in the Report

Many of the data tables and explanations in the report include percentages or numbers of school districts. Unless otherwise stated in tables or text, the universe of school districts for our district survey included a nationally representative sample of 409 school districts that receive funding under the federal Title I program. Those school districts represent the approximately 12,000 districts that receive Title I funds. All data cited in the tables and text of the report are estimates.

In many cases, district survey data were analyzed by district size and urbanicity. The survey used the following size categories, which apply to the data tables and discussion in this report:

- Very large districts – Enrollments from 37,741 to 1,049,831 students
- Large districts – Enrollments from 10,449 to 37,740 students
- Medium districts – Enrollments from 3,504 to 10,448 students
- Small districts – Enrollments from 200 to 3,503 students

Districts were categorized as urban, suburban, or rural based on the Metropolitan Statistical Code variable (MSC01) used in the U. S. Department of Education Common Core of Data. More explanation of how the sample of survey districts was selected can be found in Appendix A.

The main abbreviations used in this report are as follows:

- AYP – Adequate yearly progress
- CEP – Center on Education Policy, the organization conducting this study
- ELL – English language learner
- ESEA – Elementary and Secondary Education Act (amended by NCLB)
- FRPL – Free and reduced-price lunch (the number of students eligible for free or reduced-price lunches is often used as an indicator of a school’s level of poverty)
- GED – General Educational Development certificate (high school equivalency diploma)
- HOUSSE – High objective uniform state standard of evaluation (developed by states to allow veteran teachers to demonstrate they are highly qualified according to the NCLB definition)
- IASA – Improving America’s Schools Act (predecessor law to NCLB)

- IDEA – Individuals with Disabilities Education Act
- LEP – Limited English proficient
- NAEP – National Assessment of Educational Progress
- NCLB – No Child Left Behind Act
- SES – Supplemental education services
- USED – U. S. Department of Education

Other abbreviations used in the report are spelled out the first time they are used in each chapter.

Organization of the Report

This report is organized as follows:

- **Chapter 1.** Discusses trends in student achievement and achievement gaps based on our surveys and case studies and describes strategies school districts are using to raise achievement to the levels demanded by NCLB.
- **Chapter 2.** Reports findings from our surveys and case studies about positive effects of NCLB and its greatest implementation challenges. Analyzes four broad challenges: adequate funding for NCLB, state and local capacity to carry out NCLB requirements, state and local views of flexibility and helpfulness in federal administration, and public support for NCLB. Summarizes the main suggestions from states and school districts for revising NCLB policies.
- **Chapter 3.** Describes trends in the numbers and types of schools and districts identified for improvement under the NCLB accountability provisions and looks at challenges of implementing the accountability requirements. Reviews changes in federal and state policies that affect accountability and examines issues related to testing of students with disabilities and English language learners.
- **Chapter 4.** Analyzes data from our surveys and other national studies on districts and schools offering choice, percentages of students eligible for and participating in choice, and number of school choices offered. Discusses major challenges to implementing choice.
- **Chapter 5.** Reviews data on percentages of students eligible for and participating in supplemental education services, number and types of providers available, and capacity of providers. Reports on state and district challenges to implementing supplemental education services.
- **Chapter 6.** Discusses findings from our surveys about the number and distribution of highly qualified teachers and paraprofessionals. Examines challenges to and concerns about meeting the NCLB requirements for teachers and paraprofessionals. Describes state and district strategies for ensuring that teachers and paraprofessionals are highly qualified according to NCLB.
- **Chapter 7.** Describes the NCLB requirements for English language learners in the Title I and Title III programs and how the two titles are related. Discusses what states are doing to carry out the requirements of both titles and what types of services, strategies, and assessments they are providing or developing for ELLs. Outlines the positive effects and major challenges of the English language learner requirements in NCLB.



CHAPTER 1

Achievement and Improvement Strategies

Key Findings

- Of the states and districts surveyed by the Center on Education Policy, 36 states (73%) and the majority of districts (72%) reported that student achievement is improving. In addition, states and districts surveyed were more likely to say that achievement gaps were narrowing, rather than widening or staying the same, between white and black students, between white and Hispanic students, and between English language learners and other students. Several national studies confirm states' and districts' reports that student achievement is on the rise and that some traditional achievement gaps are narrowing. Other researchers warn, however, that it may be too early to see the full effect of the No Child Left Behind Act on student achievement and that factors other than NCLB may contribute to rising achievement and narrowing gaps.
- According to our survey, the strategies states most frequently used to raise student achievement in schools identified for improvement included making special grants to districts to support school improvement efforts and matching curriculum and instruction with standards and assessments.
- Our district survey showed that the strategies most often used by districts to raise student achievement in schools identified for improvement were similar to state strategies. They included increasing the use of student achievement data to inform instruction and other decisions, matching curriculum and instruction with standards and/or assessments, and providing extra or more intensive instruction to low-achieving students.
- The majority (69%) of districts we surveyed said they do not know what effect school choice under NCLB is having on student achievement. Only a few districts (3%) believe choice is raising student achievement even somewhat. Similarly, many districts (42%) said they do not know what effect supplemental education services are having on student achievement. In contrast to their beliefs about choice, however, more districts (20%) believe supplemental services are raising student achievement at least somewhat.
- As a result of NCLB, districts have increased the mandatory time spent on reading and math, although not radically, according to our district survey. About half of the districts reported that they require schools to spend a certain amount of time on reading and math each day, and about 21% said this mandate was new or had increased since NCLB. Districts with greater proportions of low-income students were more likely to require schools to spend a specific amount of time on reading and math. Some of our survey districts and case study districts also reported a narrowing of the curriculum to allow greater emphasis on tested subjects.
- Among our case study districts, replacing principals or other staff is the most popular strategy being used to reform schools in the corrective action or restructuring phases of NCLB. Bringing in coaches or special staff to help change the culture of the school and strengthen teaching is another common strategy in these schools.



Introduction

Two primary goals of the No Child Left Behind Act are to raise student achievement and decrease achievement gaps between students of different ethnicities, first languages, and abilities. The Act also calls for all students to be performing at the proficient level on state tests by school year 2013–14. This chapter discusses student achievement and achievement gaps based on the findings of state and district surveys and district case studies conducted by the Center on Education Policy. The chapter also places these findings in the context of other national research on student achievement and achievement gaps. In addition, the chapter describes strategies school districts are using to improve schools and raise achievement to the levels demanded by NCLB.

Overall Student Achievement

In our survey, we asked states and districts to report whether, based on state test results, their student academic achievement was improving, declining, or staying the same. While we have no reason to believe that states and districts reported information inaccurately, these survey responses do not represent an independent analysis of state test data. Instead, they represent the observations of the states and districts responding to the survey.

Of the 49 states surveyed, 36 states or 73% indicated student achievement was increasing on state tests, while 8 states or 16% said scores had remained about the same. Four states said they did not know or were unable to determine whether there had been changes in academic achievement. We did not ask states if these achievement gains were a direct result of NCLB or of other efforts or a combination thereof. For some states, recent changes in state tests or their scoring make multiple years of comparison data unavailable. For example, one state was still operating under a compliance agreement because it could not meet the assessment, standards, and accountability requirements under the previous Improving America's Schools Act (IASA). Spring 2004 test results were used to establish baseline data for this state under NCLB. Therefore, the state does not have trend data from its new assessment and accountability system. Based on transitional data from the state's previous assessment, however, state survey respondents said that student achievement is improving. Only one state reported that student achievement was declining.

These results are similar to student achievement outcomes states anticipated last year, according to our 2003–04 survey. The 2004–05 survey asked specifically, "According to the state assessment used for NCLB, is overall student achievement in the state improving, declining, or staying the same?" In contrast, the earlier 2003–04 survey asked, "To what extent do you believe that, over time, the NCLB accountability requirements will result in increased student achievement?" In last year's survey, 39 states or 83% expected NCLB to result in increased student achievement, while only 2 states or 4% expected that student achievement would not increase, and 6 states or 13% were unsure.

In response to an open-ended question in our 2004–05 survey about the positive effects of NCLB, several states praised NCLB for sharpening the focus on student achievement and, thus, helping to raise student test scores. For example, one official wrote, "Because of NCLB and tight budgets we've had no choice but to ensure our focus is on improving student achievement."

Similar to state reports, the majority of districts surveyed, 72%, also said that student academic achievement on state tests was improving, while 22% said achievement was staying the same, and 6% said it was declining. Answers varied significantly

Table 1-A Percentage of Districts Reporting Changes in Student Achievement Based on State Assessments Used for NCLB, by District Type and Size

	ACHIEVEMENT IMPROVING	ACHIEVEMENT DECLINING	ACHIEVEMENT THE SAME
TOTAL (all districts)	72%	6%	22%
DISTRICT SIZE			
Very Large	75%	9%	16%
Large	95%	0	5%
Medium	80%	12%	8%
Small	68%	5%	27%

Table reads: Seventy-five percent of very large districts that receive Title I funds report that student achievement on the state assessment used for NCLB is improving. Only 9% of very large districts report that student achievement is declining, and 16% report that achievement is staying the same.

Source: Center on Education Policy, December 2004, Fall District Survey, Item 10 (Table 9).

by district size, as shown in **Table 1-A**. More very large (75%), large (95%), and medium (80%) size districts said achievement was improving, compared with 68% of small districts. Again, we did not ask districts to what they attributed the gains—NCLB, state programs, district programs, or a combination thereof.

A 2004 study by the Council of the Great City Schools showed similar progress by large urban districts. Based on an analysis of the actual state test data of 61 city school systems, the study found that 49.0% of urban school districts posted faster math gains than their state's average in half or more of the grades tested. In reading, 34.7% of districts increased their reading scores in more than half the grades tested at a faster rate than their state as a whole. The Great City Schools study is discussed in more detail in the section below on national studies. The popular press has also noted that large districts are improving. Scott Stephens of the *Cleveland Plain Dealer* (2004) reported that over the last five years the eight largest school districts in Ohio have improved student test scores at a noticeably better pace than the state average, although they have not yet reached state average levels of overall achievement.

Despite these perceived improvements, most states and districts have a long way to go before all students meet the NCLB goal of performing at the proficient level on state tests. In more than half of the states in 2003, fewer than 75% of students were proficient in fourth-grade reading, fewer than 70% were proficient in eighth-grade reading, fewer than 70% were proficient in fourth-grade math, and fewer than 60% were proficient in eighth-grade math, according to a report by *Education Week* (2005). A few states had less than 35% of their students scoring at or above the proficient level on each test, and no state had more than 88% performing at the proficient level on any test, except North Carolina in fourth-grade math, as shown in **Table 1-B**.

Table 1-B Student Achievement on State Tests

	READING-4 TH	READING-8 TH	MATH-4 TH	MATH-8 TH
	Percentage of 4th graders scoring at or above proficient in 2003	Percentage of 8th graders scoring at or above proficient in 2003	Percentage of 4th graders scoring at or above proficient in 2003	Percentage of 8th graders scoring at or above proficient in 2003
	State test ¹	State test ¹	State test ¹	State test ¹
Alabama	77 ⁴ %	58 ⁴ %	72 ⁴ %	25 ⁴ %
Alaska	74%	68%	72%	64%
Arizona	77%	55%	66%	21%
Arkansas	62%	42%	61%	23%
California	39%	30%	45%	30%
Colorado	87%	86%	86%	68%
Connecticut	69%	77%	80%	77%
Delaware	79%	70%	74%	47%
District of Columbia	--	--	--	--
Florida	60%	49%	54%	56%
Georgia	80%	81%	74%	67%
Hawaii	42%	39%	24%	17%
Idaho	75%	73%	77%	52%
Illinois	62%	64%	76%	53%
Indiana	72%	64%	67%	66%
Iowa	76 ³ %	69 ³ %	75 ³ %	72 ³ %
Kansas	69%	71%	74%	60%
Kentucky	62%	57%	38%	31%
Louisiana	61%	53%	59%	51%
Maine	49%	45%	28%	17%
Maryland	58%	60%	65%	40%
Massachusetts	56%	65%	40%	37%
Michigan	75%	61%	65%	52%
Minnesota	76%	--	75%	--
Mississippi	87%	57%	74%	48%
Missouri	34%	32%	37%	14%
Montana	76%	70%	73%	69%
Nebraska	79%	77%	78 ⁶ %	72 ⁶ %
Nevada	49%	--	50%	--
New Hampshire	76%	--	79%	--
New Jersey	78%	74%	68%	57%
New Mexico	45%	51%	53%	46%
New York	64%	45%	78%	51%
North Carolina	81%	86%	92%	82%
North Dakota	74%	69%	58%	44%
Ohio	66%	87%	59%	71%
Oklahoma	74%	79%	72%	73%

Oregon	83%	60%	78%	59%
Pennsylvania	58%	63%	56%	51%
Rhode Island	62%	41%	42%	34%
South Carolina	31%	20%	34%	19%
South Dakota	85%	78%	73%	56%
Tennessee	80%	80%	79%	79%
Texas	85%	88%	87%	72%
Utah	78%	68%	72%	61 ⁷ %
Vermont	70 ² %	36 ² %	40 ⁵ %	48 ⁵ %
Virginia	73%	70%	83%	75%
Washington	67%	48%	55%	37%
West Virginia	73 ⁴ %	80 ⁴ %	69 ⁴ %	69 ⁴ %
Wisconsin	82%	84%	72%	76%
Wyoming	44%	39%	37%	35%

Note: A dash (--) indicates data were not available. No U. S. totals are included because averaging scores from different state tests is not appropriate.

- 1 If states did not offer tests in 2003 at grade 4 or 8, *Education Week* accepted test results from the next closest grade level. Please see the Sources and Notes on *Education Week* website www.edweek.org for more information on the grade levels assessed by states included in this table.
- 2 Vermont assesses reading performance in two separate areas: analysis/interpretation and basic understanding. Student performance on the basic-understanding standard is significantly higher than performance on the analysis/interpretation standard. The percentage of students who achieved the standard or achieved the standard with honors in analysis/interpretation is presented here.
- 3 Iowa reading and mathematics scores represent the average between scores from the 2001-02 and 2002-03 school years.
- 4 Alabama and West Virginia reading and mathematics scores are from 2004.
- 5 Vermont assesses math performance in three separate areas: math concepts, math skills, and problem-solving. Student performance on the math-skills standard is significantly higher than performance on NAEP, while student performance on concepts and problem-solving is roughly comparable. The percentage of students who achieved the standard or achieved the standard with honors on math problem-solving is presented here.
- 6 Nebraska's mathematics scores are from 2002.
- 7 Utah's elementary-algebra exam is typically given at grade 8, but may also be given to students in other grades.

Source: *Education Week*



These results indicate that in most states more than a fourth of the students must improve their performance to reach NCLB goals. Many of these are students who are farthest behind and hardest to educate. These challenges have caused some states to rethink their achievement goals. After a field test of its tenth grade graduation test, Ohio lowered its cut scores, resulting in more students passing the test (Scott, 2004). Similarly, Missouri announced that it will lower its NCLB targets for 2005 because officials believed the goals were too high (Sherry, 2005).

Districts also face the challenge of getting all students to pass state tests. While many districts are making progress, some are still not able to meet all adequate yearly progress goals, particularly those districts with large numbers of subgroups. For example, state test scores in the Boston Public Schools have been rising. When the data are disaggregated by subgroup, however, many schools are not making AYP. As shown in **Box 1-A**, the district has a long way to go before all schools meet current AYP goals for all students and even farther to meet the goal of 100% proficient.

Some researchers have asserted that based on current data trends, very few states, districts, and schools are likely to bring 100% of their students to proficient levels of achievement by 2014. These skeptics include researchers and analysts such as Robert Linn of the National Center for Research on Evaluation, Standards, and Student Testing (2004), Joel Packer of the National Education Association (2004), and James Popham of the University of California, Los Angeles (2004). At a forum convened by CEP to discuss ideas for improving the No Child Left Behind Act, these educators presented papers with the following observations:

The most serious problem [with NCLB] is that the expectations for student achievement have been set unrealistically high and, as a consequence, almost all schools will fall short of the adequate yearly progress targets within the next few years, unless major changes are made in the definition of AYP (Linn, 2004).

While we strongly support the goals of NCLB and many of its provisions, such as the required disaggregation of student achievement data, NEA believes there are several fundamental flaws in AYP that will result in virtually all schools falling to meet federal standards, narrow the curriculum, and divert attention and resources away from actually improving student achievement (Packer, 2004).

As currently stipulated in the No Child Left Behind Act (NCLB), the requirements for adequate yearly progress are remarkably unrealistic. As a consequence, a larger than warranted number of U.S. schools/districts will be regarded as ineffective and, in many settings, the quality of public education will be lowered when educators strive to avoid AYP-failure (Popham, 2004).

Indeed, our case studies of how districts are implementing NCLB show that districts are concerned about their ability to meet rising AYP goals. For example, the greatest challenge of NCLB in the Waynesboro, Virginia, Public Schools is meeting rising benchmarks and reaching 100% proficiency, district staff said. Most Waynesboro teachers feel the goals of NCLB are admirable, but how to reach them is “the million dollar question,” according to India Harris, coordinator of testing and program planning. “For a lot of subgroups we’re not close to 70%, and how on earth can we get to 80%?” asked Harris.

These concerns are genuine. Some districts, such as the Grant Joint Union High School District in California, the Kansas City, Kansas Public Schools, and the Cleveland Municipal School District in Ohio already report that as districts they have failed to meet AYP goals, despite rising student test scores. An in-depth discussion of AYP goals is available in Chapter 3.

Box 1-A Boston's Uphill Struggle to Meet AYP Goals

Overall, student achievement in the Boston Public Schools (BPS) in Massachusetts has been increasing since 1998. On the 2003 exams, results for the BPS improved in almost every grade and subject. The percentage of students passing the grade 10 exams (a requirement for high school graduation) on their first attempt has increased from 43% in 1998 to 77% in 2004. More important, the percentage of students scoring in the top two performance categories has continued to increase each year. This year, the rate of African American and Latino students progressing into the advanced and proficient levels of performance was far greater than that of white and Asian students across the board.

Despite these gains, BPS failed in 2003-04 to demonstrate adequate yearly progress for the second year in a row. According to the state, BPS did not demonstrate AYP in either attendance (for all students) or achievement of students with disabilities in English language arts and math. The previous year, BPS did not demonstrate AYP for the same reasons. Achievement goals will increase over the years. At present a subgroup meets AYP goals if 75.6% of students score at the proficient level or above in English language arts and if 60.8% score at the proficient level or above in math, or if the subgroup has made a certain amount of improvement. As illustrated in the table below, although subgroups are doing better in Boston, most are not yet meeting targets.

Students Meeting AYP Goals* in Boston Public School by Subject and Subgroup

	ENGLISH LANGUAGE ARTS				MATH			
	CPI**	Met Target 75.6%	CPI Change	Met Target***	CPI**	Met Target 60.8%	CPI Change	Met Target***
Aggregate	68.7	No	6.8	Yes	54.6	No	9.0	Yes
ELL	61.3	No	25.1	Yes	52.1	No	22.2	Yes
Students with Disabilities	48.4	No	8.5	No	35.6	No	8.7	No
Low Income Students	66.2	No	7.0	Yes	51.7	No	9.4	Yes
African American	65.5	No	6.3	Yes	47.5	No	9.3	Yes
Asian Pacific Islander	81.3	Yes	6.2	Yes	82.7	Yes	8.7	Yes
Hispanic	63.2	No	8.6	Yes	49.7	No	9.7	Yes
Native American	73.6	Too small	9.7	Too small	53.6	Too small	12.0	Too small
White	82.5	Yes	4.7	Yes	71.6	Yes	6.8	Yes

*Massachusetts calculates AYP based on two-year cycles. Data are combined for 2003 and 2004.

**CPI - The Composite Performance Index (CPI) is a measure of the extent to which students are progressing toward proficiency in English language arts and mathematics. The CPI is a 100-point index that combines the scores of students who take standard Massachusetts Comprehensive Assessment System (MCAS) tests with the scores of those who take the MCAS-Alternate Assessment.

***Whether a district meets its improvement target is determined by comparing baseline performance to end-of-cycle performance. The amount of Composite Performance Index increase a school or district is expected to achieve during a particular rating cycle, called the gain target, is based on the gap between that school or district's baseline Composite Performance Index and a Composite Performance Index of 100 (the year 2014 performance target for all Massachusetts schools and districts). Once the amount of improvement is calculated for each content area and the appropriate error band has been applied, the resulting score is matched to one of five improvement rating categories: Above Target, On Target, Improved Below Target, No Change, Declined.

Source: Massachusetts Department of Education, School Profiles, <http://profiles.doe.mass.edu/ayp2004>.



In response to our open-ended survey questions, some districts also raised concerns about how accurately tests measured student achievement. One wrote, “A single test, no matter how good it is, should not be used to determine student growth. We need to be looking at a more robust system.” Another added, “One-size-fits-all testing does not present an accurate picture of how schools are doing.”

In addition to single tests possibly being inadequate in describing student achievement growth, recent news articles have raised questions about tests being inaccurate due to cheating. *The Dallas Morning News*, to cite one example, found evidence of cheating in three Texas elementary schools, one of which previously garnered national accolades for helping low-income students excel (Investigation, 2004). While these reports are still being investigated by the district, the possibilities of cheating are being taken seriously.

Student Achievement Gaps

Our survey asked states and districts to rate whether achievement gaps between different student groups were narrowing, staying the same, or widening, based on state test results. The survey question also allowed participants to say “there was no gap in achievement,” “the gap was too small to track,” or “I don’t know.” While we have no reason to believe states and districts reported information inaccurately, these survey responses do not represent an independent analysis of state test data. Instead, they represent the observations of the states and districts responding to the survey.

Based on results from state tests used for NCLB, more states and district reported that achievement gaps were narrowing between white and black students, between white and Hispanic students, and between English language learners and non-ELL students, rather than staying the same or growing wider. On the other hand, gaps between white and Asian students and between white and Native American students were more often reported by states and districts to be remaining the same. **Tables 1-C** and **1-D** give a more detailed view of state and district perceptions of changes in achievement gaps.

Survey results were mixed about the status of achievement gaps between students with and without disabilities and between low-income and non-low-income students. Seventeen states (35%) reported that gaps were narrowing between disabled students and other students, 11 states (22%) reported that these gaps were staying the same, and 7 states (14%) reported that these gaps that were widening. The rest, 12 states (24%) did not know how these gaps were changing. Even more states, 20 or 41%, reported that gaps between low-income students and other students were narrowing; 17 states (35%) said these gaps were staying the same, and 1 state (2%) said these gaps were widening.

Our district survey showed somewhat different trends. Many districts with diverse student bodies and measurable achievement gaps reported that these gaps were staying the same. For example, 40% of districts reported that achievement gaps were staying the same between students with and without disabilities, 25% reported that these gaps were narrowing, and 14% reported that these gaps were widening. In addition, 36% of districts said gaps were staying the same between low-income and others students, 32% reported these gaps were narrowing, and 7% reported these gaps were widening.

Our survey results also showed that not all states and districts with achievement gaps knew whether or not the gaps were changing. For example, 24% of states and 10% of districts did not know whether achievement gaps between low-income students and other students were changing. In general, states have increased their capacity to track achievement gaps in the last year, according to the Education Commission of the States

Table 1-C Number of States Reporting Achievement Gaps Between Different Student Groups Have Changed or the Extent to Which Over the Last Year

	NARROWING	STAYING THE SAME	WIDENING	NO GAP	SUBGROUP TOO SMALL	DON'T KNOW
White vs. black students	21	14	5	0	2	7
White vs. Asian students	6	17	3	10	5	8
White vs. Hispanic students	18	14	6	0	3	7
White vs. Native American students	11	12	5	0	11	8
LEP vs. non-LEP students	13	12	8	1	2	12
Students with disabilities vs. students without	17	11	7	0	0	12
Low-income students vs. students who are not low-income	20	17	1	0	0	12

Table reads: Twenty-one states reported that the achievement gap between white and black students has narrowed over the last year.

NOTE: Some states gave more than one response to each category, so totals may exceed the number of states surveyed.

Source: Center on Education Policy, December 2004, State Survey, Item 9.

Table 1-D Percentage of Districts Reporting Achievement Gaps Between Different Student Groups Have Changed or the Extent to Which Over the Last Year

	NARROWING	STAYING SAME	WIDENING	NO GAP	SUBGROUP TOO SMALL	DON'T KNOW
White vs. black students	18%	12%	1%	2%	64%	4%
White vs. Asian students	5%	11%	1%	4%	76%	3%
White vs. Hispanic students	17%	15%	5%	4%	56%	3%
White vs. Native American students	6%	7%	0	2%	81%	4%
LEP vs. non-LEP students	18%	14%	5%	2%	56%	4%
Students with disabilities vs. students without	25%	40%	14%	1%	14%	6%
Low-income students vs. students who are not low-income	32%	36%	7%	5%	9%	10%

Table reads: Among districts that receive Title I funds, an estimated 18% report that the achievement gap between white students and black students in 2004-05 is narrowing.

Source: Center on Education Policy, December 2004, Fall District Survey, Item 11 (Table 10).



(2004). In 2003, ECS found that only 13 states or 25% were on track to meet NCLB's requirement that states, districts, and schools disaggregate test data by student subgroup. In 2004, however, ECS reported that this number had grown to 47 states or 92%.

The information resulting from this disaggregation of data appears to be helping states create programs and make decisions aimed at increasing achievement for student subgroups. Almost all states we surveyed listed focusing attention on the performance of subgroups as one of the three main positive effects of NCLB. Some typical state comments about tracking achievement gaps include the following:

Districts and schools are paying more attention to the education of students in subpopulations. NCLB requires subpopulations to also make AYP as well as the total school. Schools are implementing programs to deal with the needs of these students.

We see evidence that schools and districts are using data to inform educational decisions. There is early evidence that this is having a positive impact on our efforts to close achievement gaps.

Several states, however, said that NCLB's goal of raising the achievement of students with disabilities and English language learners to 100% proficient was unreasonable. For example, one state respondent praised tracking subgroups in general, but criticized NCLB for "requiring all schools to make AYP for all subgroups, especially students with disabilities and limited English proficiency." Another state official wrote, "The standards are quite high and unrealistic for many members of these two subgroups."

Many district survey participants also voiced concerns that NCLB's expectations for students with disabilities and English language learners are unrealistic and unfair. In open-ended responses, districts overwhelmingly mentioned concerns about all subgroups making AYP. For example, one district respondent wrote, "The argument for 100% proficiency for all subgroups creates skepticism among staff and the school board and encourages them to question the entire law and its fairness."

Districts and schools participating in our case studies expressed similar concerns. For example in Colorado Springs District 11, district research indicates that three years of English language development is not enough time to reach proficient levels of oral and written language. This view was supported by officials at Carson Elementary School, part of the Chicago Public Schools in Illinois. "Research says you need seven years to learn a new language," pointed out Assistant Principal Ann Tysiak.

Case study districts and schools also questioned the appropriateness of the 100% proficiency goals for students with disabilities. For example, although Michigan does have an effective alternative assessment for students with disabilities, many of the students with disabilities in the Flint Community School District are not seriously disabled enough to take the alternative tests under NCLB regulations, according to Chief of Schools Linda Thompson. Nevertheless, she said, they aren't ready for the state tests. "You don't like it," she said of testing these students. "But, it's the law."

Even in districts that have traditionally had success with students with disabilities, officials are unsure that many of these students will meet rising AYP goals. For example, in Romulus Central School District in New York, Superintendent Casey Barduhn pointed out, "This subgroup can be a very transient group. While we have been successful to date, we are likely to struggle to keep our testing measurements above the water line long term."



National Studies

In addition to our survey findings that states and districts report student achievement is increasing and achievement gaps are narrowing, a few national studies have looked at whether test scores have improved. A study by the Education Trust (2004) examined trends in elementary school performance in reading and math by looking at changes in the percentage of students scoring at the proficient level between spring 2002 and spring 2004. For the 24 states that had three years' worth of comparable math data, the study found that math test scores have climbed in 23 states and declined in only one. For the 23 states that had the necessary reading data, the study found that reading scores had gone up in 15 states, were the same in 3, and had gone down in 5 states. The study also found evidence to suggest that achievement gaps are narrowing at the elementary level in the large majority of states, particularly between white and African American students. Of the 24 states examined, 16 reported a narrowing of the achievement gap between the two groups in reading, and 17 in math.

In another national study, the Council of the Great City Schools (2004) examined changes in the percentage of students scoring at proficient levels in about 60 of the nation's largest urban school districts between spring 2002 and spring 2003 (just one year after passage of NCLB). Again, positive trends were found. In math, about a third of the urban districts showed gains in all grades tested, and about 14% posted faster math gains than their state averages in all grades tested. About three-fourths of urban districts showed math gains in half or more of the grades tested, and about half of the districts posted math gains that were faster than their states in half or more of the grades tested. Similar gains in reading were found between 2002 and 2003. These findings were embedded in a longer-term study, starting with the years 1995-96 (preceding NCLB), which shows that achievement gaps have been narrowing and that large urban districts have been making more rapid achievement gains than their state averages. These long-term trends suggest that policies prior to NCLB may also be affecting student achievement. For example, in implementing NCLB many states and districts have built on reforms begun under the Improving America's Schools Act. Despite these positive trends, students enrolled in large urban districts continue to post average test scores that are well below their state averages.

While these two studies seem optimistic, other recent studies suggest that results should be interpreted cautiously. The most recent report on reading achievement from the National Assessment of Educational Progress shows that in both fourth and eighth grade reading, the percentage of students scoring at or above NAEP's proficient level of performance in 2003 (just one year into NCLB) was not significantly higher than the percentage in 2002 (National Center for Education Statistics, 2003b). Similarly, the study found no change in achievement gaps by race or ethnicity in 2003 compared with 2002. Finally, the study found that achievement gaps based on income were unchanged, except that in eighth grade reading the gap in 2003 was significantly larger than the gap in 2002. Long-term trends in NAEP reading scores are somewhat more positive. In both fourth and eighth grade reading, the percentage of students scoring at or above proficient in 2003 was significantly higher than the percentage in 1992, the earliest comparable data available; however, there has been no significant change in average reading scores in either grade. In addition, the study found no change in achievement gaps by race or ethnicity in 2003 compared with 1992.

NAEP did not administer a math test in 2002. Long-term NAEP trends in math, however, are similar to the long-term trends in reading, except that overall math scores seem to be improving more consistently (National Center for Education Statistics, 2003a). In fourth and eighth grades, both average math scores and percentages of stu-



dents scoring proficient or above increased significantly in 2003 compared with 1990, the earliest year these comparable data are available. In fourth grade, the achievement gap between black and white students narrowed in 2003 compared with 1990; however, there was no significant difference in the black-white eighth grade gap. There were also no significant differences in the Hispanic-white achievement gaps in either grade in 2003 compared with 1990, or in the gaps based on income in 2003 compared with 1996, the earliest available data.

In addition to the mixed results of the NAEP studies, a national study by the RAND Corporation (McCombs, Kirby, Barney, Darilek & Magee, 2004) found progress in reading achievement among children in primary grades, although many children were not moving beyond basic decoding skills as they advanced to the fourth grade. It seems that teaching reading and writing to adolescents is what the authors call an “orphaned responsibility” in upper grades, meaning that children who can’t read very well after fourth grade or so don’t get much help later in their high school careers. Much emphasis has been placed on K-3 reading, but not enough on upper grades, surprising because so many older students can’t read well. Unless a concerted effort is made to address the problem of adolescent reading, the nation will never meet NCLB’s goals by 2014, this study concluded.

Too Early to Tell

Our survey results, along with the studies discussed above, indicate that student achievement may be on the rise in many states and districts, suggesting that NCLB may be having a positive effect on student achievement. These data may be a sign that teachers are providing students with better instruction in the basic skill areas of reading and math. They may reflect that schools and districts are better aligning their standards, instruction, and assessments.

Still, experts warn that after only three years, it is still too early for any study to conclude whether the federal law is causing students to learn more. Testing expert Robert Linn (2000) has noted that states often show gains during the first few years of a new high-stakes testing and accountability program, but that the gains usually hit a plateau—student test scores level off. He uses the example of Florida, where rapid gains in scores were made after the introduction of a high-stakes testing program in the late 1970s, but then scores stagnated, and scores for African Americans actually declined once they reached a high after seven years. Just recently, education officials in Indiana reported that they may be seeing a plateau effect in that state as test scores have leveled off after larger previous gains (Hupp & Hooper, 2004).

Brian Stecher and Laura Hamilton (2002), social scientists at the RAND Corporation, have also noted the jump in test scores in the first few years after introduction of a test-based accountability system. They explain that this could happen for both good and bad reasons. On the positive side, it could happen due to increased student motivation, better teaching, and stronger focus on the tested subject matter. On the negative side, it could also be due to narrow test preparation and neglect of non-tested subjects, as teachers shift their efforts toward improving test scores. They note the associated phenomenon of “score inflation,” which occurs when teaching to the test raises test scores without students actually learning more about the broad subject being tested. For example, teachers often coach students in test taking skills, such as how to narrow down answers in a multiple choice question, or emphasize specific topics or skills that are most likely to appear on the state tests. The researchers note that Texas and Kentucky, after the introduction of high stakes testing, posted large gains in scores on their state assessments but much more modest ones on NAEP.

Strategies for Increasing Student Achievement

Whether or not student achievement is going up fast enough to meet NCLB goals, states and districts report they have implemented a variety of strategies they believe are currently raising achievement. Our surveys asked states and districts with schools in need of improvement to rate how frequently they were using a variety of strategies to increase student achievement. Our case studies also sought to learn what districts and schools were doing to meet the NCLB achievement goals.

Most Common Strategies for Improving Achievement

According to our state survey, the top state strategies for improving student achievement were as follows:

- Giving special grants to districts to support school improvement efforts
- Matching curriculum and instruction with standards and/or assessments
- Using school support teams

As illustrated in **Table 1-E**, more than half of the states surveyed said they were using these strategies moderately or to a great extent. **Box 1-B** describes how Michigan has employed the most widely used strategy, offering special grants, to improve the quality of districts' and schools' plans for restructuring under NCLB.

Table 1-E Number of States Using a Variety of Strategies to Raise Student Achievement in Schools Identified for Improvement

IMPROVEMENT STRATEGY	TO A GREAT EXTENT	MODERATELY	MINIMALLY	NOT AT ALL	DON'T KNOW
Special grants to districts to support school improvement efforts	24	17	4	2	1
Matching curriculum and instruction with standards and/or assessments	22	19	5	1	2
School support teams	22	11	11	4	0
Providing before- or after-school, weekend, or summer programs	13	13	7	11	3
Distinguished teachers	8	14	10	14	1
Mentor or coach for the principal (e.g., distinguished principals)	7	12	7	16	2
Educational or management consultant	4	10	14	16	3
Additional full-time school-based staff to support teacher development	2	8	10	22	5

Table reads: Twenty-three states reported that they are using special grants to districts to support school improvement efforts aimed at raising student achievement in schools in need of improvement.

Note: Responses are ranked according to the number of states reporting that a strategy was being used to a great extent.

Source: Center on Education Policy, December 2004, State Survey Item 10.

Box 1-B Michigan Uses Grants to Help Leverage Restructuring

Of the 101 Michigan schools in restructuring, 93 had state-approved restructuring plans with clear choices for restructuring by the summer of 2004 and had received grants of \$45,000 to implement these plans. Although all schools required to turn in restructuring plans did so, eight did not include clear choices from among state-approved restructuring options.

"Sometimes what districts gave us was 99 pages of everything they had ever done or wanted to do to improve the school. But, they didn't really say, 'we are picking choice four,'" explained Sarah Uhle, who helps coordinate the information on restructuring plans for the state's Office of School Improvement.

Many of these restructuring plans are being revised. In fact, although NCLB legislation might lead one to believe restructuring a school means simply choosing a plan from a list, state officials said restructuring in Michigan is a dynamic process that evolves over time. Tracking these plans on the state level has proved somewhat difficult, but officials say these difficulties are inevitable because flexibility is a key to making sure plans are effective.

To define restructuring more clearly, Michigan elaborated on federal options and added a "coaching" model to the mix. Michigan also chose not to give districts the option of turning the operation of the school over to the state, as the federal provisions would allow. Michigan officials said this option was impractical for the state. "The state does not have the human resources to run individual schools. The state would not see that as its role," explained Margaret Madigan, supervisor of regional support services, noting that the Michigan Department of Education only employs about 200 people. In addition, Madigan said, "We believe that the other options allow positive changes in the school and recognize the strengths that are there."

As schools refined their restructuring plans last year, state officials said they received little guidance from the federal government, perhaps because restructuring is so new. "I've reread this part of the law over and over looking for specific guidance, any hidden messages," said Yvonne Caamal Canul, Director of the Office of School Improvement for Michigan. "Sometimes I feel like we're making this up as we go along," she added. In view of the pioneering aspect of Michigan's restructuring efforts, Caamal Canul said the state focused on bringing research-based reform practices to schools in restructuring. The goal of restructuring is true transformation, not simply fulfilling the letter of the law.

For example, Caamal Canul read every restructuring proposal and asked districts to revise plans that didn't meet the requirements under NCLB or were less than adequate. "Detroit's plan was the same for every school," she said. "We asked them for major revisions before we released any funding to support the restructuring. That might not have been real popular," Caamal Canul recalled, explaining that each plan must specifically address the needs and culture of each school.

With a revised plan that met this goal of individualization, Detroit's restaffing plans were accepted. Each of the 36 Detroit schools received \$45,000 in additional Title I funding earmarked for restructuring in 2003-04.

Funds for restructuring come from the 4% of the state's Title I money that must be set aside for school improvement, according to federal law. Ninety-five percent of that set-aside has to be used for grants to districts with schools in improvement. Michigan's set-aside for school improvement for school year 2004-05 is about \$11 million but may be supplemented with funds carried over from 2003-04, district officials said.

In 2003-04, Michigan offered grants of \$45,000 per school to each district with schools in restructuring. For 2004-05, in an effort to distribute the funds more equitably, the state will offer grants on a sliding scale: \$45,000 per school for districts with fewer than 5 buildings in corrective action or restructuring, \$35,000 per school for districts with 5 to 10 buildings in corrective action or restructuring, and \$25,000 per school for districts with more than 10 buildings in corrective action or restructuring. The logic behind this new funding structure was that districts with more schools in restructuring would need less funding at the district level due to the economy of scale.

Before districts see any of this money, however, they have to show the state that they have clear and effective plans for restructuring. "We're holding a pretty firm line on the money," said Caamal Canul, noting that this was one way the state could influence district and school policies for restructuring.

Source: Center on Education Policy, November 2004, Makeovers, Facelifts, or Reconstructive Surgery: An Early Look at NCLB School Restructuring in Michigan

Table 1-F Percentage of Districts Using a Variety of Strategies to Improve Identified Schools in 2002-03 and 2003-04

IMPROVEMENT STRATEGY	2002-03			2003-04		
	SOMEWHAT/ GREAT EXTENT	MINIMALLY/ NOT AT ALL	DON'T KNOW	SOMEWHAT/ GREAT EXTENT	MINIMALLY/ NOT AT ALL	DON'T KNOW
Increasing the use of student achievement data to inform instruction and other decisions	94%	4%	3%	100%	0	0
Matching curriculum and instruction with standards and/or assessments	94%	3%	3%	99%	1%	0
Providing extra or more intensive instruction to low-achieving students	---	---	---	99%	1%	0
Using research to inform decisions about improvement strategies	90%	6%	3%	97%	3%	0
Increasing the quality and quantity of teacher and principal professional development	87%	7%	6%	96%	4%	0
Improving the school planning process	83%	14%	3%	96%	4%	0
Providing before- or after-school, weekend, or summer programs	83%	11%	6%	84%	16%	0
Reallocating resources to support school improvement	---	---	---	81%	19%	0
Increasing district monitoring and oversight	64%	33%	3%	69%	23%	7%
Restructuring the school day to teach core content areas in greater depth	51%	42%	7%	61%	36%	4%
[Selecting and/or] implementing a school reform model	43%	55%	3%	52%	45%	4%
[Selecting and/or] implementing a new curriculum or instructional program	73%	24%	3%	51%	46%	4%
Hiring additional teachers to reduce class size	34%	59%	7%	48%	52%	0

Table reads: In 2002-03, among districts that had schools identified for improvement under Title I, an estimated 83% reported that they worked on improving identified schools by improving the school planning process somewhat or to a great extent. The following year, in 2003-04, among these districts, an estimated 96% reported that they worked on improving identified schools by improving the school planning process somewhat or to a great extent.

Note: Responses are ranked according to the percentage of districts reporting that they used a strategy somewhat or to a great extent in 2003-04.

Source: Center on Education Policy, December 2003, District Survey, Item 15; June 2004, Summer District Survey, Item 4 (Table 3)

District-reported strategies to improve academic achievement were similar to state strategies. Districts responding to this survey question all had schools identified for improvement in 2003–04. Of these, 100% reported that they were increasing the use of student achievement data to inform instruction and other decisions, as shown in **Table 1-F**. Examples from our case studies support this finding.

This year in the Harrison Community Schools in Michigan, administrators and key staff plan to analyze state testing data for the elementary schools identified for improvement and make recommendations for changing curriculum and instruction. Over the past few years, Meridian Elementary School in Independent School District #2, Idaho, improved academic achievement and came out of improvement status based on data-based decision making. The key to improvement, in Principal Byron Yankey's view, remains the data. "Let the data speak," he said, "and that guides us to where we need to go." For an illustration of how data-based decision making works in schools, see **Box 1-C**, which describes the successful use of data-based decision making at Wade Park Elementary school in Cleveland, Ohio.

According to our survey, 99% of districts said that as a strategy for improving achievement, they matched curriculum and instruction with standards and/or assessments at least somewhat or to a great extent. The majority of districts in our case studies have also aligned curriculum and instruction with standards, although some said it was an ongoing process. For example, in Bloomfield School District in New Mexico, district staff said that all identified schools rely on quarterly reports of student achievement and curriculum pacing to make sure teaching is on track. In quarterly meetings, the district's superintendent, curriculum director, and principals review the quarter's progress and

Box 1-C At Wade Park Elementary Data-Based Decision Making Pays Off

At the end of the 2001-02 school year, Wade Park Elementary, a predominately low-income, African American school in Cleveland Ohio, found itself in the fourth year of failing to meet state goals. Even though 2001-02 was the first year of NCLB, Ohio counted schools' past performances under the Improving America's Schools Act when determining the number of years schools missed adequate yearly progress goals. Wade Park had a history of low student performance. In fact, based on 2002 testing, only 26.1% of students were proficient in math and only 9.1% in reading.

Based on 2003 testing, after a year of interventions under NCLB, the school made AYP for the first time. Student achievement has continued to go up. Last year's testing found 60.5% of students proficient in math and 54.9% in reading, an increase of a more than 30% in both areas compared with 2002.

To meet NCLB goals and dramatically raise student achievement, teachers at Wade Park Elementary focused on modifying instruction to address individual students' needs. "When our children don't show progress on weekly tests, they have to be given the opportunity to relearn," Principal Janice Moultrie explained. Teachers gave weekly tests to determine what students learned. Students with similar learning needs were then grouped together. These groups could change as often as once a week and could involve groupings across classrooms. In reading, in addition to classroom teachers providing instruction, the principal, assistant principal, language arts professional developer, and regional superintendent all taught groups of students, so that there were often only about 10 students per group.

Explaining this frequent assessment and regrouping, Moultrie said, "If students don't pass, you reteach. And you don't reteach the same way. The goal is for children to be successful, not to catch them being bad."

In addition, the principal and assistant principal individually reviewed the October pretest of the state exam with every child in third and fourth grade (the state testing grades). The administrators asked each child questions to determine why the child had made mistakes and whether the child needed to work on the skills involved or whether the child simply filled in the wrong bubble or misunderstood the question. Teachers then used this information to shape instruction for that child.

Source: Center on Education Policy, December 2004, NCLB Case Studies

Box 1-D Willow Run Middle School Makes Research-Based Changes

In 2003-04, Edmonson Middle School in the Willow Run Community Schools district in Ypsilanti, Michigan, entered restructuring because it had failed to meet adequate yearly progress goals for five years. Restructuring has led to major changes for the district, including replacing the majority of staff at the school, changing the name of the school to Willow Run Middle School, and totally revamping the school's curriculum.

These research-based reforms were agreed upon by a design team made up of teachers, parents, and district administrators. The team met regularly for a year to explore possible reform models and come up with a specific plan that would work for the new school. The reforms chosen were based on proven strategies identified by the National Forum to Accelerate Middle-grades Reform, effective middle schools research from the National Middle School Association, and Turning Points research by the Carnegie Corporation of New York. In addition, district staff said several of these approaches to learning had been successful in the district's K-8 elementary school, while Edmonson's past focus on memorizing facts for tests had been unproductive.

Research-based reforms for the new middle school included the following:

- Dividing the school into four small learning communities
- Providing time for teachers to work in teams within the small learning communities
- Creating flexible, block schedules that allow students to study a subject for longer chunks of time than the typical middle school class period
- Developing a new curriculum focused on learning rather than memorizing facts and based on four essential questions:
 - How do students construct knowledge of the world?
 - How do students communicate in the world?
 - How do students consider their place in the world?
 - How do students contribute to their world?
- Adding more exploratory courses, such as choir, digital imaging, keyboarding, and swimming
- Adding a three-year-long "advisory" class, which allows teachers and students to develop long-term relationships
- Creating a handbook and code of conduct agreed on by students, teachers, and parents

Teachers and parents who have been involved in the middle school redesign also have high hopes for the new curriculum. "We've been looking to see changes for quite some time," said parent Fawn Martin, who served on the design committee. "The curriculum is more centered on children learning versus children remembering. I expect great things to come out of this development," she commented.

Source: Center on Education Policy, December 2004, NCLB Case Studies



plan for the future, explained Linelle Sharrard, director of curriculum and instruction. This process of aligning curriculum and instruction to standards and tracking progress has been going on for the last five years and has helped the district improve student achievement, she said. Still, Bloomfield has faced challenges. Sharrard said the current textbooks, which are adopted at the state level, do not address all the standards tested, so the district and its schools have to supplement the textbooks themselves. “Teachers have had to scrounge,” Sharrard said. “We’re frustrated.” But year by year, she said, teachers are accumulating more resources.

Providing extra or more intensive instruction to low-achieving students also ranked high, with 99% of districts in our survey reporting that they were using this option to raise achievement. In our case studies, several districts described offering tutoring to low-achieving students, even if these students were not entitled to supplemental education services under NCLB. Gautier High School in the Pascagoula School District in Mississippi, for example, is not in school improvement, but it has a math tutoring program. When Principal Wayne Rodolfich arrived at Gautier High School three years ago, he said, “We had a problem with students failing the math test. We had 29 of them, so I went on the school bus and took them off and put them in a study hall so they could learn their math. The kids called it hostage math,” he recalled, “but it worked, and they pass the math test now.” Students continue to call this tutoring program “hostage math,” but nonetheless, they attend and take advantage of the extra help, according to the principal.

The third most common strategy for raising student achievement cited in our survey was using research to inform improvement strategies: 98% of districts said they used this strategy. Our case study of Willow Run Community Schools in Ypsilanti, Michigan shows how the middle school revamped its curriculum. A school team combined several different research-based reforms and got the middle school back on track. **Box 1-D** gives the details of this process.

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Other highly ranked strategies included “increasing professional development” and “improving the school planning.” More than 95% of districts surveyed reported that they were using these and the previously mentioned strategies somewhat or to a great extent to improve student achievement. **Table 1-F** shows additional strategies used by schools to improve academic achievement.

Choice and Supplemental Services as Improvement Strategies

Of the approximately 300 districts surveyed, 17% had schools that were required to offer school choice in 2004–05, and 10% had schools that were required to offer supplemental education services. Among districts with schools required to offer choice in 2003–04, the majority, 69%, reported that they did not know whether public school choice under NCLB is improving student achievement. Only 3% of these districts believed choice was increasing student achievement somewhat or to a great extent, and 28% said that it was having a minimal or no effect as illustrated by **Table 1-G**.

Among districts required to offer supplemental services, local views of the effect of supplemental education services on achievement were somewhat more optimistic than they were for choice. Again many districts, 42%, did not know what effect these services were having. The rest of the districts were divided: 20% reported that supplemental education services were increasing student achievement somewhat or to a great extent, while 38% reported they were increasing student achievement only minimally if at all, as shown in **Table 1-H**. Districts did appear to know more about supplemental services. They also reported more often that supplemental services increased student achievement than that school choice increased achievement.

Table 1-G Percentage of Districts Reporting the Extent to Which NCLB Public School Choice Resulted in Increased Achievement for Students Who Changed Schools in 2003-04, by District Type and District Size

	SOMEWHAT/GREAT EXTENT	MINIMALLY/NOT AT ALL	DON'T KNOW
TOTAL (all districts)	3%	28%	69%
DISTRICT TYPE			
Urban	5%	32%	63%
Suburban	0	24%	76%
Rural†	---	---	---
DISTRICT SIZE			
Very Large	6%	6%	88%
Large	0	46%	54%
Medium	4%	21%	74%
Small†	---	---	---

Table reads: In 2003-04, 63% of urban districts that had students who actually changed schools due to NCLB choice reported that they don't know if the choice provisions increased achievement for those students who changed schools.

† Not applicable: cell size too small to report

Source: Center on Education Policy, June 2004, Summer District Survey, Item 18 (Table 10)

Table 1-H Percentage of Districts Reporting the Extent to Which NCLB Supplemental Service Provisions Resulted in Increased Achievement for Participating Students By District Type and District Size

	SOMEWHAT/GREAT EXTENT	MINIMALLY/NOT AT ALL	DON'T KNOW
TOTAL (all districts)	20%	38%	42%
DISTRICT TYPE			
Urban	32%	29%	39%
Suburban	14%	43%	43%
Rural†	---	---	---
DISTRICT SIZE			
Very Large	18%	18%	64%
Large	6%	47%	47%
Medium	27%	46%	27%
Small†	31%	34%	34%

Table reads: Twenty percent of districts with schools that had students who received supplemental services in 2003-04 reported that the supplemental services provisions resulted in increased achievement somewhat or to a great extent for participating students.

† Not applicable: cell size too small to report

Source: Center on Education Policy, June 2004, Summer District Survey, Item 35 (Table 18)



Districts may not be in a position to determine the effect of choice and supplemental services because, as described in chapters 4 and 5, only a small number of students are choosing to participate in these services in many districts. In addition, districts are not required to track the achievement of these students. Although debate about the effectiveness of choice and supplemental services can be fierce, research on the topic is limited. As one state official pointed out, “Choice and supplemental services are not research-based strategies for turning around low-performing schools.”

Reallocation of Class Time

Another strategy to improve student achievement used by districts is increasing instructional time in reading and math, the subjects currently tested under NCLB. Our survey shows that 64% of districts required elementary schools to devote a specific amount of time each day to reading, and 53% required them to devote a specific amount of time to math. The average number of minutes of instruction required in reading was 94, or about an hour and a half, while the average number in math was 64, or about an hour.

The percentage of districts requiring schools to devote a particular amount of time to math and reading varied significantly by poverty. The poorer the district, the more likely it was to mandate that schools allot a specific amount of time to math and reading. More affluent districts were less likely to place this demand on schools, as seen in **Figure 1-A**. This finding suggests that poorer students may be getting a more limited curriculum, which focuses in on reading and math. More fine-grained research is needed, however, to determine exactly how much time is actually devoted to these subjects in schools with differing poverty levels.

For about 20% of districts that receive Title I funding, these time requirements represented a change in district policy, in terms of instituting a new requirement or increasing the amount of time required. For example, time devoted to literacy has been a particular focus in the Cleveland Municipal School District, said Rebecca Lowry, the district’s chief academic officer. Teachers in elementary grades are now required to teach English language arts in 90-minute blocks, an increase for most schools. This longer teaching time allows teachers to use small group instruction more frequently and to individualize instruction, Lowry explained, adding that in the past, “the focus used to be to teach to the middle student.” Some Cleveland schools, such as Wade Park Elementary featured in **Box 1-C**, have even expanded reading time to 120 minutes. Our case studies also showed that California’s Grant Joint Union High School District added a triple block of reading instruction and double blocks of math instruction for schools in corrective action. All Title I schools in Escondido Union Elementary School District, California, created new 150 minute blocks of language arts time for first through third graders as part of their Reading First grant.

Critics of this strategy contend that expanding time for reading and math may push other important school subjects to the side and that the additional time may be too focused on test preparation and not on learning. For example, the New England Association of Teachers of English adopted a resolution asking Congress to revise NCLB on the grounds that “the unintended consequences [of NCLB] have been that students and teachers spend more time on test preparation and less time on learning” and that “innovative, creative programs have been cut” (New England Association of Teachers of English, n.d.).

Our local survey asked districts to indicate whether they had reduced the amount of time spent on subjects other than reading and math. In particular, we asked whether social studies, science, art and music, and physical education had been cut.

Figure 1-A Percentage of Districts Requiring Schools to Devote a Specific Amount of Time to Reading and Math by Poverty Levels

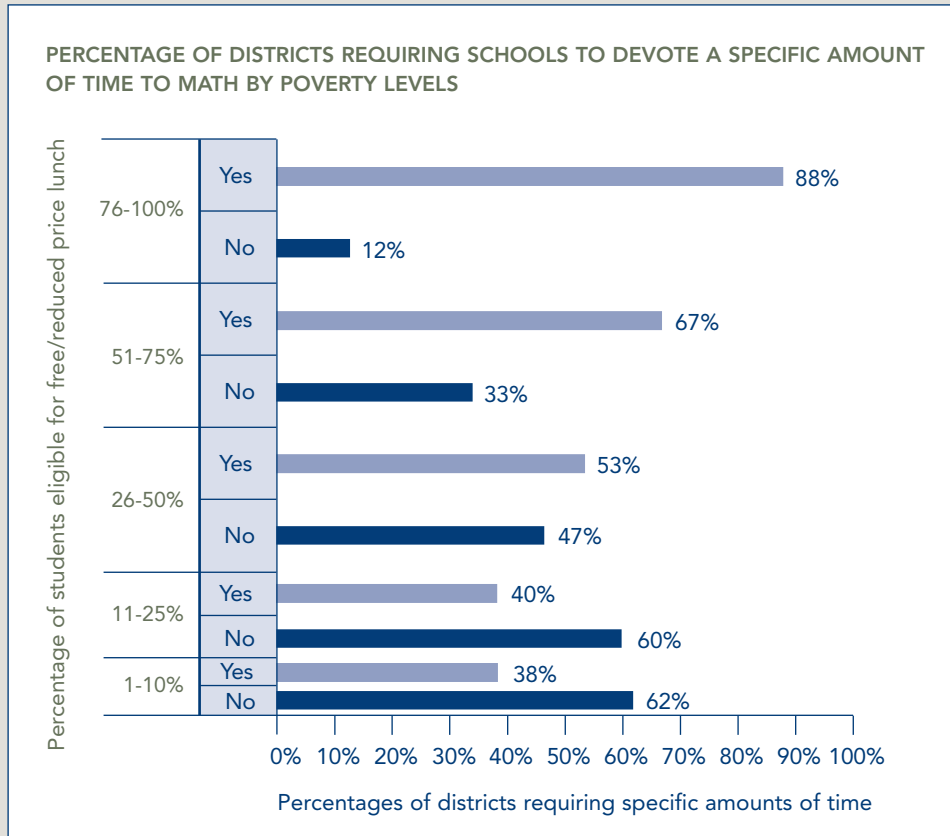
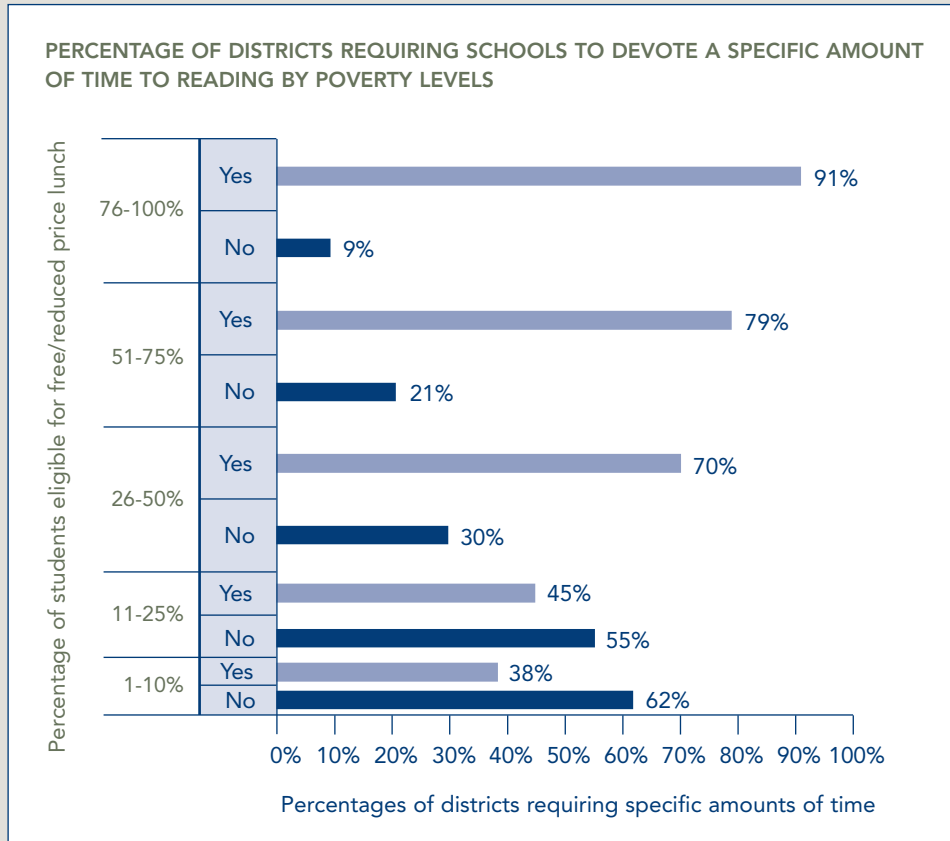


Table reads: In districts where 76-100% of students are eligible to receive free or reduced price lunch, 91% of these districts require schools to devote a specific amount of time to reading.

Source: Center on Education Policy, December 2004, Fall District Survey, Item 12 (Table 11b)

More than two-thirds of districts reported that instructional time in other subjects had been reduced minimally or not at all. In contrast, 27% of districts reported that time devoted to social studies had been reduced somewhat or to a great extent, almost a fourth reported that time in science, art, and music had been reduced, and 10% reported that time given to physical education had been reduced. **Table 1-1** lists the percentage of districts cutting all subjects.

In our case studies, several districts expressed concerns that NCLB’s focus on reading and math would take time and energy away from other important subjects, as well as from gifted and talented programs or from extracurricular activities like performing arts. Heartland Community Schools in Nebraska has no schools in improvement, but district officials expressed concern that NCLB’s strong emphasis on mastery of basic academic skills is taking attention away from music and art. Vocal and instrumental instruction has been part of the traditional offerings for students in Heartland, and these programs have strong support from the community and school staff.

Similarly, Orleans Central Supervisory Union in Vermont has no schools in improvement. The district does have a Reading First grant under NCLB. Teachers and principals indicated that because of this grant they were required to spend more time on reading and significantly less time on non-assessed subjects, such as science, social studies, music, and art. The district’s Reading First grant requires 90 minutes of reading a day, and NCLB in general has increased the time required for testing. In addition, a new district math program requires 90 minutes a day.

Table 1-1 Percentage of Districts That Have Reduced Instructional Time in Some Subject Areas to Make More Time for Reading/Language Arts and/or Math

	REDUCED NOT AT ALL	REDUCED MINIMALLY	REDUCED SOMEWHAT	REDUCED TO A GREAT EXTENT	DON'T KNOW
Social Studies	46%	23%	20%	7%	4%
Science	53%	21%	18%	4%	3%
Art and Music	54%	23%	11%	9%	3%
Physical Education	71%	17%	8%	2%	2%
Other Subjects	51%	17%	9%	9%	14%

Table reads: Among districts that require schools to devote a specified amount of time to reading/language arts and/or math instruction, an estimated 46% report that instructional time in social studies has not been reduced at all to make more time for reading/language arts and math.

Source: Center on Education Policy, December 2004, Fall District Survey, Item 14 (Table 13)



In St. John the Baptist Parish Public Schools, Louisiana, students in one elementary school that did not make AYP gave up half of their physical education time for small group instruction in math and reading.

Bayonne City School District in New Jersey, a case study district, has created after-school clubs to address subjects eliminated from the regular school day. The district cut back on the number and availability of art and music programs in order to increase the amount of school time devoted to academic subjects in general and to math and reading in particular. In addition to art and music, which all elementary students continue to receive one period per week, Bayonne City elementary schools used to offer choir one period a week and Talented Art two periods per week for selected students. These classes were problematic, according to Assistant Superintendent Ellen O'Connor, because students were pulled out of their regular classes and taken away from regular class instruction. For this year, the district has made choir and Talented Art into clubs that meet before and after school.

Another strategy for increasing reading and math instruction without cutting other subjects is to integrate reading and math with other subjects such as social studies and science. In an open-ended question in our district survey, a few districts said they were attempting this strategy. One explained, “We’ve always required about two hours of reading instruction, and we integrate social studies and science into reading and math.” Another said, “We haven’t changed any time amounts, just integrated the subjects.”

Our case studies and survey show that some districts disagree about the value of increasing time for reading and math and the dangers involved in edging out other subjects. While Cleveland celebrated these increases, others found them potentially harmful to students. More research is needed to determine the extent and effect of these changes on most schools.

Strategies for Schools in Corrective Action or Restructuring

Under NCLB, schools not making AYP for four or more years are placed in corrective action, and those not making AYP for five or more years are placed in restructuring. Both these categories for school improvement require districts to choose from a list of federally approved strategies to help schools meet AYP. While our surveys did not ask about corrective action or restructuring, case studies did show that districts are complying with these aspects of NCLB and implementing strategies to improve schools. For some districts, having schools placed in corrective action or restructuring has been a wake-up call.

For example, while the Harrison Community Schools in Michigan have always complied with the demands of NCLB, the law had a limited impact on the Harrison district until two schools were placed in restructuring, district officials said. “I do not want to say it [NCLB] was ignored,” said Michele Sandro, director of state and federal programs in Harrison. “But we did not take any of it very seriously until the hammer came” in the form of restructuring.

Districts with schools in corrective action must take one or more of the following actions to improve student achievement at the affected schools:

- Replace school staff relevant to the failure to make AYP
- Implement a new research-based curriculum and provide professional development
- Decrease management authority at the school
- Appoint an outside expert to help the school revise its school improvement plan



- Extend the school year or school day
- Restructure the internal organization of the school

Districts with schools in restructuring must take one or more of the following actions to help these schools improve:

- Reopen as a charter school
- Replace all or most school staff relevant to the failure to make AYP
- Contract with an outside organization to operate the school
- Turn the school over to the state, if the state agrees
- Restructure the school's governance to make fundamental reforms

Our case studies showed that districts were using a number of strategies for corrective action and restructuring. Several have hired additional staff to help schools improve. For example, in the Grant Joint Union High School District in California, math and English language arts coaches were hired to strengthen the math and reading programs in the corrective action schools, and the scope and sequence of the math curriculum was reviewed. In one targeted school, the school day starts late on Wednesdays to make time for professional development. During this time, teachers work in groups to analyze student achievement data and learn how to effectively implement new instructional strategies. Staff members share what they learned from training session presenters and explain how to use this knowledge in the classroom.

In the Boston Public Schools, the district has created six support positions to assist schools in corrective action and restructuring: three school support specialists funded by Title I school support funds and three assistant superintendents funded with local funds. These six help the schools plan, monitor work in progress, and focus existing district resources. In addition, the district earmarked \$600,000 for fiscal year 2005 for extra support for the schools and increased the amount to \$700,000 to fully meet the needs identified by the schools under the direction of the deputy superintendents and the six support positions. Schools used the money for additional literacy and math coaches (six positions), teachers (two positions), an assistant principal, and a variety of part-time support services (parent outreach, guidance, tutoring, and Saturday school).

Instead of hiring additional staff, some districts have changed key personnel, such as the school principal. The Berkeley County School District in South Carolina has only one school in corrective action, an elementary school with grades K-5. The school has undergone administrative changes including the arrival of a new principal. This school made AYP in 2004, and if it does so again in 2005, it will no longer be in school improvement or corrective action. The district initiated and participated in a review of all the resources available to this school and how they were used to assist students who were not achieving as they should. This process revealed a number of practices that were not yielding the intended results. Consequently, counseling services and a teacher training program were discontinued and the funds redirected to hiring more teachers to lower class size.

Other districts have had success with national reform models. In the Kansas City, Kansas Public Schools, the First Things First advocacy program, a comprehensive school reform model, has been extended to all schools including those in corrective action. Jim Antos, principal of a middle school that is currently in corrective action, spoke glowingly of its "advocacy" program, which is paid for in part with Title I funds and in part with foundation funding. In the school for three years and being implemented district-wide for the first time in 2004-05, the First Things First advocacy program seeks to



help teachers create stronger relationships with students and their families. The program features a homeroom class of 45 minutes per week in which teachers check in with their students and focus on such issues as anger management, stress, and family problems; one-on-one conferences between teacher and student; and efforts to increase parental involvement. As a result, according to the principal, student suspensions have decreased while attendance and test scores have increased.

The most dramatic changes have occurred when districts close low-performing schools and reopen them as completely new schools with a clean slate as far as demonstrating adequate yearly progress goes. Chicago's "Renaissance 2010" program will temporarily close low-performing schools based on Chicago's own accountability system and reopen these schools a year later with significant changes, including new staff and management structures. In the Oakland Unified School District in California declining enrollment, as well as academic failure, has played into the decision to close schools. Some of these school buildings have reopened as schools of choice within the district. Twenty such small schools are operated in partnership with the Bay Area Coalition for Equitable Schools (BayCES), a local nonprofit organization. Neither of these districts' school closure plan is expected to work for all schools in corrective action or restructuring. Officials said the districts simply lacked the capacity to close and reopen all schools in corrective action or restructuring.

In addition to conducting its district case studies, CEP completed a study of restructuring in Michigan in the fall of 2004 (Center on Education Policy, 2004). Michigan was chosen because it had a number of schools that had not made AYP for five or more years and a comprehensive state plan for restructuring. Key findings from the Michigan study included the following:

- **Moderate approach but immense task.** Michigan is taking a relatively moderate approach to restructuring—not superficial, but not so radical as to do away with public schools altogether. Even so, educators in the districts and schools studied are finding restructuring an immense and underfunded task.
- **Staff replacements.** The most popular choice for restructuring in Michigan has been replacing staff. State officials noted that this may be because shifting staff from one school to another appears to be an easy option; however, many districts found that replacing staff led to additional changes needed to improve the school. For example, changing the staff at Civic Park Elementary in Flint resulted in school uniforms, a new behavior management plan, a revised curriculum, and a campus clean-up project.
- **Trained coaches.** Michigan has added "coaching" to the federal options for restructuring schools. This coaching model, designed by Michigan educators, places state-trained coaches in schools for at least 100 days to oversee restructuring. Officials in districts and schools choosing this option said they found it flexible enough to adapt to the particular needs of their school, yet powerful enough to truly change the culture of the school.
- **An individualized process.** In interpreting NCLB, Michigan state officials determined that restructuring must be an individualized process for every school and must target each school's specific weaknesses. The state asked districts like Detroit, which originally turned in the same plan for all of its schools in restructuring, to revise the plans to account for the particular needs of each school.
- **No quick fixes.** While districts and schools must choose particular state-approved strategies for restructuring—such as replacing staff, hiring a restructuring coach, or



changing the governance structure of the school—no plan appears quick and easy to implement. All of these strategies resulted in major changes in the school’s staff, curriculum, culture, and community engagement.

- **Restructuring as a lever for difficult changes.** State and district officials are using NCLB restructuring provisions to leverage needed change, including taking some steps that would otherwise be difficult to do, such as replacing ineffective principals and staff.
- **Differing views.** While most local administrators and educators involved in restructuring responded positively to the process, individual views varied. People seemed to have fewer doubts about the effectiveness of restructuring when they agreed with the school’s vision for the restructuring and believed the school had sufficient funds and resources to carry out this vision.
- **Inadequate federal funding.** School and district officials reported that Title I funds have been inadequate to carry out all the changes needed to truly restructure schools. Some schools and districts have drawn on general operating funds to implement changes. Willow Run in Ypsilanti, for example, used its own funds to provide staff time to rewrite the curriculum and to remodel a school building to support small learning communities. Other districts in which general operating funds are already stretched thin have had to forgo some changes that educators believe would improve student achievement, such as reducing class size at Brownell Elementary in Flint.

Conclusion

While results are preliminary, our surveys and case studies suggest that student achievement is increasing, and several national studies also show increases in the percentage of students performing at the proficient level. While these are valuable studies, they should not be considered conclusive—scientific studies of complex social topics rarely are. It will be important to follow various future studies, *over time*, to see if consensus builds using different methods about whether student achievement is actually improving and which factors account for that improvement.

At present, it seems there may be a relationship between changes in school improvement strategies and better test results. Our surveys and case studies contained a good deal of agreement about how certain strategies, such as the use of data-based decision making, were improving teaching and learning. The effect of key NCLB sanctions—school choice and supplemental services in particular—seemed less clear. Most districts did not know what effect either was having on student achievement, and very few thought choice, in particular, was having a positive effect. The effect of reallocating class time to accommodate more math and reading also seemed mixed.

Judgments about whether student achievement is improving as a result of overall NCLB policies, however, are difficult to make for two major reasons. First, as discussed previously, it may be too early to tell—the law has only been in effect for about three years, not enough time to look at discernable trends. Often, reactions to high-stakes testing programs, both positive (increased motivation) and negative (narrow teaching to the test), cause spikes in test scores that do not persist over time. Second, prominent researchers have charged that the primary measure of success in NCLB—the percentage proficient—is not a full and robust measure of achievement as discussed in more detail in Chapter 3. That is because it does not capture individual growth or the performance of both very low and very high achieving students. In the future, it will be important to



monitor the achievement of all students, as well as to use other academic indicators such as graduation rates, attendance rates, and classroom practices, to get a broader picture of the effects NCLB is having on students.

Some external means could help to corroborate or disprove gains made as a result of NCLB. The first is NAEP. It will be informative to see if state test score gains are supported by the results of the NAEP administrations over the next several years—reading and math assessments for fourth and eighth graders will be administered in 2005, 2007, and 2009. Although NAEP is a national assessment and therefore is not aligned to each state's particular content standards (in the way that state assessments are), NAEP does provide a broad indicator of trends in student achievement and has the advantage of providing results that are comparable across states.

A second way of gauging the effect of NCLB is to look at the U.S. position in international comparisons. If the U.S. moves up in international rankings in this decade or so, that would be an encouraging sign; the improvement of other countries in the group tested would also have to be taken into account. But here again, the results can be inconclusive. Recently two international comparisons were released. In the first study, known as the PISA 2003 study, U.S. 15-year-olds scored below international averages in mathematical literacy and problem solving (National Center for Education Statistics, 2004a). In the second study, known as the TIMSS 2003 study, U. S. fourth and eighth graders scored above international averages in math and science (National Center for Education Statistics, 2004b). To find out if NCLB is causing U.S. students to learn more in math and reading it will be most informative to look at trends on a variety of measures over time, to see if there is a convergence among them, consistently showing that achievement is improving.

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CHAPTER 2

Positive Effects and Greatest Challenges

Key Findings

- States and districts generally agree that the law's emphasis on accountability for all student subgroups has produced a positive effect by directing more attention to the needs of low-achieving students. But they also agree that demonstrating adequate yearly progress for all subgroups is one of the law's greatest challenges. States and districts report that they would like to see the accountability requirements changed or eliminated for students with disabilities and English language learners.
- States and districts report that federal funds are not sufficient to carry out all aspects of NCLB. States say more funds are needed to help schools identified for improvement, while districts report spending their own funds to train teachers to meet the law's highly qualified teacher requirements and recruit teachers who already meet them.
- State departments of education are the entity that school districts most often turn to for assistance in implementing NCLB. But the vast majority of states report that they do not have sufficient capacity to carry out the NCLB requirements, or the necessary expertise to assist schools and districts identified for improvement. This lack of capacity is a serious problem that endangers the success of the entire Act.
- A large proportion of school districts participating in Title I received less federal funding in 2004-05 than they did the previous year, despite the rising demands of NCLB.

29

Introduction

During 2004, its third year of implementation, the No Child Left Behind Act significantly influenced policies, practices, and priorities in many school districts. NCLB affected a range of local decisions, such as how districts and schools spend their own funds and what kinds of professional development they provide to their teachers. As a result of the law's choice and supplemental education services requirements, school districts shifted priorities for using Title I funds and took on extra administrative responsibilities. With the passage of time, more schools entered the corrective action and restructuring phases of NCLB, and some underwent dramatic changes, such as replacing staff, restructuring governance, or being closed or completely reorganized.

During 2004, the effects of NCLB reached down deeper into the classroom level. The law influenced such fundamental aspects of education as what and how teachers teach, how students are grouped, and how much time they spend studying various subjects. Schools identified for improvement took steps to raise student achievement that almost always involved changes at the classroom level, because that's where learning occurs.



The crucial question is whether these impacts are positive or negative. This chapter discusses findings from the Center's state and district surveys and our case studies about the positive effects of the law and its greatest implementation challenges or negative effects. The chapter also takes a closer look at four broad challenges: providing adequate funding, ensuring sufficient state and local capacity to carry out NCLB, achieving the right degree of flexibility and helpfulness in federal administration of the Act, and maintaining public support for NCLB. The chapter concludes with suggestions for revising NCLB policies from states and school districts involved in our study.

Greater Impact in 2004

By some reckonings, states have made considerable progress in implementing many key requirements of the No Child Left Behind Act. According to a study by the Education Commission of the States (2004), all but two states had met or were on their way toward meeting 75% of the law's major requirements as of March 2004—double the number that were on track in 2003. Overall, states are doing well in implementing the testing and adequate yearly progress requirements, ECS concluded, but most are struggling to meet the teacher requirements, as discussed in chapter 6.

The Center's case studies of 36 school districts shed light on the progress of NCLB implementation at the local level. These districts generally appear to be taking the mandates of NCLB seriously and are carrying out countless small and large steps to comply with its requirements and meet its ambitious goals. In most of our case study districts, NCLB has spurred moderate to significant changes—ranging from changing reading curriculum and teaching methods in Berkeley County School District, South Carolina, to moving away from pullout programs for special needs students in Cloquet Independent School District #94, Minnesota, to reconfiguring school grade spans in Fort Lupton Weld-R-8 School District, Colorado.

Making these changes can be difficult, as the experience of some case study districts shows. Willow Run Community Schools in Michigan “used NCLB as a kind of lever,” according to Superintendent Douglas Benit, to make staffing changes aimed at creating a better learning climate in a school identified for restructuring. Meridian Elementary School, part of Independent School District #2 in Idaho, made major changes in reading instruction and other areas after being identified for improvement. “We called it the year of tears,” said Principal Byron Yankey, “but I told the staff that our hands were tied and we needed to improve, and in order to do so, we had to change.”

In a few case study districts, the impact of NCLB has been limited for various reasons. In the Boston, Massachusetts, Public Schools, NCLB has had a relatively small impact, according to staff, because the district has been carrying out its own reforms since 1996, and NCLB was relatively compatible with these local reforms. In the tiny Heartland School District in Nebraska, NCLB has not had much impact other than requiring more testing, according to Superintendent Norm Yoder. But this may be partly attributable to the district's demographics and overall high achievement: white students are the district's only racial subgroup, and all schools have made adequate yearly progress.

On the whole, our case studies suggest that NCLB has become “implanted in the culture of America's public education system,” as one writer observed (Olson, 2004).



Positive Effects

Our surveys asked states and school districts to cite up to three positive effects of NCLB. In our case study interviews, we also asked school district officials to identify any positive impacts of NCLB.

The vast majority of states and districts responding to our surveys cited the Act's emphasis on standards, accountability, and disaggregated achievement data for student subgroups as having positive effects. Several states and districts mentioned that NCLB has prompted districts and schools to pay closer attention to the academic needs of low-performing subgroups and to make better use of data to inform instruction. Here are some examples of what states and districts told us:

[NCLB places an] emphasis on all kids reaching the standards. We have high aggregate data, so it's easy to lose kids with high needs. Separating the data into subgroups helps us make sure we're getting to all kids.

Accountability for performance of students with disabilities—forcing educators to re-examine expectations and practices—many districts have basically written off this population, regardless of the severity of students' disabilities.

We spent a lot more time not just taking assessments, but studying them and identifying areas of weaknesses.

Many officials participating in our case studies also viewed increased attention to subgroup achievement as a positive effect of NCLB. According to Dr. Ellen O'Connor, assistant superintendent of the Bayonne City School District in New Jersey, NCLB was a “wake-up call” to the district. Once the district became more aware of achievement problems among various subgroups, it increased the time devoted to math and reading and reduced class size in a school identified for improvement, among other actions.

Like our survey respondents, many case study interviewees cited better use of data to inform instruction as a positive effect. “The value of NCLB is the data,” explained Susan Stark Haydon, district director of community relations for the Tigard-Tualatin School District in Oregon. “It lets you see whether or not you're making progress.”

Some district officials participating in our surveys or case studies saw improved alignment of instruction with standards and assessments as a major positive effect of NCLB. In Calhoun County School District, Alabama, for example, teachers are trained in ways to align instructional practices with standards. A survey respondent from another district summed up the law's impact on instruction as follows:

Students are more effectively receiving the state mandated curriculum. We know this through curriculum audits and data analysis of state assessments. The AYP compliance consequences have contributed to this effect.

Several state and district survey respondents said that the NCLB “highly qualified” teacher provisions have drawn needed attention to teacher credentials. One state official characterized the impact as follows:

All of the teachers are now required to meet the highly qualified requirements, so now we need to employ people in their major field of study. This has been most effective in middle and high schools.



Other positive effects of NCLB were mentioned by smaller numbers of survey or case study participants. Several state and district survey respondents mentioned greater parent involvement as a positive outcome of NCLB. Some said that as a result of NCLB, parents were receiving more and better information about their children's achievement. Others noted that communication between home and school had improved or that parent participation in school activities had increased. One official wrote that NCLB has caused the district to try harder to involve parents:

[W]hile increasing the level of parent involvement in the schools is an extremely difficult goal to achieve, [NCLB] has forced the district to look at ways to make this happen.

Officials in some case study districts said that NCLB had helped to bring about greater collaboration among staff at the district and school levels and among classroom, Title I, and special education teachers. For example, when Mary B. Martin Elementary School in the Cleveland Municipal School District entered school improvement status, the staff realized everyone had to pull together to raise achievement. Teachers opened their doors and began working across grade levels to align curriculum and develop consistent discipline policies. And the collaboration paid off: with 2004 testing, the school exited school improvement. In the Fayetteville, Arkansas, Public Schools, principals meet regularly to review their progress and share effective strategies.

Some administrators in case study districts said that as a result of NCLB, they were more closely monitoring instruction in individual classrooms, through such means as making more frequent classroom visits, reviewing lessons, or sending instructional coaches into classrooms. Administrators saw this as a positive outcome. For example, in the Pascagoula School District in Mississippi, a school monitoring team led by the superintendent visits each middle school once a month. Team members spend an entire period in an individual classroom, reviewing lesson plans and looking at such issues as how the teacher sets the stage for learning, uses effective teaching strategies, manages the classroom, interacts with students, and assesses student learning. At the end of the day, team members meet with the school principal to review their observations.

Finally, officials in a few case study districts noted that NCLB had brought greater public attention to education, which they saw as a positive outcome. As Betsy Mierzwa, coordinator of federal programs in the Waynesboro, Virginia, Public Schools explained, "Education is talked about everywhere—you can't go to the dentist or to a restaurant without people mentioning No Child Left Behind."

Greatest Implementation Challenges

Our survey asked states to report on the challenges they had encountered in implementing the No Child Left Behind Act during school year 2003-04. In particular, we asked them to note how much of a challenge various aspects of NCLB implementation had posed.

As **Table 2-A** shows, 33 states said that providing assistance to all schools identified for improvement posed a serious challenge, and 9 more called this a moderate challenge. States also found it a challenge to ensure adequate staffing within the state education agency, in terms of both staff size and expertise. Forty-five states indicated that staff *size* was a serious or moderate challenge, and 31 states reported that staff *expertise* presented a serious or moderate challenge. Roughly equivalent numbers of states reported that issues of adequate state funding (40 states) or federal funding (39 states) presented a serious or moderate challenge in carrying out NCLB last school year.

Table 2-A Number of States Reporting the Extent to Which Certain Issues Presented a Challenge to Their Implementation of NCLB during School Year 2003-04

	SERIOUS CHALLENGE	MODERATE CHALLENGE	MINIMAL CHALLENGE	NOT A CHALLENGE
Providing assistance to all schools that have been identified for improvement	33	9	4	1
Adequacy of state education agency staff size	31	14	3	0
Determining which schools made adequate yearly progress prior to the beginning of the school year	31	12	5	0
Adequacy of state funds to carry out duties under NCLB	28	12	6	0
Timeliness of guidance and regulations from the U.S. Department of Education	25	19	3	1
Adequacy of federal funds allocated to the state to implement state-level requirements of NCLB	23	16	5	3
Developing assessments as required under NCLB	18	15	6	7
Determining which teachers meet the NCLB definition of "highly qualified"	16	18	11	1
Adequacy of information from the U.S. Department of Education regarding how NCLB should be implemented	16	18	13	1
Obtaining approval of the state's NCLB accountability plan	11	19	12	6
Obtaining approval of amendments to the state's NCLB accountability plan	10	14	12	11
Adequacy of state education agency staff expertise	5	25	12	6
Developing state content and student performance standards as required under NCLB	4	9	16	17

Table reads: Thirty-three states reported that providing assistance to all schools identified for improvement presented a serious challenge to the state's implementation of NCLB in 2003-04.

Note: Responses are ranked according to the number of states reporting that the issue presented a serious challenge to the state's implementation of NCLB.

Source: Center on Education Policy, December 2004, State Survey, Item 43



As shown in **Table 2-A**, other areas states rated as serious or moderate challenges include developing assessments as required under NCLB, determining which teachers meet the NCLB definition of highly qualified, and addressing issues related to the timeliness of federal guidance and regulations and the adequacy of information from the U.S. Department of Education. State opinions were more mixed about whether they faced challenges in obtaining approval of their accountability plans or amendments to those plans.

On the other end of the spectrum, developing state content and student performance standards did not pose much of a challenge, according to our survey—presumably because states have already done much of this work. Thirty-three states said this issue presented either a minimal challenge or no challenge to their NCLB implementation efforts last year.

Our surveys also contained open-ended questions asking states and districts to cite up to three NCLB requirements that presented them with the most serious implementation challenges. Overwhelmingly, states and districts reported that the adequate yearly progress requirements posed serious implementation challenges. Specifically, states and districts voiced concerns about how students with disabilities and English language learners are treated under the AYP requirements. States also cited challenges with other aspects of AYP, such as the timelines in the law for reporting data before the beginning of the school year, the requirement to count one student as a member of several subgroups, and conflicts between state accountability systems and the No Child Left Behind Act. The following survey comments give a flavor of their concerns:

Identifying a school as needing improvement based on not achieving in one category of 41 is providing a false label to that school.

Calculation of AYP is too punitive and does not adequately take into account growth at the school level.

Accountability double jeopardy results in low performing subgroups being inflated with students with multiple problems. They count against schools/systems in up to 3 special services groups. It would be better if the subgroups would all be mutually exclusive.

Including the subgroups of students with disabilities and [limited English proficient] students—two groups who receive such services because they are not proficient—to the same targets.

Like survey respondents, officials in some case study districts saw meeting AYP requirements as one of their greatest challenges. Although many interviewees in case study districts expressed cautious optimism about their ability to improve achievement, some were skeptical about the likelihood of meeting the long-term goal of 100% proficiency. “NCLB is a nice goal, but it’s an impossible feat,” said one elementary school principal in Orleans Central Supervisory Union, Vermont. In a similar vein, several officials expressed concern about their district’s ability to make AYP in coming years as the number of tested grades expands and proficiency targets rise.

The highly qualified teacher requirements were also identified as serious challenges by a majority of school districts and states responding to our survey. One state official summed up the problem of teacher qualifications as follows:

Due to high rates of uncertified [teachers] within the state and the lack of middle school certification requiring a major in a content area, many schools and districts within the state will face a challenge in meeting the target date for these requirements. This is especially problematic for low-performing schools, middle schools, and extremely rural or urban schools.



Several states mentioned inadequate staff capacity and funding in response to our open-ended question about greatest challenges. Some states particularly noted that they lacked the capacity to help all schools identified for NCLB improvement. States and districts also listed choice and supplemental services as among the most challenging provisions to implement, a view illustrated by the following state comment:

NCLB requirements such as choice and SES [supplemental education services] [demand] excessive amounts of time, money, and staff without conclusive evidence of their effectiveness in improving student achievement.

Case study districts mentioned other challenges or negative effects of NCLB in addition to those cited in our surveys:

- A handful of districts observed that NCLB was damaging staff morale. “We see the good in accountability, but NCLB has also left us somewhat demoralized,” explained Brian O’Leary, director of educational support services for the Kodiak Island Borough School District in Alaska. “When small subgroups do not make AYP and the entire school gets reported by the media as a failing school, this is hard on everyone,” O’Leary added.
- Some districts felt testing had become too pervasive and was taking too much time. According to staff in rural Heartland Community Schools, Nebraska, for example, more testing has taken away from direct teaching time between students and teachers.
- The Kansas City, Kansas, Public Schools reported that NCLB has had a somewhat negative effect on successful districtwide reforms that were well underway before the federal law came along.
- The Wake County Public Schools in North Carolina initially reacted positively to NCLB, according to Karen Banks, assistant superintendent of evaluation and research, but implementing the law has proved to be “extremely burdensome.” NCLB compliance has consumed a great deal of energy and resources, she noted, and bureaucratized the school improvement process.

In summary, our survey suggested that some of the greatest challenges of implementing NCLB stem from its specific requirements for student achievement, accountability, choice, supplemental services, and teachers. Challenges in these specific areas are explored in more detail in other chapters of this report. In addition, our survey highlighted several broad challenges that are not tied to specific provisions of NCLB but still affect its overall implementation. These include (1) providing adequate funding; (2) ensuring sufficient state and local capacity to carry out NCLB; (3) achieving the right degree of flexibility and helpfulness in federal administration of the Act, and (4) maintaining public support for NCLB. The remainder of this chapter explores these four broad challenges in greater depth.

Funding Challenges

In 2004, funding for the No Child Left Behind Act became a topic of heated debate. At the heart of the debate was the issue of whether federal funding is adequate to effectively carry out NCLB. As background for examining these funding issues, we consider below the status of federal education appropriations and the impact of federal formula changes on the amount of Title I funding allocated to states and school districts. Next we review the national debate about the adequacy of federal funds for NCLB and summarize the results of studies that have tried to estimate the costs of carrying out the



Act. Finally, we report findings from our state and local surveys and case studies about whether federal funding for NCLB is adequate, what kinds of NCLB-related costs are not being covered by federal funds, and how implementation of the Act has been affected by state and local funding problems.

Federal Appropriations

After three years of notable growth, federal appropriations for education programs began to taper off in fiscal year 2004 and slowed even more in fiscal year 2005. And under President Bush's proposed budget, education funding would be cut in fiscal year 2006.

For the entire U.S. Department of Education, the fiscal year 2005 appropriations amounted to \$56.6 billion—an increase of \$920 million, or 1.6%, over the previous year. This is much smaller than the boost of \$2.6 billion, or 4.8%, that the Department received in fiscal year 2004, when appropriations totaled \$55.7 billion. For the upcoming fiscal year 2006, the President's budget proposes to cut total federal discretionary spending for the U.S. Department of Education by \$4.3 billion, a reduction of 0.9%.

Discussions about NCLB funding often focus on funding for the Title I program for disadvantaged children. Not only is Title I the largest NCLB program by far, but it is also the engine that drives the major NCLB requirements. Moreover, Title I law contains a specific level of authorized funding, while most other NCLB programs do not have fixed authorizations for the years beyond fiscal year 2002.

Federal appropriations for Title I totaled \$12.7 billion for fiscal year 2005—\$400 million more than the \$12.3 billion appropriated for fiscal year 2004, but less than what the House and Senate had approved in their appropriations bills and \$600 million below President Bush's original 2005 budget request. This \$400 million increase for fiscal 2005 was also less than the boost of 5.5%, or \$650 million, that Title I had received the preceding year. Although the President's budget for fiscal year 2006 proposes a \$603 million increase for Title I, this extra funding would be obtained by eliminating 48 education programs and cutting several other programs.

State and Local Title I Allocations

Even though overall appropriations for Title I went up for fiscal year 2004, more than half the school districts participating in the program received a smaller Title I allocation for school year 2004-05 than they had for the previous year. (Most federal education programs are "advance funded," which means that appropriations for fiscal year 2004 are intended for use by states and school districts in school year 2004-05.) In other words, many districts are receiving fewer Title I funds at a time when the federal government is demanding more of all school districts.

As explained in more detail in the Center's June 2004 report, *Title I Funds: Who's Gaining, Who's Losing and Why*, the reasons why some districts and states are losing, even as federal appropriations are rising, stem from changes made by NCLB in the data and formula used to allocate Title I funds.

First, NCLB encouraged the U.S. Department of Education to base Title I allocations on annually updated census counts of poor children, instead of biennial updates. (Census counts of children from low-income families are the main factor used to determine state and district Title I allocations.) More frequent updates in poverty data produce greater fluctuations in allocations from year to year. Some districts will gain



and others will lose, depending on whether their counts of poor children rise or fall and by how much. But districts that lose funds still have to comply with the same NCLB requirements as everyone else.

Second, in fiscal year 2002, Congress began appropriating funds to three new Title I distribution formulas that channel more funding to high-poverty districts. So while high-poverty districts get a greater share of rising Title I appropriations, other districts receive less. These shifts partly explain why some districts may perceive that Title I funding is inadequate, even though appropriations have risen. Other factors in the Title I formula also affect the relative distribution of funds to a somewhat lesser extent.

Our June 2004 report analyzed the impact of these formula changes, using projections of school district allocations from the U.S. Department of Education. We found that about 55% of Title I school districts were slated to receive less funding for school year 2004–05 than for 2003–04 (Center on Education Policy, 2004). Ten states faced reductions of up to 10% in their Title I funding for the same reasons. Even in states with significant gains in Title I funding, some districts—including large urban districts—lost Title I funds for school year 2004–05. An independent analysis by the Congressional Research Service affirmed that districts with reduced or relatively flat Title I grants either have very low poverty rates (less than 5% poverty) or declining numbers of poor children relative to other districts (Riddle, 2005).

Because Title I received a smaller increase in appropriations for fiscal year 2005 than for the prior three years, some school districts may see even greater losses in Title I for school year 2005–06. A smaller increase leaves less of a buffer to compensate for shifts caused by formula factors.

Additional information about the status of districts' Title I funding comes from our district survey of December 2004. We asked school districts whether their Title I allocations for school year 2004–05 increased, stayed the same, or decreased compared with their allocations for 2003–04. According to the survey, a majority of districts either experienced Title I funding cuts for school year 2004–05 or received about the same amount as the previous year.

As depicted in **Table 2-B**, just over one-quarter (26%) of all districts reported increased Title I allocations, while 41% said their allocation decreased, and 25% said their funding stayed the same. More large districts and urban districts reported that their Title I funds had increased this year than did small districts or suburban and rural districts. Although both our school district survey and our June 2004 analysis show a similar trend of declining allocations for a sizeable share of districts, the percentage of districts reporting decreasing allocations is not as high in our survey. This may be because some districts could have received additional Title I funds beyond their projected allocation if, for example, they obtained an additional grant from the state for school improvement efforts. Also, some districts that received slightly less (or slightly more) than last year could have estimated that their allocations were “the same.”

Our case studies shed further light on the impact of Title I formula changes. At least eight case study districts lost Title I funds due to census counts and other formula factors, including several small rural or suburban districts. Napoleon School District, a very small rural district in North Dakota, experienced a cut of nearly 10% in Title I funds in 2004–05. Poverty fluctuates greatly in this farming community because of ups and downs in the agricultural economy, so annual census updates are likely to create instability in Title I funding for communities like Napoleon. In the Avon Public School District in suburban Boston, Massachusetts, the Title I allocation decreased by 12% in 2004–05 due to census updates. Because the district is small, any reduction in funding

Table 2-B Districts Reporting on Changes in Their Title I Allocations between 2003-04 and 2004-05 by District Size and by District Type

	ALLOCATION INCREASED	ALLOCATION THE SAME	ALLOCATION DECREASED	DON'T KNOW
Total (all districts)	26%	25%	41%	8%
DISTRICT SIZE				
Very Large	68%	11%	21%	0
Large	51%	22%	7%	19%
Medium	41%	20%	38%	1%
Small	21%	27%	44%	8%
DISTRICT TYPE				
Urban	40%	23%	31%	7%
Suburban	25%	25%	41%	9%
Rural	26%	26%	42%	7%

Table reads: Thirty-one percent of urban districts reported that their Title I allocation decreased between school year 2003-04 and school year 2004-05.

Source: Center on Education Policy, December 2004, Fall District Survey, Item 39 (Tables 39)

brings disruption, according to Paul Zinni, director of pupil services, and coping with the situation requires more than just “tightening the belt.” The district will have to either cut Title I services or increase the pupil-teacher ratio, he said.

National Debate about the Adequacy of Federal Funding

In 2004, considerable controversy surrounded the issue of whether federal funding is adequate to implement the No Child Left Behind Act. Former Secretary of Education Rod Paige and other Administration officials contended that the Administration had “calibrated the money necessary to implement the law and provided it” (Paige, 2004). Administration officials asserted that the major responsibility for ensuring students are adequately educated rests with states and school districts, not the federal government. They further noted that federal education spending had reached record levels under President Bush. And in fact, appropriations for the U.S. Department of Education did grow 32% between fiscal years 2001 and 2004, although some of the impetus came from the Congress rather than the President. In each of the fiscal years 2001 through 2004, Congressional appropriations exceeded the President’s original budget request. Fiscal year 2005 was the first time appropriations fell below the President’s initial budget request, although the Administration endorsed the lower spending level later in the year.

To put the federal contribution in context, one must recognize that the federal government still provides only a very small share of total funding for elementary and secondary education; the great bulk of support continues to come from state and local governments. The funding boosts of recent years have nudged up the federal share of expenditures for K-12 education from 8.0% in fiscal year 2000 to about 9.6% in fiscal



year 2003 (Sonnenberg, 2004). Critics of the Administration's funding policies point to this limited federal contribution as evidence that the federal government is demanding much more from states and districts under NCLB than it is paying for.

For reasons already mentioned, discussions about the adequacy of NCLB funding tend to center on Title I funding. Critics of the Administration's education funding policies note that federal appropriations for Title I are still well below the amount authorized in NCLB. For fiscal year 2004, this "gap" between Title I appropriations and authorizations was about \$6 billion, and for fiscal year 2005, it is \$7.8 billion. Administration officials dismiss this argument, contending that authorizations signal the maximum amount of funding that could be appropriated rather than the intended amount. But critics, who include leading Congressional Democrats and many education organizations, maintain that these authorizations represented a promise to greatly increase appropriations that was essential to garnering their support for passage of the Act.

Another way to view the adequacy of federal appropriations is to look at how much it would cost to serve all children eligible for Title I. This figure is traditionally determined by multiplying the number of low-income and other qualifying children counted under the Title I basic grant formula by the state average per pupil spending factor in the formula. By these calculations, the Title I "full funding" level for fiscal year 2004 would be \$24.7 billion—roughly double the actual appropriation (Riddle, 2005).

Studies of the Costs of NCLB Implementation

An accurate assessment of whether federal funds for NCLB are adequate cannot be made without knowing how much it will cost states and districts to effectively carry out the law. In 2004, a limited number of studies sought to determine these costs, which are not easy to define or quantify.

Estimates of the costs of implementing NCLB vary radically, mainly because there is no consensus on which costs should be attributed to the law. As one *Education Week* analyst observed, there is a major difference between assessing the costs of complying with the law's testing and accountability requirements and determining the costs of ensuring all students achieve at proficient levels in reading and math by 2014 (Robelen, 2005). Even with a definition of NCLB-related costs in hand, researchers still have difficulty calculating them because state and local budgets generally do not categorize or track expenditures in ways that make it possible to separate out expenses related to NCLB.

Some researchers have taken a narrow view, limiting the costs of NCLB to expenditures needed to comply with the law's core requirements, such as developing new tests and designing the mandatory accountability systems. These researchers exclude costs such as professional development to improve teacher skills and interventions to help students meet achievement standards, on the grounds that states and districts should be spending their own money to ensure students reach the state's expectations for learning. For example, an analysis by the firm Accountability Works (2004) asserted that there is little solid evidence that NCLB is underfunded. The researchers said that studies which reach this conclusion are based on unsupported assumptions, such as including expenditures not required by the law. Accountability Works concluded that federal funds were more than enough to cover the "hard" costs of compliance, which they defined to include requirements for accountability, personnel, information management, and corrective action. Moreover, the study said, states and districts already have an obligation to ensure a high-quality education for all students and could accomplish a lot if they made better use of the money they have.



In a study published by the Hoover Institution, James Peyser and Robert Costrell (2004) declared that funding is close to adequate for the costs of NCLB testing mandates, although more funds may be needed in the future to cover additional mandated tests or tests with more open-ended questions. The researchers concluded, however, that federal support for state evaluation infrastructures and technical assistance is underfunded and could become more so as additional schools are identified for improvement. Most notably, they held that critics of the law have exaggerated the shortfall of federal resources for the Act. Peyser and Costrell maintained that although current school spending from all sources may, in some states or districts, be lower than what is needed to meet AYP requirements, this gap is just a fraction of what critics have assumed.

As part of a broad report on unfunded federal mandates, the Government Accountability Office (2004) looked at the issue of whether NCLB was an “unfunded mandate,” as some policymakers and educators have charged—which generally refers to a federal law that requires nonfederal parties to spend resources to achieve federal legislative goals without providing federal funding to cover the costs. GAO determined that NCLB was not such a mandate because it is a voluntary program whose requirements apply only if state and local governments agree to participate and accept the federal grants. The study acknowledged, however, that NCLB has potentially significant funding impacts for state and local entities similar to the impacts from programs that it did flag as federal mandates.

Other studies take a much broader view, contending that the full costs of implementing NCLB go well beyond the costs of technical compliance with explicit requirements. These analyses include such costs as teacher professional development necessary to meet the NCLB definition of highly qualified, which may be more demanding than the state’s own certification requirements, and the costs of remediation and other extra services necessary to help 100% of students meet higher standards of learning, a more ambitious target than those in prior federal law or state reforms. These studies have found NCLB-related costs to be considerable—well beyond the current amount of federal funding.

A study of the extra costs of NCLB in Ohio kicked off the debate about these broader costs. The study included the “intervention” costs of increasing the percentage of students scoring at proficient levels from 75%, the state’s own goal, to 100%, the NCLB goal (Driscoll & Fletcher, 2003). It also included the extra administrative costs and other expenses needed to meet the law’s additional demands for qualifications of teachers and paraprofessionals. The study pegged the extra costs of implementing NCLB in Ohio at nearly \$1.5 billion annually, more than twice what the state receives under NCLB. The vast majority of these estimated costs was attributable to student interventions.

A study commissioned by Hawaii gauged the added costs of NCLB in that state to be \$30 million for 2004–05, or \$175 per student—costs that the study authors said will gradually rise to almost \$48 million by 2007–08 (deVries, Palaich & Augenblick, 2004). The researchers emphasized that the estimates in this study were based on the state’s own plan, approved by the federal government. The study also estimated that the state spent \$24.6 million in one-time developmental costs for data management and technical assistance.

In Texas, NCLB imposes significant additional costs, according to a study by Jennifer Imazeki and Andrew Reschovsky (2004). Their analysis estimated that the extra costs of raising passing rates on the state test from the current level to the 2005–06 NCLB performance target of 55% would amount to \$1.65 billion. This is far more than the \$519 million increase in Title I funding Texas has received over three years. Raising



passing rates to the 70% performance target set for future years would cost an additional \$4.67 billion, and this goal is still well short of the ultimate NCLB target of 100%, the researchers observed.

The Minnesota Office of Legislative Auditor (2004) concluded that new NCLB-related costs could exceed the \$42 million in inflation-adjusted revenues that Minnesota expects to receive from the federal government. However, this analysis said the full costs will be unclear until implementation proceeds further. The costs of complying with choice and supplemental service mandates, for example, could reach \$20 million, and the state and local costs of NCLB-mandated assessments will total about \$19 million. The costs of undertaking corrective action, complying with the more stringent federal teacher and paraprofessional requirements, and bringing all students to proficiency are unclear, according to the report.

The range of definitions and estimates of NCLB-related costs shows that at this stage, the true costs of implementation—as well as the types of costs—are unclear. Studies of this sort must make assumptions about how many schools will end up in improvement over time; how many teachers are not highly qualified by NCLB standards and what they need to achieve that goal; what kinds of services will be needed to help students of widely varying achievement levels meet proficiency standards; and how much states would spend on school improvement in the absence of the federal requirements (something that can never really be known). The wide range of estimates in these different state studies also signals that states began implementing the Act from very different levels of readiness.

It does seem clear, however, that NCLB calls on school districts to reach higher goals than many states had set on their own, whether in terms of the percentage of students expected to pass state tests or the subject matter training teachers should have to be credentialed in their field. Most school districts are not close to the goal of 100% proficiency, and some are very far from it. This is partly because states set their own accountability targets assuming that not all students, especially students with disabilities or English language learners, would be held to the same standard. The demands of the Act are great enough that additional funding from all sources will probably be necessary to bring all students to that point, especially students at the lowest rungs of achievement or those with special educational needs.

State and Local Views on the Adequacy of Federal Funding

Our state survey asked states to indicate whether funds provided for NCLB have been sufficient to carry out certain state activities required by the Act. As outlined in **Table 2-C**, most states (34) said that enough federal dollars had been provided to develop state academic content standards, but only half of the states thought that funds were sufficient to develop state assessments. Only 11 states reported that NCLB allocations were sufficient for states to provide technical assistance to schools identified for improvement. Thirty-eight states reported that federal funds were sufficient to develop and maintain a list of supplemental education service providers, but only 13 states said that these funds were sufficient to implement a system to monitor the quality and effectiveness of SES providers.

States seem to be divided on whether federal funds are adequate to ensure that teachers are highly qualified—16 states said they were sufficient, while 18 states said they were not. Only 11 states indicated that federal dollars are sufficient to provide high-quality professional development, while nearly half the states (23) said they were inadequate to carry out this activity.

Table 2-C Number of States Reporting That Their NCLB Funds Have Been Sufficient to Carry Out Various NCLB Requirements, 2004

	NUMBER OF STATES SAYING FUNDS HAVE BEEN SUFFICIENT	NUMBER OF STATES SAYING FUNDS HAVE NOT BEEN SUFFICIENT
Developing and maintaining a list of supplemental service providers	38	6
Developing state academic content standards	34	5
Developing state assessments	25	18
Ensuring teachers who teach core academic subjects meet requirements for being highly qualified	16	18
Implementing a system to monitor the quality and effectiveness of SES providers	13	21
Providing technical assistance to schools in need of improvement	11	32
Providing high-quality professional development for teachers	11	23
Other state duties required under NCLB	9	22

Table reads: Eleven states reported that NCLB funds were sufficient to provide technical assistance to schools in need of improvement, while 32 states reported that these funds were insufficient.

Note: Responses are ranked according to the number of states reporting that funds have been sufficient to carry out a certain provision. Don't Know responses are not shown.

Source: Center on Education Policy, December 2004, State Survey, Item 1

The survey gave states the opportunity to comment about areas for which NCLB funds were insufficient, in their view. Most of their comments concerned providing technical assistance to schools identified for improvement and implementing a system to monitor the effectiveness of supplemental education service providers. A number of states also commented that federal funds were inadequate to carry out annual assessments or to expand the number of grades tested. And a handful of states elaborated on the lack of funds for professional development. The following comments convey some of their frustrations about funding expressed by states:

Congress has yet to appropriate the funding level that was authorized in NCLB legislation. When Congress fully funds NCLB, we believe we would have sufficient funding for the current year, but as more schools fail AYP, funding will not be sufficient.

The amount of administrative money available through NCLB is insufficient to support the hiring of multiple staff members to fulfill all NCLB requirements. The result is that staff members must take on multiple assignments leading, frequently, to inadequate attention to certain requirements in the law.

Views from case study districts were mixed about whether NCLB funds are adequate to carry out the law's requirements. Several districts, such as Bayonne, New Jersey, and Waynesboro, Virginia, said that funds were sufficient at present. Other districts, like the Chicago Public Schools, reported that funds were inadequate, even though Chicago has received increased Title I funding. "We've been very clear that this increase is not enough," said Xavier Botana, director of the district's NCLB Accountability Office. "We consider it to be an unfunded mandate."



A few case study districts voiced dissatisfaction with the amounts they are required to set aside for choice, supplemental services, and professional development in Title I. These districts noted that the set-asides affected their ability to implement other critical aspects of the law. Michele Sandro, director of state and federal programs for the Harrison Community School District in Michigan, said that as a result of the set-asides for choice and supplemental services, “At the end of the [2003-04] year, I was sitting on \$198,000. I just think it’s a bad plan.” No students used choice because both Harrison elementary schools were identified for improvement. The district offered supplemental education services in lieu of choice in 2003-04, but only 13 students used the services consistently, Sandro noted. Eventually the district received a waiver from the state allowing it to use the leftover set-aside funds for other Title I expenses, but the set-aside approach was not efficient in getting funding quickly to where it was needed.

Our local survey asked districts whether there are costs associated with implementing NCLB that are not supported by federal funds. Eighty percent of the districts surveyed responded that there were such costs, while 16% indicated there were no such costs, and 4% didn’t know or said the question was not applicable. Of the districts that did mention extra costs, a substantial number said they had to cover the costs associated with hiring the staff and providing the necessary training for teachers to become highly qualified. Many others reported that some NCLB administrative costs were not covered by federal funds or that federal dollars were not sufficient to cover interventions required by NCLB, such as the costs associated with implementing public school choice or remediation services for students performing below grade level. Some districts noted that federal dollars were inadequate to administer and prepare for required assessments, while others reported they did not receive enough federal funds for managing data collection and analysis. Here are examples of what district officials had to say about NCLB costs not covered by federal funds:

Funds that should be supporting students now support training for making teachers highly qualified when in reality there are highly qualified teachers already without having to take a test to prove it. It decreases the pot of money available for student services.

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Not sufficient funds to fund academic intervention services. We hire the same amount of staff through our district budget to deal with remedial services. Federal funds only cover about 40-50% of the remedial staff. For example, we have 8.5 elementary remedial teachers, only three are covered by NCLB.

Assessment costs have increased considerably. It used to cost under \$1 to assess a student. Average cost now is \$6 per student.

Officials from the Boston Public Schools, a case study district, shed light on the kinds of costs involved in implementing NCLB that are not reimbursed by federal funds, as explained in **Box 2-A**.

Impact of State and Local Funding Problems

Funding for NCLB implementation can also be affected by state and local fiscal issues. In 2004, most states were pulling out of one of the worst state fiscal crises in recent history, and some still have not recovered. These state funding problems affected state administration of federal programs and, in some instances, led to funding cuts for schools. Our surveys and case studies sought to determine whether state and local funding problems continued to have an impact on NCLB implementation.

Box 2-A Additional Costs of NCLB in Boston

When asked whether NCLB funding was adequate, Charlotte Harris, Title I director for the Boston Public Schools, said that although funds are sufficient to meet the letter of the law and regulations, they “are not sufficient to ensure that all teachers are highly qualified, all students are proficient, and all parents are engaged in the education of their children.” Harris cited several specific actions that she viewed as necessary to fulfill the demands of NCLB and that will require additional funding:

- Extending the school day for all students to provide time and staffing to meet annually rising achievement targets. This would increase costs by one-third.
- Helping teachers upgrade their qualifications to meet the subject matter standards of NCLB. The cost of carrying out teachers’ approved plans for meeting these standards is unknown, but if one assumed that each teacher took an average of 36 graduate credits (the standard for a master’s degree) at a cost of \$371.50 per credit (the cost at the local state university) and multiplied this by 4,300 teachers, the total cost would come to \$57.5 million, assuming no teacher turnover.
- Developing the infrastructure for notifications, test administration, data collection, reporting, supplemental education services administration, and school support. Schools and the district shoulder new burdens in all these areas.
- Engaging parents in the education of their children. About one-third of the district’s families do not speak English as a first language, and most are poor. NCLB funding does not begin to address the needs of the students’ families.

School principals interviewed in Boston agreed that NCLB funding is insufficient. A state intervention team concluded that at least one Boston school identified for improvement lacked the resources to address the needs of its students, many of whom are poor, achieve at very low levels, are involved in the foster care or legal systems, or have a disability. One middle school teacher concurred, saying simply that the “resources don’t address the needs of the students.”

Source: Center on Education Policy, December 2004, *NCLB Case Studies*

Our state survey asked states whether they had experienced fiscal problems during school year 2003–04. Thirty-seven states responded that they had experienced fiscal problems, such as a budget deficit, agency cuts, or programmatic cuts, while 11 states said they did not. We asked states that did experience fiscal problems to explain how those problems affected their implementation of NCLB. Most replied that they lost staff, which shaped how they carried out the Act. A few states commented that the fiscal problems did not have an impact on their implementation of NCLB. Here is some of what they had to say:

State budget deficits have resulted in a number of years of agency budget cuts. As a consequence the department has fewer employees with which to implement and manage NCLB.

Retirements and then positions were frozen so that we were not allowed to fill them. This resulted in not having a NCLB coordinator and no one in charge of seeing that everything was being done. And lack of staff to provide technical assistance to school districts.

There were some agency cuts but we continued with the necessary NCLB development work.

We also asked states experiencing fiscal problems how those problems affected district and school implementation of NCLB. Several states relayed that state budget problems impacted the ability of districts and schools to provide a high-quality education to all students, which in turn had an effect on their implementation of NCLB. Many states also indicated that implementation of NCLB has been affected by



the state's inability to provide technical assistance to all schools and districts that need it. As one state official said:

A statewide budget deficit caused all agencies to operate with fewer resources. School districts were given no additional funds for the last four years from the state, so their desire to help needy students had to take second place to paying the heat and light bills.

Several case study districts, including some urban systems, similarly reported that serious financial problems may hinder their implementation of NCLB. For example, the Kansas City, Kansas, Public Schools had to trim \$8 million from the district budget in June 2004, even though the district had already cut \$13 million in the preceding two years. To absorb these cuts, the district expected to eliminate four instructional coaching positions, increase student-teacher ratios, and cut funds for textbooks, among other things.

Tigard-Tualatin School District in Oregon has been forced to cope with state budget shortfalls for the past three years. As a result of the shortfall in 2002-03, the district lost three days of school. In 2003-04 the district cut staff and raised class sizes by about four students per class. For 2004-05, class sizes remain large—about 24 students per class in the lower grades and 29 students per class in the upper grades. Susan Stark Haydon, the district's director of community relations, explained that with NCLB, "expectations are up, but the resources haven't been there." This historically higher-spending district also lost funds as a result of the state's new equalization formula for education aid.

The Cleveland Municipal School District approached the 2004-05 school year with a \$100 million deficit, fueled by a lackluster economy, declining property values, reduced income from property taxes, rising employee health care costs, and the loss of students to charter schools, private schools, or suburban districts. Although test scores are rising, the Cleveland school district has consistently failed to make adequate yearly progress, which makes it harder to maintain public confidence in the school system. Before the start of school year 2004-05, the district was forced to cut staff and services, a move which district officials fear could hamper their ability to meet NCLB achievement goals. In November 2004, a \$68 million levy failed to pass, so Cleveland must confront a new deficit. Not only will existing cuts remain, but additional cuts will have to be made. And although the district's Title I funding increased by about 20% between school years 2002-03 and 2003-04, funding for 2004-05 has remained flat.

Wade Park Elementary School in Cleveland recently improved enough to test out of NCLB school improvement, but districtwide budget problems and the recent school levy failure are compromising the staff's ability to maintain these achievement gains. Wade Park's staff shrank in 2004-05 from 41 people to 26. Class sizes rose from about 20-25 students to about 30-35. Professional development was also expected to decline. Moreover, because the school has exited school improvement, it no longer qualifies for extra Title I funds for supplemental services.

The situation in the Flint, Michigan, school system, described in **Box 2-B**, further illustrates the challenges of keeping NCLB on track in an urban district with budget problems.

Box 2-B Funding Troubles in the Flint Community School District Affect NCLB Implementation

Flint Community School District, the fourth largest urban district in Michigan, serves a once-bustling auto manufacturing center that now suffers from a battered economy and declining population. Flint is a “cash-strapped district,” according to David Solis, director of state, federal, and local programs, and is still losing enrollments. About half of the district’s schools have been identified for improvement under NCLB.

Flint’s Title I funding increased less than 1% last year, not enough to cover all current Title I staff at current levels, according to Solis. For 2004-05, the district expects to deal with the shortfall by reallocating resources. Next year, the district expects to have to cut Title I services, because there is no chance of raising local funds to cover Title I reductions.

Tight financial times are also having an impact at the school level. Lucy Smith, principal of Brownell Elementary, fears that her school’s reform efforts will be stymied by lack of funds. The Flint district has closed 10 schools in the past two years. Classrooms tend to become overcrowded at Brownell, with 30 or more students per class. Last year, two classrooms had to mix grade levels due to overcrowding. “Can you imagine one teacher trying to prepare both fourth and fifth graders for testing?” Smith asked. Due to budget constraints, Brownell could not split the rooms into smaller classes. Smith said she fears the same thing will happen this school year. Marcia Sauvie, an academic coach at Brownell, summed up her feelings about the many limitations the school must endure because of tight funding—from overcrowding to the antiquated ditto machine used to make copies. “My heart breaks,” she said.

Source: Center on Education Policy, December 2004, NCLB Case Studies

State and Local Capacity to Implement NCLB

Under the statute, state departments of education bear the primary responsibility for overseeing the implementation of NCLB. A critical issue in implementation is whether state departments of education have the capacity and expertise to carry out the requirements of the Act, such as assisting schools and districts that have been identified for improvement, preventing additional schools from being added to the state watch list, monitoring the effectiveness of supplemental education service providers, and administering federal and state programs. While the Act brought some additional federal funding, limitations on state administrative funds drove most of the additional funding to districts and schools. More recent reductions in some key federal programs that provide support to state agencies and their staff, such as the cuts in the Title V program, could result in even a further reduction in the number of state staff able to support NCLB activities.

Recent articles have called into question the capacity of state education leaders “to do more with less” (Hoff, 2003). With NCLB arriving in state capitals at the same time that states’ faced some of the largest state budget cuts in 40 years, many have questioned the ability of state agencies to take on the new responsibilities of the Act with a trimmed-down number of agency employees. Writing in *The Washington Monthly*, Marc Tucker and Thomas Toch (2004) noted that the secret to making Bush’s school reform law work was to hire more expert personnel. The authors argued that without state agency capacity to help turn around low-performing schools and districts, the success of NCLB will be limited. Our survey results indicate that such concerns are not unfounded. Indeed, both currently and in the future, states express concern about their capacity to fully support implementation of the Act.



The majority of districts responding to our survey expressed somewhat more confidence about having the staff, expertise, and time to handle a key responsibility under NCLB—improving schools identified for improvement—but half of the districts reported that they did not have the funding for this task. (see **Table 2-D**).

State Capacity

Our 2003 survey contained a question about whether states had sufficient staff to carry out NCLB; at that time, 5 states reported that they did, while 38 said they did not. When asked a similar question in our 2004 survey, only 1 state reported that it had a sufficient number of staff, while 36 states responded that they did not, and 9 said they currently had sufficient staff but were concerned about the future as NCLB implementation progresses. This year, we asked states that said they did not have sufficient staff to elaborate on their answer. Following are some typical comments from states that reported insufficient staff:

No Child Left Behind dramatically increased the responsibilities of SEAs [state educational agencies] from what was expected under [the Improving America's Schools Act]. However, increases in funding have gone to districts. Consequently, we have a much greater level of responsibility with no increase in staff size. In addition, the USED, in its guidance and other communications, perceives an even greater level of responsibility for SEAs than would be expected given the language of the law.

Over the past 6 years, budget cuts and other realignment actions have reduced our staff from about 2,000 to 284.

As we address the needs of schools and districts needing improvement, we will need additional human resources. The number of schools in improvement increased from 35 (2003-2004) to 160 (2004-2005) and the number of LEAs [local educational agencies] in improvement increased from 1 to 44. With the state achievement bar going up from spring 2005 assessments, it is anticipated that both numbers will increase again. This will put additional stress on our system of support to fully support all LEAs and schools needing assistance.

We also asked states if they had sufficient in-house expertise to provide technical assistance to schools and districts that have been identified as needing improvement. Two states said they did, and 32 states said they did not have sufficient staff expertise. Ten states indicated that while they currently had sufficient expertise, they were concerned about the future as NCLB becomes fully implemented. States were given an opportunity to expand on their answers, and here are some examples of what they told us:

We serve 1,250 schools in 199 school districts with a small staff. Our assessment staff is stretched so thin that we are not able to keep up with other work needing to be done. We have limited ability to respond to requests for intervention or investigation of problems. There simply is inadequate provision in the funding formula for the level of state supervision and technical support contained in the law.

We search for staff, in the recruitment process, that have expertise in school improvement, but it is difficult to find qualified staff. In addition, staff who were hired in prior years may have been hired for different types of positions than are required now under NCLB, therefore have different skills.



Local Capacity

Our school district survey also explored the issue of capacity. We asked districts about their resources (time, money, staff, and expertise) to improve schools that have been identified for improvement. Districts expressed more confidence than states about their capacity in most of these areas. As shown in **Table 2-D**, 69% of districts reported they have the expertise, and 60% said they have sufficient staff, to assist identified schools somewhat or to a great extent, whereas only 2 states said they had the expertise and 5 states said they had sufficient staff. A majority of school districts (59%) indicated that they have the time to improve identified schools. But half of the districts (51%) reported that funds are available minimally or not at all to improve identified schools.

Table 2-E shows views of districts with schools identified for improvement about their availability of time, money, staff, and expertise to improve these schools. Fewer districts with poverty rates of 50% or more (based on free or reduced-price lunch counts) or with minority student enrollments of 50% or more report that they have these resources available somewhat or to a great extent.

Some case study districts also reported having limited capacity to provide technical assistance or fully implement other aspects of NCLB. According to local staff, Pascagoula School District in Mississippi lacks sufficient funds to provide technical assistance and other help needed to bring all schools to the desired level of achievement. Some officials interviewed in the Chicago Public Schools predicted that although the district has an ambitious plan for making dramatic changes in poorly performing schools, the district will not have the capacity to reach even those schools in the restructuring phase of NCLB, which could total 179 schools after 2004–05 testing.

Oakland Unified School District in California was placed in state receivership in 2003 due to severe financial troubles. Several schools were closed, hundreds of teachers and other staff were laid off, and the remaining teachers took a pay cut. Enrollments have continued to decline, and in 2004–05, the district is again dealing with a shrinking budget and significant staff turnover. The remaining staff members, who are already stretched thin, are struggling to meet the NCLB logistical requirements, according to officials interviewed in our case study. Central office staff members have particular difficulty managing the law's data collection and tracking requirements, and overseeing supplemental services has also turned out to be labor intensive.

Technical Assistance to Districts

In 2004, as in 2003, our local survey asked districts that received Title I funds to report on the entities from which they received assistance in implementing the No Child Left Behind Act. We also asked them to rate the quality of the assistance received from these entities, which included state education agencies, institutions of higher education, education service agencies, and others. The distribution of responses among various entities did not change much between 2003 and 2004, as shown in **Table 2-F**. All entities received higher marks on helpfulness this year, perhaps because they have become much more familiar with the Act's requirements over the last year and can offer better assistance to districts.

As was true last year, state education agencies were by far the most important source of assistance and were one of the most highly rated entities. So it appears that although a majority of state departments of education report that they are understaffed and often lacking in appropriate expertise, they are still able to provide districts with some of the best assistance in implementing NCLB.

Table 2-D Extent to Which Districts with at Least One School Identified for Improvement Have Various Resources Available to Improve Identified Title I Schools

PERCENTAGE OF DISTRICTS THAT REPORT HAVING RESOURCES TO IMPROVE IDENTIFIED TITLE SCHOOLS TO THE FOLLOWING EXTENT:			
	SOMEWHAT/ TO A GREAT EXTENT	MINIMALLY/ NOT AT ALL	DON'T KNOW
Expertise to improve identified schools	69%	27%	4%
Staff to improve identified schools	59%	37%	4%
Time to improve identified schools	59%	34%	7%
Money to improve identified schools	45%	51%	4%

Table reads: In the summer after the 2003-04 school year, 60% percent of districts with at least one Title I school identified for improvement reported that they have staff available somewhat or to a great extent to improve identified schools.

Note: Responses are ranked according to the percentage of districts responding that the resource is available somewhat or to a great extent.

Source: Center on Education Policy, June 2004, Summer District Survey, Item 7 (Table 6)

Table 2-E Percentage of Districts with at Least One School Identified for Improvement Reporting That They Have Various Resources Available Somewhat or to a Great Extent to Improve Identified Title I Schools, by District Poverty and Minority Enrollment

	TIME	MONEY	STAFF	EXPERTISE
TOTAL (all districts)	59%	45%	60%	69%
FREE AND REDUCED-PRICE LUNCH ELIGIBILITY (FRPL)				
Less than 50% FRPL	68%	62%	63%	81%
50% or more FRPL	44%	20%	54%	51%
MINORITY ENROLLMENT				
Less than 50% minority	66%	52%	54%	80%
50% or more minority	32%	28%	54%	45%

Table reads: In the summer after the 2003-04 school year, 81% of districts with at least one Title I school identified for improvement and with less than 50% of their students eligible for free or reduced price lunches reported that they have the expertise available somewhat or to a great extent to improve schools identified for improvement.

Source: Center on Education Policy, June 2004, Summer District Survey, Item 7 (Table 6a)

Table 2-F Sources and Quality Ratings of Assistance Received by Title I School Districts in 2002-03 and 2003-04

	PERCENTAGE OF DISTRICTS RECEIVING ASSISTANCE IN 2002-03	SOMEWHAT HELPFUL OR VERY HELPFUL	A LITTLE HELPFUL OR NOT HELPFUL	PERCENTAGE OF DISTRICTS RECEIVING ASSISTANCE IN 2003-04	SOMEWHAT HELPFUL OR VERY HELPFUL	A LITTLE HELPFUL OR NOT HELPFUL
State education agency	94%	69%	31%	97%	80%	20%
U.S. Department of Education	79%	38%	62%	76%	47%	53%
Education service agencies or other local consortia	70%	72%	28%	78%	77%	23%
Regional education laboratories	49%	39%	61%	52%	65%	35%
Institutions of higher education	47%	27%	73%	51%	30%	70%
National Clearinghouse on Scientifically Based Research	46%	28%	72%	51%	50%	50%
Comprehensive Regional Technical Assistance Center	38%	43%	57%	39%	58%	42%
Private organization(s)	27%	24%	76%	29%	38%	62%
Other	15%	51%	49%	20%	89%	11%

Table reads: In 2002-03, among the 94% of Title I districts that sought assistance from their state education agency, an estimated 69% found that assistance to be somewhat or very helpful. In 2003-04, among the 97% of Title I districts that sought assistance from their state education agency, an estimated 80% found that assistance to be somewhat or very helpful.

Note: Responses are ranked from the most common source of assistance to the least common.

Source: Center on Education Policy, December 2003, District Survey, Item 17; June 2004, Summer District Survey, Item 8 (Table 7)



Flexibility and Helpfulness of Federal Administration

Providing more flexibility in federal programs in exchange for greater accountability is a phrase often used to describe the philosophy behind the No Child Left Behind Act. In the NCLB context, flexibility can refer to different things. The State Flex, Ed Flex, and Local Flexibility Demonstration programs, which allow states and districts to consolidate federal program funds and streamline administration, are only one type of flexibility relevant to NCLB. The type of flexibility that seems to matter most to states and districts pertains to how strictly the U.S. Department of Education interprets key requirements of NCLB. A common complaint during the first two years of NCLB was that USED was putting most of the emphasis on the accountability part of the bargain and not enough on the flexibility part.

USED Actions

During 2004, state and local policymakers and educators continued to complain that USED was being too heavy-handed in its approach to NCLB implementation. As explained in the section below on public support for the Act, several state legislatures and governors, including some Republican leaders, passed resolutions or took other steps criticizing NCLB for its rigidity or encroachments on state control and state budgets. Initially, President Bush and Secretary Paige seemed unwilling to soften their stance. But eventually, when complaints threatened to affect support for the law in an election year, the Administration relaxed some interpretations to a modest degree (Schemo, 2004).

In late 2003 and 2004, USED made several changes to NCLB regulations, guidelines, and enforcement that gave states and districts somewhat more flexibility in key areas of implementation. As discussed in other chapters, these included easing policies related to testing of students with disabilities and English language learners, test participation rates, and qualification requirements for science teachers, veteran teachers, and teachers in rural areas. USED resisted requests from states and Congressional leaders, however, to allow states and districts to apply this increased flexibility retroactively to AYP determinations based on data from school year 2002-03. Since this guidance was released, some state leaders and education groups have called on the Department to go further in granting flexibility.

As explained in chapter 3, the Department has also begun to allow states more flexibility in their accountability plans, in some cases permitting changes it had disapproved the first time around. But on other issues, the Department has maintained a strict stance. Examples include insisting that a lack of space in receiving schools does not relieve districts of the obligation to provide school choice, prohibiting school districts identified for improvement from providing supplemental education services themselves, and holding secondary school special education teachers to the same rigorous requirements for subject area knowledge as regular classroom teachers.

Box 2-C lists the major regulations, guidance, and other documents issued by USED in 2004.

It remains to be seen how President Bush's reelection will affect flexibility in NCLB implementation. The President could interpret the election results as an endorsement of Administration policies and continue to resist changes to the law. However, the departure of Rod Paige and the confirmation of Margaret Spellings as the new Secretary

Box 2-C Chronology of Selected Department Documents During Calendar Year 2004

(Note - Letters to individual states are only included when the information has general applicability)

January 7 – Non-regulatory guidance on local school district and school improvement under Title I, including information on review of school progress, school improvement processes by years of identification and LEA identification and processes for improvement. <http://www.ed.gov/policy/elsec/guid/schoolimprovementguid.pdf>

January 16 – Revised non-regulatory guidance for the Improving Teacher Quality State Grants program, adding information in response to questions from the field. <http://www.ed.gov/programs/teacherqual/guidance.pdf>

February 4 – Letter to the state of North Carolina providing guidance on how to calculate adequate yearly progress in Title I targeted assistance schools. <http://www.ed.gov/policy/elsec/guid/stateletters/asaypnc.html>

February 5 – Letter to states including information on how to amend accountability plans, <http://www.ed.gov/admins/lead/account/amproc.doc>

February 6 – Draft guidance on public school choice under Title I, addressing such issues as timing and duration of choices, eligible students, parental notification, schools of choice, and responsibilities of receiving schools. <http://www.ed.gov/policy/elsec/guid/schoolchoiceguid.doc>

February 20 – Letter to chief state school officers providing flexibility in the inclusion of limited English proficient children in Title I assessments and accountability, including allowing former LEP students to remain in the LEP category for purposes of accountability for up to two years after attaining English language proficiency. <http://www.ed.gov/policy/gen/guid/secletter/040220.html>

February 24 – Letter to Senator Edward Kennedy and colleagues regarding implementation of the NCLB act summarizing certain departmental actions. <http://www.ed.gov/news/pressreleases/2004/02/02242004.html>

March 1 – Guidance on paraprofessionals under Title I, including requirements for school-wide and targeted assistance schools, duties, and qualifications. <http://www.ed.gov/policy/elsec/guid/paraguidance.doc>

March 2 – Letter to states containing information on seeking exceptions to the 1% cap on inclusion of out of level assessment results for children with disabilities in the calculation of AYP. <http://ed.gov/admins/lead/account/csso030204.html>

March 9 – Guidance on serving preschool children under Title I. including information on high-quality preschool programs, state, local and school administration of programs, teacher and paraprofessional qualifications, parental notification and coordination with other federal preschool programs. <http://www.ed.gov/policy/elsec/guid/saaprguidance.pdf>

March 9 – Copies of letters to:

AK <http://www.ed.gov/policy/elsec/guid/stateletters/amdfak.html>

IA <http://www.ed.gov/policy/elsec/guid/stateletters/amdfia.html>

KS <http://www.ed.gov/policy/elsec/guid/stateletters/amdfks.html>

ME <http://www.ed.gov/policy/elsec/guid/stateletters/amdfme.html>

NE <http://www.ed.gov/policy/elsec/guid/stateletters/amdfne.html>

ND <http://www.ed.gov/policy/elsec/guid/stateletters/amdfnd.html>

OK <http://www.ed.gov/policy/elsec/guid/stateletters/amdfok.html>

regarding alternative methods to distribute Title I funds.

March 31– Guidance providing flexibility in meeting the highly qualified teacher provisions of NCLB for teachers in rural schools and teachers of science and streamlining procedures for multi-subject teachers applying for highly qualified teacher designation under state developed plans.

<http://www.ed.gov/policy/elsec/guid/secletter/040331.html>

March 29 – Policy providing flexibility in calculating participation rates in assessments required by NCLB, allowing 3-year average participation rates to be used to meet the participation requirements.

<http://www.ed.gov/news/pressreleases/2004/03/03292004.html>

May 19 - Follow-up letter to the March 29th letter providing additional clarification regarding the averaging of participation rates and treatment of students who are unable to participate in the state assessments due to medical emergencies.

<http://www.ed.gov/policy/elsec/guid/stateletters/prates.html>

April 23 – Guidance on parental involvement under Title I, including information on communication with parents, state and local responsibilities, funding, and issues related to school improvement. <http://www.ed.gov/programs/titleiparta/parentinvguid.pdf>

April 27 - Letter to Senator Kennedy in response to the letter dated March 24, 2004, requesting that states be allowed to recalculate adequate yearly progress (AYP) decisions based on data from the 2002-03 school year using the new flexibility offered by the Department of Education for students with significant cognitive disabilities and ELL students. <http://www.ed.gov/policy/elsec/guid/secletter/040427.html>

June 7 – Letter to Senator Edward Kennedy and colleagues responding to questions they raised regarding the implementation of NCLB. The attachment to the letter addresses teacher and paraprofessional quality, supplemental services, accountability and AYP, parental involvement, choice, and school improvement.

<http://www.ed.gov/policy/elsec/guid/secletter/040607.html>

June 24 - Proposed regulations allowing additional flexibility for English language learners. <http://www.ed.gov/legislation/FedRegister/proprule/2004-2/062404a.pdf>

July (no day) – Letter to superintendents clarifying that the arts are a core subject under NCLB and giving examples of the use of arts in instruction.

<http://www.ed.gov/policy/elsec/guid/secletter/040701.html>

June 27 - Policy letter to chief state school officers regarding the inclusion of students with disabilities in AYP. <http://www.ed.gov/policy/speced/guid/secletter/030627.html>

August 18 - Letter to chief state school officers on the calculation of transportation costs under the Title I public school choice provision.

<http://www.ed.gov/policy/elsec/guid/stateletters/choice/choice081804.html>

August 22 - Supplemental Educational Service Non-Regulatory Guidance <http://www.ed.gov/policy/elsec/guid/suppsvcsguid.doc>

August 26 – Letter to chief state school officers on the calculation of costs under the Title I public school choice provision

<http://www.ed.gov/policy/elsec/guid/stateletters/choice/ses082604.html>

August 26 – Letter to chief state school officers clarifying that local school districts may not impose program design conditions on Title I supplemental service providers certified by the state.

<http://www.ed.gov/policy/elsec/guid/stateletters/choice/ses082604.html>

October 12 – Letter to chiefs clarifying that a state may not allocate Title I school improvement funds to local districts in need of improvement if there are no schools in the district which have been classified as in need of improvement.

<http://www.ed.gov/policy/elsec/guid/stateletters/uofcssos.html>

December 3 - Letter to the state of Louisiana on the administration of the Reading First program and on the supplemental educational services provisions under Title I, Part A of ESEA <http://www.ed.gov/policy/elsec/guid/stateletters/choice/ses120304.html>

December 28 – Letter to chief state school officers reiterating that local school districts identified as in need of improvement under Title I may not serve as supplemental services providers under that program.

<http://www.ed.gov/policy/elsec/guid/stateletters/choice/ses122804.html>

Source: Compiled by the Center on Education Policy, February 2005



of Education could mean a change of tone at the Department. At her confirmation hearings, Spellings pledged to work with federal and state policymakers to address their concerns and carry out NCLB in a “sensible and workable” way (Olson, 2005).

A signal that Spellings may permit more flexibility than Paige occurred in February 2005, when USED allowed North Dakota to consider its existing elementary school teachers as highly qualified according to the NCLB definition if they are state certified and have a major in elementary education. The ruling allows elementary school teachers hired between the 2002–03 and 2004–05 school years to demonstrate subject matter competence by meeting the state’s HOUSSE option for veteran teachers rather than by meeting the NCLB requirements for “new hires.” Starting in 2005–06, new teachers must demonstrate subject matter knowledge by passing rigorous content tests. Since Spellings’ appointment, two more states, Connecticut and Virginia, have submitted requests for waivers of significant NCLB requirements in hopes that the new Secretary will use her waiver authority to promote further flexibility (Olson, 2005).

But contrary evidence about the Department’s intentions has emerged from California. According to a report in the *Los Angeles Times* (Helfand, 2005), USED is pressing the state to stop allowing school districts to make AYP if their low-income students reach a special achievement target on the state’s academic performance index. According to the news report, USED officials have warned California that it could lose federal funding if it does not change this policy, a step that would result in many more districts missing AYP targets.

Views of USED Helpfulness

Our state survey asked states to rate the helpfulness of various efforts undertaken by the U.S. Department of Education to assist them in implementing NCLB. In general, most states believed these efforts to be moderately or very helpful. In particular, 40 states gave positive ratings to the non-regulatory guidance issued by USED during 2003–04, as illustrated in **Table 2-G**. Thirty-seven states reported that regulations issued by USED were moderately or very helpful, while 36 states gave similar ratings to USED staff responses to inquiries the state had made about NCLB implementation. And just over half the states (27) reported that the state accountability reviews were moderately or very helpful. States were less inclined, however, to report that the Teacher Assistance Corps visits were helpful; 29 states said these visits were only minimally helpful or not helpful.

More states found USED regulatory and non-regulatory guidance and staff responses to be helpful in 2004 than in 2003. When asked a similar question in 2003, 30 states said that USED regulations were very helpful or helpful, 33 responded that the non-regulatory guidance was very helpful or helpful, and 32 states thought that USED staff responses to state inquiries were very helpful or helpful.

Ed Flex and Other Flexibility Provisions

The No Child Left Behind Act and other federal education programs contain provisions designed to give states and districts more flexibility in administering federal funds and carrying out programs. **Box 2-D** describes these provisions. Twenty-seven states responded that they are taking advantage of one or more of these flexibility provisions, an increase over last year when 22 states said they were using the flexibility options.

Table 2-G Number of States Reporting on the Helpfulness of Certain U.S. Department of Education Activities during School Year 2003-04

	NUMBER OF STATES REPORTING USED ACTIVITY WAS MODERATELY OR VERY HELPFUL	NUMBER OF STATES REPORTING USED ACTIVITY WAS MINIMALLY OR NOT HELPFUL
Non-regulatory guidance issued by the U.S. Department of Education	40	8
Regulations issued by U.S. Department of Education	37	12
U.S. Department of Education staff responses to inquiries the state has made regarding implementation of NCLB	36	12
State accountability reviews	27	16
Teacher Assistance Corps visits	12	29

Table reads: Thirty-seven states reported that the regulations issued by the U.S. Department of Education were moderately or very helpful in state efforts to implement NCLB, while 12 states said these regulations were minimally helpful or not helpful.

Note: Responses are ranked according to the number of states reporting that the activity was moderately or very helpful.

Source: Center on Education Policy, December 2004, State Survey, Item 42

We asked states to indicate which flexibility provisions they were using. Their responses are shown in **Table 2-H**. The most popular option among states appears to be the ability to transfer administrative funds across programs, followed by the option to transfer up to 50% of selected NCLB state program funds. As with last year, however, states had mixed views about the degree to which all the major NCLB flexibility provisions are streamlining their implementation of federal programs. More states did report in 2004 that this flexibility has streamlined their administration of federal programs to a great extent, as depicted in **Table 2-I**.

We also asked states if any of their districts were taking advantage of the flexibility provisions of NCLB or other federal education programs. Forty-one states responded that their districts were making use of these provisions, up from 28 states last year. All 41 states said that at least one district in their state was transferring up to 50% of certain NCLB funds across programs, and 12 states said at least one district was transferring federal administrative funds across programs. In addition, three states reported that at least one district in their state was participating in the Local Flex program.

Strictness of USED Enforcement

We asked states how strictly the U.S. Department of Education was enforcing certain provisions of the No Child Left Behind Act. As illustrated by **Table 2-J**, half of the states (25 states) believed that that USED is very strictly enforcing the adequate yearly progress provisions, and another 16 states thought these provisions were being strictly enforced. The majority of states reported that the Department is very strictly or strictly

Box 2-D Flexibility Provisions in Federal Elementary and Secondary Education Programs

ELEMENTARY AND SECONDARY EDUCATION ACT (AS AMENDED BY NCLB)

State Flex: The State Flexibility Demonstration program allows seven states to consolidate several Elementary and Secondary Education Act (ESEA) state-level activities and administrative funds and use them for any purpose authorized under ESEA.

Local Flex: The Local Flexibility Demonstration program allows 80 school districts, plus up to 10 school districts in each State Flex state, to consolidate funds from several ESEA programs and use them for any purpose authorized under ESEA.

Consolidation of Administrative Funds: State education agencies which can demonstrate that a majority of their administrative funds comes from non-federal sources can consolidate their federal administrative funds. School districts, with the approval of the state education agency, can also consolidate federal administrative funds.

EDUCATION FLEXIBILITY PARTNERSHIP ACT OF 1999

Ed-Flex: States with challenging academic standards and assessments may grant waivers of certain federal education provisions. States must apply to have this authority and be approved by the U.S. Secretary of Education.

Table 2-H Number of States Reporting That They Are Taking Advantage of Certain Flexibility Provisions in NCLB and Other Federal Programs, 2003 and 2004

	NUMBER OF STATES TAKING ADVANTAGE OF FLEXIBILITY 2003 SURVEY	NUMBER OF STATES TAKING ADVANTAGE OF FLEXIBILITY 2004 SURVEY
Participating in State Flexibility ("State Flex") Program	2	3*
Transferring federal administrative funds across programs	15	19
Transferring up to 50% of selected NCLB state program funds across programs	**	8
State is an Ed-Flex State	**	9*

Table reads: In 2003, 15 states reported that they were transferring federal administrative funds across programs. In 2004, 19 states reported that they were taking advantage of this flexibility.

*These figures differ from those available from the U. S. Department of Education, which reports that there are 10 Ed-Flex states and no State Flex states.

** States were not asked about these two flexibility provisions in the 2003 survey.

Source: Center on Education Policy, December 2003, State Survey, Item 51; December 2004, State Survey, Item 39

Table 2-I Number of States Reporting That Flexibility Has Streamlined Their Administration of Federal Programs to Various Degrees

	NUMBER OF STATES 2003 SURVEY	NUMBER OF STATES 2004 SURVEY
Flexibility streamlined the state's administration of federal program to a great extent	3	8
Flexibility streamlined the state's administration of federal programs somewhat	9	10
Flexibility streamlined the state's administration of federal programs minimally	7	10
Flexibility streamlined state's administration of federal programs not at all	5	5

Table reads: In 2003, three states reported that the flexibility provided under federal education programs streamlined their administration of federal programs to a great extent. In 2004, eight states indicated that the flexibility streamlined their administration to a great extent.

Source: Center on Education Policy, December 2003, State Survey Item 51; December 2004, State Survey, Item 39

Table 2-J Number of States Giving Various Ratings to How Strictly the U.S. Department of Education Is Enforcing Certain NCLB Provisions, 2004

	VERY STRICTLY	STRICTLY	SOMEWHAT STRICTLY	NOT AT ALL STRICTLY
Adequate yearly progress	25	16	7	1
Reading First	22	18	2	0
Public school choice	14	14	11	4
Supplemental education services	11	19	11	2
Highly qualified teachers	8	20	16	2
Paraprofessional qualifications	8	12	21	1
Scientifically based research	4	11	17	9

Table Reads: Twenty-five states reported that the U.S. Department of Education is enforcing the adequate yearly progress provisions very strictly.

Note: Responses are ranked according to the number of states reporting that the U.S. Department of Education is very strictly enforcing the provision.

Source: Center on Education Policy, December 2004, State Survey, Item 41



enforcing the Reading First, public school choice, supplemental education services, and highly qualified teacher provisions. States indicated that USED was enforcing provisions for paraprofessional qualifications and scientifically based research somewhat strictly or not at all strictly.

Public Support for the Act

Debate about the positive and negative effects of No Child Left Behind escalated in 2004, an election year. Criticisms dominated much of the discussion, with calls from state policymakers of both parties for changes in the law, regulations, or USED implementation. Public opinion polls conducted in 2004 suggested that citizens were becoming more aware of NCLB, but these polls differed on whether familiarity translated into support for or opposition to the Act.

Backlash against NCLB

During 2004, state and local backlash against NCLB intensified. By summer 2004, legislators in 31 states—including several with Republican-controlled legislatures or governorships—had introduced bills related to NCLB, according to the National Conference of State Legislatures (2004). Some of these bills protested the costs of the law or requested more funding, others decried federal intrusiveness or pushed for greater flexibility, and others sought to limit state participation in NCLB or circumscribe the applicability of its provisions. Despite these protests, the President said he did not intend to back down or amend the law. But the U.S. Department of Education did modify its policies in a few areas, as noted above, and this seemed to quell some of the backlash.

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Most of the NCLB-related bills introduced in state legislatures did not pass, although some were enacted in substantially watered-down form. Utah backed away from a bill to opt out of NCLB entirely and instead passed legislation to study the costs of federal mandates. Maine started out with legislation to forbid state money from being spent on federal requirements but ended up asking the state to study the law's costs. No state ultimately chose to opt out of NCLB mandates or forfeit federal dollars. Although Vermont passed a law giving school districts the ability to opt out, few have chosen to do so. As of February 2005, the Vermont legislature was reconsidering whether the state should reject federal NCLB funding to avoid being subject to the law's requirements. According to press reports (Lawmakers ponder, 2004), U. S. Department of Education officials have warned states considering this type of action that they could lose other federal education funding beyond NCLB if they opt out of the Act.

Districts that have rejected federal NCLB funds because they have too many strings attached include three in Vermont, three in Connecticut, and two in Illinois (Cohen, 2004). Our case study of the Marlboro Elementary district in Vermont highlights the motives of one district that declined to participate in NCLB, described in **Box 2-E**.

At the federal level, numerous bills were also introduced in the U.S. Congress to amend various aspects of NCLB, but none were enacted. Senior Democratic members of Congress, including supporters of the original legislation, criticized the Administration for failing to provide sufficient funding for the Act and pressed the Department to allow its more flexible regulatory changes to apply retroactively to AYP determinations for the 2002-03 school year, but as noted above, the Department rejected this position. In 2004, a coalition of 30 national education, civil rights, and citizens' organizations

Box 2-E Marlboro, Vermont: Refusing to Participate in NCLB

Marlboro Elementary School District has not received Title I funding for several years and is refusing to implement NCLB on those grounds, as well as philosophical ones. The law has met with bitter resistance in Marlboro, despite the fact that the district's one school appears to remain relatively unaffected by it. In April 2004, the school board passed a resolution stating that NCLB is "inherently flawed" and "fails students and schools." The resolution noted that the "administrative and testing requirements are time consuming and expensive and do not serve the needs of students."

Further, the resolution stated that "the tests are not designed to challenge or engage students and they do not aid in their learning. NCLB is a vehicle to remove control of our children's education from local communities and school districts and place that control with the Federal Government." The resolution went further, predicting that as a result of AYP, "eventually all schools will find themselves 'failing.'"

As a result of these concerns, the board resolution proclaimed that the Marlboro Elementary School District "will not participate in AYP as determined by the No Child Left Behind Act"; "will not forward information we deem sensitive to the Windham Central Supervisory Union that can be connected in any way to a specific student by name"; "will not administer any tests that the principal does not deem to have useful educational value"; and "will not incur any extra expenses to administer any part of the NCLB Act."

Source: Center on Education Policy, December 2004, NCLB Case Studies

issued a statement calling on Congress and the Administration to make "significant, constructive corrections" in NCLB, including revamping its requirements for measuring AYP, emphasizing systemic change over sanctions, and providing adequate funding (National Education Association, 2004, October 21).

Even as some groups were calling for greater flexibility in NCLB, other groups, including education advocacy groups like the Education Trust and Citizens for Effective Schools, urged the Department not to loosen up too much on such issues as subgroup accountability. Some urban educators, such as Philadelphia school superintendent Paul Vallas, also came out in support of the legislation, imploring educators to try to make the law work (Snyder & Naedele, 2004).

In 2005, some states have revived their efforts to secure policy changes in NCLB. Bills have been introduced in the Republican-controlled Virginia legislature directing the state board to seek waivers of NCLB provisions (Olson, 2005). The Utah House of Representatives, a Republican-controlled body, passed a bill in February only slightly less defiant in tone than its 2004 version. The new bill, which the Senate was scheduled to take up in late February, asserts that federal education policies should not supersede state control, and it would allow the state to ignore federal mandates that require expenditures of state funds (Lynn, 2005). As of February 2005, legislators in at least seven additional states—Colorado, Connecticut, Idaho, Minnesota, Nebraska, North Dakota, and Vermont—had introduced bills challenging what policymakers see as the intrusiveness of NCLB (Olson, 2005).

Members of the U.S. Congress have also reintroduced bills seeking amendments to various NCLB requirements affecting accountability, choice, supplemental services, and



other areas. In the meantime, President Bush has proposed to expand NCLB-like testing in the high school grades as part of a major initiative to improve education at this level.

In addition to attracting criticisms, NCLB was also subject to legal challenges during the past year. **Box 2-F** reviews the major developments in this area.

Public Views about NCLB

Public awareness of NCLB increased during 2004. Poll data suggested that Americans were becoming more familiar with the law's broad goals, or at least were more likely than last year to have heard of NCLB. Opinions about whether this heightened attention translates into positive or negative views seem to differ, depending on which poll is used and who is sponsoring it.

A 2004 poll by *Education Week* and the Public Education Network concluded that as people became more aware of NCLB, a growing minority of them did not like it (Robelen, 2004). About three-fourths of the voters surveyed said they had heard of the law, up from a little over half last year. Although supporters of NCLB still outnumbered those who expressed opposition, the percentage who said they disliked NCLB more than tripled, from 8% in 2003 to 28% in 2004. Thirty-six percent said they favored the law, and 34% were not sure how they felt about it.

A poll commissioned by the National Education Association (2004, January 14) and conducted jointly by Republican and Democratic polling firms concluded that the more voters learned about NCLB, the more they believed it should be changed. Some 42% of those polled had either not heard of the law or were unsure of its impacts. Another 37% said the law is having a positive impact, while 21% said the impact has been negative. Among those respondents who had heard a lot about the law, views were more mixed: 45% deemed it positive and 42% deemed it negative. Most of those polled supported the goals of the law, but two-thirds said they believed NCLB is unfair because it labels schools as failing even if only one group of students doesn't do well on a test. A majority of the respondents (63%) said they felt the federal government should increase funding for public schools.

The 2004 annual Phi Delta Kappa/Gallup poll revealed mixed and even contradictory views about NCLB (Rose & Gallup, 2004). About two-thirds of those polled expressed opposition to the way test scores are used to judge school performance in NCLB, but nearly as many said schools give the right emphasis to tests or don't emphasize them enough. Slightly more than half of the respondents said the law will improve student achievement, but a majority also opposed reporting test scores for all major subgroups of students. Overall, 68% of people said they knew very little or nothing about the law, and 55% said they didn't know enough to form an opinion, fewer on both counts than in 2003.

Other polls have reached more positive conclusions. A survey for Americans for Better Education conducted by the Republican-leaning Winston Group found that 52% of voters approved of the law, with higher ratings among African Americans. After people were told more about the law, the approval rating rose to 68% (Americans for Better Education, 2004). Sixty percent of those surveyed said that raising standards and accountability is more important than increasing funding. About two-thirds of those surveyed believed that the reason schools were being rated as underperforming was because they truly needed help, not because standards are unreasonable.

Box 2-F Legal Challenges to NCLB

Beginning in late 2003 and continuing into 2005, NCLB has been a topic of legal opinions and lawsuits, challenging the legality of various requirements. Major legal actions include the following:

- In December 2003, the Reading School District sued the Pennsylvania state education department on the grounds that the state had unfairly judged the district under NCLB, based on the performance of English language learners who could not read the test. In 2004, state judges ruled that testing in a student's native language is not mandatory; the district was considering an appeal.
- During 2004, no state took up the invitation issued by the National Education Association in 2003 to join in a lawsuit challenging the legality of the NCLB provisions that require states to spend their own funds to carry out federal mandates. As of February 2005, the suit had not been filed.
- In May 2004, the Wisconsin Attorney General issued an opinion maintaining that the state has no legal obligation to implement NCLB because the federal government has not adequately funded it and cannot make the state pay for the law's mandated costs. Secretary Paige insisted that this interpretation of the law was incorrect.
- A class action suit was filed in the New York state supreme court in October 2004 on behalf of thousands of New York schoolchildren. The suit contends that the cap on school choice transfers imposed by the New York City Department of Education illegally denies the transfer rights of students under NCLB.
- In January 2005, a federal appeals court upheld the dismissal of a lawsuit filed by the Center on Law and Education against the U.S. Department of Education, contending that a federal advisory panel on accountability systems under NCLB did not include enough teacher and student representatives.
- Two Illinois school districts sued the U. S. Department of Education in February 2005, charging that some of the accountability requirements of NCLB should be invalidated because they conflict with the Individuals with Disabilities Education Act.
- As of mid-February 2005, the school board of the Coachella Valley Unified School District in California was slated to vote on whether to sue the federal government for holding the district to what it believes are unreasonable adequate yearly progress goals under NCLB.

In 2004, NCLB also continued to provide fuel for "educational adequacy" lawsuits, which charge that state school finance systems are unconstitutional because they fail to provide students in poor districts with an adequate education. New educational adequacy lawsuits were filed in several states, and cases are pending in other states. The failure of poor school districts to meet the goals of NCLB can serve as evidence of the inadequacy of their education. In one such case considered during 2004, a South Carolina judge looked at test scores and teacher data generated for NCLB purposes to determine how low-income districts fared on key measures of educational adequacy. Another lawsuit filed in the summer of 2004 in Alaska by a group of parents, teachers, districts, and advocates challenges the constitutionality of the state's school finance system and charges the states with failing to provide enough money to enable districts to meet the demands of NCLB.

Sources: Chute, 2003; Wisconsin Department of Justice, 2004; Gewertz, 2004; Walsh, 2005; Samuels, 2005; Mahr, 2005; Dobbs, 2004; Mangino, 2004.



Educators' views of NCLB are more nuanced but more negative than those of the general public, according to a survey of 1,500 teachers sponsored by the Civil Rights Project at Harvard University (2004). The teachers surveyed agreed with many of the law's goals but had concerns about negative effects. The majority did not believe that identifying schools for improvement based on AYP requirements would lead to improvement. The teachers had negative views of the transfer of students under the NCLB choice provisions but were somewhat more positive about the potential of supplemental education services to improve schools. They also strongly believed that NCLB sanctions would unfairly reward and punish teachers and would cause teachers to transfer out of schools not making AYP. Moreover, the majority of the teachers surveyed felt that NCLB accountability was producing possibly negative consequences for curriculum and instruction, such as ignoring important aspects of the curriculum and promoting an excessive focus on tested topics.

Suggestions for Changing NCLB Policy from States and School Districts

Our surveys asked states and districts which three requirements of the No Child Left Behind Act they would most like to change or eliminate. States and districts were in agreement on wanting to change how students with disabilities and English language learners are assessed and included in their NCLB accountability systems. States also overwhelmingly reported that they would like to revise or eliminate various aspects of the adequate yearly progress provisions, including allowing value-added or growth models in state accountability system. Similarly, districts voiced general concerns about the fairness of the NCLB accountability system, including its sanctions. Some of these changes would require amendments to the law, while others could be done by regulation or other modifications in USED policies. Here are some of their recommendations and comments about accountability-related changes:

The requirements to assess most special education and ELL students [should be changed/eliminated]. If you watch kids crumble and be defeated by a task that they cannot perform, it is heartbreaking, but this is not something that bureaucrats think about.

The requirement that schools must meet all of their goals to make AYP. Many schools meet a high percentage of the federal goals and miss AYP by a small amount. The all or nothing rule makes it difficult for some schools due to their population makeup. Not making AYP carries a negative connotation for a school when in fact they may have made the majority of the goals.

Evaluate school and district performance (AYP) based on a more accurate and robust model that includes reasonable credit for improvement in student achievement even if a student has not yet reached the proficient level. Allow growth and value added models.

States and districts also expressed a desire to change the law's provisions for choice and supplemental education services, including offering SES before choice and limiting transfers to low-income, low-achieving students. Several districts and some states would like to see changes to the highly qualified teacher requirements. Here are some typical state comments about these issues:

Change order of SES and choice...Choice is not truly an option for most students. SES might lead to actual improvement for students.



We would make significant changes to the whole concept of highly qualified teachers. We have several teachers who meet the federal definition of highly qualified, yet are simply adequate, or less than adequate in the classroom. On the other hand, we have teachers who have been with us for 10-20 or more years and have demonstrated their passion for teaching and expertise in the classroom, but because they don't have a major in the content area they are teaching they are deemed "not qualified."

Conclusion

The impact of the No Child Left Behind Act became deeper in 2004, reaching down to the school and classroom levels. Our case studies also suggest that the Act's influence was felt more broadly during the past year. Districts of all sizes and types—including those with no schools in improvement—were taking meaningful steps to raise achievement and improve teacher and paraprofessional qualifications. District officials and school staff appeared to have more in-depth understanding of the law's myriad requirements.

Most states and school districts readily acknowledge that the law is having some positive effects. As a result of NCLB, school administrators and teachers report that they are redoubling their efforts to help low-achieving subgroups of students, aligning curriculum and instruction more closely with state standards, and making greater use of test data to identify students' learning needs and reach decisions about instruction.

But the Act has also posed considerable challenges for states, districts, and schools and yielded some negative effects. Among the greatest challenges are assisting all schools identified for improvement, maintaining sufficient staff capacity and expertise to meet the Act's many demands, and securing adequate funding to carry out its requirements. Another whole set of major challenges relates to the law's requirements for accountability and adequate yearly progress, which many states and districts see as unfair to schools and detrimental to some subgroups of students. These challenges and negative effects have fueled criticisms of NCLB. Whether the positive effects outweigh the negative over the long term will depend partly on whether states, school districts, and the U.S. Department of Education achieve the right balance of flexibility and firmness. This balance should allow for adjustments to provisions that are not working as intended without renegeing on the commitment to help all students achieve at proficient levels.

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CHAPTER 3

Accountability

Key Findings

- The number of Title I schools identified for improvement under the No Child Left Behind Act has been stable, according to the Center's own nationally representative survey of school districts. Around 13% of Title I schools, or about 6,000 schools, have been cited as needing improvement in each of the past three years. The percentage of districts with identified schools has not changed much either, hovering around 15% to 20% over the past three years. Over time, however, there has been a concentration of identified schools in urban and very large districts, as well as at the middle school level.
- USED made policy changes affecting English language learners, students with disabilities and test participation rates—three areas that were creating implementation difficulties for states and school districts. At the same time, states asked for, and received, permission from USED to amend their accountability plans to adopt policies that seemed to be working for other states. Both the federal and state changes gave states more flexibility and also had the effect of making it easier for schools to demonstrate adequate yearly progress under the law, at least in the short term.
- This year states are confronting the additional responsibility of carrying out sanctions for school districts identified for improvement under NCLB. Approximately 10% of the districts participating in the Title I program reported that they were identified for improvement at the start of the 2004–05 school year. In some ways, NCLB is more stringent for districts than for schools; for instance, subgroups too small to be counted for AYP purposes at the school level are often counted at the district level. But in other ways, the law is more lenient, in that public school choice and restructuring are not mandatory steps for districts in improvement. USED has allowed states to amend their accountability plans in ways that make it easier for districts to make AYP and stay out of improvement status.
- The accountability requirements for students with disabilities and English language learners continue to present serious challenges for many states and districts, even after last year's policy changes. Many states would like more flexibility from USED in these areas.
- States and districts are experiencing other major implementation challenges related to NCLB's accountability demands. Many continue to have difficulty meeting the requirements for making AYP determinations before the start of the school year. Some find that NCLB's data management requirements consume considerable time and resources, although they also report that the information derived from the data is one of NCLB's greatest benefits. State and district officials also report conflicts with pre-existing state accountability systems and difficulties in developing high-quality assessments in the timeframe mandated by NCLB.

Introduction

In 2003–04, the ideals and goals of the No Child Left Behind Act continued to bump up against difficulties in its implementation. To address these difficulties, USED made some



policy changes, and state officials adjusted their accountability plans to make the law somewhat more workable in certain areas. In this chapter, we begin by describing trends in the numbers and types of schools making adequate yearly progress and being identified for improvement under the Act's accountability provisions. Next we discuss three major developments in the area of accountability over the past year—changes in federal policies and state accountability plans, progress in implementing NCLB accountability requirements for school districts, and issues surrounding the testing of students with disabilities and English language learners. We conclude with a summary of implementation challenges identified by states this year and suggestions from a Center on Education Policy forum about how the law's accountability requirements might be improved.

Trends in School AYP and Improvement

Adequate Yearly Progress for Schools

Our survey collected data on the percentage of Title I districts with schools that did not make adequate yearly progress under NCLB for the first time based on their 2002–03 test results, as well as the number of districts with schools that have not made AYP for multiple years and have therefore been identified for improvement. As **Table 3-A** indicates, 25% of districts had at least one school that did not make AYP for the first time in 2003–04. Half of urban school districts and 87% of very large districts reported that they had at least one school not making AYP for the first time based on 2003–04 test scores. Our district survey data show that districts receiving Title I funds typically had at least one elementary school, one middle school, and one high school that did not make AYP for the first time in 2003–04.

Schools continued to fall short of making AYP because of just one subgroup. **Table 3-B** shows that about a quarter of all districts had at least one school that did not make AYP in 2003–04 because one subgroup did not meet AYP targets, the same proportion as in the previous year. This is a much less common phenomenon in small and rural districts than in large and urban districts.

School Improvement

Schools identified for improvement under NCLB—those that have failed to make AYP for two years in a row—are subject to a specific series of steps, beginning with improvement plans and public school choice and ending with the more serious sanctions of restructuring. (In most states, schools go into improvement when they do not make AYP in the *same subject* area for two years in a row.)

Our district survey looked at the number of Title I schools identified for improvement in school year 2004–05, based on test data from 2003–04. We compared this with data from our surveys of the two previous years. As **Table 3-C** shows, the number of Title I schools identified for improvement has remained fairly stable over the past three years, at around 6,000, or 13% of all Title I schools. Urban schools, schools in very large districts, and middle schools were the most likely to be identified for improvement in 2004–05.

The proportion of districts with Title I schools identified for improvement has not changed much, hovering around 15% to 20% over the past three years (see **Table 3-D**). As we reported last year, significantly more urban and large districts have schools identified for improvement than rural, suburban, and small districts do.

Table 3-A Percentage of Districts with One or More Schools That Did Not Make Adequate Yearly Progress for the First Time in 2003-04

TOTAL (all districts)	25%
DISTRICT TYPE	
Urban	50%
Suburban	31%
Rural	16%
DISTRICT SIZE	
Very Large	87%
Large	67%
Medium	51%
Small	15%

Table reads: Among districts that receive Title I funds, 25% have one or more schools that did not make adequate yearly progress for the first time based on 2003-04 test scores.

Source: Center on Education Policy, December 2004, Fall District Survey, Item 1 (Table 1)

Table 3-B Percentage of Districts with at Least One School That Did Not Make AYP Because of One Subgroup

	2002-03	2003-04
TOTAL (all districts)	23%	23%
DISTRICT TYPE		
Urban	45%	44%
Suburban	27%	26%
Rural	16%	18%
DISTRICT SIZE		
Very Large	87%	95%
Large	54%	68%
Medium	34%	52%
Small	16%	13%

Table reads: Based on 2002-03 test results, an estimated 23% of districts that received Title I funds had at least one school that did not make AYP because of the performance of just one subgroup. The following year, in 2003-04, the same percentage of districts—an estimated 23%—had at least one school that did not make AYP because of one subgroup.

Source: Center on Education Policy, December 2003, District Survey, Item 5; December 2004, District Survey, Item 6 (Table 5)

Table 3-C Percentage and Number of Title I Schools Identified for Improvement

	2002-03			2003-04			2004-05		
	ESTIMATED NUMBER OF TITLE I SCHOOLS	ESTIMATED NUMBER OF TITLE I SCHOOLS IDENTIFIED FOR IMPROVEMENT	PERCENTAGE OF ALL TITLE I SCHOOLS IDENTIFIED FOR IMPROVEMENT WITHIN STRATA	ESTIMATED NUMBER OF TITLE I SCHOOLS	ESTIMATED NUMBER OF TITLE I SCHOOLS IDENTIFIED FOR IMPROVEMENT	PERCENTAGE OF ALL TITLE I SCHOOLS IDENTIFIED FOR IMPROVEMENT WITHIN STRATA	ESTIMATED NUMBER OF TITLE I SCHOOLS	ESTIMATED NUMBER OF TITLE I SCHOOLS IDENTIFIED FOR IMPROVEMENT	PERCENTAGE OF ALL TITLE I SCHOOLS IDENTIFIED FOR IMPROVEMENT WITHIN STRATA
TOTAL (all districts)	45,028	6,039	13%	45,028	6,126	14%	42,723	5,765	13%
DISTRICT TYPE									
Urban	10,556	1,468	14%	10,556	2,010	19%	11,288	2,408	21%
Suburban	19,843	3,376	17%	19,843	3,376	17%	17,666	2,307	13%
Rural	14,629	1,195	8%	14,629	739	5%	13,769	1,051	8%
DISTRICT SIZE									
Very Large	6,585	1,392	21%	6,585	2,058	31%	6,436	1,628	25%
Large	8,502	1,597	19%	8,502	1,280	15%	7,483	1,104	15%
Medium	10,826	717	7%	10,826	545	5%	10,544	1,459	14%
Small	19,115	2,333	12%	19,115	2,242	12%	18,259	1,574	8%
SCHOOL LEVEL									
Elementary	33,586	4,451	13%	33,586	4,447	13%	30,759	3,002	10%
Middle	6,060	1,062	18%	6,060	1,092	18%	5,974	2,140	36%
High School	2,429	283	12%	2,429	529	21%	2,525	497	19%
Other Grade Combinations	2,952	107	4%	2,952	107	4%	3,465	126	4%

Table reads: In 2004-05, of the 13,769 rural schools that received Title I funds, an estimated 1,051 schools, or 8%, were identified for improvement under NCLB.

Source: Center on Education Policy, December 2003, District Survey, Items 1, 11; December 2004, District Survey, Item 4 (Table 3b)

Table 3-D Percentage of Districts with at Least One School Identified for Improvement

	2002-03	2003-04	2004-05
TOTAL (all districts)	15%	16%	20%
DISTRICT TYPE			
Urban	40%	47%	52%
Suburban	15%	20%	20%
Rural	12%	9%	15%
DISTRICT SIZE			
Very Large	67%	84%	96%
Large	46%	48%	58%
Medium	20%	16%	31%
Small	10%	12%	13%

Table reads: In 2002-03, among urban districts that had received Title I funds, an estimated 40% had at least one school identified for improvement. The following year, in 2003-04, of urban districts that received Title I funds, an estimated 47% had at least one school identified for improvement. This year, in 2004-05, of urban districts that received Title I funds, an estimated 52% had at least one school identified for improvement.

Source: December 2003, District Survey, Item 1; December 2004, District Survey, Item 3 (Table 3)

Table 3-E Distribution of Schools Identified for Improvement

	ESTIMATED PERCENTAGE OF TITLE I SCHOOLS	PERCENTAGE OF TITLE I SCHOOLS IDENTIFIED FOR IMPROVEMENT IN 2002-03	PERCENTAGE OF TITLE I SCHOOLS IDENTIFIED FOR IMPROVEMENT IN 2003-04	PERCENTAGE OF TITLE I SCHOOLS IDENTIFIED FOR IMPROVEMENT IN 2004-05
DISTRICT TYPE				
Urban	23%	24%	33%	42%
Suburban	44%	56%	55%	40%
Rural	32%	20%	12%	18%
DISTRICT SIZE				
Very Large	15%	23%	34%	28%
Large	19%	26%	21%	19%
Medium	24%	12%	9%	25%
Small	42%	39%	37%	27%
SCHOOL LEVEL				
Elementary	75%	74%	73%	53%
Middle	13%	18%	18%	37%
High School	5%	5%	9%	9%
Other Grade Combinations	7%	2%	2%	2%
TOTAL (all districts)	100%	100%	100%	100%

Table reads: In 2002-03, an estimated 23% of Title I schools identified for improvement were located in very large districts. The following year in 2003-04, an estimated 34% of Title I schools identified for improvement were located in very large districts. This year, in 2004-05, an estimated 28% of Title I schools identified for improvement were located in very large districts.

Source: Center on Education Policy, December 2003, District Survey, Items 1, 11; December 2004, District Survey, Item 4 (Table 3a)



Even though the proportion of Title I schools identified for improvement has changed little, this doesn't mean that the same schools are being identified year after year. **Table 3-E** shows that the distribution of identified Title I schools is shifting across location, district size, and grade span. Over time, there has been a concentration of identified schools in urban districts. This year, 42% of identified schools are found in urban districts, almost double the percentage (23%) of all Title I schools located in such districts. Likewise, there is a disproportionate concentration of identified schools in very large districts. Finally, this year high schools and especially middle schools are disproportionately represented among identified schools.

These shifts can be explained partly by the fact that the types of schools most likely to be identified tend to have the most subgroups large enough to count toward AYP. This fits in with observations from many of our case studies—a number of school districts noted that their high schools and middle schools were not making AYP, often because they had higher enrollments and more subgroups large enough to count for AYP purposes than elementary schools did. In Oregon's Tigard-Tualatin district, for example, middle and high schools have consistently failed to make AYP due to the performance of several subgroups, while elementary schools tend to make AYP.

Several case study districts also observed that middle school is the level when achievement starts to lag; this was the case in districts as diverse as Pascagoula School District in Mississippi, St. John the Baptist Public Schools in Louisiana, and Grant Joint Union High School District and Escondido Union Elementary District in California. Some case study districts have changed grade configurations to eliminate middle schools altogether. For example, the Cleveland Municipal School District had begun phasing out middle schools even before the onset of NCLB and is slowly moving toward K-8 elementary schools. The district made this change after local achievement data showed that sixth grade students in middle schools had lower test scores than sixth graders in elementary schools. Chief Academic Officer Rebecca Lowry explained the district's rationale by noting, "In the mid-'70s, middle schools were the up and coming thing, but they didn't work." The reconfiguration process is not yet complete. In the 2003-04 school year, the district still had 15 middle schools with traditional grade spans, and many of these continued to be troubled, according to Lowry.

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Our survey also asked districts whether any of their Title I schools had exited improvement status under NCLB because they had made AYP for two consecutive years. Six percent of districts moved at least one Title I school out of "needs improvement" status, the same proportion as last year and more than a quarter of the 20% of districts with at least one school in improvement. Most of the schools that exited improvement status in fall 2004 were from suburban, large, and medium-sized districts, as indicated in **Table 3-F**.

We also asked districts how many *non*-Title I schools were identified for improvement. Based on their responses, we estimate that 2,370 non-Title schools were identified—less than half the number of Title I schools. While identified Title I schools tend to be in urban districts, identified non-Title I schools tend to be in suburban districts, according to our survey data summarized in **Table 3-G**.

By adding the 2004-05 totals for both Title I and non-Title I schools (**Tables 3-C and 3-G**), we estimate that roughly 8,000 schools were identified for improvement this school year.

Other organizations have arrived at higher estimates for the numbers of schools in improvement. Two analyses—one by the National Education Association and another by *Education Week*—estimated the number of schools identified for improvement at the

Table 3-F Estimated Number of Schools That Exited Improvement Status

NUMBER OF SCHOOLS THAT EXITED IMPROVEMENT STATUS BECAUSE THEY MADE ADEQUATE YEARLY PROGRESS FOR TWO CONSECUTIVE YEARS		
	2003-04	2004-05
Total (all districts)	1,425	1,774
DISTRICT TYPE		
Urban	373	489
Suburban	482	1,230
Rural	569	55
DISTRICT SIZE		
Very Large	247	251
Large	270	618
Medium	380	626
Small	528	279

Table reads: In 2003-04, among districts that received Title I funds, an estimated 1,425 Title I schools exited improvement status because they made adequate yearly progress for two consecutive years. In 2004-05, among districts that receive Title I funds, an estimated 1,774 Title I schools exited improvement status because they made adequate yearly progress for two consecutive years.

Source: Center on Education Policy, December 2003, District Survey, Item 7; December 2004, District Survey, Item 7 (Table 6a)

Table 3-G Estimated Number of Non-Title I Schools Identified for Improvement

	2004-05
TOTAL (all districts)	2,370
DISTRICT TYPE	
Urban	370
Suburban	1,226
Rural	774
DISTRICT SIZE	
Very Large	58
Large	842
Medium	719
Small	752

Table reads: In 2004-05, an estimated 2,370 non-Title I schools were identified for improvement.

Source: Center on Education Policy, 2003 District Survey, Item 3; 2004 District Survey, Item 5 (Table 4a)



start of school year 2004–05 to be 11,000. This figure, which includes both Title I and non–Title I schools, represents a considerable increase over the 6,000 schools these two groups estimated to be in improvement in 2003–04 (NEA, 2004; Olson, 2004b). Not knowing all the assumptions and methods used for these other analyses, we cannot account for the difference between our estimate and those of other groups.

The NEA and *Education Week* analyses also reported numbers of Title I and non–Title I schools not making AYP—which presumably includes schools in all stages of improvement, corrective action, and restructuring, plus Title I and non–Title I schools that did not make AYP for the first time. The NEA analysis estimated the total number of schools not making AYP to be about 21,000, based on 2003–04 test data, while *Education Week* estimated this number at 20,000. In both cases, the estimates based on 2003–04 data showed a decline from the number not making AYP based on 2002–03 test data.

States differ as to whether they apply NCLB sanctions to non–Title I schools. A non–Title I school identified for improvement does not necessarily face sanctions, such as being required to offer public school choice or supplemental education services or undergoing restructuring. In our survey, 29 states reported that they do not sanction non–Title I schools, and 4 states reported that they do. Fifteen states replied that they are applying some, but not all, of the NCLB sanctions to non–Title I schools. For instance, some states only apply less punitive sanctions, such as publishing the names of the schools “in need of improvement” or filing a school improvement plan. Others do not require non–Title I schools to implement public school choice or supplemental education services, but require them to undergo corrective action or restructuring if they are in improvement for several years. For these reasons, reporting on the number of non–Title I schools in improvement may be useful for measuring how many schools are not meeting NCLB’s annual measurable objectives, but may not be informative in terms of gauging the numbers of schools that are facing the most serious effects of the law.

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In short, our trend data on schools identified for improvement show stability in the number of Title I schools identified for improvement and a concentration of identified schools in larger and urban districts and at the middle school level.

There are a variety of possible reasons why the number of Title I schools in improvement has been relatively stable, rather than increasing. First, student achievement may be improving, as discussed in Chapter 1. Second, state and local education officials may be addressing AYP problem areas that are easier to fix than raising test scores, such as improving test participation and attendance. Third, federal and state policy changes in AYP rules were instituted this past year, and as discussed below these changes seem to have helped schools make AYP, at least in the short term. Rather than creating an ever-widening pool of schools in improvement, the effects of the law may be settling in on those schools that have large numbers of subgroups, or those that are consistently underperforming, or those that face the greatest educational challenges. Another reason for stability in this number may be that annual measurable objectives, or achievement targets, started at low points in 2002–03 and have not increased much so far. Many states “backloaded” their annual measurable objectives so that they rise slowly for the first few years of the law’s implementation but more rapidly after 2010 (Shek, 2005). Therefore, it is likely that the number of schools identified for improvement will rise in the future as annual achievement targets increase.

Several case study districts recognized that it will become more difficult to meet the NCLB achievement targets in the future, as annual achievement targets rise and as more grades and subjects are tested. Staff in the Hermitage, Missouri, School District, for example, expressed concern about the district’s ability to make AYP in the future, especially for middle and high school students, whose achievement lags behind that of



elementary students. Missouri will begin in 2005 to test students in both communication arts and math at all the grades 3-9, plus grade 11—an expansion of the previous schedule that assessed students in different subjects in alternate years. The addition of testing in more grades and subjects will create more AYP targets for Missouri students to reach. “The staff considers the high school tests to be extremely difficult,” said Superintendent Shelly Aubochon, “and there is a feeling by some that the expectations of the federal government on NCLB and the state of Missouri are not realistic.”

Federal and State Policy Changes

Both states and the U. S. Department of Education made policy changes this year that were relevant to AYP determinations and could have affected the number of schools identified for improvement. To understand these changes better, we analyzed decision letters from USED to states that had requested amendments to their original accountability plans, which were first submitted in 2003. Our analysis focused on the decision letters available on the Department’s website as of mid-December 2004 for the 50 states, the District of Columbia, and Puerto Rico. We limited the analysis to changes states requested since January 1, 2004. Below we describe the types of changes documented in these decision letters, the possible effects of these changes, and some changes the Department rejected. It is important to keep in mind that this summary represents a snapshot in time—states and USED are continuously revising accountability plans so the counts and states mentioned in this section are subject to change.

State Changes Based on Revised Federal Guidelines

Some of the changes requested by states were intended to take advantage of policy changes made by USED. Since states first submitted their accountability plans in 2003, they have gained more experience in carrying out NCLB and have identified requirements they feel are creating problems. Between December 2003 and March 2004, the Department responded to some of the concerns by changing federal policies in three areas: testing students with disabilities, testing English language learners, and calculating test participation rates. For these federal changes to apply in a given state, the state still had to ask the Department to approve amendments to its accountability plan.

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STUDENTS WITH DISABILITIES

NCLB requires students with disabilities to take the same state reading or language arts and mathematics tests as other students in their grade, with very few exceptions. In December 2003, the Department issued final regulations clarifying this policy. States can now allow school districts to test students with the most significant cognitive disabilities using an alternate assessment that is aligned with academic standards geared to these students’ instructional level rather than their grade level—often referred to as “out-of-level” assessments. However, when states are calculating the percentage of students meeting achievement targets for AYP purposes, the number of scores reported at the proficient level or above based on these out-of-level assessments should not exceed 1% of the students in the grades tested in the school district. This 1% cap applies to both states and school districts. States and school districts can request an exemption to exceed the 1% cap, which USED will consider on a case-by-case basis.

The December 2003 regulations were not exactly new, because most states had already received provisional approval to use out-of-level assessments for students with



the most significant cognitive disabilities, up to a 1% cap, under proposed regulations published in March 2003. At least 46 states and Puerto Rico are now operating under this new policy.

ENGLISH LANGUAGE LEARNERS

Initially the Department required all English language learners to be tested with the same grade-level tests as other students. In response to state and local criticisms, the Department revised its policy in February 2004. It now allows states to exempt immigrant students who have been in a U.S. school for less than one year from taking regular state reading or language arts tests. These students will still have to take an English language proficiency test (designed for ELLs) and the regular state mathematics test, but the results need not count toward AYP. When calculating AYP for the subgroup of ELLs, the revised federal policy also allows states to count the progress of former English language learners for two years after they reach English proficiency (for more on this topic, see chapter 7). This will make it more likely for this subgroup to show progress. Before this change, students were typically moved out of this subgroup as soon as they learned English, and new students who understood little English were moved in, so it was very difficult for the subgroup to show gains. At least 36 states adopted these changes.

Our case study of Rachel Carson Elementary School in Chicago provides an example of how this policy change helped a school make AYP. The school is 93% Hispanic and has a reputation for being particularly strong in bilingual education. Based on 2002–03 testing, Carson’s ELL subgroup failed to make AYP. Although the academic performance of Carson’s students as a whole exceeded that of the district, the ELL subgroup fell short of the NCLB “safe harbor” provision by 0.5%. (In a “safe harbor” situation, a school or district makes AYP if it misses its proficiency targets but still reduces the number of students who are not proficient by 10% and also meets graduation and attendance targets.) School officials noted that if the state had not moved Spanish-speaking students as quickly as possible into mainstream status, the school no doubt would have had higher reading scores for ELLs and made AYP. In other words, ELLs who were getting closer to proficiency were being moved out of the subgroup. “We were penalized for doing a really good job,” the school’s principal said. For 2003–04, the ELL policy change allowed students to be included in the subgroup of ELLs for two years after they had officially exited a language acquisition program. Therefore, Carson met all AYP goals for 2003–04 testing.

PARTICIPATION AVERAGING

NCLB requires 95% of students enrolled at the time of testing in the grades tested to take each subject test. This applies to subgroups as well. If this test participation requirement is not met, the school cannot make AYP even if its test scores meet state targets. The Department relaxed the requirement a bit, allowing states to average their participation rates over two or three years, so that, for example, a 94% participation rate one year could be balanced by a 96% participation rate the following or previous year. In addition, the Department allowed states to exempt students with medical emergencies, on a case-by-case basis, when determining the participation rate. At least 32 states asked to change their accountability plans to incorporate this new policy. Some states also have policies that allow students to “opt out” of standardized testing with their parents’ permission, which could affect test participation if large numbers of students took advantage of this option. But as explained in **Box 3-A**, the states we surveyed did not see this as a major issue affecting test participation rates for NCLB.

Box 3-A Opting Out of Required Tests?

According to our state survey, 10 states have various policies that allow parents to “opt out” of standardized testing for their children. One other state allows districts to enact these policies. In past years concern has been raised that large numbers of students would opt out of the testing required for NCLB purposes, thus making it difficult to meet the law’s 95% participation requirement. Our survey indicates that opting out is not a very large concern for states with such policies. Six of the eleven states indicate that the effect of these laws has been minimal or non-existent. One state allows opting out for religious reasons only, and another allows it only for parents and students meeting certain criteria. No states regard it as a major issue. One state reported that fewer than 1% of its districts have a problem with opting out. Parents in California have a legal right to opt out of testing for their children, but this has not affected the Grant Joint Union District in Sacramento, one of our case studies. “I am not aware of a single parent taking advantage of this right,” said the district’s research and evaluation coordinator.

Source: Center on Education Policy, December 2004 State Survey, Item 6; NCLB Case Studies

Table 3-H Number of States Finding Federal Policy Changes Helpful

	VERY HELPFUL	SOMEWHAT HELPFUL	MINIMALLY HELPFUL	NOT HELPFUL
Students with disabilities policy change	12	16	13	7
Participation rate averaging policy change	18	13	15	1
English language learners policy change	17	16	14	2

Table reads: Twelve states find the federal policy change regarding students with disabilities very helpful.

Note: The survey question and responses in this table have been shortened from the original survey.

Source: Center on Education Policy, December 2004, State Survey, Item 2



States responding to our survey expressed a range of opinions about how beneficial the federal policy changes were, but the majority of states indicated that the changes were somewhat or very helpful (see **Table 3-H**).

The ELL policy change was reported as the most helpful of the three changes, rated as somewhat or very helpful by 33 states. The students with disabilities change was regarded as the least helpful of the three, rated minimally or not helpful by 20 states. As discussed further below, many state and district leaders believe that the students with disabilities change does not go far enough.

State-initiated Changes

States also requested amendments to their accountability plans in areas not covered by the federal policy changes outlined above. The large number of requests reflected each state's unique issues with the law, as well as the fact that state officials had become more aware over the past year of what the Department had approved for other states, and copied policies they found to be useful. Our analysis found that USED generally allowed states some leeway as long as their requests were not contrary to the letter and intent of the law. These state requests fall into several categories, described below.

IDENTIFYING SCHOOLS FOR IMPROVEMENT

This year, at least seven states received permission to use a less stringent approach, already being used by other states, to determine whether a school is identified for improvement. Instead of identifying schools if they miss AYP targets in *either* subject area—mathematics or reading/language arts—for two consecutive years, states using the less stringent approach will identify schools for improvement only if they miss targets in the same subject area for two consecutive years.

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IDENTIFYING DISTRICTS FOR IMPROVEMENT

USED approved amendments requested by 19 states to identify a *district* as being in need of improvement only when it does not make AYP in the *same* subject and across two grade spans (grades 3–8 and high school) or three (elementary, middle, and high school) for two consecutive years. The details of how districts are identified are explained later in this chapter.

SMALL SCHOOLS

Twelve or more states received approval for changes that addressed problems in determining AYP for very small schools, where small populations can mean greater fluctuation in test scores. These states were allowed to use alternate means to determine whether a small school makes AYP, such as aggregating test scores over two years or allowing special review teams to gauge the school's performance.

AVERAGING PROFICIENCY DATA

At least four states received the Department's permission to average two or three years of data when calculating the percentage of students scoring at proficient levels on state tests, the key factor used to determine AYP. This change is intended to minimize the

The *confidence interval* is a statistical tool, somewhat like a margin of error in a public opinion poll. Poll results are often reported with a margin of error that varies depending on the sample size. For example, if a poll result shows that support for a political candidate is at 55% of the population with a margin of error of plus or minus 3, what that usually means is that, given the size of the random sample, the pollster can state with 95% confidence that the “true” support for the candidate falls within a window between 52% and 58%. There is a 5% chance that support falls outside that window. In this way, the margin of error acknowledges that the percentage supporting the candidate could change slightly each time a new random sample is drawn from the same population.

In the case of determining AYP under NCLB, the use of a confidence interval allows for fluctuations in test scores that do not reflect a school’s effectiveness, but occur due to changes in a school’s student body from year to year. The confidence interval creates a window around the state AYP target of plus or minus a few points. Test results that fall slightly below the target but within the window are counted as having met the target, so confidence intervals make it somewhat easier for a school or a subgroup of students to make AYP.

Why use confidence intervals?

Confidence intervals take into account fluctuations in school or district test scores due to sampling error. One might ask why sampling error occurs when all students within a school, at the tested grades, get tested. The answer lies in the fact that NCLB uses tests to make judgments about schools and districts as institutions. When the results are reported, they are not attributed to a particular cohort of students, but to the school or district in general. Since the judgment is about the effectiveness of the institution, not that particular year’s cohort of students, it is important to take into account the fact that the students tested in any particular year might not be representative of the population of students that attend that school across years. Put another way, to conclude on the basis of one year’s test scores that a school failed to make AYP, or failed in getting its Hispanic subgroup to make AYP, assumes that the same outcome would occur with a student body other than the present one, drawn from the broader universe of all students who are theoretically served by the school on all days (Chronbach, 1997; Coladarci, 2004; Hill and DePascale, 2003). The confidence interval creates a range, or window, within which lies the school’s “true” percentage proficient.

How do confidence intervals work?

Imagine that after an administration of a test, the percentage of students proficient in a hypothetical school is calculated, and it is determined that 40% of students are proficient in mathematics. Since the test scores on which this calculation is based are subject to sampling error as described above, the use of a confidence interval puts a window around the score—say, from 35% to 45%. With the use of a 95% confidence interval, the test administrators can be 95% certain that the actual true achievement level of the school is within the range of 35% to 45%. If the state annual measurable objective, or target, for that year is 42% proficient, then the school makes AYP. If the target falls outside the upper limit of the window (for instance, if the target is 46%) the school does not make AYP. An alternate method used by some states is to put a window around the annual measurable objective rather than the percentage proficient; the results are the same.

The size of the window is determined by two factors: the number of students tested and the level of confidence desired. The smaller the number of students tested, the wider the window. In practice, this means that the window around the scores of smaller subgroups or schools is larger than the window around the scores of all students, large schools, or school districts. That is because one would expect more fluctuations in test scores for small groups of students. For example, a small school’s test scores would be far more affected by an influx of 10 English language learners than those of a large school.

The higher the level of confidence desired, the larger the window. With the use of a 99% confidence interval, the window is made significantly larger, because test administrators are now saying they are 99% certain that the true achievement level falls between a certain range. It is possible that the use of a 99% confidence interval for a small group of students can result in a window so wide as to become almost meaningless. A 2003 study by the Education Commission of the States found that 10 states use 99% confidence intervals, at least when calculating whether subgroups make AYP (Pierce, 2003). According to our analysis of decision letters on changes to state accountability plans, USED allowed at least four other states to use a 99% confidence interval to determine AYP in 2004. Another area in which confidence intervals are used by some states is in “safe harbor” situations. USED has generally only allowed states to use a 75% (narrower) confidence interval for safe harbor calculations.

The use of confidence intervals makes it easier for schools and districts to make AYP—at least in the short term. State targets still increase each year until 2014, and confidence intervals do little to address or relieve the pressure for annual improvement demanded by NCLB. While some schools may slip by and make AYP in a given year because of their use, confidence intervals offer the advantage of possibly preventing a good school from being wrongly labeled as failing to make AYP. The use of 99% confidence intervals by some states bears watching, however, to see whether they act as an “escape valve” from the intent of the law.

Source: Center on Education Policy analysis, February 2005.



effect of fluctuations in group test scores that occur due to variations in the composition of a school's student body from year to year. If a school or district experiences a one-year dip in the percentage of students scoring at the proficient level, then that year's percentage can be averaged with the previous two years, minimizing the effect of the dip.

CONFIDENCE INTERVALS

The confidence interval is a statistical tool that accounts for the tendency of test scores to fluctuate, as explained in **Box 3-B**. About half the states had already included the use of confidence intervals in their original accountability plans. Since then, at least 15 states have amended their accountability plans to either introduce the use of confidence intervals or change the way they plan to use them to determine AYP.

MINIMUM SUBGROUP SIZE

Thirteen states made various changes related to minimum subgroup sizes. Of this total, at least six states were allowed to increase their minimum subgroup sizes beyond the numbers in their original accountability plans, with some raising their minimums to 40 or 50 students. **Box 3-C** describes the role and significance of state policies related to minimum subgroup size.

GRADUATION RATE TARGETS

NCLB requires states to calculate the number of students who receive a regular diploma in four years—not a General Educational Development (GED) or certificate of attendance—and to use the resulting graduation rate as an “additional academic indicator” for high schools, which is taken into account in a safe harbor situation. Each state sets its own annual targets for acceptable graduation rates and decides how to calculate these rates. Five states received permission from USED to change their graduation rate targets. In Maryland, schools and subgroups can either meet the graduation rate target of 81% in 2004 or show an improvement over the previous year of 1/10th of 1%. Similarly, Pennsylvania schools and subgroups can either meet an 80% target for graduation or show progress toward that target. Washington State revised its target down to 66% from 73%, after education officials began using a more accurate method of calculating the state's graduation rate.

EXTRA TIME FOR STUDENTS WITH DISABILITIES TO GRADUATE

Seven states received USED approval to count students with disabilities as graduating on time if the student's individualized education plan calls for extra years of high school beyond age 18. The Department also allowed Tennessee to apply this extra time to graduate to both students with disabilities and English language learners.

EXTENDED DEADLINES

The Department extended deadlines for meeting some of the Act's requirements for at least eight states and Puerto Rico. In most cases the states were phasing in new assessments, or needed time to develop better enrollment and graduation tracking systems.

Box 3-C Minimum Subgroup Sizes

NCLB allows states to set a minimum size for a subgroup to be included in AYP calculations. The minimum subgroup size has to be large enough to yield statistically reliable information and protect the privacy of the test-takers, but on the other hand, it should not be so large as to absolve schools and districts from being held accountable for subgroup performance.

The minimum number applies at the school or district level. If a minimum subgroup size in a state is 50, then an elementary school that tests in grades 3-6 counts the number of students who belong in that subgroup from all four grades together. For example, if the number of Hispanic students exceeds 50 in all four grades combined, then the Hispanic subgroup must make AYP for that school to make AYP. If that state only tests at grade 10 at the high school level, then at least 50 Hispanic students must be present in grade 10 for a high school to count the Hispanic subgroup for AYP purposes.

States have used a number of approaches to set minimum subgroup sizes. Fifteen states have opted for what is perhaps the simplest approach—one number that applies to all subgroups, schools, and districts. For 18 states, that number is between 30 and 50. Nine other states use a formula approach, whereby the minimum subgroup size changes according to the size of the school or district. In Washington State, for instance, schools or districts with fewer than 3,000 students have a minimum subgroup size of 30. Schools or districts with more than 3,000 students set their minimum subgroup size at 1% of the student enrollment, so that a district with 5,000 students would have a minimum subgroup size of 50. Other states have set higher minimum subgroup sizes for ELLs and students with disabilities. Alaska raised the minimum size for these two groups from 20 to 40; Missouri from 30 to 50; and South Carolina from 40 to 50. New York State took a different approach—it reduced the minimum subgroup size from 40 to 30, but introduced the use of confidence intervals for determining whether the subgroups made AYP. In this way, the subgroup size is small enough so that more schools and districts must count those subgroups, but the confidence interval addresses the problem of score fluctuation in small groups.

The table below shows the distribution of state policies on subgroups. It was compiled from available information from state accountability plans, a compilation by the Education Commission of the States (Pierce, 2003), and USED decision letters about state accountability plans. What the chart does not show, however, is movement over the past year—10 states made significant changes to their subgroup size formulas. All adopted the use of confidence intervals. Four of the ten states set different minimum numbers for different subgroups, and another five adopted a formula approach based on schools or district size. Therefore, the trend has been away from using a single minimum number for all subgroups, schools, districts, and indicators of academic performance, such as the percentage of students scoring at proficient levels or the test participation rate.

MINIMUM SUBGROUP SIZE	NUMBER OF STATES WITH CONFIDENCE INTERVAL	NUMBER OF STATES WITHOUT CONFIDENCE INTERVAL
No minimum	1	
1-9 students		1
10-19	4	
20-29	3	1
30-39	5	5
40-49	3	5
50-59		3
Varies according to subgroup	6	4
Formula approach based on size of school or district	8	1
Other method	4	1

Table reads: Three states have a minimum subgroup size between 20 and 29 and also use confidence intervals. One state has a minimum subgroup size between 20 and 29 and does not use confidence intervals.

Note: The number of states adds up to 55 because the District of Columbia and Puerto Rico are included, and three states use a combination of approaches.

Source: Center on Education Policy, based on information from the Education Commission of the States (Pierce, 2003), state accountability plans, and an analysis of decision letters about state accountability plans from the U.S. Department of Education



LOWERING ANNUAL MEASURABLE OBJECTIVES

A January 2005 press report indicated that Missouri was allowed to lower its targets for the 2004–05 school year; the percentage proficient target for mathematics was reduced from 31.1% to 17.5%; the reading target was reduced from 38.8% to 26.6% (Sherry, 2005).

Requests Rejected by the Department

Although USED showed some flexibility in the areas above, it refused requests in areas that it judged to be contrary to the intent of the law. Apparently, states were aggressive in terms of what changes they requested. According to our survey, of the 48 states that requested changes, only 20 reported being granted all of the changes they asked for. Many states are still in negotiation with USED, but others were able to report what requests were flatly denied by the Department. USED decision letters rarely mention areas where it denied state requests; the information below is drawn from our state survey.

The request USED most frequently turned down was increases in minimum subgroup sizes, presumably because large subgroups would have relieved too many schools from being held accountable for subgroup performance. At least three states requested that schools or districts should not be identified for improvement unless the *same subgroup* failed to meet targets in the same subject for two years in a row. In a reply to one state that made such a request, the Department said that to do so would violate the letter and spirit of the law, in that “(t)he intent of school identification is not to lay blame on a particular group of students, as the ‘same subgroup/same subject’ proposal would do, but to identify the instructional and academic elements that need to be improved.”

One common complaint about NCLB from the states is that schools identified for improvement must offer public school choice in the first year of improvement, a year before they have to provide supplemental education services. A few states asked to reverse the order—to provide SES prior to choice—presumably because it is less drastic and easier logistically. USED turned down those requests. It also turned down requests to use various types of “value added” or “growth” models for determining AYP which look at individual student growth from year to year. Regarding English language learners, USED denied a request to apply the ELL policy changes to Native American students and turned down a request to count in the ELL subgroup all students who speak a second language. USED also would not allow gifted students to be counted in the same subgroup as students with disabilities.

Finally, the Department rejected attempts to apply changes approved by the Department this past year retroactively to 2002–03 AYP calculations. This was in line with its position in the summer of 2004, when the Department opposed legislation introduced by Senator Edward Kennedy (D-MA) and Representative George Miller (D-CA) that would have allowed states to retroactively apply the Department’s policy changes for students with disabilities, English language learners, and test participation.

Timing

We asked state officials in our survey whether their requests for changes in accountability plans had been granted by USED in a timely manner, so that states could determine which schools made AYP based on the new criteria by the start of school in fall 2004. Thirty-six of 48 states replied that USED had responded in a timely manner. The rest



reported that USED had not approved the changes in time for them to make AYP determinations by the start of the school year. A few also commented that their determinations were delayed because of state-level testing complications.

Impact of Changes

Together, the accountability plan changes described above ironed out some of the kinks in implementing NCLB, addressing some of the most common criticisms from states. They also had the effect of making it easier for schools to demonstrate AYP, at least in the short term. A study by the *Philadelphia Inquirer* showed that policy changes alone adopted by Pennsylvania led to a significant increase in the number of schools making AYP (Hardy, 2004).

Our case study of the Wake County Public School System in North Carolina illustrates this as well. Based on data from 2002–03, 70 Wake County schools failed to demonstrate AYP, although no schools were identified as in need of improvement. In 2003–04, only 34 schools did not make AYP, and two schools were identified as in need of improvement. According to Wake County school officials, the decline in the number of schools failing to demonstrate AYP between 2003 and 2004 had little to do with academic improvements. Instead, virtually the entire reduction in this number can be attributed to changes in the way in which the state applied AYP requirements. In particular, between the 2002–03 and 2003–04 school years, North Carolina began applying a confidence interval to the percentage of students meeting proficiency and started focusing only on students in schools served directly by Title I programs. The state also changed the way it identified schools in need of improvement, shifting from those that failed to demonstrate AYP in either mathematics or reading two years in a row to those that failed to demonstrate AYP in the same subject two years in a row.

States almost certainly requested changes to their accountability plans because of their difficulties with implementation and because they felt some good schools were not making AYP based on very narrow criteria, such as missing the test participation requirement by a percentage point or missing the test score targets solely because a single subgroup had fallen short. Any increase in the number of schools making AYP could be short-term, however. First, the test score targets will continue to rise over time, moving closer to the law's ultimate goal of 100% of students performing proficiently by 2014. Second, some of the changes adopted will bring only temporary relief. For example, averaging participation rates may save schools that had a 93% rate this year, but these schools must achieve a 97% rate next year.

One change that could have a significant impact on AYP, at least at the school level, is the movement toward higher minimum subgroup sizes. The number of schools without any subgroups large enough to count separately is likely to increase. At the very least, many schools will have fewer subgroups that meet this minimum size and whose performance must therefore be counted separately, a development that makes it easier to show AYP. Alaska, for example, raised its minimum subgroup size from 20 to 40 for the ELL and students with disabilities subgroups. Our case study of the Kodiak Island Borough School District in that state shows that of the five district schools that did not make AYP in 2003 because of the disabled and/or ELL subgroups, four made AYP in 2004, after the policy change. This was also the case in the Boston Public Schools. Massachusetts received permission to raise its minimum subgroup size to 40 students or 5% of the student population, whichever is greater. This move had a large effect on AYP determinations in the district, as **Table 3-I** shows.

Table 3-I Number of Boston Schools with Subgroups Large Enough to Qualify for AYP Determinations, Before (2003) and After (2004) Minimum Subgroup Size Increase

SUBGROUPS	ENGLISH LANGUAGE ARTS		
	2003	2004	% REDUCTION
Students with Disabilities	65	28	57%
LEP	54	48	11%
Free/Reduced Lunch	111	103	7%
African American	99	74	25%
Asian/Pacific Islander	17	10	41%
Hispanic	68	40	41%
White	32	12	63%

Table reads: In 2003, 65 Boston schools had subgroups of students with disabilities large enough to count to determine AYP in English; in 2004 the number of schools fell to 28, a reduction of 57%.

Source: Boston Public Schools, Office of Research, Assessments, and Evaluation. (November 2004). Report on Adequate Yearly Progress: 2004 end-of-cycle III AYP determinations and school accountability ratings for Boston Public Schools.

Table 3-J Major Changes to State Accountability Plans, 2004

Note: This table only shows *changes* to states' original accountability plans approved in 2004, as documented by decision letters posted on the U.S. Department of Education website as of mid-December 2004. The table is not a summary of methods to determine AYP or improvement status in state accountability plans originally approved in the spring or summer of 2003. Also, the total numbers of states in each category, as well as the specific states listed for each category, are not final and may change as states and the Department release additional information.

STATE	IDENTIFYING SCHOOLS FOR IMPROVEMENT	IDENTIFYING DISTRICTS FOR IMPROVEMENT	SMALL SCHOOLS	AVERAGING PROFICIENCY DATA	CONFIDENCE INTERVALS	MINIMUM SUBGROUP SIZE	GRADUATION RATE TARGETS	EXTRA TIME FOR DISABLED TO GRADUATE	EXTENDED DEADLINES	STUDENTS WITH DISABILITIES	ENGLISH LANGUAGE LEARNERS	PARTICIPATION AVERAGING
AL					x					x	x	
AK					x	x				x	x	x
AS		x			x	x	x			x	x	x
AZ										x		x
CA			x							x	x	x
CO										x		
CT		x								x	x	x
DE		x								x		
DC												
FL										x		
GA		x	x						x	x	x	x
HI									x		x	x
ID								x		x	x	x
IL	x	x								x	x	x

STATE	IDENTIFYING SCHOOLS FOR IMPROVEMENT	IDENTIFYING DISTRICTS FOR IMPROVEMENT	SMALL SCHOOLS	AVERAGING PROFICIENCY DATA	CONFIDENCE INTERVALS	MINIMUM SUBGROUP SIZE	GRADUATION RATE TARGETS	EXTRA TIME FOR DISABLED TO GRADUATE	EXTENDED DEADLINES	STUDENTS WITH DISABILITIES	ENGLISH LANGUAGE LEARNERS	PARTICIPATION AVERAGING
IN										x	x	x
IA									x	x		
KS			x		x	x		x		x	x	x
KY						x		x		x	x	x
LA	x	x			x					x	x	x
ME		x	x		x		x			x	x	x
MD	x						x			x	x	
MA			x			x				x	x	x
MI										x		
MN			x						x	x	x	x
MS										x	x	
MO		x			x	x				x		x
MT									x	x		
NE		x	x		x	x				x	x	x
NV									x	x	x	
NH		x								x		
NJ		x				x				x	x	
NM									x	x		
NY					x	x				x		
NC	x	x	x		x	x				x	x	x
ND								x		x	x	x
OH		x								x	x	x
OK		x	x							x	x	x
OR	x	x									x	
PA					x		x			x	x	x
PR									x	x		
RI				x						x	x	x
SC	x				x	x				x	x	x
SD		x										
TN		x			x	x		x	x	x	x	x
TX			x								x	x
UT										x		
VT										x		
VA										x	x	x
WA			x	x	x	x	x	x		x	x	x
WV	x	x		x						x	x	x
WI										x	x	x
WY		x	x	x	x			x		x	x	x
Total	7	19	12	4	15	13	5	7	9	47	36	32

Source: Center on Education Policy, December 2004

Thus, with the policy change, the number of Boston schools in which the subgroup of students with disabilities was large enough to count for the purpose of determining AYP in reading decreased in one year by 57% for the purpose of determining AYP in reading. The reduction was even greater for the white student subgroup. As we explain in the next section, those subgroups too small to count at the school level would still often be counted at the district level, and indeed, the Boston Public School District itself has been identified for improvement because the students with disabilities subgroup did not make AYP two years in a row. So the district is still being held accountable for the performance of this subgroup.

Table 3-J summarizes the major changes made to state accountability plans and shows how many states received approval from the U.S. Department of Education to make each of these changes.

District-level Accountability

Much attention has been devoted to the effects of NCLB on schools. However, this school year states have confronted the additional responsibility of identifying school *districts* for improvement. In our survey, about 10% of districts reported that they have been identified for improvement (**Table 3-K**). Urban and larger districts are more likely to be identified. In this section we explain how districts are identified for improvement, and what happens when they are. For a full description of district improvement and corrective action, see the CEP report *Identifying School Districts for Improvement and Corrective Action under the No Child Left Behind Act* (2005).

Table 3-K Percentage of Districts That Were Identified for Improvement in 2004-05			
	PERCENTAGE OF DISTRICTS IDENTIFIED FOR IMPROVEMENT IN 2004-05		
	YES	NO	DON'T KNOW
TOTAL (all districts)	10%	88%	2%
DISTRICT TYPE			
Urban	25%	67%	8%
Suburban	11%	87%	2%
Rural	7%	92%	1%
DISTRICT SIZE			
Very Large	52%	48%	0
Large	23%	75%	2%
Medium	14%	84%	2%
Small	7%	91%	2%

Table reads: Among districts that receive Title I funds, an estimated 10 percent were themselves identified for improvement under Title I in 2004-05.

Source: Center on Education Policy, December 2004, Fall District Survey, Item 9 (Table 8)



Timeline for Identifying Districts

In most states there was a time lag in determining adequate yearly progress for districts relative to schools. This was because many states were already making AYP and improvement determinations for schools under NCLB's predecessor, the Improving America's Schools Act. While part of that prior law did call for states to determine district AYP and identify some for improvement, states were given considerable leeway, and few districts were identified. The requirements of NCLB are much more prescriptive and allow for less variation across states. The timeline for a district that has not made AYP since the inception of NCLB is as follows:

- 2002-03 – District did not make AYP
- 2003-04 – District did not make AYP for second consecutive year
- 2004-05 – District is in first year of improvement
- 2005-06 – District is in second year of improvement and by the end of the school year, the state must institute corrective action

How States Determine AYP and Identify Districts

The process of determining whether districts make AYP is similar to the process for schools. State education agencies make the determination based on percentages of all students and student subgroups scoring at proficient levels on the statewide test, test participation rates, and other academic indicators, matched against the targets outlined in the states' accountability plans. Most states aggregate district data as if the district were one big school—in other words, data from all grades are combined, and then the state determines if the district as a whole and all subgroups meet participation, proficiency, or “safe harbor” targets. If students as a whole or any subgroups—even one subgroup—do not meet the targets, then the district does not make AYP.

An interesting twist: It is possible for a district to fail to make AYP even if all the schools make AYP, because the district is held accountable for subgroups too small to be counted at the school level. For example, in a state with a minimum subgroup size of 40, each of the schools in a certain district may have fewer than 40 students with disabilities combined across the grade levels tested. These schools would not be accountable for the subgroup of students with disabilities, and if they meet their targets they would make AYP. But when all the student scores are aggregated at the district level, it is more likely that the subgroup of students with disabilities will include at least 40 students and be counted for AYP purposes. If the subgroup does not meet its proficiency targets, then the district does not make AYP. In this way, subgroups that are too small to count at the school level can count at the district level and cause a district to fail to make AYP. This is what happened in Waynesboro, Virginia, according to our case study. All but one of the district's schools made AYP this past year. None of the district's schools have subgroups large enough to count, but the district as a whole must count several subgroups—white, African American, Hispanic, economically disadvantaged, and students with disabilities. In 2002-03, three of those subgroups did not make AYP, and the district is now in improvement.

Another case study provides an interesting example of the complexities of district identification. The Orleans Central Supervisory Union (OCSU) is a union of seven very small town school districts in northeastern Vermont. Each town has its own school board and district, but only one school. Under the union, one school superintendent covers all seven schools. In 2002-03 all schools in OCSU made AYP and none were



in improvement. OCSU, the union itself, did not make AYP because of the aggregated results of the students with disabilities subgroup. OCSU was let off the hook in 2004–05 when the state of Vermont decided that OCSU would not be the entity or level at which AYP was determined; rather, the seven small districts that comprise the union would, even though each district has just one school.

In many states, a district is identified for improvement if it fails to make AYP for two consecutive years in the same subject area and, as explained below, across grade spans. Being identified for improvement means that concrete actions must be taken to address the reasons the school or district is not making AYP. As with schools, a district can fail to make AYP for several years in a row and still not be identified for improvement, because the subject area (mathematics or reading) in which the district falls short changes from year to year. Identifying districts for improvement is more complicated than for schools. One factor is how to aggregate student performance data across schools and grade levels within a district.

Aggregating Data Across Grades

Over the past year, USED allowed many states to amend their accountability plans to identify districts for improvement only if they fail to make AYP for two consecutive years *across grade spans*—elementary, middle, and high school. Many states are now using this approach. The district's students are divided into two or three spans, by grade. The district is identified only when each grade span fails to make AYP for two years in a row. This is in contrast to previous practice in many states, such as New York, in which districts were treated as one big school; in other words all tested grades from every school in a district were combined into one large group, and AYP and improvement determinations were made accordingly. Another change that states made is to identify a district for improvement only if it did not make AYP in the same subject area, rather than either subject area, for two years in a row.

North Carolina, for example, requested and was allowed to use the new approach. Previously, a North Carolina district would be identified for improvement if it failed to meet targets in *either* reading/language arts or mathematics and in *either* grade span (3–8 and high school) for two consecutive years. So, if a district did not meet its reading/language arts target one year in high school, and then did not make its mathematics target in 3–8 the following year, it was identified for improvement. With this year's change, however, North Carolina districts will be identified only if *both* grade spans fail to meet targets in the *same* subject for two years in a row (North Carolina Department of Education, 2004).

Delaware goes one step further. It aggregates its data at the district level in three grade spans—elementary, middle, and high school. It identifies districts for improvement only when they do not meet targets in the same subject area *at all three grade spans* for two consecutive years.

The grade-span change will likely make it easier for some districts to stay out of improvement status. For example, a hypothetical district may meet its targets for elementary and middle schools but not for high schools. If the district is treated as “one big school,” the number of high school students who are not proficient might be large enough to result in the district being identified for improvement. However, if treated as three separate grade spans, the district would avoid being identified because its elementary and middle schools made AYP.



Title I Schools

In most states, districts that receive Title I funds count all their schools—even those schools within the district that do not receive Title I funds—for determining AYP and improvement status. Indiana, however, has interpreted the law in such a way as to count only Title I schools. The law says, “A state shall annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate yearly progress...” [Section 1116(c)(1)]. In 2004, Indiana made AYP determinations for districts by counting all schools in a district. At the same time, it made a second calculation, based only on Title I schools in the district. For the purposes of identifying schools for improvement, it used the Title I school-derived figures only. If the aggregated data from the Title I schools in a district showed a failure to make AYP for two years in a row in the same subject, then the district was identified for improvement. The rationale for doing so was that once a district is identified for improvement, it must use a portion of its Title I funds to address its shortcomings; Indiana chose to spend its Title I funds only for Title I schools rather than for the district as a whole. USED recently disagreed with Indiana’s system of counting only Title I schools when identifying districts for improvement. In a policy letter dated October 6, 2004, the Department, while admitting some anomalous language in the law, stated that “it is clear that district AYP and identification for improvement must be based on all schools in a district, and not on just those schools in the district that receive Title I funds.... we believe NCLB requires a State to consider the progress of students in all schools in a district.” As of this writing the matter is unresolved.

Consequences for Districts

Table 3-L compares the sequence of actions taken for schools and districts that consistently do not make AYP and are identified as in need of improvement. The processes are similar. States are responsible for determining district AYP and overseeing and administering corrective action. Districts cannot be direct providers of supplemental education services once they are identified for improvement, as discussed further in chapter 5. Also, districts do not enter a mandatory restructuring phase, as schools do in the fourth year. This is where NCLB is more lenient with districts than with schools—restructuring occurs at the discretion of the state and is one choice from a menu of possible actions. It is also apparently left to states to determine what happens when districts continue to remain in corrective action over an extended period. If the district makes AYP for one year after being identified, the state can suspend corrective action. If the district makes AYP for two consecutive years, it exits improvement or corrective action status.

Role of States

Monitoring district AYP, identifying districts for improvement, approving district improvement plans, and administering corrective action are all the responsibility of state education agencies. In the initial improvement phase, state agencies are called upon by the law to provide “technical assistance” to districts that are in the process of creating and implementing improvement plans. If a district that was identified for improvement does not make AYP after implementing its own improvement plan, the state comes in with “corrective action.” The law allows states a choice of possible actions, from which they must choose at least one. The options include instituting a new curriculum, replacing district personnel, removing particular schools from the jurisdiction of the district

Table 3-L Comparison of NCLB Requirements for Identified Schools and Districts

SCHOOL YEAR AFTER BEING IDENTIFIED (AFTER NOT MAKING AYP FOR TWO CONSECUTIVE YEARS)	SCHOOLS	DISTRICTS
1st year	<ul style="list-style-type: none"> ■ Identified as in need of improvement ■ Develop improvement plan that addresses reasons for not making AYP ■ Offer students public school choice until school exits improvement 	<ul style="list-style-type: none"> ■ Identified as in need of improvement ■ Develop improvement plan that addresses reasons for not making AYP ■ Can no longer be a direct provider of supplemental education services to its students
2nd year	<ul style="list-style-type: none"> ■ Implement school improvement plan ■ Continue to offer public school choice ■ Offer students supplemental education services until school exits improvement ■ By end of school year, district must implement corrective action, which may include replacing school staff, instituting new curriculum, decreasing management authority at school level, extending the school year or day, bringing in outside experts 	<ul style="list-style-type: none"> ■ Implement district improvement plan ■ By end of school year, state must implement corrective action, which may include deferring program funds, instituting new curriculum, replacing district personnel, allowing students to attend school in another district, appointing new administrators, abolishing or restructuring the district
3rd year	<ul style="list-style-type: none"> ■ Continue to offer public school choice and supplemental education services ■ Implement corrective action 	<ul style="list-style-type: none"> ■ Implement corrective action
4th year	<ul style="list-style-type: none"> ■ Enter restructuring ■ Continue to offer public school choice and supplemental education services ■ District must develop and implement a 2-year plan which can include reopening the school as a charter school, making significant staff changes, turning school over to state education agency or private firm 	<ul style="list-style-type: none"> ■ Implement corrective action
5th year	<ul style="list-style-type: none"> ■ Implement school restructuring ■ Public school choice and supplemental education services must continue to be provided 	<ul style="list-style-type: none"> ■ Implement corrective action



and establishing alternative means of supervision, appointing or replacing a trustee to administer the district in place of the superintendent and school board, abolishing or restructuring the district, and allowing students to attend a school in another district.

As mentioned above, states are just starting to face the prospect of administering corrective action programs for districts. As noted in Chapter 2, some state education agencies have said that they lack staff or expertise to help all districts in improvement. States that had assistance programs of various types aimed specifically at districts prior to NCLB are faring better. Others are making choices about where to best focus their help—at the school or district level. Some state agencies are focusing staff resources at the district level while others are focusing more on the school level (Richard, 2004).

Implementation Challenges

As discussed in chapter 2, our survey asked states and districts to cite up to three NCLB requirements that presented the most serious implementation challenges. Overwhelmingly, states and districts reported that the AYP requirements presented the greatest difficulties. The largest number of states and districts voiced concerns about the difficulty of achieving AYP for the students with disabilities and ELL subgroups. To a lesser extent, states and districts mentioned a number of other difficulties, such as timelines for reporting data from one school year by the beginning of the following one, conflicts between state accountability systems and NCLB, and the demands of building quality assessment systems that comply with NCLB requirements. Each of these issues is discussed more fully below.

Students with Disabilities

The students with disabilities subgroup continues to pose special challenges for states, districts, and schools, and represents one of the larger problems in administering NCLB. State and district officials frequently commented that holding all students, including those with disabilities, to the same standards is not realistic or fair. Many schools fail to make AYP and enter improvement status when the students with disabilities subgroup does not meet state targets, which are the same as those for other students. For example, in Connecticut, half of the school districts that did not make AYP failed to do so because they missed targets for the students with disabilities subgroup, many more than those that did not make AYP due to shortfalls in overall mathematics or reading (Frahm, 2005). Our survey respondents said that administering regular state tests to students with disabilities is often inappropriate and serves no instructional purpose. State and district officials also said that NCLB does not adequately account for “gap kids” or “gray area students,” that is, students who have disabilities that seriously affect their learning but who are not severely cognitively disabled.

The Center on Education Policy held a forum in September 2004 to discuss significant issues confronting education leaders as they work to comply with the NCLB accountability requirements for students with disabilities and English language learners. The invited experts represented differing perspectives on NCLB and special education. While no consensus emerged about the greatest challenges and best solutions, some general themes surfaced. The forum agenda and full set of papers are available on the Center’s website at <http://www.cep-dc.org/pubs/Forum14September2004/>.

First, most presenters agreed that there is a conflict in goals between NCLB and the Individuals with Disabilities Education Act. The IDEA requires schools to develop



an individualized education plan for each participating student that defines appropriate educational goals, special education and related services to be provided, and types of assessments and accommodations that are appropriate. This concept of individualized education is in conflict with the concept of universal content, achievement standards, and assessments that is at the heart of NCLB.

Second, forum participants raised the issue of whether students with disabilities should be expected to become “proficient.” Several of the forum speakers characterized the goal of NCLB—to hold all students, including students with disabilities, to the same high standards—as laudable but unrealistic. Some asserted that many special education students are generally unable to reach proficiency “by definition,” because if they were able to reach grade or proficient level they would no longer require special education services. Rebecca Cort, deputy commissioner with the New York State Education Department, took a different view, asserting that one of the major purposes of special education is to provide specialized services that result in proficient performance. She stated that there are many students who achieve this level only because of those services and who may require them throughout their school career if they are to meet rigorous standards.

An issue on which most of the presenters agreed is that NCLB does not provide the flexibility needed to appropriately assess students with disabilities, and as a result, large numbers of students end up taking tests that may be inappropriate for them. NCLB allows alternate assessments aligned to grade level standards, and there is no limit on the percentage of students that can take them, although USED expects most students with disabilities to be tested with regular tests, with or without accommodations. While the federal policy change allowing up to 1% of the most severely cognitively disabled students to take out-of-level assessments has helped to some degree, many educators believe it did not go far enough.

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Alexa Posny, assistant commissioner of the Kansas Department of Education, explained that “there exists another group of students with disabilities—a larger, harder to define population—who are not significantly cognitively disabled but who may be severely learning disabled or mildly mentally retarded....Often known as the ‘gap kids’ or ‘gray area kids,’ these students often function 3 to 5 years below grade level” (Posny, 2004). Forum participants estimated that 1-3% of all students across the U.S. fall into this category. While gap kids do not qualify as the 1% of students who are the most severely cognitively disabled, grade level assessments scored against grade level standards are too challenging for them. Posny gave the example of a student who is chronologically a fifth grader and has an IQ of less than 70, who functions below grade level but is not significantly cognitively disabled. The student, teacher, and parent may already know that the child is not able to do fifth grade work at this time. Still, the child is making progress toward meeting the fifth grade standards and should be assessed against those standards to see what progress is being made. States and districts are struggling with how to do that within the confines of NCLB.

Our case studies illustrate some of these problems. In Michigan, the Flint Community School District has sought to avoid being penalized for not testing enough students with disabilities, so it tests all students. However, about 12.5% of Flint students qualify for special education services. Michigan does have an out-of-level assessment for students with disabilities, but school officials note that the district has many students with disabilities who fall in between—they are not seriously disabled enough to take the out-of-level tests under NCLB regulations, and they are not ready for the regular state tests, with or without accommodations. Our case study of the Cleveland Municipal School District showed a similar problem. In this district, 16.3% of the student population is



in special education. In 2003–04 the state enforced the 1% cap on out-of-level assessments for Cleveland and also instituted an alternative portfolio assessment for special education students. As a result of testing fewer students out of level, special education students in most schools did much more poorly on AYP goals in 2003–04 than they had done the preceding year.

Since the late 1990s, Kansas has been testing all of its students with disabilities with an assessment system that includes the following three types of state assessments for each content area (Posny, 2004):

- The regular assessment scored against grade level achievement standards, with or without accommodations (95 to 98% of students participate in the assessment as is, or with accommodations)
- An alternate assessment scored against grade level achievement standards “to the extent practicable” for students “who are more than moderately delayed” but not severely cognitively disabled (approximately 2.3 to 2.7% of students)
- An alternate, out-of-level assessment scored against alternate achievement standards for students with severe cognitive disabilities (approximately 0.4 to 0.7% of students)

Box 3-D illustrates the difference between the first two types of assessments, the regular one and the alternate assessment “scored against grade level achievement standards.”

Our case studies illustrate negative impacts that NCLB is having on students with disabilities, as well as positive ones. On the negative side, in Wake County, North Carolina, schools are less willing to accept special education students from other schools’ attendance zones out of fear that they will prevent the schools from demonstrating AYP, according to one district administrator. The same is true of Cloquet Independent School District in Minnesota, which serves special education students from other school districts and which has requested a waiver from the state to avoid being held accountable for the AYP of students with disabilities from other districts.

In the Cuero Independent School District in Texas, the NCLB requirement to test the vast majority of students with disabilities using tests geared to grade-level standards is of great concern, according to Debra Baros, assistant superintendent for community relations and development. Cuero is a provider of special education services for a region that extends beyond the district. “At most,” Baros said, “only 5% of our identified special education students will ever meet the target of testing on grade level” and for that reason, the district is “doomed for failure.” Officials from the Boston Public Schools expressed similar misgivings.

On the other hand, NCLB is having positive effects for students with disabilities in some localities. Several case study districts have adopted more inclusive approaches for teaching these students in response to NCLB. For instance, two middle schools in Pascagoula, Mississippi, did not make AYP for the first time in 2004, in both cases due to the performance of students with disabilities. To improve instruction for this subgroup, the district is moving more toward inclusion of students with disabilities in regular classrooms and away from pullout programs. The director of special education is also visiting classes daily and systematically reviewing the teaching strategies used by all special education teachers. In Orleans Central Supervisory Union in Vermont, NCLB has led to greater inclusion of students with disabilities in regular classrooms and an increased reliance on teachers rather than paraprofessionals to provide instructional services to these students.

Box 3-D Alternate Assessment for "Gap Kids": An Example from Kansas

The following example illustrates the difference between Kansas's regular and alternate assessment scored against grade level standards. The content standard being assessed is the same for both assessments: "The student uses computational procedures to formulate and solve real-world problems involving whole numbers, proper fractions, and money." However, the language and problem are simpler on the alternate form.

Mathematics: Regular Assessment Scored Against Grade Level Achievement Standards	Mathematics: Alternate Assessment Scored Against Grade Level Achievement Standards (as defined by Kansas Department of Education)																		
<p>David needed some supplies for his legislative campaign. He bought the following supplies at the prices indicated (tax included):</p> <table data-bbox="354 842 815 1041"> <tr> <td>Helium filled balloons</td> <td>2 @ \$1.99 each</td> </tr> <tr> <td>Flags</td> <td>3 @ \$2.19 each</td> </tr> <tr> <td>Hats</td> <td>4 @ \$3.25 each</td> </tr> <tr> <td>Posters/placards</td> <td>5 @ \$4.99 each</td> </tr> <tr> <td>Buttons</td> <td>6 @ \$2.99 each</td> </tr> </table> <p>David had a \$100 bill. About how much change will be left?</p> <p>A) \$30 B) \$40 C) \$45 D) \$50</p>	Helium filled balloons	2 @ \$1.99 each	Flags	3 @ \$2.19 each	Hats	4 @ \$3.25 each	Posters/placards	5 @ \$4.99 each	Buttons	6 @ \$2.99 each	<p>David needed some toys for his puppy. Below are the toys he got:</p> <table data-bbox="860 842 1175 999"> <tr> <td>A ball</td> <td>\$1.99</td> </tr> <tr> <td>A pull toy</td> <td>\$0.99</td> </tr> <tr> <td>A chew toy</td> <td>\$2.01</td> </tr> <tr> <td>A bone</td> <td>\$0.98</td> </tr> </table> <p>David had a \$10 bill. About how much money will he get back?</p> <p>A) \$3 B) \$4 C) \$5 D) \$6</p>	A ball	\$1.99	A pull toy	\$0.99	A chew toy	\$2.01	A bone	\$0.98
Helium filled balloons	2 @ \$1.99 each																		
Flags	3 @ \$2.19 each																		
Hats	4 @ \$3.25 each																		
Posters/placards	5 @ \$4.99 each																		
Buttons	6 @ \$2.99 each																		
A ball	\$1.99																		
A pull toy	\$0.99																		
A chew toy	\$2.01																		
A bone	\$0.98																		

Kansas officials believe that their three-part system matches NCLB regulations, which place no cap on the use of alternate assessments for students with disabilities as long as the assessments are aligned to state grade-level standards. USED has informed Kansas officials that the state can continue to use this alternate assessment until its assessment system (as well as those of all states) undergoes a USED-led peer review process in 2005. When this occurs, Kansas must provide evidence that the alternate assessment is comparable to its regular assessment "in terms of content coverage, difficulty, and quality."

Box 3-E Suggestions for Changing NCLB to Make it More Workable for Students with Disabilities

Presenters at the CEP forum on NCLB and students with disabilities, held in September 2004 in Washington D.C., suggested ways that NCLB policies might be changed to better take into account the needs of these students. The forum was held for the purpose of discussion rather than to endorse specific recommendations or proposals, so the following recommendations represent the views of the forum presenters, not of the Center on Education Policy. Among the suggestions were the following:

- **Develop alternate assessments for “gap kids.”** States should be permitted to develop alternate assessments, geared to something less than regular grade-level standards, for students with significant but not severe disabilities (also referred to as “gap kids” or “gray area students”). States should monitor the percentage of students who participate in these modified assessments to ensure the numbers do not exceed a certain percentage (such as 3%) of the student population, with the large majority of mild to moderately disabled students continuing to take the regular assessments.
- **Set separate starting points and growth trajectories.** USED should allow states to set a separate starting point and trajectory for the students with disabilities subgroup.
- **Use assessment methods that measure growth.** Adequate yearly progress for the subgroup of students with disabilities should be determined based on the growth of individual students from grade to grade. These growth models should give credit for positive movement along all levels of the achievement continuum—including movement from below basic to basic—rather than simply for the percentage of students scoring at the proficient level.
- **Establish accountability systems with multiple measures.** For students with disabilities, other indicators of achievement could compensate for the lack of progress on a single assessment.
- **Consider whether one set of content and achievement standards will be sufficient for all.** For some students with disabilities, alternate content standards that emphasize functional skills over academic ones may be more appropriate.

Not all of the forum speakers agreed that major changes should be made to NCLB at this point. Panel discussant Diane Smith, a disability legal specialist in special education for the National Association of Protection and Advocacy Systems, felt that it was necessary to make sure that students with disabilities were receiving appropriate services and testing accommodations but recommended “that we stay the course and not make major changes. We should let the federal law play out.”

Even so, there was consensus among all forum participants that the federal government should provide realistic resources and funding that will actually help students with disabilities meet the NCLB goals.



In the Napoleon School District, a very small rural district in North Dakota, NCLB has spurred teachers and administrators to make greater efforts in the early grades to ensure students with disabilities are properly identified and are learning. When a student with disabilities is still not learning after different instructional strategies have been tried, a district specialist reviews the student's situation and further individualizes instruction. "It takes a lot of individualization, but that is what we have to do," said Superintendent Jon Starkey.

Participants in our forum on students with disabilities made several suggestions, described in **Box 3-E**, for revisions to NCLB policies that would better recognize the needs of these students.

English Language Learners

NCLB requires English language learners to be tested with the same state tests that are used for all other students, with appropriate accommodations if needed. It also requires states to establish English language proficiency standards and annual measurable objectives, and assess ELLs' language proficiency each year. Chapter 7 describes NCLB requirements and issues related to ELLs in more depth, but here we focus specifically on ELLs and adequate yearly progress.

According to our state and district surveys, many officials expressed concern that holding ELLs to the same proficiency standards as their native English-speaking peers is unrealistic, and that testing students in a language they do not know lacks validity and serves no instructional purpose. They also questioned the logic of applying the concept of AYP to the ELL subgroup, which is composed of students who have not mastered English and therefore, almost by definition, will not meet proficiency targets in reading/language arts. As discussed earlier in this chapter, last year the U. S. Department of Education relaxed policies regarding ELLs in response to such criticisms, allowing these students to stay in the ELL subgroup for AYP purposes for two years after they have achieved proficiency in English. Yet some district and state officials feel that this additional flexibility does not go far enough.

Part of our forum in September 2004 focused on ELLs and AYP. The discussion that follows summarizes the problems most frequently raised by forum presenters, along with their suggestions for making NCLB more workable for the ELL subgroup. The forum agenda and full set of papers are available on the Center's website at <http://www.cep-dc.org/pubs/Forum14September2004/>.

A widespread criticism of NCLB is that calculating adequate yearly progress for the ELL subgroup is problematic because the pool of students in the subgroup is constantly changing. When ELLs reach the proficient level in English, they move out of the subgroup. Those who remain are low performing, and new students with even lower levels of English proficiency may also move into the subgroup. The forum presenters noted that this constant movement helps ensure that the English-proficient students receive more appropriate instruction and assessment but also makes it difficult for schools and districts with large numbers of ELLs to avoid being identified for improvement, even with the best resources and programs. It remains to be seen whether USED's policy change that allows "exited" ELLs to be included in the subgroup for two years will provide a long-term solution or just temporary relief. The two-year extension may not be long enough.

Another problem is that classification of ELLs is inconsistent within and across states. The federal definition of which students belong in the ELL subgroup is interpreted



and carried out differently across districts and from state to state, as explained in more detail in Chapter 7. If the subgroup is not well defined, the AYP results for that group have little meaning. Furthermore, the population of ELLs in many states and districts is quite sparse. Often there are not enough ELLs to meet the minimum subgroup size, so ELL subgroup results are often not reported in these communities. In other words, we may only be finding out about the performance of ELLs in areas with large immigrant populations, while overlooking the progress of ELLs in areas where they are not as concentrated. This could lead to misreporting of achievement trends for ELLs.

Presenters from organizations concerned with bilingual education and Spanish speakers disagreed on the issue of whether or not ELLs should be counted for AYP purposes. James Crawford, executive director of the National Association for Bilingual Education, recommended that AYP not be calculated for the ELL subgroup because of its mobility, diversity, and lack of adequate assessments. He described a common situation in which a school experiences a sudden influx of poor, immigrant children who speak little or no English and sees a decline in its ELL test scores. If significant numbers of these students move elsewhere the following year, which is also common, scores are likely to increase. Crawford concluded, “Neither result reveals anything meaningful about the quality of education offered to those students.”

However, Raul Gonzalez, legislative director of the National Council of La Raza, a Hispanic civil rights and anti-poverty organization, approved of calculating AYP for the ELL subgroup. He agreed that ELLs are quite diverse, but pointed out that all of the NCLB subgroups are diverse. For example, Hispanic students who are not ELLs can also have high mobility rates, be economically disadvantaged, and have different levels of literacy and mathematics skills. Children with disabilities are just as diverse, with a wide variety of learning challenges and backgrounds. “No one would think of exempting from accountability students based on their race, ethnicity, or economic disadvantage,” he said. “How can we exempt ELLs or children with disabilities?”

An issue on which all of the presenters seemed to agree is that current state assessments are inadequate for assessing ELLs. To succeed in school, ELLs must master academic knowledge and skills at the same time they are acquiring a second language, so it is not a simple matter to monitor their progress. ELLs’ yearly progress is measured by their performance on regular state achievement tests, but Jamal Abedi, a researcher from the Center for Research on Evaluation, Standards, and Student Testing cited studies showing that tests which are constructed and normed for native English speakers have lower reliability and validity for ELL populations. Specifically, language factors often interfere with a student’s demonstration of content knowledge. ELLs may only show improvement in a content area like mathematics when their level of academic English proficiency increases. NCLB does allow states to test ELLs in their native language for up to three years (or five years on a case-by-base basis). But according to forum participants, native-language assessments are often unavailable and are rarely aligned with state standards.

Robert Smith of the Arlington Public Schools in Virginia provided an illustration of how AYP requirements play out for ELLs in his highly diverse district. Over 43% of the district’s 19,000 students speak a first language other than English, and slightly less than a quarter receive ESOL/HILT (English for Speakers of Other Languages/High Intensity Language Training) services. In Virginia, ELLs may substitute the Stanford English Language Proficiency (SELP) Test for the regular state reading test. The SELP test may count toward meeting the state standard for reading for purposes of calculating AYP for up to three years, or until the student progresses beyond a certain language proficiency level, after which ELLs must take the regular state reading and mathematics tests and continue taking the SELP to assess English proficiency.

According to the district, administering the SELP along with the regular state test takes up a great deal of instructional time and is a heavy administrative burden. The SELP includes tests of speaking, listening, reading, and writing. The speaking test alone, which is administered individually, takes 20 minutes, and the other sections of the SELP take another 95 minutes. In 2004, the Arlington district began SELP testing in April, continued the testing until the end of the month, and then began regular state testing in May. In addition, the district had to send letters home, translated into up to six additional languages, to explain the state and SELP tests. District officials were concerned that, given the questionable alignment between the state and SELP tests, parents would receive “at best confusing and at worst incorrect and contradictory information about their children’s achievement and progress in school,” Smith, said. If local educators considered the tests instructionally useful there might have been less resentment over the loss of instructional time, said Smith. Teachers and principals, however, object strenuously to administering a test of English proficiency to a youngster new to the country for whom the exercise constitutes “a lesson in frustration,” he added. And requiring students who have been in U.S. schools for three years, regardless of literacy level at time of arrival, to take the regular state tests seems similarly misguided to this district’s leaders.

While acknowledging problems associated with appropriately assessing ELLs, Gonzalez pointed out that it is important to make a distinction between problems inherent in NCLB versus decisions states have made about how to implement the law. For instance, Virginia’s choice to use an English language proficiency test as its reading assessment does not reflect a problem with NCLB, but perhaps represents a poor

Box 3-F Suggestions for Changing NCLB to Make it More Workable for English Language Learners

Presenters at the CEP forum on NCLB and English language learners, held in September 2004 in Washington, D.C., suggested ways to improve AYP provisions as they affect ELLs. The forum was held for the purpose of discussion rather than to endorse specific recommendations or proposals, so the following recommendations represent the views of the forum presenters, not of the Center on Education Policy. Among the suggestions were the following:

- **Improve current ELL classification.** A common set of national criteria for classifying students as ELLs would make results more meaningful across districts and states.
- **Develop valid and reliable ELL assessments.** ELLs should not be assessed using standardized tests that have not been normed for children whose English is limited. Native-language assessments that have been demonstrated to be valid and reliable are needed. The federal government should increase funding for the development of high-quality assessments for ELL students.
- **Allow ELLs to remain in the subgroup for a longer period.** All students who have ever been classified as ELL should remain in the ELL subgroup until they leave school.
- **Track progress longitudinally.** The progress of ELLs toward English proficiency and high academic standards should be tracked longitudinally for cohorts of students; in other words, the progress of students in the same school class should be followed over the long term, even after these students stop receiving language services. Targets should be set for growth, rather than for reaching a fixed definition of proficiency regardless of the subgroup’s starting point.
- **Consider inputs as well as outputs.** Accountability for ELLs (and for that matter, for all student subgroups) should take into account not only how much students have learned, but also whether schools are providing well designed instructional programs, taught by qualified teachers using high-quality materials and with sufficient funding.



choice by the state and something that should not have been approved by USED. Forum participants made several suggestions for changing NCLB policies related to English language learners, as summarized in **Box 3-F**.

Despite these problems and complexities, most of the presenters felt that NCLB is a step in the right direction, in that it directs attention to the needs of the ELL subgroup and provides support to states to develop better measures of language proficiency. Prior to NCLB, ELLs received less attention from the education community. Maria Medina-Seidner, a bilingual education consultant and former director of bilingual education at the Texas state department of education, described some of the positive effects that NCLB accountability is having on ELLs in her state. More attention and resources are being directed to ELLs than had been the case under the state's previous accountability system. Texas has a Spanish language assessment that is parallel to the regular state reading/language arts assessment. Medina-Seidner reported that there is no gap between students who take the reading/language arts assessments and native language assessments in the academic subjects for which native language assessments are available. But the Spanish language assessments currently exist only for grades 3–6.

Data Issues

TIMELINE FOR TURNING AROUND AYP RESULTS

A frequently cited problem with NCLB's accountability requirements is the timeline for making AYP determinations. The law requires states, by the start of a school year, to report which schools and districts have made or not made AYP based on the previous school year's test results. Since most states test students in the spring, this leaves just a few months in the summer for states and their testing contractors to score students' tests, aggregate school- and district-level results, make AYP determinations, disseminate the results to schools and districts, and allow districts to check the results for accuracy and file appeals, if needed. Even though many states have worked to streamline their processes and in some cases test earlier in the school year, difficulties persist, as revealed by this comment from our state survey:

Our state receives its assessment results in late July. For many districts, school begins in mid-August. It is nearly impossible to make AYP determinations and communicate AYP status and choice and supplemental service options to parents prior to the beginning of the school year.

The biggest concern expressed by many states is that the timeline does not allow for the necessary data checks to ensure that AYP results are accurate before they are sent to districts and lists are made public. Responses to our state survey conveyed the frustration state officials feel about this issue:

Foremost [among the difficulties] is the extremely tight timeframe for obtaining and cleaning up statewide assessment results, running the AYP model and distributing preliminary (and many times inaccurate) reports to school districts.

Scoring open-ended items takes a long time and the test is given in April/May. Appeals and data review/changes take time to resolve once initial results are provided.

Some of our case study districts experienced serious problems when they did not receive accurate AYP data in a timely manner, particularly when the district had to inform families about their eligibility and options for public school choice. In 2001–02, Walsh Elementary School in Chicago, Illinois, received students exercising their choice option from other schools in Chicago that were in improvement. Then 2002–03 testing



showed that Walsh did not meet AYP goals due to a shortfall of 2.7% in its test participation rate. A reanalysis of the school's 2001–02 participation data showed that Walsh had also failed to meet participation rates that year as well, and the school entered NCLB improvement. So in the fall of 2003, as Walsh was gearing up to accept more transfer students from other schools, it was suddenly informed it would be sending some of its own students elsewhere instead.

Colorado Springs District 11 received preliminary test score reports from the state in August 2004. Based on this information, the district designated some schools for improvement, even though district staff felt there were errors in the reports. The district sorted out the data and found errors, sent corrected information to the state, and finally, in mid-October, it was clear which schools had made AYP and which ones had not. But it was too late at that point to have students change schools, so choice for students in the identified schools was not offered until January 2005. As described in Chapter 4, other case study districts had similar problems related to the timing of AYP notifications and school choice requirements.

DATA MANAGEMENT SYSTEMS

NCLB requires states and districts to report accurate data on student test participation and performance, as well as on other indicators such as attendance and graduation rates. To make AYP determinations, states must have data systems that link different sources of data, and to compute some of the indicators, such as graduation rates, they must have data systems that track individual students from grade to grade. Our state survey respondents mentioned data management as one of their most serious implementation challenges, requiring “great expense and human resources costs,” as one state put it. Other states had this to say about data issues:

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The greatest difficulty has been data collection and staff to manage the new data requirements to produce AYP ratings.

[A great difficulty has been] building and linking all components across the state's data information system and building the structure to assimilate and report AYP data.

[The state has] experienced tremendous difficulty in getting accurate disaggregated student level data from the testing contractor... NCLB has placed a tremendous data collection, analysis, and reporting burden on technology and administrative staff.

Our evaluation of changes to state accountability plans found that at least two states have received extensions from USED to allow them to put better student tracking systems into place.

Our case studies also revealed data management problems at the district level. A Chicago district administrator described problems calculating participation rates. Due to data collection and coding errors, one school reported 100% test participation for all students, but only 84% participation for low-income students. The state allows districts to make corrections in the data, but this caused a great deal of confusion and extra work, explained Xavier Botana, director of Chicago's NCLB Accountability Office. In Flint, Michigan each student has a unique identification number, and three databases are merged to provide NCLB results. As a result of merging databases, Chief of Schools Linda Thompson said, “We have to spend an inordinate amount of time cleaning up the



data.” Many of the problems came from duplicate records for students. Data cleaning stressed an already overburdened administrative staff, and due to continued merging of the databases, data cleaning may be a yearly chore for the district.

On the other hand, access to enhanced student performance data seems to be one of the most beneficial aspects of NCLB. When surveyed about the most positive effects of NCLB, eight states identified the use of data to inform learning and the increased quality of the data. As reported in Chapter 1, all districts surveyed said they were increasing the use of student achievement data to inform instruction and other decisions. “The greatest impact of NCLB,” said Dr. Margaret Frieswyk, superintendent of the Avon Public Schools District in Massachusetts, “is how we look at data and how we make decisions after reviewing the data. When we make a change, we know exactly why we are doing it, and we have the data to support it.” Thus, while getting the data management systems required by NCLB up and running is causing a lot of initial extra work for states and districts, there is reason to believe that once these systems are in place, the improved data about student achievement, attendance, and graduation will benefit educators, students, and the public.

Conflicts with Pre-existing State Accountability Systems

Several districts and states mentioned problems reconciling NCLB with accountability systems states had created for themselves prior to NCLB’s enactment in 2002. The problem most often cited is the public confusion created by sometimes contradictory results between NCLB and state accountability systems, as illustrated by these state comments:

We had standards in place prior to NCLB. We believe in using multiple measures for assessing student learning and NCLB severely restricts that option.

Another challenge has been in combining our existing state accountability system with the requirements of NCLB. It has been difficult and often confusing for the Department, school districts, and parents.

California had an accountability system in place before NCLB, and our case study on the Grant Joint Union High School District highlighted the problem of dual accountability systems. Grant schools have shown growth on the state accountability system, known as the Academic Performance Index (API), which California has used for seven years, but most of the district’s schools have had difficulty making AYP. Although the API calculations factor in the performance of racial-ethnic subgroups and low-income students, the system is based on year-to-year growth in student achievement. API gains may or may not be consistent with AYP, which is based on students meeting fixed achievement targets. So two of the schools in Grant Union that did not make AYP posted achievement growth beyond the goals set in the California accountability system. District officials feel the dual systems are often confusing to the school staff, parents, and the community.

This tension between the differently constructed accountability systems was confirmed at the July 28 CEP forum on NCLB’s accountability provisions. Gavin Payne, an official with California’s department of education, argued that California’s API system, based on a growth model, was developed within the state over a long period and is seen as more “legitimate,” while NCLB’s provisions are seen as imposed from outside. He also argued that states should be allowed to use growth models while adhering to other



major tenets of accountability in NCLB, including 100% proficiency by 2014, annual tests in reading and mathematics, public reporting of results, and continued focus on the performance of subgroups (Payne, 2004).

District officials in Wake County, North Carolina reported a similar problem, but note that different tests are used for NCLB and for the state accountability program. They noted that the state plans to use the same high school test for both NCLB and state accountability purposes starting with the 2004–05 school year, which may form a closer match between the two accountability systems. But North Carolina education leaders find themselves in yet another quandary: responding to criticism that state tests are too easy, they want to raise standards in their state accountability system by raising passing scores or including more challenging test items. However, they fear that doing so will make it harder for schools to meet NCLB requirements (Smolowitz, 2004).

Other district officials in our case studies, such as those in Vermont’s Orleans Central Supervisory Union, expressed the view that accountability systems they had been in place before NCLB were preferable or more workable. One Chicago district official called that city’s accountability system more “sophisticated” than NCLB. Kansas City Public Schools officials were similarly pleased with the progress they were making under their pre-existing district-level accountability program. While this program dovetails in some ways with NCLB, they still feel “punished” for the way the law treats districts with large numbers of subgroups.

At the same time, having a strict accountability system in place helped some states deal with some aspects of NCLB when the law took effect in 2002, as our Waynesboro, Virginia case study illustrates. Virginia school districts were already well accustomed to test-based accountability. Since 1998, that state has had a system of content standards and aligned tests, called the Standards of Learning (SOL). Each school receives an accreditation status, based largely on student performance on SOL tests. The state also has its own set of sanctions for schools and districts that fall short of state accreditation benchmarks. NCLB added another set of requirements that in some ways are less demanding than the state requirements.

In 2003–04, Virginia’s achievement benchmarks for state accreditation were higher than its targets for federal adequate yearly progress. For a school to be fully accredited by the state, 75% of elementary school students had to score at proficient levels in English, 70% had to reach proficiency in mathematics, and varying percentages had to reach proficiency on science and history tests. The AYP targets for the same year were lower—61% proficient in English and 59% proficient in mathematics, and science and history did not count. In 2004–05, the AYP targets will rise to 70% in both subjects but will still be lower than the state accreditation benchmark of 75% in English. Therefore, district officials have often been more focused to date on reaching state goals than federal ones. On the other hand, NCLB demands proficiency by subgroups, which SOL does not; thus the biggest challenge for Waynesboro district officials is focusing attention on subgroups.

In addition, Virginia high school students must pass several end-of-course exams before they can graduate. Scores from those same English and mathematics exams are used to calculate AYP for high schools, so the incentive for students to receive a high school diploma may have the effect of boosting scores used to determine AYP. Twenty-five states now have high school exit exams and 19 use the scores to determine AYP at the high school level (CEP, 2004).



Redesigning Assessment Systems

States are still in the process of refining standards and assessment systems that fully comply with all of the NCLB requirements and also meet professional testing standards for validity, reliability, and fairness. One state official described the dilemma as follows:

The time frame of NCLB requires the state to use results from tests that have not passed quality, validity, alignment, and reliability reviews prior to their administration. In effect, these studies are being conducted after the students are tested and well after schools have been identified for improvement. The State Department of Education is not confident that the assessments effectively measure the standards.

According to *Education Week* (Olson, 2004b), about half of the states—23 states and the District of Columbia—are now testing in reading and mathematics in grades 3–8 and once in high school, up from 20 states last year. The law requires states to comply with this testing schedule starting with the 2005–06 school year. Not all of these states, however, are using tests aligned with their standards in every grade, as the law demands. For instance, the District of Columbia is currently using off-the-shelf tests that have not been aligned with its academic content standards, and Louisiana is using off-the-shelf tests at some grades. NCLB also requires states to test science at least once in grades 3–5, 6–9, and 10–12, beginning in the 2007–08 school year. Twenty-three states already administer science tests in those grade spans, up from 21 states last year. But only 19 of those states are using tests aligned with their content standards in each grade, as NCLB requires. Thus, many states are working hard to catch up and meet the key testing requirements by next school year.

On this year's CEP survey, 25 states indicated that NCLB funds have been sufficient for developing the state assessments required by the Act, while 18 states indicated that funds have not been adequate. Last year 28 states said that funds were sufficient and 15 said they were not, so this year's results are slightly less positive. This is not surprising, as the deadline for having all of the necessary tests in place is drawing nearer. Limited funds have caused some states to cut back their testing programs and drop tests in subjects not required by NCLB. In Illinois, the legislature passed a bill that prohibits the state from testing any subjects not mandated by NCLB, so it dropped its social studies and writing tests. In Missouri, state tests in science and social studies have been made voluntary (districts can pay for the tests on their own), and tests in health and fine arts have not been offered for the past two years. New Hampshire, Rhode Island, and Vermont are pooling resources to develop an assessment for grades 3 through 8, the New England Common Assessment Program (NECAP), to be administered for the first time in fall 2005.

Some states have managed to pursue innovative testing approaches while still meeting NCLB requirements. Wyoming is designing a new testing system in accordance with guidelines specified in *Building Tests to Support Instruction and Accountability* (Commission on Instructionally Supportive Assessment, October, 2001); these guidelines call on states to dramatically revamp their testing programs to make them more helpful to classroom teachers. Wyoming's system will provide linked classroom and large-scale accountability assessments that can be used for NCLB as well as for instructional purposes. The classroom assessments will be paper and online tests aligned to state standards that teachers can give at any time in their classrooms. For accountability purposes, districts will be able to administer either end-of-year or semester tests that students will take in January and April. Both will emphasize the same topics, but the semester tests will probe students' learning in more depth and provide more frequent feedback. The



results of the semester tests will then be combined to determine whether a student is proficient in a given subject area. Wyoming plans to have the new tests in place for the spring of 2006 (Olson, 2004a).

Oregon gives districts the option of administering a paper or online version of the state test. One of our case studies illustrates the utility of the computerized, online option. In 2003–04, the Tigard-Tualatin district in Oregon provided additional money for all schools to buy computers. One of the main uses for the new computers was administration of the state test. If a school uses the web-based version of the state test, the school may give the test multiple times during the year, as opposed to just once for the written version of the test. Because each student logs on to the web test using a unique identification number, the test items are never repeated. The test also molds itself to the test-taker's level of knowledge. If a student gives a correct answer, the next question will be more difficult. If a student answers incorrectly, the next question will be easier. Only the highest score for each student counts as the final score, and districts are allowed to give the test at any time during the year before the final deadline.

While NCLB imposes some uniformity across state testing programs in terms of grades and subjects to be tested, there is still a lot of variation in the approaches states are using to design testing systems that comply with the Act. While some states only had to tweak their previously existing testing programs, others have had to perform much more substantive overhauls. While some see NCLB as an unnecessary intrusion into state assessment systems that were working fine before, others see it as an opportunity to improve their systems in positive ways. It remains to be seen whether all states will have the required assessments in place by 2005–06. USED has not yet begun the peer review process for approving state testing systems under NCLB, but is gearing up to do so. New guidance, the *Standards and Assessment Peer Review Guidance* (<http://www.ed.gov/policy/elsec/guid/saaprguidance.doc>), was released by USED in spring 2004.

Ideas for Improving NCLB Accountability Requirements

As part of our series of forums, in July 2004, CEP convened policy makers and researchers with expertise in NCLB to discuss ideas for improving the accountability requirements. Space does not allow us to cover all of the ideas presented (the complete papers are posted at <http://www.cep-dc.org/pubs/Forum28July2004/>), but below we summarize the suggestions that came up most frequently. The forums were held for the purpose of discussion rather than to endorse specific recommendations or proposals, so the recommendations below represent the views of the forum presenters, not of CEP.

- **Set more reasonable expectations.** NCLB requires an unrealistically rapid rate of improvement for most schools and districts in order to reach 100% proficient by 2014. NCLB goals should not exceed what has previously been achieved by a state's highest performing schools. For example, if the best performing 10% of schools in a state had rates of improvement in their percentages proficient that averaged 3% per year over the past five years, then AYP might be defined as a 3% increase in the percentage proficient. If it is politically impossible to retreat from the 100% proficient goal, then the timeline for attainment might be lengthened, perhaps to 25 years. Likewise, it was suggested that the safe harbor provision be eased, because a 10% decrease in students scoring below proficient sets a very high bar in comparison to what is achieved by even the most highly performing schools.



- **Define “proficient” in a more consistent, standardized, and meaningful way across states.** State proficiency levels vary far too widely in stringency across states. One way of making these levels more comparable across states would be to define proficiency on a state test to be equal to the median score in the base year of NCLB (2002). The percentage of students scoring above that constant cut score would then be used to monitor improvement in achievement, with target increases set at reasonable levels, such as 3% per year. Another suggestion was to abandon the “proficient” label altogether and have states describe students’ test performance in more concrete, meaningful ways, such as below grade level, at grade level, and above grade level. Students at grade level would be defined as those who master the curricular goals they are supposed to master at their grade.
- **Set improvement targets by school and district.** Instead of having a uniform set of state targets that apply to all schools and districts in the state, improvement targets might be set for particular schools and districts, depending on where they had started out. This would give low-performing schools more realistically attainable targets.
- **Refine methods for monitoring subgroups.** While attention to subgroups is important, the current requirements almost guarantee that schools will fall short of meeting all their targets, especially as those targets increase. One suggestion was to continue public reporting of subgroup results so there will be public pressure to attend to those groups, but to base school and district AYP on the performance of their total populations only.
- **Allow the same subgroup rule.** Some observers believe that schools should be identified for improvement only if the same subgroup fails to meet AYP in the same subject area for two or more consecutive years. USED has rejected state requests to implement this policy.
- **Allow states to use growth models to measure improvement.** Schools should get credit for any of the following: meeting their state’s percentage proficient targets; having students make significant progress toward the proficient level (even if they do not quite reach it); or having students make progress from the proficient to advanced level. The NCLB safe harbor provisions already acknowledge the relevance of growth to some extent, but the rest of the law, as currently written, leaves no room for growth models and instead forces states to set and meet rigid status targets for all groups. Growth models may be especially appropriate for measuring AYP for the subgroups of students with disabilities and ELLs, who may make significant progress in reading and mathematics without necessarily reaching the proficient level.
- **Provide meaningful resources to all schools based upon NCLB goals.** Currently, NCLB focuses on identifying failing students and schools, but very little work has been done on helping students and teachers in schools that have been identified for improvement. While it is relatively easy to tell which schools and groups of students are failing to meet grade level standards, it is more challenging, and more necessary, to actually provide resources and help students and schools thus identified.

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CHAPTER 4

Public School Choice

Key Findings

- Even though many districts have schools offering choice under the No Child Left Behind Act, very few students are actually taking advantage of this option. Just 1% of the students eligible for NCLB choice actually transferred schools in 2004-05, according to our survey.
- The percentage of districts with schools required to offer choice has remained relatively stable over the past two years, totaling about 15% of districts in 2004-05. Large districts and urban districts have been much more affected by the choice requirement than suburban, rural, or small districts. In 2004-05, 48% of urban districts and 89% of very large districts were required to offer transfers, compared with just 16% of suburban districts, 10% of rural districts, and 8% of small districts.
- Not all districts with schools required to offer choice are actually able to meet the demands of NCLB and offer transfers to all eligible students. Even so, a greater percentage of districts complied with the NCLB school choice mandate in 2003-04 than in 2002-03. In 2003-04, 75% of districts complied with the mandate by offering school choice, while one year earlier just 47% complied, according to our survey results. Many of the districts not offering choice have been unable to meet the requirement due to overcrowding at schools eligible to receive students or a lack of any receiving schools.
- Districts face a variety of challenges in implementing NCLB school choice, according to our state and district surveys. More than half the districts surveyed reported having moderate to serious problems identifying schools for improvement before the start of the school year. About a third reported moderate to serious problems keeping to class size limits in schools that could receive choice students and finding physical space in receiving schools. About a quarter of districts reported moderate to serious problems providing information to parents about the school choice option.
- Some districts surveyed reported that schools unable to offer choice are offering supplemental education services instead. This switching is occurring across all district types and sizes. When asked to suggest improvements to NCLB, a handful of states recommended reversing the order of sanctions in the law to make supplemental education services the consequence for two years of missing AYP and choice the consequence for three years of missing AYP.



Introduction

Under the No Child Left Behind Act, Title I schools that have failed to make adequate yearly progress for two or more consecutive years are placed in improvement status and are required to offer students the choice of attending another eligible public school or remaining in their current school. In addition, the district must set aside a minimum of 10% of its Title I funds to transport students who opt to attend other schools. These schools may be district schools that have not been identified for improvement or schools outside the district that have agreed to accept transfers. Although the law requires school transfers, the choices offered students and the number of students actually transferring have been limited.

This chapter reviews the data available on school choice from our surveys and other national studies. It looks at trends in the percentage of students eligible for choice, the percentage actually transferring schools, and the number of school choices offered to these students. The chapter also reports on what states and districts perceive to be challenges to implementing choice, based on our survey responses, our case studies, and studies from other groups. These challenges include limited capacity in receiving schools, late receipt of test scores used to determine which schools must offer choice, difficulty communicating with parents about the NCLB choice option, and budget and/or staffing shortages. Each challenge is discussed more fully in the chapter below and may partly explain why so few students are using school choice under NCLB.

NCLB Transfers

Student Eligibility and Transfers

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In the past two school years, the number of districts with schools required to offer school choice has remained relatively stable. According to our survey, the percentage of districts with schools that had to offer school choice was 10% in 2002–03, 11% in 2003–04, and 15% in 2004–05. Urban districts, large districts, and very large districts continue to be more likely to report that they had at least one school required to offer choice than rural, medium, and small districts, as illustrated by **Table 4-A**.

The percentage of eligible students who actually changed schools as a result of NCLB choice also remained stable, according to our district survey. But the percentage of students actually transferring is much lower than the percentage of students eligible for choice. In 2002–03, districts reported that just 0.8% of eligible students transferred. In 2003–04 the number nudged up to 1.8% but fell again to 0.6% in 2004–05.

Our case studies also found that participation in NCLB choice was generally low. Several case study districts reported that a tiny percentage of students eligible for NCLB choice had actually transferred to a different school in 2004–05, as the following examples show:

- In the Bayonne City School District, New Jersey, just 43 of approximately 2,000 eligible students, or 2.2%
- In the Berkeley County School District, South Carolina, 170 of about 10,000 eligible, or 1.7%

Table 4-A Percentage of Districts with At Least One School Required to Offer Public School Choice as a Result of NCLB in 2002-03, 2003-04, and 2004-05, by District Type and District Size

	PERCENTAGE OF DISTRICTS WITH SCHOOLS REQUIRED TO OFFER PUBLIC SCHOOL CHOICE AS A RESULT OF NCLB		
	2002-03	2003-04	2004-05
TOTAL (all districts)	10%	11%	15%
DISTRICT TYPE			
Urban	40%	44%	48%
Suburban	13%	11%	16%
Rural	5%	6%	10%
DISTRICT TYPE			
Very Large	53%	87%	89%
Large	46%	48%	50%
Medium	20%	12%	32%
Small	4%	5%	8%

Table reads: In 2002-03, 5% of rural districts had schools identified for improvement and therefore were required to offer school choice. The following year, in 2003-04, 6% of rural districts had schools that were required to offer public school choice. This year, in 2004-05, 10% of rural districts had schools that were required to offer public school choice.

Source: Center on Education Policy, December 2003, District Survey, Items 22 and 28; December 2004, Fall District Survey, Item 15 (Table 14)

- In the Cleveland Municipal School District, Ohio, only 52 students of 32,356 eligible, or 0.2%
- In the Grant Joint Union High School District, California, just 55 of 9,259 eligible, or 0.6%

Other national or regional studies have found similarly low rates of participation in NCLB choice, with some studies further suggesting that not all requests for transfers were granted due to district limitations. In a study of 44 large urban school districts, the Council of the Great City Schools reported that 3.8% of students in schools eligible for choice requested transfers in 2003-04, and just 1.5% of the students in these schools actually transferred (Casserly, 2004). The Council's study also noted that not all students allowed to transfer actually followed through with switching schools.

In another study of 47 states and 137 districts, the Citizens' Commission on Civil Rights found that 2.3% of eligible students requested transfers in 2002-03 and 5.6% requested transfers in 2003-04 (Brown, 2004). The percentage of eligible students actually switching schools was even lower: 1.3% in 2002-03 and 1.7% in 2003-04. A study of 10 urban districts by the Civil Rights Project at Harvard University concluded that fewer than 3% of eligible students requested transfers in 2002-03 (Kim & Sunderman, 2004). None of the districts studied by the Harvard group granted more than 83% of requested transfers. A 2004 analysis by the Government Accountability Office (GAO) did not track the percentage of requests but did report that in 2003-04, just 1.0% of eligible students transferred under NCLB.

Limited Percentage of Transfer Requests Honored

The low percentages of students actually transferring are influenced not only by the small numbers of students requesting transfers, but also by limits on the number of transfers that districts can accommodate. Our district survey showed that 75% of districts with schools required to offer choice actually did so in 2003-04, an increase from just 47% in 2002-03. Our case studies found that some districts had no space for additional students in potential receiving schools. These challenges to implementing school choice will be discussed in detail later in this chapter. **Box 4-A** discusses how the Chicago Public Schools in Illinois have limited the number of transfers under NCLB.

Although districts, rather than states, are the entities responsible for implementing school choice, state policies can support or obstruct choice. A 2004 survey by the Education Commission of the States (ECS) examined which states had policies that explicitly allowed school choice and which did not. The survey results showed an increase in state policies supporting school choice but also found that some states still do not have policies that explicitly support school choice. In 2003, only 49% of states were fully on track for implementing school choice in terms of having policies that explicitly allowed students to transfer to other schools within their district. About 45% were partially on track, and 6% were not on track. In 2004, more states were on track to provide choice: 67% were fully on track, 31% were partially on track, and 2% were not on track.

Box 4-A Chicago Limits School Choice to Avoid Overcrowding

In school year 2003-04, about 350 Chicago Public Schools were required to offer school choice. However, district officials said there simply weren't enough schools for students to transfer into. "By state law, we're restricted from overcrowding schools and from changing selection criteria [at selective enrollment schools]," explained Xavier Botana, director of the district's NCLB Accountability Office. As a result, he said, only 35 schools were able to accept new students. This gave the district just 1,100 transfer slots for the approximately 270,000 students eligible for NCLB choice. The state approved the district's plan to offer these slots by lottery. Of these eligible students, about 19,000 applied for the 1,100 slots. Roughly 500 students, or 48%, accepted transfer assignments and attended new schools.

For the 2004-05 school year, Chicago again offered choice by lottery. Of the approximately 175,000 students eligible, 5,933 applied for transfers. Chicago awarded 438 transfers; however, only 200 students enrolled in their new schools. Of these 200, about 14 had returned to their home schools by the end of the first semester.

While the district has not done an official survey examining why about half of the families did not follow through with the transfers, officials did hear from some families. For example, Botana said that typical reasons given by parents for not accepting the transfer included wanting all children in their family to go to the same school, finding out that the bus ride to the new school would be farther than anticipated, or simply deciding that the original school was better than the family had previously thought.

Source: Center on Education Policy, December 2004, NCLB Case Studies

Limited Choices Offered

Another way to examine limits on school choice is to consider the number of receiving schools from which students can choose. Among districts with schools required to offer choice, students seeking transfers under NCLB had an average of three schools from which to choose in 2003-04 and two schools from which to choose in 2004-05, according to our surveys. As shown in **Table 4-B**, however, students in small and rural districts had fewer choices—only one choice on average or, in the case of small districts in 2004-05, no choices.

While CEP case studies show that some districts like Chicago (see Box 4-A) limited choices due to overcrowding, others limited choices based on geography in order to cut down on transportation costs, avoid long commutes, and encourage community connections to schools. **Box 4-B** describes how the Cleveland Municipal School District in Ohio limited choice to encourage community involvement in schools.

In its study of large urban districts the Council of the Great City Schools (Casserly, 2004) found similar limits on transfer choices. Of the 44 cities participating, 82% offered two to three choices, 14% offered six or more choices, and 5% offered only one choice. The Council noted, however, that at least nine of the cities offered other transfer options in addition to NCLB, so that in reality students may have had more options than the ones counted under NCLB.

Table 4-B Average Number of Receiving Schools Available to Students Seeking Transfers in 2003-04 and 2004-05, by District Type and District Size

	2003-04	2004-05
TOTAL (all districts)	3%	2%
DISTRICT TYPE		
Urban	6%	5%
Suburban	3%	2%
Rural	1%	1%
DISTRICT TYPE		
Very Large	8%	11%
Large	4%	2%
Medium	4%	4%
Small	1%	0%

Table reads: In 2003-04, urban districts with Title I schools that were required to offer school choice had an estimated average of six schools available to receive students seeking transfers. The following year, in 2004-05, these districts had an estimated average of five schools available to receive students seeking transfers.

Source: Center on Education Policy. December 2003, District Survey, Item 25; December 2004, Fall District Survey, Item 22 (Table 18)

Quality of Choices

Studies by the Civil Rights Project at Harvard and the Citizens' Commission on Civil Rights have attempted to determine whether receiving schools are actually better than the sending schools. While the two studies found somewhat similar results, the researchers reached different conclusions. In six districts with information on actual receiving schools, the Civil Rights Project found that all these receiving schools had lower poverty rates than the sending schools (Kim & Sunderman, 2004). These rates, however, were not substantially lower according to the researchers. Indeed, none of the districts had receiving schools with average poverty rates lower than 40%, the threshold for identifying a school for schoolwide Title I funding and an indicator of widespread poverty. Similarly, the researchers found that in the six districts, all receiving schools had higher passing rates on state reading and math tests than sending schools; in three of the districts, however, these differences in passing rates were less than 10 percentage points, which the researchers asserted was negligible. The researchers concluded, therefore, that "NCLB transfer provisions failed to provide disadvantaged students with a meaningful opportunity to transfer to higher performing schools" (p. 32).

The Citizens' Commission on Civil Rights (Brown, 2004), in contrast, viewed receiving schools as substantially better than sending schools. The Commission's report gives income levels and minority rates for sending and receiving schools as a range rather than an average, so the two studies are somewhat difficult to compare. The upper ranges of poverty for receiving schools reported by the Commission, however, are above 40%, except in two districts. The researcher summarized her findings by stating, "Often,

Box 4-B Cleveland Limits Choice to Encourage Parental and Student Involvement

All schools in the Cleveland Municipal School District that were required to offer school choice in 2003-04 were able to offer it, said Leslie Myrick, director of student assignments. Parents from each transferring school were offered two possible receiving schools from which to choose. Choices were limited because the district wanted the choices to be within the students' community, in keeping with its neighborhood schools policy. This policy is designed to encourage parents and students to be more involved in school and after-school activities, Myrick explained. So far in Cleveland, school choice "has not been a major problem, primarily because the numbers have been so small," Myrick said.

District records show that although 16,830 students were eligible for transfer in 2003-04, only 43 parents applied for transfers and only 33 students actually changed schools. District officials noted that school choice goes against the district's previously established goals of moving toward neighborhood schools after many years of busing under federal desegregation orders.

The neighborhood school concept has been popular with parents, said Theresa Yeldell, executive director of family and community engagement. She recalled several typical reasons why parents said they weren't going to use school choice. First, familiarity was an issue; parents wanted to keep their child in a school where they knew people. Second, neighborhood schools were more convenient, and changing schools could disrupt the family if siblings went to different schools. Last, Yeldell said that the concept of choosing a school is simply foreign to parents. "There are still quite a few parents who are not quite understanding," she said, "even the parents we've had in-depth conversations with."

Source: Center on Education Policy, December 2004, NCLB Case Studies



but not always, the race/ethnic and income desegregation that took place involved transfers to schools that had significant proportions of minority and low-income students. However, the receiving schools were more diverse and, more importantly, higher performing than the sending schools” (p. 48).

While these studies provide important initial information on the differences between sending and receiving schools, not enough information is available to determine whether receiving schools actually offer significantly better choices for students than sending schools. Both current studies are limited because not all of the districts selected for study provided all the requested information and because district averages are examined rather than school to school comparisons. It is also unclear what would constitute a “better” school in terms of poverty rates, student ethnicity, and test scores. In addition, other school factors, such as teacher experience and certification, may need to be included in future studies. Finally, more research needs to be done to determine whether the actual achievement of transferring students improves.

Other Factors Influencing Student Choice

Given the lingering questions about whether students make more academic progress if they transfer, it is not hard to see why more parents and students do not jump on a chance to transfer. We did not survey students directly, but the officials we interviewed in our case study districts had their own views about why more students were not using choice. Staff in districts such as Colorado Springs District 11 in Colorado and Grant Joint Union High School District in California mentioned that their students did not want to leave the teachers and friends they had built relationships with at their home school. In Colorado Springs, where two of the three schools offering choice are middle schools, Title I Coordinator Holly Hudson commented, “Middle school students are content to stay with their friends. Their input is valued by their parents, who tend to have loyalty to their local community schools.”

Officials from districts like Flint Community Schools in Michigan and Clark County Schools in Nevada speculated that long commutes discouraged students from transferring. In Flint, no students requested transfers. While the district has not formally explored why parents do not request transfers, David Solis, director of state, federal and local programs, said he suspects parents prefer to have their children at schools close to home where they have already developed relationships with teachers. “Why would they want to have their child bussed across town?” Solis speculated, noting that increasing the length of bus rides may be unpopular with parents.

In Escondido Union Elementary School District in California, transportation may also have been a problem for parents, but longer commutes may not have been the only deterrent. Escondido does not provide any busing for students because the schools are all within walking distances. Choice meant that students had to take city buses to get to the eligible schools, a distance of three to four miles from their home school, or their parents had to transport them. The district pays for city bus passes or reimburses parents for gas.

In some districts, such as Oakland Unified School District in California, students had opportunities for school choice other than NCLB. For example, 20 Oakland schools, which in the past had failed to meet AYP goals, are now operated in partnership with the Bay Area Coalition for Equitable Schools (BayCES). Student participation in these schools is based on voluntary registration rather than on neighborhood assignment. All 20 schools now have waiting lists. Opportunities to attend one of these schools may have been more desirable to parents than the choices available under NCLB, but students who transfer to BayCES partnership schools are not counted as NCLB transfers.



Finally, some districts, such as the Wake County Public School System in North Carolina and Independent School District #2 in Meridian, Idaho, said that schools identified for improvement under NCLB were still perceived by parents as good schools. According to Karen Banks, consultant and former assistant superintendent of evaluation and research in Wake County, many students did not take advantage of choice because students and parents believe that virtually all schools in the district are doing a good job educating most of their students. One of the Wake County schools offering choice was even identified by North Carolina as a School of Excellence under the state's accountability plan.

It is important to note that our surveys and case studies represent the views of states, districts, and schools. A recent telephone survey of more than 900 public school parents in Massachusetts (Howell, 2004), found that 42% of parents with children at underperforming schools did not know that their school had been identified as in need of improvement. The study suggests that this lack of information may keep parents from requesting transfers.

While 100% of districts we surveyed reported that they informed parents of their school's improvement status, districts and states also indicated that communicating with parents effectively was challenging. So, while districts may have sent letters informing parents about choice, states and districts acknowledged that not all parents may be knowledgeable about their options under NCLB. State and district views on communicating choice options to parents are discussed below in the section on challenges.

Characteristics of Transferring Students

More research is needed to track the characteristics of students who choose to transfer under NCLB. Some observers have contended that students using choice are more likely to be those who are already successful and not in need of special help. The *Washington Post* (Glod, 2004), for example, reported that officials in Fairfax County, Virginia, and Howard and Montgomery Counties in Maryland found that transferring students are more likely to be higher-scoring students from middle-class homes. A recent analysis by Douglas S. Reed (2004) confirmed this assertion in Montgomery County by examining the data on transferring students and their non-transferring peers. Reed also found that Montgomery County's transferring students were disproportionately white or Asian. In our own case study of Wake County, North Carolina, district officials said that none of the students who transferred were members of the subgroups in their schools that had failed to meet adequate yearly progress goals.

The Citizens' Commission on Civil Rights paints a somewhat different picture, giving examples of two states and 16 districts in which students exercising choice are more than 90% low-income. The Commission did not provide a breakdown of poverty rates for transferring students in the other states and districts surveyed. Somewhat similarly, the GAO (2004) reported that Title I schools required to offer choice had larger proportions of minority and low-income students. This study, however, did not compare the ethnicity or income status of all students who actually transferred with that of students who stayed put.

Our case study of Walsh Elementary in Chicago also found that the students transferring into this school were all African American and more likely to have lower academic achievement than the average enrollment at Walsh. The 13 transferring students did experience some initial difficulties in adjusting to Walsh, Principal Stephen Flisk said. "Because we're a local school, we only dealt with transportation for special education students," he said, explaining that the most cost efficient way to get the new transfers to Walsh was to add them to the special education buses. In addition, the 13 new students



had previously attended majority African American schools, while Walsh, in contrast, is a majority Hispanic school. These factors contributed to problems of social stigma until Walsh students understood and accepted the new transfers, Flisk said.

The adjustment was also difficult academically for the 13 students. “We absorbed these kids, but it was hard. They had not experienced schools like ours,” teacher Victoria Jackson said, explaining that the students’ previous schools had not required as much school work. “They were so far behind academically,” she added. By the end of the first year, however, school officials said the transfer students were thriving.

In the Kansas City, Kansas, Public Schools, another of our case studies, district officials noted that transferring students were more likely than the average student to have had behavior problems in their sending schools. One elementary school principal said that 15% of her students are not attending the school this year because they chose to attend another school in the district. She insisted, however, that most students do not leave for academic reasons but because they have had behavior problems and are looking for a fresh start in a different school.

Despite the controversy surrounding which students are using choice under NCLB, the law itself does not specify that choice should be used only, or first, by the neediest students. All students in a school that has missed AYP goals for two or more years are eligible for transfers. Only if more students request transfers than the district has space for are lower income and lower achieving students given priority for transfers.

Challenges to Implementation

Our district survey asked districts to indicate the extent to which a variety of issues presented challenges to implementing school choice under NCLB. Responses were somewhat similar to the concerns raised by states. The timeliness of identifying schools for improvement was most frequently reported as a moderate to serious challenge for implementing choice. The next two moderate to serious challenges had to do with the capacity of receiving schools. The fourth issue involved communicating with parents about school choice. The entire list of possible challenges appears in **Table 4-C**.

Our state survey included an open-ended question about the challenges districts faced in implementing school choice under NCLB. While state responses varied a great deal, the majority could be grouped into four categories relating to the capacity of the district (i.e., availability of receiving schools, space in receiving schools, and distance between receiving and sending schools); timing of notifying districts that schools had to provide choice; communication about services with eligible parents; and budget and/or staff problems. In addition, a few states noted that some districts had additional school choice programs, which made implementation of choice under NCLB easier.

Capacity

Capacity was a top concern of states and districts. Of the 49 states that responded to our survey question about challenges of implementing school choice, the majority listed issues related to capacity as one of the main challenges. Some states noted that some districts have only one school that serves a particular grade level. Others noted that in some districts all schools at a particular grade level are identified as in need of improvement, so the district has no receiving schools to accept transfers. Several reported both problems. For example, one state explained:

Table 4-C Challenges to Districts' Efforts to Implement NCLB Choice Provisions in 2003-04

ISSUE	PERCENTAGE OF DISTRICTS REPORTING THE DEGREE TO WHICH THE FOLLOWING ISSUES WERE A CHALLENGE IN IMPLEMENTING NCLB CHOICE IN 2003-04	
	MODERATE CHALLENGE/ SERIOUS CHALLENGE	SMALL CHALLENGE/ NOT A CHALLENGE
Identifying schools for improvement prior to the start of the school year	59%	41%
Keeping to class size limits in schools that could potentially receive choice students	37%	63%
Finding physical space in receiving schools	32%	68%
Providing information to parents about the school choice option	25%	75%
Meeting the needs of special education students in receiving schools	23%	77%
Having a sufficient number of receiving schools at the grade span of the school identified for improvement	22%	78%
Having any potential receiving schools in the district that were not themselves identified for improvement	19%	81%
Meeting the needs of English language learners in receiving schools	19%	81%
Adequate federal funding to provide transportation to all students who requested choice transfers	18%	82%
Finding other districts willing to receive transfer students	13%	87%

Table reads: In 2003-04, an estimated 59% of districts with schools required to offer school choice reported that identifying schools for improvement prior to the start of the school year presented a moderate or serious challenge to their efforts to implement the NCLB choice provisions.

Note: Responses are ranked according to the number of states reporting that the issue presented a moderate or serious implementation challenge.

Source: Center on Education Policy, June 2004, Summer District Survey, Item 16 (Table 9)



Some of our smaller rural districts may have only one school of a particular grade configuration. If that school is placed in improvement, there are limited options for providing choice to these students. A similar problem exists in our largest urban districts where many of the middle schools have been placed in improvement. This also leads to limited choice options for students.

Although NCLB allows districts to send transferring students to other nearby districts, states and districts responding to our surveys reported that other districts are rarely interested in accepting these transfers. As one state wrote, “Neighboring districts are unwilling to enter contractual arrangements. They don’t want low achieving students.” Non-regulatory guidance on school choice issued by the U.S. Department of Education (2004) has suggested that districts work with private schools, among other alternatives, to give more options to transferring students. We did not ask states and districts directly about whether any private schools were accepting transfers. In our open-ended survey questions and in our case studies, however, no states or districts mentioned private schools accepting transfers.

When receiving schools can be identified, often states said the receiving schools did not have space to accommodate transfers. States said districts were often stuck with two bad choices—either denying transfers or overcrowding receiving schools. Districts we surveyed confirmed that capacity and space limits were a challenge. About a third of the districts surveyed reported moderate to serious challenges in implementing choice due to “keeping to class size limits in schools that could potentially receive choice students” and “finding physical space in receiving schools.”

Similar difficulties concerning district capacity to provide choice have been noted in other studies and news articles. The Citizens’ Commission on Civil Rights reported that “in many urban school districts the number of schools in need of improvement is so large that there literally are not enough successful schools from which to chose” (p. 63) and that “in many small, often rural districts with only one school for each grade level or where all schools are identified for improvement, there are no other schools from which to choose” (p. 64).

Regarding limited space within identified receiving schools, the Council of the Great City Schools noted that 20 of the 44 urban districts surveyed had the space in receiving schools to accommodate all transfer requests. The remaining 24 districts did not have enough space and had to limit transfers by giving higher priority to lower income and lower achieving students, as NCLB requires. Even when space is found for transfers, the results in some schools may be questioned. After the Citrus School District in Florida met the requirements of NCLB by accepting all transfers, the *St. Petersburg Times* (Behrendt, 2004) raised concerns about overcrowding at receiving schools. *The New York Times* has also reported on overcrowding at schools due to NCLB transfers (Winerip, 2003), although another New York-based reporter (Williams, 2005) wrote that district attendance policies and procedures rather than NCLB itself were the cause of the overcrowding.

Even if receiving schools are identified and have space, problems can still arise. Some states said receiving schools were sometimes too far away from the sending schools, resulting in long or even unworkable commutes for students. Travel time may discourage some students from transferring. This was a particular problem for states with rural districts. One such state said, “For many districts, school choice is not even an option because there is no other school available at the student’s grade level that is within 50 miles and/or on the road system from the student’s school of origin.”



Other reports confirm that school choice has been a particular challenge for rural districts, which may have only one school per grade span and may be too far from other districts to make transfers feasible. A recent survey of the 24 executive directors of the state affiliate organizations of the National Rural Education Association (2004) showed that the issue “State, not federal government, should decide school choice” was tied with “40% funding of IDEA inadequate” as the top-ranked educational issue of concern.

Timing of Test Results

The states and districts we surveyed agreed that timing was a challenge for implementing choice. States reported having difficulty meeting the law’s deadlines for reporting test data while maintaining a spring testing schedule, which better captures what students learned during the year. Meanwhile, districts reported being frustrated that states didn’t get test results to them soon enough to identify schools and notify parents.

Of the potential challenges listed in our district survey, “Identifying schools for improvement prior to the start of the school year” was cited most frequently, with 59% of districts saying this was a moderate or serious challenge to implementing choice. In our case studies, the experiences of Bloomfield School District in New Mexico are an extreme example of this challenge. In school year 2004–05, the district did not know it had schools required to offer choice until mid-October. **Box 4-C** gives a detailed description of the state testing complications that caused this delay.

New Mexico was not the only state that had difficulty identifying schools for improvement in a timely fashion. In open-ended questions, many states also said that test results were not available in time for districts to make plans for school choice and to inform parents. Typical responses included the following:

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For the largest urban district, trying to offer choice on the timeline required by NCLB has been difficult given our total test results were not back until October for the final AYP issuance.

Up until this year, data and technical difficulties at the state level have resulted in report cards being issued to schools after school started.

Timing of AYP data has made the identification of choice schools and the communication with parents challenging. Parents are not given adequate time to make informed choices about possible choice options and [local educational agencies] have little or no opportunity to ensure choice schools have the resources and capacity to meet the needs of incoming students. The process is in place to meet the requirements of the law but does not adequately address the need to provide an improved educational experience for choice students.

The Council of the Great City Schools also examined the amount of time allotted to implement choice. In its study of 44 urban districts in 2003–04, 23 districts were given less than 30 days by the state to review test results, make corrections, and resubmit changes, a time frame the researchers found unreasonable especially for these large districts (Casserly, 2004). In addition, not a single district had final data before the end of the school year; 15 had final data in August; and about half, 23 districts, did not have final data until after the beginning of the school year. As a result, 8 districts were not able to inform parents of their options until August, and 16 did not inform parents until after the beginning of the school year. At least 14 districts chose to inform parents that their children’s school was offering choice before test results were final. Many of these districts had open enrollment programs already.

Box 4-C Late State Test Results Affect Choice in Bloomfield, New Mexico

Between 2002-03 and 2003-04 testing, New Mexico changed its method of determining whether a school met its adequate yearly progress goals. In 2002-03 testing, schools were able to draw on data from both the state's norm-referenced test and the state's standards-based assessment. For 2003-04 testing, the norm-referenced testing data was no longer used. This change caused some confusion statewide. In the summer of 2004, the Bloomfield School District thought that all its schools had met AYP goals, except the high school. Indeed, the state website reported that Naaba Ani Elementary School had made AYP under the law's safe harbor provision. In mid-October, data corrections showed that Naaba Ani had failed to meet the safe harbor criteria, and the school was identified for improvement, along with the two lower elementary schools that send their students to Naaba Ani.

All three Bloomfield schools in need of improvement offered school choice in 2004-05. Due to late corrections in testing data, however, parents did not know that choice was an option until after the school year started in mid-October. The choice these parents were offered was to send their children to Blanco Elementary, the only Bloomfield elementary not on the state list. Blanco is at least nine miles from the other elementary schools. "At this time, no student has transferred to Blanco as a result of their school's rating," said Linelle Sharrard, director of curriculum and instruction, explaining that the longer bus ride and contentment with the current schools may have influenced parents to keep their children in their home schools.

Source: Center on Education Policy, December 2004, NCLB Case Studies

In our case studies, Bayonne City School District in New Jersey is an example of a district that offered choice before test results were final. For the 2004-05 school year, the district decided to go ahead and offer choice in three schools that had failed to make AYP based on 2002-03 testing. Not until October did the district receive the 2004 final test results from the state. Ultimately, one of the schools offering choice actually made AYP based on 2003-04 testing, but because transfers had already been requested, the district honored them anyway.

Some parents have felt that late notification of school choice is unfair. For example, parental pressure in part caused the Detroit Public Schools in Michigan to extend its deadline for parents to sign up for choice, according to the newsletter of the Black Alliance for Educational Options (Emerson, 2004), a national nonprofit organization that has received a U.S. Department of Education grant to help inform parents about choice. BAEO reported that the Detroit Public Schools system (DPS) sent a letter dated August 25 informing parents that they had until noon on September 15 to apply for school transfers or supplemental education services, if their child was attending a school deemed in need of improvement by the federal government. The letter, however, was not mailed until September 6. Community and media complaints led DPS to extend the deadline twice, first to September 20 and then to September 27.

Communication with Parents

Informing parents about choice under NCLB has proved difficult for districts, according to several states in our survey. In addition, 25% of the districts with schools required to offer choice reported in our district survey that informing parents was a moderate to serious challenge. NCLB requires that districts send a letter detailing choice options to



all parents whose children attend schools in need of improvement. This letter, however, may not provide enough information and may not be read by all parents. One state wrote on the open-ended question, “Parents [are] not understanding school choice, their rights/responsibilities, and the limitations of the district.”

Many districts used a variety of additional strategies to reach parents. In our case studies, the Cleveland Municipal School District reported that it held parent meetings at schools to inform parents about school choice. Boston reportedly launched a process and appointed a task force to seek input from the public on how families choose schools, what they like about the current plan, and what they would change. But none of these district strategies seemed guaranteed to get more parents to use choice. As one state wrote, “Sometimes a district may spend quite a bit of money informing parents of the availability of choice and very few parents are interested.”

While most state comments indicated that communicating choices to parents was simply difficult, one state did find fault with districts for not making a good faith effort to communicate clearly. The state wrote, “Some districts are not making the process ‘parent friendly.’” Similarly, the study of school choice by the Citizens’ Commission on Civil Rights’ listed a number of examples of poor communication from districts (Brown, 2004).

Budget and/or Understaffing

No Child Left Behind requires districts with schools in need of improvement to set aside an amount equal to at least 20% of the district’s Title I allocation for choice-related transportation and supplemental education services. A few states and districts also reported that setting that amount aside and devoting time and staff to manage school choice was too much of a burden to districts and took money away from other much needed services. Typical state responses included the following:

The 20% transportation reservation seemed like too much burden for the districts to give up from their budgets.

This comes at a time when schools/districts are in greater need to change curriculum and instructional practices. Setting aside Title I funds requires delays in hiring and directly affects the services to low-performing students.

Similarly, one district wrote:

When our schools don’t make AYP because of some small subgroup difference, we are forced to take much-needed money (10%) away from instruction and place it in escrow while we wait to see if parents will want transportation to new schools, which they don’t.

Interestingly, adequate federal funding to transport all students requesting transfers was rated by only 18% of districts as a moderate or serious challenge—second to last in serious ratings among the challenges offered on our survey. This may be because, at present, the challenges of timely notification of parents and finding space for all students mean that few students actually use Title I funds for choice, so there appears to be plenty of funding.

While only a few districts rated this as a moderate or serious challenge, other educators have written about it. In a paper developed for our July 2004 forum on NCLB, Joel Packer of the National Education Association wrote, “The problem with this funding mechanism is that it takes funds away from classroom services in the very schools



that are most in need, and uses them on unproven interventions. There is no federal money provided to pay for choice and SES, so it is simply a requirement that forces school districts to cut existing services for students and transfer funds to these mandated priorities” (Packer, 2004).

Presence of Other School Choice Options

While school choice is new to some districts, others have school choice programs established before NCLB mandates. Although our state survey asked respondents to report challenges to implementing choice, a few states reported positively about the presence of other choice programs in some districts. They said that experience implementing these other school choice programs may have made implementing NCLB school choice easier and that having multiple school choice programs took some of the pressure off serving all transfers through NCLB. One state described the situation as follows:

[Our state] has experienced little difficulty in implementing school choice. Prior to this federal law, many school districts allowed open enrollment at other district schools. Additionally, so few parents/students have opted to take advantage of school choice that it has had little impact.

In its recent study, the Council of the Great City Schools also reported that 9 of the 44 cities studied already had school choice programs before NCLB (Casserly, 2004). The study summarized how the Columbus, Ohio, school district merged its open enrollment program with school choice under NCLB and focused on some of the logistical challenges to meshing two different school choice programs, a difficulty not reported by states in our own survey.

The Citizens’ Commission on Civil Rights reported that 31 states allow open enrollment within districts and 19 allow open enrollment between districts (Brown, 2004). While the commission noted that these policies can make it difficult to distinguish NCLB transfers from other transfers, it praised the policies for creating more school choice options. It is important to note, however, that our survey found that many state officials said distance is a factor limiting transfers between districts. In addition, the Great City Schools reported that none of the 44 urban districts it surveyed had been able to find another district willing to accept its NCLB transfers.

Solutions to School Choice Challenges

Due to the challenges states and districts reported, we found that some districts have already implemented modifications to the way NCLB originally intended choice to work. For example, some districts offered limited choices of schools as explained previously in this chapter. Other districts offered supplemental education services instead of choice. In 2004–05, our district survey found that on average two schools in each district were unable to offer choice and that on average one of the two schools offered supplemental education services instead of choice. This switch has proved to be a strategy of all types and sizes of districts, as shown in **Table 4-D**.

As our case study revealed, Chicago has offered supplemental services to students the district wasn’t able to serve with school choice, although Chicago’s supplemental education services have run into difficulties, as discussed in Chapter 5. Harrison Community Schools in rural Michigan offered supplemental services instead of choice because both elementary schools were in improvement status and could not accept transfers. Harrison officials said this met the requirements of NCLB but was not a perfect solution. Difficulties with supplemental services in Harrison will be further discussed in chapter 5.

Table 4-D Average Number of Identified Schools That Were Unable to Offer Choice and Average Number of Identified Schools That Offered Supplemental Services in Lieu of Choice in 2003-04 and 2004-05, by District Type and District Size

	AVERAGE NUMBER OF IDENTIFIED SCHOOLS UNABLE TO OFFER SCHOOL CHOICE		AVERAGE NUMBER OF IDENTIFIED SCHOOLS OFFERING SUPPLEMENTAL SERVICES IN LIEU OF CHOICE	
	2003-04	2004-05	2003-04	2004-05
TOTAL (all districts)	1	2	1	1
DISTRICT TYPE				
Urban	4	3	2	2
Suburban	1	2	1	2
Rural	1	1	1	1
DISTRICT SIZE				
Very Large	6	3	1	3
Large	0	1	0	1
Medium	4	2	4	2
Small	1	1	1	1

Table reads: In 2003-04, among schools that were required to offer public school choice, an average of four schools in urban districts were unable to offer choice. Of those schools, an average of two offered supplemental services in lieu of choice.

Source: Center on Education Policy, June 2004 Summer District Survey, Items 13 and 14; December 2004, Fall District Survey, Items 18 and 19 (Summer Table 8)



Other district officials have suggested possible future modifications. Some educators participating in our surveys or case studies have recommended that supplemental services should be offered as the consequence for two years of missing AYP and choice should be the harsher consequence for three years of missing AYP. In Chicago, district officials said that supplemental services offered under NCLB are one of the most important ways the law could help students. In fact, Xavier Botana, director of the district's NCLB Accountability Office, reported, "We believe supplemental services should come before school choice."

When asked in our survey for recommendations to improve NCLB, a handful of states suggested that supplemental services should come before school choice in the schedule of NCLB sanctions. For example, officials from two states made the following comments:

Allowing the provision for supplemental services to take precedence over public school choice would give [our state] greater flexibility. If a student were successfully served through supplemental services, then there would be no need to offer a transfer option to students.

Require districts to implement supplemental services before they are required to provide choice. Supplemental services are generally more educational and less disruptive to students in [our state].

One of the states we surveyed mentioned the possibility of limiting choice to students whose subgroup actually failed, a change also recommended by a paper presented at our July forum. Joel Packer of the National Education Association suggested that school choice be targeted only to members of the particular subgroups failing to meet AYP goals, so that choice does not result in overcrowding, increased class size, and possible resegregation problems. Packer wrote, "Targeting these options to specific subgroups will help avoid these problems, while also ensuring that those students with the greatest needs get the assistance."

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CHAPTER 5

Supplemental Education Services

Key Findings

- The estimated percentage of districts with schools required to offer supplemental education services—extra tutoring for students—has changed little over the last three years, according to the Center’s survey of school districts. In 2004–05, about 10% of Title I districts had schools required to offer supplemental education services under the No Child Left Behind Act. The average percentage of students eligible for these services has also remained fairly steady in recent years, totaling about 1% of students in 2004–05.
- In the districts surveyed, the percentage of eligible students who actually received supplemental education services has been relatively small, just 18% in 2004–05. While the percentage of eligible students taking advantage of supplemental services is low, it is still higher than the 1% of eligible students using the public school choice option in 2004–05.
- States responding to our survey reported that approximately half of their approved providers of supplemental education services were private for-profit entities. The next largest category of providers was nonprofit organizations not affiliated with a religious group, which comprised 18% of providers. School districts were the third most common provider, at 14%.
- The percentage of school districts serving as direct supplemental service providers decreased slightly from 2003–04 to 2004–05, according to our survey. In 2003–04, 37% of districts that were required to offer supplemental services were themselves state-approved providers of these services. In 2004–05, this proportion declined to 26%. This may be because some districts were identified as in need of improvement in 2004–05 and are therefore barred from providing supplemental education services.
- States reported that their top challenge in implementing supplemental education services was determining whether the services of potential providers have been effective in raising student achievement; 36 states cited this as a moderate or serious challenge. Districts reported that their most common challenge in carrying out supplemental services was knowing before the start of the school year which schools were identified for improvement and may therefore have to offer supplemental services; 49% of districts rated this as a moderate or serious challenge.



Introduction

Under the No Child Left Behind Act, Title I schools that have failed to meet adequate yearly progress goals for three or more consecutive years are required to offer students supplemental education services. These services typically take the form of before- or after-school individual tutoring or small group instruction. Parents choose which providers will serve their children from a state-approved list of qualified providers.

Outside providers vary considerably. They may include private individuals and for-profit or nonprofit entities, such as businesses, national tutoring companies, religious or sectarian institutions, or community organizations. Districts are also frequently allowed to provide these tutoring services, as long as they are not on their state's list of districts in need of improvement. To fund these services, NCLB requires districts with schools in need of improvement to set aside an amount equal to at least 20% of the district's Title I allocation for choice-related transportation and supplemental education services.

This chapter reviews data and information on supplemental education services from our Center's surveys and case studies, as well as from other national studies. It looks at trends in the percentage of students eligible for services, the percentage actually receiving services, the number of providers students have to choose from, and the capacity of these providers. The chapter also reports on state and district challenges to implementing supplemental education services, based on our survey responses and information from other studies. As discussed below, the top-rated challenges include determining whether the services of potential providers are effective in raising student achievement, ensuring that the locations and capacity of service providers are adequate to fill local needs, identifying schools for improvement before the start of the school year, and competing with existing after-school programs.

Trends in Supplemental Education Services

School Eligibility

The estimated percentage of districts with any schools required to offer supplemental education services has changed little over three years, according to the Center's survey of school districts. In 2002-03, an estimated 13% of Title I districts had schools identified for improvement that were required to offer supplemental education services, according to our survey. In 2003-04 and 2004-05, this percentage declined very slightly to 10%, as shown in **Table 5-A**.

Percentages of districts with schools required to offer supplemental education services varied significantly by district size and type. For example, in 2004-05 a substantially greater share of urban districts (40%) had schools offering supplemental services than of suburban (11%) or rural districts (7%). Also, a greater proportion of very large districts (76%) had schools offering supplemental services than of medium (20%) or small districts (5%). Similarly, a higher proportion of large districts (20%) had schools offering supplemental services than of small districts (5%). These differences are shown in **Table 5-A**.



Student Eligibility

Our district survey shows that in Title I districts the average percentage of students eligible to receive supplemental education services has remained fairly steady over the past few years. In 2002-03, about 3.2% of students in Title I districts were eligible to receive supplemental services. In 2003-04, this percentage was 1.7%, while in 2004-05 it was 1.0%.

Not all students who are eligible for supplemental education services actually take advantage of them. In 2002-03, districts with schools identified for improvement reported that out of all students eligible for supplemental services, an average of 46%, less than half, actually received them. In 2003-04, only 25% of students eligible for supplemental services actually received them, and in 2004-05 this figure was 18%. Although these percentages appear to be decreasing, these year-to-year differences are not statistically significant due to small sample sizes.

Other national studies have found even lower percentages of eligible students receiving tutoring. The Civil Rights Project at Harvard University studied 10 urban districts and concluded that in 2002-03, few eligible students actually received services (Sunderman & Kim, 2004). The percentages of eligible students in these districts receiving services ranged from 0 to 18%. The Association of Community Organizations for Reform Now (2004), in a joint study with the American Institute for Social Justice, found that 23% of eligible students received supplemental education services in 2003-04. This study included 91 districts, 59 of which had to provide supplemental services.

Even though the percentage of eligible students using supplemental education services is small, the Civil Rights Project study pointed out that it is still higher than the percentage of eligible students exercising school choice under NCLB. Our own findings show a similar pattern. The 18% of eligible students who are receiving supplemental services in 2004-05 according to our survey is nevertheless higher than the 1% of eligible students who changed schools this same year as a result of NCLB choice. More information about students' use of choice can be found in chapter 4.

Variety among Service Providers

Overall Number of Providers

The Center's survey reveals that the average number of state-approved providers of supplemental education services more than doubled between 2002-03 and 2003-04, rising from 4 to 11 providers. Increases occurred among all types and sizes of districts except rural and small districts. Very large districts saw the largest increase in providers, from an average of 7 providers to 31. Small districts remained stable, with an average of 4 providers for both years, as shown in **Table 5-B**. Rural districts reported a slight decrease, from 2 providers to just 1.

A recent study by the Council of the Great City Schools showed similar numbers of providers for city schools that were required to provide supplemental education services (Casserly, 2004). Of the 34 districts required to offer services in the survey, 8 districts had 31 or more providers available to their students, 11 had 20 to 30 providers, 11 had 11 to 19 providers, and only 4 had 10 or fewer providers. The average number of providers available to these schools was 23.

Table 5-A Percentage of Districts with Schools Required to Offer Supplemental Education Services in 2002-03, 2003-04, and 2004-05 by District Type and District Size

	PERCENTAGE OF TITLE I DISTRICTS WITH SCHOOLS IN WHICH STUDENTS ARE ELIGIBLE TO RECEIVE SUPPLEMENTAL EDUCATION SERVICES		
	2002-03	2003-04	2004-05
TOTAL (all districts)	13%	10%	10%
DISTRICT TYPE			
Urban	23%	30%	40%
Suburban	14%	13%	11%
Rural	12%	5%	7%
DISTRICT SIZE			
Very Large	21%	48%	76%
Large	31%	43%	39%
Medium	6%	4%	20%
Small	13%	7%	5%

Table reads: In 2002-03, an estimated 23% of urban districts participating in Title I had schools in which students were eligible to receive supplemental education services. In 2003-04, an estimated 30% of Title I urban districts had schools in which students were eligible to receive these services—a proportion that rose to 40% of urban districts in 2004-05.

Source: Center on Education Policy, December 2003, District Survey, Items 35, 41; December 2004, Fall District Survey, Item 24 (Table 19)

Table 5-B Average Number of Supplemental Education Service Providers Available to Students in 2002-03 and 2003-04, by District Type and District Size

	AVERAGE NUMBER OF PROVIDERS AVAILABLE TO STUDENTS	
	2002-03	2003-04
TOTAL (all districts)	4	11
DISTRICT TYPE		
Urban	6	12
Suburban	5	13
Rural	2	1
DISTRICT SIZE		
Very Large	7	31
Large	4	14
Medium	4	3
Small	4	4

Table reads: In 2002-03, among Title I districts required to offer supplemental education services, 4 providers on average were available to students. In 2003-04, 11 providers on average were available to students in these districts.

Source: Center on Education Policy, December 2003, District Survey, Item 44; June 2004, Summer District Survey, Item 26 (Table 12)



Variety of Providers

States have approved a wide variety of entities to provide supplemental education services, according to our survey. Almost half, or 49%, of providers approved as of August 2004, were for-profit entities. Nonprofit entities not affiliated with a religious group made up the next largest category, with 18%, and school districts came in third with 14%. The complete array of providers is shown in **Figure 5-A**.

The Supplemental Educational Services Quality (SESQ) Center has found a similar dominance of for-profit entities in the pool of approved providers. Established through a grant from the American Institutes for Research and the U.S. Department of Education, SESQ helps families take advantage of the new opportunities afforded by supplemental education services. As of December 15, 2004, the SESQ Center's website showed that the five most frequently approved providers were all for-profit companies (SESQ, 2004). These providers are approved in more than two-thirds of all states, SESQ reported.

Fewer Districts as Service Providers

Not only are school districts outnumbered by for-profit and nonprofit entities in the universe of approved providers, but the percentage of districts approved to provide supplemental education services has decreased slightly. In 2003-04, our survey found that 37% of districts that were required to offer supplemental services were themselves state-approved providers of these services, while in 2004-05, only 26% were approved providers. This pattern occurred across all types and sizes of districts, as illustrated in **Table 5-C**. Suburban districts were the one exception; the share of approved providers among suburban districts with schools required to offer supplemental services grew by 3 percentage points.

A study by the Council of the Great City Schools found that a similar percentage of districts are state approved providers (Cassery, 2004). Of the 50 districts surveyed in 2003-04 required to provide supplemental education services in 2003-04, the researchers found that 38% were state approved providers. Data for 2004-05 was not collected in this study.

One reason for the slight drop in the percentage of districts approved to provide supplemental education services may pertain to the improvement status of districts. In most states, school year 2004-05 was the first year that many districts have been identified for improvement under NCLB and therefore are barred from providing services. In response to an open-ended question on our state survey about challenges to implementing supplemental education services, three states wrote that the NCLB policy of not allowing districts to provide these services was a problem. One state summarized its dilemma as follows:

[Our state] remains concerned with the fact that districts identified for improvement cannot become (or remain) providers. [Our state] recognizes the rationale for this requirement centers on quality of services. If, however, there are no other available providers in an isolated rural area AND the district can demonstrate implementation of a quality program, [our state] would prefer to allow those districts to continue delivering supplemental education services.

Our case studies also uncovered several districts that had been providing supplemental education services but were told they could no longer do so once they had been identified for improvement. These included the Boston Public Schools, the Kansas City, Kansas, Public Schools, the Chicago Public Schools, the Clark County Schools in Nevada, and the Berkeley County School District in South Carolina. Boston has been allowed to continue its tutoring services this year because it had been notified late about its improvement status, while the other districts have not.

Figure 5-A Range of Supplemental Service Providers Approved by States, August 2004

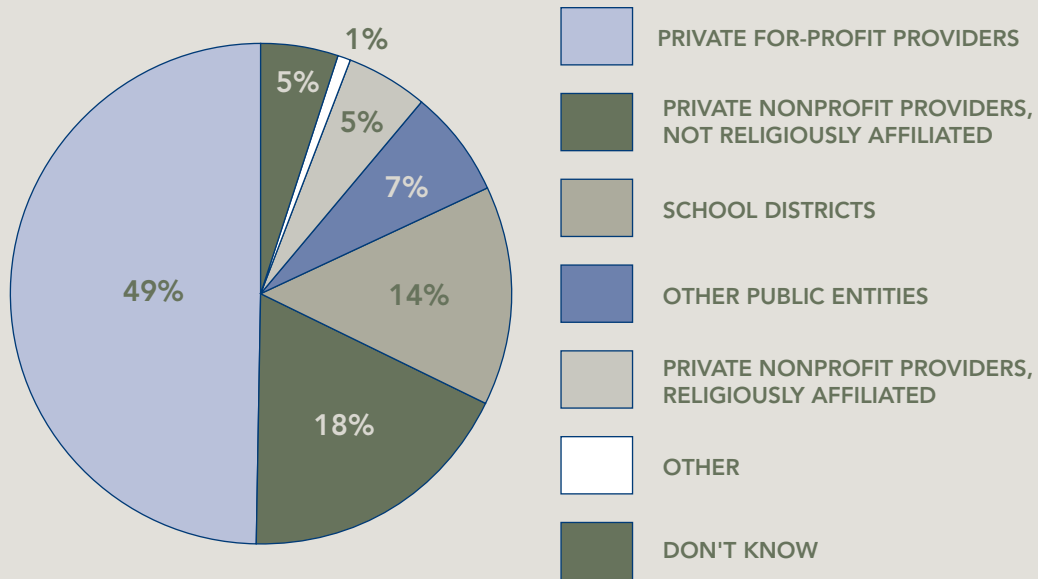


Figure reads: As of August 2004, states reported that 49% of their approved providers of supplemental education services were private for-profit entities.

Percentages do not add up to 100% due to rounding.

Source: Center on Education Policy, December 2004, State Survey, Item 13

Table 5-C Percentage of Approved Supplemental Education Service Providers among Districts with Schools Required to Offer These Services By District Type and District Size, 2003-04 and 2004-05

	2003-04	2004-05
TOTAL (all districts)	37%	26%
DISTRICT TYPE		
Urban	43%	11%
Suburban	25%	28%
Rural	67%	33%
DISTRICT SIZE		
Very Large	26%	18%
Large	36%	35%
Medium	27%	19%
Small	46%	28%

Table reads: In 2003-04, 43% of urban districts that were required to offer supplemental education services reported that the district was a state-approved supplemental education service provider. In 2004-05, 11% of these urban districts reported that they were approved providers.

Source: Center on Education Policy, June 2004, Summer District Survey, Item 33 (Table 16); December 2004, Fall District Survey, Item 32 (Table 24)



Capacity to Provide Supplemental Services

Overall Capacity

Despite the variety of providers and the increased choices available to parents, the funding capacity of districts was low compared to the number of eligible students, according to the districts we surveyed. Districts were asked how many students they had the capacity to serve based on their Title I set-asides for choice-related transportation and supplemental education services. On average, districts reported they had the funding capacity to serve only 22% of eligible students. As depicted in **Table 5-D**, capacity varied somewhat across district size and type, with suburban and large districts able to serve the largest percentage of students.

It is important to note, however, that far more students are eligible for supplemental services than actually request them and follow through with attending tutoring sessions. As pointed out in earlier in this chapter, our survey and two other national studies have found that in the past two years only about 20% of eligible students requested and received supplemental education services.

In addition to reporting low funding capacity, many state and district officials reported difficulties in finding enough providers for small, isolated districts, as explained in more detail below. The challenges faced by small and rural districts are confirmed by the National Rural Education Association. This group's 2004 position paper on NCLB raises concerns about how these isolated districts will attract supplemental education service providers.

In general, however, parents only used about 45% of the approved providers in 2003–04, according to our survey. In some cases, the providers may not have been chosen by parents, but in other cases, a provider may have decided not to follow through with services in a given district or school when the number of enrolled students was low.

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Capacity to Serve All Grades and All Student Needs

While overall low funding capacity may be a limited concern, capacity to serve all grade levels and all student needs appeared more pressing, according to our survey. Indeed, only 42% of districts required to offer supplemental education services reported that most or all of their outside providers were able to serve the needs of students with disabilities in 2003–04. Similarly, only 32% of these districts reported that most or all of their outside providers were able to serve the needs of English language learners. Fewer than half the districts reported that most or all of their providers could serve the needs of students at the primary, middle school, or high school levels. The exception was elementary students in grades 3–5; more than half (56%) of districts required to offer supplemental services reported that most or all of their providers were able to serve these students. In terms of grade spans, older students especially appeared to be underserved. Only 18% of districts reported that providers could meet the needs of most or all of their high school students. **Table 5-E** shows district responses about the ability of their providers to serve various types of students.

Table 5-D District Capacity to Provide Supplemental Education Services in 2004-05, by District Type and District Size

	AVERAGE NUMBER OF STUDENTS ELIGIBLE TO RECEIVE SUPPLEMENTAL EDUCATION SERVICES	AVERAGE NUMBER OF ELIGIBLE STUDENTS DISTRICTS HAS CAPACITY TO SERVE	AVERAGE PERCENTAGE OF ELIGIBLE STUDENTS DISTRICTS HAS CAPACITY TO SERVE
TOTAL (all districts)	1,105	248	22%
DISTRICT TYPE			
Urban	3,850	708	18%
Suburban	272	137	50%
Rural	289	90	31%
DISTRICT SIZE			
Very Large	14,486	2,570	18%
Large	731	271	37%
Medium	590	179	30%
Small	274	43	16%

Table reads: In 2004-05, among districts required to offer supplemental education services, an estimated 1,105 students, on average, were eligible for these services. That same year, districts reported having the capacity to provide supplemental education services to an average of 248 students, or about 22% of eligible students.

Source: Center on Education Policy, December 2004, Fall District Survey, Items 26, 28 (Table 20a)

Table 5-E Percentage of Districts Reporting on the Extent to Which Their Supplemental Education Service Providers Were Able to Meet the Needs of Various Types of Students, 2003-04

	MOST OR ALL PROVIDERS CAN MEET NEEDS	A FEW OR SOME PROVIDERS CAN MEET NEEDS	NO PROVIDERS CAN MEET NEEDS	DON'T KNOW
Primary Students (Grades K-2)	47%	17%	21%	16%
Elementary Students (Grades 3-5)	56%	9%	19%	16%
Middle School Students (Grades 6-8)	46%	13%	17%	24%
High School Students (Grades 9-12)	18%	17%	46%	19%
Students with Disabilities	42%	29%	10%	19%
English Language Learners	32%	30%	16%	23%

Table reads: Among districts with schools that were required to offer supplemental education services 2003-04, 21% reported that none of their supplemental education service providers were able to meet the needs of students in the primary grades (K-2).

Source: Center on Education Policy, June 2004, Summer District Survey, Item 31 (Table 14)

Table 5-F Percentage of Districts That Provide Supplemental Education Services to Students Whose Needs Other State-Approved Providers Are Unable to Meet, by District Type and District Size

	PERCENTAGE OF DISTRICTS THAT SERVE STUDENTS WHOSE NEEDS STATE APPROVED PROVIDERS ARE UNABLE TO MEET		
	YES	NO	DON'T KNOW
TOTAL (all districts)	45%	47%	8%
DISTRICT TYPE			
Urban	59%	40%	1%
Suburban	29%	57%	14%
Rural	67%	33%	0%
DISTRICT SIZE			
Very Large	32%	13%	54%
Large	47%	53%	0%
Medium	40%	60%	0%
Small	50%	50%	0%

Table reads: Of the urban districts required to offer supplemental education services, 59% reported that they provide these services to those students whose needs state-approved providers are unable to meet.

Source: Center on Education Policy, June 2004, Summer District Survey, Item 32 (Table 15)

Box 5-A Chicago Steps in to Serve Students with Disabilities

While the percentage of students with disabilities who reach proficiency on state tests in the Chicago Public Schools has not been a major concern, the performance of students with disabilities lags behind that of non-disabled students, said Patricia McKenzie-Jackson, assistant to the deputy of school support. Therefore, additional supports for these students have been sought by schools and the district. In particular, the district has attempted to increase services for students with disabilities through supplemental education services.

In 2003-04 when outside vendors felt they were not able to provide supplemental education services to students with special needs, the Chicago school district stepped in as the "fail safe vendor," McKenzie-Jackson reported. For the beginning of the 2004-05 school year, the district's office of special education provided enough after-school tutoring specially designed for students with disabilities to accommodate the entire district. Sometimes the tutoring complemented the tutoring received by general education students, and sometimes it focused exclusively on the very particular needs of the student with a disability, McKenzie-Jackson said. But these services for students with disabilities are in jeopardy, because final state test results indicate that the Chicago district failed to make AYP and can no longer provide supplemental education services. As of December 2004, the district was searching for other funding to continue the services.

While supplemental education services have been helpful to students, McKenzie-Jackson noted that "it does become a major impediment when you have to keep students after school." Some students with disabilities cannot ride public transportation home after a tutoring session as general education students would be able to do. In 2003-04, Chicago provided transportation stipends for parents of students with disabilities in after-school tutoring, but McKenzie-Jackson said the district would like to find a better solution.



Perhaps as a result of providers not meeting the needs of students with disabilities or English language learners, districts reported they are stepping in themselves to serve these students. Of the districts required to offer supplemental education services, 45% said they were providing tutoring to students whose needs other providers were unable to meet. Responses varied somewhat by district type. A greater share of urban (59%) and rural (67%) districts reported that they were serving these students than of suburban districts (29%), as revealed in **Table 5-F**. **Box 5-A** describes how the Chicago Public Schools stepped in to serve students with disabilities.

Challenges to Implementation

Both our state and district surveys asked respondents to report the extent to which various issues related to supplemental education services posed an implementation challenge. States and districts were given somewhat different lists of potential challenges, because they are responsible for implementing different aspects of the law. We asked states about challenges to developing and maintaining a list of supplemental education service providers, while we asked districts about challenges to successful implementation of supplemental education services.

While each item on the state list was cited as a challenge by at least one state, three items stood out. “Determining whether provider applicants’ services were effective in raising student achievement” was rated as a moderate or serious challenge by 36 states (75%). Similarly, “determining whether provider applicants’ instructional strategies were of high quality” was rated as a moderate or serious challenge by 35 states (73%). On a slightly different topic, “ensuring that the locations and capacity of service providers are adequate to fill local needs” came in third as challenge, with 32 states (67%) rating it as a moderate or serious challenge. **Table 5-G** displays states ratings of these and other state challenges.

The top district challenge was directly related to district responsibilities and concerns and did not appear on the state list of challenges. “Identifying schools for improvement prior to the state of the school year” was the challenge most frequently reported, with about half or 49% of districts saying this posed a moderate or serious challenge. Other moderate or serious challenges cited by districts were competition from existing after-school providers (45% of districts) and providers having an established reputation with parents (40% of districts). In addition, some challenges ranked as moderate or serious by districts were similar to those cited by states, such as monitoring providers’ effectiveness (31% of districts) and convenient location of providers’ facility (30% of districts). **Table 5-H** shows districts’ views of these and other challenges.

Table 5-G Number of States Reporting the Extent to Which Various Issues Were Challenges to Implementing Supplemental Education Services, 2004

	NOT A CHALLENGE OR MINIMAL CHALLENGE	MODERATE CHALLENGE OR SERIOUS CHALLENGE	DON'T KNOW
Determining whether provider applicants' services were effective in raising student achievement	9	36	3
Determining whether provider applicants' instructional strategies were of high quality	12	35	1
Ensuring that the locations and capacity of service providers are adequate to fill local needs	13	32	3
Determining whether provider applicants' services were consistent with the instructional program of the LEA and with state academic content standards	16	31	1
Determining whether provider applicants' instructional methods are research-based	17	30	1
Determining whether the provider is financially sound	20	27	1
Providing guidance for provider applicants about pricing or location of services	17	26	5
Developing provider selection criteria	35	14	0
Encouraging providers to apply	33	14	0

Table reads: In 2004, 36 states reported that determining whether provider applicants' services were effective in raising student achievement was a moderate or serious challenge.

Note: Responses are ranked according to the number of states reporting that the issue presented a moderate or serious challenge to its implementation of NCLB.

Source: Center on Education Policy, December 2004, State Survey, Item 12

Table 5-H Challenges to Districts' Successful Implementation of Supplemental Education Services in 2002-03 and 2003-04

CHALLENGE TO DISTRICT	PERCENTAGE OF DISTRICTS REPORTING THE EXTENT TO WHICH VARIOUS FACTORS POSED A CHALLENGE TO IMPLEMENTATION OF SUPPLEMENTAL EDUCATION SERVICES					
	MODERATE OR SERIOUS CHALLENGE		SMALL CHALLENGE OR NOT A CHALLENGE		DON'T KNOW	
	02-03	03-04	02-03	03-04	02-03	03-04
Identifying schools for improvement prior to the start of the school year	—	49%	—	51%	—	0
Competition from existing after-school programs	27%	45%	61 %	54%	13%	1%
Providers having an established reputation with parents	29%	40%	44%	49%	27 %	11%
Monitoring provider effectiveness	17%	31%	60%	67%	24%	25%
Provider services meeting the instructional needs of students	16%	31%	60%	54%	24%	15%
Convenient location of providers' facilities	33%	30%	47%	69%	20%	1%
Providing transportation to eligible students to and from provider facilities or providing transportation for students to return home from after-school tutoring services	—	30%	—	70%	—	0
Adequate number of providers in the area	32%	28%	45%	71%	23%	1%
Adequate time for parents to learn about supplemental services	15%	22%	73%	78%	12%	0
Parent concerns about the length of the school day for children who receive provider services before or after school	—	22%	—	76%	—	24%
Providing information to parents about the types of supplemental services offered	22%	20%	66%	79%	12%	0
Adequate funding to fulfill all requests for supplemental services for eligible students	—	20%	—	80%	—	0
Provider services offered at convenient times for families	—	19%	—	71%	—	9%
Informing parents of the availability of supplemental educational services	17%	11%	72%	88%	11%	0

Table reads: In 2002-03, an estimated 17% of districts required to offer supplemental education services reported that informing parents of the availability of these services posed either a moderate or serious challenge to implementation, while 72% of these districts reported that this posed a small challenge or no challenge at all.

Note: Responses are ranked according to the number of districts reporting that the issue presented a moderate or serious challenge to its implementation of NCLB in 2003-04.

Source: Center on Education Policy, December 2003, District Survey, Item 45; June 2004, Summer District Survey, Item 34 (Table 17)



Evaluating and Monitoring

The logistics of evaluating and monitoring supplemental education service providers has proved difficult for states and districts. As one state official wrote, “[Our state] has a very small staff. It was difficult to meet the increased requirements of states without additional staff.” Indeed, only 13 states, or 27% of the 49 states responding to our survey, said there was sufficient NCLB funding to implement a system to monitor the quality and effectiveness of supplemental education service providers. Another state official made the following comment:

States are only allowed to take 1% off the top of their Title I allocations to administer Title I. This includes meeting their responsibilities to provide technical assistance to struggling schools and districts and implementing, monitoring, and evaluating its supplemental education service system.

Perhaps as a result of these difficulties, not all states have a system in place to monitor the quality and effectiveness of providers. Of the 48 states responding to our survey question about whether they monitored providers, 30 states or 63% said they had monitoring systems in place, while 17 states or 35% said they did not. One state did not know.

The Education Commission of the States (ECS) reported that slightly more states had developed standards for monitoring providers. From March 2003 to March 2004, the percentage of states on track to meet NCLB requirements for monitoring grew from 55% to 71% (Education Commission of the States, 2004). One reason these percentages may be higher than ours is that ECS asked only about having standards in place for monitoring, rather than having a monitoring system in place. Also, our survey guaranteed that states would not be identified by name, so they may have given us a more honest answer.

More meager efforts at state monitoring were reported by the Association of Community Organizations for Reform Now and the American Institute for Social Justice (2004). Of the 24 states surveyed that had offered supplemental education services for at least two years, only 6 states or 25% finished evaluating data on providers’ performance in 2003–04 in time to use the results to inform decision making in the 2004–05 school year.

In responding to our survey, several states commented on the reasons they were running into difficulties with monitoring. Three detailed responses follow:

We have collected information regarding the number of hours that providers provided services, number of students served, and associated costs. We are in the process of developing a monitoring system. However, we have struggled with an effective tool to measure student achievement. Each provider has a very different testing system, so they cannot be compared to one another. We would like to pull the state assessment for each child receiving services; however, the timing may be too late for monitoring. We are contracting with an outside evaluator to assist us in this process.

By January 2005, we will develop parameters and procedures for ongoing monitoring of SES [supplemental education services] providers. Major topics include: a) what will be the criteria for SES providers to demonstrate improved performance on state assessments for students they are serving; b) what other assessment data should the state consider allowing SES providers to present as evidence of student academic progress; c) under what circumstances will an SES provider’s approved status be withdrawn solely for failure to demonstrate improved student academic performance; d) while it is assumed that the commissioner will make the final decision on whether an SES provider’s approved status is withdrawn, who will be involved in preparing



and conferring on the action and how will the department inform SES providers and parents of students eligible to receive SES of a decision to withdraw a provider's approved status.

We are working on a monitoring process and have a draft monitoring form in the works. Challenges include: 1) implementing a new system and 2) it is difficult to measure research-based instructional strategies, alignment to standards, effectiveness of raising student achievement, and other requirements.

Some districts have tried to gather information on their own about which providers are serving their students best. Our case study of Escondido Union Elementary School District in California, for example, found that the district has its outside supplemental service providers administer pre- and post-tests to students. Parents also release school assessment data to the providers so they know what kind of assistance the students need. "Our kids need help, so we want to work with the providers in making sure that they get what they need," said Pat Peterson, the district's Title I coordinator. Currently, monitoring has not been too taxing for the district, as only two schools must offer supplemental education services.

Our district survey and other case studies, however, showed that many districts are having difficulty monitoring providers. For example, 17% of districts rated "monitoring provider effectiveness" as a moderate or serious challenge in 2002-03, and 31% gave it this rating in 2004-05.

Some monitoring efforts have left districts dissatisfied with some providers. In our case study of the Boston Public Schools, for example, district officials noted that many providers were not using certified teachers as tutors and were not aligning instruction with curriculum standards. **Box 5-B** describes what the Oakland Unified School District in California found when it reviewed the services of outside providers.

Location and Capacity

Of the states responding to our survey, 32 states or 67% reported that "ensuring that the locations and capacity of service providers were adequate to fill local needs" was a moderate or serious challenge. In written elaborations on this question, several officials made it clear that serving small and rural districts had not been popular with providers, as the following typical comment illustrates:

The major challenge for us is one of economies of scale. Our sites are remote in the extreme, and have very few students, which makes it very difficult for a provider to offer services for the per pupil amounts that are available. Finding providers who can afford to provide services is difficult. We have yet to determine if supplemental service providers are effective in such remote areas, where they may by necessity be computer-based.

Many districts were also concerned about the location of supplemental education service providers. Of potential district challenges, 30% said that providing transportation for students to and from provider facilities or back home after tutoring presented a moderate or serious challenge. **Box 5-C** discusses the difficulties faced by the Harrison Community Schools in Michigan, one of our case study districts, as it sought to implement supplemental education services in a rural area.

Box 5-B Oakland Finds Fault with Some Providers

School year 2003-04 was the second year supplemental education services were offered in the Oakland Unified School District in California. Of the 54 state-approved providers, 25 expressed interest in serving Oakland, and 9 followed through with services. For 2004-05, the number of providers increased to 13.

In 2003-04, supplemental education services were not in place in schools until January. "It wasn't through anybody's fault. It was just the process of implementing a new program," noted Dorothy Norwood, director of Oakland's Department of Accountability. Of the 8,814 students eligible for services, 2,864 (or 32.5%) participated.

While it is perhaps too early to evaluate the effect of these services on students, Oakland district staff did observe each tutoring program once during the year and gathered anecdotal information about the services. Results were mixed, Norwood reported. "There was a wide, wide range of quality," she said. While some programs worked well, in others, she said, "We saw classes with 25 students. How is that offering quality tutoring?" In addition, she said some programs had trouble with basic classroom management and others did not have bilingual staff to communicate with parents.

Of supplemental education services, Norwood concluded, "As a concept, I agree with it." She emphasized that more accountability is needed for service providers. "I just feel that more guidelines should be given to providers about their responsibilities to the children," she explained. Next year, she would also like to see multiple observations of programs, stronger connections between the program and the students' classrooms, and both mid-year and annual reports, so that problems can be addressed sooner.

Box 5-C Harrison Has Trouble Finding Providers

Although two schools in the Harrison school district in Michigan are required to offer supplemental education services, Michele Sandro, director of state and federal programs, explained that few supplemental education service providers have shown any interest in working in the rural district. In 2003-04, the Regional Education Service District for the local area did offer onsite tutoring services at Harrison schools. Kumon Math, a private vendor, had a program about 35 miles from the schools, and Sylvan, another private tutoring company, ran a program about 70 miles from the schools. Various providers offered online services, but few of the district's students have daily access to the internet.

In 2003-04, only 13 students used supplemental education services consistently. The services offered by the Regional Education Service District have proved more popular in 2004-05. More than 40 students are receiving tutoring this fall, Sandro reported, and additional students are slated to begin in January when sports and other after-school activities have ended.



Educational technology offers one potential solution to serving students in hard-to-reach areas. A recent report from the U.S. Department of Education (Fleischman, 2004) outlines the possible benefits of technology-based supplemental education services. While technology and internet tutoring might seem to be a logical solution for remote schools, several state officials in our survey explained that this solution had not yet been adequate for their students. One state commented, “Many of the technology-based providers require use of computer labs or access to school staff.” Another noted, “Distance learning providers frequently require the use of computers and internet access in student homes. Students receiving SES do not always have this access.” In our case studies, Berkeley County School District in South Carolina faced the prospect of supervising school computer use for an outside provider. In 2003–04, however, no students signed up for the service.

While rural isolated districts appear to bear the brunt of the problems of internet tutoring, some larger urban districts have been affected as well. In many of these districts, some students do not have daily internet access at home. **Box 5-D** describes the general challenges of arranging for supplemental services and the specific problems that arose with an internet tutoring program in the Grant Joint Union High School District in California, one of our urban case study districts.

Urban districts have also been affected by provider capacity issues, especially because providers often need a certain minimum number of students in order to make tutoring profitable. Some state officials mentioned that providers often require a certain number of students to sign up before they will provide services or even hire tutors. Our case studies also reflect this. In the Cleveland Municipal School District in Ohio, some providers offered services to parents, but then withdrew the offer when too few students signed up. In 2003–04, Theresa Yeldell, executive director of family and community engagement for Cleveland reported that parents signed up for just one vendor, and if that vendor withdrew, the parents were often angry and did not get their child into tutoring. In 2004–05 to help alleviate this problem, the district asked parents to list a first and second choice of vendor so that most children still participated.

Communicating with Parents

Districts are responsible for communicating with parents about supplemental education services. Potential challenges to this communication were listed on the district survey, but not on the state survey. In 2003–04, “informing parents of the availability of supplemental educational services” was cited as a small challenge or no challenge at all by the vast majority of districts, 88%. Three additional items relating to parent communication were viewed by districts as a small challenge or no challenge in 2003–04. These included “parent concerns about the length of the school day for children who receive services” (rated as a small challenge or no challenge by 76% of districts); “providing information to parents about the types of supplemental services offered” (79% of districts); and “adequate time for parents to learn about supplemental services” (78% of districts).

Our case studies nevertheless revealed that some districts still faced significant challenges communicating with parents, sometimes to the point that it hindered students’ participation in supplemental services. **Box 5-E** discusses the time crunch faced by the Flint Community Schools in Michigan as the district sought to inform parents and arrange for services.

Box 5-D Problems with Computer-based Providers in Grant

In the Grant Joint Union High School District in California, Rick Carder, director of state and federal programs, found that making the arrangements for supplemental education services took considerable effort and time from his staff in both 2003-04 and 2004-05. His list of the procedures he follows for supplemental education services includes the following items:

- Notify parents about which services are available from various providers
- Translate parent information into at least three languages and communicate orally with parents who need help in other languages
- Meet with the providers on the state list that are offering services in the Grant district
- Set up meetings where parents can review the offerings from the providers
- Establish written contracts between parents and providers that describe the services for students
- Determine the funding amounts and how providers will be paid
- Resolve misunderstandings and problems that arise between parents and providers
- Find space where the providers can work with students
- Monitor the services that students receive
- Help with student attendance at the service centers

In the summer of 2004, to prepare for supplemental education services for the 2004-05 school year, Carder prepared letters of intent for the district to send to the 50 providers on the state list that had shown interest in serving students in the Grant district. "I met individually with the 15 that responded," said Carder. "I told them about our provider fair for parents, and I explained their role and how they could communicate with parents." Carder said he made sure the providers knew how parents would select their provider, what was included in the provider contract, and the dollar amount available per student. "I also wanted them to know how the services would be monitored throughout the year," he said.

Providers that were willing to work in the Grant district were requesting \$26 to \$50 per hour for services, but one provider was asking \$475 an hour. This provider, according to Carder, spent a total of three hours with parents and got 20 of them to sign up for a free computer. All the instruction for the student was online and was available 24 hours a day, seven days a week, according to the provider. That sounded good to the parents, said Carder, but the families did not have internet service or the money to pay for it. Some parents did not even have a telephone, and they didn't realize they needed one for the internet. "The provider told me that after the parents sign up and get their computer, they are on their own," Carder said. "They don't do follow-up support, and for this he is billing us \$425. One of my frustrations has been all the parents who are calling to ask if they can have a free computer. They have heard about the program, but they aren't interested in getting help for their student—they just want the computer."

Box 5-E Delays in Supplemental Education Services in Flint

In 2003-04, the Flint Community Schools in Michigan surveyed parents and established that Catapult Learning (formerly Sylvan, a national tutoring company) and Reading and Language Arts Center, Inc., a local private tutoring program, were the most popular tutoring providers with parents. Because it took so long for the district to survey parents, get state approval of specific tutoring programs, and arrange contracts with the two programs, tutoring didn't start until March 2003, said David Solis, director of state, federal and local programs in Flint. Solis reported that 32% of eligible students in the 12 schools offering supplemental education services participated in the tutoring programs.

For 2004-05, Flint had received parents' decisions about tutoring by the end of August, Solis said. With tutoring requests in place, the district will start tutoring much earlier in the fall, Solis added. Increased numbers of students are expected, all district officials said.

Box 5-F Aggressive Providers in Clark County

In the 2003-04 school year, four schools in the Clark County district in Nevada were required to provide supplemental education services under NCLB. About 2,700 students were eligible for these services. Of those eligible, 226 students or 11% participated. During that year, both the district and Club Z, a private provider, offered tutoring. "The district program provided for pre- and post-testing, and students, on average, gained academically," said Susan Wright, Title I director. "However, the outside provider was not as successful," she added.

In 2004-05, because the Clark County district was identified for improvement, it was no longer allowed to provide supplemental education services. Other providers have stepped in to fill the void. The Clark County teachers union formed a foundation, which is providing tutoring. Other large private providers include Club Z, Sylvan, Education Station, and Newton Learning.

Wright called the providers' mad dash to sign up parents a problem. The district provided three fairs to introduce the providers to the parents, but some providers were not satisfied with the turnout. These providers started going door to door signing up students for tutoring whether or not the students were actually eligible, Wright said. At one point, the district had to ask police to escort uninvited providers from a school where they were soliciting parents, Wright reported. "It's become a nightmare for us because we've found that providers have signed the same students two or three times and, in some cases, parents signed with two or three providers," she said. This has created additional work for district staff, who must again match letters of intent to contracts. As of December 2004, only two groups had begun offering tutoring, and the rest were focusing on signing up students. At that point, she said, 1,700 students were registered, a number that seemed likely to grow. For some of these providers, Wright speculated, "This has become a very profitable business."

Even though the district can no longer offer supplemental education services, the majority of the providers are using Clark County teachers as tutors, Wright said. At the classroom level, the services may be very similar to what the district offered last year. She reported that the cost of outside providers is greater than the cost of last year's district services, due to the administrative overhead. "Why don't we just give the money to the schools and hold them more accountable for the progress of students?" she asked, saying that this might be a more efficient use of funding.



One item on our district survey related to communicating with parents appeared to pose more of a challenge to districts: “providers having an established reputation with parents.” In 2003–04, 40% of districts rated this challenge as moderate or serious, while 49% rated it as a small challenge or no challenge. Some of our case study interviewees noted the difficulty districts confronted in communicating with parents about unfamiliar service providers. For example, Colorado Springs District 11 in Colorado had difficulty convincing parents that supplemental education services would be helpful. This problem was particularly challenging with the district’s ELL parents, who were unfamiliar with tutoring services.

Other Challenges

In addition to the choices we had listed, our survey invited states to note other challenges to implementing supplemental education services in an open-ended question. One challenge listed by three states related to the difficulties caused when a district is in improvement status and therefore is not allowed to provide supplemental education services.

Another challenge written in by three states was working with providers whose main purpose was to make money rather than provide what the state regarded as high-quality services. Typical comments included the following:

Many individuals and organizations view the availability of SES funds as the opportunity for revenue and, often, they do not have the expertise and/or the capacity to provide supplemental educational services that meet NCLB and [state] expectations.

Greed on the part of the providers. I think this has deliberately been marketed to providers as a cash cow, and they are trying to make it just that. Not just anyone can tutor a child, but NCLB doesn’t seem to reflect that.

Some district officials in our case studies were also skeptical about the intentions of some providers. This was especially true in large urban areas where several providers competed for service. **Box 5-F** describes the stiff competition among providers in the Clark County Schools, Nevada, a district that includes Las Vegas.



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CHAPTER 6

Teacher and Paraprofessional Quality

Key Findings

Teachers

- Most current teachers are already “highly qualified” as defined by the No Child Left Behind Act, according to the states and school districts we surveyed. So by their own account, states and districts are on track to comply with the law’s requirement that all core academic classes will be taught by a highly qualified teacher by the end of school year 2005-06.
- School districts with large numbers or percentages of poor and minority students of color have the largest proportions of teachers who are not highly qualified in NCLB terms, despite efforts by states and districts to address inequities.
- States and districts are experiencing other difficulties in meeting NCLB teacher requirements, including ensuring that students with disabilities and students in rural schools are taught by highly qualified teachers. States also report they are having difficulties implementing data systems to track teacher qualifications.
- NCLB may be bringing greater focus to districts’ professional development efforts, for example, by encouraging the use of literacy “coaches” and school-support teams.

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Paraprofessionals

- Most paraprofessionals are already highly qualified as defined by NCLB, according to the states and school districts we surveyed.
- Districts are using a variety of strategies to help Title I paraprofessionals become highly qualified—from providing study courses aimed at helping paraprofessionals pass competency tests to paying for paraprofessionals to take college courses—but significant challenges remain.



Introduction

By the end of school year 2005–06, the No Child Left Behind Act requires all teachers of core academic subjects to be “highly qualified” according to the Act’s definition. By January 2006, nearly all Title I paraprofessionals (the formal term for teachers’ assistants) must be highly qualified according to the Act’s definition for paraprofessionals. This chapter summarizes the findings of the Center on Education Policy about the implementation of the NCLB teacher and paraprofessional requirements. Our findings are based on information from our state and district surveys, our case studies of districts and schools, and a forum the Center held on the NCLB highly qualified teacher requirements on November 15, 2004.

The first part of this chapter focuses on teacher issues. After a brief review of the NCLB teacher requirements, the chapter discusses our findings about teachers, grouped into three categories—number and distribution of highly qualified teachers, challenges to and concerns about ensuring a highly qualified teacher in every academic classroom, and state and district strategies for meeting this goal.

A second, shorter part of the chapter focuses on paraprofessional issues. After a brief review of the NCLB paraprofessional requirements, we present our findings in two main categories—the proportion of Title I paraprofessionals meeting NCLB qualifications and the challenges to and strategies for ensuring that paraprofessionals are highly qualified.

NCLB Teacher Requirements

The No Child Left Behind Act is more specific in defining what highly qualified means for new teachers than for veteran teachers. To be considered highly qualified under NCLB, new teachers, generally speaking, must be fully certified, have a bachelor’s degree, and demonstrate their knowledge and skills in the subjects they are teaching by either having taken sufficient academic coursework in their field or by passing a state test. Veteran teachers who lack the academic coursework required of new teachers can demonstrate competency in the academic subjects they teach through a third means, by meeting the conditions of their state’s “high objective uniform state standard of evaluation,” or HOUSSSE for short. As long as states fulfill the general criteria for HOUSSSE specified in the law (see **Box 6-A**), states have latitude to define how veteran teachers can demonstrate they are highly qualified. Partly as a result of some states’ lenient HOUSSSE options, most states and districts are reporting that teachers are already highly qualified.

Nonetheless, states and districts have encountered difficulties in applying the Act’s increased emphasis on academic content knowledge to current special education teachers and middle school teachers, who did not have to meet such strict content knowledge requirements before NCLB. Districts also face a continuing challenge in ensuring that low-income and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers. States and districts are addressing these and other challenges in a variety of ways, including stepping up recruiting efforts, reassigning staff, and providing extra funds for professional development for “high-need” schools.

NCLB also requires that all teachers receive high-quality professional development by the end of 2005–06. Although it is difficult to evaluate the effectiveness and extensiveness of districts’ professional development activities, many districts are reporting that



professional development has become more focused on supporting teachers' efforts to increase student achievement. For example, schools are making greater use of literacy coaches to help teachers improve reading and writing instruction. Despite the increased emphasis on school-based teacher training and the Act's requirement that all teachers be highly qualified, the impact of NCLB on the country's teaching force remains unknown.

Proportion and Distribution of Highly Qualified Teachers

Our surveys and case studies suggest that most teachers are already highly qualified in NCLB terms and that the percentage of teachers meeting the Act's qualifications is rising. Few differences in the proportion of highly qualified teachers exist among urban, suburban, and rural districts or districts of different size. Still, states and districts report having some difficulties in meeting the NCLB requirements for certain types of teachers and in high-poverty, high-minority districts.

Most Teachers Are Highly Qualified

As they did last year, a vast majority of states and districts reported to CEP that in the 2004–05 school year, all or most of their elementary, middle, and high school teachers are already highly qualified as defined by NCLB. As shown in **Table 6-A**, three-quarters (74%) of the responding states indicated that all or most of their elementary school teachers were highly qualified. Fewer states, about two-thirds, indicated that all or most of their middle and high school teachers and teachers in other types of schools were highly qualified. Nine states (19%) said that they didn't know what percentages of their teachers were highly qualified at the time of our survey. No state responded that none of its teachers were highly qualified.

An even higher percentage of districts than states reported that all or most of their elementary (93%), middle (87%), and high (86%) school teachers are highly qualified in 2004–05, as illustrated in **Table 6-A**. These district percentages are slightly higher than those reported for the previous school year. All news was not positive, however; only about 38% of districts reported that all or most of their teachers in other types of schools (such as K–8 schools or alternative high schools) are highly qualified.

There are at least a few possible reasons why districts reported higher proportions of highly qualified teachers than states. Districts may have a better understanding than states of the qualifications of their teachers. Conversely, districts may be misinterpreting their state's criteria for highly qualified teachers, assuming incorrectly that some of their veteran teachers are highly qualified.

Our case studies support the survey findings that all or most teachers are highly qualified. As shown in **Table 6-B**, a vast majority of the case study districts reported that more than 85% of their teachers are highly qualified. The percentage of highly qualified teachers ranged from a low of 50% in Alaska's remote Kodiak Island Borough School District to a high of 100% in six districts.

Box 6-A Requirements for HOUSSE

According to the No Child Left Behind Act, each state must ensure that its high objective uniform state standard of evaluation (HOUSSE) meets all of the following criteria:

- Addresses both the grade-appropriate academic subject matter knowledge and teaching skills that teachers should have
- Is aligned with challenging state academic content and student academic achievement standards and is developed in consultation with core content specialists, teachers, principals, and school administrators
- Provides objective, coherent information about the teacher’s attainment of core content knowledge in the academic subjects that a teacher teaches
- Is applied uniformly throughout the state to all teachers in the same academic subject and the same grade level
- Takes into consideration, but is not based primarily on, the time the teacher has been teaching in the academic subject
- Is made available to the public upon request
- May involve multiple, objective measures of teacher competency

Source: Center on Education Policy, analysis of the No Child Left Behind Act

Table 6-A Percentage of States and Districts Reporting That Various Proportions of Their Teachers Are Highly Qualified in 2004-05, by School Level

	All or Most Teachers	Some or a Few Teachers
ELEMENTARY SCHOOL TEACHERS		
States	74%	6%
Districts	93%	0%
MIDDLE/JUNIOR HIGH SCHOOL TEACHERS		
States	64%	15%
Districts	87%	3%
HIGH SCHOOL TEACHERS		
States	68%	13%
Districts	86%	0%
OTHER TYPES OF SCHOOLS (E.G. K-8, ALTERNATIVE HIGH SCHOOLS)		
States	70%	11%
Districts	38%	1%

Table reads: In 2004-05, of states that have a system in place to classify teachers as highly qualified under NCLB, an estimated 74% reported that all or most of their elementary school teachers are highly qualified.

Note: Percentages do not add up to 100% because “Don’t Know” responses are not shown. Also, responses for “No Teachers” are not shown.

Source: Center on Education Policy, December 2004, State Survey, Item 21; December 2004, Fall District Survey, Item 34 (Table 26)

Table 6-B Estimated Percentage of Teachers Who Are Highly Qualified in CEP Case Study Districts

DISTRICT	REPORTED PERCENTAGE OF HIGHLY QUALIFIED TEACHERS, 2004-05
Avon Public School District, Massachusetts	100%
Heartland Community Schools, Nebraska	100%
Hermitage School District, Missouri	100%
Romulus Central School District, New York	100%
Sheboygan Area School District, Wisconsin	100%
Willow Run Community Schools, Michigan	100%
Cloquet Independent School District #94, Minnesota	99%
Bloomfield School District, New Mexico	98%
Independent School District #2-Meridian, Idaho	98%
Waynesboro Public Schools, Virginia	98%
Cuero Independent School District, Texas	97%
Orleans Central Supervisory Union, Vermont	97%
Collier County Public Schools, Florida	95%
Pascagoula School District, Mississippi	95%
Napoleon School District, North Dakota	93%
Bayonne City School District, New Jersey	92%
Calhoun County School District, Alabama	92%
Berkeley County School District, South Carolina	91%
Colorado Springs District 11, Colorado	91%
Chicago Public Schools, Illinois	91%
Tigard-Tualatin School District, Oregon	88%
Fort Lupton Weld-R-8 School District, Colorado	87%
Escondido Union Elementary School District, California	86%
Kansas City, Kansas Public Schools	85%
Boston Public Schools, Massachusetts	85%
Fayetteville Public Schools, Arkansas	85%
Harrison Community School District, Michigan	74%
Clark County Schools, Nevada	73%*
Grant Joint Union High School District, California	73%
Wake County Public School System, North Carolina	71%
St. John the Baptist Parish Public Schools, Louisiana	61%
Kodiak Island Borough School District, Alaska	50%

Table reads: Calhoun County School District reported that 92% of its teachers were highly qualified in the 2004-05 schools year.

*Does not include special education teachers.

Note: Four case study districts for which data were not available are not included on the table.

Source: Center on Education Policy, NCLB Case Studies, December 2004



Few Differences by Urbanicity and Size

Our data show that few differences exist in the proportions of highly qualified teachers reported by urban, suburban, and rural districts or by different size districts.

As **Table 6-C** illustrates, vast majorities of urban, suburban, and rural districts reported that all or most of their teachers in elementary, middle, and high schools are highly qualified. The greatest difference appears to be at the high school level, where a smaller percentage of urban districts (76%) than suburban (83%) and rural (89%) districts reported that their teachers are highly qualified. This finding bears highlighting because several other analyses, including a study by the U. S. Government Accountability Office (2004a), report that rural districts have an especially difficult time hiring highly qualified teachers.

What is the explanation for the discrepancy between our district survey data and other reports emphasizing the challenges faced by rural districts? Our survey asked districts to report on broad categories of proportions of highly qualified teachers, including no teachers, a few teachers, some teachers, most teachers, and all teachers. Almost all districts responded that most of their teachers are highly qualified, but it may be that rural districts believe that moving from “most” to “all” will be especially challenging. Or districts may have told us the proportion of their teachers that are highly qualified without accounting for the fact that many teachers who are highly qualified in one subject are teaching a subject for which they are not highly qualified.

Regardless, it is clear that staffing “other types” of schools with highly qualified teachers remains a significant challenge for all types of districts. The percentage of districts reporting that all or most of their teachers in other types of schools are highly qualified was 53% in urban districts and 46% in rural districts in 2004-05.

The percentages of large, medium, and small districts reporting that most or all of their teachers were highly qualified changed very little between 2003-04 and 2004-05. **Table 6-C** shows the responses for both years from districts of varying sizes.

Increasing Proportions of Highly Qualified Teachers

The proportion of highly qualified teachers in states and districts not only appears to be high, it also appears to be increasing or at least remaining steady.

CHANGES SINCE LAST YEAR

Among the states we surveyed that were able to estimate their proportion of highly qualified teachers, all reported that the percentage of highly qualified teachers working in the state is higher than or about the same as last year. Ten states (22%) of the 46 states responding to our survey question were unable to make this comparison.

Significant majorities of districts also reported that their proportion of highly qualified teachers in 2004-05 is the same as or higher than the proportion in 2003-04. For both elementary and middle school teachers, 93% of the districts we surveyed said that the proportion of highly qualified teachers in their district was stable or rising, and for high school teachers, 90% of districts reported stable or rising proportions of highly qualified teachers. For teachers in other types of schools, 70% of districts said the percentage of highly qualified teachers was the same as or higher than last year's. Less than 5% of districts noted that the proportion is lower this year for any category of school. Still, high-minority and high-poverty districts reported greater difficulty than low-minority and low-poverty districts with increasing the proportion of highly qualified teachers, as discussed in more detail below.

Table 6-C Percentage of Districts Reporting That Most or All of Their Teachers Are Highly Qualified by School Level, District Type, and District Size, 2003-04 and 2004-05

	ELEMENTARY SCHOOL TEACHERS		MIDDLE/JUNIOR HIGH SCHOOLS TEACHERS		HIGH SCHOOL TEACHERS		TEACHERS IN OTHER TYPES OF SCHOOLS	
	2003-04	2004-05	2003-04	2004-05	2003-04	2004-05	2003-04	2004-05
Urban Districts	86%	88%	79%	80%	74%	76%	39%	53%
Suburban Districts	90%	93%	82%	87%	75%	83%	32%	28%
Rural Districts	96%	93%	89%	87%	90%	89%	35%	46%
Very Large Districts*	92%	89%	26%	86%	28%	84%	26%	70%
Large Districts	84%	86%	75%	85%	86%	85%	47%	57%
Medium Districts	94%	100%	89%	96%	84%	94%	40%	37%
Small Districts	93%	92%	84%	85%	83%	84%	31%	37%

Table reads: In 2003-04, of rural districts that have a system in place to classify teachers as highly qualified under NCLB, an estimated 96% reported that most or all of their elementary teachers are highly qualified. In 2004-05, 93% of these rural districts reported that most or all of their elementary teachers are highly qualified.

*Year-to-year differences in the percentages of very large districts reporting that most or all of their teachers are highly qualified are not statistically significant due to the large standard error resulting from a small sample size.

Note: Percentages do not add up to 100% because "Don't Know," "Some or a Few Teachers," and "No Teachers" responses are not shown.

Source: Center on Education Policy, December 2003, District Survey, Item 48; December 2004, Fall District Survey, Item 34 (Tables 26a and 26b)

REASONS FOR INCREASE IN HIGHLY QUALIFIED TEACHERS

NCLB requires states to increase the percentage of highly qualified teachers teaching core academic subjects so that by the end of the 2005-06 school year all teachers are highly qualified. Although some districts are clearly having a more difficult time than others, states attributed their overall progress toward this goal to a variety of factors. Several states said their veteran teachers have recently used HOUSSE to become highly qualified, with one state noting that its HOUSSE regulations had become effective only in June 2004. In some states, teachers have had the time to take subject tests to demonstrate their competency. Other states attributed gains in their proportion of highly qualified teachers to improved data collection systems. Finally, some states are using federal funds to help teachers take needed university coursework and to prepare for and pay the registration fees of exams that allow teachers to demonstrate subject mastery.

Districts reported similar reasons why the proportion of highly qualified teachers has increased. A majority of the districts responding to our survey said that the proportion of teachers increased because teachers took the necessary tests and courses to become highly qualified, and more than a third said that changes in district policy to hire only applicants who are highly qualified resulted in the increase.

IMPACT OF U. S. DEPARTMENT OF EDUCATION RULING

On February 2, 2005, the U.S. Department of Education reversed an earlier ruling by affirming that elementary and middle school teachers in North Dakota will not have to further prove they are qualified. This finding surprised state officials and allowed approximately 6,000 teachers to be considered highly qualified without taking a test or compiling a portfolio (Dooley, 2005). The Department had initially told North Dakota in December 2004 that the state's criteria for highly qualified teachers—which only



required elementary teachers to be licensed and did not require teachers to show competency in core academic subjects as required by NCLB—fell short in meeting NCLB requirements.

The implication of this ruling by the U.S. Department of Education is potentially quite significant. Although it applied only to teachers in North Dakota, other states can be expected to request similar flexibility in interpreting a part of the law on which the Department had been previously unwilling to compromise. As a result, North Dakota and other states following its lead will likely be able to report higher percentages of highly qualified teachers next year than they did this year.

Challenges for Certain Types of Teachers

Despite the overall high proportion of highly qualified teachers being reported, states and districts are experiencing difficulties with the NCLB requirements for certain types of teachers.

In response to our survey, states reported difficulties in implementing the highly qualified teacher requirements for special education teachers, teachers in alternative and middle schools, and teachers in rural areas. Fourteen states reported particular difficulties with special education teachers. As one state noted:

The greatest difficulty is with special education teachers who teach core content, and often multiple core content subjects, to middle and high school students. Compounding the difficulty is that special education teachers' assignments can change year by year. The NCLB teacher quality requirement is not a good fit for the way in which most special education teachers were prepared (special education major, not a content major) and are often assigned. Some difficulty occurs with those middle school teachers who can teach on an upper elementary certificate and who teach multiple subjects.

Many districts in our case studies, including urban Flint Community School District in Michigan and rural Orleans Central Supervisory Union in Vermont, said they are having trouble recruiting highly qualified teachers for their special education students. As a result, the Orleans district is drastically reducing the number of separate special education classes and mainstreaming most students with disabilities into a regular classroom with support from a special education teacher.

Recent legislation might give districts a little breathing room as regards special education. The reauthorization of the Individuals with Disabilities Education Act, which passed both houses of Congress on November 19, 2004, clarifies what makes a special education teacher highly qualified under NCLB. The reauthorization confirms that special education teachers will have to meet state licensing standards and that secondary teachers who teach multiple subjects must meet their state's highly qualified standard in every subject they teach. But as explained in **Box 6-B**, new special education teachers who are already highly qualified in math, language arts, or science now have two additional years to show competency in their additional subjects.

Box 6-B Highly Qualified Special Education Teachers: The Intersection of the IDEA and NCLB

Since the passage of the No Child Left Behind Act, there has been considerable confusion about the application of the law's highly qualified definition to special education teachers. The NCLB definition applies only to individuals who teach core academic subjects. Special education teachers' assignments may vary widely and may or may not include instruction in core academic subjects. Therefore, while clarifying that all special education teachers must be highly qualified, the recently reauthorized Individuals with Disabilities Education Act adapts the NCLB definition to address unique situations in the delivery of special education.

The IDEA states that the term "highly qualified" has the same meaning as under section 9101 of NCLB. The IDEA, however, requires that all special education teachers, whether or not they teach a core subject, hold at least a bachelor's degree, have full state special education certification or licensure, and have not had their certification or licensure waived on an emergency, temporary, or provisional basis.

The IDEA goes beyond the NCLB definition to address two unique groups of special education teachers. The first group consists of special education teachers who teach core academic subjects only to students with significant cognitive disabilities who are assessed against alternative achievement standards. Teachers in this category may be deemed highly qualified if they meet the applicable NCLB standards for any elementary, middle, or high school teacher who is new to or a veteran of the profession.

Teachers in this category teaching at the elementary level also may meet the definition by passing a rigorous state test in the academic subjects taught; by successfully completing an academic major, graduate degree, or advanced coursework; or by demonstrating competency based on their state's HOUSSE. Teachers providing instruction above the elementary level may be deemed highly qualified by demonstrating, through means determined by the state, the necessary subject knowledge to teach to the alternative achievement standards.

The IDEA also addresses a second group of teachers: new and veteran special education teachers who teach two or more core subjects only to students with disabilities. These teachers will be considered highly qualified by meeting the applicable NCLB requirements for any new or veteran elementary, middle, or high school teacher.

Veteran special education teachers teaching multiple subjects may be determined to be highly qualified if they demonstrate competency in all the core subjects taught based on the HOUSSE option. This option may include a single evaluation that covers multiple subjects. New special education teachers in this category who have already met the NCLB highly qualified requirements in language arts, mathematics, or science may use the HOUSSE option to meet the highly qualified designation for other core subjects they teach. New teachers are given two years after they are hired to meet the HOUSSE requirements.

The IDEA House-Senate conference report acknowledges a third unique group of special education teachers not explicitly mentioned in the statute, namely individuals who provide only consultative services. The conference report states that special education teachers who provide only consultative services should be considered highly qualified if they meet the IDEA requirements applicable to all special education teachers (section 602(10)(A)). The report explains that these teachers do not teach core academic subjects. Rather, their services may include providing curriculum adaptation and instructional modifications, developing accommodations, and providing positive behavioral supports and interventions.

The IDEA states that teachers who meet the IDEA definition of highly qualified will also be considered highly qualified under NCLB. Finally, the law specifies that the highly qualified provision does not create a right of legal action based on the failure of a teacher to meet the highly qualified requirements.

Source: Center on Education Policy, Analysis of the Individuals With Disabilities Education Act



Several states also reported difficulty ensuring that teachers in alternative schools—which tend to serve troubled or expelled students, including many with disabilities—are highly qualified. According to one state:

We provided certain waivers to teachers in alternative schools which allowed these teachers to teach subjects outside of their license area. The new NCLB requirements hamper our flexibility to meet the needs of students in these alternative schools [for high-risk students].

Another state noted the particular challenge of serving secondary students in alternative schools:

The highly qualified requirements for teachers in alternative schools have been difficult to meet. [The state] requires students who are subject to expulsion from a regular school to be placed in an alternative setting. In most instances, these settings consist of fewer than 30 students and they are taught by one or two teachers. For middle and high school students in these settings, it is nearly impossible to have them taught all core subjects by a highly qualified teacher.

Several states reported having particular difficulty with requirements for middle school teachers since NCLB does not consider a middle school teacher with only a K-8 certification, which many middle school teachers have, to be highly qualified.

Like many middle school teachers in all areas, middle and high school teachers in rural areas have traditionally taught more than one academic subject. NCLB prevents this practice unless a teacher demonstrates that he or she is highly qualified in each of the subjects taught, and this requirement has been a particular burden on rural schools, according to our state survey and case studies.

For example, in the Kodiak Island Borough School District in the Gulf of Alaska, only half of the 213 teachers are highly qualified. The district struggles to staff village schools—five of which can be reached only by plane or boat and some of which serve 10 students of different ages—with teachers who are highly qualified in each of the core classes. “You can see the problem,” said Brian O’Leary, director of educational support services. “One teacher does not have certification in all the core content classes.”

Fort Lupton Weld-R-8 School District, a rural district in Colorado, has had difficulty recruiting and retaining highly qualified staff, especially at the middle and high school levels, because it is close to other districts that have higher student test scores and can pay teachers higher salaries. “It is tempting to look at better-paying jobs in neighboring districts, especially those that have high test scores along with good salaries,” said one Fort Lupton educator. “You don’t have to work as hard, but the challenge is here, and this is where I want to stay.”

The U.S. Government Accountability Office (2004a) concluded that many rural districts report difficulties in offering competitive salaries to teachers, which limits their ability to recruit teachers and provide them with high-quality professional development.

Disparities in High-Minority and Low-Income Districts

Districts that serve large percentages of minority or low-income students continue to struggle to meet NCLB’s highly qualified teacher requirements. As we noted in last year’s report, districts with large percentages of minority students employ disproportionately large numbers of teachers who are not highly qualified. The disparity is especially acute between high-minority and low-minority high schools. Only 61% of districts with at least 50% minority enrollment reported that all or most of their high school teachers are highly qualified, compared with 90% of districts with less than 50% minority enrollment (Table 6-D).

Table 6-D Percentage of Districts Reporting That Their Teachers Are Highly Qualified by Minority Student Enrollment and School Level, 2003-04 and 2004-05

PROPORTION OF TEACHERS WHO ARE HIGHLY QUALIFIED AT THE FOLLOWING LEVELS:	DISTRICTS WITH LESS THAN 50% MINORITY ENROLLMENT		DISTRICTS WITH 50% OR MORE MINORITY ENROLLMENT	
	2003-04	2004-05	2003-04	2004-05
ELEMENTARY SCHOOL				
No Teachers	2%	0%	0%	0%
A Few or Some Teachers	1%	0%	6%	3%
Most or All Teachers	93%	93%	84%	82%
Don't Know	3%	7%	10%	15%
MIDDLE SCHOOL				
No Teachers	2%	0%	0%	0%
A Few or Some Teachers	2%	3%	14%	2%
Most or All Teachers	89%	88%	74%	71%
Don't Know	6%	9%	12%	25%
HIGH SCHOOL				
No Teachers	2%	0%	8%	0%
A Few or Some Teachers	0%	0%	12%	1%
Most or All Teachers	86%	90%	68%	61%
Don't Know	11%	9%	12%	38%
OTHER SCHOOLS				
No Teachers	11%	1%	24%	0%
A Few or Some Teachers	0%	1%	0%	1%
Most or All Teachers	32%	37%	35%	56%
Don't Know	57%	60%	41%	43%

Table reads: In 2003-04, among districts that have a system in place to classify teachers as highly qualified under NCLB and that enroll less than 50% minority students, 86% reported that most or all of their high school teachers were highly qualified. The following year, in 2004-05, 90% of these districts reported that most or all off their high school teachers were highly qualified.

Source: Center on Education Policy, December 2003, District Survey, Items 48, 88; December 2004, Fall District Survey, Item 34 (Table 26c)



As shown in **Table 6-E**, discrepancies are also apparent between districts with relatively high and low percentages of low-income students. For example, 78% of districts in which at least half their students receive free or reduced-price lunch reported that all or most of their middle school teachers were highly qualified in 2004-05, compared with 90% of districts in which less than half their students receive subsidized lunch. According to our district survey, high-minority and low-income districts are also much less likely than other districts to know what proportion of their teachers are highly qualified.

Furthermore, high-need districts also reported less progress in raising their proportion of highly qualified teachers. For example, the percentage of high-minority districts reporting that all or most of their high school teachers were highly qualified decreased by seven percentage points between 2003-04 and 2004-05, while this percentage increased by four percentage points for low-minority districts. Similarly, the percentages of high-minority districts reporting that all or most of their teachers are highly qualified decreased between 2003-04 and 2004-05 for elementary and middle schools, while this percentage remained the same for high schools. The percentages of districts reporting that all or most of their teachers in other types of schools are highly qualified were low for all types of districts in 2003-04 and 2004-05.

According to our case study, the Chicago Public Schools—a district that serves large percentages of minority and low-income students—struggle to employ and hire new highly qualified teachers, especially in the highest poverty schools and in the fields of special education, English as a second language, math, and science. Similarly, the Clark County Schools, which includes Las Vegas, Nevada, and the Wake County Public School System, which includes the city of Raleigh, North Carolina—two very large case-study districts that are experiencing rapid increases in student populations—reported difficulty hiring enough highly qualified teachers to keep pace with enrollment growth.

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Our findings about the challenges faced by high-minority and low-income schools are supported by a recent study by the Southeast Center for Teaching Quality (2004), which conducted case studies across four states. This study concluded that “hard-to-staff” schools and districts struggle to recruit and retain highly qualified teachers.

Problems with New Hires

Hiring new teachers who meet NCLB qualifications can pose a special challenge in some districts. One-fifth of all districts—virtually the same as last year—reported having difficulty hiring new highly qualified teachers, as depicted in **Figure 6-A**. Urban districts and very large districts appear to face particular problems; approximately one-third of urban districts and one-half of very large districts report difficulties with new hires.

This problem may become worse in some states. Administrators across California are preparing for an anticipated statewide teacher shortage that could be exacerbated by a looming wave of retirements, the state’s efforts to reduce class sizes, a tight state budget, and NCLB’s highly qualified teacher requirements. The state will need approximately 60,000 new teachers in the next five years (Chavez, 2004).

Table 6-E Percentage of Districts Reporting That Their Teachers Are Highly Qualified by Poverty and by School Level, 2003-04 and 2004-05

PROPORTION OF TEACHERS WHO ARE HIGHLY QUALIFIED AT THE FOLLOWING LEVELS	DISTRICTS WITH LESS THAN 50% OF THEIR STUDENTS RECEIVING FREE OR REDUCED PRICE LUNCHES		DISTRICTS WITH 50% OR MORE OF THEIR STUDENTS RECEIVING FREE OR REDUCED PRICE LUNCHES	
	2003-04	2004-05	2003-04	2004-05
ELEMENTARY SCHOOL				
No Teachers	1%	0%	3%	0%
A Few or Some Teachers	1%	0%	0%	1%
Most or All Teachers	94%	95%	89%	88%
Don't Know	4%	6%	4%	12%
MIDDLE SCHOOL				
No Teachers	2%	0%	3%	0%
A Few or Some Teachers	5%	3%	3%	4%
Most or All Teachers	86%	90%	89%	78%
Don't Know	6%	8%	5%	18%
HIGH SCHOOL				
No Teachers	3%	0%	4%	0%
A Few or Some Teachers	1%	0%	6%	0%
Most or All Teachers	84%	87%	80%	80%
Don't Know	12%	12%	10%	20%
OTHER SCHOOLS				
No Teachers	13%	1%	16%	0%
A Few or Some Teachers	0%	1%	0%	0%
Most or All Teachers	32%	35%	39%	49%
Don't Know	55%	63%	44%	50%

Table reads: In 2003-04, among districts with a system in place to classify teachers as highly qualified under NCLB and with less than 50% of students eligible for free or reduced-price school lunches, 94% reported that most or all of their elementary teachers are highly qualified. The following year, in 2004-05, 95% of these districts reported that most or all of their elementary teachers are highly qualified.

Source: Center on Education Policy, December 2003, District Survey, Items 48, 87; December 2004, Fall District Survey, Item 34 (Table 26d)

Figure 6-A Percentage of Districts Having Difficulty Finding Highly Qualified Title I Teachers As "New Hires," by District Type and District Size, 2003-04 and 2004-05

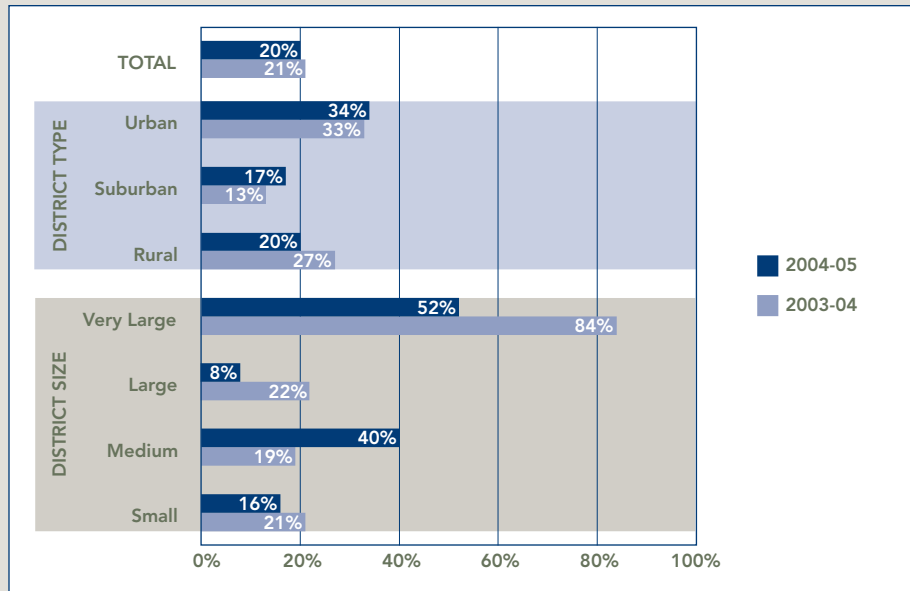


Figure reads: In 2003-04, of urban districts with a system in place to classify teachers as highly qualified under NCLB, an estimated 33% reported having difficulty finding highly qualified teachers as "new hires." The following year, in 2004-05, 34% reported having difficulty finding new hires.

Source: Center on Education Policy, December 2003, District Survey, Item 49; December 2004, Fall District Survey, Item 38 (Table 29)



Challenges to and Concerns about Highly Qualified Teachers

In addition to the challenge of hiring and retaining highly qualified teachers in high-minority and low-income districts, CEP's surveys and case studies, as well as the forum we sponsored on the NCLB teacher provisions, uncovered several other challenges to and concerns about ensuring a highly qualified teacher in every academic classroom. These include 1) concerns about the unproven relationship between the federal requirements and teachers' actual effectiveness in the classroom; 2) logistical challenges to implementation of the requirements and concern about support from the U.S. Department of Education; 3) the challenge of developing systems to classify teacher qualifications; and 4) the challenges of meeting the law's requirements to notify parents about teacher qualifications.

Relationship of Federal Requirements to Real Teacher Quality

Many scholars and educators have expressed concern that the NCLB teacher requirements do not guarantee high-quality teachers.

Four presenters at our forum on teacher issues raised concerns that “highly qualified,” as defined by NCLB, does not mean the same thing as effective. Citing case studies conducted by the Southeast Center for Teaching Quality (SECTQ), Eric Hirsch noted that the NCLB teacher requirements focus primarily on what teachers know, not on what they are able to do—an important omission that can result in a large number of highly qualified teachers being ineffective (SECTQ 2004). Hirsch added that NCLB could actually lead parents to feel complacent about their children's teachers who are defined as highly qualified under NCLB but may, in fact, be ineffective.

A large problem, agreed all the presenters, is the implementation of states' high objective uniform state standard of evaluation (HOUSSE). Under NCLB, states can create the HOUSSE option for veteran teachers who are not otherwise highly qualified. For example, California's HOUSSE option requires teachers to accumulate 100 points, based on their prior teaching experience in the core subject; additional coursework; and their experience with a service or leadership role in the core subject, such as serving as a mentor, academic curriculum coach, supervising teacher, college or university instructor, or site team leader, or being recognized at the national or state level as an outstanding educator in the subject.

In many instances, said Charles Coble of the Education Commission of the States (ECS), states have set high standards for veteran teachers, but the standards are accompanied by less rigorous HOUSSE provisions that provide a “trap door” that allows teachers to escape the intent of NCLB (ECS, 2004). Kate Walsh of the National Council on Teacher Quality agreed, noting that a study by her organization found that the quality of states' HOUSSE systems earned a grade of “D+” and “range from reasonable and responsible attempts to meet the spirit [of NCLB] to approaches that can be described as indifferent and at times even disdainful” (Tracy & Walsh, 2004).



Implementation Difficulties and Helpfulness of U. S. Department of Education

States and districts are also experiencing a range of difficulties in implementing the NCLB highly qualified teacher provisions, according to our survey, and assistance from the U.S. Department of Education has been moderately helpful.

When we asked states “What difficulties, if any, has the state experienced in implementing the NCLB highly qualified teacher requirements?” six states listed the short timeline or time required to implement the requirements, five states mentioned problems meeting requirements for middle school teachers, three states listed difficulties in rural schools, and three states mentioned lack of funding. (States were able to list as many challenges as they wished.) The challenges cited most frequently by states were difficulties meeting requirements for special education teachers, listed by 14 states, and difficulties implementing data systems, listed by 13 states.

Five states reported to CEP that implementing HOUSSSE has been among their greatest challenges, a view echoed by some of our case study districts. For example, under Arkansas’ old licensure system, elementary teachers were given a K-6 certificate, according to our case study of the Fayetteville Public Schools. But under the state’s new HOUSSSE plan, when these teachers’ certificates are renewed, they receive a certificate that covers K-4, even though elementary schools in Fayetteville and elsewhere cover grades K-5. “This appears to mean that our elementary certified teachers are not qualified to teach grade 5,” said Michelle Boles, federal programs and assessment administrator, noting that if this is the case, 30 more teachers will have to take steps to meet NCLB qualifications. “It’s a strange and complex problem that we hope gets resolved,” she added.

Districts and schools that are taking creative approaches to raising student achievement are still facing other challenges related to the NCLB teacher provisions, especially at the high school level. The Kansas City, Kansas Public Schools have had trouble with the highly qualified requirements at the high school level due to the district’s policy of “looping” teachers. Part of the district’s school reform model, looping entails having teachers continue to teach the same group of students as they progress from grade to grade, with the goal of creating and sustaining strong relationships with their students. The problem is that the NCLB provisions require teachers to have a major in or pass a test in all the content areas they teach.

To raise achievement in reading and math, a high school in Grant Joint Union High School District in California enrolled low-performing students in two hours of math or English instead of one hour. To make time for the extra instruction, science, social studies, or both subjects were eliminated from these students’ school day. The change left surplus teachers in science and social studies, but more teachers were needed for math and English. Because of teacher contracts and tenure, the teachers could not be released, so they were reassigned to new content areas in which they were not licensed. Although the teachers received additional training and have until the end of the 2005-06 year to become fully qualified in the new content areas, they still count as not meeting the NCLB requirements.

In an effort to help states meet the challenges of the NCLB highly qualified teacher requirements, former Secretary of Education Roderick Paige announced new non-regulatory guidance in March 2004 that made the following policy revisions:

- Allowed teachers in rural areas who are highly qualified in one subject to have three years to become highly qualified in other subjects they teach
- Authorized states to permit science teachers to demonstrate that they are highly qualified either in the “broad field” of science or in individual fields of science (such as physics, biology, or chemistry)
- Allowed states to streamline the HOUSSE process by permitting teachers to demonstrate subject knowledge through one procedure for all the subjects they teach

Permitting science teachers to demonstrate they are highly qualified in the broad field of science or in an individual field and allowing states to streamline the HOUSSE process appear to be the most helpful regulatory changes for ensuring that all teachers are highly qualified, according to CEP’s survey. States appear split, however, on the helpfulness of all three policy changes, with more flexibility for teachers in rural areas appearing to be the least helpful (**Table 6-F**). At first glance, this finding is somewhat surprising given that many analysts, including the U.S. Government Accountability Office (2004a), have noted the unique challenges faced by rural districts in hiring and retaining highly qualified teachers. The U.S. Department of Education’s new flexibility provisions, however, applied only to rural districts of a certain size and location, leaving many districts unable to take advantage of them (Rural School and Community Trust, 2004).

Table 6-F Number of States Reporting the Extent to Which Specific Policy Changes Are Helpful in Ensuring That All Teachers Are Highly Qualified under NCLB

POLICY CHANGE	VERY HELPFUL	MINIMALLY OR MODERATELY HELPFUL	NOT HELPFUL
Allowing teachers in rural areas who are highly qualified in one subject to have 3 years to become highly qualified in other subjects they teach	7	32	9
Allowing states to permit science teachers to demonstrate that they are highly qualified either in the “broad field” of science or in individual fields of science	16	21	10
Allowing states to streamline the HOUSSE process by permitting teachers to demonstrate subject knowledge through one procedure for all subjects they teach	15	26	4

Table reads: In 2004-05, 9 out of 49 states responding reported that the policy change giving teachers in rural areas three years to become highly qualified in additional subjects they teach was not helpful.

Note: Rows may not add up to 49 because “Don’t Know” responses are not shown.

Source: Center on Education Policy, December 2004, State Survey, Item 26



The U.S. Department of Education also tried to help states meet the NCLB highly qualified teacher requirements by sending representatives from the Department out to the states to answer questions and provide guidance. These “Teacher Assistance Corps” visits were judged by 36 of 48 responding states to be minimally or moderately helpful, according to our survey. Overall, the U.S. Government Accountability Office (2004b) found that additional assistance from and better coordination among offices at the U.S. Department of Education was needed to help states meet the NCLB teacher requirements, especially with regard to their special education teachers. Similarly, the Education Trust (2003) concluded that the U.S. Department of Education has paid too little attention to ensuring the effective implementation of the NCLB teacher requirements.

State Systems for Classifying Teachers

Another challenge of implementing the NCLB teacher provisions is that of developing systems to classify current teachers and new hires as highly qualified. States and districts responding to our survey reported that they have these systems in place, but there is a separate issue of whether data collection systems are adequate to track the qualifications of teachers.

The overwhelming majority of states and districts responding to our survey said that they have systems in place to classify both current teachers and new hires as highly qualified. Forty-seven states and almost all districts reported that they have such a system in place. As illustrated in **Figure 6-B**, the 93% of districts that reported having these systems in 2004–05 is much higher than the 78% of districts that reported having them in 2003–04. A much higher percentage of very large districts reported having systems in place in 2004–05 than in 2003–04. In 2003–04, only about 53% of very large districts reported having a system in place to classify teachers as highly qualified, but by 2004–05, this figure had risen to an estimated 100% of very large districts.

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Officials in the Grant Joint Union case study district in California surveyed teachers school by school to determine which teachers met NCLB teacher qualifications and what kinds of support would be most effective for those who needed to become highly qualified. The teachers’ responses were linked to specially designed software programs that made it possible to efficiently collect and analyze data about NCLB teacher qualifications. Every teacher assigned to teach a core academic class filled out the survey. The survey showed that many Grant teachers who were not considered highly qualified had a bachelor’s degree and a California teaching credential but were teaching in their minor areas of study rather than their major.

Over half of the states (28 of 48) also reported that they provide districts with information prior to the school year on the number of highly qualified teachers in the district. One of these states indicated that it shares data with districts throughout the year “in an iterative way,” giving districts an opportunity to edit during the summer for a final release in November.

Thirteen states reported that they were currently unable to provide districts with information on the number of highly qualified teachers before the school year began. A Midwestern state is still developing a data system that will allow the state to provide the data for all schools to the districts. The state reported that the system for high school teachers is complete, but the one for middle and elementary school teachers is still under development.

Figure 6-B Percentage of Districts Reporting That They Have a System in Place to Classify Teachers As Highly Qualified, by District Type and District Size, 2003-04 and 2004-05

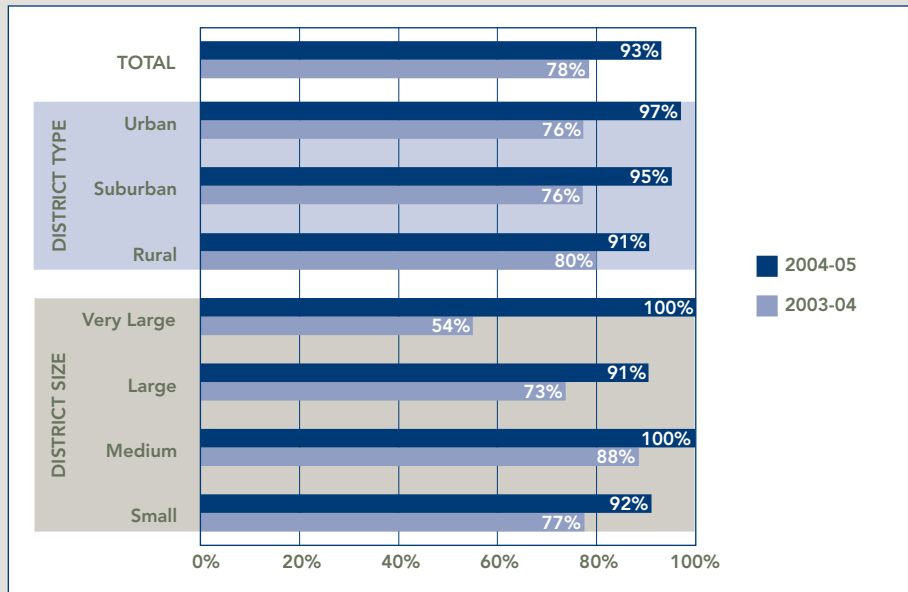


Figure reads: In 2003-04, an estimated 76% of urban districts that receive Title I funds had a system in place to classify teachers as highly qualified under NCLB. This year, in 2004-05, 97% of urban districts reported having such a system.

Source: Center on Education Policy, December 2003, District Survey, Item 47; December 2004, Fall District Survey, Item 33 (Table 25)

Our surveys asked about systems to classify teachers as highly qualified according to the NCLB definition, and in their responses, states and districts were most likely referring to the tests, licensing and certification criteria, and HOUSSE options that they had in place to determine whether teachers have met NCLB requirements. While it is good news that there are mechanisms in place to determine whether teachers meet the highly qualified teacher definition, a study by the Education Commission of the States (2004) found that most states are having difficulty establishing data collection systems to track which teachers are highly qualified and which are not. In fact, ECS concluded that as of March 2004, no state appeared to be on track to meet the requirement for a highly qualified teacher in every academic classroom, mostly due to insufficient data systems.

As a result, some school districts do not know which teachers are highly qualified and which teachers are not. As of December 2004, neither the state of Michigan nor the Flint Community School District had all the data needed to determine exactly how many teachers meet the state's definition of highly qualified, according to our case study. The state has a form for teachers to fill out reporting their qualifications, and teachers have until 2006 to meet the NCLB requirements. "It's kind of an honor system," explained David Solis, Flint's director of state, federal and local programs. Once forms are submitted, some local officials have concerns about how soon they will be processed. "This is just my opinion, but I think the state is understaffed," Solis added. "Even if you were to submit all the items, they wouldn't have the staff to enter it. They're trying to meet the requirements of the law, but they don't have the funds and staff to do it."

States and districts are having similar problems tracking the provision of high-quality professional development for teachers. Under NCLB, all teachers are required to receive high-quality professional development by the end of 2005-06. The Education Commission of the States (2004) and the Finance Project (2004) noted that defining high-quality professional development and tracking state progress toward ensuring all



teachers receive this training is a significant challenge. There is typically little coordination or evaluation of state and district professional development activities, according to the two groups, and in many cases it is difficult to determine how much is spent on professional development from one year to the next, let alone determine whether the money was spent well.

Informing Parents of Teacher Qualifications

The No Child Left Behind Act requires all districts to notify parents of any children in Title I schools who are assigned to, or taught by, a teacher who is not highly qualified for four or more consecutive weeks. In 2004–05, about one-third (32%) of all districts with a system in place to classify teachers as highly qualified reported that at least one of their Title I schools notified parents as required (**Figure 6-C**), which is about the same proportion as in 2002–03. A greater percentage of high-poverty and high-minority districts than low-poverty and low-minority districts reported that their Title I schools have notified parents of students assigned to or taught by a teacher who is not highly qualified.

State and District Strategies for Ensuring Highly Qualified Teachers

States and districts have implemented a range of strategies to address the challenges and concerns described above and ensure that every academic classroom is staffed with a highly qualified teacher.

Strategies to Ensure Equitable Distribution of Teachers

The No Child Left Behind Act requires school districts to ensure that low-income and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers. According to our survey, districts appear to be taking steps to ensure that highly qualified teachers are distributed more equitably among schools, as illustrated in **Table 6-G**. Providing extra professional development funds to high-need schools and intensifying recruitment efforts to find highly qualified teachers for high-need schools appear to be the most popular strategies taken by districts, according to our survey. While fewer than one in ten districts overall (8%) offer financial incentives to teachers to move to high-need schools, one in five large districts (19%) do so.

Some of our case study districts have worked hard to bring greater equity to the distribution of highly qualified teachers. Collier County Public Schools in Florida offer a bonus to highly qualified teachers who teach in high-poverty schools. Berkeley County School District in South Carolina, where half the 27,000 students are from low-income families and 40% are minority students, has created a professional development program for teachers and paraprofessionals to assist seven Title I schools that had difficulty retaining teachers. Turnover rates at some schools were as high as 72%, and 40% of the teachers had fewer than five years of classroom experience. The goal of the program is to improve the professionalism of instructional staff by helping them obtain an advanced degree in an educational field from an accredited university or college. The intent is to retain the teachers at hard-to-fill schools and provide higher quality instruction for students in high-poverty schools.

Figure 6-C Percentage of Districts with Title I Schools That Have Notified Parents When Students Have Been Assigned to or Taught by a Teacher Who Is Not Highly Qualified, by Size, Poverty, and Minority Student Enrollment, 2002-03

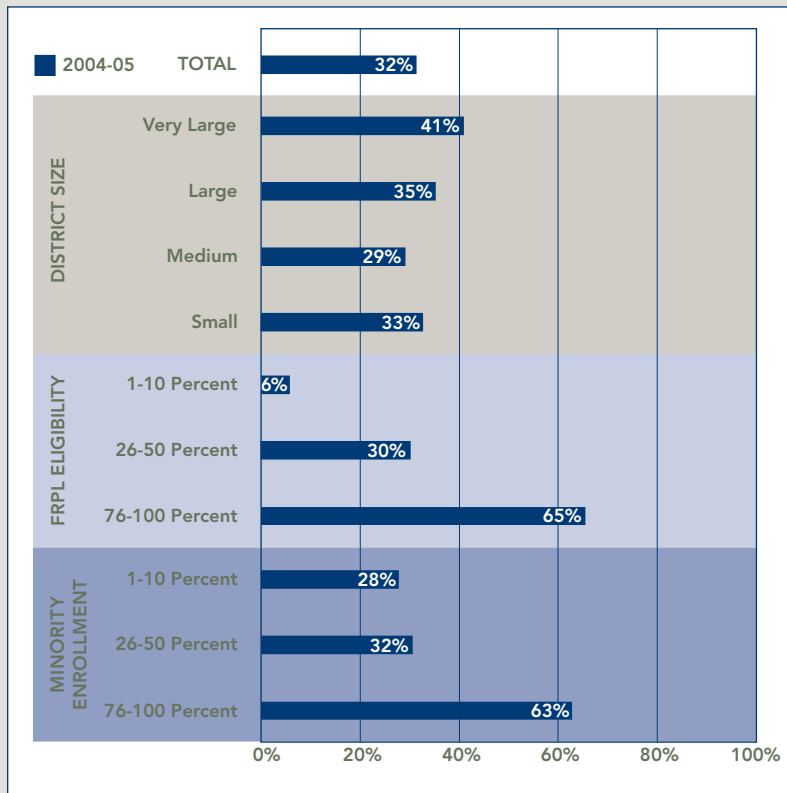


Figure reads: In 2003-04, an estimated 35% of large districts with a system in place to classify teachers as highly qualified reported that they have notified parents when students have been assigned to or taught by a teacher who is not highly qualified.

Note: Data for districts with 0%, 11-25%, and 51-75% of their students receiving free and reduced price lunches were not included for ease of reading. Similarly, data for districts with 0%, 11-25%, and 51-75% minority student enrollments were not included.

Source: Center on Education Policy, December 2003, District Survey, Item 50; December 2004, Fall District Survey, Item 39 (Table 30)

Table 6-G Percentage of Districts Reporting That They Took Various Steps to Ensure an Equitable Distribution of Highly Qualified Teachers Among Schools, by District Type and District Size, 2004-05

	Offered Financial Incentives to Teachers to Move to High-Need Schools	Provided Extra Professional Development Funds to High-Need Schools	Reassigned Staff	Intensified Recruitment Efforts for Highly Qualified Teachers to Serve in High-Need Schools
TOTAL (all districts)	8%	53%	22 %	46%
District Type				
Urban	7%	50%	31%	63%
Suburban	5%	59%	15%	51%
Rural	11%	48%	27%	39%
DISTRICT SIZE				
Very Large	6%	56%	10%	73%
Large	19%	62%	25%	68%
Medium	15%	64%	24%	59%
Small	6%	49%	22%	40%

Table reads: In 2004-05, among districts with systems in place to classify teachers as highly qualified, 8% reported that they offered financial incentives for highly qualified teachers to move to high-need schools.

Note: "Don't Know" and "Other" types of strategies responses are not shown.

Source: Center on Education Policy, December 2004, Fall District Survey, Item 37 (Table 28)

Under the program, a teacher must agree to stay at a Title I school in the district for at least six years after entering the program. Support for the enrolled teachers includes tuition costs of up to \$200 per graduate hour, a mileage allowance of \$150, and up to \$100 per course for texts and supplies related to course requirements. A second part was added to the training later—an incentive for National Board Certified teachers to teach at Title I schools. Each teacher who obtains National Board Certification in Berkeley County receives a \$5,000 incentive per contract year.

Although it is a good sign that districts are taking steps to ensure a more equitable distribution of highly qualified teachers, research conducted by the Southeast Center for Teacher Quality (2004) calls into question the effectiveness of many of these strategies. This organization found that hiring and professional development activities in the four southeastern states and 12 districts they studied tended to be “business as usual” and appear to be having little effect on teaching quality, especially in hard-to-staff schools.

Teacher Preparation and Professional Development Strategies

The NCLB teacher quality requirements appear to have spurred a variety of changes to the way in which states and districts prepare, certify, and support their teachers. Most states and districts are providing professional development and other forms of assistance to help teachers become highly qualified and more effective.

TEACHER PREPARATION OR CERTIFICATION/LICENSURE REQUIREMENTS

The states we surveyed reported a variety of changes to their teacher preparation or certification/licensure requirements to ensure that all teachers of core subjects are highly qualified. Twenty of 49 responding states have revised their state certification requirements, 17 have revised their licensure requirements for teachers, and 23 have revised



requirements for teacher preparation programs. For example, one state reported changing its preparation programs and certification requirements by providing induction programs for new teachers. In addition, approximately half the states have created or adopted a new state test of teacher knowledge and competency (23 states), and created or adopted a method other than a test for evaluating teacher knowledge and competency (25 states).

Six states reported that they made no changes to their teacher preparation or certification requirements as a result of NCLB, either because the state reforms preceded NCLB or because their programs and certification procedures already complied with the federal law.

ASSISTANCE IN MEETING NCLB REQUIREMENTS

In addition to changing their teacher preparation, certification, or licensure requirements, 35 of 49 responding states are providing professional development or other types of assistance to help current teachers who do not meet the NCLB qualifications, according to our survey. Assistance includes initiatives to improve teachers' ability to teach specific subjects, funds to districts to help them offer professional development, funds to teachers to help them pay for additional college coursework, collaboration with colleges and universities in offering teachers professional development, and summer institutes for teachers. One state with a comprehensive approach explains its efforts in this way:

We use state grants, and Title I and Title II funds to reimburse teachers for taking needed university coursework and for preparing for and paying registration fees of content-area exams to meet the new certification requirements. In addition, Regional Certification Counselors have been employed to provide assistance to teachers who might not be highly qualified. The State Department of Education also provides professional development through its Regional Service Centers and other statewide programs that enable teachers to enhance their content knowledge and instructional practices in order to meet the NCLB highly qualified requirements.

Districts provide various types of support on their own to help teachers meet the NCLB requirements, as illustrated in **Table 6-H**. The most common form of support appears to be providing teachers with funding to pay for professional development hours necessary for them to maintain state certification, according to our district survey. Although 21% of all districts are not offering this support, almost half (49%) of all districts were using this strategy to a great extent in 2004–05—an increase over the 37% of districts that were offering this support to a great extent in 2003–04.

Our case studies buttress the survey's findings that districts are engaged in broad types of activities to help teachers become highly qualified. Some of the activities in case study districts go beyond helping teachers to become highly qualified as defined by NCLB and focus on helping teachers to become more effective instructional leaders.

Some districts are encouraging teachers to take full advantage of the flexibility offered by their state's HOUSSE, a strategy clearly intended to meet the letter of the law. For example, Bayonne City School District, New Jersey, reported that 92% of its teachers were highly qualified in 2003–04, and Assistant Superintendent Ellen O'Conner asserted that there is "no question" all teachers would be highly qualified by 2005–06. She said that the district's veteran teachers have taken advantage of New Jersey's very flexible HOUSSE provisions. Teachers who are not yet considered highly qualified are encouraged to take college courses and courses offered by the district that help them meet the HOUSSE criteria. In addition, the district provides teachers with information about Praxis (a standardized proficiency test for teachers) and courses that need to be taken, but does not pay for the test or test preparation courses.

Table 6-H Percentage of Districts Reporting the Extent to which They are Providing Various Kinds of Training or Funding to Teachers to Help Them Meet the NCLB Highly Qualified Requirements, 2003-04 and 2004-05

TYPE OF ASSISTANCE	TO A GREAT EXTENT		SOMEWHAT OR MINIMALLY		NOT AT ALL	
	2003-04	2004-05	2003-04	2004-05	2003-04	2004-05
Preparation courses to help teachers pass tests of knowledge	No data	12%	No data	21%	No data	63%
Funds to support the acquisition of advanced degrees	21%	22%	27%	31%	46%	45%
Funds to support the professional development hours required for teachers to maintain their state certification	37%	49%	38%	28%	20%	21%

Table reads: In 2003-04, among districts with systems in place to classify teachers as highly qualified, an estimated 21% reported that they provide funds to a great extent to support the acquisition of advanced degrees to help teachers meet the highly qualified requirements of NCLB. In 2004-05, 22% reported that they provide such funds to a great extent.

Note: Percentages do not add up to 100% because “Don’t Know” responses are not shown.

Source: Center on Education Policy, December 2003, District Survey, Item 52; December 2004, Fall District Survey, Item 40 (Table 31)

As in many districts, many middle school teachers in the Kansas City, Kansas Public Schools (KCKPS) were certified as K-8 teachers, which is not sufficient under NCLB because that certification does not provide the necessary content focus. Virtually all (98%) KCKPS teachers who received this certification and are now teaching in middle school have become highly qualified using the state’s HOUSSSE, a rubric that gives consideration to teachers’ experience, qualifications, and training to determine whether they are highly qualified under NCLB.

Some of our case study districts help teachers pay tuition for college courses that will enable them to become highly qualified and, theoretically, more effective instructional leaders. For example, teachers in the Waynesboro Public Schools in Virginia receive stipends of \$450 per year for a course needed for certification or recertification, and teachers in degree programs receive \$200 per course. Similarly, schools in the Orleans Central Supervisory Union in Vermont use Title I and Title II funds to reimburse teachers for some of the costs they incur for college courses that help them become highly qualified.

SUPPORT IN BECOMING MORE EFFECTIVE TEACHERS

Many case study districts have developed comprehensive programs to directly train and support their teachers in an effort to meet the overarching NCLB goal of raising student achievement. Many of these programs include placing academic coaches in schools or creating means for teachers to work collaboratively, both in a focused effort to help teachers improve their instruction. For example, the Chicago school district has focused its professional development activities on low-performing schools. Over the past three years these schools have been assigned “literacy leaders”—staff who provide on-site professional development for teachers. In the past year, some of these schools have also been assigned “math leaders,” while others are using new math materials supplied by the district.



The Kansas City, Kansas school district is in its sixth year of releasing students early every Wednesday to give teachers and administrators time to work together to improve student achievement and to support implementation and monitoring of school improvement plans. Although some district in-service activities take place during the release time, the professional development is almost always based at each school, where teachers and principals work together with their schools' instructional coaches. One elementary school is using its Wednesday afternoons to introduce a rubric that will be employed to assess teachers' use of standards-based instruction and active engagement of their students. Although the weekly early-release day was difficult to sell politically, it is now widely supported by all stakeholders. "It is a community gift," said Steve Gering, executive director of middle schools and high schools, and a clear signal from the board that teaching and learning is the district's highest priority. There are other important components to the district's approach to professional development. For example, the district operates a comprehensive mentoring program for all new teachers, paid in part with Title II funds. New certified teachers receive one year of mentoring, and new teachers with an alternative certification receive three years.

In contrast to Kansas City, Kansas, which initiated its professional development programs before implementation of NCLB, professional development in the Flint, Michigan, schools has been significantly affected by NCLB. In addition to increasing the amount of Title I money spent on professional development in schools in need of improvement, the district has revised its professional development to make sure it supports school and district goals for achievement and learning. Because the district and schools know their budgets at the beginning of the year, staff can plan well ahead for workshops and other professional activities and coordinate professional development.

The Flint district has also invested in instructional specialists and literacy support teachers. These retired educators assist schools identified as in need of improvement with any and all educational issues. For example, instructional specialists review all material purchases and professional development contracts, ensuring that these funds are now more closely targeted on implementing the schools' improvement plan. Literacy coaches have leveraged instructional change through demonstrations, modeling, and coaching in the classroom. In keeping with the strategy of using instructional specialists, Flint schools in the restructuring phase of NCLB have chosen to restructure using a coaching model, designed by Michigan educators. The model will place a state-trained coach on-site for 100 days at each school implementing restructuring. The coach will address all areas of improvement at the schools.

NCLB Paraprofessional Requirements

Under NCLB, Title I paraprofessionals hired after January 8, 2002 must have completed at least two years of college or an associate's degree, or must have passed a state or local test demonstrating their competency in academic subjects. By January 2006, nearly all Title I paraprofessionals must meet these criteria.

Our surveys and case studies indicate that although states and districts are experiencing challenges, including low pay for paraprofessionals and a limited number of qualified candidates and training opportunities, most appear to be making significant progress toward meeting the NCLB goals for Title I paraprofessionals. Many districts are providing paraprofessionals with support and, in some cases, reducing the number of paraprofessionals responsible for instruction.



Proportion of Title I Paraprofessionals

Our surveys and case studies suggest that the majority of Title I paraprofessionals have satisfied the qualification requirements of NCLB and the numbers of those that have met the requirements are rising.

Most states (32 of the 48 responding) and most districts (78%) reported that all or most of their Title I paraprofessionals providing instructional services meet the NCLB qualifications (**Table 6-I**). The percentage of districts reporting that all or most of their Title I paraprofessionals are highly qualified is higher in 2004-05 than it was in 2003-04, when only 62% of districts reported that all or most of their paraprofessionals were highly qualified. (Our survey did not ask states the corresponding question for 2003-04.)

Urban, large, and high-minority districts made tremendous progress in ensuring that all or most of their paraprofessionals have met NCLB requirements. Whereas about half (47%) of urban districts reported that all or most of their paraprofessionals were highly qualified in 2003-04, 70% of urban districts made this statement in 2004-05. Finally, the percentage of high-minority districts reporting that all or most of their paraprofessionals are highly qualified was 34% in 2003-04 and 61% in 2004-05. Still, high-minority districts were less likely than low-minority districts to report that all or most of their paraprofessionals were highly qualified.

Despite the high percentage of districts reporting that all or most of their Title I paraprofessionals have satisfied the NCLB qualification requirements, some of our case study districts said they are still struggling with this, although some are reporting impressive gains (**Table 6-J**). For example, the Boston school district is unable to determine how many of its 991 paraprofessionals are highly qualified, although at least one school principal said that the low qualifications of her paraprofessionals is a huge problem that is appropriately being addressed by NCLB. Of the 159 Title I paraprofessionals in Calhoun County School District, Alabama, only 48% are highly qualified despite a 44 percentage point increase over 2003-04.

Finally, approximately 45% of the 75 paraprofessionals working in Orleans Central Supervisory Union, Vermont, are not highly qualified under NCLB. The supervisory union is working with these paraprofessionals to develop a portfolio that demonstrates their qualifications by next school year. Superintendent Ron Paquette expressed concern, however, about those paraprofessionals who are not yet highly qualified, pointing out that there were few other qualified individuals in the rural community to serve as replacements and that the state has neither developed nor adopted a standardized test to enable paraprofessionals to demonstrate they are highly qualified.

Table 6-1 Proportion of District's Title I Paraprofessionals Providing Instructional Services Who Have Satisfied the NCLB Qualification Requirements, by District Type and District Size, 2003-04 and 2004-05

	MOST OR ALL		SOME OR A FEW		NONE	
	2003-04	2004-05	2003-04	2004-05	2003-04	2004-05
TOTAL (all districts)	62%	78%	24%	15%	11%	3%
DISTRICT TYPE						
Urban	47%	70%	49%	21%	1%	4%
Suburban	61%	72%	29%	21%	16%	3%
Rural	73%	85%	19%	9%	8%	3%
District Size						
Very Large	37%	44%	58%	46%	0%	0%
Large*	27%	54%	61%	33%	0%	1%
Medium	62%	73%	19%	19%	14%	0%
Small	67%	82%	21%	12%	12%	4%
FRPL ELIGIBILITY						
1-10 percent	56%	76%	2%	12%	42%	6%
76-100 percent	57%	73%	43%	27%	0%	0%
MINORITY ENROLLMENT						
1-10 percent	73%	76%	12%	17%	12%	5%
76-100 percent	34%	61%	65%	37%	0%	0%

Table reads: In 2003-04, of urban districts with systems in place to classify paraprofessionals as qualified, 47% reported that all or most of their paraprofessionals have satisfied the qualification requirements of NCLB. The following year, in 2004-05, 70% of these urban districts reported that all or most of their paraprofessionals met the NCLB qualifications.

*Differences from one year to the next are not statistically significant.

Note: Percentages do not add up to 100% because "Don't Know" responses are not shown. In addition, data for districts with 0%, 11-25%, 26-50%, and 51-75% of their students receiving free and reduced price lunches are not shown for ease of reading. Similarly, data for districts with 0%, 11-25%, 26-50%, and 51-75% minority student enrollments are not shown.

Source: Center on Education Policy, December 2003, District Survey, Item 57; December 2004, Fall District Survey, Item 42 (Table 33)

Table 6-J Percentage of Title I Paraprofessionals in Selected Case Study Districts Who Meet the NCLB Definition of Highly Qualified

DISTRICT	ESTIMATED PERCENTAGE OF HIGHLY QUALIFIED PARAPROFESSIONALS, 2003-04	ESTIMATED PERCENTAGE OF HIGHLY QUALIFIED PARAPROFESSIONALS, 2004-05
Avon Public School District, Massachusetts	29%	100%
Cloquet Independent School District #94, Minnesota	17%	100%
Cuero Independent School District, Texas	8%	100%
Heartland Community Schools, Nebraska	100%	100%
Hermitage School District, Missouri	100%	100%
Romulus Central School District, New York	100%	100%
Waynesboro Public Schools, Virginia	38%	96%
Pascagoula School District, Mississippi	82%	96%
Sheboygan Area School District, Wisconsin	0%	93%
Bloomfield School District, New Mexico	16%	92%
Fayetteville Public Schools, Arkansas	72%	91%
Grant Joint Union High School District, California	0%	91%
Tigard-Tualatin School District, Oregon	69%	85%
Berkeley County School District, South Carolina	60%	81%
Clark County Schools, Nevada	50%	77%
Kansas City, Kansas Public Schools	12%	72%
Fort Lupton Weld-R-8 School District, Colorado	20%	72%
St. John the Baptist Public Schools, Louisiana	15%	52%
Independent School District #2—Meridian, Idaho	50%	50%
Calhoun County School District, Alabama	4%	48%
Collier County Public Schools, Florida	10%	45%
Cleveland Municipal School District, Ohio	26%	34%
Kodiak Island Borough School District, Alaska	29%	25%

Table reads: Calhoun County School District in Alabama reported that 4% of its Title I paraprofessionals were highly qualified in the 2003-04 school year and that 48% were highly qualified during the 2004-05 schools year.

Note: Only districts that have reported two years of data to CEP are shown.

Source: Center on Education Policy, December 2004, District Case Studies



State and Local Challenges to and Strategies for Ensuring Highly Qualified Paraprofessionals

Although most districts and states are reporting that all or most of their Title I paraprofessionals are highly qualified, our surveys and case studies identified challenges related to implementing this requirement. Our research also identified strategies used by districts and states to overcome these challenges.

CHALLENGES TO IMPLEMENTING PARAPROFESSIONAL REQUIREMENTS

A number of states have experienced challenges in ensuring that all Title I paraprofessionals are highly qualified by the end of 2005-06. Examples of challenges include the low pay of paraprofessionals, limited English proficiency of paraprofessionals, problems with providing training in rural communities, and confusion about how the NCLB requirements apply to paraprofessionals who work with special education students.

According to one state, many Title I paraprofessionals have been with the school systems for more than 25 years. Rather than completing the established requirements, a large number of paraprofessionals are planning on retiring before the 2005-06 school year. The state department of education has worked with the state technical college system to identify and offer options for current paraprofessionals to meet the NCLB requirements and to bring new paraprofessionals into the school systems

Another state has many paraprofessionals who work in isolated rural communities. English is often not their first language, and many of them have not completed high school. In spite of their isolation, rural districts are working to ensure their paraprofessionals get the help they need to comply with NCLB. This help includes working with them to pass the GED and providing incentives to finish associate's degrees. Carson Elementary School in the Chicago Public Schools system is having the opposite problem. Currently all 11 paraprofessionals at Carson meet the state's definition of highly qualified. Still, Principal Kathleen Mayer said she is not completely satisfied with her ability to staff Carson with paraprofessionals. "I keep having to replace people," she said. As paraprofessionals study to become teachers, they leave Carson for more lucrative work, she explained, noting that bilingual teachers with paraprofessional experience are in high demand.

Finally, some states are struggling to align the NCLB paraprofessional requirements with other federal program requirements. For example, one state has seen schools switch their Title I efforts from schoolwide programs, which aim to improve the overall quality of a school, to targeted assistance programs, which focus assistance on identified at-risk children, because of the way the NCLB requirements apply to special education paraprofessionals. Another state said it was struggling to determine how the reauthorization of the Individuals with Disabilities Education Act would affect paraprofessionals and whether there will be additional requirements for paraprofessionals who work with special education students.



SYSTEMS TO TRACK PARAPROFESSIONALS' QUALIFICATIONS

Most states (34 of the 49 responding) and most districts (89%) reported to CEP that they have a system in place to classify Title I paraprofessionals as qualified. As shown in **Figure 6-D**, the percentage of districts with such a system was lower in 2003–04 (69%) than in 2004–05 (89%). The estimated percentage of districts with systems in place to classify Title I paraprofessionals was higher in urban, suburban, and small districts in 2004–05 than in 2003–04. In addition, very large districts reported a very high rate (96%) of system development in both 2003–04 and 2004–05.

ASSISTANCE TO HELP PARAPROFESSIONALS MEET REQUIREMENTS

Both states and districts are providing a variety of types of assistance—including administering an assessment—to help Title I paraprofessionals meet the NCLB highly qualified requirements. The most frequent strategy used by states appears to be working with institutions of higher education to develop a course of study for paraprofessionals. Offering tuition assistance to paraprofessionals to help them pay the cost of college or university courses appears to be seldom used by states (**Table 6-K**).

The figures in Table 6-K should be interpreted with caution, however, as it appears that at least some of the states said they are providing assistance to Title I paraprofessionals when in fact it is their districts that are doing so. Seven states noted explicitly that although they might offer guidance and support, their districts are responsible for providing Title I paraprofessionals with assistance. Of these seven states, five also reported that they were providing at least one of the forms of assistance in Table 6-K. It is likely that since NCLB places at the district level the responsibility of ensuring that paraprofessionals are highly qualified, these states are providing leadership or direction to the districts and are not actually providing direct assistance to paraprofessionals. But we cannot be certain about their actual involvement or whether other states are in similar situations.

In addition to whatever forms of assistance they are providing to ensure paraprofessionals are highly qualified, 39 of 48 responding states have developed or adopted an assessment to measure the knowledge and competency of Title I paraprofessionals. Of these 38 states, most (28 states) are administering ParaPro, developed by ETS. Nine states are administering ACT's WorkKeys assessment, and some states are offering more than one assessment. Three states have developed their own assessment for paraprofessionals, and four are using Praxis, another test developed by ETS.

Districts, too, are helping Title I paraprofessionals meet NCLB requirements. Most districts (62%) reported that they provide preparation courses to some extent or a great extent to help paraprofessionals pass tests of knowledge. One-quarter of districts (26%) reported that they provide funds to help paraprofessionals acquire an associate's degree or other college degree.

Our case studies offer additional details about the steps taken by districts to ensure that their Title I paraprofessionals are highly qualified. Avon Public School District in Massachusetts and Colorado Springs District 11 have decided to apply NCLB's requirements to all paraprofessionals, regardless of whether they provide instruction in a Title I program. At least two districts, Escondido Union Elementary School District, California and Kansas City, Kansas Public Schools, have responded to the NCLB requirements by drastically reducing the number of Title I paraprofessionals used for instruction.

In the Waynesboro, Virginia, Public Schools, a retired teacher provided training to Title I assistants to help prepare them to pass the ParaPro test. This training took place after school twice a week for about six weeks. Eighteen paraprofessionals took the

Figure 6-D Percentage of Districts Reporting That They Have a System in Place to Classify Paraprofessionals as Qualified, by District Type and District Size, 2003-04 and 2004-05

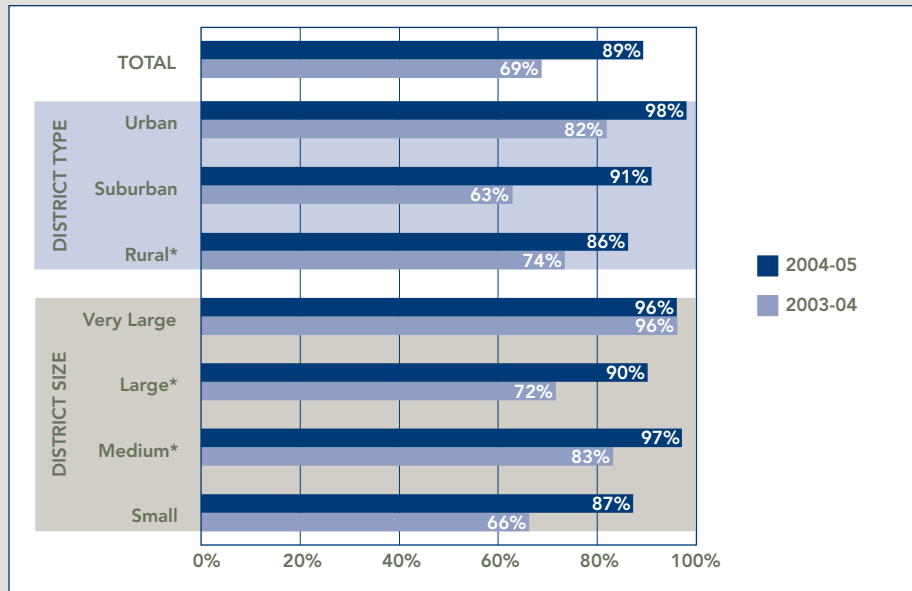


Figure reads: In 2003-04, 74% of rural districts that receive Title I funds reported that they have systems in place to classify paraprofessionals as qualified. In 2004-05, 86% of these districts reported having such classification systems in place.

* Differences from one year to the next are not statistically significant.

Source: Center on Education Policy, December 2003, District Survey, Item 56; December 2004, Fall District Survey, Item 41 (Table 32)

Table 6-K Number of States Providing Various Types of Assistance to Ensure That Title I Paraprofessionals Are Highly Qualified

	TO A GREAT EXTENT	MINIMALLY OR MODERATELY	NOT AT ALL
Providing training to paraprofessionals in core academic subjects	6	16	18
Providing training to paraprofessionals to improve knowledge of instructional strategies that address the needs of students with different learning styles (e.g., students with disabilities, special needs, English language learners)	7	16	17
Offering tuition assistance	3	12	27
Working with institutions of higher education to develop a course of study for paraprofessionals	11	28	7
Other	4	5	1

Table reads: In 2004-05, six of the 39 responding states reported that they provide training to paraprofessionals in core academic subjects to help them become highly qualified as defined by NCLB.

Note: Numbers do not add up to 39 (total responses) because "Don't Know" responses are not shown.

Source: Center on Education Policy, December 2004, State Survey, Item 30



training, and the district gave them release time to take the ParaPro test online. All but one passed it. A second round of training was offered last year to paraprofessionals from non-Title I schools, and this year, another group is being trained. The district pays for the test; if the paraprofessionals pass, they receive a \$200 stipend and are presented with a certificate at a ceremony. The only problem, said one district administrator, is that the district has not adjusted its paraprofessional pay scale to meet the new higher expectations of the position.

The Tigard-Tualatin School District in Oregon is using Title I funding to pay two teachers to develop and train paraprofessionals to pass the district's own "Rigorous Test of Competence" for paraprofessionals. The test consisted of two elements: a "demonstration of instructional competence through direct observation of work with students" and a "demonstration of basic skills through passing scores on the test of Adult Basic Education." The district allotted each paraprofessional \$375 to pay for training and testing or to take college courses to fulfill the state's requirements. By the end of the 2003-04 school year, five paraprofessionals passed the district's tests, and one fulfilled the state requirement through coursework. District officials said they expected more of their currently employed paraprofessionals to meet the state definition of highly qualified this year. By December 2005, the district will stop employing any current paraprofessionals who do not meet the definition.

Finally, just a small number of the 63 paraprofessionals in Cuero Independent School District in Texas met the NCLB requirements when the law came into effect. Although the NCLB requirements applied only to the 25 paraprofessionals who work at the elementary Title I schoolwide schools, the district offered training for all paraprofessionals. The Cuero district set a goal of providing 100 hours of training for each paraprofessional through a "para academy" during the summers of 2003 and 2004. College credit was not provided; the training was designed to help the paraprofessionals pass the NCLB assessment. All the paraprofessionals are now highly qualified as a result of passing this assessment or because they have an associate's degree or two years of college credits.



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CHAPTER 7

English Language Learners

Key Findings

- State and district officials report that the No Child Left Behind Act has drawn attention to the academic achievement of English language learners, but they still express concern with the Act's accountability requirements for these students.
- Districts report several challenges in providing services for English language learners, such as hiring and training qualified bilingual education teachers, assessing ELLs in English language arts and academic subject areas, and addressing the impact of student mobility on the ELL population.
- Districts appear to be placing greater emphasis on helping ELLs acquire English language skills and less on teaching them in their primary language.
- States had mixed views about the degree to which revised federal policies for assessing English language learners were helpful in their implementation efforts. Some state and local officials had concerns about testing ELLs at all, noting that testing these students in the academic content of English language arts was confusing, inappropriate, or of little value to the students.
- Most of the comments about ELL issues from the Center's state and district surveys pertained to the Title I program for disadvantaged children rather than the Title III language acquisition program for ELLs. The degree of Title III implementation varies across states; many states are still in the test development phase, typically as members of a consortium.

Introduction

The population of students in U.S. schools who speak very little or no English is growing, and as more families continue to enter the U.S. from other countries, this trend is likely to continue. According to the National Center for Education Statistics (NCES), the number of public school students who were receiving services for English language learners grew from about 2.1 million in 1993-94 to 3.8 million in 2001-02, or almost 7.9% of all public school students (NCES, 2004; NCES, 2003a). The distribution of students among the states ranges from just over 1,000 or 1% of the student population in Vermont to 1.5 million or 25% of the student population in California (NCES, 2003a). The West has the greatest number and percentage of ELL students, but the ELL population is growing noticeably in the Midwest and South, although the numbers of ELLs in these regions remain small (NCES, 2004).

The ELL population is as diverse as it is widespread. Spanish-speaking students make up 78% of school-age children and young adults who have difficulty speaking English, but hundreds of thousands of students come from homes where other languages are spoken (NCES, 2003b). ELLs are not a homogeneous group; they are diverse in terms of socioeconomic status, linguistic and cultural background, level of English proficiency, amount of prior education, and instructional program experience. Some ELL students enter school with little literacy background in their own language, while others come



from highly privileged and well-educated backgrounds. Some come from poverty or as refugees from war-torn countries; others are children of diplomats or professionals studying or working in the U.S. The majority of ELL students enter U.S. schools at kindergarten, yet others enter the system at middle or high school. The families of many ELLs live in difficult financial circumstances, and many ELLs attend high-poverty schools within the United States.

NCLB defines ELLs as students who (a) are 3 to 21 years of age, (b) are enrolled or preparing to enroll in elementary or secondary school, (c) were either not born in the United States or speak a language other than English, and (d) owing to difficulty in speaking, reading, writing, or understanding English, do not meet the state's proficient level of performance to successfully achieve in English-only classrooms. States and districts may narrow or broaden this definition, however, and so no uniform definition is used across the country.

Federal Support for ELL Students

Federal policies have helped to increase the level of attention given to English language learners. From 1968 to 2002, the Elementary and Secondary Education Act provided funds on a competitive basis to individual schools to assist ELL students through Title VII. Many Title VII projects and grants included primary language instruction, whereby students received instruction for a period of time in their native language. Title VII also emphasized second language acquisition, which explored methods of teaching English to ELL students. The 1988 reauthorization of Title VII expanded funding for “special alternative” programs that used only English in instruction, signaling a shift in federal emphasis to helping students make the transition to English as soon as possible. States and school districts also received support for ELL students through Title I of ESEA, which funded programs to improve education for economically disadvantaged students and migrant children.

Two titles of the No Child Left Behind Act have particular relevance for English language learners. Title I of NCLB reauthorized and amended the Title I, ESEA program for disadvantaged children, while Title III of NCLB replaced and substantially revised the Title VII, ESEA program for ELLs.

Title I

Title I, as amended by NCLB, requires states to establish high academic standards for all students and to hold schools and school districts accountable for improving the achievement of all students—including ELL students. It requires ELL students to be tested with the same state academic assessment used for all other students in the state. As necessary, districts may use state-approved accommodations to assess ELLs in academic content areas.

NCLB also requires states to report exam results by subgroup to ensure that aggregate reporting does not mask achievement trends for students with the lowest performance and the greatest needs. ELLs compose one subgroup, as do the major racial/ethnic groups, students with disabilities, and low-income students. As of December 8, 2004, 43 of 51 states indicated that they were now publishing disaggregated student performance data by limited English proficiency, according to an *Education Week* special report (Olson, 2004). If the ELL subgroup, or any other subgroup, does not make adequate yearly progress for two consecutive years, the school or district is then designated as being in need of improvement. The disaggregation of data by subgroups has helped to focus attention on the quality of instruction for ELLs and their degree of success in learning English.

Table 7-A Existing and New Flexibility for States Regarding ELL Students

FIRST ADDED FLEXIBILITY (FEBRUARY 2004)	NEW ADDITIONAL FLEXIBILITY (JUNE 2004)
States can define which students are limited in English proficiency for the purposes of determining AYP.	During their first year of enrollment in U.S. schools, ELLs must take at least an English proficiency assessment and the state math assessment. First-year ELLs may take the state's reading/language arts test. Scores of first-year ELL students do not have to be included in AYP determinations, but they do count toward the 95% participation rate.
States can request to set a different minimum subgroup size (number of students required for a subgroup to be counted for AYP) for ELLs than for other subgroups.	States may include Redesignated Fluent English Proficient (RFEP) students in the ELL subgroup for up to two years for AYP determination. RFEP students are former ELLs who have reached the state definition of English proficiency and have attained at least a basic level of academic achievement according to district/state requirements. RFEPs no longer require language services and participate fully in mainstream classes and coursework.

Source: U. S. Department of Education, Letters from Secretary Rod Paige of February 20, 2004 and June 24, 2004, as reported in USED NCLB Standards and Assessments Peer Review Guidance (2004)

On June 24, 2004, the U. S. Department of Education announced policy changes allowing additional flexibility regarding English language learners in NCLB. The document also explained earlier guidance released in February 2004 by the Secretary of Education. **Table 7-A** summarizes both documents.

States are required to amend their state accountability plans if they want to take advantage of the new flexibility for the 2004-05 school year. An additional area of flexibility in USED policy is the approved use of native-language assessments for ELL students for a temporary period of up to three years, with another two-year renewal.

Title III

The No Child Left Behind Act reiterated the earlier shift in focus of the 1988 reauthorization of Title VII to helping ELL students acquire English language skills as quickly as possible. The name of the office within the U.S. Department of Education that administers Title III also changed from the Office of Bilingual Education and Minority Language Affairs to the Office of English Language Acquisition. Instead of authorizing competitive grants, Title III now allocates funds to states using a formula that takes into account the number of ELLs enrolled in schools in the state. According to a report by the Council of the Great City Schools (2004), the federal appropriation for programs for ELLs grew from \$610 million under the Title VII competitive grants to \$665 million in the first year of the Title III formula grants.

The overall purposes of Title III are to provide funds to districts to improve educational outcomes for ELL students and to hold states and districts accountable for ensuring that ELL students are learning the state academic content as they learn English. Title III provides supplemental funding to school districts to implement programs designed



to help English language learners and immigrant students attain English proficiency and meet the state's standards for learning academic content. Section 3122 of ESEA as amended by NCLB, Title III, requires each state to take the following steps:

- Establish English language proficiency standards that address the five domains of listening, speaking, reading, writing, and comprehension
- Conduct an annual assessment of English language proficiency of all ELL students
- Define annual measurable achievement objectives for increasing the percentage of ELL students who develop and attain English proficiency
- Hold school districts accountable for meeting these objectives

A state's Title III annual measurable achievement objectives must specify the percentage of students each year who are expected to make progress in learning English and the percentage expected to attain English language proficiency. The percentages must increase each year but, unlike the Title I goals, do not need to reach 100% by 2014. In addition, there must be an annual measurable objective related to ELL students meeting the state's targets for academic achievement as outlined by Title I. **Box 7-A** describes California's annual measurable achievement objectives under Title III. Districts not making adequate progress according to their state's annual measurable objectives for two consecutive years will develop improvement plans. The state must provide technical assistance about professional development strategies to districts needing improvement. If a district falls short of meeting the annual measurable objectives for four years, the state can require the district to modify its curriculum and method of instruction. The state can also choose to withhold Title III funds.

Relationship of Titles I and III

NCLB has helped broaden the exposure of ELLs in state, district, and school accountability systems. Titles I and III of ESEA, as amended by NCLB, share the same basic requirements for ELLs and share the desire to improve the academic achievement of ELLs. Title I requires states to assess the academic content knowledge of all students, including ELLs, and holds states accountable for students' academic achievement. Title III requires states to assess the English language proficiency of ELL students and holds states accountable for these students' proficiency in English language acquisition. The Title III annual measurable objective concerning academic achievement mirrors Title I expectations. Similarities between the two titles regarding ELL students are summarized below.

- *Standards.* Both Title I and Title III rely on state standards as the basis of the accountability system. The English language proficiency standards used for Title III must be linked to the state's content area standards used for Title I, and must describe stages of English language acquisition for each of the domains leading to full English proficiency.
- *Inclusion in testing.* ELL students are tested as part of all students in Title I, and they are the only ones tested in Title III. Title I requires testing annually in grades 3-8 in at least reading and math and at least once in grades 10-12 in the same subjects. Title III requires annual testing in all five language arts domains (reading, writing, listening, speaking, and comprehension) in grades K-12. As long as students maintain ELL status, they are required to take the state's English language proficiency test.

Box 7-A California's Annual Measurable Achievement Objectives for Title III

An annual measurable achievement objective (AMAO) is an annual target for the performance of English language learners for school districts receiving Title III funds. California has three AMAOs, two related to English language proficiency and one tied to academic achievement.

AMAO 1: Percentage Making Annual Progress in Learning English

ELL students with two years of test scores on the California English Language Development Test (CELDT) demonstrate progress in one of three ways:

1. Increasing one English proficiency level from the beginning, early intermediate, and intermediate levels;
2. Bringing up subscores in listening and speaking, reading, and writing to at least the intermediate level for students performing at the early advanced or advanced levels; or
3. Maintaining the state-defined level of English proficiency for both years.

Annual targets for school districts began with 51% of students making progress in 2004 and will increase to 64% in 2014.

AMAO 2: Percentage Attaining English Proficiency

Of the ELL students with two years of test scores on the CELDT, a pool of students who could reasonably be expected to reach the proficient level in English was identified by the state as the eligible cohort for this AMAO. The cohort includes the following groups:

1. All ELLs who scored at the intermediate level on CELDT in the prior year
2. ELLs who scored at the early advanced or advanced level in the second year of testing but who were not English proficient the prior year
3. ELLs who have been in U. S. schools for four or more years, no matter their prior proficiency level
4. ELLs who scored at the beginning or early intermediate levels in the prior year and who attained English proficiency in the second year

Annual targets for school districts began with 30% of eligible students attaining English proficiency in 2004 and will increase to 46% in 2014.

AMAO 3: Meeting AYP Requirements for the ELL Subgroup at the School District Level

The academic achievement targets for Title III are the same as the Title I achievement and test participation targets in English Language Arts and mathematics for all students. Reclassified Fluent English Proficient students are included in the subgroup of ELLs if they have not scored at the proficient level or above on the California Standards Test in English Language Arts for three years.

Annual targets for unified school districts began with 12.2% of all subgroups scoring proficient on the California Standards Test in 2002 and will increase to 100% in 2014.

Source: California Department of Education (2004)



- **Accountability.** The Title I accountability system looks for an increasing percentage of students to demonstrate proficiency in reading/language arts, mathematics, and (in 2007-08) science according to state tests. Title III accountability can look for increased percentages of students demonstrating English proficiency and increased percentages of students moving toward English language proficiency. In addition to the annual measurable objectives for English proficiency, states must have an annual objective measuring the academic achievement of ELLs in reading/language arts and mathematics. States may choose to use their Title I test score targets for AYP for all students as the Title III objective on academic achievement for ELL students.
- **Unit of accountability.** For Title I, both schools and districts are measured according to AYP requirements. In Title III, only school districts are held accountable, as individual schools may have insufficient numbers of ELL students to be included.
- **Consequences.** Both systems begin consequences at the end of two consecutive years of not meeting objectives and proceed similarly to more stringent restrictions.

Major Issues Reported by States and Districts

Our state and district surveys included several questions about the positive impacts and implementation challenges of NCLB and suggestions for changing the law. The majority of the responses concerning ELL students dealt with Title I, rather than Title III. Findings in this section are grouped by title.

Title I

States and districts had a good deal to say in the Center's surveys about English language learners in Title I. The NCLB requirements for ELLs have created confusion and change but have also brought new visibility to this group of students. Survey respondents commented on the positive impact of NCLB on ELLs, the helpfulness of new federal regulations meant to allow more flexibility in testing ELLs, and the greatest challenges of implementing the law's provisions for ELLs. Our state and district surveys and case studies also highlighted some additional concerns related to accountability for ELL students.

POSITIVE IMPACT

Several states and school districts said that Title I has brought increased visibility and greater attention to ELL students, which they see as a positive effect. One state described this trend as follows:

More discussion and attention has been focused on the academic achievement levels of students, particularly in the subgroups. AYP has contributed to this increased use of data to change classroom practices.

We asked both states and districts about their perceptions of any achievement gaps between ELL and non-ELL students. Their responses are shown in **Table 7-B**. Aside from the uncertain responses (gap too small or don't know if there is a gap), relatively high percentages of states and districts perceived the achievement gap between ELL and non-ELL students to be narrowing or remaining the same. Fewer states and districts saw this gap as widening. More than half the districts surveyed said the subgroup was too small to count.

Table 7-B State and District Perceptions of Trends in the Achievement Gap Between ELL and Non-ELL Students

PERCEPTION OF ACHIEVEMENT GAP	PERCENTAGE OF STATES REPORTING TREND IN GAP	PERCENTAGE OF DISTRICTS REPORTING TREND IN GAP
Narrowing	27% (13 states)	18%
Staying the Same	25% (12 states)	14%
Widening	17% (8 states)	5%
No Gap	2% (1 state)	2%
ELL Subgroup Too Small to Track	4% (2 states)	56%
Don't Know	25% (12 states)	4%

Table reads: Twenty-seven percent of the states and 18% of the districts responding to CEP's surveys reported that the achievement gap between English language learners and students who are not English language learners is narrowing.

Source: Center on Education Policy, December 2004, State Survey, Item 9; Fall District Survey, Item 11 (Table 10)

FEDERAL FLEXIBILITY

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We asked states how helpful they found the policy changes made by the U.S. Department of Education to allow more flexibility in testing ELLs, described above in Table 7-A. Their responses were mixed: 17 states said that the revised policies were very helpful, 16 indicated they were somewhat helpful, 14 said minimally helpful, and 2 states said the flexibility was not helpful. District surveys indicated that an average of 2% of all ELL students were exempted from taking the state assessment in 2003-04 because that was the first year they were enrolled for less than 10 months in a U.S. school.

States were also asked if they had requested additional flexibility from USED related to other requirements affecting ELL students. Three states reported that they had done so. One state asked to apply the flexibility and accommodations in testing accorded to ELL students to Native American students as a whole group. Another state asked for permission to identify all current and former second language students as ELLs, and a third sought permission to eliminate testing of first-year ELL students in mathematics. None of these requests was approved by USED.

GREATEST CHALLENGES RELATED TO ELLS

Although states found benefits in the NCLB requirements for ELL students, they also reported that the same requirements presented implementation challenges. In the CEP surveys for both 2003 and 2004, challenges related to special populations—including ELL students—were most often cited by states as their greatest implementation challenges. Here are some of the challenges states shared with us regarding ELL students:



The requirements that limited English proficient students be assessed in reading, writing, listening, and speaking in grades K through 12 [presented a challenge]. Prior to NCLB, the state had in place a reading assessment for students in grades 3 through 12 and a writing assessment in grade 4 to assess limited English proficient students; however, an entirely new assessment had to be developed in an extremely short timeframe to assess students in the other domains and grades required by NCLB.

Measuring the progress of [special education] and ELL students that shouldn't take the state or alternative assessment [was a challenge].

We asked districts generally what their greatest challenges were in working with their ELL populations. The most frequently cited challenge was finding qualified teachers. Districts also said that assessment requirements, student mobility, communication with parents, students' lack of prior education, the spread of ELL students across many schools, the number of languages that students speak, and funding all create challenges. Here is some of what they had to say:

We just don't have enough qualified teachers. We don't have enough bilingual teachers who are also qualified under NCLB.

The lack of logical requirements for ELL students. These requirements show a total disregard of the research that shows how long it takes a student to reach proficiency. It should be seen as discriminatory that we use the same assessment for native English-speaking students that we use for students who have not had [the] opportunity to become proficient in English.

There is a high rate of mobility, including students entering and exiting the district and moving within the district. Many of the Spanish speaking ELL students go back to Mexico for the winter.

Trying to get parents involved in the school] is the biggest challenge Interpreting is also difficult. Getting that home/school connect [is difficult] because a lot of our parents live and work across town, don't speak the language, and can't get to school.

Kids at the secondary level lack the primary education from their home countries.

Our population is small and spread across three schools and all grade levels, with almost no funding dedicated to ELLs.

OTHER ACCOUNTABILITY ISSUES AFFECTING ELLS

In addition to the comments about positive impact, federal flexibility, and greatest challenges, states and districts highlighted several accountability issues specific to ELL students. The issues mentioned most often include variations in the minimum subgroup size and definition of the ELL subgroup, multiple counting of ELL students across categories, assessment difficulties, and state and district capacity challenges.

A number of issues related to accountability for English language learners in Title I also emerged from a forum held by the Center in September 2004. These issues are discussed in detail in Chapter 3.



Variations in the minimum subgroup size and definition of the ELL subgroup

Some case study districts and survey respondents indicated that the AYP requirements were unfair to districts with diverse student populations. As noted in Chapter 3, diverse districts and schools have more targets to reach to make AYP than less diverse ones. For example, schools in the Grant Joint Union High School District in California, one of our case study districts, have up to 10 subgroups large enough to be counted for AYP—7 racial/ethnic groups, students with disabilities, low-income students, and ELL students. “That’s a lot more than what is required for schools and districts that are not as diverse as ours,” said Rick Carder, the district’s director of state and federal programs. The performance of English language learners can be among the most critical factors affecting whether a diverse district makes AYP. In Colorado Springs District 11, Colorado, when schools had difficulty in making AYP, it was often the subgroups of English language learners and students with disabilities that fell short. One English as a Second Language magnet school did not make AYP based on its test participation rate because many of its ELL students went to Mexico in the spring.

This sense of unfairness is aggravated by variations among states in the definition of English language learner and the minimum subgroup size. States reported that different state definitions of ELL make it difficult to have comparable data—or achievement results. States can limit the definition of ELL students to those who receive direct services or include former ELL students who have become English language proficient and no longer receive services. States also differ in the minimum sizes they have set for a school subgroup to be counted for AYP purposes—an important factor in determining whether the ELL subgroup is counted at the school or district level for AYP purposes (Olson, 2003). These minimum sizes for the ELL subgroup can range from 5 in Maryland to 50 in Virginia to 100 in California.

Multiple-counting of ELL students across categories

A related concern is the issue of ELL students counting multiple times as a member of more than one subgroup. In addition to being counted in the ELL subgroup, the test score of an English language learner also counts toward the school or district’s overall achievement and in a racial/ethnic subgroup, and may count in the economically disadvantaged group and the subgroup of students with disabilities. So the impact of that ELL student’s one score is magnified through repetition across subgroups. One state has suggested that any student score should only count once—and that if a student is part of more than one group, his or her score should be weighted proportionately between the groups. For example, if an ELL student is also part of the Hispanic subgroup and the low-income subgroup, that student’s score should only be given one-third of the weight of a full score in each of the subgroups.

Academic assessment difficulties for ELLs

English language learners must take the state exams at required grades in English language arts and mathematics and, in 2007–08, in science. Several states and districts said that testing students in the academic content of English language arts was confusing, inappropriate, or of little value for ELL students. ELLs receive services because they are not proficient in English, according to our survey respondents, so state testing is not an accurate measurement of their present learning. Districts participating in our survey often noted that NCLB places unrealistic and unfair expectations on ELLs. One district respondent made the following observation:

The goals we’ve set for ELL and special education students are foolish and impossible. Students are always moving into and out of these categories. So, these subgroups always include students with continuing difficulties. It’s a catch-22 for these kids.



Case study districts also reported various difficulties or confusion with the testing requirements for ELLs. Officials in the Cleveland Municipal School District in Ohio, for example, said that district staff received mixed messages from the state during school year 2003–04 about testing ELLs with less than one year of enrollment. The district was later penalized for its low test participation rate of ELLs. In the Fort Lupton Weld-R-8 School District in Colorado, ELL students who have been in Colorado for less than three years may be tested in Spanish if they have received instruction in Spanish. But the district’s recent change to a transitional bilingual program means that most of its students are receiving all-English instruction by second grade. Spanish tests in Colorado are only available in grades 3 and 4, leaving Fort Lupton with no Spanish testing at the grade levels in which its staff teaches in Spanish.

Some states have taken advantage of the federal flexibility to substitute another test for the English language arts test for a limited period. In the Sheboygan Area School District, another case study district, ELL students met adequate yearly progress targets as a result of the testing policies in Wisconsin. ELL students who scored at levels 1 and 2 in language acquisition are allowed to take alternative district assessments based on grade-level standards for a three-year period. Cathy Isa, the district’s elementary ELL curriculum specialist, described the alternate assessment process in this way: “The student could be given a map of the United States and asked to fill it in with the physical features. The student is also asked to write a comparison of one part of the country with another. In this way it could be determined if the student understood the standard upon which the product was based.”

NCLB allows for accommodations in state testing of ELLs, in order to provide “the language and form most practicable.” These accommodations are set by each state. According to a study of ELL policies in large urban districts by the Council of the Great City Schools (Antunez, 2003), the most common accommodations permitted for ELLs on state academic achievement tests were additional time and use of bilingual dictionaries or glossaries. The next most frequently-used accommodations were translation of instructions, explanation of instructions, and having the test read aloud in English. This last set of accommodations is permissible for all testing except for English language arts reading tests. One of our case study districts, Independent School District #2 in Meridian, Idaho, reported using a number of these accommodations and found them to be helpful.

State and district capacity challenges

Some of our case study districts said that helping their growing populations of ELLs meet the achievement goals of NCLB was among their greatest challenges. The Sheboygan, Wisconsin, school district mentioned the challenge of serving increasing numbers of ELL students, including large numbers of Hmong refugee students who enter the district without any prior English skills. Similarly, the Meridian, Idaho, schools are enrolling a large number of Bosnian and Somali refugees sponsored for resettlement by local churches. “We have challenges, but we don’t give up,” said Susan McInerey, principal of Frontier Elementary School in Meridian. “The key factor is how well we use our instructional time,” she explained. “We changed a lot of things—we have fewer assemblies and parties because we are concentrating on learning.”

Title III

We did not ask state and district respondents to specifically talk about positive impacts or negative challenges in Title III. Few states had operational Title III accountability systems at the time of our survey. States and districts did comment on two Title III issues: assessment development and the scarcity of Title III data.

TITLE III ASSESSMENT DEVELOPMENT

States were asked if the state or district had assessments of English language proficiency, as required by NCLB. Forty of 47 respondents indicated that the state or districts had these assessments, although states were at different levels of readiness. Our survey also showed some of the different approaches states are using to meet the Title III assessment requirement:

- Several states are involved in consortia for the development of their English language proficiency assessment. Examples include the Mountain West Consortium, Council of Chief State School Officers (CCSSO) Consortium, Wisconsin/Illinois/Delaware/Arkansas Consortium, and the Five-State Consortium with the Educational Testing Service.
- Some states are using commercial assessments, such as the Stanford English Language Proficiency Test, the IDEA Proficiency Test (IPT), the Language Assessment Scales (LAS), and the Maculaitis Assessment of Competencies II.
- A few states have developed their own tests, among them California, Texas, New York, and Washington. **Box 7-B** describes the Texas assessment system for ELL students.
- Nine states require their school districts to adopt their own exams to measure English language proficiency.

Box 7-B The Texas Assessment System for ELL Students

The Texas English Language Proficiency Assessment System (TELPAS) is used to assess the English language proficiency levels of ELL students. The TELPAS consists of two assessments, which are related to the Texas English Language Proficiency (ELP) Standards.

- 1) The Observation Protocols assess the domains of reading, listening, speaking, and writing in grades K-12. The protocols evaluate English language development in terms of students' increasing ability to understand and use grade-appropriate English. A teacher completing the protocol accords a student the highest proficiency rating (advanced high) when the student is able to understand and use English with only minimal support to fully engage in grade-appropriate academic learning.
- 2) The Reading Proficiency Test in English (RPTE) focuses solely on reading in grades 3-12 in four grade spans (grade 3, grades 4-5, grades 6-8, and grades 9-12). Each test includes reading selections and has built-in linguistic accommodations and visual supports appropriate for students at each stage of language development.

Source: Texas Education Agency, www.tea.state.tx.us/student.assessment/admin/rpte/index.html

ELL STUDENT PARTICIPATION IN ENGLISH LANGUAGE PROFICIENCY EXAMS

Forty-one of 49 states responding to our survey question indicated that all of their ELL students were assessed in English language proficiency in the 2003-04 school year. We asked districts what proportion of their total student enrollment participated in the state or district English language proficiency tests, and an average of 5% of all students did so in school year 2003-04. As shown in **Table 7-C**, urban, large, and very large districts had much greater proportions of their student populations taking the exam than other types and sizes of districts. The proportion of students participating in the state or district English language proficiency exam has remained about the same between 2002-03 and 2003-04.

The districts we surveyed also reported that in 2003-04, an average of 2% of English language learners taking their state or district's English language proficiency test improved their proficiency enough to become Redesignated Fluent English Proficient (no longer requiring English language services).

Table 7-C Average Percentage of Students Participating in State/District English Language Proficiency Tests

	2002-03	2003-04
TOTAL (all districts)	6%	5%
DISTRICT TYPE		
Urban	20%	15%
Suburban	6%	4%
Rural	4%	5%
DISTRICT SIZE		
Very Large	17%	10%
Large	23%	11%
Medium	11%	7%
Small	3%	4%

Table reads: An average of 6% of all enrolled students participated in a state or district English language proficiency assessment in 2002-03. Urban, very large, and large districts had greater proportions of their student bodies taking the English language proficiency exams than did other types of districts.

Source: Center on Education Policy, June 2004, Summer District Survey, Item 37 (Table 19)

Services and Resources for ELL Students

As a result of NCLB, the states and districts that we surveyed reported that they were focusing more on their programs, services, and resources for English language learners. Some states have extensive experience in serving ELL students, while others are adapting for the first time to an influx of large numbers of ELL students. This section summarizes the areas of implementation mentioned frequently by states and districts—state and district support, changes in instructional programs, professional development, and district resources and interventions. The majority of comments on our surveys referred to Title I pressures for moving along ELL students in English language proficiency and academic achievement.

Support from States and Districts

States are developing a variety of programs, processes, and technical assistance to support districts and schools as they seek to meet the needs of English language learners. Of the 49 respondents on the state survey, 43 said they were engaged in developing such assistance. Most often this state assistance took the form of sponsoring sessions about second language at conferences and meetings, and most commonly it focused on delivery models for English language instruction. **Box 7-C** illustrates the variety in the types and content of this assistance.

Box 7-C Types and Content of State Assistance in Second Language Instruction	
TYPES OF ASSISTANCE	CONTENT OF ASSISTANCE
<ul style="list-style-type: none"> ■ Sessions at sponsored conferences ■ Written guidance or guidelines on federal and state requirements ■ Use of regional centers or networks of trained specialists ■ Professional development plans and/or modules ■ Training for teachers/teacher academies ■ Training for school districts ■ Website information; e-mails, list-servs ■ Professional study groups ■ State policies ■ Textbook and resources adoptions ■ Title III directors' meetings ■ Newsletters 	<ul style="list-style-type: none"> ■ Language instructional delivery models ■ Suggestions for using English language development standards ■ Descriptions of sheltered English instruction; scaffolding language and content techniques ■ Understanding of assessment issues; assessment preparation; accommodations ■ Measuring student progress; data ■ Identification of ELL students ■ Cultural diversity ■ Translations ■ Model lesson plans ■ Working with families ■ Reading/ Reading First
<p><i>Source: Center on Education Policy, December 2004, State Survey, Item 35</i></p>	

As illustrated in **Table 7-D**, when districts were asked in the summer of 2004 if they had developed interventions or technical assistance to help schools with instruction of ELL students, 78% responded that they had. A greater share of urban than suburban districts said they were providing this type of second language assistance, and the percentage of rural districts reporting second language assistance was lower than either urban or suburban. Similarly, a higher proportion of very large and large districts than of medium or small districts said they provided these types of interventions or technical assistance.

We asked districts about the types of intervention and/or technical assistance they are providing to schools to help with instruction of ELLs, and the bulk of their responses clustered into three main categories of assistance: offering specific programs or classes to ELLs, hiring new staff, and offering professional development to current staff. One district official described their efforts as follows:

We have English language resource teachers at every site. For 30 minutes a day, every ELL student receives English language development instruction. I have paraprofessionals in four major languages. We offer lots of ELL professional development for teachers.

Table 7-D Percentage of Districts That Have Developed Interventions or Technical Assistance Programs to Assist with Improving the Language Proficiency of English Language Learners

	PERCENTAGE OF DISTRICTS WITH PROGRAMS TO ASSIST SCHOOLS WITH ELLS
TOTAL (all districts)	78%
DISTRICT TYPE	
Urban	88%
Suburban	86%
Rural	67%
DISTRICT SIZE	
Very Large	95%
Large	97%
Medium	88%
Small	73%

Table reads: Among urban districts that received Title I funds, 88% have developed intervention or specific technical assistance programs to assist schools with improving the language proficiency of English language learners.

Source: Center on Education Policy, June 2004, Summer District Survey, Item 40 (Table 22)



Changes in Programs to Increase English Language Development

According to a report by the Council of the Great City Schools (Antunez, 2003), the most frequently offered instructional program for ELLs in its member districts was Sheltered English, in which English is the language of instruction but students receive support with meaning and language. About 87% of these urban districts offered this type of instruction. Pullout or self-contained ESL programs were the second-most common instructional programs, provided by 77% of responding districts. A report by the Council of the Great City Schools in the following year (2004) indicated that 81% of its member districts expected to accelerate the percentages of students reaching English proficiency, and 51% said that their goal in Title III was to improve ELL test scores.

Many of our own case study districts also seemed to favor all-English instruction. Indeed, some districts indicated that they have changed instructional programs for ELL students to increase students' English language development. Fort Lupton Weld-Re-8 District in Colorado changed from an extended K-6 bilingual program to a transitional program, with students receiving all-English instruction by second grade. The district is experiencing increased diversity in its ELL students, who make up 39% of the student population and include both longstanding families and new arrivals. Similarly, the Chicago Public Schools reported that some ELL students used to remain in bilingual programs throughout their K-12 careers, but newer policies begun in 1997 have moved students into English more quickly. Pascagoula School District in Mississippi has a fluctuating population of ELL students due to the employment practices of the local shipbuilding industry. Students represent nine different languages, and instruction is all in English. "We have found that English immersion, especially at the lower grades, is the most successful way to bring students to mastery levels," said Dr. Susan McLaurin, district director of federal programs.

Other case study districts have arrived at a range of instructional methods that involve varying degrees of English or native language instruction. Escondido Union Elementary School District in California uses approaches for ELL instruction that range from bilingual to English immersion. District officials are currently looking for patterns in test data to see if one instructional approach is more effective than others. The Sheboygan, Wisconsin, district varies its instructional methods depending on parental preference and staff capabilities. The methods used in this district include English language development with bilingual support, dual language instruction, bilingual instruction in Spanish (up to grade 5), English immersion, and placement at a newcomer center. Sheboygan may feel that it has the latitude to explore several instructional methods, since Wisconsin law permits districts to use alternative state testing for ELL students for three years.

Resources and Interventions

Our case study districts also illustrate the different kinds of interventions and resources that are being provided for English language learners. Districts with few ELL students have had to make adjustments to meet the needs of these students. For example, the Cuero Independent School district in Texas, which has just 29 ELL students or about 1% of the student population, teaches these students in small group settings and uses software programs for English language development. Pascagoula, Mississippi, with 210 ELL students or 3% of enrollment, provides newcomer assistance at a central location for ELL students and their families. The district makes use of a part-time assistant teacher and after-school tutoring.



Magnet schools for ELLs are an interesting intervention used by Colorado Springs District 11, a case study district with an enrollment of 6% English language learners. The 1,300 ELLs come from more than 40 different language groups. The district has 21 magnet schools serving ELL students, although parents may also choose to enroll their children in neighborhood schools. All instruction is in English in the magnets and other schools. Specially trained teachers work with students in small groups, pulling them out from their regular classroom. District research indicates that three years of English language development is not enough time to reach proficient levels of oral and written language.

Districts with higher numbers of ELL students often have multiple language subgroups and offer different interventions based on student needs. For example, Grant Joint Union High School District has an ELL population of 23%, including a new influx of Hmong families. The district uses teachers who are state-certified in second language acquisition and divides the students into two instructional programs. Students at the beginning, early intermediate, and intermediate levels of language acquisition participate in sheltered English immersion programs, in which students are taught almost exclusively in English. Students at the early advanced and advanced levels are taught in mainstream English classrooms but receive support with meaning and language.

Suggestions for Changes in NCLB Related to ELLs

In response to the question “What three requirements of NCLB, if any, would you change or eliminate?” states and districts most often said they would change the testing of special population students. While the majority of the responses concerned students with disabilities, several related to ELL students, and all dealt primarily with Title I requirements. Here are some suggestions from states and districts for changing NCLB requirements with respect to ELL students:

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Do not require LEP [limited English proficient] students to take tests in English until they have a minimum level of English proficiency. Do not count the results of LEP students for 3 years or until they have a minimum level of English proficiency, whichever comes first. The results for these students are not valid and results in their schools showing low test results, when the students simply need more time to become proficient in English.

I would change the testing requirements for ELL students according to their proficiency level. They would be required to be proficient at their current level of performance.

One size does not fit all. Without lowering standards, provide the intensive supports that ELL students need in order to achieve.

Modify the accountability requirements for [students with disabilities] and LEP so that schools and districts that meet the minimum [subgroup] size for these groups have a chance at making AYP.



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APPENDIX A

Data Sources and Methods

Overview of Data Sources

To collect information for this study of the No Child Left Behind Act, the Center used a variety of research methods. In particular, we took the following actions:

Federal Research

- Monitored the Department's release of guidance and regulations concerning the Act
- Analyzed the preliminary allotments to school districts of Title I, Part A funds for school year 2004-05 and tracked general trends in appropriations and funding for NCLB
- Analyzed the approval letters sent by the Department to the states regarding accountability plan amendments

State Research

- Conducted a comprehensive survey of NCLB implementation in all states; received responses from 49 states
- Monitored state department of education websites for updated information about state implementation of NCLB
- Conducted a site visit in Michigan to examine the school restructuring process as required under NCLB
- Reviewed state approaches to designating school districts as being in need of improvement

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Local Research

- Conducted a nationally representative survey of NCLB implementation in 314 school districts, stratified by urban, suburban, and rural location. Two surveys were administered to 409 school districts. The summer survey elicited 314 responses for a 77% response rate; the fall survey elicited 286 responses for a 70% response rate.
- Conducted case studies of 36 local school districts and of 37 schools within 16 of those districts. The total pool of districts was selected to be diverse in geography and size and to include a proportion of urban, suburban, and rural districts that roughly parallels the national distribution

General Research

- Convened three forums to discuss key issues under the No Child Left Behind Act

- Reviewed studies and reports issued by other organizations about NCLB implementation and effects
- Monitored media accounts of the impact of NCLB at the state and local levels

Data from the state survey were collected from October through December, 2004. Data from the school district survey were collected from June through November, 2004. Information from the case studies was collected from June through December, 2004. What follows is a more detailed description of the specific methods we used to conduct the major research efforts listed above.

Special Analyses Conducted by CEP

During 2004, the Center conducted four analyses of special topics related to No Child Left Behind. These analyses were published as separate short reports, but their findings provided the basis for sections of this report.

Analysis of Title I Allocations to School Districts

In spring 2004, a CEP consultant reviewed and analyzed the preliminary allocations of the Title I, Part A funds to schools districts. The Center found that over half of the school districts in the nation and 10 states would receive less Title I, Part A funding for school year 2004-05 even though appropriations for the program had increased. The analysis also tracked trends in federal appropriations for NCLB and reviewed studies of the adequacy of funding for the Act. The findings of this analysis are summarized in chapter 2 of this report and in a separate report, *Title I Funds: Who's Gaining, Who's Losing, & Why*, issued by CEP in June 2004.

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Analysis of USED Approval Letters of Amendments to State Accountability Plans

In the fall of 2004, CEP consultants reviewed and analyzed official decision letters from the U.S. Department of Education to states that had requested amendments to their original accountability plans, which were first submitted in early 2003. The analysis focused on the 35 states for which decision letters were available on the Department's web site as of mid-October 2004. The analysis was also limited to changes states requested since January 1, 2004. The findings of this analysis are summarized in Chapter 3 of this report and in a separate report, *Rule Changes Could Help More Schools Meet Test Score Targets for the No Child Left Behind Act*, issued by CEP in October 2004.

Study of the NCLB School Restructuring Process in Michigan

In the summer and fall of 2004, a CEP consultant reviewed Michigan's state and school district documents on NCLB school restructuring and interviewed officials in the state department of education and in three Michigan school districts: Flint Community School District, Harrison Community School District, and Willow Run Community Schools. Michigan was selected because it is one the first states to have schools enter the restructuring phase of NCLB. The study found that the approach taken by Michigan to restructure schools is largely a moderate approach, with most districts opting to replace staff in restructured schools. The study also concluded, however, that the restructuring process is an immense task, which districts report is underfunded. The findings from

this study are included in Chapter 1 of this report and in a separate report, *Makeovers, Facelifts, or Reconstructive Surgery: An Early Look at NCLB Restructuring in Michigan*, issued by CEP in November 2004.

Review of Processes for Identifying School Districts for NCLB Improvement

In the winter of 2004, CEP consultants reviewed state approaches to identifying school districts for improvement and corrective action under the No Child Left Behind Act. The review found that NCLB has major consequences for school districts that fail to make adequate yearly progress, including prohibiting these districts from directly providing supplemental education services to students. It also found that NCLB allows states more flexibility in dealing with school districts identified for improvement than it does for dealing with schools identified for improvement. Finally, many states have adopted policies that may result in fewer school districts being identified for improvement. The findings from this study are included in Chapter 3 of this report and in a separate publication, *Identifying School Districts for Improvement and Corrective Action Under the No Child Left Behind Act*, issued by CEP in March 2005.

State Survey

In March 2004, the Center on Education Policy staff contacted the chief state school officers in each of the 50 states and the District of Columbia requesting their participation in a survey on NCLB to be administered in the fall of 2004. We asked each chief to designate an individual within the state education agency to be the primary contact for the survey. In most states, the deputy commissioners of education were named as contacts. In October 2004, a survey containing 46 questions was sent to the state contacts, either as an electronic version or hard copy. A copy of the survey instrument is posted on the Center's web site.

States returned the surveys to CEP from October through December. A total of 49 states responded to the survey. However, not every state answered every question, so the total responses to a given question do not always add up to 49. The District of Columbia responded too late to be incorporated in our results. All the questions were coded as confidential, so that we could receive the most honest responses possible from state officials. CEP staff tallied and analyzed the responses and compiled states' comments to open-ended questions.

School District Survey

Policy Studies Associates (PSA) conducted the 2004 survey of district implementation of the No Child Left Behind Act under contract to the Center on Education Policy. This survey was administered to Title I and other federal programs administrators in a nationally representative sample of 409 school districts that receive Title I funds. The 2004 survey, the second year in which the Center commissioned a major data collection from school districts, was intended to follow up on information collected in the fall of 2003 and reported in February 2004 as part of the Center's report on Year 2 of the No Child Left Behind Act. The 2004 survey began in the summer of 2004 and concluded in the fall of 2004.

The 2004 survey was administered in two waves. The first wave, or summer survey, began and concluded in the summer of 2004 and was intended to encourage district

administrators to reflect on their experiences in implementing NCLB in 2003–04. The second wave, or fall survey, began and ended in the fall 2004 and was intended to focus district administrators on current issues related to implementation of NCLB in 2004–05. Both the summer and fall surveys were designed to enable CEP to assess how implementation of NCLB is proceeding at the local level.

Sample Design

The universe for the district survey sample was based on the most recent district-level data available through the U.S. Department of Education’s Common Core of Data (CCD). A random sample of approximately 400 school districts was drawn in the first year of the district survey—in spring 2003—and was stratified by urban, suburban, and rural location.

The universe, drawn from the 2001–2002 CCD, includes “operating” local education agencies (“districts”). Operating districts include those districts listed in the CCD as a local school district that is not part of a supervisory union (Type 1), and those listed as a component of a supervisory union sharing a superintendent and administrative services with another district (Type 2). The other types of districts in the CCD, all of which were excluded from the sample, are supervisory union administrative centers, or county superintendents serving the same purpose; regional educational services agencies, or county superintendents serving the same purpose; state-operated institutions charged, at least in part, with providing elementary and/or secondary instruction or services to a special need population; federally-operated institutions charged, at least in part, with providing elementary and/or secondary instruction or services to a special need population; and other education agencies that do not fit into the first six categories.

The exception to this is Vermont, where the supervisory unions (CCD Type 3) serve the role of districts for the Title I program. In Vermont, only supervisory unions (Type 3) were included in the universe. (Throughout this discussion and other reporting, these Vermont supervisory unions are referred to as “districts,” to keep terminology simple.)

The following districts were *excluded* from the sample universe:

- Districts from Puerto Rico, Guam, and other territories, and districts administered by the Department of Defense Education Agency, to reduce the complexity of data collection.
- Districts with fewer than 200 students. These districts represent approximately 0.4% of the students that attend schools in the universe as defined above. Excluding these extremely small districts increases the efficiency of the remaining sample. That is, although these very small districts make up an appreciable percentage of all districts (approximately 14%), they serve very small numbers of students. Eliminating these districts from the sampling frame allows us to sample a few more districts with enrollments over 200, thus increasing the efficiency of the sample.

The districts were categorized as urban, suburban, or rural, based on the CCD Metropolitan Statistical Code variable (MSC01). In the CCD, districts that primarily serve the central city of a Metropolitan Statistical Area (MSA) are classified as urban, those that primarily serve areas other than the central city of an MSA are classified as suburban, and those that do not primarily serve an MSA are classified as rural. In addition, we separated out the 11 largest urban districts and, in the 2004 survey, the 13 largest suburban districts—those with enrollments over 100,000—in order to sample them separately.

This classification yielded a universe of 11,938 districts, representing 46,707,853 students. The districts break down as follows:

	NUMBER OF DISTRICTS	PERCENTAGE OF DISTRICTS	NUMBER OF STUDENTS	PERCENTAGE OF STUDENTS
Huge Urban	11	0.09%	3,451,872	7.4%
Other Urban	678	5.68%	9,915,672	21.2%
Huge Suburban	13	0.12%	2,427,949	5.2%
Suburban	5,443	45.59%	21,949,266	47.0%
Rural	5,806	48.63%	8,963,094	19.2%
TOTAL	11,938	100.00%	46,707,853	100.0%

Sample Selection

The Center on Education Policy requested a sampling plan that would yield responses from 300 districts, including 100 urban districts, 100 suburban, and 100 rural. In addition, CEP wanted to ensure that as many as possible of the “huge urban” districts were represented in the sample in order to ensure its face plausibility. Therefore, the sample was divided into five strata for sampling purposes: (1) the 11 largest urban districts, (2) other urban districts, (3) the 13 largest suburban districts, (4) other suburban districts, and (5) rural districts.

For the 2003 district survey, an initial sample of 419 districts was drawn, evenly divided among other urban, suburban, and rural districts. Approximately 2% of districts sampled were expected to report that they did not receive Title I funds. These districts would then be excluded from the study. For the 2004 survey, the sample was freshened in order to replace districts that had refused to participate the previous year. The replacement districts were randomly selected from the particular strata represented by a district that had refused to participate (e.g., urban, suburban, rural). The replacement pool of districts came from a backup sample of districts drawn in the first year of the district survey. In the end, the 2003 sample of 402 districts was freshened to include the 13 largest suburban districts and the 27 replacement districts, bringing the total sample up to 415. Assuming a response rate of 75%, this initial sample of 415 eligible districts was expected to yield more than 300 completed surveys.

Survey Instrument and Data Collection Procedures

The district survey focused on the following research questions:

1. How are districts implementing the specific legislative provisions of the No Child Left Behind Act, including those governing Title I assessment and accountability, public school choice and supplemental education services, teacher and paraprofessional quality, and English language learners?
2. Which provisions of NCLB have positively affected districts? Which provisions of NCLB have presented the most serious implementation challenges to districts?
3. To what extent do districts believe that NCLB requirements are compatible and/or consistent with state and district efforts to raise student achievement?

In June 2004, the summer survey was administered by telephone to all prospective respondents. Respondents were contacted by a member of PSA staff and invited to participate in the study. Typically, a time was scheduled to complete the survey on the phone. In addition, respondents were told that they could have an electronic copy of the survey e-mailed to them for their review before completing the survey with a telephone interviewer. Prior to survey administration, a letter was sent to district administrators from the Center on Education Policy that reviewed the study purposes, estimated the time it would take to complete the survey by telephone, and stressed the importance of completing the survey and the confidentiality of the responses. In addition, the letter offered respondents a \$50 gift card to a national bookstore chain for completing both the summer and fall surveys.

Follow-up procedures entailed contacting (by telephone or e-mail) all survey respondents who had not scheduled a time to complete the telephone survey. Non-respondents were contacted by telephone and e-mail in an effort to schedule a time to complete the survey over the phone. Non-respondents were also offered the option of completing a hard copy of the survey and faxing or mailing it to PSA. Follow-up phone calls or e-mails were conducted a minimum of three times to all non-respondents. The same procedures were used to administer the fall survey.

Of the 415 districts sampled, 6 districts responded that they do not receive Title I funds. Of the 409 remaining districts, 314 completed the summer survey and 286 completed the fall survey, for response rates of 77% and 70%, respectively. Very few districts—just 25—refused to participate in the study. Moreover, only 15 of the 25 districts refused to participate in both the summer and fall surveys, whereas 10 districts participated in the summer survey but then refused to participate in the fall, usually citing time constraints that prohibited them from completing the survey by the deadline. The following table shows the distribution of participating districts by location and size. Because response rates do not vary significantly across cells, we have little reason to be concerned about non-response bias.

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	Summer Survey		Fall Survey	
	NUMBER OF RESPONSES	RESPONSE RATE	NUMBER OF RESPONSES	RESPONSE RATE
Urban	110	77%	95	67%
Suburban	95	72%	86	65%
Rural	109	81%	105	78%
Very Large	30	79%	22	58%
Large	44	75%	39	66%
Medium	62	78%	56	70%
Small	178	77%	169	73%
TOTAL	314	77%	286	70%

Data Analysis

Districts were sampled at different rates from each of the four sampling categories. For the largest urban districts, all 11 districts were sampled, and for the largest suburban

districts, all 13 were sampled. For other urban districts, PSA sampled at an approximate rate of 1 of every 5 districts; for suburban, 1 of every 40 districts; and for rural, 1 of every 43 districts. (The precise numbers are 4.9852941 for other urban, 40.022059 for suburban, and 42.691176 for rural.)

If all districts had responded to the survey, each huge urban and each huge suburban district would represent one district—itsself—in the sample. Each other urban district in the sample would represent about 5 districts, whereas each suburban district would represent about 40 districts and each rural district about 43 districts. Urban districts are significantly over-represented in the sample, and as a result had a much higher probability of being selected for the sample than medium or small districts. This over-representation provided enough urban districts to allow separate analysis by metropolitan category. To avoid over-representing urban districts in overall national calculations, however, the data had to be weighted during analysis.

The weights were created by calculating, separately for each stratum, how many national districts each responding district in the sample represented. This was done by dividing the number of responding districts by the number of districts in the population, separately for each stratum. The resulting weights are shown in the following table.

	Summer Survey			Fall Survey		
	NUMBER OF DISTRICTS	NUMBER OF RESPONSES	WEIGHT	NUMBER OF DISTRICTS	NUMBER OF RESPONSES	WEIGHT
Huge Urban	11	9	1.222222	11	7	1.571429
Other Urban	678	101	6.712871	678	88	7.704545
Huge Suburban	13	9	1.444444	13	7	1.857143
Suburban	5,430	86	63.139535	5,430	79	68.734177
Rural	5,806	109	53.266055	5,806	105	55.295238
TOTAL	11,938	314	38.019108	11,938	286	41.741259

All tabulations of survey results apply the appropriate weight to each response and, when these weighted responses are aggregated, properly reflect national estimates. For reporting purposes, huge urban districts were combined with other urban districts to create the category “urban.”

There is considerable variability in district size—measured by the number of students enrolled—within and between the metropolitan classifications. Therefore, in addition to the urban, suburban, and rural classification, a district size variable was created. This allows for analyses based on how districts vary in their responses by size, in parallel with analyses of variation by metropolitan status.

The size variable was constructed so that approximately one-fourth of the students in the universe are served by districts in each of the four size categories. To achieve this, the small category includes districts that serve between 200 and 3,503 students; medium districts range from 3,504 to 10,448 students; large districts range from 10,449 to 37,740 students; and very large districts range from 37,741 to 1,049,831 students.

Using these weights and variables, PSA compiled and analyzed the responses from the districts that returned their surveys. PSA also developed data tables and reported these data, as well as district responses to open-ended questions, to CEP. The CEP staff and consultants further analyzed the data for publication in this report.

District Case Studies

Four CEP consultants conducted case studies of local implementation of NCLB in 36 school districts throughout the country. The case study districts were selected to be geographically diverse and to reflect the approximate distribution of urban, suburban, and rural districts in the nation. The case studies were conducted between May and December of 2004.

The consultants collected information for 21 of these case studies through telephone interviews with key contact people in the school districts and through other research. For 15 of the case studies, consultants collected information by making site visits to the districts and conducting personal interviews, in addition to doing other research. In many districts, the primary contact was the district's federal and state programs administrator or Title I director, but contact people also included superintendents, assistant superintendents, assessment personnel, pupil services personnel, principals, directors of curriculum and instruction, and others. In 14 of the districts, individual schools were included in our research. The complete text of the 36 case study reports can be accessed and downloaded through the website of Center on Education Policy at www.cep-dc.org.

The 36 case study districts are listed below. The districts that were the subject of site visits or of school-level case studies are marked. For districts that included school-level analyses, the numbers of schools studied are shown in parentheses.

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- | | |
|---|--|
| Alabama: Calhoun County School District* | Illinois: Chicago Public Schools*▲ (2) |
| Alaska: Kodiak Island Borough School District | Kansas: Kansas City, Kansas Public Schools*▲ (3) |
| Arkansas: Fayetteville Public Schools | Louisiana: St. John the Baptist Parish Public Schools (2) |
| California: Escondido Union Elementary School District (2) | Massachusetts: Avon Public School District |
| California: Grant Joint Union High School District*▲ (2) | Massachusetts: Boston Public Schools*▲ (3) |
| California: Oakland Unified School District | Michigan: Flint Community School District▲ (2) |
| Colorado: Colorado Springs District 11 | Michigan: Harrison Community School District▲ (2) |
| Colorado: Fort Lupton Weld Re-8 School District*▲ (2) | Michigan: Willow Run Community Schools*▲ (1) |
| Florida: Collier County School District | Minnesota: Cloquet Independent School District #94* |
| Idaho: Independent School District #2 – Meridian*▲ (2) | Mississippi: Pascagoula School District*▲ (3) |

Missouri: Hermitage School District

Nebraska: Heartland School District

Nevada: Clark County School District

New Jersey: Bayonne School District

New Mexico: Bloomfield School District

New York: Romulus Central Schools

North Carolina: Wake County Public School System

North Dakota: Napoleon School District

Ohio: Cleveland Municipal School District*▲ (3)

Oregon: Tigard-Tualatin School District*

South Carolina: Berkeley County School District

Texas: Cuero Independent School District*▲ (4)

Vermont: Marlboro Elementary School*▲ (1)

Vermont: Orleans Central Supervisory Union (3)

Virginia: Waynesboro School District*

Wisconsin: Sheboygan Area School District

*Site visit school districts

▲ Includes school case studies

CEP Forums on the No Child Left Behind Act

In the summer and fall of 2004, the Center on Education Policy convened three forums to discuss major issues under the No Child Left Behind. All of the forums were held in Washington, D.C. at the George Washington University's Cafritz Conference Center. Each presenter developed a paper for the forum outlining the issues and proposing approaches to solving particular problems related to NCLB implementation. Two of the forums included a panel of reactors who critiqued the proposals put forth by the presenters. All of the papers, as well as other materials provided at the forums, are available on the Center's web site at www.cep-dc.org.

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Forum on Accountability

The July 28, 2004 forum addressed ideas to improve the NCLB accountability provisions. The presenters at the meeting were as follows:

- Robert Linn, Distinguished Professor, University of Colorado at Boulder, and Co-director of the National Center for Evaluation, Standards, and Student Testing
- Allan Olson, President, Northwest Evaluation Association
- Gage Kingsbury, Director of Research, Northwest Evaluation Association
- Joel Packer, Manager, ESEA Policy, National Education Association
- Gavin Payne, Chief Deputy Superintendent, California Department of Education

Lynn Olson, Senior Editor, *Education Week*, acted as the moderator for the reactors' panel. The reactors were Harold Doran, Senior Research Scientist, American Institutes for Research; Lowell Rose, Executive Director Emeritus of Phi Delta Kappa and Consultant to the Indiana Urban Schools Association; William Taylor, Chair, Citizens Commission on Civil Rights; and Laress Wise, President, HumRRO.

Forum on Students with Disabilities and English Language Learners

The September 14, 2004 forum addressed ideas to improve the NCLB accountability provisions for students with disabilities and English language learners. The presenters who discussed students with disabilities were as follows:

- Margaret McLaughlin, Associate Director, Institute for the Study of Exceptional Children, Department of Special Education, University of Maryland
- Alexa Posny, Assistant Commissioner, Division of Student Learning, Kansas Department of Education
- Joe O'Brien, Superintendent, Springfield Public Schools, Springfield, Pennsylvania

The reactors on issues for students with disabilities were Diane Smith, Senior Disability Legal Specialist, National Association of Protection and Advocacy Systems, Inc.; and Rebecca H. Cort, Deputy Commissioner, Office of Vocational and Educational Services for Individuals with Disabilities, New York State Education Department.

The following presenters discussed English language learners at this forum:

- Jamal Abedi, Director of Technical Projects, UCLA National Center for Research on Evaluation, Standards, and Student Testing, and faculty member, UCLA Graduate School of Education
- James Crawford, Executive Director, National Association for Bilingual Education
- Robert Smith, Superintendent, Arlington Public Schools, Arlington, Virginia

The reactors for issues related to English language learners were Raul Gonzalez, Legislative Director, National Council of La Raza; and Maria Seidner, Chief Executive Officer, MS Associates.

Forum on Highly Qualified Teachers and Student Learning

The November 15, 2004 forum addressed ideas to improve the highly qualified teachers requirements and approaches to improving student learning. The presenters addressing the highly qualified teachers requirements included:

- Charles Coble, Vice President, Policy Studies and Programs, Education Commission of the States
- Antonia Cortese, Executive Vice President, American Federation of Teachers
- Eric Hirsch, Vice President for Policy and Partnerships, Southeast Center on Teaching Quality
- Kate Walsh, President, National Council on Teacher Quality

The presenters who addressed ways to improve student learning were as follows:

- Susan Bodilly, Associate Director for Education, RAND Corporation
- Celine Coggins, Research Director, Rennie Center for Education Research and Policy
- Steve Schenck, Associate Commissioner, Office of Leadership and School Improvement and Coordinator, Kentucky Highly Skilled Educators, Kentucky Department of Education

Credits and Acknowledgments

Study Team

This study of the No Child Left Behind Act by the Center on Education Policy was overseen by Diane Stark Rentner, CEP Deputy Director. The report was researched and written by the following team of people:

- Diane Stark Rentner, study director
- Nancy Kober, CEP consultant and editor of the report
- Caitlin Scott, CEP consultant
- Naomi Chudowsky and Victor Chudowsky, CEP consultants
- Scott Jofthus, CEP consultant
- Linda Carstens, CEP consultant

Several other people played critical roles in conducting the study or writing the report. Leslie Anderson of Policy Studies Associates served as project leader of the group that conducted the school district survey. Elizabeth Pinkerton, CEP consultant, conducted 19 of the 36 case studies used as a main source of information for this report; other case studies were conducted by Caitlin Scott (9 districts), Scott Jofthus (7 districts), and Nancy Kober (1 district). Keith Gayler, CEP Associate Director, assisted in the analysis of the state and school district survey data. Jack Jennings, the Center's President and CEO, wrote the summary and provided advice on the report's content and organization. Patricia Sullivan, the Center's Director, also provide advice on content and organization. Tom Fagan, CEP consultant, conducted an analysis of Title I formula changes and other funding issues that informed the discussion of Title I funding in chapter 2, and he also developed the box in Chapter 2 listing U.S. Department of Education activities during 2004. Myrna Mandlawitz, CEP consultant, researched and wrote the box in chapter 6 about the new special education teacher requirements of the Individuals with Disabilities Education Act.

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State Education Agency and School District Officials

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Idaho: Dr. Marilyn Howard

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Iowa: Judy Jeffrey

Kansas: Dr. John A. Tompkins, Dr. Alexa Posny

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 Washington: Dr. Teresa Bergeson, Mary Alice Heuschel
 West Virginia: Dr. David Stewart, Dr. Steve Paine
 Wisconsin: Elizabeth Burmaster, Michael J. Thompson
 Wyoming: Dr. Trent Blankenship, Annette Bohling

Case Studies

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Alabama, Calhoun County School District: H. Jacky Sparks, Bobby Burns
 Alaska, Kodiak Island Borough School District: Betty Walters, Brian O’Leary
 Arkansas, Fayetteville Public Schools: Dr. Bobby C. New, Michelle Boles
 California, Escondido Union Elementary School District: Dr. Mike Caston, Pat Peterson, Randy Garcia, Jim Scott
 California, Grant Joint Union High School District: Dr. Larry Buchanan, Rick Carder, Pat Newsome, Cathy Orosz, Phil Spears, Samuel Harris, Steve Liles
 California, Oakland Unified School District: Dr. Randolph Ward, Dorothy Norwood, Robin Hall, Steven Jubb, Jeanne Ludwig
 Colorado, Colorado Springs District 11: Dr. Norman F. Ridder, Holly Hudson
 Colorado, Fort Lupton Weld Re-8 School District: Mark Payler, Kathi Van Soest, Dr. Ranelle Lang, Jeanette Aragon, Cindy Kusuno
 Florida, Collier County School District: Raymond Baker, Dr. Kimball Thomas
 Idaho, Joint School District #2 – Meridian: Dr. Linda Clark, Cathy Thornton, Dr. Mandy Saras, Linda Christensen, Byron Yankey, Susan McInerey
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Michigan, Flint Community School District: Felix Chow, David Solis, Ana Maria Huffton, Linda Thompson, Lucy Smith, Marcia Sauvie, Rita Langworthy, Fred White

Michigan, Harrison Community School District: Christopher Rundle, Michele Sandro, Russell Fimbinger, Julie Rosekrans, Bob Balwinski

Michigan, Willow Run Community Schools: Douglas Benit, Regina Williams, Betty Hopkins, Deanne Wright, Fawn Martin

Minnesota, Cloquet Independent School District # 94: Randy Thudin, Karen McKenna

Mississippi, Pascagoula School District: Dr. Hank Bounds, Dr. Susan McLaurin, Shirley Hunter, Dr. Andy Parker, Wayne Rodolfich

Missouri, Hermitage School District: Shelly Aubuchon

Nebraska, Heartland School District: Dr. Norm Yoder

Nevada, Clark County Schools: Dr. Carlos Garcia, Dr. Susan E. Wright, Mark Lange

New Jersey, Bayonne School District: Dr. Patricia L. McGeehan, Dr. Ellen O'Connor

New Mexico, Bloomfield School District: Dr. Harry Hayes, Lena Benally-Smith, LaVerne Brown, Linelle Sharrad

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Virginia, Waynesboro School District: Dr. T. Lowell Lemons, Betsy Mierzwa, India M. Harris

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