



from the Capital

to the Classroom



Year

2

of the No Child Left Behind Act

Center on Education Policy
JANUARY 2004



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Overview of Major Findings, Purpose, and Methods

Purpose of This Study

This report from the Center on Education Policy describes the implementation and effects of the No Child Left Behind Act (NCLB) during calendar year 2003, the second year of the Act's existence. The report is the first and most comprehensive national examination of all of the main aspects of NCLB implementation at the federal, state, and local levels. As explained below, the information in this report is based on a survey of 47 states and the District of Columbia, a nationally representative survey of 274 school districts, in-depth case studies of 33 urban, suburban, and rural school districts, and other research methods.

The Center on Education Policy (CEP) is an independent advocate for public education and for more effective public schools. Funded primarily by charitable organizations, we are uniquely positioned to take an objective, wide-ranging look at progress in carrying out the Act. This publication is our second annual report on NCLB. It describes the findings from our ongoing, six-year study of NCLB, initiated shortly after the law was signed in January 2002. Our first report on NCLB, *From the Capital to the Classroom: State and Federal Efforts to Implement the No Child Left Behind Act*, was published in January 2003.

Major Findings and Observations

We found that states and school districts across the country are taking very seriously the challenges presented by the No Child Left Behind Act and are working hard to achieve its goals. The law has focused the nation's attention on raising student achievement, closing achievement gaps between different groups of students, and improving qualifications of teachers in every classroom. In other words, NCLB is doing what federal laws tend to do best—focusing the attention of a large, decentralized education system on the same set of goals.

But we also found that many school districts are having difficulty with some NCLB requirements—not, in most cases, because they fear accountability or reject the Act's goals, but because the requirements are too stringent or are not workable, at least not in all situations. Furthermore, some states and school districts are straining to meet all of the law's demands with limited funding and staff. As more schools are subject to the law's sanctions, and as states and districts move closer to the key deadlines in the Act, this capacity gap will become even more critical, and they will need additional funding to accomplish these goals.

These broad findings are the outgrowth of several more specific findings from our study of NCLB implementation. The following list summarizes the Center's major findings from this study and offers our observations about the implications of these findings.

- **Trying hard.** Our evidence indicates that during 2003, states and school districts put a great deal of effort into meeting the demands of No Child Left Behind. State officials spent considerable time developing and negotiating accountability plans and

putting them into effect for the first time—at the same time they were carrying out numerous other responsibilities under the Act (Chapter 2). And as our case studies illustrate, school districts worked hard during 2003 to implement strategies to raise student achievement and narrow achievement gaps, make arrangements for public school choice and supplemental education services (extra tutoring), and determine and strengthen the qualifications of their teachers and paraprofessionals (Chapter 1).

This emphasis on improving public education and raising student achievement is not a new one for states or districts, as the state and local officials we surveyed or interviewed were quick to point out. Most states and districts have been working on these goals for some time, and officials point with pride to new curricula, teaching strategies, and professional development efforts that had been undertaken before NCLB and had contributed to gains in student learning. But NCLB certainly seems to have quickened the pace of change and brought “*an increased focus on the achievement of our poorest performing students,*” in the words of one of our state survey respondents.

- **Support for the Act’s goals.** An overwhelming majority of the states agree with the basic premises of NCLB—for example, 42 states we surveyed agreed that having an accountability system based on content and performance standards will positively affect student achievement (Chapter 1). A great majority of the states—33 of the 47 responding—also said they believed that NCLB accountability requirements will help to raise student achievement a great deal or somewhat over time. Many school district officials surveyed also felt that the NCLB provisions—especially the requirement to disaggregate test scores for subgroups of students, such as low-income and minority students—will lead to an increase in student achievement and/or a decrease in the achievement gap among different groups of students. But not all district respondents were as optimistic as their state counterparts.

Some district people felt that any increases in student achievement would be “*temporary*” or “*only on paper,*” in the words of two respondents, and some felt the Act could hamper student learning—for example, by labeling students who are not proficient or encouraging them to drop out (Chapter 1). These differences in state and local perceptions may reflect the fact that local officials are in close contact with students and teachers and are most directly responsible for producing the outcomes envisioned by NCLB.

- **Broader and deeper effects.** In 2003, the effects of the Act became broader and deeper—broader because more school districts, especially suburban districts, for the first time had schools identified as being “in need of improvement,” and deeper because urban and very large districts, which already had a relatively large share of identified schools, had even more schools identified. In school year 2003–04, about one-fifth (21%) of the school districts we surveyed had at least one school identified as needing improvement and therefore subject to sanctions—higher than the 15% of districts that reported having such schools in school year 2002–03 (Chapter 2). Among suburban school districts, the percentage reporting that they had at least one school identified for improvement rose from 15% to 23% during this period, and among urban districts, it rose from 40% to 50%. We also broke out data by district size, and among very large districts, the percentage of such districts with identified schools rose from 67% to 86%.

Schools are identified for improvement if they fail to make adequate yearly progress (AYP) in raising achievement among every subgroup of students in every grade for two or more consecutive years, or if they fail to meet other indicators, such as improving graduation rates or ensuring that 95% of the students in each subgroup take the required tests. Several school districts we surveyed felt that the law’s AYP requirements could lead to unfair determinations about a school’s performance. For example, 10% of all school

districts in our survey, and 24% of urban districts, reported having schools that did not make AYP because they did not meet the 95% “test participation” requirement. Some state and local officials have criticized this requirement for targeting schools that are otherwise performing well but missed the 95% mark by a few students.

Some of our district respondents also took issue with the law’s procedures for calculating AYP. Wrote one respondent: *“Right now we are comparing this year’s third graders (or any grade level) to next year’s and somehow saying that we have improved or not; we should compare students to themselves over time to make sure that each student is learning.”* Several state survey respondents also expressed concern that the law’s testing and accountability requirements would target more schools for improvement than the state could handle, including some schools that were performing satisfactorily. One state respondent summed up the feeling this way: *“The federally mandated formula is not flexible enough to minimize unintended consequences. Using one test to measure the performance of schools and subjecting schools to increasingly severe sanctions will over-identify schools.”*

- **Additional support for identified schools.** To raise achievement in schools identified for improvement, more than three-fourths (77%) of the districts with these schools reported that they provided additional professional development to identified schools, and 66% said they supplied help from district-level school support teams (Chapter 2). To help these identified schools, a sizeable majority of districts also allocated resources to such strategies as increasing the use of student achievement data to inform instruction, matching curriculum with standards and tests, and using research to inform decisions about improvement strategies. More than half the districts with schools identified for improvement implemented a new research-based curriculum or instructional program, and more than one-third extended the school day or school year.

Providing these types of improvement strategies is essential to achieving the goals of NCLB. Yet these activities have not received as much attention from the news media or the Bush Administration as have the sanctions in the law or its provisions for school choice and outside tutoring. These kinds of improvement activities also require additional funding, staff time and expertise, and solid information about which strategies are most effective.

- **Rarely used school choice.** Only 1% of eligible children in school year 2002–03 and just 2% in school year 2003–04 have taken advantage of the NCLB choice option and moved to another public school (Chapter 3). About the same number of school districts had at least one school that was offering choice in 2003–04 as in 2002–03, 11% compared to 10%, although the percentage for this school year may have increased somewhat since our local survey was conducted in fall 2003. In both this school year and last school year, only about half of the schools that had to offer choice were in fact doing so, mostly because of delays in knowing which schools were required to offer choice or a lack of space or class size limits in receiving schools. More large districts and urban districts have schools offering choice than do medium-sized and small districts or suburban and rural districts.

When asked which provisions of NCLB were their greatest challenges, some districts we surveyed cited the logistics and costs of implementing the choice and supplemental services provisions, including the extra but unreimbursed administrative time it takes them to carry out these options (Chapter 3). If more schools are identified for improvement, finding enough space in better performing schools for transfer students could become more difficult. But even if space is found in other schools and more children transfer, the NCLB goal of high achievement for 100% of students will depend mostly on the success of the improvement measures taken in underperforming schools, and that is where attention ought to be focused.

- **Supplemental services.** A greater proportion of eligible students are taking advantage of supplemental education services than of choice. In the 2002–03 school year, 46% of the students eligible for supplemental services actually received them, while that same year, just 1% of the students eligible for choice actually changed schools (Chapter 3). Students in rural areas are at a disadvantage with their choice of supplemental services, since there is an average of only 2 providers for rural school districts, while urban and suburban districts have an average of 6 and 5 providers, respectively.

Our state survey indicated that when capacity issues prevent districts from offering choice, the most popular solution is to offer supplemental education services instead of choice in the first year of school improvement. This could partly explain why supplemental services have greater participation than choice. We speculate, based on our case studies and other anecdotal evidence, that parents may prefer to give their children extra learning time through supplemental services over moving their child to another school, even when they are clearly informed of their options. The long-term issue is whether these after-school tutoring services, frequently provided by organizations and companies unconnected to the school, will be effective in helping to raise student achievement, especially in terms of building on what a child is learning in the classroom.

- **Lag in teacher improvements.** States and school districts have been somewhat slow in developing and implementing policies and systems to enhance the quality of the teaching force in compliance with the Act’s requirements to ensure that all teachers of core academic subjects are “highly qualified” by 2005–06 (Chapter 4). States are struggling, for example, to define what “highly qualified” means for teachers currently in the classroom and to develop and pay for systems to count and track these teachers. Nonetheless, states and districts are reporting that the overwhelming majority of their teachers are highly qualified, but these assertions are questionable, given the lag in some states in developing systems to determine and track teachers’ qualifications. Also, in our district survey, school districts with higher percentages of poor or minority students were much less likely than other districts to report that all of their teachers are highly qualified.

States and school districts are responding first to the most urgent deadlines in NCLB, such as expanding student testing, disaggregating test results by groups of students, and determining which schools have not made AYP. Requirements with later deadlines, such as the mandate to upgrade teacher qualifications, are not receiving the same urgent attention. Accomplishing the law’s goals for teacher qualifications will not be easy because of the relatively low salaries paid to teachers compared with other professions and the special problems that rural and urban districts face in attracting and retaining highly qualified staff. States and school districts reported, however, that they are in the process of setting up the tracking systems and are beginning to help teachers meet the new requirements. Most importantly, the Act has focused public attention on the need to improve the qualifications of teachers in the nation’s poorest schools.

- **Paraprofessional requirements.** States are proceeding even more slowly on upgrading the qualifications of paraprofessionals hired with Title I funds (Chapter 4). A majority of states that have reported data on paraprofessionals say that fewer than half of their paraprofessionals are “highly qualified” according to NCLB criteria.

Twenty-three of 46 states responding to our state survey reported that certain areas of the state, most often rural areas, face unique challenges in recruiting paraprofessionals.

- **Unworkable requirements.** Some requirements of NCLB are overly stringent, unworkable, or unrealistic, according to our state and district surveys and case studies. For example, when asked which accountability requirements could create

unexpected or negative consequences, the state and school district officials we surveyed most often pointed to the requirements for testing students with disabilities and English language learners (ELLs) (Chapter 1). States also cited problems with the law’s short deadlines, its insistence on revising state accountability frameworks to fit the federal demands, and its emphasis on sanctions—*“too much, too fast, and too punitive,”* as one state official said. In addition to districts’ concerns about AYP requirements already noted, the districts we surveyed also mentioned closing the gap between low-income students and other students and implementing the choice, supplemental services, teacher, and paraprofessional requirements as their greatest challenges or provisions they would like to change.

In our surveys and case studies, states and districts consistently expressed support for the concept of holding schools accountable for the performance of all students and for the requirement to disaggregate test score data by subgroup. But almost as consistently, our survey respondents and case study district officials noted that the testing and accountability requirements for two particular subgroups of students—English language learners and students with disabilities—presented the greatest challenges of the law and could create negative or unintended consequences. Many state and local officials commented that for at least some students in these groups, assessing them with the same tests as other students revealed little useful information and could be detrimental to the students.

Many state and local people we surveyed also felt that it would be extremely difficult to reach 100% proficiency for these two subgroups (Chapter 1). In the case of ELLs, if students were proficient in English they would not have been designated as English language learners. Moreover, as students become proficient in English, they leave the subgroup, and new students with little or no knowledge of English enter, which makes it difficult for the group as a whole to demonstrate progress. As for students with disabilities, some students have significant cognitive or learning disabilities that cause them to perform below grade level and are the reason why they were identified for special education services in the first place. *“Requiring a fourth-grade [special education] student to take an assessment at the fourth-grade level when he/she reads at the first-grade level is pointless,”* said one district respondent, while a state respondent noted that, *“Holding special education and ELL students to the same time frame for meeting state standards is unrealistic and can have a damaging effect on the self-esteem of these students.”*

Influential officials in the U.S. Department of Education and key committee leaders in the U.S. Congress do not want any changes to NCLB. If there are to be no legislative changes, then federal officials must find other ways to adjust some of the most problematic requirements to make them more feasible or reasonable for states and local school districts. Without such adjustments, there is a risk of losing the commitment of states and school districts to achieving the Act’s goals.

- **Lack of capacity.** The No Child Left Behind Act sets high expectations to raise student achievement, but many states and local school districts do not have the capacity to meet all the law’s requirements. Thirty-eight of the 48 states responding to a question about capacity said that they do not have sufficient staff to carry out the duties required under the Act, yet local school districts said that state education agencies were the resource they relied on the most to help them implement the Act (Chapter 1).

The Act places many demands on state and local staff, such as requiring them to align curriculum and assessments, provide technical assistance to districts or schools in need of improvement, provide extra instruction to children who are not performing well, provide high-quality professional development to teachers, expand school choice, arrange for supplemental services, implement new data systems, help teachers use test data to improve instruction, and do whatever else it takes to bring every student to pro-

iciency in reading and mathematics by 2014. Yet most state departments of education assert that they lack the staff to do their part; for example, 25 states of the 48 responding said they did not have sufficient expertise to provide technical assistance to schools and districts identified for improvement, and many of those that did have the expertise expressed concerns for the future, if more schools or districts are identified.

- **Funding pressures.** Twenty-four of 40 responding states reported that fiscal problems were adversely affecting their own ability to carry out the law. And half of the responding states said that local school districts are currently being hampered in attaining the goals of the Act because of fiscal problems, attributable mostly to state budget deficits (Chapter 1). Various organizations and individuals have estimated that it will take a very considerable increase in funding to implement all the goals of NCLB in the years ahead.

The need for funding will grow, not shrink, as more schools are affected by the law's accountability requirements and as districts move closer to the law's deadlines to improve the qualifications of teachers by 2005-06 and bring all children to proficient levels of performance by 2014.

Conclusion

Many school districts have just begun to feel the effects of the Act's requirements, so the findings in this report represent a first impression. As the impact of the law becomes greater over time, the problems noted above could become more pronounced, and new problems could arise. For example, if just a portion of the schools that did not make AYP this year also fall short next year, the number of schools identified for improvement will grow, placing new demands on state and local capacity and funding. As states implement tests in more grade levels and additional subjects, as required by NCLB, there will be even more ways for schools and districts to fail to make AYP, which would further increase the number of identified schools. Some state accountability plans expect students to make larger gains in achievement in later years, a strategy that could also result in more identified schools.

The No Child Left Behind Act has been successful in putting front and center the goals of raising student achievement in public schools and eliminating achievement gaps. But if districts and schools are going to be successful in meeting these goals, they will need more than federal directives and sanctions. They will also need financial and technical support from the federal government and the states to help them identify and carry out effective interventions for underperforming schools, effective instructional strategies for students who are not learning, and high-quality professional development for teachers and paraprofessionals, among other things. And they will need open-mindedness from the federal government to fine-tune provisions that are not working well.

This summary of major findings highlights just a small portion of the information in this report. More key findings appear at the beginning of each chapter. The body of each chapter also contains more detailed findings, data tables, survey responses, and other information.

Study Methods

To collect information for this study, the Center on Education Policy used a variety of research methods, noted below. More details about survey methods, survey instruments, names of people interviewed, and names of school districts included in our case studies can be found in the Appendices and in the Credits and Acknowledgments section at the end of this report.

Federal Research

To track actions taken at the federal level to implement NCLB and learn more about perceptions about the Act among federal policymakers and administrators, the Center did the following:

- ***Congressional interviews.*** Interviewed three members of Congress—Representatives Michael Castle (R-DE), George Miller (D-CA), and Dale Kildee (D-MI)—who were involved in the creation and oversight of the No Child Left Behind Act, as well as five senior members of the majority and minority staffs of key House and Senate education committees.
- ***Department of Education interviews.*** Interviewed nine principal officials in the U.S. Department of Education (USED) who are involved in administering the Act, including Eugene Hickok, Under Secretary of Education; Ronald Tomalis, Acting Assistant Secretary for Elementary and Secondary Education; and seven other officials in the Office of Elementary and Secondary Education and the Office of the General Counsel.
- ***Analysis of regulations and guidance.*** Tracked and analyzed guidance and regulations relating to the Act that were released by the Department of Education during 2003.

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State Research

To gather information about state implementation of NCLB and state perceptions of the Act, the Center used the following methods:

- ***State plan review.*** Reviewed and analyzed the NCLB accountability plans and consolidated applications for NCLB funds that states submitted to USED.
- ***State survey.*** Conducted a comprehensive, 60-question survey of NCLB implementation at the state level in the summer and fall of 2003. Surveys were sent to top officials in the state education agencies of all 50 states and the District of Columbia, and responses were received from 47 states and the District of Columbia. Not every state answered every question, however, so the total responses to a given question do not always add up to 48. Several questions were coded as confidential, so that we could receive the most honest responses possible from state officials.
- ***Web site review.*** Monitored state department of education websites for updated information about state implementation of NCLB.

Local Research

The Center used the following research strategies to learn more about the implementation of NCLB in local school districts:

- **Local district survey.** Through a contract with Policy Studies Associates, conducted a nationally representative survey of school district implementation of NCLB in fall 2003. An 88-question survey was sent to Title I administrators and other federal program administrators in 402 urban, suburban, and rural school districts. Responses were received from 274 districts, for a 68% response rate. The response rate was similar across size and type of district, and the results were weighted to obtain a national count.
- **Case studies.** Conducted case studies of local implementation of NCLB in 33 school districts, selected to be diverse in geography and size and to reflect the approximate distribution of urban, suburban, and rural districts in the nation. Information for these case studies was collected in the summer and fall of 2003, primarily through telephone and personal interviews with the district's federal programs director or Title I director and other key contact people. Although many of the findings in the case studies describe actions the districts took during school year 2002–03 to implement NCLB, an effort was also made to include updated information about activities during the fall of 2003.

General Research

The Center also reviewed research and information from other sources:

- **Literature review.** Reviewed studies and reports issued by other organizations about NCLB implementation and effects.
- **News analysis.** Monitored media accounts of the impact of NCLB at the state and local levels.

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Organization of the Report

This report is organized as follows:

- **Chapter 1.** Discusses broad developments in NCLB implementation that occurred during 2003 and examines general perceptions of the Act at the federal, state, and local levels.
- **Chapter 2.** Highlights the main activities at the federal, state, and local levels during 2003 to establish and carry out accountability and assessment systems for NCLB.
- **Chapter 3.** Examines the implementation of the law's public school choice and supplemental education services requirements.
- **Chapter 4.** Analyzes major federal, state, and local activities to carry out the law's requirements for highly qualified teachers and paraprofessionals.
- **Chapter 5.** Summarizes federal, state, and local actions in three areas: addressing the law's provisions for scientifically based research, implementing the Reading First program, and carrying out the requirements of Titles I and III to improve education and assessment for English language learners.
- **Appendix A.** Contains more detailed information about research methods, a list of the federal officials and policymakers interviewed, and a list of the case study districts.
- **Appendices B and C.** Contain the survey instruments for the state and district surveys, respectively.



CHAPTER 1

General Developments and Perceptions

Key Findings

- The impact of the No Child Left Behind Act at the local level became broader and deeper in 2003, as schools were held accountable for the first time for the performance and test participation of specific subgroups of students, and as many more schools than in the past did not make adequate yearly progress in raising student achievement. Still, only about one-fifth (21%) of school districts participating in the federal Title I program have entered into the sanctions phase of the law's accountability requirements by having schools identified for school improvement.
- Some educators, state and local leaders, and advocacy groups have criticized various aspects of NCLB—saying, for example, that its accountability provisions sometimes target the wrong schools for improvement, that it places too much emphasis on penalizing schools and not enough on helping them find effective improvement strategies, and that it demands too much without providing enough funding in return—criticisms that have been picked up in much of the media reporting about the Act. Supporters contend that many schools resent being held accountable and are making excuses for inadequate performance and that those who complain about the Act do not really believe that all children can succeed in school.
- Despite criticisms of certain provisions of the law, members of key Congressional committees from both parties do not want to amend the law anytime soon.
- States and school districts report that they expect the Act to have a positive effect on student achievement, especially through its attention to subgroup performance and its emphasis on uniform, standards-based accountability systems, although school districts were somewhat less optimistic on this point than states. Opinions of state and local officials were more mixed on whether the law will have a positive effect in other areas, such as improving the quality of teachers.
- NCLB enjoys strong support from key Congressional leaders in both parties, especially its provisions for disaggregating student achievement by subgroups and holding schools accountable, but Republican and Democratic members of Congress disagree about the right level of funding for the Act.
- States cited the law's short timelines, various aspects of implementing adequate yearly progress provisions, and late or incomplete guidance and regulations from the U.S. Department of Education (USED) as their greatest challenges in implementing NCLB. School districts saw their greatest challenge as making adequate yearly progress for all student subgroups, especially students with disabilities, low-income students, and English language learners. Many district officials believe that the testing and accountability requirements for students with disabilities and English language learners should be changed.
- Almost half (24) of the states report that state fiscal problems have negatively affected their ability to implement NCLB, and 18 states said that the state fiscal climate



was hampering local implementation—for example, by forcing states to cut special services to students, by spreading state and local administrative staff even more thinly, or by instituting staff cuts or hiring freezes that complicate districts' efforts to hire highly qualified teachers.

- States feel that the U.S. Department of Education has been strictly interpreting many of the law's key requirements, including provisions for the Reading First program, adequate yearly progress, and public school choice.
- Thirty-eight states reported that they lacked the staff capacity to carry out the requirements of NCLB. Yet state education agencies are the very entities to which local school districts turn, far more often than they turn to other entities, for help in implementing the Act.

Introduction

During 2003, the second year of implementing the No Child Left Behind Act, the full scope and impact of this legislation started to become apparent at the local level. The Act was intended to affect every public school and every public school teacher that teaches core academic subjects, and this past year it began to do just that. The Act was also meant to have sharper teeth than its predecessor federal law. This, too, became clear during 2003, as more schools either fell short of making adequate yearly progress (AYP) in raising student achievement for the first time or went on to the next step of being identified as in need of improvement under the Act's accountability provisions. The lists of schools that did not make AYP or were targeted for improvement received considerable publicity—a marked contrast to the situation under the predecessor law, the Improving America's Schools Act (IASA), where 13% of Title I school principals did not even know whether their schools were in school improvement (U.S. Department of Education, 1999).

This chapter discusses the broad steps taken during 2003 at the federal, state, and local levels to implement the No Child Left Behind Act and describes general perceptions of the Act among the public, federal administrators and members of Congress, state education agencies, and local school districts. In particular, the chapter covers the following areas:

- Gives a brief rundown of the main steps taken during 2003 by the U.S. Department of Education, the states, and local school districts to move ahead with implementing NCLB.
- Looks at some of the main points raised during the past year by the critics of the Act and its defenders, describes media coverage of the Act, and outlines efforts to amend the Act in Congress or challenge its provisions in the courts.
- Summarizes the views of USED officials and Congressional leaders about the origin of the Act and the progress of states and school districts in implementing the law.
- Describes the views of states and school districts about the positive effects of NCLB and its greatest challenges.
- Reports on states' opinions about their own capacity to carry out the Act's requirements and school districts' perceptions about which sources of help have been the most valuable as they implement the law.



- Examines whether states have taken advantage of the NCLB provisions intended to offer administrative flexibility and summarizes state views about how strictly USED is enforcing the Act's provisions.
- Describes the status of federal funding for the Act, the state and local costs of implementing the law, and the impact of state and local fiscal problems on states' and districts' ability to carry out the law's provisions.

Major Developments in NCLB Implementation in 2003

During 2003, the U.S. Department of Education and the states put in place many of the elements critical to the Act's implementation. School districts were aware of what they had to do to implement the Act and took numerous steps to comply, although some districts faced difficulties or confusion in implementing some of the requirements, such as public school choice, supplemental education (tutoring) services, or testing of English language learners (ELLs) and students with disabilities.

Federal Implementation

During 2003, the U. S. Department of Education continued to issue regulations and guidance for the various programs under NCLB, as well as letters to the chief education officers in each state elaborating on some of the more complex or ambiguous aspects of the law. In addition, a major task of the Department during 2003 was to review, approve, and negotiate with states about the contents of the various state plans and applications required under the Act—most notably, the NCLB accountability plans discussed in more detail in Chapter 2.

Box 1-A lists the major actions taken by USED during 2003 to publish regulations and guidance and take other steps to implement NCLB.

The U.S. Department of Education also provided technical assistance to states to help them carry out various requirements of the Act. For example, the Department formed Teacher Assistance Teams to provide technical assistance to states on meeting the NCLB requirements for “highly qualified” teachers and to share successful ideas among states about upgrading teacher qualifications. In the area of accountability, the Department designed a workbook for states to use in developing their state accountability plans, and once these plans were submitted, gave states feedback on their contents.

According to federal officials we interviewed, the Department also planned to begin visiting school districts in December 2003 to monitor their implementation of the school choice and supplemental services provisions, as well as other areas.

State Implementation

States were also very active in implementing NCLB in 2003. Among the many tasks that states undertook to carry out the law are the following key ones:

- Submitted their plans for implementing the law's accountability requirements to the U.S. Department of Education, including their particular methods for determining whether schools and districts are making adequate yearly progress, and negotiated the details of these plans with the U.S. Department of Education.

Box 1-A Major Actions by and Information Releases from the U.S. Department of Education Related to NCLB During 2003

Note: The dates represent the dates when guidance and regulations were published or letters were sent.

- January 2** – Non-regulatory draft guidance for Safe and Drug Free Schools and Communities Act
- February 21** – Joint Education/Agriculture letter providing guidance on implementing the new Title I requirements by schools that operate school lunch programs
- February 25** – Final non-regulatory guidance on standards, accountability, and assessments in the Title III program to increase the language proficiency of English language learners
- February 26** – Non-regulatory guidance on 21st Century Community Learning Centers
- March 6** – Letter to Superintendent Sandy Garrett, Oklahoma Department of Education, regarding request for waiver of maintenance of effort requirements
- March 10** – Non-regulatory draft guidance on standards and assessments
- March 17** – Updated guidance for the Early Reading First Program
- March 20** – Notice of proposed rulemaking for Title I, clarifying the accountability provisions as they apply to children with the most significant cognitive disabilities
- March 24** – Letter to the chief state school officers and others regarding the “highly qualified” teacher requirements and international teacher exchange programs
- March 25** – Draft guidance on the impact of the new Title I requirements on charter schools
- May 2** – Final guidance on the Title III State Formula Grant Program, regarding standards, assessments and accountability
- May 23** – State agency procedures for adjusting basic, concentration, targeted, and education finance incentive grant allocations made by the Department
- May** – Peer review manual for standards
- June 10** – Completed review and approval of state accountability plans
- June 24** – Guidance for Rural Education Achievement programs
- June 27** – Letter to the chief state school officers regarding state accountability plans and inclusion of students with disabilities
- June** – Secretary’s second annual report on teacher quality
- July 8** – Secretary’s update to Congress on No Child Left Behind
- July 28** – Letter to the chief state school officers regarding the Teacher Assistance Corps and efforts to share ideas
- August 20** – Draft charter school guidance
- August 21** – Non-regulatory guidance on school districts’ identification and selection of school attendance areas and schools and allocation of funds to those schools
- August 22** – Draft final guidance on supplemental education services
- September 12** – Non-regulatory guidance on improving teacher quality
- September 12** – Non-regulatory guidance on report cards
- October 28** – Draft non-regulatory guidance for the education of migratory children
- October 28** – Non-regulatory guidance for services to eligible private school children
- November 4** – Notice of proposed rulemaking containing the Department’s intent to give priority to projects that will be evaluated using scientifically based evaluation strategies
- December 9** – Final regulations on testing students with disabilities
- December 10** – Guidance for states, school districts, and schools on evaluating evidence of effectiveness of intervention programs in schools and classrooms

Source: Compiled by the Center on Education Policy, December 2003



- Identified schools and districts that had not made AYP by applying the new criteria in the state accountability plans for the first time.
- Developed and submitted their consolidated applications for the federal programs under NCLB, which included states' estimates of the numbers of teachers and para-professionals that were not yet highly qualified under the law's criteria and numbers of English language learners at various proficiency levels.
- Identified "persistently dangerous" schools in their states for the first time.
- Continued to develop and refine their lists of approved providers of supplemental education services.
- Worked on developing "high objective uniform state standards of evaluation" for judging the qualifications of veteran teachers.
- Set measurable annual objectives for improving teacher qualifications in each school district.
- Submitted an annual report to the U.S. Secretary of Education about their progress in meeting the teacher requirements of the Act.
- Issued state "report cards" to USED containing data on student performance, teacher qualifications, and other measures of state and local progress in implementing the law.
- Submitted applications for Reading First grants.

Local Implementation

In the Center's first annual report on NCLB implementation issued in January 2003, we observed that the impact of the Act had just begun to trickle down to school districts. By the summer and fall of 2003, when we conducted our nationally representative survey of 274 school districts and conducted our case studies of local implementation in 33 school districts, school district officials appeared to be fairly well informed about NCLB.

In fact, some of the case study districts had taken active steps to educate their staff and communities about the Act's requirements and to pave the way for implementation. The Sheboygan Area School District in Wisconsin, for example, held five community meetings to inform parents, students, and community members about the law's requirements and to give participants an opportunity to express their thoughts. District staff also prepared a brochure for parents explaining the main elements of NCLB. The brochure also included key contacts for each of the major language groups represented in the district. In the Chicago Public Schools, the legal department carefully reviewed the law and mounted a series of workshops and seminars for district staff, who in turn spread the word about NCLB among the community. The district's new superintendent also put together an NCLB management team of senior people from all the district's key departments, so decisions about implementation could be made and carried out promptly.

In the Fayetteville, Arkansas, Public Schools, another case study district, officials held several meetings with teachers during 2002-03 to prepare staff for implementing the Act and specifically discussed the law's requirements for teacher qualifications with the entire district faculty in an interactive television broadcast. The Pascagoula, Mississippi, school district, also the focus of a case study, held professional development sessions to help teachers understand the Act's requirements. In addition, the district superintendent conducted sessions on NCLB at civic clubs, churches, and school board meetings. And each quarterly edition of the district's newsletter contains an article about NCLB.



All of the evidence we have collected this year indicates that for local school districts, the major focus of NCLB implementation, from fall 2002 onward, was to make adequate yearly progress in improving achievement in all schools and for all major subgroups of students, including those from major racial-ethnic groups, low-income students, students with disabilities, and English language learners. The state test administration of fall 2002 or, more commonly, spring 2003 was particularly significant because it marked the first time under federal law that disaggregated test scores for these specific student subgroups would be reported and counted in determining whether districts and schools made AYP and whether schools would be targeted for improvement in school year 2003-04. Moreover, it marked the first time that test participation rates would be a factor in determining AYP—in other words, 95% of the students in each subgroup would have to take the test.

Once the results of the 2002-03 testing were analyzed, the real impact of NCLB became clear at the local level. As described in more detail in Chapter 2, states published lists in the summer and fall of 2003 showing that many more schools than in previous years had not made adequate yearly progress during 2002-03—in some cases, because they missed the test performance or participation benchmarks for one or two subgroups. In several states, more than half of the schools did not make AYP, including schools in suburban and rural districts that had been little affected by the accountability requirements of prior Title I law. In other states, less than one-fifth of the schools missed the mark—which probably has more to do with state variations in such state policy factors as the difficulty of their tests or the rigor of their standards or performance targets than it does with the quality of their schools.

Some of the schools on state lists had failed to make AYP for *two* consecutive years and consequently were identified as being in need of improvement for school year 2003-04, under the NCLB accountability provisions. According to the survey of school districts conducted for this study, the percentage of districts that had at least one school identified for improvement increased from 15% of districts in school year 2002-03 to 21% in 2003-04, meaning that more schools and districts were touched by the law's sanctions.

Because more schools were identified for improvement, many more students became eligible in 2003 to transfer to another public school or receive supplemental education services. Thus, making arrangements for school choice and extra tutoring services became a second major focus of local implementation during the past year. Implementation of these requirements was sometimes rocky, according to all the evidence gathered for this report, as districts struggled with such challenges as getting the word out to all eligible parents, dealing with a shortage of receiving schools to which students could transfer, or negotiating contracts with supplemental service providers.

Taking steps to meet the NCLB requirements for teachers and paraprofessionals was a third major focus of implementation at the district level, our research shows. Beginning in 2002-03, any new teachers and paraprofessionals hired to work in a Title I targeted or schoolwide programs had to meet the law's criteria for being highly qualified. Beginning in 2002-03, principals also had to notify parents of children in Title I schools who were assigned to, or taught by, a teacher who was not highly qualified under the NCLB definition for four or more consecutive weeks. Districts that received Title I funds also began taking stock of how many of their current teachers and paraprofessionals were or were not considered highly qualified, and by fall 2003, they were to begin filing annual reports to the state on their progress in meeting their annual measurable objectives for improving teacher qualifications.

In addition, school districts receiving funds under the Title III program to improve the language proficiency of English language learners were required in school year 2002-03 to begin assessing and reporting on the language acquisition skills of their ELLs.



A Year of Controversy

During 2003, NCLB became the subject of greater controversy and media attention, as both critics and supporters aired their views about the law. Bills to amend the Act were introduced in Congress, and lawsuits to challenge some of its provisions were filed in courts across the country.

Critics and Defenders

As the effects of the law became more visible in 2003, so did criticisms of it. Some examples of the opinions voiced by the many people who have spoken out on both sides of the issues give a flavor of the controversy.

Some national organizations, most vocally the National Education Association, have criticized NCLB for what they see as its over-reliance on high-stakes testing, its propensity for mislabeling some schools as failing, and the extensiveness of its requirements relative to the amount of funding provided. Citizens for Effective Schools, a nonprofit organization, sent an open letter to the President and Congress (2003) that was signed by 100 distinguished educators and citizens with various professional and political affiliations. The letter characterized the law's reliance on sanctions, such as choice and supplemental services, as "superficial and ineffectual overall" and called for changes to the law that would loosen penalties and place greater emphasis on strategies to help schools improve.

Some of the most direct criticisms have come from state leaders. In a letter to Under Secretary of Education Eugene W. Hickok, Mark C. Christie, President of the Virginia Board of Education, declared that his state was agreeing to amend its accountability workbook to be consistent with the Department's interpretation of NCLB "only under strong protest" (Christie, 2003). Christie added that the provision for determining AYP is "irrational and lacks common sense" and will inflict negative results on a state that has been a leader in standards and accountability. New Jersey Governor James McGreevey (D), in a letter to Secretary Paige, asserted that the law was causing confusion and frustration because schools with proven records are in danger of being "falsely characterized" as needing improvement. He noted that over half the high schools on his state's AYP list are there because they missed less than four of the 40 benchmarks used by the state to determine AYP, and that some schools on this list have been cited as excellent by other independent measures, such as state reward programs or USED's own Blue Ribbon Schools program (McGreevey, 2003). In a letter to Secretary Paige, Governors Bill Richardson (D) of New Mexico and Judy Martz (R) of Montana noted that NCLB, though well-intentioned, is creating difficulties for rural areas through its mandates for highly qualified teachers, minimum budgets for state administration, accountability provisions based on insufficient data, and other requirements (Richardson & Martz, 2003). Washington state superintendent Terry Bergeson is one of several state, local, and national leaders requesting changes to the law's AYP requirements and its provisions for testing students with disabilities and English language learners (Bergeson, 2003).

Supporters of the law suggest that the Act's critics do not really want to be held accountable, nor are these critics really convinced that poor and minority children can learn to high standards. Under Secretary of Education Eugene Hickok, in an interview with the Center staff conducted for this report, said that it is not surprising that schools are complaining about the accountability provisions because the law has publicized their shortcomings. As Ronald Tomalis, Acting Assistant Secretary of Elementary and Secondary Education, added during our interview with him, some local administrators are



uncomfortable about parents and the public having ready access to information about their school's performance.

Some state and local leaders and national organizations have also come out in defense of the Act's key requirements. In November 2003, more than 100 African American and Hispanic school superintendents signed an open letter to Congress and the White House, urging policymakers not to back down on the law's accountability requirements (African American, 2003). The letter called the Act a "huge step forward" and said that criticisms of it are undermining the belief that all children, including minority and low-income students, can succeed in school. The letter acknowledged that the Act was underfunded and called on national policymakers to appropriate more money, but it also cautioned educators not to use funding concerns as an excuse to escape their responsibilities toward students. The Education Trust, a group that advocates for high standards for disadvantaged students, has also consistently defended the law's accountability requirements, contending that many educators need to be prodded to take aggressive steps to close achievement gaps (Wiener, 2003).

Turning Down Federal Funds

Some states and school districts have considered refusing federal Title I funds to avoid having to comply with NCLB requirements or having to divert state or local funds to meet federal directives. Legislative resolutions to opt out of NCLB funding, limit state spending on NCLB to the amount of federal funding received, or go on record in support of more federal funding were introduced in the state legislatures of Minnesota, New Hampshire, Louisiana, Nebraska, New Jersey, and other states (Schemo, 2003; FairTest, 2003). The state of Vermont considered refusing its share of Title I funds but ultimately decided to accept it. At least three rural supervisory unions in Vermont (Windham Northeast, Orleans Southwest, and Southwest Vermont) have shifted federal funds away from schools that are in danger of incurring NCLB penalties to try to avoid what the districts view as some of the law's more onerous requirements, such as having to set aside 20% of their Title I funds for choice and supplemental services (Harkness, 2003). It is far from clear, however, whether this type of reallocation would relieve them of federal requirements.

William J. Mathis, a superintendent in Rutland, Vermont, who had advised his school board to reject the federal money, expressed his rationale in this way:

Your accountants tell you that you will be entering into a contract with the federal government that will require expenditures about ten times higher than your revenue. You will be required to produce a product to very precise and narrow specifications at 100% accuracy with little control over the inputs or the production process. . . . [Y]our legal and financial exposure will be huge. Of course, any wise and responsible corporate CEO who wants to turn out high quality products in an effective and efficient way will turn down such a bad deal (Mathis, in press).

At least three districts in Connecticut—the Cheshire, Somers, and Marlborough districts—have actually refused Title I money for similar reasons. In the case of Cheshire, the Title I grant would have amounted to just \$79,600 out of a district budget of \$50 million, a sum that this fairly affluent district could afford to give up (Mendez, 2003). School districts in low-income areas or in states with serious budget crises would be less likely to forego the federal funds, however.

The Marlboro Elementary School District in Vermont, an independent, one-school district that was the subject of one of our case studies, does not receive Title I funds. The



district must still abide by the law's testing and AYP requirements, but not its sanctions. Board members of the Marlboro district are opposed to the Act. They are concerned about the time and costs involved in additional testing, the time this will take away from instruction, and the impact of its testing requirements on the district's portfolio assessment program, which the officials believe is instructionally sound and has worked well. District officials are also concerned about how they will meet the NCLB requirements regarding teacher qualifications for the school's few English language learners. The district leaders also dislike what they view as the loss of local control that the law represents.

The Orleans Central Supervisory Union, another small rural district in Vermont that is included in our case studies, does receive Title I funds and has chosen to continue to accept them, but district officials are still very sensitive to the burden that they feel the NCLB requirements represent. For example, the district already has trouble keeping highly qualified teachers because of its remote location and inability to match the salaries offered in larger suburban or urban districts. The district is also implementing the law at a time when state and local resources have declined, and the district's bare bones budget leaves no room for new expenditures.

Media Coverage

A sizeable portion of the media coverage of NCLB during the past year has focused on controversies and criticisms and has tended to be negative in tone. An analysis of news clippings on NCLB by the Association for Supervision and Curriculum Development found articles in a variety of city newspapers claiming, for example, that federal and state reform plans were misguided and would have "dire consequences," that the Act has "statistically impossible" goals or that NCLB is driving good teachers from the classroom (ASCD, 2003). Numerous media reports have focused on how many schools and which schools have failed to make adequate yearly progress, as in a *Time* magazine story which trumpeted in its headline, "Many Schools Are Flunking Bush's Education Plan. Is the Grading Too Tough?" (Bacon, 2003).

In his interview with CEP staff, Under Secretary Eugene Hickok said that the extensive publicity given to schools that have missed their state's performance targets comes as no surprise. In fact, Hickok noted, media coverage of school results has a positive side, in that it brings needed attention to issues of school performance.

As explained in more detail below, our state and local survey findings and case studies suggest that these types of stories have exaggerated the degree of problems associated with the Act, and that state and local views of NCLB are more complex and diverse than the headlines would suggest.

Congressional Amendments

At least a dozen bills have been introduced in the House and Senate to amend NCLB. Some of these bills call for broad changes, such as waiving the law's annual testing provisions or deferring sanctions in any year that the federal government does not fund the Act at or near its full level of authorization. Other bills propose specific amendments, such as prohibiting choice transfers to schools that are at or above their capacity or state class size limits; adding quality-control requirements for supplemental education service providers; or modifying the qualifications requirements for special education teachers. Amendments to suspend the penalty provisions of the Act until the funding reached the level of authorization were offered to the fiscal year 2003 and fiscal year 2004 appropriations bills in the House and Senate but were defeated.



The key Congressional leaders and staff that we interviewed unanimously agreed that the law should not be amended any time soon. They generally felt that the policies in NCLB are very significant and should be kept in place for several more years before any changes should be considered. Amendments, they believe, could be seen as weakening the reforms and taking pressure off schools to implement the Act unconditionally. Congressman Dale Kildee (D-MI) made this point in our interview, when he was discussing his opposition to an amendment to an appropriations bill that would have prohibited the Department of Education from penalizing schools for failing to comply with NCLB requirements unless the Act was fully funded. “If the amendment [by Rep. Tom Allen] had passed, it would have sent the signal to the states that the Congress is backing off—it sent the wrong message,” he asserted.

In light of these sentiments, it seems likely that further adjustments will come through changes in the regulations rather than the law. It should be noted, however, that we intentionally interviewed those individuals in Congress who were involved in writing NCLB, in collaboration with the White House. Other members of Congress, particularly those who do not serve on the education committees, may not be as strongly committed to the current policies and may be more likely to press for changes in the law. Only time will tell whether the Congressional leaders, presumably working with the President, will be able to hold off amendments, as they would prefer to do.

Lawsuits

During the past year, several lawsuits have been filed or are being prepared that address the No Child Left Behind Act. **Box 1-B** summarizes the major legal actions involving NCLB.

Legal experts anticipate that the Act could provide ammunition to the “educational adequacy” lawsuits pending in many states. These suits challenge a state’s school finance system on the grounds that it has failed to provide school districts with enough funding to guarantee their students an adequate education as required by the state’s constitution. Experts speculate that lawyers could use data collected under NCLB as evidence that students in some districts are not meeting the standards that define what students should know and—if achievement gaps coincide with funding gaps—as evidence that the state is underfunding its schools (Hoff, 2003; Gorman, 2003).

General Perceptions about the Act

By the summer and fall of 2003, when we conducted our surveys and case studies, states and school districts had had enough experience with NCLB to form clear opinions about such issues as the law’s positive effects, negative aspects, and greatest challenges. Officials in the U.S. Department of Education and key members of Congress have also been closely involved with implementation and have formulated their own opinions about the implementation process. The clamor about the law in education circles has not been loud enough to penetrate the public consciousness to a meaningful degree, however, and many citizens are only dimly aware of the legislation’s main features.

Box 1-B Legal Actions Related to No Child Left Behind in 2003

During the past year, several lawsuits have been filed or are being contemplated that would challenge provisions of No Child Left Behind or would cite NCLB in other ways. Some of the major cases that arose during 2003 are as follows:

- Two advocacy groups in California sued the state school board in January 2003 to force it to revise its proposed definition of a “highly qualified” teacher developed to fulfill its responsibilities under NCLB. But after the suit was filed, USED rejected that definition, and the state has come up with another approach (Walsh & Sack, 2003).
- In June, a federal district judge dismissed a suit filed by a group of New York parents charging that the New York City and Albany school districts had denied some children their rights under NCLB to transfer to another public school and to receive supplemental education services. The judge ruled that the law does not confer any such rights that can be enforced in court (Walsh, 2003).
- Four Nebraska school districts filed suit against the state in June, charging that the state legislature had failed to appropriate enough money for their schools to offer an adequate education as defined by the state’s constitution. The districts cited the possibility that they would fail to make adequate yearly progress under the terms of NCLB as one of several factors indicating that the state had not provided them with enough funding (Hoff, 2003).
- In July, the National Education Association filed a complaint in district court seeking to compel the U.S. Department of Education to respond to the association’s request under the Freedom of Information Act for documents related to the Department’s interpretation of a provision of NCLB. The case argues that according to a particular provision of the NCLB, the law’s mandates for school improvement and corrective action cannot override the rights of school employees under other laws or collective bargaining agreements (NEA, 2003a).
- In October, a federal judge rejected a motion to hear a case filed by a public school teacher in Kansas that alleged NCLB was unfair and unconstitutional because it holds school personnel alone accountable if students in a school do not score satisfactorily on state tests. The judge dismissed the case, on the grounds that the plaintiff’s alleged injury was hypothetical and that the federal government is protected from such suits (Robelen, 2003).
- In December, the Reading school district sued the Pennsylvania state department of education to protect its schools from what the district maintains are unfair sanctions under NCLB. In particular, the suit charges that the state did not offer the required tests in Spanish, and thus, English language learners were judged based on tests given in English. The district also alleges that the state has not provided adequate financial or technical assistance to help school districts comply with the Act. The district is also questioning how the state arrived at a minimum size of a subgroup to be counted for AYP purposes (Chute, 2003).
- The National Education Association announced in July that it is preparing a lawsuit challenging the legality of provisions of NCLB that require states to spend their own funds to carry out federal mandates. The basis for the suit is a general provision in NCLB stating that, “Nothing in this Act shall be construed to authorize an officer or employee of the federal government to . . . mandate a state or any subdivision thereof to spend any funds or incur any costs under this Act.” As of December 2003, the suit had not been filed (NEA, 2003b).

Source: Center on Education Policy, December 2003



Public Attitudes

Despite the media attention surrounding the legislation, the public remains largely “uninformed” about No Child Left Behind, according to the annual poll of citizens’ attitudes toward public schools conducted by Phi Delta Kappa/Gallup (Rose & Gallup, 2003). Some 69% of the citizens surveyed said they lack the information needed to say whether their impression of the Act is favorable or unfavorable. Forty percent said they know very little about NCLB, and 36% said they know nothing about it. The poll also contained questions about the specific strategies promoted by NCLB, but people’s answers to these questions suggested that “greater familiarity with the law is unlikely to lead to greater public support,” in the words of the pollsters. For example, 66% of respondents said they believe that a single test cannot produce a fair picture of whether a school is in need of improvement (although a single test is a linchpin of the AYP requirements), and 83% believe that testing in English and math alone cannot produce a fair picture, either (although presently those are the only two subjects required to be tested under NCLB).

A national poll issued in March 2003 by the Business Roundtable, a group that has advocated for standards-based reform, found strong support for several of the policies contained in NCLB. For example, 90% of the citizens surveyed supported offering tutoring for students in low-performing schools, 86% supported offering “in district” choice for these students, and 67% supported mandatory testing in grades 3 through 8. Although 94% agreed that closing the achievement gap between different groups of students was very important, only 29% believed that schooling is the source of this gap; most attributed it to home or societal factors like poverty and home life (Business Roundtable, 2003a). A more recent Business Roundtable poll of parents and voters (2003b) found that 56% of parents and 59% of voters polled agreed that a school should be labeled as “needing improvement if even one group of students falls behind.” However, 74% of parents wanted the lists of schools needing improvement to be subdivided to make distinctions based on the amount of improvement required.

Anecdotal evidence suggests that citizens are finding some of the law’s nuances bewildering. For example, many school districts have found it difficult to explain to parents why a school that does not make AYP is not necessarily a “failing” school. Even more baffling to the public is the situation that has arisen in some states whereby a school that is acclaimed under the state’s rating or reward system still falls short of making AYP under the NCLB criteria. As we found in our case study of the Boston Public Schools, for example, one school in the district that had been commended for its progress in reading under a local school recognition program did not make AYP in math, which confused the public. The district’s director of development maintained that the local rating system represents a more thoughtful and complete approach to evaluating schools than the “misleading labeling system” established by NCLB.

Perceptions from the Federal Level

To understand how implementation of the Act is perceived by those at the federal level who authored it or must administer it, the Center on Education Policy conducted interviews with eight influential members of Congress or their staff and with nine officials in the U.S. Department of Education. To shed light on whether implementation of NCLB is proceeding as intended, we asked these individuals how the Act came about and what its authors intended to accomplish. We also asked these Congressional leaders and federal officials how they thought implementation was proceeding.



DEPARTMENT VIEWS ABOUT THE ACT'S ORIGINS AND INTENTIONS

The No Child Left Behind Act is widely viewed as President Bush's initiative. George W. Bush made his ideas about education a centerpiece of his Presidential campaign in 2000, and after assuming office in 2001, he submitted those concepts to Congress as one of his first policy recommendations. He also speaks about this legislation frequently in Washington and during his travels throughout the country. Further cementing the connection between the President and this policy, the news media commonly refers to Bush's sponsorship of this law in stories about NCLB.

When President Bush assumed office, the climate was ripe for a major education initiative. Under Secretary of Education Eugene Hickok noted in an interview with CEP staff. President Bush had already put education high on his agenda during the campaign, and the states were receptive to his proposals because they had already been pursuing standards-based reform for years.

The primary motive behind the Act, according to Hickok, was the Administration's growing frustration with what they saw as the mediocre performance of schools, especially in light of the amount of federal money being spent on education. The Administration was also concerned that federal aid to education did not have much to show for itself because the schools that it benefited were low-performing and not improving. Despite this mediocre performance, Hickok said, public opinion polls continue to show that parents are satisfied with their own public schools. Through the No Child Left Behind Act, the Bush Administration is trying to "challenge the culture of American education," in Hickok's words, by demonstrating that schools need to do a better job of teaching academic subjects and by bringing about the necessary improvements. Toward this end, NCLB called on states to develop stricter accountability systems that addressed achievement in all schools, not just Title I schools.

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CONGRESSIONAL VIEWS ABOUT ORIGINS AND INTENTIONS

The Congress played a greater role in shaping the content of NCLB than is commonly realized. In January 2001, President Bush submitted his education proposals to Congress in the form of broad concepts instead of the more typical form of a draft bill from the Administration. Republican leaders in Congress developed a legislative proposal based on President Bush's concepts, and collaborated with Bush's advisors to ensure that the bill reflected his position. As the bill advanced, both Republicans and Democrats in the Senate and the House of Representatives had a significant influence on its content and development.

Several of the people we interviewed in Congress said this spirit of bipartisan cooperation was helped along by the fact that NCLB was an outgrowth of legislation enacted in 1994 at the urging of President Bill Clinton—legislation that also sought to reform education by encouraging states to adopt academic standards, assessments, and linked accountability systems. Several Congressional interviewees also noted that for the three years prior to 2001, the Congress had tried to write legislation to step up the pace of reform at the state and local level, but these attempts had been stymied by disagreements within Congress. The new President's proposal in 2001 offered a chance to move beyond those conflicts.

In our interviews, key Republican and Democratic Members of Congress cited two prime reasons for their support of NCLB. First, members from both parties were frustrated with the slow pace of improvement in the public schools and with the low quality of education being provided to low-income children, especially in the inner cities. They felt that a strong national policy was needed to focus attention on improv-



ing academic achievement, especially for poor students and other students with special needs. Second, the Republicans in Congress felt that by emphasizing education during his campaign, Bush had given the public a more favorable impression of his party's positions on education and had blunted the advantage the Democrats had enjoyed on this issue for decades at the national level. So the Republicans were ready to follow through with a major education bill.

These policy and political factors coalesced into Congressional support for Bush's proposal, but the personalities of the key players also helped to smooth the way. Congressman John Boehner (R-OH), the conservative chairman of the House committee responsible for education, dedicated himself to enacting the President's legislation, and to do so he forged solid relationships with two key liberal Democrats, Congressman George Miller (D-CA), the ranking minority member on the House committee, and Senator Edward Kennedy (D-MA), who became the chair of the Senate education committee at a crucial point in the legislation's development. Kennedy had been frustrated by the inability of Congress to enact education reform legislation in the late 1990s and was ready to work with the new President and the Republicans on this issue. Implicit in this relationship between Democrats and Republicans was the assumption that a federal program of private school tuition vouchers would not be part of any agreement between the President and Congress.

As the specific provisions of the Act were finalized, close cooperation existed among Presidential advisors and key Congressional leaders of both political parties. When the President signed the bill on January 8, 2002, at Hamilton High School in Hamilton, Ohio, a town in Congressman Boehner's district, Republican and Democratic leaders were at his side, and the law was hailed as a prime example of bipartisan cooperation. This bipartisanship has helped NCLB weather criticism over the past year and has unified key Congressional leaders in resisting amendments to the law.

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These Congressional leaders continue to strongly support NCLB, particularly its provisions to disaggregate achievement data by student subgroup and to hold schools, districts, and states accountable for student performance. Although key Democrats and Republicans disagree about funding for the Act, as explained later in this chapter, these differences of opinion have not imperiled their overall support for the law.

U.S. DEPARTMENT OF EDUCATION OFFICIALS' VIEWS ABOUT STATE AND LOCAL IMPLEMENTATION

In our federal interviews, U.S. Department of Education officials generally expressed satisfaction with how state education agencies were carrying out the Act. In the view of most of the top leaders and program administrators that we interviewed in the Department, good will exists among state education agencies to carry out the law, and state education chiefs have become actively engaged in the process.

These federal officials often point out that despite some hitches, all states have plans in place and are moving ahead with implementation, in contrast to the situation with the prior law, where many states had not yet implemented key requirements after several years and were operating under waivers from the Department. The majority of states are trying to implement the law as intended and in ways that will benefit students, according to most of our USED interviewees. A few state education agencies are struggling with implementation because they lack sufficient state capacity to fulfill all of their responsibilities under the law, one interviewee noted, and a few others have not provided the Department with adequate information to gauge their progress or have been somewhat adversarial in their dealings with the Department.



Progress with implementation at the local level is more mixed, according to multiple USED officials we interviewed. Some of the officials acknowledged that districts are being asked to do a number of complex things that are not easy to do, such as changing teaching strategies in low-performing schools. Under Secretary Hickok noted in our interview that some school districts resent the Act and do not want to be held accountable—one reason why the Administration believes it is crucial to keep NCLB in place long enough for it to become institutionalized.

Some of the difficulty that some districts are having is due to inadequate communications between USED and school districts and between states and school districts, in the view of several federal officials interviewed. According to Hickok, USED is preparing to spend more time with local administrators and is working through the chief state school officers to arrange meetings in each state with local superintendents.

CONGRESSIONAL VIEWS ABOUT IMPLEMENTATION

In our interviews on Capitol Hill, members of Congress and their staffs were well aware of problems with NCLB implementation at the state and local levels because they had received numerous letters, e-mails, and other communications from people throughout the country. Despite the complaints they have heard, Congressional interviewees felt that many aspects of implementation have gone well. For one thing, the Act has succeeded in focusing educators' attention on raising academic achievement. As Congressman Michael Castle (R-DE) said, "There is a lot of complaining, but lots of people are also putting great effort into implementation."

Congressional leaders also expressed little surprise about the number of schools that have not met targets for adequate yearly progress for subgroups of students. During their consideration of the bill that eventually became NCLB, members of Congress had access to a variety of estimates showing that large numbers of schools would probably find themselves in this situation, including many schools that believed they were doing a good job. Congressional interviewees also said they were aware of the variations in state accountability systems, especially in the differing levels of performance expected of students, but this, too, had been expected. Most members of Congress interviewed felt that the U.S. Department of Education had taken the sound approach by showing flexibility in approving these differing state plans.

Less agreement was evident on other aspects of the Department's implementation of the Act. Some Democrats faulted the Department for overemphasizing the choice and supplemental services parts of the legislation while slighting the teacher quality provisions. Some Democrats also criticized the Department for stressing the sanctions in the law rather than providing assistance to improve teaching and learning. Some Republicans and Democrats criticized the Department for being too slow in implementing the Act and tackling the easier issues before addressing the harder ones.

State and Local Views about Implementation

Our state and local surveys and case studies indicate that states and school districts support the goals of the Act and believe it will make a positive difference. In general, states and local school districts are taking the law quite seriously and are making a concerted effort to implement its major requirements. At the same time, they have concerns and criticisms about some of its specific provisions.



STATE VIEWS ON POSITIVE EFFECTS OF NCLB

State education agencies see the No Child Left Behind Act as having a positive effect on student achievement, especially through its attention to subgroup achievement. In the report we issued last year about NCLB implementation, we noted that the state department of education officials that we interviewed strongly supported the intent of the law to raise achievement for all students. In particular, state officials believed that the requirements for highly qualified teachers and for disaggregated student achievement data would help to improve student performance.

As part of this year's state survey, to which 47 states and the District of Columbia responded, we asked state education agency officials which particular accountability requirements of NCLB they believed would have a positive effect on student achievement (see **Table 1-A**). States reported that an accountability system can help focus educators on improving student achievement. Almost all of the states responding to our survey agreed that NCLB would have a positive effect by compelling states to develop an accountability system based on content and performance standards (42 states agreed) and by instituting a uniform system for all districts and schools in the state (41 states agreed). There was general, but somewhat less robust, agreement about the positive effect of developing a system that includes sanctions and rewards and calling attention to the performance of economically disadvantaged students and racial and ethnic minorities.

When asked to comment in more detail on the options above, state officials responded most positively to the way in which the law has focused attention on the performance of subgroups of students and the achievement gaps between these subgroups. States also agreed that NCLB would help focus resources to address the performance of these subgroups. To a lesser extent, states mentioned the benefits of having common standards for all students and increased accountability. Some typical responses:

16

The focus of NCLB to provide resources to our most disadvantaged youth and a concentrated focus in reading and math will have a positive effect on student achievement. In addition, the disaggregation of data by various subgroups will bring attention to achievement gaps.

NCLB has required educators to analyze data and become aware of achievement gaps between groups of students. It has made it necessary to teach all groups of students and not just consider the group as a whole.

That which is assessed is reported. That which is assessed is taught. Those who are taught will learn. In short, accountability measures put pressure on schools to teach, report, and be accountable.

A uniform system of standards and aligned assessments—with the SAME expectations for all students!

Although this question asked about positive effects, some respondents qualified their positive comments with concerns about the stringent requirements and sanctions.

The data collection and reporting requirements are challenging to meet but will provide a needed focus on the learning of all students that has been masked in the past. However, a few requirements above were checked as having a positive impact because while the goal is terrific, the rules on measuring success are rigid and unfair in many circumstances. It will not be long before every state in the nation is identified—not because of the lack of effort—or even improvement—but because of the required formulas for identification. It is not educationally sound.

Table 1-A States' Reports on Which Accountability Requirements of NCLB Will Positively Affect Student Achievement

SPECIFIC ACCOUNTABILITY REQUIREMENT	NUMBER OF STATES SAYING REQUIREMENTS WILL POSITIVELY AFFECT ACHIEVEMENT
Developing an accountability system based on content and performance standards	42
Developing a uniform accountability system that is used for all districts and schools in the state	41
Setting separate adequate yearly progress goals for reading and mathematics	34
Setting statewide annual measurable objectives for increasing the academic achievement of economically disadvantaged students	34
Developing an accountability system that includes sanctions and rewards	33
Setting statewide annual measurable objectives for increasing the academic achievement of students from major racial and ethnic minority groups	32
Setting statewide annual measurable objectives for increasing the academic achievement of all students	32
Defining adequate yearly progress for schools	29
Setting statewide annual measurable objectives for increasing the academic achievement of students with disabilities	25
Defining adequate yearly progress for districts	24
Setting statewide annual measurable objectives for increasing the academic achievement of students with limited English proficiency	24
Defining adequate yearly progress for the state	23
NCLB accountability requirements do not have a positive effect on student achievement	4
Other	3

Table Reads: Forty-two states reported that developing an accountability system based on content and performance standards will have a positive effect on student achievement.

Note: Responses are shown in rank order. States could select all options that apply.

Source: Center on Education Policy, December 2003, State Survey, Item 9.

Table 1-B Number of States Reporting the Extent to Which They Believe That, Over Time, NCLB Will Result in a Narrowing or Widening of the Achievement Gap Between Each of the Following Groups of Students

	GAP WILL NARROW CONSIDERABLY	GAP WILL NARROW SOMEWHAT	GAP WILL STAY SAME	GAP WILL WIDEN SOMEWHAT	GAP WILL WIDEN CONSIDERABLY	N/A: NO GAP	SUBGROUP TOO SMALL TO TRACK	DON'T KNOW
White students vs. Black students	11	21	2	1	0	1	6	4
White students vs. Asian students	3	14	6	0	0	8	6	7
White students vs. Hispanic students	8	25	3	1	0	0	4	5
White students vs. Native American students	7	14	2	2	0	0	9	7
LEP students vs. non-LEP students	5	18	8	3	0	0	2	9
Students with disabilities (as defined under IDEA) vs. students without disabilities	3	21	5	3	2	1	0	10
Low-income students vs. students who are not low-income	15	23	2	1	0	0	0	5

Note: Numbers do not total 48 because some states did not respond to this question.

Source: Center on Education Policy, December 2003, State Survey, Item 14

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Figure 1-A Extent to Which States Believe that the NCLB Accountability Requirements Will Result in Increasing Student Achievement

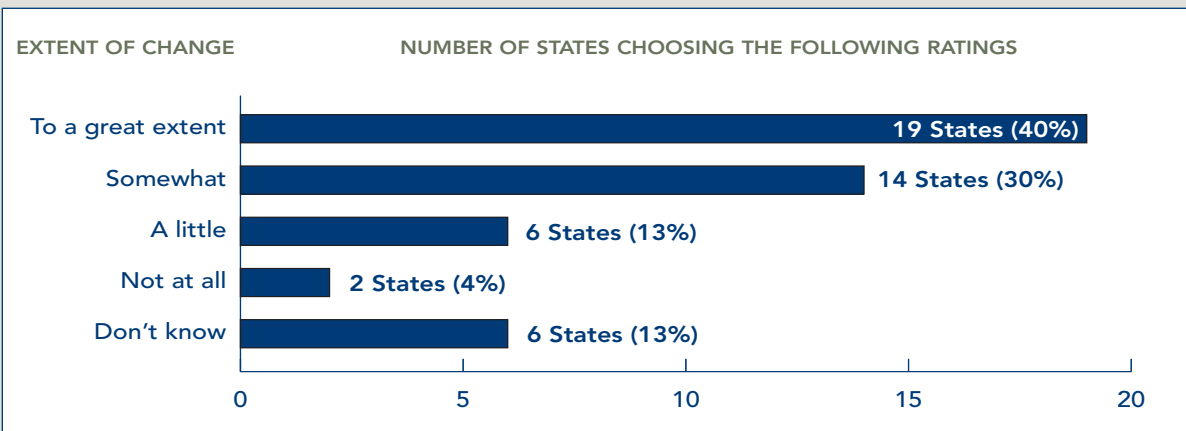


Figure Reads: Nineteen states, or 40 % of the states responding, reported that they believed that the NCLB accountability requirements will increase student achievement to a great extent.

Source: Center on Education Policy, December 2003, State Survey, Item 13



States were more mixed in their views of whether the Act would improve the quality of teachers. In response to this question on our state survey, 22 states said yes, while 16 said no.

Finally, we asked states about the extent to which they believed that, over time, the NCLB accountability requirements would result in higher student achievement. State respondents generally agreed that NCLB would result in increased student achievement (see **Figure 1-A**). Almost all those surveyed felt that there would be at least some positive effect, and a plurality (19 out of 47 responding) said that the law would help raise achievement a great deal.

Indeed, most state respondents felt the effects of the Act would be significant, especially in the area of focusing attention on subgroups. Some typical responses on subgroups:

We are already seeing positive trends in achievement data. Now all students are expected to learn the basics and the excuses are being shown for what they are ... excuses.

The disaggregation of data by subgroups will bring an increased focus [on] the achievement of our poorest performing students.

We are observing increased attention to the curriculum of schools and the teaching strategies of teachers. In time we anticipate additional improvements with communications to parents and increased community involvement. We anticipate that this will result in increased performance. Anecdotal and statistical data from previously identified “program improvement” schools indicate such gains.

Although most responses were positive, one state official simply stated that “improved test scores do not mean higher learning.” Another worried about NCLB’s consequences for public education:

Initially, NCLB will have a positive effect, partly because of the focus on education. However, over time, as the goals in NCLB increase, it is simply a matter of time before all schools, districts and states are identified as “failing to make AYP”—resulting in improvement labels—some with horrific threats (termed sanctions) some feel were intended to discredit public education—(and if the rules of the system do not change, that very well may be the result) what a shame if that was intended—what a crisis to encouraging the best and brightest to become a teacher!

Not only did state officials predict higher student achievement, but as shown in **Table 1-B**, a large majority predicted that the achievement gap between white students and each of the other subgroups would narrow as a result of NCLB, with most answering that it would be narrowed “somewhat.” Greatest progress was predicted in narrowing the achievement gap between white and black students, and between low-income and non-low-income students; large numbers indicated these gaps could narrow “considerably.” A very small number (3) felt the gap would widen for students with disabilities and English learners.

LOCAL VIEWS ON POSITIVE EFFECTS OF NCLB

In our 2003 nationally representative survey of 274 school districts, we asked district officials open-ended questions about the positive effects that NCLB is having in their districts and which requirements of the law they believe are contributing to those effects. The local respondents generally agreed with the states, in that the great majority



of district respondents cited as positive effects of NCLB an increased focus on accountability for student achievement; an increase in the use of data—especially disaggregated student data—to guide instruction and make decisions; and an increased reliance on research-based practices. Districts also cited as positive effects the use of highly qualified teachers and paraprofessionals, improved curriculum and instruction (including alignment of instruction to standards and assessments), and more effort devoted to increasing parent and community involvement in their children’s education. The following comments by school district personnel are illustrative of the feedback we received:

NCLB heightened the importance of using data to assess school progress and success. We are much more results-oriented as a result of NCLB.

Teachers and administrators are far more reflective of our craft. The staff understands the importance of their teaching and learning. This is evident through building-based discussions and the planning being done. The necessity of meeting the annual goals has driven this.

We are very focused on academic achievement. Teachers understand that we need to be sure that everything we spend time on is directly related to our student outcomes.

Another positive effect raised by some district officials—which was not mentioned by our state respondents—is an increase in parent and community involvement.

[We now provide parents with the] district report card. This allows [everyone] to see how their school compares to similar districts and the state average. We know that we do a good job at educating children. It is nice for the public to see that in writing.

Local businesses [assist] the school in the services offered to students. People from our local community volunteer in the school and give materials.

Our case studies suggest that many school districts support the Act’s focus on raising achievement for all groups of students. Many districts we talked to expressed confidence about their ability to meet these goals, and numerous case study districts—such as Wake County, North Carolina; Chicago, Illinois; and Escondido, California, to name just a few—already had major initiatives to boost student achievement well underway even before NCLB took effect. And, as discussed in Chapter 2, several districts have seen some of their schools “test out” of school improvement status by posting achievement gains for two consecutive years.

At the same time, when we did our case studies in the summer and fall of 2003, many districts had just been notified by the state about schools that did not make AYP. Several case study districts, including some that do not have schools in improvement status, had begun to express apprehension about their ability to meet AYP goals for all subgroups and grade levels and to produce steady gains in student achievement year after year. For example, the Waynesboro, Virginia, school district has no schools identified for improvement, but is concerned because its secondary schools did not make AYP for all subgroups in 2003, and like many districts, the performance of its secondary schools is lagging compared with that of its elementary schools. As one of several steps Waynesboro is taking to raise math achievement at the secondary level, the district has assigned a full-time staff person to oversee an intensive program of algebra readiness in the middle school.

The Cleveland, Ohio, Municipal School District, another case study district, has historically been low performing. Although the district improved its average performance in 2003 and moved out of the state’s “academic emergency” category for the first time



in some years, 27 schools are in program improvement, restructuring, or corrective action. Since the state's expectations for annual growth are based on average test scores across the state, the Cleveland district has much more ground to make up in a shorter time than most other districts because it is starting at such a low baseline.

As with states, we also asked district officials whether they believed NCLB would lead to an increase in student achievement and/or a decrease in the achievement gap. Many said they did. Some typical comments:

NCLB will increase student achievement simply because it is causing districts to talk about students who have fallen through the cracks before, and we are more careful of our teaching, time, and professional development.

It may increase student achievement because dedicated people will make it happen, as they work with the disaggregated data and will see additional ways to reach students.

Yes [achievement will increase because of the] visibility of performance expectations and achievement outcomes for all student groups.

However, a number of district survey respondents said that they did not believe the law would improve student outcomes, and some said it might even hamper student learning. Respondents explained:

I think it will lead to a temporary increase in achievement scores and a 'pretend' increase in real student achievement. The achievement gap will not be narrowed until it becomes 'cool' to be smart in the United States. We're a long way from that especially in the low socioeconomic [areas of our state].

I think it will lead to an increase [in student achievement] only on paper. States are already altering records to reflect progress. Students will drop out rather than face failure.

I feel that individuals—students and educators—will do unethical things in order to raise scores. I fear that labels will be given to those who are not proficient and that new prejudices will arise.

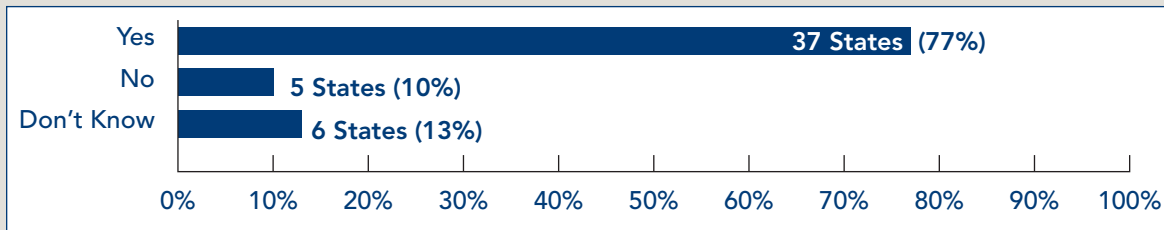
I think [there is] pressure to meet the impossible. [The mandates for] 100 percent [proficiency] could backfire. I also have some concerns about the non-subgroup population of students since the focus and possibly funding will have to be targeted at the subgroups that are not meeting AYP.

STATE VIEWS ON GREATEST CHALLENGES OF NCLB

In our January 2003 report, we outlined states' views about the major problems they faced as they implemented the Act. Last year, the vast majority of states reported that developing a plan for measuring adequate yearly progress had been their greatest challenge to date. This year, we asked state education agencies an open-ended question about what their greatest challenges have been in implementing NCLB since it was signed into law in January 2002.

Of the 42 that answered the question, 22 cited the short timelines in the law as being among their greatest challenges. Some NCLB provisions took effect immediately upon enactment, such as the requirement for most newly hired Title I paraprofessionals to have completed at least two years of college or pass an exam demonstrating their competency. Other provisions took effect at the beginning of school year 2002–03, such as the requirement for principals of Title I schools to inform parents if their children

Figure 1-B States Reporting if Areas of the State, Such as Rural Areas, Faced Any Unique Challenges in Implementing the Accountability Requirements of NCLB



Source: Center on Education Policy, December 2003, State Survey, Item 8

Table 1-C State Views of Which NCLB Accountability Requirements Could Create Negative or Unintended Consequences

ACCOUNTABILITY REQUIREMENT	NO. OF STATES CITING POSSIBLE NEGATIVE OR UNINTENDED CONSEQUENCES
Setting statewide annual measurable objectives for increasing the academic achievement of students with disabilities	26
Setting statewide annual measurable objectives for increasing the academic achievement of students with limited English proficiency	22
Defining adequate yearly progress for districts	15
Developing an accountability system that includes sanctions and rewards	12
Defining adequate yearly progress for the state	12
Defining adequate yearly progress for schools	12
Setting statewide annual measurable objectives for increasing the academic achievement of students from major racial and ethnic minority groups	9
Setting statewide annual measurable objectives for increasing the academic achievement of economically disadvantaged students	7
Setting statewide annual measurable objectives for increasing the academic achievement of all students	7
Setting separate adequate yearly progress goals for reading and mathematics	5
Developing a uniform accountability system that is used for all districts and schools in the state	3
Developing an accountability system based on content and performance standards	2
Do not see any unintended consequences for my state	0
Other	7

Note: Responses are shown in rank order. States could select more than one response.

Source: Center on Education Policy, December 2003, State Survey, Item 11



were being taught for four or more consecutive weeks by a teacher who was not highly qualified. States also had to develop accountability plans by January 2003. Many of the previous laws that amended the federal Elementary and Secondary Education Act contained a transition year, intended to give the U.S. Department of Education time to develop regulations and guidance and give states and school districts time to develop policies and procedures to implement the new law. But the No Child Left Behind Act contained no such transition year (although as discussed in Chapter 2, USED did allow states to refrain from identifying new schools for improvement in 2002–03 based on test data from 2001–02).

Many states responding to our survey felt unduly pressured by the NCLB timelines and scope, as illustrated by these state survey comments:

Too much, too fast and too punitive.

Unrealistic timelines in the law—no opportunity to transition between old and new law; no time to thoughtfully develop processes or procedures; limited opportunity to involve stakeholders in the decisions; no time to do long range planning or study the impact or effects of proposals.

Twenty states mentioned aspects of accountability as major challenges, including making the state’s existing accountability system fit within the NCLB accountability model or working with USED to gain approval of the state’s AYP plan. The following comments were characteristic of the views of these states:

Reconciling NCLB’s accountability framework with our state’s existing structures—they’re very different.

Implementing the AYP model, revising our data collection and reporting tools, and developing required statewide assessments have all been challenges.

Working through the process of revising the state’s existing accountability system to comply with the requirements of NCLB while maintaining the state’s philosophy of continuous growth and school improvement presented a tremendous challenge to the state.

Most of the states that responded to the survey reported that certain types of schools and districts in their states are facing unique challenges implementing the NCLB accountability requirements (see Figure 1-B). The most frequently reported problems concerned rural and other small districts that were having difficulty providing public school choice, supplemental services, and highly qualified teachers, issues discussed further in Chapters 3 and 4.

A few states mentioned challenges specifically related to measuring AYP. One state reported having many small districts with subgroups too small to meet the minimum subgroup size, while another reported that the high mobility of the student population in the state is an added challenge. Still another said that areas of the state with large populations of English language learners are finding it particularly challenging to meet the assessment and AYP requirements.

Several states (13) also noted that the short timelines for implementation, coupled with late or incomplete regulations and guidance from USED, made their jobs more difficult. Seven states cited the teacher quality provisions as being among their greatest challenges, while a handful of others mentioned challenges in developing the data systems necessary to comply with the NCLB reporting requirements.



We also asked state education agency officials which accountability requirements of NCLB they saw as creating negative or unintended consequences for their state (see **Table 1-C**). States reported far fewer negative effects than they reported positive effects in response to the question discussed in the preceding section of this chapter. However, a substantial number of state officials highlighted the quandary of the performance of certain subgroups: although they felt that NCLB would focus attention on performance gaps, many also believed that the goals of 100% proficiency for English language learners and students with disabilities will be virtually impossible to achieve.

States' written comments on negative aspects of the law generally fell into three categories. A main complaint was that the students with disabilities subgroup includes some students with significant cognitive or learning disabilities that cause them to perform below grade level and are the reason why they were identified for services in the first place. A similar complaint was voiced about ELL students: if they were proficient in English, they would not be designated as English language learners. Thus, having to show AYP and ultimately reaching 100% proficiency for these subgroups would be extremely difficult. Second, states expressed concern that aspects of the law were too limited, requirements too stringent, or goals too unrealistic. A third concern was that too many schools would be identified as failing to make AYP. Others stated that it was too early to tell what the negative consequences would be. One state official wrote that test results are affecting real estate costs and decisions by developers to build housing near low-achieving schools. Other comments include:

Holding Special Education and ELL students to the same timeframe for meeting state standards is unrealistic and can have a damaging effect on the self-esteem of these students.

By focusing on reading and mathematics, schools may choose to reduce or eliminate instruction in other areas that are included in the [state] academic standards that are important to a well-rounded education.

The federally mandated formula is not flexible enough to minimize unintended consequences. Using one test to measure the performance of schools and subjecting schools to increasingly severe sanctions will over-identify schools and may not result in increases in student achievement.

Too many schools identified. Does not pass straight face test.

LOCAL VIEWS ON GREATEST CHALLENGES OF NCLB

We also asked school districts an open-ended question about their greatest challenges in implementing NCLB. District respondents overwhelmingly cited difficulties with the AYP requirements for schools and subgroups as challenges, especially the requirements for the subgroup of students with disabilities. The following comments by school district officials convey their concerns about this issue:

NCLB is unrealistic when it comes to the instruction of special education students. It is detrimental to test a mentally retarded student at a level that he/she is not capable of attaining. It is like asking a student in a wheelchair to compete a high hurdle race without any special assistance.

Requiring identified special education students to participate in assessments [that measure] progress toward grade-level curriculum standards [presents] a real problem. Often by definition identified special education students are going to learn at slower rates . . . requiring a fourth-grade [special education] student to take an assessment at the fourth-grade level when he/she reads at the first-grade level is pointless.



Schools with high numbers of special education students have the greatest challenge in meeting the AYP requirements. Keeping the morale of the schools high and not letting schools begin to not want to enroll the special needs children is a real concern.

Several of our case study school districts also expressed concern about the requirements for assessment of students with disabilities. The Cuero Independent School District in Texas enrolls a significant proportion of students with disabilities because it provides special education services to children from neighboring school districts under cooperative agreements. District officials are concerned about finding additional instructional time for extra services to help these students improve their achievement, since they are bussed from so far away. Officials in the Orleans Central Supervisory Union in Vermont and the Pascagoula School District in Mississippi expressed concern about the requirement to test students with disabilities using exams cued to their grade level instead of their instructional level. In the Heartland School District in Nebraska, however, officials reported that students with disabilities met AYP in mathematics in grades 4 and 8, with large percentages of students scoring at proficient levels.

As explained in more detail in Chapter 2 and Chapter 5, the requirements affecting English language learners have also raised concerns among several of our case study school districts. Colorado Springs District 11 has a diverse body of ELLs, with some students who are newly arrived immigrants, others whose families are migrant workers, and others whose parents have multiple college degrees. The district is making an effort to differentiate English language instruction so that the needs of all these students are met.

Another concern cited by the school districts we surveyed was that their state's definition of adequate yearly progress was leading to unfair determinations about a school's performance. As two respondents declared:

Measuring success in terms of improvement [presents problems]. What if we already have a really good school? There is always room for improvement, but maybe not as much [as] in a lower performing school.

A school's AYP is determined by the number of tenth-graders who pass the state test. Our state test is supposed to be measuring what a student should know by the time he/she graduates—a four year process. AYP should be based upon the number of students prepared at the end of four years, not two.

Some districts were particularly concerned about the law's requirement to use high school graduation rates as a second indicator of progress for high schools. Here is what one district had to say on this point:

It does not make sense to judge a school on the four-year graduation rate. Our state law allows students to attend high school until the day before their 22nd birthday. Yet if they do not graduate by the time they are 17 or 18, it does not count for purposes of calculating AYP. Students who have left school for economic or parenting reasons and who return after a year of absence deserve to be counted in the graduation rate.

Some districts also cited concerns with the logistics and costs of implementing choice and supplemental services and meeting requirements for highly qualified teachers and paraprofessionals.

Finally, our survey asked district officials an open-ended question about which (if any) parts of the law they would like to change or eliminate. Regarding the assessment and accountability requirements, a large number responded that they would like to change the testing requirements and expectations for the special education population.



Many also would change the requirement that 100% of students reach the proficient level by 2013-14, complaining that it is unrealistic, as these commentators did:

The 100 percent requirement by 2014 is ludicrous. We all know we are either going to dumb down the tests or we are going to find loopholes to exclude some students. . . . My greatest fear with NCLB is that the increased pressure will drive some of the most gifted educators from the field because of the added hoops we must jump through.

The expectation that all students will reach 100 percent proficiency for all subgroups is not realistic and it causes many to say, 'This is a setup. It will all go away.' It undercuts efforts to achieve meaningful, doable improvement.

Several respondents suggested changes to the way that AYP is calculated. A few comments focused on problems with the way AYP is determined at the high school level; others suggested that AYP be based on progress of the same cohort of students over time.

I would measure students' progress over time. Right now we are comparing this year's third-graders (or any grade level) to next year's, and somehow saying that we have improved or not. We should compare students to themselves over time to make sure that each student is learning.

Making AYP comparisons on totally separate groups of students [does not make sense]. Why not track the same group over time?

Research conducted by other groups has uncovered similar—and sometimes even harsher—views about the Act. In a national survey of 2,000 randomly chosen public school administrators conducted by the independent organization Public Agenda (2003) 89% of the superintendents surveyed and 88% of the principals called NCLB an “unfunded mandate” that added to their responsibilities without contributing the funding needed to fulfill them. Fewer than half of the administrators (40% of superintendents and 46% of principals) believed that NCLB is an effort to improve public schools, while a significant segment (31% and 18%) called it “a disguised effort to attack and destroy public education.” A majority of the administrators (64% of superintendents and 73% of principals) responding to the Public Agenda survey felt that the Act relies too much on testing, and nearly half (49% and 48%) referred to its testing requirements for special education students and English language learners as “unreasonable and undoable.” Most of the superintendents and principals (61% and 65% respectively) concurred that the law “will require adjustments before it can work.” Large-district superintendents were much more likely to support the Act’s key elements, however, than their small-district counterparts.

STATE CAPACITY

A critical issue is whether states have sufficient capacity and expertise to carry out all the administrative functions and provide the high level of technical assistance demanded by NCLB. Our state survey included a question about states’ capacity to implement NCLB. Respondents in five states said they thought their state department of education had sufficient numbers of staff to carry out the legislative requirements of NCLB, while officials in 38 states said that they did not. One state reported that the staff of the state department of education has decreased to 275, down from 1,600 five years ago. Some typical comments from states that were feeling the pinch:

Attempting to provide adequate technical assistance to large numbers of schools, provide services so teachers will be 'highly qualified,' as well as establishing and maintaining the data collection and analysis will severely strain the available staff.



Insufficient number of assessment, information technology, and technical assistance staff [will affect implementation].

We also asked states whether they thought the state department of education had sufficient in-house expertise to provide technical assistance to schools and districts that have been identified as needing improvement. Twenty-five states felt they did not have sufficient expertise; 21 states believed that they did have sufficient expertise, but 9 of these states expressed concern for the future, as evidenced by this state official's comment:

Yes, we have the expertise, but it will be stretched by the number of schools that will eventually be in school improvement and corrective action.

These findings from state education agencies are particularly interesting when viewed against questions we asked school districts about the entities from which they sought assistance.

SOURCES OF LOCAL ASSISTANCE

Our local survey asked districts that received Title I funds which entities they received assistance from in implementing the No Child Left Behind Act. We also asked them to rate the quality of the assistance they received from various entities. State education agencies were by far the most important source of information and one of the most highly rated (see **Table 1-D**). An estimated 94% of the school districts we surveyed that received Title I sought assistance from their state education agency in implementing NCLB. Of those districts that sought assistance from their state education agency, 70% rated the assistance as “very helpful” or “somewhat helpful.” Only educational service agencies or other local consortia received higher ratings for the quality of assistance provided, but fewer Title I districts—about 70%—used these entities for NCLB help.

It is interesting, then, to note that while state education agencies are the entity that districts rely on most, many states are concerned about their capacity to provide the kinds of assistance that districts need. Right now, school districts seem to be asking for and getting good quality assistance from the states, but whether states can maintain this level of help as more schools are identified for improvement is an issue to watch.

The U.S. Department of Education was the second most important source of help, with an estimated 79% of surveyed school districts indicating that they received assistance from the Department. However, the districts generally gave USED relatively low marks for the helpfulness of the assistance, with 38% rating the assistance as “very helpful” or “somewhat helpful” and 63% rating it as “a little helpful” or “not helpful.”

Some of our case study districts contended that their local implementation of NCLB had been hampered by late, inconsistent, or changing information from the state or U.S. Department of Education. The Napoleon, North Dakota, school district, a small rural district, reported having difficulty obtaining clear information from the state about such issues as how student proficiency levels would be determined, what kinds of assistance the state would provide to districts, and how to develop effective curriculum. These problems led one local educator to describe the state process for developing standards and assessments as a “top down” one.

Institutions of higher education are a less common source of assistance than one might assume: just 47% of the Title I districts surveyed reported seeking help from higher education institutions, and just 27% rated that assistance as very helpful or somewhat helpful.

Table 1-D Sources and Quality Ratings of Assistance Received by Title I School Districts

ORGANIZATIONS & AGENCIES	PERCENTAGE OF DISTRICTS RECEIVING ASSISTANCE	DISTRICT RATINGS OF THE QUALITY OF ASSISTANCE PROVIDED BY VARIOUS AGENCIES AND ORGANIZATIONS			
		VERY HELPFUL	SOMEWHAT HELPFUL	A LITTLE HELPFUL	NOT HELPFUL
State education agency	94%	27%	43%	22%	8%
U.S. Department of Education	79%	9%	29%	35%	28%
Education service agencies or other local consortia	70%	35%	38%	19%	9%
Regional Educational Laboratories	49%	12%	28%	36%	25%
Institutions of higher education	47%	5%	22%	29%	45%
National Clearinghouse on Scientifically Based Research	46%	2%	25%	37%	35%
Comprehensive Regional Technical Assistance Centers	38%	14%	29%	27%	30%
Private organization(s)	27%	13%	11%	25%	51%
Other	15%	44%	6%	20%	29%

28 Table Reads: Of the 94% of Title I districts that sought assistance from their state education agency, an estimated 27% found the assistance 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 (Tables 8 and 8a)



FLEXIBILITY

The No Child Left Behind Act has been billed as providing states and school districts with more flexibility in exchange for greater accountability. Indeed, several USED officials pointed to the flexibility available in the law as critical to the success of state implementation and emphasized how the Department was also trying to be flexible in its administration. Ronald Tomalis, Acting Assistant Secretary for Elementary and Secondary Education, noted in an interview with CEP that, in approving state plans, the Department had tried to build on state accountability systems, rather than supersede them. Multiple federal interviewees told us that in negotiating plans with the states, the Department had tried to pursue as much flexibility as the law would permit, rather than using its authority to waive the law's requirements in some circumstances, which might be seen as a public admission that the law was flawed.

We asked states if they were taking advantage of any of the flexibility provisions in the Act, such as transferring administrative funds among certain NCLB programs or participating in the State Flexibility demonstration program. (Under the "State-Flex" demonstration program, a new authority under NCLB, seven states can consolidate several NCLB state-level activities funds and use them for any purpose under the Act.) Twenty-two states responded that they were taking advantage of the flexibility provisions, while the remainder said they were not taking advantage of them or did not know about them. Fifteen of these states reported they were transferring administrative funds across NCLB programs, and two states reported that they are State-Flex states. The remaining states indicated that they were taking advantage of other flexibility provisions, such as consolidating administrative funds or being designated as an Ed-Flex waiver state. (Under the Ed-Flex program, originally authorized in 1994 and extended in 1999, states with challenging academic standards and assessments may secure permission from USED to grant waivers of certain federal provisions. Currently, there are 10 Ed-Flex states.)

When asked to rate how much the NCLB flexibility provisions have streamlined the administration of federal programs, states gave mixed answers. Twelve states felt that this flexibility had streamlined administration only minimally or not at all, while 12 said it had streamlined administration somewhat or to a great extent.

We also asked states whether any of their school districts were transferring administrative funds across programs or participating in the Local Flexibility Demonstration program. (Local Flex is similar to the state program, except on the local level; a total of 80 school districts across the country can participate in this program.) Twenty-eight states responded that school districts were taking advantage of the NCLB flexibility provisions, mostly by transferring administrative funds across programs. Three states said their school districts were participating in the Local Flexibility Demonstration program.

USED'S INTERPRETATIONS OF THE LAW

We asked the states how strictly they felt the U.S. Department of Education has been interpreting specific provisions of the NCLB law. As **Table 1-E** shows, states were in general agreement that USED is *very* strictly interpreting the Reading First provisions. They also generally agreed that the adequate yearly progress, school choice, supplemental education services, teacher quality, and paraprofessional provisions were being interpreted very strictly or moderately strictly by USED, although more states felt that the federal interpretation of the latter two provisions was less strict. For each of these areas, four to six states said they did not know how strictly the Department was interpreting the law's requirements.

Table 1-E States' Ratings of How Strictly USED Is Interpreting Various Provisions in the NCLB Law

PROVISION	NUMBER OF STATES GIVING THE FOLLOWING RATINGS				
	VERY STRICTLY	MODERATELY STRICTLY	SOMEWHAT STRICTLY	NOT AT ALL STRICTLY	DON'T KNOW
Reading First Program	38	2	1	0	4
Adequate Yearly Progress	34	7	1	0	4
Supplemental Education Services	28	9	2	0	6
Highly Qualified Teachers	24	11	2	0	5
Paraprofessional Qualifications	22	14	4	0	5
Public School Choice	22	7	2	0	6
Scientifically Based Research	16	7	6	1	15

Table Reads: Of the states responding to our survey, 38 states said that the U. S. Department of Education is interpreting the Reading First provisions “very strictly.”

Note: Responses are ranked by the number of states responding “very strictly” to each provision of NCLB.

Source: Center on Education Policy, December 2003, State Survey, Item 57.

The scientifically based research provisions are the area that states believe USED is interpreting least strictly, with 14 states characterizing the Department’s interpretation as moderately strict, somewhat strict, or not at all strict, and 16 describing it as very strict. This reaction from the states could be due to the fact that at the time of our survey, the U.S. Department of Education had not issued any guidance or regulations for the scientifically based research provisions under NCLB except for those provisions in the Reading First program, Comprehensive School Reform program, and the Teacher Quality program. It should also be noted that a sizeable share of states—15 altogether—said they did not know how strictly the Department was interpreting the scientifically based research provisions, suggesting that states have had fewer interactions with USED on this area of the law.

USED WITHHOLDING OF FEDERAL FUNDS

As a tool to motivate states to meet the timelines in the law, the No Child Left Behind Act directs the U.S. Secretary of Education to withhold some or all of a state’s administrative funds under Title I, Part A, if states do not comply with the Act’s requirements. We asked states whether USED had withheld or threatened to withhold funds for this reason. Three states said that funds had been withheld, and 14 states said the Department had threatened to withhold funds.

NCLB Funding Issues

Funding issues are among the most controversial aspects of NCLB and a contributor to backlash against the law. Many educators, state and local leaders, and education advocacy groups contend that federal funding for NCLB is inadequate in light of the demands



it places on states and school districts, and, as noted above, a few schools and districts have turned down Title I funding for this reason. Secretary Paige and others in the Bush Administration counter that federal funding for K-12 education has grown by 40% since President Bush took office and is sufficient to pay for the NCLB requirements (Paige, 2003). In our interviews with key members of Congress, Congressional staff, and top leaders in the U.S. Department of Education, we found that funding was the area of greatest disagreement between Republicans and Democrats, with Republicans tending to feel that funding is adequate and Democrats generally believing it is not.

Federal Appropriations

Appropriations for Title I and the other programs now included in NCLB grew from \$18.677 billion in FY 2001, to \$22.195 billion in FY 2002, and to \$23.838 billion in FY 2003—an increase of almost 28% over two years, but still not as much as many educators and advocates felt was needed (National Education Association, 2003c). In each of the last two years, Congress has enacted more for these programs than President Bush had requested in his budgets: \$3.056 billion more in FY 2002, and \$1.733 billion more for FY 2003. As of mid-December 2003, a House-Senate conference committee had agreed to a figure of \$24.460 billion for NCLB programs for FY 2004; although the conference agreement had been passed by the House, it was still awaiting final approval by the full Senate. The FY 2004 figure in the conference report for NCLB programs is \$1.848 billion more than President Bush's initial budget request.

Critics of the Administration's funding policies have noted that the appropriations for NCLB programs in each of these years have fallen well short of the total amount authorized in the Act for these programs (National Education Association, 2003c). If one looks just at appropriations for Title I, the conference agreement figure for FY 2004 is more than \$6 billion below the FY 2004 authorization of \$18.5 billion. Since many of the other separate programs in NCLB do not have specific dollar authorizations for the years beyond FY 2002 and instead just authorize "such sums as may be necessary," one can only extrapolate what the total authorizations for all the NCLB programs would be for these out years. The National Education Association has made such calculations by adding an inflation factor to the FY 2002 authorizations. Using this method, the conference agreement for FY 2004 for NCLB programs is about \$7.5 billion less than their estimated authorization of \$32 billion.

Comparisons of the appropriations and authorization levels for Title I, in particular, have received more attention than those in prior law because many House and Senate Democrats feel that the authorizations represent a federal commitment to cover a reasonable share of the law's costs and were a crucial factor in their decision to vote for the legislation in the first place. The key Democratic sponsors of NCLB whom we interviewed generally felt that the President and the Republicans in Congress had made an agreement to greatly increase funding for the Act but had reneged on this agreement in their subsequent budgets and appropriation bills. As Congressman George Miller (D-CA) said in an interview with CEP staff, "There was an agreement on 'reform for resources,' and the President backed out on the resources." The Democrats we interviewed favored a substantial commitment of new funds to help carry out the Act, but they still felt that the Act's demands are the right ones and should be pursued regardless of the amount of funds provided. "We must not use [lack of] funding to escape responsibilities," Miller cautioned.

The Republican members of Congress and Congressional staff that we interviewed generally felt that increases in federal spending for education over the past two years have



been adequate for states and school districts to carry out NCLB and that simply spending more money will not improve the quality of U.S. public schools, a view echoed by the top officials in USED that we interviewed. Congressman John Boehner (2003) emphasized that Title I spending has increased more during the first two years of President Bush's Administration than it did during the previous eight years of the Clinton Administration combined—evidence, in his view, that the President has delivered on his promise to significantly increase education spending while emphasizing accountability and results.

Secretary Paige and Republicans in Congress have asserted that the authorizations in the law are “a guard rail that keeps wildly spending appropriators from driving the federal budget over the cliff,” in the Secretary's words (Paige, 2003). The real problem with NCLB is not funding, according to the Republican members of Congress and top USED officials that we interviewed, but the need for educators to improve their skills and change their attitudes about how to increase academic achievement. One Department official observed that many conversations with state and local educators end up focusing on why the law can't work, instead of how to make it work.

Estimates of NCLB Costs

To determine whether available funding is sufficient to cover the costs of NCLB, one must first know how much it is costing states and school districts to carry out the law. No definitive study has been done of the overall costs of NCLB, and it is probably too early to know what all of the costs will be. The Council of Chief State School Officers has assembled a consortium of states that will try to quantify their expenses. In the meantime, some limited cost information is available that can begin to fill in the picture.

The U.S. General Accounting Office (GAO) estimated the costs of carrying out one important facet of NCLB—the costs of designing and implementing the tests required by the law. GAO estimated that it will cost \$1.9 billion between FY 2002 and FY 2008 for states to implement the simplest type of testing program, but more sophisticated testing approaches could cost \$5.3 billion (GAO, 2003). The costs of NCLB go well beyond testing expenses, however. There are the costs of developing new data and reporting systems—costs that Illinois state officials have estimated to be \$845,000 so far for a system that still contains many glitches (Banchemo, 2003). There are also the costs of training teachers and paraprofessionals, implementing new curricula, and taking care of the extra administrative costs of arranging for supplemental services, to cite just a few. Most importantly, there are the costs of raising student achievement to proficient levels.

Even with recent growth in federal funding, the federal share of total expenditures for public elementary and secondary education still hovers around 7%, which means that states and school districts are picking up the vast majority of education costs, including some costs related to NCLB programs. And although many districts have received larger Title I grants, the Act requires them to reserve specific portions of these grants for expenses related to choice and supplemental services, among other priorities, so districts may feel as if they have less funding available for other basic Title I services.

A single school district, the Lincoln, Nebraska district, estimates that NCLB has already cost it about \$318,000 and that the costs of bringing all of its students to proficiency by 2014 could come to as much as \$7,800 per student per year (School districts looking, 2003).

Several states have conducted or commissioned independent “educational adequacy” studies to determine how much it would cost to bring the achievement of their children up to state standards of proficiency—the same goal as NCLB. In May 2003,



William Mathis, superintendent of the Rutland Northeast Supervisory Union district in Vermont, published a meta-analysis of recent studies of this type in 10 states (Mathis, 2003). He found that 7 of the 10 studies estimated that state education costs would have to rise by more than 24% to fulfill the goal of providing an adequate education for all students, and that 6 of these states foresaw increases of between 30% and 46%. Two states projected increases in the 15% range, and one estimated only the added administrative costs, not the costs for extra instruction to bring children up to proficiency.

Since then, Mathis has reviewed additional recent adequacy studies in eight more states (Mathis, in press). These states estimated that it would take an increase of 27.7% in their education expenditures, on average, to bring students to proficient levels of performance. By applying this 27.7% increase figure to the \$470 billion spent on K-12 education each year from federal, state, and local sources, Mathis estimated that \$130 billion new dollars would be needed to meet the achievement goals of NCLB. Mathis cautions that this estimate is conservative, because the state with the lowest estimated increase (14%) assumed that only 69% of its children would reach proficiency; two states did not include the costs of special education students or ELLs; and only one state included facilities costs. Nevertheless, Mathis notes, together these 18 states have concluded that substantial new funding will be needed to help all children reach state standards of proficiency—a conclusion which suggests that the full costs of NCLB have been greatly underestimated.

State and Local Fiscal Problems

In last year's report, we noted that states were concerned about being able to carry out NCLB in the face of what the National Governors' Association has called the most ominous state fiscal crisis since World War II. In 2003, the combined budget gap for all states was \$17.5 billion, and 31 states faced budget deficits (National Council of State Legislatures, 2003). States such as California, Oregon, Massachusetts, and Alabama, to name just a few, had to make deep cuts in education—cuts that were almost unavoidable, because education spending consumes a sizeable share of most state general fund budgets.

For this year's report, we asked the states about the impact their state's fiscal climate is having on the implementation of NCLB. Of the 40 states responding to the question, 24 said the fiscal climate was negatively affecting their implementation of the law. One state official told us that the state department of education initially estimated that \$176 million annually would be needed to comply with the Act, on top of the federal funds the state receives under NCLB, but that subsequent state budget cuts have seriously affected the state's implementation of the law. Another state reported that it had seen an 18% reduction in state funds for education. Other states (9) said that education funding has been protected so far, but voiced concern about the future if states continue to have budget shortfalls. As one state observed:

To date there has been little effect. In the future, our ability to collect and analyze data and provide technical assistance may be severely hampered.

Five states reported that the fiscal climate in their state was not affecting their implementation of NCLB. And one state official saw the belt-tightening as a plus:

The fiscal climate has served to help the state focus in becoming more efficient in the delivery of services and implementation of programs.

We asked states a similar question about how the state's fiscal climate was influencing local implementation of NCLB. Of the 36 states that answered the question, 18 said that



state fiscal problems were hampering local efforts to implement NCLB. Some of these states reported that they were forced to cut special services to students, including ELL programs, gifted and talented programs, and programs to assist students who need extra academic help. Other states reported that their fiscal crisis was affecting districts' ability to hire highly qualified teachers or provide professional development. Two states said that federal NCLB funds were making up for cuts in state funds. Two other states felt that the NCLB requirement for districts to reserve 20% of their Title I allocations for choice and supplemental services was hindering implementation. In addition, two states responded that inadequate levels of federal funding were affecting the local implementation of NCLB. Four states said that state fiscal problems had not had any impact on districts and schools.

States were more likely to report that the state fiscal crisis was negatively affecting their own implementation of NCLB than it was school districts' implementation. We did not ask states to explain this, but possible reasons may be that state departments of education are first in the line of fire to experience staff reductions and other cost-cutting measures before funds for school districts are significantly cut. Also, states may be more familiar with the impact of the state funding cuts on the state level than on the school district level.

According to our school district survey, however, funding issues are beginning to affect NCLB implementation in some localities. When we asked school districts to discuss their most serious challenges with implementing NCLB, several districts mentioned adequate funding as a challenge:

We are being required to do more and more with less and less. The political spin is amazing. NCLB piles on more under-funded mandates than ever before. Some of our districts' NCLB Title I grant budgets were cut anywhere from 25 to 50 percent—not increased as promised. The public is being told one story while the truth is quite different.

There is a tremendous increase in workload yet funding is decreasing. Staff is spread way too thin to meet all the mandates and the accelerated timeline.

Several school districts in our case studies were dealing with the impact of state budget cuts at the same time they were implementing NCLB. The Oakland Unified School District, one of our case study districts, experienced severe cuts in state funding in 2003, as the district was implementing NCLB. In June 2003, the district was placed in state receivership to address its financial problems. Large numbers of classified employees were laid off for school year 2003-04, and most certificated and all classified staff had to take pay cuts of 2% to 4%, along with an increased copayment of benefits. At some sites, two grades levels were combined into a single class, and teachers were reassigned to other sites. Many people in the system, however, recognize that everyone must share in the sacrifice to keep the district solvent. The district has an average poverty rate of 70%, and Title I funds are a critical source of support to keep its schools going as state budget cuts loom again this year.

The Tigard-Tualatin School District in Oregon, a state with a serious fiscal crisis, had to shorten the school year in 2002-03, increase class size, lay off 40 teachers, and cut other services. In Meridian, Idaho, school officials reported that as a result of funding cuts, the district did not have funds to hire new staff for newly opened schools. Instead, current teachers were reassigned, and pupil-teacher ratios were adjusted. In Boston, the school district lost more in state and local funds than it gained in federal NCLB funds. The results were layoffs of 600 teachers and increased class sizes. The Cleveland Municipal School District anticipates that it will have to absorb \$33 million in budget cuts over the next two years. In Avon, Massachusetts, a suburban case study district of 730



students, dramatic cuts in state funding have led the local town government to cut the school district budget by 10% in 2003–2004. The district was facing cuts in programs, and staff was concerned about its ability to meet NCLB demands.

We also asked states whether their department of education was facing any hiring freezes or funding cuts that may affect NCLB implementation. Thirty states said they were facing freezes or cuts, while 10 said they were not. A few states responded that the limited amount of state administrative funds received under NCLB was affecting their ability to implement the Act.

During the past few months, the state budget crisis seems to have abated somewhat, according to the National Council of State Legislatures (2003). Only 10 states faced deficits in November 2003, with a cumulative budget gap of \$2.8 billion, although some states remain in deep financial trouble. If this trend continues, some of the education funding problems may abate. However, other sources, such as the National Governors' Association (2003), caution that state budgets remain precarious. Expenditures are expected to rise a mere 0.2% in FY 2004, and 13 states have enacted negative growth budgets. Some states have also run out of reserve funds used to protect them against having to make deep cuts (Zehr, 2003).

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CHAPTER 2

Assessment and Accountability

Key Findings

- In 2003, the U.S. Department of Education worked to provide states with guidance and various kinds of support in developing their accountability plans—key tools for achieving the goals of the No Child Left Behind Act. The Department also showed a willingness to communicate and negotiate with states about the many complex aspects of accountability.
- Within the limits of the law, the U.S. Department of Education attempted to allow states flexibility in designing their accountability systems. But USED was not entirely consistent in its review of state plans, nor was it explicit about its criteria for approving some approaches and not others. Over time, the Department modified and in some cases reversed its positions about what was acceptable, putting states that had followed an earlier, stricter interpretation of the law at a disadvantage.
- Over the past year, states put much effort into developing and refining their accountability plans. The state survey by the Center on Education Policy indicates that states were satisfied overall with USED’s assistance and peer review process, but some criticized USED on communication and flexibility issues.
- Some states reported large numbers of schools as not making adequate yearly progress, including schools considered high-performing by other measures, causing considerable public confusion and concern. The numbers of schools not making AYP vary greatly from state to state for a variety of reasons, mostly pertaining to differences in states’ tests and accountability systems, rather than their quality of education.
- States are most concerned about demonstrating AYP for students with disabilities and English language learners because of the way these subgroups are constituted.
- More school districts are being affected by NCLB. Our survey indicates that nationwide, approximately 21% of districts receiving Title I funds had at least one school identified as needing improvement for school year 2003–04, up from 15% in 2002–03. The number of schools affected has also increased—an estimated 16% of all Title I schools were identified as needing improvement in school year 2003–04, compared to 13% in 2002–03. Urban and very large school districts have the greatest concentration of schools identified as needing improvement.
- Districts with schools in need of improvement reported taking concrete actions in 2002–03 to improve student achievement in these schools, including extending school hours, notifying parents, strengthening professional development, changing curricula, and implementing research-based methods to improve student performance. However, few districts have implemented the more punitive actions under NCLB, such as replacing school staff, reopening identified schools as charter schools, or having the state take over the school. This may be because it is too early—such actions are only required after schools have been identified as in need of improvement for several consecutive years.



Introduction

In 2003, the federal government and the states made substantial progress in designing and approving accountability systems for each state. These systems, which include annual and long-term goals for student performance, assessments for measuring progress toward those goals, methods for identifying schools and districts that are not making “adequate yearly progress,” report cards for keeping parents informed, and options for students who are in schools that fail to show improvement, are the central tool for spurring the improvements in student achievement required by NCLB. Although the law includes many requirements that state accountability systems must meet, the law also allows considerable leeway for states to develop their own customized accountability systems.

The development of states’ accountability plans appeared to be a fairly fast process: states submitted their plans to USED at the end of January 2003, and over the next several months the states’ plans underwent a rigorous review and revision process, culminating in federal approval of all states’ plans on June 10, 2003, 120 days after their submission. But in reality, most states still had to submit specific details that would be reviewed, negotiated, and given final approval at some later point.

In the summer and fall of 2003, much effort at the state and local levels shifted to analyzing and reporting school year 2002–03 AYP results, resulting in lists of schools designated as “in need of improvement.” Identified districts and schools had to implement a range of improvement strategies called for by NCLB, including offering school choice, at the start of the 2003–04 school year. Many districts and schools enacted professional development and mentoring programs, and some even lengthened school hours. Even with all this extra work, surveys of state and local officials by the Center on Education Policy indicate there is broad support for the goals of NCLB and its focus on accountability and the performance of subgroups. Most state and local officials believe the law will help raise student achievement and close achievement gaps. However, there is a great deal of concern about the feasibility of key aspects of the law—in particular the challenge of bringing all English language learners and special education students to the proficient level.

This chapter highlights the main areas of activity in enacting the accountability systems in NCLB at the federal, state, and local levels over the past year. Our findings at the state and local level are based on extensive surveys and case studies as described in Appendix A of the report.

Major Federal Developments

Last year we reported that the federal government’s efforts to implement the assessment and accountability provisions of NCLB consisted mainly of issuing guidance and regulations. We concluded that the federal government’s delay in providing final regulations on complex questions and controversial issues—particularly the issue of measuring adequate yearly progress—had hampered states’ efforts to come up with their accountability plans. Mixed messages from federal officials about how much flexibility states would be allowed in designing their accountability systems led to further confusion.

In 2003, issues of federal firmness versus state flexibility continued to dominate implementation of NCLB at the federal level. Over the past year, the U.S. Department of Education focused much of its NCLB-related work on reviewing and approving



states' proposed accountability plans. Between December 2002 and April 2003, USED published a workbook listing the elements the states should include in their accountability plans, carried out a pilot project in seven states as a dry run of the state plan review and approval process, provided assistance and guidance to states about the contents of their plans, and received accountability plans from all of the states. By July 8, 2003, Secretary Paige reported to Congress in a *No Child Left Behind Update* that “all 50 states, Puerto Rico, and the District of Columbia had approved accountability plans” and that “*every single state* is implementing No Child Left Behind” (Paige, 2003).

With these steps, the Department accomplished much in a short time and provided states with helpful direction about the complex task of developing accountability plans. But the process USED followed to reach this point was not always smooth, nor were the Department's positions on specific elements of the state plans always clear and consistent. As of June, USED had approved most states' plans only in a provisional sense—the broad elements had been approved, but with the qualification that many specific details would be reviewed, negotiated, and given final approval at some later point. As of October 2003, some of these details were still being negotiated. And rather than reviewing and approving each state's plan according to the same fixed policies and interpretations, the Department modified, refined, and in some cases even reversed its earlier positions about what was acceptable as it gained more experience reviewing plans. This is understandable because this was a new type of review for USED and the nuances of some issues would not become clear until several plans had been reviewed. Below, we summarize and analyze the federal government's efforts during 2003 to issue direction and allow states flexibility in the areas of assessment and accountability.

Review of State Accountability Plans

Federal efforts to help states develop their accountability plans began in late December 2002, when the U.S. Department of Education released a Consolidated Application Accountability Workbook. This workbook laid out ten principles, or critical elements, of state accountability plans, with examples of situations that would and would not meet the underlying NCLB requirements (see **Box 2-A**). USED directed states to respond to each of the critical elements and submit their completed workbooks by January 31, 2003.

To pilot the workbooks and plan the review process, USED made agreements with seven states (Colorado, Indiana, Louisiana, Massachusetts, Mississippi, New York, and Ohio) to submit their workbooks early and participate in a peer review during December 2002 and early January 2003. Officials from several of the pilot states (Colorado, Massachusetts, and Indiana) reported that USED was flexible in allowing the states to set their own trajectories of progress that schools must follow to make AYP targets and their own procedures for identifying which schools were failing to meet these targets (Olson, 2003a).

Secretary Paige approved accountability plans for five of the seven pilot states (Colorado, Indiana, Massachusetts, New York, and Ohio) in a January 2003 ceremony coinciding with the one-year anniversary of the signing of NCLB. It would be several months, however, before some of these “approved” states received follow-up letters detailing the parts of their plans that needed modification. USED also used the feedback from the states and peers who took part in the pilot reviews to create a more detailed template that would be used to capture key information in subsequent state peer reviews.

PRINCIPLE 1: ALL SCHOOLS

- 1 Accountability system includes all schools and districts in the state.
- 2 Accountability system holds all schools to the same criteria.
- 3 Accountability system incorporates the academic achievement standards.
- 4 Accountability system provides information in a timely manner.
- 5 Accountability system includes report cards.
- 6 Accountability system includes rewards and sanctions.

PRINCIPLE 2: ALL STUDENTS

- 1 The accountability system includes all students.
- 2 The accountability system has a consistent definition of full academic year.
- 3 The accountability system properly includes mobile students.

PRINCIPLE 3: METHOD OF AYP DETERMINATIONS

- 1 Accountability system expects all student subgroups, public schools, and LEAs (local educational agencies) to reach proficiency by 2013-2014.
- 2 Accountability system has a method for determining whether student subgroups, public schools, and LEAs made adequate yearly progress.
- 3 Accountability system establishes a starting point.
- 4 Accountability system establishes statewide annual measurable objectives.
- 5 Accountability system establishes intermediate goals.

PRINCIPLE 4: ANNUAL DECISIONS

- 1 The accountability system determines annually the progress of schools and districts.

PRINCIPLE 5: SUBGROUP ACCOUNTABILITY

- 1 The accountability system includes all the required student subgroups.
- 2 The accountability system holds schools and LEAs accountable for the progress of student subgroups.
- 3 The accountability system includes students with disabilities.
- 4 The accountability system includes limited English proficient students.
- 5 The state has determined the minimum number of students sufficient to yield statistically reliable information for each purpose for which disaggregated data are used.
- 6 The state has strategies to protect the privacy of individual students in reporting achievement results and in determining whether schools and LEAs are making adequate yearly progress on the basis of disaggregated subgroups.

PRINCIPLE 6: BASED ON ACADEMIC ASSESSMENTS

- 1 Accountability system is based primarily on academic assessments.

PRINCIPLE 7: ADDITIONAL INDICATORS

- 1 Accountability system includes graduation rate for high schools.
- 2 Accountability system includes an additional academic indicator for elementary and middle schools.
- 3 Additional indicators are valid and reliable.

PRINCIPLE 8: SEPARATE DECISIONS FOR READING/LANGUAGE ARTS AND MATHEMATICS

- 1 Accountability system holds students, schools, and districts separately accountable for reading/language arts and mathematics.

PRINCIPLE 9: SYSTEM VALIDITY AND RELIABILITY

- 1 Accountability system produces reliable decisions.
- 2 Accountability system provides valid decisions.
- 3 State has a plan for addressing changes in assessment and student population.

PRINCIPLE 10: PARTICIPATION RATES

- 1 Accountability system has a means for calculating the rate of participation in the statewide assessment.
- 2 Accountability system has a means for applying the 95% assessment criteria to student subgroups and small schools.

Source: U.S. Department of Education website, www.ed.gov/offices/OESE/CFP/csas/index.html



Beginning in December 2002, USED also paid for delegations from the states to meet with Department officials in Washington to discuss their plans before the formal review process. All states submitted their preliminary accountability workbooks to USED by the January 31 deadline. The workbooks were then reviewed on site, within each state, by a team of three or four independent peer reviewers hired by USED— independent, nonfederal experts in education policy, reform, and statistics—and by USED staff, who analyzed whether each state’s plan met requirements of the law. The independent reviewers also provided additional assistance to some states. Following an examination of the peer review team’s consensus report, the Department provided feedback to the state and worked with the state to resolve any outstanding issues. USED was required by law to approve the plans within 120 days of January 31, 2003, unless a plan clearly did not meet the NCLB requirements. Peer reviews took place from January through April 2003, with states’ final accountability plans due May 1, 2003.

As the states developed their accountability plans, USED made efforts to respond to some of the thorniest issues in the law related to how to include all students with disabilities and English language learners in state testing and accountability systems. In March 2003, USED issued long-awaited draft guidance and proposed regulations on standards and assessments that dealt specifically with students with disabilities. Among other issues, these documents clarified that there would be no limit on the number of students with disabilities who can take “alternate assessments.” An alternate assessment is one designed for students with disabilities who are unable to participate in the regular assessment, even with accommodations. The alternate assessment must be aligned to the state’s regular achievement standards for the student’s grade, and must report student achievement with the same level of detail as the state’s regular assessment.

Further clarifications about alternate assessments and other pressing issues regarding students with disabilities came much later in the year. On December 9, 2003, the Department issued final regulations concerning assessment of students with disabilities. These final regulations allow districts and states, for purposes of calculating AYP, to count the “proficient” and “advanced” scores of students with significant cognitive disabilities who are tested with alternate assessments based on alternate academic standards—in other words, standards consistent with the student’s individualized education program (IEP), which may be aligned with the student’s instructional level rather than grade level. But the number of scores counted under this policy for students with significant cognitive disabilities (a term not defined in the regulations) may not exceed 1% of all students in the grades tested. Under these rules, states may ask USED to make an exception and lift the 1% cap, if they can document that the incidence of students with severe cognitive disabilities exceeds this limit and can explain why. **Box 2-1** in the State and Local Actions section of this report discusses these regulations, and their relationship to the Individuals with Disabilities Education Act (IDEA), in more detail.

The March proposed regulations, as well as the December final regulations, also addressed the issue of when districts may use out-of-level tests for students with disabilities—tests aligned to the student’s instructional level rather than his or her grade level. The final regulations permit districts to use out-of-level tests for students with significant cognitive disabilities, and these students’ proficient and advanced scores may be used in the AYP calculation if the alternate standards on which the tests are based meet the regulatory requirements. (In a June 27 letter of clarification to the state education chiefs, Secretary Paige wrote that states were permitted to use out-of-level tests for more students, if called for in the their IEPs. However, the results of these tests could only be used to calculate AYP for the 2003–04 school year.) The final regulations of December 9, 2003 allow out-of-level testing beyond 2003–04 but only for students with significant cognitive disabilities.



By the end of April 2003, USED had approved accountability plans from more than 30 states, plus the District of Columbia and Puerto Rico. On June 10, President Bush announced that all state plans had been approved. “The era of low expectations and low standards is ending; a time of great hopes and proven results is arriving,” said the President (Olson, 2003b). Technically, however, no state accountability plan had been fully approved by USED as of that time, nor were the criteria used to review and approve each plan made available. Most states had received a letter from Secretary Paige stating that the Department had approved the basic elements of its accountability plan and that the state would receive a subsequent letter from Under Secretary Eugene Hickok detailing the conditions of USED’s approval. States would then need to provide updated information in response to outstanding issues stated in the Under Secretary’s letter. USED officials described this as a process of refinement and asserted that no issue would be raised in any follow-up letter that had not been discussed prior to the approval.

During the summer of 2003, a great many states were still negotiating various aspects of their accountability systems with USED. According to *Education Week* (Olson, 2003c), by July 1, 2003, the Department told only five states—Connecticut, Hawaii, Illinois, Oregon, and Texas—that their plans were fully approved. Thirteen states and the District of Columbia were still waiting for their accountability plans to be approved or for their school board or legislatures to take actions that would bring their plans into full compliance with the law, and others had to provide additional information to USED before receiving final approval. By December 1, 2003, an additional eight state accountability plans (Kansas, Maryland, Mississippi, Missouri, New Jersey, North Dakota, Washington, and Wyoming) had been fully approved by USED, and all but four (the District of Columbia, Kentucky, Maine, and Pennsylvania) had been approved by the state board or legislature (Olson, 2003d).

Trends in Federal Approvals

In the workbooks states submitted to USED, they proposed a wide variety of strategies for implementing NCLB, and USED demonstrated willingness to work with states to find solutions to implementation challenges. As we reported last year, the Department had indicated that federal officials would try to offer states some flexibility in implementing NCLB but would also be strict about enforcing the law’s key requirements and deadlines. Regardless of how much leeway federal officials wanted to offer states, they still had to follow the specific provisions of the law in evaluating the appropriateness of states’ proposed plans.

Below we discuss the areas where federal reviewers were consistent in requiring certain elements in all state plans, as well as the areas where they offered states some flexibility, often in unanticipated ways. Rather than trying to present an exhaustive list of all the non-negotiable and flexible areas, we have chosen to highlight some key areas and have illustrated them with state examples. Our discussion draws heavily on a comprehensive analysis by the Council of Chief State School Officers (CCSSO) that compared the original plans that states submitted on January 31 with the plans finally approved in the spring (Erpenbach, Forte Fast & Potts, 2003). In addition, CCSSO looked at some of the correspondence between states and USED and talked to state officials about their conversations with USED officials as they tried to get their plans approved. Our summary also takes into account analyses from the National Education Association (2003a), National Governors’ Association (2003), *Education Week*, and our own study of the state workbooks and USED approval letters posted on the Department’s website (www.ed.gov/offices/OESE/CFP/csas/index.html). Because USED has not released or publicly explained the criteria it used to approve or reject state plans, researchers have



had to deduce what these criteria are, based on analyses of what states proposed, what was approved, and what was not approved.

NON-NEGOTIABLE REQUIREMENTS

Although USED has shown flexibility in various aspects of states' accountability plans, certain NCLB requirements were non-negotiable. Federal officials were quite consistent in sticking to the following requirements when evaluating state plans.

Narrow definitions for identifying schools or districts as in need of improvement are not allowed. Some states proposed that for a school to be identified for improvement, the same subgroup would have to miss the state target (annual measurable objective) in the same subject for two years in a row—for example, if students with disabilities miss the reading/language arts target for two consecutive years. USED consistently rejected this narrow definition of failing to make AYP.

Federal officials have allowed two interpretations of the law regarding missed state targets. Under one interpretation, states must identify schools for improvement that miss any one or more of their annual measurable objectives in the same subject area for two consecutive years—for instance, if English language learners miss the math target one year, and economically disadvantaged students miss the math target the next year, the school gets identified. Most states have adopted this approach. Under the second, and more stringent, interpretation, states must identify schools for improvement that miss their targets in *either* subject area (math or reading/language arts) for two consecutive years. Louisiana is one of the few states that are opting for this second approach.

In determining whether schools have made AYP, states must consider not only the percentage of students who scored at proficient levels on state tests, but also the percentage of students who actually took the test. The latter indicator is referred to as the participation rate, and the law requires at least 95% of the students in each school as well as within each subgroup to participate in state testing for NCLB purposes (for more on participation rate requirements, see **Box 2-H** in the State and Local Actions section of this chapter). A question that emerged later in the accountability plan review process was whether the percentage of students reaching proficiency and the percentage participating in testing are to be treated as independent indicators when identifying schools for improvement. Wyoming and Delaware had planned to identify schools for improvement only if they missed the same indicator for two years in a row. That is, a school would be identified if it missed the proficiency goal in math for two years in a row or missed the participation goal in math for two years in a row; but it would *not* be identified if it missed the proficiency goal in math for one year and failed to have 95% of its students take the math exam the next year. The Department rejected such proposals, indicating that states would need to pair the proficiency rate and the participation rate within a subject area, so that missing either one or the other for two consecutive years would identify the school for improvement.

Starting points and growth trajectories must be the same for all subgroups, schools, and districts within a state. The law requires 100% of students to perform at proficient levels by 2013–14 and also requires states to set a first intermediate goal that specifies a percentage of students who must attain proficiency by 2004–05. Since the early days of NCLB, many state officials have urged the Department to allow different starting points and trajectories of progress for different subgroups and schools, as long as all the trajectories conform to the basic timeline in the law. The rationale is that those schools and subgroups that are well below a common state starting point will have to move very far to make AYP, while schools and subgroups already above the starting



point will not have to move at all, or could even show a decline and still meet the AYP requirement. However, USED has not accepted these proposals, consistently maintaining that all schools and subgroups within a state must be measured against the same expectations for achievement.

Only certain types of index systems are allowable for determining proficiency levels.

For their proficiency indicators, most states will simply use the percentages of students reaching the proficient level on the math and reading/language arts tests as described in the law. The use of indices, in other words, some sort of composite or weighted average of multiple indicators, is also permissible, but USED has not allowed indices that combine performance in mathematics and reading/language arts. USED has not allowed indices that allocate additional points for the advanced level—the highest performance level specified in the law—because those sorts of weighted indices might mask low student performance. For example, USED rejected Oregon’s proposal to use an index that awards 33 points to a low score, 67 to a partially proficient score, 100 points to a proficient score, and 133 to an advanced score, because advanced scores could compensate for students scoring below proficient. That is, a school could achieve an average index score of 100 without actually having all students achieving at the proficient level.

Furthermore, USED rejected proposals to use index systems that apportion, or distribute, the test score of a student who belongs to multiple subgroups across those groups. Many students in Title I programs are likely to count in at least two subgroups. Delaware, for instance, proposed a plan that would apportion the test score of a student who was economically disadvantaged, was an English language learner, and belonged to a racial/ethnic subgroup among these three subgroups by assigning one third of the student’s test score to each subgroup. That proposal was rejected.

The participation rate must be based on all students enrolled at the time of testing. USED rejected proposals by several states to calculate the participation rate by using as the denominator the number of students who have been enrolled for a full academic year, instead of the number enrolled at the time of testing. The former denominator is likely to be smaller than (a subset of) the latter, and using the smaller denominator would have the effect of increasing participation rates. In contrast, as described below, some states were allowed flexibility to use the number of students tested as the denominator for calculating the percentage of students reaching proficiency.

Children whose parents have opted them out of testing must still be included in participation rate calculations. Some states, including California, have “opt out” laws that give parents the option of withdrawing their children from state assessments. USED’s position is that this is a state issue, but students who do not take a test because of an opt-out law cannot be excluded from participation rate calculations or other requirements under NCLB. This may present a problem for states with these laws, because often it is the parents of high-performing children and of students with disabilities who exercise that option. Schools will have to inform parents that removing their children from assessments can have serious negative consequences for the school.

Reporting must occur before the beginning of each school year. USED has consistently maintained that states must make their AYP determinations before the start of a school year so that parents and students can be notified of their eligibility for public school choice and supplemental education services. For states that test students in late spring, meeting this requirement can be extremely challenging. Some states have proposed identifying schools for improvement on the basis of preliminary data. USED has approved these plans while sometimes encouraging states to change their testing and reporting schedules. Massachusetts administers its tests in April and May, and because the tests include open-ended questions that must be hand-scored, results are typically not



ready until September. Beginning in 2003, the state's policy has been to release a preliminary list of schools in need of improvement before the end of August, so that those schools can provide school choice and supplemental services at the start of the 2003-04 school year. A final list of schools identified for improvement is to be issued within 60 days after test results are returned. If new schools are added to the list, parents are notified, and mid-year choice is made available. If a school is preliminarily identified but does not appear on the final list, the school is relieved of its improvement obligations, but any school choice commitments are honored for the balance of the school year.

The Kansas accountability plan, described in **Box 2-B**, is an example of how one state has strictly applied the letter of the law while integrating NCLB requirements into its existing standards-based accountability system.

AREAS OF FLEXIBILITY

Federal officials lived up to their promise of providing some leeway to states, often approving unique approaches if they would achieve the fundamental goals of NCLB. When proposing a unique strategy in their accountability plans, states had to provide USED with a rationale and data showing that the approach satisfied the intention of NCLB, and was appropriate to the state context. Analysis of state plans and federal responses suggest that as the review process progressed, the criteria the Department used to evaluate states' plans evolved, and in some cases, became more lenient. Sometimes, a strategy proposed by one state early in the review process was rejected by USED, only to be approved for another state at a later date. In some cases states may not have even proposed approaches that they did not think would win approval, only to find that they were allowed in other states. Now that they know what has been approved, states can submit a letter to USED highlighting a change they would like to make to their plan, pointing to other states that received approval to implement the desired approach. In this way, refinement of state plans is turning out to be a continuous process.

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Below are some areas where the federal government showed flexibility in ways that would not have been anticipated, given USED's communications during the first year of NCLB's implementation.

Norm-referenced tests. Norm-referenced tests are designed to report student performance relative to a national sample of students who have taken the same test—for instance, a student might receive the result that she has performed at the 60th percentile in reading, meaning that she scored better than 60% of students in the national norm group. In contrast, criterion-referenced tests are designed to report student performance in relation to a set of academic objectives or standards—results are reported in terms of the content the student has mastered. Criterion-referenced tests are more consistent with standards-based reform and have become the predominant type of test used in states these days.

USED's stated policy has been that states opting to use norm-referenced tests for AYP purposes must assure that they are "augmented with additional items as necessary to measure accurately the depth and breadth of the State's academic standards" (section 200.3(ii)(A) of the standards and assessment regulations, July 2002). In follow-up comments and changes to those regulations, the Secretary noted that student results from an augmented norm-referenced test must be expressed in terms of the state's achievement standards, not relative to other students in the nation. Several states (such as the District of Columbia, Montana, and Nevada) are phasing out their norm-referenced tests and phasing in new criterion-referenced tests to meet NCLB requirements. Yet USED approved Iowa's accountability plan, which proposed that the state continue to

Box 2-B Kansas Plan Closely Matches NCLB Requirements

Upon approval of Kansas's accountability plan, Secretary of Education Rod Paige referred to Kansas as a "national leader" in implementing NCLB and demonstrating how the law can be used to benefit rural areas (USED, 2003a). Kansas was the eighth state to gain federal approval of its accountability plan, a plan that ends up being one of the most closely matched to the intent of NCLB.

Prior to NCLB, Kansas already had a standards-based testing program in place that was fully approved under the regulations for the Improving America's Schools Act, the 1994 law that preceded NCLB in encouraging standards-based accountability. The state tested students in reading at grades 5, 8, and 11 and in mathematics at grades 4, 7, and 10. Kansas is now expanding its standards-based testing system to cover all of the grades required by NCLB; the added tests will be in place by 2005-06. Starting points, annual measurable objectives, and intermediate goals have been determined based on 2001-02 test data and on the ultimate goal of having 100% of students achieving at the proficient level by 2013-14. The figure on the opposite page shows the state's growth trajectories for mathematics in grades K-8 and grades 9-12.

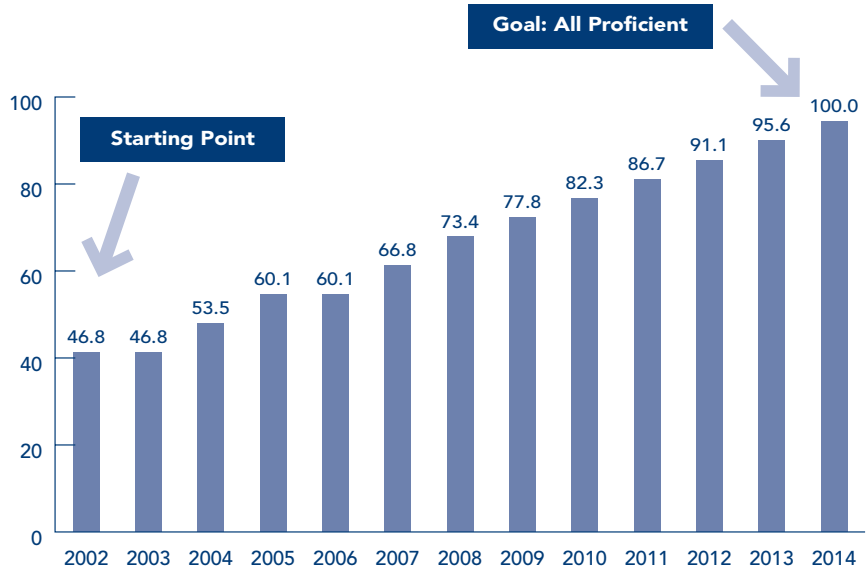
Measures of AYP have been integrated into the state's existing accountability system, known as the *Quality Performance Accreditation*, which was established before NCLB. This complex system evaluates schools on a five-year cycle based on a collection of quality and performance indicators, such as performance of students on state and local assessments (as a whole and broken down by certain subgroups), high school graduation and drop out rates, attendance rates, numbers of students passing advanced courses, and incidence of violent acts against teachers and students. The process also includes on-site visits by accreditation teams and results in each school receiving one of three designations: *accredited*, *conditionally accredited*, or *not accredited*. (For more information see <http://www.ksbe.state.ks.us/Welcome.html>.) The Quality Performance Accreditation system will continue, with revisions, under NCLB. For instance, the Kansas state board of education has incorporated AYP into the accreditation requirements so that by the 2005-06 school year, for a school to be fully accredited, it must make AYP each year. A school will be designated "conditionally accredited" if it fails to make AYP for three consecutive years and "not accredited" if it fails to make AYP for five consecutive years. In this way, Kansas will have a single, unified accountability system that is consistent with NCLB requirements.

The state's already-established test reporting timelines also mesh neatly with NCLB. Results from the Kansas assessments are provided to districts and schools within two weeks of the completion of testing, usually by mid-May. Statewide results are provided to districts and schools in July, prior to the start of the next academic school year. This schedule enables AYP to be determined before the beginning of each school year so that schools have adequate time to notify parents about public school choice or supplemental service options. Since 1994, Kansas has produced state and school report cards containing most of the information specified in NCLB; the report card format was revised for the 2002-03 school year to include the additional information required by the law.

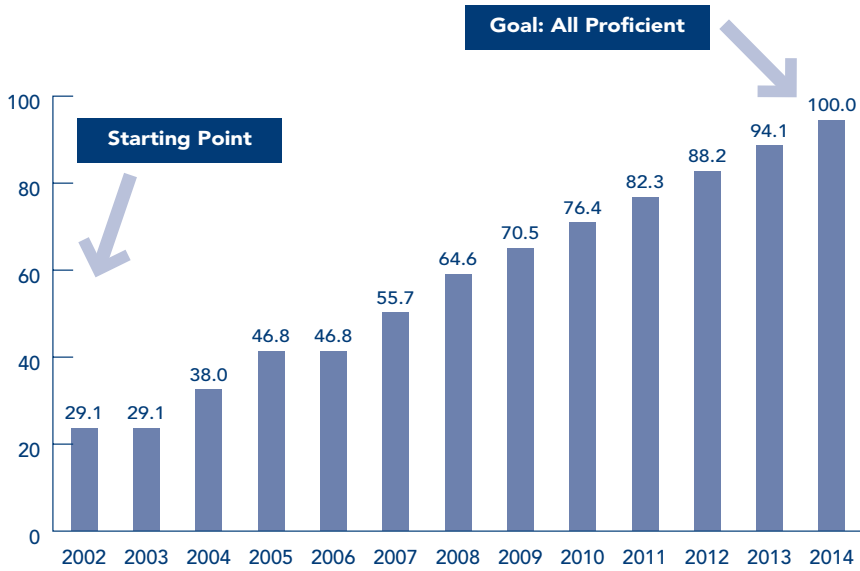
Kansas Education Commissioner Andy Tompkins has reportedly embraced the latest additions to the state's improvement plan as an opportunity to quicken the strides he believes the state has already made in student achievement (Kansas approved, 2003).

Source: Center on Education Policy, December 2003, compiled from information on the Kansas State Department of Education web site.

Percentage of K-8 Students Who Need to Score at the "Proficient" Level or Above in Math



Percentage of 9-12 Students Who Need to Score at the "Proficient" Level or Above in Math



Source: Kansas Department of Education, Consolidated State Application Accountability Workbook, 2003

Box 2-C Iowa Plan Pushes Limits on Flexibility

With no state content standards or standards-based tests, Iowa probably gained the greatest degree of flexibility of all states in implementing NCLB when its accountability plan was approved in June 2003.

Iowa plans to continue using two norm-referenced tests that it has been using for years—the *Iowa Tests of Basic Skills* for grades K-8 and the *Iowa Tests of Educational Development* for grades 9-12—to measure AYP. Norm-referenced tests are designed to measure students' performance against the scores of a national sample of students who have already taken the test. They are often referred to as "off-the-shelf" tests because they were not developed to match a particular state's standards, but instead designed by a test publisher to be useful in a variety of contexts, across states.

Federal officials had previously refused to approve the use of any norm-referenced test that was not "augmented" with test questions designed to fill in the gaps and yield a test that measured the full depth and breadth of a state's standards. There is a provision in NCLB that makes exceptions for states that do not have the authority to adopt statewide standards and assessments (currently only Iowa and Nebraska). However, this provision only gives the option of allowing local, district-level tests, as Nebraska is doing, or adopting standards and assessments only for Title I schools. The provision does not allow a state to use a statewide assessment that does not meet NCLB requirements for alignment with standards.

So how did Iowa's plan gain federal approval? The state argued that proficiency for students in reading and mathematics is defined by the achievement level descriptors contained in the norm-referenced tests it is using. In effect, the state used the content and skills that the tests are designed to measure as a proxy for its state standards (Cardman, 2003). This may set a precedent for other states that want to use inexpensive, off-the-shelf tests rather than develop their own standards-based ones. However, Iowa will still need to go through USED's review of states' assessment systems (as distinct from their accountability systems) in a separate process to occur at a later date. The Department has not yet released a schedule for doing so.

Meanwhile, Iowa will keep using norm-referenced tests, and the state's districts will continue to set academic standards and goals for themselves, thus preserving the local autonomy that has historically been a priority for the state. School districts are being encouraged by the state to administer their own local assessments to guide instruction and intervention, but those tests will not be used for determining AYP (Cardman, 2003).

Source: Center on Education Policy, December 2003, compiled from information on the Iowa Department of Education's web site.



use the norm-referenced tests that it has used in the past. Iowa also has not developed state content standards. See **Box 2-C** for more about Iowa's plan.

Promises of steeper increases toward the end of the 12-year timeline. NCLB requires states to set intermediate goals that will bring 100% of students to proficiency on state tests by 2013-14. The U.S. Department of Education has strongly encouraged states to establish intermediate goals that require steady progress over time instead of ones that require little improvement in the early years and sharply escalating improvements in later years (USED, 2003b). Despite this advice, federal officials approved numerous state plans that require less improvement in the early years and much steeper gains later on. According to an analysis by the National Education Association (2003a), states have promised large annual increases in student performance after the next Congressional reauthorization of the Elementary and Secondary Education Act, perhaps hoping that they will be off the hook if the law changes substantially when it is reauthorized. Or perhaps some states designed their systems this way under the assumption that they need time to implement improvement strategies, and the positive effects of those efforts are more likely to show up in test scores in the out-years than the early years. Some states have scheduled three initial increases in student performance, each three years apart, through 2010-11. Then in 2011-12, they begin to demand one-year increases that assume as much growth in achievement as in the earlier three-year time spans. Indiana, for example, will require schools on average to improve the percentage of students reaching proficiency by seven percentage points every three years, then for the next four years, to show seven point gains each year.

Calculating the percentage of students reaching proficiency. Several states (such as Maryland, Georgia, and Pennsylvania) have received approval to use the number of students tested and enrolled for a full academic year, instead of simply the number of students enrolled, as the denominator for computing the percentage proficient. This has the effect of removing non-tested but enrolled students from the denominator, which could lower the number in the denominator and therefore yield a higher percentage than if total enrollment were used as the denominator. Otherwise, if the number of students enrolled is used as the denominator, students not tested effectively receive a score of zero.

First test administration rule. Some states allow students to retake a test they did not pass, particularly a high school graduation exam. In these situations, the NCLB regulations (section 200.20(c)(3)) require states to use the first score a student earns to calculate the percentage proficient for that year. Several states proposed plans that would count multiple test attempts in different ways, and USED's approval of those has been mixed. USED seems to have considered the point at which students are expected to have taken the courses that cover the content being assessed. For example, in New York, if a student takes the high school exit exams (which are end-of-course exams) before grade 12, but all the content standards being tested are not covered until grade 12, then the students' scores do not count for calculating AYP until grade 12, unless the student passes the tests at an earlier grade. In Alabama, the standards covered by the high school exam are targeted at grade 11 content standards, so students' grade 11 test scores are the ones that count for AYP purposes, unless the student passes the tests on the first attempt at grade 10.

Out-of-level testing. In a June 27 letter to state school chiefs, Secretary Paige wrote that states were permitted to use out-of-level tests, which he referred to as "instructional level" tests, if called for in the student's individualized education program (IEP). However, the results of these tests could only be used to calculate AYP for the 2003-04 school year (based on assessments given during the 2002-03 school year). A regulation promulgated on December 9, 2003, allows school districts to use out-of-level testing for students with significant cognitive disabilities, as long as those tests are based on alternate standards that meet regulatory requirements.

Scores for exited English language learners and students with disabilities. One of the most problematic aspects of NCLB, which we return to throughout this chapter, relates to measuring the progress of English language learners and students with disabilities. As students in these groups reach proficiency, they exit the subgroup, making it virtually impossible for the subgroup to reach 100% proficiency. This is especially true for English language learners, who by definition are below proficient levels in English. Georgia requested and gained federal approval to continue to include scores for students who have exited these two subgroups, as long as they are still receiving services in the form of monitoring and support.

Minimum group size. To ensure the reliability of AYP decisions, NCLB calls on states to set a minimum size for a subgroup to be included in AYP calculations—in other words, to establish how small a group is too small to include in such determinations as the percentage proficient or the participation rate. This provision acknowledges that group averages tend to be particularly unstable from year to year when the group is small in size.

USED was quite flexible in this area, accepting minimums as low as 5 and as high as 50, with most states choosing a number in the 30s or 40s (see **Table 2-A**). Two sparsely populated states—Montana and North Dakota—opted for no minimum number for subgroups but will use confidence intervals (explained below) to improve the reliability of their AYP decisions.

MINIMUM SUBGROUP SIZE	STATES	TOTAL # OF STATES
No minimum	MT, ND	2
1-9	MD	1
10-19	KY, LA, NH, SD, UT	5
20-29	AK, AR, DC, ME, MN, NV, NJ, NM	8
30-39	AZ, CO, FL, HI, ID, IN, IA, KS, MI, MO, NE, OH, OK, WA, WY	15
40-49	AL, CT, DE, GA, IL, MA, MS, NY, NC, OR, PA, RI, SC, TN, VT, WI	16
50-59	CA, TX, VA, WV	4

Source: Center on Education Policy, December 2003, compiled from data from the Council of Chief State School Officers (Erpenbach, Forte Fast & Potts, 2003).



Minimum subgroup size for students with disabilities. Some states have persuaded USED to allow a higher minimum group size for the subgroup of students with disabilities than for other subgroups. Ohio was the first to propose this strategy. It set a minimum group size of 30 students for all proficiency determinations, except for the subgroup of students with disabilities, for which it set a minimum number of 45. The state argued that there are unique measurement issues related to students with disabilities as a group, including the heterogeneity of this subgroup and the extensive use of accommodations in assessing them, which a larger-sized group will help compensate for. This is a case where USED seems to have become more lenient as the review process progressed: in the early review of Indiana’s plan, federal officials would not allow the state to set a higher group size of 50 for students with disabilities, but they seemed to change their mind on this policy, allowing several other states (for example, Nebraska and Wisconsin) to do so later.

Confidence intervals. To further guard against the measurement error inherent in every testing system, about half of the states submitted plans to use confidence intervals, similar to margins of error, to improve the reliability or accuracy of their AYP decisions. If a school does not meet the state’s annual measurable objective, the state will apply the confidence interval to determine whether the school’s result is *significantly* lower, in a statistical sense, than the objective. If a school’s result is below the entire confidence interval surrounding a school’s result is below the annual measurable objective it would be highly unlikely that the school was actually achieving AYP. This will help ensure that the school’s result is not likely due to chance, or natural fluctuations, in test scores. Some states, such as Montana and North Dakota, are using confidence intervals so that even very small schools can be held accountable for making AYP in a way that is valid and reliable. For more on confidence intervals see **Box 2-D**.

Initially, it seemed that USED would only allow the use of confidence intervals for determining the percentage of students reaching proficiency, as a method of compensating for the measurement error inherent in test results. USED indicated early on that it would not allow confidence intervals to be used for “count” indicators such as the participation rate. However, later in the review process, USED did approve the use of confidence intervals for count indicators in a few states, including North Dakota and Louisiana.

Non-uniform averaging across districts or schools. NCLB permits states to establish uniform procedures for averaging data from the past two or three years when calculating AYP, as long as the same approach is applied across all schools and districts (section 1111(b)(2)(J)). Tennessee and Ohio are two states that won approval to allow schools and districts to decide whether they want to use one year of data, or average the past two or three years, whichever produces more positive results. Permitting this type of variation within a state reflects greater flexibility on USED’s part than what may have been assumed earlier.

Graduation rates. Prior to NCLB, many states had not collected data on graduation rates that could be disaggregated for all the required subgroups. In these cases, USED has given states permission to set timelines for collecting these data and to use a phase-in process in the interim. During the interim, USED has approved the use of a proxy indicator, instead of graduation rates. For instance, until Vermont can disaggregate graduation rates, the state will use the 10th grade New Standards Reference Exam in reading for all subgroups at the high school level.

USED has also shown some flexibility in allowing states to determine whom to count as graduates. Oregon gained approval to include graduates who take more than four years to graduate (though the state’s final plan does not include this provision), and

Box 2-D Using Confidence Intervals to Make AYP Decisions

The confidence interval is a statistical technique used frequently in surveying, polling, and testing to infer whether the results of a small sample of people can be extrapolated to the broader population with some level of confidence.

The confidence interval creates a window around the sample result, in which the real results are likely to be found. For example, if a public opinion poll finds that 55% of people surveyed support a political candidate, and the margin of error is plus or minus 3 points with a confidence level of 95%, then one can be 95% confident that 52% to 58% of the population supports the candidate.

Because test results are considered to provide only estimates of actual student performance, confidence intervals are also used in testing. In the context of NCLB, states are using confidence intervals to essentially widen the window around each year's AYP targets; as long as the group performs within the confidence interval, it will be considered to have made AYP.

In testing, margins of error are calculated using the standard deviation of a point estimate. In the NCLB context, that point estimate might be the percent of students in a school achieving at the proficient level.

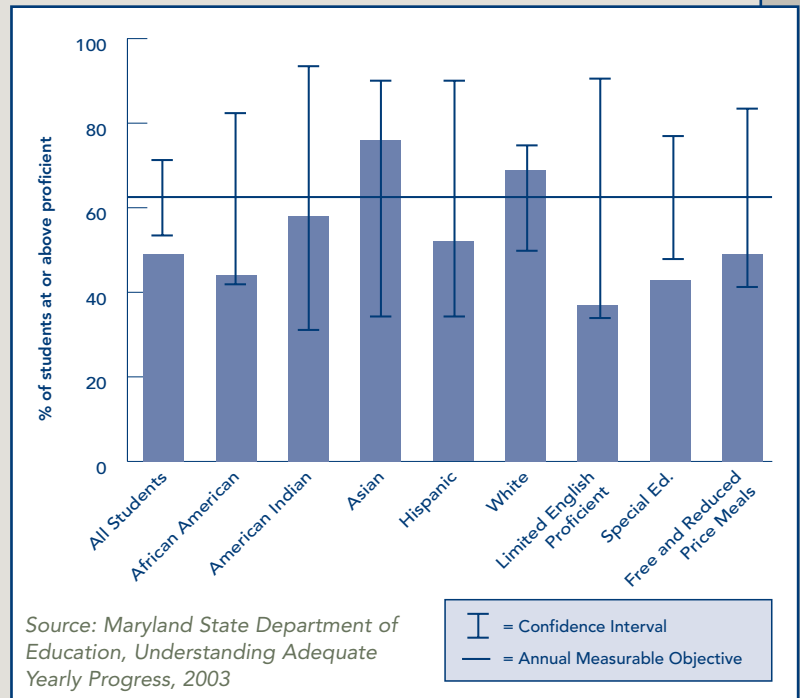
Working within a margin of error ranging one standard deviation above and below the point estimate—a relatively narrow window—would enable one to state with 68% confidence that the interval captured the true proficiency score of the school. If the window were widened to two standard deviations above and below, that would provide a 95% degree of confidence that the interval captured the true value, while a range of three standard deviations above and below would yield a 99% degree of confidence—a relatively wide window. Thus, the more confidence one wishes to have, the wider the interval. Also, the size of the interval depends in part on the size of the group: the smaller the group, the wider the interval.

At right is a chart from a Maryland publication intended to inform the public of how adequate yearly progress will be measured in the state (Maryland State Department of Education, 2003). It is a hypothetical example of school-level reading scores with confidence intervals. In this school, Native Americans were the smallest subgroup and therefore have the largest confidence interval. The confidence interval for "All Students" is relatively small, because it is the largest group. This school did not make AYP. Although the annual measurable objective was met in most subgroups with the confidence interval, it was not met for the Special Education subgroup or for All Students.

Some observers have been critical of states' use of confidence intervals for NCLB purposes. As described by Derek Redelman (2003), Indiana officials have opted to use a 99% confidence interval, although a 95% confidence interval would more typically be used in this situation. Indiana's decision will make it much less likely for the state's schools to be identified for improvement. This year's state targets are 57.1% proficient in math and 58.8% proficient in English/language arts. But due to the large windows created by Indiana's 99% confidence interval, small groups of Indiana students (30 to 34) will need to achieve proficiency levels of just 36.7% in math and 40.0% in English/language arts to be deemed as having met this year's target. Even the largest group of students will be required to achieve only 51.0% proficient in math or 52.5% proficient in English/language arts to meet the target. This suggests that no subgroup in Indiana (and other states using a similar approach) will ever be required to reach 100% passing by 2014. If confidence intervals continue to be used, the target for 2014 will be lowered to the bottom of the confidence interval surrounding 100% proficiency that is three standard deviations wide.

Indiana is not the only state using a confidence interval approach—about half of all states have included the use of confidence intervals in their accountability plans. In Kentucky, an analysis of last year's test data showed that 871 of 1,208 Kentucky schools would have missed the state's AYP targets because too few students performed at the proficient level. But because Kentucky is using confidence intervals, the number of schools failing to make AYP was actually 469, the difference between a failure rate of 72% and 39% of state schools. In Vermont, state officials estimated that without the statistical leeway afforded by confidence intervals, six times as many schools would not have made AYP, and in Maryland and Kansas, twice as many schools would not have made AYP without the boost (Deffendall, 2003).

While some have criticized the use of confidence intervals in the context of NCLB as a procedure to "bamboozle the public" or as a method for "gaming the system," others, including testing expert Robert Linn, characterize the approach more positively, as a way of protecting against the error of saying a school is not up to snuff when in fact it is (Deffendall, 2003).





Rhode Island will include students who take less than four years to graduate. At the same time, USED has held fast to certain restrictions—for instance, that students who receive GEDs instead of a regular diploma cannot be counted as graduates.

Very small schools. Under NCLB, all schools must be held accountable for adequate progress, including very small schools. Where average annual test results could be particularly unstable because so few students are tested, USED approved some creative plans that states submitted for achieving this. In Oregon, small schools will be evaluated by their districts using additional years of data and the results of local assessments. Vermont plans to conduct a “small-school review” for schools in which fewer than 30 students are tested over a 2-year period.

Dual accountability systems. Originally, the Department spoke of states having one accountability system that would serve both state and NCLB purposes, but it was persuaded by states to move toward allowing dual systems. USED’s policy on this issue continued to evolve throughout the review process. Early in the reviews, it seemed that states would be allowed to have secondary accountability systems, including extra rewards and sanctions, only if the NCLB AYP outcomes took precedence—that is, a school could not achieve a high mark on the secondary system if it was identified for improvement because it did not make AYP. Later, several states seemed to win approval for secondary systems that recognize schools regardless of their AYP outcomes.

For instance, Kentucky wanted to keep its decade-old state accountability system known as the Commonwealth Accountability Testing System (CATS), which goes beyond the NCLB requirements, testing students in a range of subjects including humanities and using a range of question types including open-ended questions and writing portfolios. State officials have been grappling with how to comply with the new federal requirements while maintaining CATS, which they say is driving much of the progress they want to see in their schools (Rodriguez, 2003). There are some very detailed requirements in the federal law that are not consistent with their current system. For instance, the existing system sets goals that measure each school’s progress against its own past performance. The rationale is that setting universal goals for all schools in the state could result in unrealistic goals for low-performing schools, while taking away incentives for higher performing schools to improve their scores. USED approved Kentucky’s proposal (with some details still to be worked out) to have dual systems (state and NCLB), which means that a Kentucky school could receive a financial reward for scoring well on state tests—and at the same time be considered in need of improvement under NCLB standards.

Withholding Funds for Non-compliance

The Bush Administration has taken a tough stance about NCLB enforcement from the start, claiming that, unlike previous administrations, the U.S. Department of Education will hold states to the NCLB requirements and deadlines and will withhold some or all of states’ federal Title I money from states that do not comply (Paige, 2002). The law says (section 1111(g)) that if a state fails to meet the deadlines established by the Improving American Schools Act of 1994, the predecessor to NCLB, for having standards and assessments and a system to measure AYP, then the Secretary shall withhold 25% of the state’s administrative funds under Title I, Part A. Funds are to be withheld until the Secretary determines that the requirements have been met.

Last summer, USED took action. In June, federal officials announced that they were withholding nearly \$800,000 from Georgia—which is 25% of its administrative aid under Title I for the 2002-03 school year—for failing to meet the terms of an agree-



ment made with USED under IASA. Under the old law, Georgia was supposed to have new high school exams that complied with IASA in place several years ago. But because Georgia needed additional time to develop its new end-of-course exams, USED gave the state a two-year extension or “timeline waiver.” By not administering those end-of-course tests during the 2002–03 school year, Georgia violated the terms of its timeline waiver. This represented the first time in recent history that the federal government has withheld money from a state for violating provisions under the federal Elementary and Secondary Education Act (Olson, 2003c).

In another instance, the federal government threatened to withhold more than \$400 million in education money from Ohio if state lawmakers did not approve the state’s school accountability plan by the start of the school year. The Legislature recessed in June without approving a bill that would align Ohio’s school system with the federal law and was not scheduled to reconvene until mid-September. The \$403.7 million is about 30.6% of the federal money Ohio is slated to receive for the next school year (Sidot, 2003). Ohio legislators did end up approving the bill in time to obtain the federal funds.

State and Local Actions

Last year we reported that during the first year of NCLB implementation, states were making a good faith effort to comply with the new law. At that time, the full impact of the law had not been felt at the local level, however. We also reported last year that there was broad support among states for the ultimate goal of NCLB—to ensure that all subgroups of students are performing at the proficient level in the near future. At the same time, state officials were facing challenges coming up with suitable plans for measuring adequate yearly progress while attempting to preserve aspects of their existing testing and accountability systems that were working well.

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During the second year of NCLB implementation, we found that states generally continue to be supportive of the law and are optimistic that it will have positive impacts on student learning, as described in Chapter 1. They agree with the focus on accountability and the increased attention to the performance of subgroups (racial and ethnic minorities, English language learners, students with disabilities, and low-income students), which is such an integral part of NCLB. They expect overall student achievement to improve, and they also expect the achievement gap to narrow as a result of the law. States are still struggling, however, with the fairness and feasibility of certain aspects of the law, particularly issues related to measuring the progress of students with disabilities and ELLs. So, while states support the focus on subgroups, they see the 100% proficiency requirement for some of these subgroups as virtually impossible.

As described above, states made substantial progress developing their NCLB accountability plans during Year 2. Between the fall of 2002 and spring of 2003, states spent substantial time and resources developing, reviewing, and refining their accountability plans. Over the summer and fall of 2003, attention shifted to reporting school year 2002–03 test results and determining which schools had not made adequate yearly progress.

During 2003, school districts became much more aware of the implications of NCLB accountability, particularly its requirements for making AYP for each major subgroup. In school year 2003–04, a growing proportion of districts had schools identified as needing improvement. (See **Box 2-E** for a more detailed explanation of the policies for identifying schools for improvement in school years 2002–03 and 2003–04.)

Reporting AYP Results

In August 2003, states began releasing lists of schools that did not make AYP based on 2002–03 data, even though the results were often only preliminary. The designations of schools and districts failing to make AYP took on new meaning, because in most states, this was the first year that AYP was determined based on subgroup performance, as required by NCLB. In many states, this resulted in long lists of schools and districts that had not made AYP. Some of the schools had not made AYP for two years in a row and therefore were categorized as being “in need of improvement.” Schools and districts in this category will have to implement a range of improvement strategies for school year 2003–04, including offering public school choice and notifying eligible parents of this option, and developing a two-year improvement plan. Schools and districts that had already been identified for improvement in prior years and did not make AYP this year would have to undergo additional improvement strategies, corrective actions, or restructuring.

Preliminary estimates made in December 2003—which do not include all states and are subject to change—suggest that almost 26,000 schools, or 28% of the nation’s schools, did not make AYP in 2002–03. Of this group, more than 5,500 schools, or 6% of the nation’s schools, did not make AYP for two or more consecutive years and were labeled as needing improvement for school year 2003–04. **Box 2-F** summarizes preliminary numbers of schools not making AYP and identified as in need of improvement in each state.

The wide variability in the number and percentages of schools not making AYP across states is not necessarily indicative of real differences in how much students are

Box 2-E Policies for Identifying Schools for Improvement in 2002-03 and 2003-04

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School year 2003-04 was the first year the full impact of the NCLB accountability provisions were felt by school districts and schools. This is primarily because this is the first year that the performance of subgroups was reported and counted in determining whether districts and schools made AYP and whether they would be identified for improvement.

Schools were identified as needing improvement at the beginning of school year 2002-03 on the basis of test data from fall 2001 or spring 2002 and applying the Title I accountability provisions of the Improving America’s Schools Act, the predecessor law to NCLB. Although states had to disaggregate test data from their 2001-02 test administration by subgroups, in order to have a baseline for measuring future subgroup performance, they did not use this disaggregated data to identify schools for improvement. In fact, the U.S. Department of Education gave states the option of not identifying any new schools for improvement at the beginning of 2002-03, since this was a transition year from the old law to the new NCLB. However, a school’s performance in the 2001-02 test administration would still be taken into account when schools were identified for improvement at the beginning of 2003-04.

Here is a hypothetical example of how these provisions worked: Test data from spring 2001 showed that Marshall Elementary School did not make AYP for the first time under the rules of IASA. The test data from the next year, spring 2002, also showed that Marshall Elementary did not make AYP; however, the state did not have to identify Marshall as needing improvement at the beginning of school year 2002-03 because of USED’s transition year policy. After the state tests were administered in spring 2003, the state made its AYP determinations based on its new accountability plan, which included targets for specific subgroup performance, as well as participation rates and the state’s other performance indicators. Based on the spring 2003 test data, Marshall again failed to make AYP because two of its subgroups, low-income students and students with disabilities, had fallen short of the state targets. Therefore, the state identified Marshall as needing improvement at the beginning of school year 2003-04.

Source: Center on Education Policy, 2003.

Box 2-F Numbers of Schools in Each State Not Making AYP in 2002-03

The table below shows state AYP results for 2002-03, collected by *Education Week* for its publication, *Quality Counts 2004*, except where another source is noted. The table shows the numbers and percentages of schools that did not make AYP, and the numbers and percentages of schools identified as "in need of improvement," which means that they did not make AYP for two or more consecutive years.

Note that these are the numbers of all public schools, both Title I and non-Title I, identified in each state, as opposed to just Title I schools, as reported in our district survey results later in this chapter. It should also be noted that these numbers are preliminary, as most states had not completed their appeals processes at the time this report was being written, and some states had not yet determined AYP status for small schools, high schools, and so on. Finally, the percentages are estimates, based on the total number of schools in each state reported by the National Center for Education Statistics (2003); in some states this number may not be the same as the total number of schools included in the state's accountability system. For these reasons, and because state AYP lists are constantly changing, the table below should not be viewed as final, but rather as a set of estimates as of December 2003.

To get more up-to-date data, readers can visit individual state education agency web sites. Keeping these caveats in mind, the table below shows that the number of schools not making AYP varied widely across states: Florida had 76% of its public schools not making AYP, California had 36%, and Alabama had just 5%. The numbers of schools identified as in need of improvement were significantly lower but also varied, with 0 schools identified in states such as Missouri and Tennessee and a high of 30% identified in Hawaii. Based on these preliminary figures (which do not include all states), almost 26,000 (28%) of the nation's approximately 91,000 schools did not make AYP, and more than 5,500 schools in the country (6%) did not make AYP for two years or more and were therefore labeled as in need of improvement.

STATE	TOTAL NUMBER OF SCHOOLS ¹	NUMBER OF SCHOOLS NOT MAKING AYP	PERCENT OF SCHOOLS NOT MAKING AYP	NUMBER OF SCHOOLS IN IMPROVEMENT	PERCENT OF SCHOOLS IN IMPROVEMENT
Alabama	1,381	71	5%	46	3%
Alaska	506	282	56%	58	11%
Arizona	1,742	351	20%	226	13%
Arkansas	1,129	208	18%	126	11%
California	8,914	3,220	36%	925	10%
Colorado	1,630	817	50%	87	5%
Connecticut	1,073	157	15%	8	1%
Delaware	197	86	44%	12	6%
District of Columbia	193	29	15%	15	8%
Florida	3,314	2,525	76%	48	1%
Georgia	1,969	776	39%	258	13%
Hawaii	279	199	71%	84	30%
Idaho	654	473 ²	72%	43	7%
Illinois	4,292	1,718 ²	40%	581	14%
Indiana	1,891	442	23%	117	6%
Iowa	1,519	NA	—	11 ²	1%
Kansas	1,423	175	12%	30	2%
Kentucky	1,387	4702	34%	25 ²	2%
Louisiana	1,509	6202	41%	69 ²	5%

STATE	TOTAL NUMBER OF SCHOOLS ¹	NUMBER OF SCHOOLS NOT MAKING AYP	PERCENT OF SCHOOLS NOT MAKING AYP	NUMBER OF SCHOOLS IN IMPROVEMENT	PERCENT OF SCHOOLS IN IMPROVEMENT
Maine	681	124	18%	10	1%
Maryland	1,340	511	38%	131	10%
Massachusetts	1,889	NA	—	208	11%
Michigan	3,782	NA	—	216 ²	6%
Minnesota	2,119	144	7%	79	4%
Mississippi	886	250	28%	7	1%
Missouri	2,274	1,536	68%	0	0%
Montana	870	159	18%	34	4%
Nebraska	1,280	269 ²	21%	NA	—
Nevada	517	146	28%	22	4%
New Hampshire	472	140	30%	11	2%
New Jersey	2,410	531	22%	265	11%
New Mexico	792	164	21%	73	9%
New York	4,298	893	21%	715	17%
North Carolina	2,223	1,195	54%	35	2%
North Dakota	529	94 ²	18%	23 ²	4%
Ohio	3,826	829	22%	191	5%
Oklahoma	1,814	337	19%	51	3%
Oregon	1,273	365	29%	8	1%
Pennsylvania	3,185	1,076	34%	299	9%
Rhode Island	326	98	30%	22	7%
South Carolina	1,053	652	62%	87	8%
South Dakota	749	238	32%	32	4%
Tennessee	1,610	711	44%	0	0%
Texas	7,646	1,000	13%	13	0%
Utah	791	244 ²	31%	NA	—
Vermont	359	29	8%	10	3%
Virginia	1,839	732	40%	43	2%
Washington	2,170	436	20%	51	2%
West Virginia	784	295	38%	33	4%
Wisconsin	2,208	110	5%	68	3%
Wyoming	383	55	14%	0	0%
TOTAL	91,380	25,982	28%	5,506	6%

NA = Not available

Source for table (except where noted): Education Week, Quality Counts 2004

¹ Source: National Center for Education Statistics (2003)

² Source: National Education Association (2003b)



learning. It is important to keep in mind that AYP results will vary from state to state for a variety of factors, including the rigor of the tests, how the state defines “proficient,” and how high states have set their annual performance targets (see **Box 2-G**, which illustrates differences between state and NAEP proficiency levels). AYP results also depend on states’ decisions about how many students must be in a subgroup for the group’s average test scores to count for AYP determinations and whether states are using confidence intervals, a statistical technique described above that can have the effect of lowering the number of schools not making AYP. As mentioned earlier, USED gave the states a great deal of flexibility in these areas, consistent with the emphasis on state-determined accountability systems in the law. Federal Department officials that we interviewed for this study acknowledged that the variation in rigor among the state systems is a problem, but noted that the Department does not have the authority to direct states to make their standards or assessments more rigorous.

When interpreting AYP results, one must also keep in mind that NCLB requires schools and districts to meet annual state targets on a number of indicators in addition to test scores, and failure to meet the goals on any of those measures prevents the school or district from making AYP. As discussed in **Box 2-H**, participation rates are one of the other indicators. High schools must also show progress on graduation rates; states can select the additional performance measure for elementary and middle schools, and most have chosen attendance rates (Erpenbach, Forte Fast & Potts, 2003).

Although most news reports were careful not to characterize schools that did not make AYP as “failing,” the release of AYP results caused considerable public concern and confusion in many states, leaving state leaders to try to explain the results. For instance, some of Atlanta, Georgia’s highest achieving high schools did not make AYP, not because their test scores were too low, but because not enough students took the test. Many of the schools did not test 95% of their students, as required by the law, particularly students in the disabilities subgroup. State School Superintendent Cox assured the public that school leaders understand the law better now, and most schools will improve participation rates next year (Ghezzi, 2003).

Confusion was especially great in some states running dual (state and NCLB) accountability systems. For instance, when Florida announced in August 2003 (before appeals and other corrections to its AYP lists) that roughly 2,500 (87%) of the state’s public schools did not meet one or more targets for NCLB, the results were in striking contrast with those based on the state’s own rating system. Just a month and a half earlier, Governor Jeb Bush had announced that schools were doing better than ever on the state’s “A-Plus” education plan; yet many schools rated “A” under the state system did not make AYP under NCLB (Miller, 2003). One reason for the contrast may be that Florida’s state ratings do not judge performance based on subgroups, although they do give schools points for making gains with the lowest 25% of students on state tests (Robelin, 2003).

The release of lists of identified schools and districts led to appeals, which resulted in changes to the lists in many states. In Pennsylvania, for example, over half of the state’s schools fell short of its targets for improvement. One such school, Palisades High, was identified for not meeting the 95% graduation rate target. The school appealed to the state, using more recent data to show it had improved its graduation rate enough to make AYP. Palisades Middle School, which failed to make AYP because of a 94.7% attendance rate, also appealed, saying that the state should round up its number to 95%, which would then meet the state target. The Palisades district superintendent was glad to have the schools—both of which received national honors under USED’s Blue Ribbon schools initiative—off the list. But according to media reports, he regretted that



school officials had to deal with six weeks of undeserved embarrassment and felt that if the state had thought through some of these implications beforehand, the situation would not have been as traumatic for some districts (Gewertz, 2003). About one-quarter of the schools that did not make AYP in Pennsylvania appealed the state's determination, and 68% of the appeals were granted, with 85% of the successful appeals due to corrections or updates in data. After the appeals process, about 39% of the state's schools ended up on the final AYP list.

Data corrections in other states also ended up changing the numbers of schools identified. Minnesota's initial list showed that 85% of its schools had made AYP; on its second list, that figure rose to 92%, mostly due to data corrections. In Montana, 13% of schools that did not make AYP appealed, and 29% of the appeals (7 schools) were granted. Those appeals, combined with the state's own review of some schools' data, expanded Montana's list of schools making AYP by 9% (Gewertz, 2003). The U.S. Department of Education has left it to the states to develop their own appeals processes, rather than imposing a uniform approach. The number of appeals may be reduced in future years, as states work out the glitches in their appeals and data review procedures.

Assessment Development

States are still struggling to meet NCLB's testing requirements. The law requires annual testing in reading/language arts and math in grades 3-8 and once in high school by 2005-06, as well as tests in science at least once in elementary, middle, and high school by 2007-08. Prior law (IASA) had required only that children be tested in reading and math at least once in grades 3-5, 6-9, and 10-12, so most states have had to fill in gaps in their testing systems.

Last year we reported that 19 states and the District of Columbia tested in reading/language arts and math at all of the grades required by NCLB; this year, Indiana was added to that list, for a total of 20 states and the District of Columbia (Olson, 2003b). NCLB further requires that states either use tests that have been specifically designed to be aligned with their content standards, or off-the-shelf, norm-referenced tests that are "augmented" with additional items to better reflect state standards. *Education Week* (Olson, 2003d) reports that 19 of these 20 states plus D.C. use consistent tests across grades. Fifteen of these 19 use tests designed to reflect their state standards, while four still use off-the-shelf tests without any augmentation, at least in some grades.

States continue to work on bringing their testing systems into compliance with NCLB. Arkansas, for instance, had been using the nationally norm-referenced Stanford Achievement Test for more than a decade. But when NCLB was enacted, the state was faced with the choice of either augmenting the Stanford tests with questions that were aligned with the state's content standards, or expanding its own state test, the Arkansas Benchmark Exam, to include additional grades. Based on the experiences of some other states, such as Louisiana and New Mexico, which found it difficult and costly to augment norm-referenced tests, Arkansas decided to expand the Arkansas Benchmark Exam for NCLB purposes. Many local Arkansas educators opposed the move, expressing preference for the norm-referenced tests that give them information about how their students are performing relative to others in the nation (Howell, 2003).

In light of budget shortages, some other states are abandoning innovative testing approaches that were in place before NCLB in favor of less expensive traditional tests. South Dakota, Idaho, and Oregon, for instance, have switched from using computerized "adaptive" tests to more traditional paper-and-pencil ones. Instead of asking the same questions of all test takers, computerized adaptive tests "adapt" to each student by ask-

Box 2-G Using NAEP to Gauge State Proficiency Definitions

States have widely different definitions of “proficient” when it comes to measuring AYP. As discussed in our report last year, NCLB leaves it to the states to determine the rigor of their content standards, tests, and passing scores. Because of these kinds of variations across states, one cannot infer that a state that has more students reaching its proficient level necessarily has higher student achievement—another state with fewer students at the proficient level may simply have higher expectations for proficiency.

Partly to address this lack of comparability across states, NCLB requires that all 50 states and the District of Columbia participate in each administration of the National Assessment of Educational Progress (NAEP) in 4th and 8th grades. Thus, NAEP can serve as a common benchmark to validate states’ progress on their own tests.

In November, 2003, USED released the first set of NAEP results based on a sample of students in every state taking the assessment. Achieve, Inc (2003) produced the figures below, which compare the percentage of students who scored at the proficient level on states’ 8th grade tests in 2003 with the percentage who scored at the proficient level on the 8th grade NAEP. The figures also show, for comparison purposes, the percentages of students scoring at the basic level on NAEP, the achievement level below proficient.

The first figure, for 8th grade mathematics, shows that in the large majority of states, a higher percentage of students scored at the proficient level on the state’s 8th grade math test than on NAEP. In fact, in some states—including Alaska, Connecticut, Mississippi, and North Carolina—the percentage of students scoring proficient on the state test was at least double that scoring proficient on NAEP and was actually closer to the percentage reaching the basic level on NAEP.

In a handful of states, such as Arizona and Massachusetts, the percentages of students scoring at the proficient level on the state and NAEP assessments were more closely matched. Only Hawaii, Louisiana, Maine, Missouri, and South Carolina had a smaller share of students scoring at the proficient level on their own state tests than on NAEP in 8th grade mathematics, suggesting that these states’ 8th grade mathematics proficiency levels are more rigorous than NAEP’s.

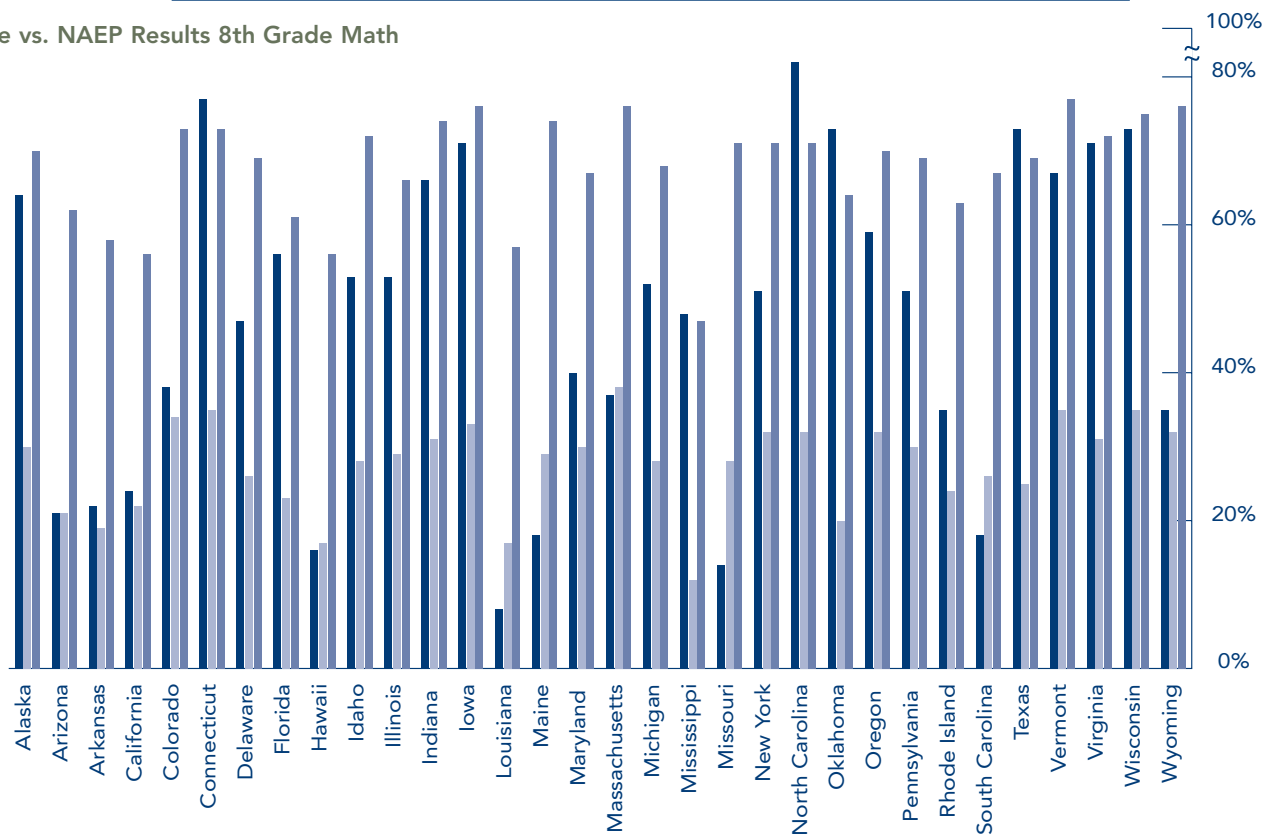
The second figure, for 8th grade reading, shows the same general pattern. In this case only two states, Louisiana and South Carolina, had smaller percentages of 8th grade students scoring proficient on their own state reading tests than on NAEP reading. Achieve, Inc. produced similar figures for 4th grade mathematics and reading (not shown here) and the same patterns emerged, with greater proportions of students reaching proficiency on state tests than on NAEP in the large majority of states.

While it is tempting to conclude that most states’ proficiency definitions are not as rigorous as NAEP’s, there are other partial explanations for these results. First, state tests and NAEP are different tests that do not necessarily measure the same set of knowledge and skills. State tests are presumably more closely aligned to a state’s content standards and the curriculum and instruction that students are receiving. In contrast, NAEP is a national assessment of a broad range of knowledge and skills that are not aligned to a particular state’s standards. Second, NAEP is only administered to a sample of students who do not receive their scores or suffer any consequences. It is certainly possible, then, that students would perform better on the state tests because they are more closely aligned to the curriculum students are receiving and because they yield individual student scores that “count.” But it could be that, in many states, the rigor of the test or the definition of proficiency is less than on NAEP.

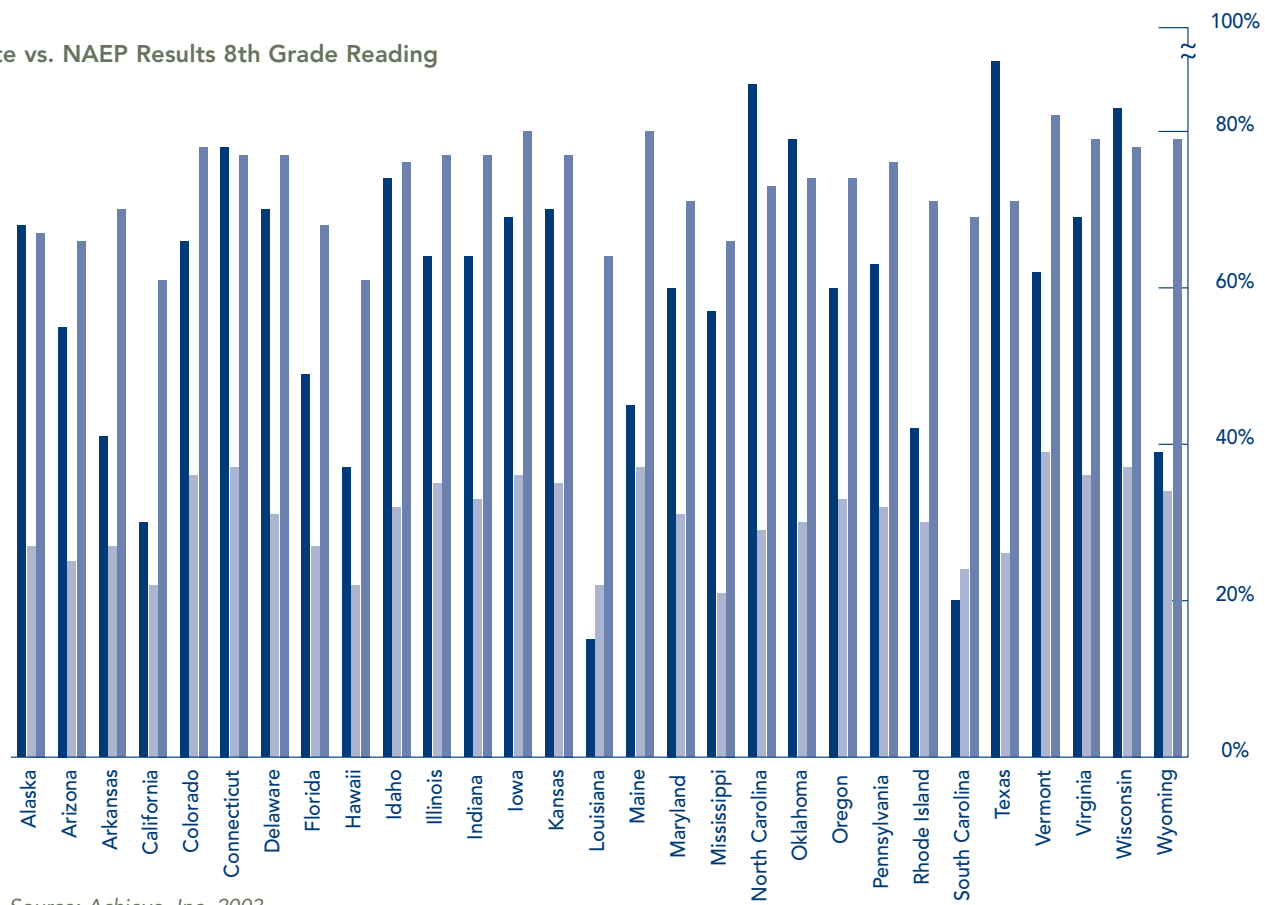
Source: Center on Education Policy, December 2003, based on tables from Achieve, Inc.



State vs. NAEP Results 8th Grade Math



State vs. NAEP Results 8th Grade Reading



Source: Achieve, Inc. 2003.

Box 2-H Participation Rate Is an Issue for Many Schools

One special education student missing a math test is all it took to keep Renfroe Middle School in Georgia from meeting its goals. Of the school's 45 special education students, 42 took the math test, which is 93% of the students in the subgroup. If one more student had taken the test, the participation rate would have been 96%, and Renfroe would have made AYP. Instead, the school is now labeled as in need of improvement and must offer school choice. Overall, in Georgia, there were 298 Title I schools that did not make AYP because fewer than 95% of students were tested (Tofig, 2003).

In Kansas, the Manhattan-Ogden school district had test scores that were well above the state goals but missed the participation rate requirement by just one-tenth of a percent. Of the district's 37 Hispanic students eligible for testing, only 34 took the math test, a participation rate of 94.9% (Ellebracht, 2003). And all five schools that did not make AYP in Green Bay, Wisconsin did not do so because participation rates were below 95%, sometimes by just one percentage point (Bruss, 2003).

Stories such as these were widespread when states began to release AYP results in August 2003. NCLB requires schools to test 95% of their students overall, as well as 95% of the students in each subgroup specified in the law (for each group large enough to be counted for AYP purposes). A school's participation rate is computed by dividing the number of students tested by the number of students enrolled in the school at the time of testing (or, in some states, by the number of students enrolled and tested). When determining whether a school has made AYP, the state looks at its participation rate before even looking at its test scores. If 95% of students overall and in each subgroup were not tested—regardless of how high test scores are—the school does not make AYP.

Although missing AYP simply because of one or two students being absent during testing may seem unreasonable, proponents of NCLB believe that the 95% participation rate requirement is important. It prevents schools from hiding their under-achieving students by encouraging them, subtly or otherwise, to stay home on testing days.

This year's AYP results have focused many education officials on test participation rates as never before. In all likelihood, more schools will meet the participation rate requirements next year, now that they are more aware of its importance. Schools and districts are vowing that they will put more effort into getting students to school on testing days, and states are likely to institute stricter make-up testing procedures. Some educators are less concerned about participation rates, since they see this as a relatively easy thing to fix by next year, compared to raising test scores (Bruss, 2003).

Source: *Center on Education Policy, December 2003.*

ing harder or easier questions based on how the student answered previous ones. A 3rd grader, for instance, could score at the 5th or 2nd grade level on a reading test using such an approach. Computerized adaptive tests do not meet NCLB requirements, because they are not standardized and may not always assess students on grade level (Borja, 2003).

A few states are collaborating to make the most of their limited resources. Rhode Island, Vermont, and New Hampshire are working together to develop common math, reading, and writing assessments in grades 3–8. These small states hope that collaboration will provide a way to develop high-quality tests that comply with NCLB more cost effectively (Rubin, 2003).

Report Cards and Data Collection Systems

Beyond releasing lists of schools identified for improvement, NCLB requires states and districts to issue more comprehensive annual report cards aimed at informing the public about the performance of their districts and schools on a variety of indicators. The state report cards must include information about student achievement, both in the aggregate and broken down by subgroup, at each proficiency level on the state tests; the percentage of students not tested; high schools' graduation rates; the name of each school identified for improvement; the professional qualifications of teachers; and other information such as attendance rates, average class size per grade, and incidences of violence and substance abuse. (There are somewhat different requirements for district and school report cards.) *Education Week* (Olson, 2003d) indicates that states are making progress on report cards: during the 2003–04 school year, 43 states will include student test performance data broken out by all subgroups required by NCLB, and 23 will issue disaggregated high school graduation or dropout rates.



States have been making efforts to upgrade their data collection and management systems to help meet NCLB demands (Hoff, 2003). Currently, 21 states (compared to just 8 in 1999) are able to track individual student performance with a “student identifier” that records achievement across a student’s K-12 career. Student identifiers enable states to follow enrollment, test scores, and graduation statistics, as well as track students as they move between schools or districts within the state. Unless a state has a way to track achievement student by student, it will struggle to comply with the data collection and reporting requirements of NCLB. The U.S. Senate’s FY 2004 appropriations bill called for an \$80 million competitive grant program to help states create data systems that comply with NCLB, but the provision was dropped during negotiations on the omnibus spending bill for FY 2004.

Special Populations

Another area of focus for many states over the past year has been how to insure that special populations of students, namely students with disabilities and English language learners, are fairly included in their NCLB accountability systems. The results of our state survey (reported below) indicate that policies for disabled and limited English students are contributing the most to criticisms that NCLB testing and accountability requirements are not fair.

One problem that states have been grappling with is how to reconcile two sets of federal rules—those for the Individuals with Disabilities Education Act, the main law governing education for students with disabilities, and those for NCLB—with the latter being more restrictive about policies for testing students with disabilities. **Box 2-1** describes the different approaches to testing taken by these two laws.

In Maryland, for instance, this problem arose on one section of the new Maryland School Assessment in reading taken by 3rd graders in spring 2003. Thousands of 3rd graders were accommodated on the reading portion of the new Maryland Student Assessment by having the test items read to them. But those students’ reading scores were invalidated by the state because its testing experts said that items covering the decoding of text are meaningless when they are read to students. Instead of throwing out the invalidated scores, as it had in the past, the state assigned those students the lowest possible scores on the reading section of the test and used the results to help determine whether their schools had made AYP under NCLB. As a result, schools with large numbers of 3rd graders who had received “verbal reading accommodations” on the test showed lower performance than they would have otherwise. Statewide, 30 out of 511 schools that did not make their targets for yearly progress might have met those marks if the disputed reading scores had been discarded (Matthews & Mui, 2003).

State Survey Results on Perceived Effects of NCLB

In the summer and early fall of 2003, the Center on Education Policy surveyed officials from the 50 states and the District of Columbia about their efforts to implement the law during its second year and their perceptions of its impacts in a variety of areas. Forty-seven states and D.C. responded, and the results are summarized below. The survey covered the major aspects of how states are implementing NCLB—funding issues, the peer review process conducted with USED, AYP issues, accountability and sanctions, and positive and negative effects of the law.

BACKGROUND

The 1997 reauthorization of the Individuals with Disabilities Education Act (IDEA) attempted to align special education with the standards-based reform movement by requiring students with disabilities to be included, to the maximum extent possible, in the general education curriculum and in general state and districtwide assessments. This marked a shift for special education, which had traditionally focused solely on student accountability, as measured by progress toward goals on the individualized education program developed for each student.

The No Child Left Behind Act reinforces the principle that states and school districts are responsible for the achievement of *all* students, including those with disabilities. School districts must teach students with disabilities the same challenging academic content and must measure their progress using the same achievement standards as their non-disabled peers. A basic assumption of NCLB is that all but a very few students can achieve proficiency, as defined by each state. The IDEA, by contrast, assumes that students will meet the goals established by the IEP team, based to the maximum extent possible on participation in the general education curriculum, but not keyed to a single definition of proficiency. As the chart below shows, NCLB and IDEA both focus on student achievement, but in different ways, particularly in the relative weight each gives to individual student outcomes and achievement in school and district accountability measures.

IDEA REQUIREMENTS	NCLB REQUIREMENTS
Students with disabilities will participate in general state and districtwide assessments, with appropriate accommodations, where necessary. Sec. 612(a)(17)(A)	Beginning in 2005-06, all students in grades 3-8, including students with disabilities (with reasonable adaptations and accommodations, as necessary) will participate in annual assessments in, at a minimum, mathematics and reading/language arts, and, beginning no later than 2007-08, in science. Sec. 1111(b)(3)(C)
For students with disabilities who are determined to be unable to participate in general assessments, alternate assessments will be used. Sec. 612(a)(17)(A)(ii)	Accommodations, guidelines, and alternate assessments must be provided in the same manner as under Sec. 612(a)(17) of the IDEA. Sec. 1111(b)(2)(I)

ASSESSMENT REQUIREMENTS UNDER IDEA

The IDEA requires that the IEP team determine whether a student with a disability will participate in a general state or districtwide assessment. If the student will participate, the team also decides what, if any, test modifications or accommodations are necessary. If it is determined that the student will not participate in the regular assessment, the IEP team must include an explanation of why the assessment is not appropriate and what other assessment method will be used. For those few students who cannot participate in the general assessments, the state or school district must develop alternate assessments. Alternate assessments must be aligned with general curriculum standards, and it should not be assumed that alternate assessments are appropriate only for students with significant cognitive disabilities (USED, 1999). While school districts must include students with disabilities in the general assessments, determinations of academic progress in special education are based on whether each student meets the individualized goals determined by the IEP team.

ASSESSMENT OF STUDENTS WITH DISABILITIES UNDER NCLB

NCLB requires that all students with disabilities be tested on the general assessments, allowing for appropriate accommodations and modifications determined by the student's IEP team. The team determines how individual students will participate in the assessments, not whether they will participate. The state assessment system must also provide one or more alternate assessments for students determined by the IEP team to be unable to participate in the general assessments, even with accommodations. Alternate assessments will be given, just as the general assessments, in reading/language arts and mathematics and eventually in science, and must provide results for the grade in which the student is enrolled.

Under NCLB, students with disabilities may participate in assessments in four ways:

- 1) Regular assessments with no accommodations;
- 2) Regular assessments with accommodations;
- 3) Alternate assessments based on state content standards; and
- 4) For students with significant cognitive disabilities, alternate assessments based on alternate academic achievement standards.

States are not required to develop alternate academic achievement standards. In fact, the Department of Education's goal is to have as many students as possible participate in regular or alternate assessments based on the state's general content standards. For states that choose to develop alternate academic achievement standards, those standards must "be aligned with state academic content standards, promote access to the general curriculum, and reflect professional judgment of the highest learning standards possible for those students," according to new regulations issued by the U.S. Department of Education on December 9, 2003 (34 C.F.R. §§200.1 (2003)).

Under these new regulations, states must institute several safeguards to ensure these testing procedures are appropriately implemented. States are required to develop guidelines and policies to determine when alternate standards may be used. States must promote the use of appropriate accommodations and provide guidance to IEP teams on the use of such accommodations. Teachers and other staff must receive training in how to properly administer assessments to students with "significant cognitive disabilities"—a term that is not defined in the new regulations. States are also required to report on the number and percentage of students taking alternate assessments based on alternate academic standards.

For purposes of calculating AYP, the new regulations state that "proficient" and "advanced" scores of students tested on alternate assessments based on alternate academic standards may be counted up to a cap of 1% of all students in the grades tested, or approximately 9% of students with disabilities nationwide. This cap applies only for purposes of calculating AYP and does not limit the number of students who may be tested based on alternate standards. In fact, all scores of students taking alternate assessments based on alternate standards will be counted. However, any scores above the 1% cap at the state and district levels will be counted as "non-proficient." The cap does not apply at the school level.

The regulations also allow out-of-level testing for students with significant cognitive disabilities. If the alternate standards on which the out-of-level tests are based meet the regulatory requirements, proficient and advanced scores may be included as part of the AYP calculations and will count toward the 1% cap.

States may request permission to exceed the 1% limitation from the Secretary of Education, and districts may make similar requests of the state, as long as they can provide, in either case, documentation that the incidence of students with significant cognitive disabilities exceeds this limit, including the circumstances explaining the higher incidence. Students who take alternate assessments based on alternate standards would be counted as "participating" in the assessment system for purposes of the 95% participation requirement.

COMPARISON OF IDEA AND NCLB ASSESSMENT REQUIREMENTS

IDEA and NCLB present different views on outcomes and accountability tied to student assessment, although both are aimed at ensuring that all students are proficient in academic content areas. The IDEA makes clear, unlike NCLB, that the "agency, teacher, or other person" is not held accountable if the student does not "achieve the growth projected in the annual goals." Rather, the school district must ensure that a "good faith effort" is made to help the student meet the IEP goals. In other words, the IEP is not a "performance contract" and does not guarantee that the student will progress at a specific rate (USED, 1999). Despite this caveat, the IDEA regulations also allow the state or local school district to establish its own accountability system for teacher, school, or district performance. This is much closer to the system accountability required under NCLB but appears to be more of an afterthought rather than the focus of the regulation.

Prior to the passage of NCLB, a number of states allowed an out-of-level testing option for students with disabilities taking state tests. U.S. Department of Education guidance on NCLB states clearly that "out-of-level testing is not an acceptable means for meeting either the assessment or accountability requirements of No Child Left Behind" (USED, 2003c). Several states have eliminated out-of-level testing in the current school year, while a few others will eliminate that option in 2004-05. The new regulations for testing students with disabilities allow states to continue this option for students with significant cognitive disabilities.

Source: Center on Education Policy, December 2003.



FUNDING FOR ASSESSMENT DEVELOPMENT

NCLB authorizes up to \$490 million to help states develop and administer the additional tests required by the Act, but Congress must appropriate a certain level—\$390 million in FY 2004—or else states can suspend the administration of the assessments required by Title I. Federal appropriations for this line item were approximately \$360 million in FY 2002 and \$387 million in FY 2003. The House-Senate conference agreement for the FY 2004 funding level, which was awaiting final approval by the Senate as this report went to press, provides approximately \$390 million (USED, 2003d). Amounts are expected to increase slowly in future years. Each state gets a base allocation of \$3 million per year, plus additional federal funds based on the size of its student population, with larger states receiving more money. So while North Dakota received about \$3.5 million from the federal government for assessment development in FY 2003, California received over \$30 million (USED, 2003e).

Our survey asked states whether these federal funds are sufficient for developing the required state assessments. The majority of state officials responding (28 out of 48) said that they were (see **Figure 2-A**). Some explained that this was because their states already had the necessary assessments in place prior to NCLB or because they were redirecting sufficient funds from their former assessment program to cover the costs when coupled with NCLB funds. One state official noted that although the state had sufficient funds for the time being, the funds will not be adequate in 2005, when the new assessments have to be administered statewide.

Almost one third of the states that responded to the survey said that the federal assessment funds were not sufficient, with several noting that they covered less than half the costs of developing and administering the additional assessments required in their states. One state official said that the funds would not cover the cost of developing the “high quality” assessments the state would like to have.

In 2003, the U.S. Department of Education also awarded \$17 million in grants to selected consortia of states that will work with other organizations, such as universities and research institutions, to develop assessments for students with disabilities and English language learners that comply with NCLB requirements. One state noted that these additional grants have been quite helpful.

FEDERAL REVIEW PROCESS

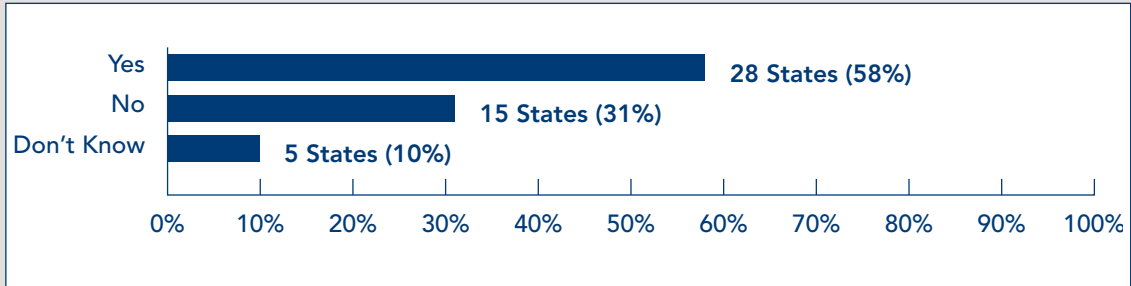
A majority of our state respondents found the process that the Department used to review and approve state accountability plans to be either very or somewhat helpful. Only one of the states described it as not helpful (see **Figure 2-B**).

State officials were asked to comment on which parts of this process worked well. In general, it seems that the on-site visits by review teams provided state officials with opportunities to engage in a face-to-face discussion, work through various aspects of the law, and obtain needed clarification on certain issues. In addition, the workbooks provided to the states by USED to help them develop accountability plans were useful to some states. Some typical responses:

The process provided an opportunity to interact and discuss issues.

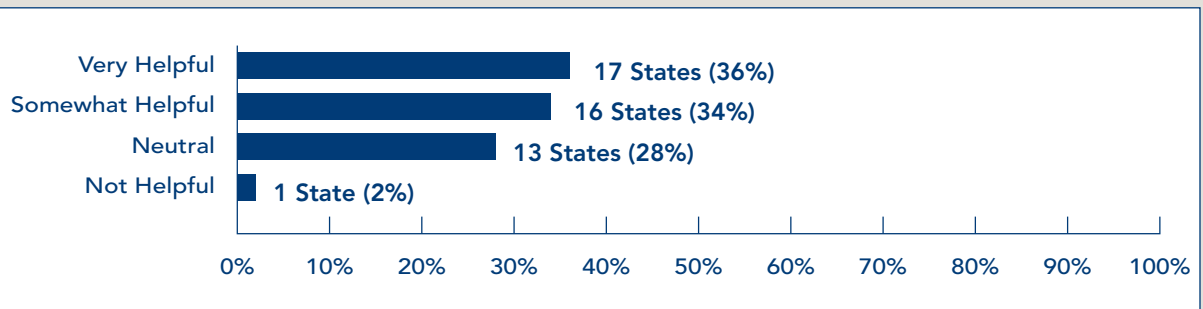
The (Education) Department did a good job of trying to understand the individual state context and the rationale for what we were asking for. They stayed within the boundaries of the statutes but also tried to be flexible where the statute allowed for flexibility.

Figure 2-A To date, have NCLB funds been sufficient for developing state assessments?



Source: Center on Education Policy, December 2003, State Survey, Item 2

Figure 2-B To what extent was the U. S Department of Education's peer review and approval process of the state's accountability work plan helpful?



Note: Numbers do not total 48 because one state did not respond to this question.

Source: Center on Education Policy, December 2003, State Survey, Item 3



The Workbook format is good. It was clear and easy to understand.

Openness of the review team to listen to concerns and consider our suggestions. Better than just mailing in a document—you knew in advance that it would be approved.

Our survey also asked state officials how the peer review and approval process could have been more helpful to them. Here, the responses received varied widely. Several states were critical of the fact that they never received any written communication from peer review teams after their visits. Two others complained of the very short time frame in which the process took place. Others wished that the peer review teams had been more understanding of their states' existing accountability plans. Suggestions for improvement were wide-ranging:

Frankly, respect for the expertise that already resides in a state and an understanding of the state context for their accountability systems. Assuming a certain philosophical stance is not helpful when states have their own statutes, budgets, and cultures in which to administer federal mandates.

It would have been more helpful if the process had been started sooner and if there was more opportunity for give and take. Taking away the photo op quality to get the plans approved would have made the process better. States were pressed to get the plan in place by the start of the school year, but states were not ready and the feds were not ready. The effort was placed on providing a good news story, not on getting it done right. Reviewers were not prepared enough to understand the context of the state.

It was most helpful. We could not have asked for a better, or more helpful experience.

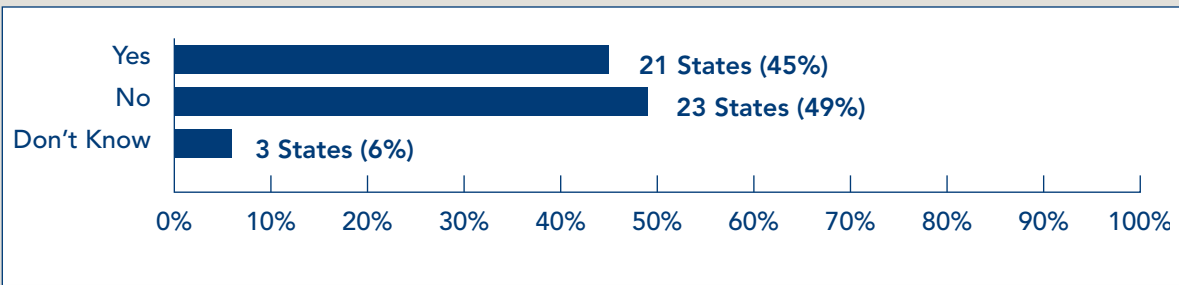
Figure 2-C shows that almost half of the states that responded to the survey reported that they did not need to make significant changes to their accountability plans as a result of the review, although many noted that they did have to make minor changes.

Twenty-one states in our survey reported having to make major changes. Most frequently mentioned were changes related to how students with disabilities and English language learners will be tested and counted when determining AYP. Many states also had to change their plans to adopt starting points and growth trajectories for calculating AYP that were uniform across the entire state, rather than allowing different starting points and trajectories for different subgroups and/or schools. Other typical changes mentioned included how the graduation rate would be calculated; how students belonging to multiple subgroups would be counted; which administration of a test would count towards AYP when students have the option of retesting (as with graduation tests); and how many students, at a minimum, must be in a subgroup for it to count for AYP determinations.

States that reported making significant changes were asked whether they believed the revisions improved the state's plan. Of those that responded, almost all answered, "No," explaining why they believed their original plans were more educationally sound. Here are a few sample responses from state officials:

We had proposed a definition of AYP that was more demanding than what was approved. Under our first proposal, all subgroups of students would have been expected to make annual growth from where they were in each school and district. Instead, we were required to comply with the strictest interpretation of the law and apply a single baseline from the beginning to all subgroups. This means we have several subgroups, e.g., whites, Asians, and American Indians, that can be ignored by schools and districts, in some cases, for years. This is an incentive to dummy the system down and only focus on those groups furthest from meeting the standard.

Figure 2-C As a result of the U. S. Department of Education’s peer review and approval process, did the state have to make significant changes to its accountability work plan?



Note: Numbers do not total 48 because one state did not respond to this question.

Source: Center on Education Policy, December 2003, State Survey, Item 4

We do not believe that . . . English language learners who have no English proficiency [should] be forced to take a state test that is dependent on being able to read and write in English to respond to the [questions] in Reading and Mathematics.

The large majority of states that responded to the survey indicated that they were not planning to make additional changes to their accountability plans before the beginning of the 2003-04 school year, beyond those they had negotiated with the Department during the review process (see **Figure 2-D**). Some states were in the process of making additional changes. For instance, one state reported that it is developing a new state accountability system and that changes may be requested to better align its AYP plan with the new state system; another state said that it was modifying its alternative assessment plan for students with disabilities.

One state, which is under a compliance agreement with the USED because it had not completely fulfilled the requirements of the 1994 Title I law, mentioned that this status was advantageous for getting through the review process, because the timeline for putting its accountability plan in place is more lenient than for states whose assessments and accountability systems had been approved in a timely manner under the 1994 Act. There are five states currently under such compliance agreements (Alabama, District of Columbia, Idaho, Montana, and West Virginia) that are allowed to continue receiving federal education funds while they come into compliance under the specific conditions and timelines spelled out in the written agreements (USED, 2002).

SANCTIONS

The NCLB improvement strategies, corrective actions, and restructuring are mandatory for Title I schools that are identified as being in need of improvement, but it is up to the state whether to also apply these sanctions to non-Title I schools. **Figure 2-E** shows that fewer than half of the states that responded to the survey have chosen to apply sanctions to non-Title I schools.

District Survey Results and Case Studies

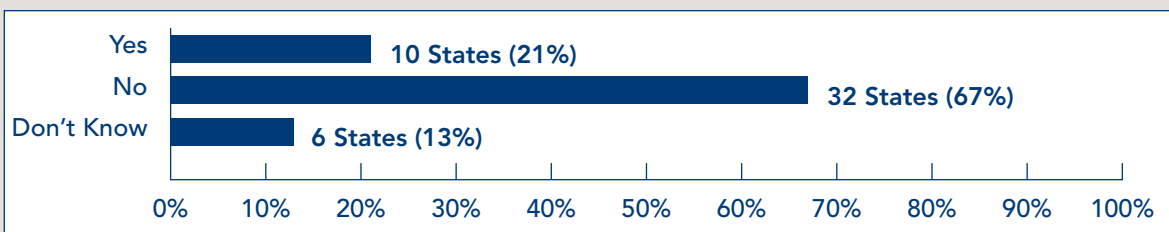
As we reported in Chapter 1, local educational officials generally believe that NCLB will change teaching practices, focus attention on subgroups, and increase pressure for improved school performance. In fact, districts participating in the case studies, as well as those participating in our survey, reported that they had already taken many positive steps over the past year to improve student achievement. However, challenges are great for bringing English language learners and special education students to a proficient level.

SCHOOLS IN NEED OF IMPROVEMENT

Our survey found that the proportion of districts and schools identified as needing improvement was small but growing.

Since states and school districts have begun implementing the No Child Left Behind Act, a relatively small proportion of school districts participating in the Title I program

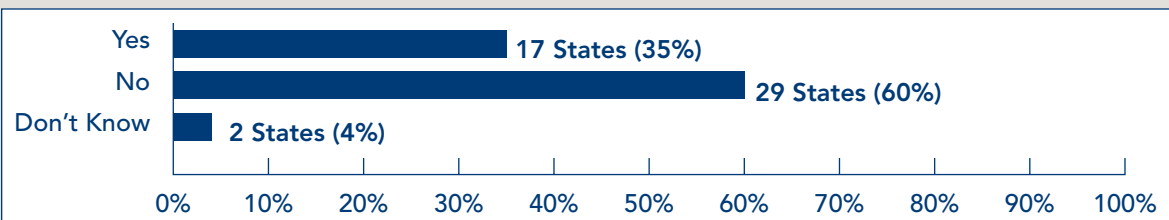
Figure 2-D States Reporting If They Plan to Make Additional Changes to Their NCLB Accountability Work Plan Before the Beginning of the 2003-04 School Year



Note: Percentages do not add up to 100 due to rounding.

Source: Center on Education Policy, December 2003, State Survey, Item 5

Figure 2-E States Reporting If They Are Applying the NCLB Sanctions (i.e., Public School Choice, Supplemental Services, Corrective Actions, School Restructuring) to Non-Title I Schools That Are Identified as Needing Improvement?



Note: Percentages do not add up to 100 due to rounding.

Source: Center on Education Policy, December 2003, State Survey, Item 7

have had schools identified as needing improvement, but that proportion is growing. As **Table 2-B** shows, an estimated 15% of Title I districts had one or more identified schools in 2002-03, a figure that rose to 21% in 2003-04. NCLB is having an impact—more school districts are being affected. The greatest concentration of identified schools is seen in urban districts: 50% of urban districts have at least one identified school in 2003-04, an increase from 40% the previous year. There was a proportionally greater increase in the percentage of both suburban districts (15% to 23%) and rural districts (12% to 17%) with one or more such schools. This suggests that for many suburban and rural districts, having schools identified for improvement is a new experience.

Broken down by size, very large Title I school districts are more likely to have identified schools than other districts. **Table 2-B** shows that 86% of very large school districts participating in Title I had at least one school identified as needing improvement in school year 2003-04, which is up from 67% of such districts in the previous year.

One possible explanation for why urban and very large districts are likely to have more schools identified as being in need of improvement is because these districts are likely to have schools with more subgroups that are large enough to be counted for AYP purposes, presenting more hurdles that these schools must clear to make AYP. In California, researchers found that the number of schools hitting the state's AYP targets was strongly related to the number of student subgroups—that is, the more subgroups, the less likely that the school would make AYP (Novak and Fuller, 2003).

The Cleveland Municipal School District, one of our case study districts, is a very large urban school system, with almost 70,000 students in 125 schools. Almost 99% of

Table 2-B Percentage of Districts with at Least One School Identified for Improvement in 2002-03 and 2003-04

	PERCENTAGE OF DISTRICTS WITH AT LEAST ONE SCHOOL IDENTIFIED FOR IMPROVEMENT IN 2002-03	PERCENTAGE OF DISTRICTS WITH AT LEAST ONE SCHOOL IDENTIFIED FOR IMPROVEMENT IN 2003-04
Total (all districts)	15%	21%
DISTRICT TYPE		
Urban	40%	50%
Suburban	15%	23%
Rural	12%	17%
DISTRICT SIZE		
Very Large	67%	86%
Large	46%	56%
Medium	20%	16%
Small	10%	17%

Table Reads: In 2002-03, of urban districts that received Title I funds, an estimated 40% had at least one school identified for improvement.

Source: Center on Education Policy, December 2003, District Survey, Item 1 (Table 1b)



the students are economically disadvantaged, and nearly 15% have disabilities. Meeting AYP requirements has been difficult; one school official in Cleveland told CEP researchers that “the only schools that are going to have trouble are schools with high diversity and high poverty.” Cleveland, because of its large size and diversity, must make AYP on 82 benchmarks each year according to Ohio’s NCLB accountability plan. This is more than in area suburbs, which have fewer subgroups and related challenges. Nevertheless, Cleveland schools improved their overall test performance in 2003, but still fell short of making AYP due to low participation rates by Hispanic and Asian students and English language learners.

Although the effects of NCLB are spreading across more districts, the number of schools identified for improvement has not increased as markedly. Overall, an estimated 13% of Title I schools were identified in 2002–03 and 16% in 2003–04. **Table 2-C** shows the proportion of identified Title I schools by location, district size, and grade level. The first column shows the percentage of all Title I schools in the various categories and serves as a reference point. Identified Title I schools are disproportionately located in urban and very large districts. That is, while 23% of all Title I schools are located in urban districts, a substantially higher percentage (32%) of Title I schools identified for improvement in 2003–04 were located in urban districts. Even more striking is the disproportion for very large school districts: while 15% of Title I schools are located in very large districts, 33% of identified Title I schools are located there. In contrast, identified Title I schools are underrepresented in rural and medium-sized districts.

Broken down by grade level, approximately two-thirds of identified Title I schools were elementary schools, with the remainder split between middle and high schools. The distribution of schools identified for improvement across grade levels is relatively consistent with the distribution of all Title I schools across those levels.

It should be noted that our survey asked for information on the number of Title I schools identified as needing improvement, which means that those schools had failed to make adequate yearly progress for at least two years in a row. We did not ask districts how many Title I schools did not make AYP for only one year—a much larger number and proportion of Title I schools.

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SUBGROUP ACHIEVEMENT AND PARTICIPATION RATES

There have been concerns about schools not making AYP simply because one subgroup did not meet the state’s annual measurable objectives or because less than 95% of one particular subgroup took the required exams. Our survey of school districts found that almost one-quarter of the districts in school year 2003–04 had schools identified as not making AYP on the basis of just one subgroup (see **Table 2-D**). Ten percent of the districts reported having schools identified because fewer than 95% of the students enrolled took the exam. Urban, large, and very large districts participating in Title I were more likely to be affected by both of these situations than other types of districts, possibly because they have more subgroups.

EXITING NEEDS IMPROVEMENT STATUS

Efforts to identify and assist low-performing Title I schools are paying off for a small percentage of districts. A school identified as in need of improvement is one that has failed to make AYP for two years or more in a row; to get out of that category a school must make AYP for two consecutive years. **Table 2-E** shows that in the 2003–04 school

Table 2-C Distribution of Schools Identified for Improvement in 2002-03 and 2003-04

		2002-03	2003-04
	ESTIMATED PERCENTAGE OF TITLE I SCHOOLS	PERCENTAGE OF ALL TITLE I SCHOOLS IDENTIFIED FOR IMPROVEMENT	PERCENTAGE OF ALL TITLE I SCHOOLS IDENTIFIED FOR IMPROVEMENT
DISTRICT TYPE			
Urban	23%	24%	32%
Suburban	44%	56%	50%
Rural	32%	20%	17%
DISTRICT SIZE			
Very Large	15%	23%	33%
Large	19%	26%	19%
Medium	24%	12%	8%
Small	42%	39%	40%
SCHOOL LEVEL			
Elementary	75%	74%	69%
Middle	13%	18%	17%
High School	5%	5%	11%
Other Grade Combinations	7%	2%	2%

Table Reads: In 2002-03, an estimated 15% of all Title I schools were located in very large districts. An estimated 23% of all Title I schools identified for improvement were located in very large districts in 2002-03.

Source: Center on Education Policy, December 2003, District Survey, Items 1 and 11 (Table 1e)

Table 2-D Percentage of Districts Reporting That At Least One School Was Identified As Not Making AYP Because of One Subgroup or Because 95% of Students Did Not Take Assessment

	PERCENTAGE OF DISTRICTS REPORTING THAT AT LEAST ONE SCHOOL WAS IDENTIFIED AS NOT MAKING AYP BECAUSE:	
	ONE SUBGROUP DID NOT MAKE AYP	95% OF STUDENTS DID NOT TAKE EXAM
Total (all districts)	23%	10%
DISTRICT TYPE		
Urban	45%	24%
Suburban	27%	12%
Rural	16%	7%
DISTRICT SIZE		
Very Large	87%	22%
Large	54%	44%
Medium	34%	15%
Small	16%	6%

Table Reads: In 2003-04, of the small districts that receive Title I funds, an estimated 16% report that at least one school was identified as not making AYP because one subgroup did not make AYP.

Source: Center on Education Policy, December 2003, District Survey, Item 5 (Table 3)

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Table 2-E Percentage of Districts Reporting That Schools in the District Exited Improvement Status

TOTAL (ALL DISTRICTS)	6%
DISTRICT TYPE	
Urban	21%
Suburban	4%
Rural	6%
DISTRICT SIZE	
Very Large	14%
Large	14%
Medium	13%
Small	4%

Table Reads: In 2003-04, of small districts that received Title I funds, an estimated 4% report that they had at least one school that exited improvement status because the school(s) made adequate yearly progress for two consecutive years.

Source: Center on Education Policy, December 2003, District Survey, Item 7 (Table 4)



year, 6% of school districts receiving Title I funds moved at least one school out of the “needs improvement” category. These were presumably schools that were identified as in need of improvement under the previous law (IASA) and made AYP for the past two years under NCLB. Urban districts in particular are showing this success—21% of them have done so. Perhaps this is because urban districts have had more experience with program improvement, or more schools identified under IASA.

Several of our case study districts—including Colorado Springs, Colorado; Meridian, Idaho; Kansas City, Kansas; and Bayonne, New Jersey—have also seen some of their schools “test out” of school improvement status in either 2002-03 or 2003-04. In the Kansas City, Kansas Public Schools, 3 of the 10 schools in school improvement in 2002-03 tested out in both reading and math in 2003-04. The other 7 schools made gains in achievement in 2003, as well. In 2002-03, the district provided major technical assistance, including professional development, to these schools, an investment district staff feel has begun to pay off. Teachers in every school receive weekly professional development sessions to help them incorporate standards and benchmarks into teaching, develop strategies to improve reading and math instruction, and use test data to refine instruction.

DISTRICT ACTIONS TO IMPROVE PERFORMANCE

Districts with schools in need of improvement reported that they are undertaking a variety of strategies to improve student achievement, ranging from retraining teachers to increasing school hours. **Tables 2-F, 2-G, and 2-H** provide a glimpse of the changes that districts have made as a result of NCLB.

Most districts with identified schools reported that they notified parents when a Title I school was identified as needing improvement. **Table 2-F** indicates that more than half of districts that had schools identified for improvement held joint school improvement planning meetings and implemented a new research-based curriculum or instructional program for students. More than one-third increased time in school.

Table 2-F also indicates that school districts with identified schools were less inclined to implement the more punitive actions contained in NCLB, such as replacing school staff, reopening identified schools as public charter schools, or having the state take over the school, which are corrective actions required by NCLB for schools that have been in improvement for multiple years. It is important to keep in mind that only a very small percentage of Title I participating school districts have schools identified as needing corrective action, the phase of NCLB when more punitive measures are mandatory. Under NCLB, a district can implement the more severe actions anytime a school has been identified, but does not have to do so until a school has been in the “needs improvement” category for several consecutive years.

Schools identified as in need of improvement received various types of assistance from their districts, state, and other sources (such as universities, regional educational laboratories, and local consortia), as shown in **Table 2-G**. Most districts provided their identified schools with school support teams and additional professional development. Far fewer districts provided distinguished teachers or a mentor for the principal.

Half of the districts with identified schools reported that they received special grants from the state to support improvement in those schools (there is a federal grant program for this purpose that goes to state departments of education). However, very few districts with identified schools received assistance from the state in the form of support teams or distinguished educators, although these services were required under both IASA and

Table 2-F District Actions Taken in 2002-03 for Title I Schools Identified for Improvement

ACTIONS TAKEN BY DISTRICTS	PERCENTAGE OF DISTRICTS WITH TITLE I SCHOOLS IDENTIFIED FOR IMPROVEMENT TAKING ACTION IN 2002-03
Notifying parents of improvement status	83%
Joint school improvement planning	65%
Requiring the implementation of a new research-based curriculum/ instructional program	55%
Providing students with public school choice, with transportation provided	47%
Extending the school day or year	38%
Providing students with supplemental education services (e.g., tutoring) from a state-approved provider	38%
Appointing an outside expert to advise the school	34%
Restructuring the internal organization of the school	13%
Reassigning or demoting the principal	9%
Replacing school staff who are relevant to the failure to make AYP	8%
Replacing all or most of the school staff	6%
Decreasing management authority at the school level	5%
State takeover	4%
Reopening the school as a public charter school	1%
Entering into a contract with a private management company to operate the school	1%
Other	15%

Table Reads: In 2002-03, among the districts with schools identified for improvement, an estimated 83% report taking action with identified schools by notifying parents of the schools' improvement status.

Note: Responses are listed in rank order. Respondent could list more than one action.

Source: Center on Education Policy, December 2003, District Survey, Item 13 (Table 5)

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Table 2-G Districts Reporting Types of Assistance Received from Various Sources by Schools Identified for Improvement in 2002-03

TYPE OF ASSISTANCE	PERCENTAGE OF DISTRICTS REPORTING THAT SCHOOLS IDENTIFIED FOR IMPROVEMENT RECEIVED ASSISTANCE FROM THE FOLLOWING SOURCES:			
	DISTRICT	STATE	OTHER SOURCE	NA/ASSISTANCE NOT PROVIDED
School support teams	66%	2%	4%	31%
Distinguished teachers	7%	8%	7%	69%
Special grants to support school improvement	17%	50%	14%	28%
Additional professional development or special access to professional development resources	77%	21%	19%	18%
Mentor or coach for the principal (e.g., distinguished principals)	17%	3%	0%	74%
Additional full-time school-based staff to support teacher development	22%	0%	1%	67%
Other	10%	0%	4%	55%

Table Reads: In 2002-03, among the districts with schools identified for improvement, an estimated 3% report that the state provided a mentor or coach for the principal of a school or schools in need of improvement in the district.

Source: Center on Education Policy, December 2003, District Survey, Item 14 (Table 6)

Table 2-H District Allocation of Resources to Strategies for Improving Identified Schools in 2002-03

IMPROVEMENT STRATEGY	PERCENTAGE OF DISTRICTS THAT ALLOCATED RESOURCES TO THE FOLLOWING EXTENT:				
	TO A GREAT EXTENT	SOMEWHAT	MINIMALLY	NOT AT ALL	DON'T KNOW
Improving the school planning process	53%	31%	7%	7%	3%
Increasing the use of student achievement data to inform instruction and school improvement	86%	8%	3%	0	3%
Increasing the quality and quantity of teacher and principal professional development	56%	32%	3%	4%	6%
Matching curriculum and instruction with standards and/or assessments	76%	18%	3%	0%	3%
Selecting and/or implementing a school reform model	29%	13%	27%	28%	3%
Selecting and/or implementing a new curriculum or instructional program	49%	24%	10%	14%	3%
Providing before- or after-school, weekend, or summer programs	40%	43%	4%	7%	6%
Creating new options or choices for parents and their students	9%	30%	11%	40%	11%
Using research to inform decisions about improvement strategies	63%	28%	3%	3%	3%
Restructuring the school day to teach core content areas in greater depth	26%	26%	15%	27%	7%
Hiring additional teachers to reduce class size	23%	11%	13%	47%	7%
Using specialists to deliver targeted instruction to groups of low-achieving students	38%	17%	12%	30%	4%
Increasing monitoring and district oversight	26%	37%	17%	16%	3%
Analyzing and revising the school budget/reallocating resources to support school improvement	22%	33%	10%	26%	9%

Table Reads: In 2002-03, among the districts that had schools identified for improvement under Title I, an estimated 33% report that they allocated resources somewhat to analyzing and revising the school budget/reallocating resources to support school improvement as a strategy for improving schools identified for improvement.

Source: Center on Education Policy, December 2003, District Survey, Item 15 (Table 7)



NCLB. Professional development was the most common sort of assistance provided to identified schools by sources other than the state or district.

Table 2-H shows that districts allocated resources to a wide variety of strategies to improve student performance at identified schools. Again, these included training and professional development for both principals and teachers, but also strategies such as using student achievement data and research to inform improvement strategies, matching curricula to assessments, and bringing in specialists to help with the instruction of low-achieving groups of students. Relatively few districts said that they implemented a school reform model and hired additional teachers to reduce class size or created new options for parents and students.

In our case studies we found numerous examples of how school districts are allocating resources to improve student performance. Nearly all of our case study districts reported that they had increased their professional development programs—for principals, teachers, and paraprofessionals. Mentoring programs of various types were often mentioned; examples include the Romulus Central Schools, New York, which uses retired teachers to mentor new teachers, and Escondido Union Elementary School District, California, which has a “literacy coaches” program aimed at teachers serving the district’s high number of English language learners.

The Calhoun County School District in Alabama, like many case study districts, has focused on ways to improve reading performance. Several of the districts’ Title I schools implemented a program called the Alabama Reading Initiative, which trained teachers and paraprofessionals in research-validated strategies for teaching reading. According to district officials, the results were quickly apparent in classrooms, and the district has no schools in improvement status.

Making more sophisticated use of data on student performance was also a common improvement strategy. Colorado Springs District 11, for example, uses performance data to target professional development on areas of greatest need. The Romulus, New York, schools have a training program to help teachers analyze and use test data. In an effort to prevent reading problems, Tigard-Tualatin School District in Oregon uses assessment teams to provide intensive progress checks for all students three times a year, and to make recommendations for immediate interventions. Joint School District #2 in Meridian, Idaho, collects extensive data on student achievement and gives it to teachers in easily understandable and useful form to improve instruction.

Several school districts, including the Waynesboro School District in Virginia, the Clark County School District in Nevada, and the Hermitage School District in Missouri, have emphasized preschool, early learning, and school readiness programs as a way to boost achievement. The 2003 test results for Hermitage, for example, exceeded state averages in both reading and math—an accomplishment the district attributes in part to the high attendance of children in its programs for three- and four-year-olds, funded by the state and by the federal Even Start program.

NARROWING THE ACHIEVEMENT GAP

Table 2-I shows that more than half of the districts in our nationally representative sample surveyed do not have enough children from ethnic and racial minority groups to be directly affected by the white/black, white/Asian, and white/American Indian achievement gaps for AYP purposes. The most frequently reported serious challenges are the achievement gap between students with disabilities and non-disabled students, between low-income students and other students, and between English language learners and

Table 2-1 Extent to Which Districts Consider Narrowing the Gaps in Test Performance Among Student Groups to Be a Challenge

STUDENT GROUP	PERCENTAGE OF DISTRICTS THAT CONSIDER NARROWING GAPS IN PERFORMANCE ON STATE ASSESSMENTS A CHALLENGE TO THE FOLLOWING EXTENT:						
	NOT A CHALLENGE	SMALL CHALLENGE	MODERATE CHALLENGE	SERIOUS CHALLENGE	N/A: NO GAP IN PERFORMANCE	N/A: SUBGROUP TOO SMALL TO TRACK	DON'T KNOW
White students vs. black students	14%	6%	12%	10%	4%	51%	3%
White students vs. Asian students	22%	6%	1%	2%	8%	58%	3%
White students vs. Hispanic students	13%	8%	13%	17%	4%	41%	3%
White students vs. Native American students	16%	8%	5%	3%	6%	57%	4%
LEP students vs. non-LEP students	6%	10%	17%	25%	2%	35%	4%
Students with disabilities (as defined under IDEA) vs. students without disabilities	5%	8%	16%	59%	3%	7%	3%
Low-income students vs. students who are not low-income	6%	12%	44%	25%	3%	7%	3%

Table Reads: Of districts that receive Title I funds, an estimated 10% consider narrowing the gap in performance between white and black students to be a serious challenge.

Source: Center on Education Policy, December 2003, District Survey, Item 18 (Table 9)



those who speak English as their first language. The achievement gap issue for English language learners is not as prevalent, however, as 35% of districts report not having a large enough group to track, compared with 7% of districts not having a large enough group of disabled students to track, and 7% not having enough low-income students.

The concern about the achievement gap problem with English language learners and students with disabilities is also present among state officials, as seen in **Table 2-B**. However, state officials did not express as much concern about the achievement gap problem with low-income students as did district officials. It should be noted that the questions asked of state and district officials were not the same: state officials were asked to predict what would happen in the future, whereas district officials were asked what they were most concerned about now. Nevertheless, **Table 1-B** in Chapter 1 shows that state officials believe that the achievement gap between low-income students and others is the most likely to become narrower. This difference in perceptions may be because state officials see the narrowing of this gap as more possible, especially when compared to the achievement gap problem with students with disabilities and English language learners, which many state and district officials see as simply impossible because of the way the groups are defined. The difference in perception may also be because district officials are closer to the classroom and have more day-to-day experience with learning challenges facing low-income students.

In our case studies, school officials seemed most eager to discuss the achievement gap difficulties they face with English language learners and students with disabilities. For instance, in the Wake County, North Carolina, school district, a large county-wide system with an enrollment of more than 100,000, a total of 19 schools did not make AYP in the 2003 testing because of the performance of ELLs or students with disabilities or both. Wake County has a relatively large percentage (18%) of students who are disabled, including some who are transported to schools other than their neighborhood school to be educated in self-contained classrooms. District officials expressed concern that in the future, these students may not be as welcome in other schools because of fear about the impact on the school's average achievement. District staff members are reviewing programs, strategies, inclusion practices, and the academic progress of disabled students to see where changes need to be made.

Conclusion

NCLB is a far-reaching law, the effects of which have only been felt for two years. The results of CEP's surveys indicate that, confronted with the onset of NCLB and its strict accountability requirements, state and local officials have reacted with both optimism and apprehension.

On one hand, state and local officials generally support the idea of accountability and the way in which NCLB focuses attention on the performance of subgroups. Many believe there will be an increase in overall student performance as a result of the law, as well as a narrowing of achievement gaps. On the other hand, there is deep concern about the feasibility of the goal of 100% proficiency by 2013-14, particularly for certain subgroups, such as English language learners and students with disabilities.

Over the next few years, the effects of NCLB are likely to be felt more deeply. First, as the annual AYP targets in each state increase incrementally as we approach 2013, educators may find it increasingly difficult to achieve AYP. Second, as schools and districts are identified as in need of improvement for multiple consecutive years, sanctions will



become more serious. Therefore, we may predict that the level of concern among state and local officials charged with actually carrying out the law may increase over the next few years. This level of apprehension may be offset if there are real increases in student performance, sufficient funding, public support for the law, and federal actions to change aspects of the law that are most troubling to state and district officials.

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CHAPTER 3

Public School Choice and Supplemental Education Services

Key Findings

Public School Choice

- Eighty-five percent of the states surveyed by the Center on Education Policy believe that the U.S. Department of Education is interpreting the public school choice provisions very strictly or moderately strictly, and 82% believe that the Department is interpreting the supplemental education services provision very strictly or moderately strictly.
- According to the Center's local district survey, 10% of school districts had Title I schools that offered choice as a result of NCLB in 2002-03, and 11% had schools that were offering choice in 2003-04. At the time of our survey, however, some states had not finalized their lists of schools identified for improvement for 2003-04, so not all districts knew whether their schools had to offer choice for this year.
- Although NCLB requires all Title I schools identified as needing improvement to offer public school choice, our district survey found that only about half of such schools (46% in 2002-03 and 51% in 2003-04) were offering choice. As explained below, districts are having problems implementing this provision.
- Generally speaking, more large districts and more urban districts have at least one identified school offering school choice under NCLB than do smaller districts or suburban and rural districts. In the 2003-04 school year, 87% of very large school districts reported having at least one school offering choice, compared with just 5% of small districts. That same year, 44% of urban districts had at least one school offering choice—a far greater share than the 11% of suburban districts or the 6% of rural districts with at least one school offering choice.
- Very few families have taken advantage of the school choice options of NCLB. Among students who were eligible for choice as a result of NCLB, only about 1%, on average, actually changed schools in school year 2002-03 and 2% did so in school year 2003-04.
- Most states report that school districts are facing logistical and capacity challenges in implementing the school choice requirements, particularly in rural areas. When school districts lack capacity in receiving schools for students who want to transfer, most districts seem to be opting to provide supplemental services instead of arranging for inter-district transfers, setting up mobile classrooms, or hiring more teachers.



Supplemental Education Services

- Compared with urban and suburban school districts, rural districts are at a disadvantage in implementing supplemental education services. Rural districts, on average, had just two approved supplemental service providers available to students in the district in 2002–03, while urban districts had six providers, on average, and suburban districts had five. Only 17% of the responding states (8 out of 46) surveyed by the Center said that approved providers were providing the same frequency, duration, and range of services to all areas of the state.
- More students seem to be taking advantage of supplemental services than public school choice. About 46% of students who were eligible to participate in supplemental services actually received them in 2002–03, while about 25% of those eligible actually received them in 2003–04. (At the time of our survey, not all states had identified schools in need of improvement for this school year, so the 2003–04 figure could end up being higher.)
- Forty-four states plus the District of Columbia have complied with the requirement to produce a list of approved supplemental service providers—up from the 15 states that had such lists in November 2002.
- Districts are struggling with a variety of logistical issues in arranging for supplemental services—from the complexities of negotiating contracts with providers to the difficulties of determining the exact cost of tutorial services.

Last year we reported that the NCLB public school choice and supplemental services options were not being widely used by parents. States were also late in releasing their lists of schools identified for school improvement, which greatly delayed the information that went out to parents about these options. School districts experienced difficulties in implementing choice, especially when they lacked space in receiving schools for transfer students or had few or no potential receiving schools in the district. Other obstacles hindered districts' implementation of supplemental services, including state delays in releasing lists of approved providers and a lack of approved providers within some local areas.

Districts are moving ahead to carry out choice. In 2003–04, the number of districts and schools offering choice and supplemental services increased, consistent with the rise in the number of schools identified for year one or year two of school improvement. Yet evidence collected by the Center this year suggests that problems with implementing these options persist. Although in some districts substantial numbers of parents have requested school transfers, more typically the percentage of eligible families taking advantage of choice remains very limited. The percentage participating in supplemental services, although higher, remains well below the number of students eligible. And logistical problems continue to complicate districts' implementation of these provisions.

Public School Choice

The No Child Left Behind Act requires Title I schools identified for improvement for the first year and subsequent years to give all students in these schools the option of transferring to a better performing school in the district. School districts that do not have adequate capacity at receiving schools can form cooperative agreements with other

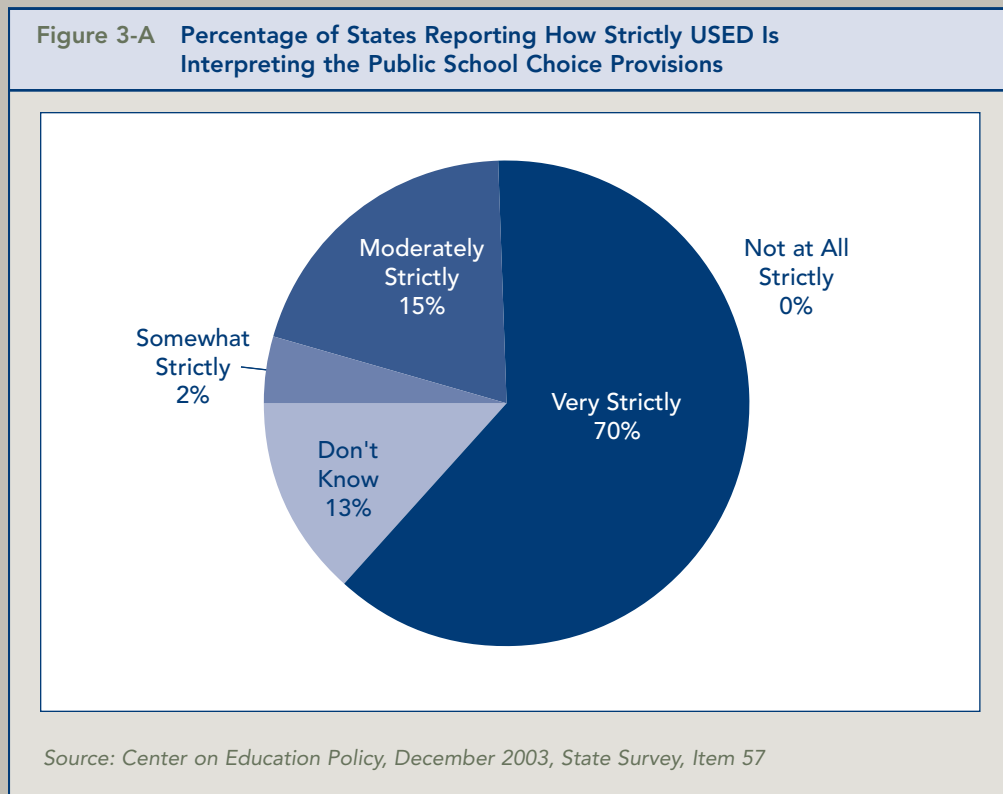
school districts that would enable students to transfer to schools in other districts, but inter-district transfers are not compulsory. Nor is there any incentive for another district to take transfer students unless the district is suffering from declining enrollment.

In some cases where choice is not feasible, schools identified for improvement for the first year may offer supplemental services. This was the case with many school districts, as we will explain in more depth later in the chapter. The Act specifically earmarks funds for providing transportation and other costs of carrying out the choice provisions.

Federal Actions

In the fall of 2002, public school choice was one of the first NCLB provisions that the U.S. Department of Education released guidance on—an indicator of the priority the Department placed on this provision. Unlike other components of NCLB that did not have final guidance until 2003 or are still awaiting a final rule, USED was quite serious about getting the public school choice provision underway early.

States have also observed that USED is taking these provisions seriously, as illustrated in **Figure 3-A**. Among the states responding to the state survey conducted by the Center on Education Policy, 85% (39 out of 46 states) indicated that they felt the Department was interpreting the public school choice provision moderately strictly or very strictly.





State and Local Implementation

Public school choice is mainly implemented at the local rather than the state level. Although we included questions about school choice in our state survey, most of the state responses are interwoven throughout this chapter with other evidence gathered from the school district survey and case studies. From this evidence, some trends have emerged about which districts and schools are most heavily affected by choice and which issues are having the greatest impact on implementation.

Total Percentage of Districts Offering Choice

Our survey asked states to estimate the percentage of their school districts that had schools that were offering public school choice in school year 2002–03 as a result of the No Child Left Behind provisions. The responses ranged from 0% of the districts in Florida and Michigan to 50% of districts in Maryland and 100% in Hawaii (an anomaly because Hawaii has only one school district). In the majority of states, less than 10% of their school districts had schools that were offering choice. This proportion is likely to grow, however, because the number of schools that did not make AYP for one or more years grew in school year 2003–04, totaling more than half the schools in some states and reaching as high as 76% of the schools in Florida. If even a portion of these schools do not make AYP for a second year, the numbers of schools offering choice will rise.

Data from our local survey of school districts, displayed in **Table 3-A**, are consistent with the state data. When asked whether they had any schools offering school choice under NCLB, 10% of the districts responding to our local survey reported having schools in this category in 2002–03, and 11% reported having such schools in 2003–04—in other words, the percentage held fairly steady between these two years. The 2003–04 figure is probably less definite, however, because at the time of our survey, some states had not yet finalized their lists of schools in need of improvement for 2003–04, so not all districts knew the status of their schools. Also, some districts were appealing the “needs improvement” designations of some schools and therefore did not know whether these schools would ultimately have to offer choice.

Percentage of Districts Offering Choice by Size and Type

Data from our local district survey also highlight which types of school districts, in terms of size and urbanicity, are most likely or least likely to have schools that are offering choice. We found that both district size and urbanicity influence the extent to which a district will have at least one Title I school offering choice. Our data revealed several patterns.

More large districts have schools identified for improvement—and therefore offering choice—than small or medium sized school districts. The data from our district survey were analyzed according to the size of the district, based on student enrollments. The four categories of school district size used in our analysis were small, medium, large and very large. (The student enrollment numbers for each category are explained in Appendix A of the report.)

When we analyzed the percentages of districts with schools offering public school choice according to the size of the district, a noticeable contrast emerged between the very large school districts and the small school districts. Generally speaking, the larger



the district, the more likely it is to have at least one school offering choice. In the 2003–04 school year, 87% of the very large school districts (those with enrollments of 37,741 or more) reported having at least one Title I school offering public school choice as a result of NCLB. (See **Table 3-A.**) By contrast, 5% of small districts reported having a school offering choice.

Some possible factors may explain this relationship between district size and the presence of schools required to offer choice. The larger the school district is, the more likely it is to have more students from a wide range of socioeconomic and demographic backgrounds, which means it will have more subgroups for which data must be disaggregated. Smaller school districts tend to have fewer children in a subgroup and may not meet the minimum cell size (the number of students that need to be present in a subgroup for the test results to be valid) for reporting subgroup data. As explained in greater detail in last year’s report, the more diverse a school district or school is, the more chances it has to be identified for improvement because of a subgroup failing to make AYP.

We also looked at changes in the percentage of districts with schools offering choice between 2002–03 and 2003–04. For two categories of districts—very large and large—the percentage of districts that reported having a school that offered choice went up during this time, as **Table 3-A** illustrates. But for medium-sized school districts, the percentage went down—from 20% of medium districts in 2002–03 to 12% in 2003–04.

More urban school districts have at least one school offering choice than do suburban or rural districts. Results from our district survey show that a greater proportion of urban school districts than of suburban or rural districts have at least one Title I school offering choice under NCLB. In our survey sample, 44% of urban school districts had Title I schools offering choice in school year 2003–04—four times the proportion of suburban districts with choice schools (11%) and nearly eight times the proportion of rural school districts with choice schools (6%). (See **Table 3-A.**) Only a very small proportion of rural districts had at least one school offering choice in either of the school years studied: just 5% in 2002–03 and 6% in 2003–04.

As with very large and large school districts, urban school districts are more likely to have a diverse mix of students, including more racial-ethnic groups, more English language learners, and more low-income students—in other words, to have more subgroups that could fall short of making AYP. Furthermore, the subgroups in urban schools tend to be large enough to meet the minimum cell size.

Percentage of Schools Offering Choice by District Size and Type

In our local survey, we also asked districts how many Title I schools within the district offered school choice as a result of NCLB. Their responses were then compared with the total number of Title I schools in the districts that had been identified for school improvement, to arrive at a percentage of “improvement” schools that were actually offering choice. Overall, an estimated 46% of improvement schools in all districts offered choice in 2002–03, and 51% did so in 2003–04. (See **Table 3-B.**) As noted above, this year’s number is not as definitive, because at the time of our survey, some districts had not been notified which of their schools were in need of improvement.

Since the law states that all schools in their first or later years of improvement should be offering choice, one might wonder why these percentages are not close to 100%. As discussed in more detail below, however, many districts are having difficulties

Table 3-A Percentage of Districts with At Least One School Offering School Choice Due to NCLB, by District Type and District Size

	2002-03	2003-04
	PERCENTAGE OF DISTRICTS WITH SCHOOLS OFFERING PUBLIC SCHOOL CHOICE	PERCENTAGE OF DISTRICTS WITH SCHOOLS OFFERING PUBLIC SCHOOL CHOICE
TOTAL (all districts)	10%	11%
DISTRICT TYPE		
Urban	40%	44%
Suburban	13%	11%
Rural	5%	6%
DISTRICT SIZE		
Very Large	53%	87%
Large	46%	48%
Medium	20%	12%
Small	4%	5%

Table Reads: In 2002-03, an estimated 5% of rural districts had schools that were offering school choice. The following year, in 2003-04, 6% of rural districts had schools that were offering choice.

Source: Center on Education Policy, December 2003, District Survey, Items 22, 28 (Table 12)

implementing choice because they have few or no receiving schools or lack physical capacity in potential receiving schools. So this could explain why a portion of identified schools in all districts are not offering choice. This explanation is also consistent with the interesting patterns that emerge when one analyzes these data by district size and type. It could also be that some districts are choosing not to comply with the NCLB choice requirement. However, our survey did not ask districts why only some of their identified schools were offering choice, so we can only speculate.

Higher percentages of schools identified for improvement in very large, large, and medium-sized school districts offer choice than in small school districts. As shown in **Table 3-B**, well over half of the improvement schools in very large, large and medium-sized school districts offered choice in 2002-03 and 2003-04. In very large districts, the share of identified schools offering choice was 65% in 2002-03 and 69% in 2003-04. In small districts, by contrast, 19% of identified schools offered choice in 2002-03 and 18% in 2003-04. In other words, many more schools identified for improvement in the three larger categories of school districts were offering choice than in small districts. This low percentage in small districts could be a reflection of the lack of receiving schools.

More identified schools in suburban and urban school districts offer public school choice than do identified schools in rural districts. In the 2002-03 school year, 47% of the improvement schools in urban districts and 51% of the improvement schools in suburban districts offered choice; in rural districts, the comparable figure was just 29%. (See **Table 3-B**). In 2003-04, the percentages of schools offering choice were 55% in urban districts, 58% in suburban districts, and 23% in rural districts.



Student Participation in Choice

Although many students are eligible for public school choice as a result of NCLB, evidence from our state survey, district survey, and district case studies indicates that few students are actually taking advantage of the option. Later in this chapter, we explore some of the reasons why public school choice may be so underutilized.

Only about 1% of eligible students transferred schools in the 2002-03 school year and 2% transferred in the 2003-04 school year. Among districts with schools required to offer school choice, the average percentage of students in the district who were eligible to change schools was 16% in 2002-03 and 12% in 2003-04, as displayed in **Table 3-C**. This drop in the proportion of eligible students in 2003-04 could be due to not all states having final lists of schools identified for improvement. Out of these students who were eligible to change schools, the average percentage who actually transferred schools was about 1% in 2002-03 and 2% in 2003-04.

Our case studies of local school districts also revealed minimal use of choice. For example, in the Oakland Unified School District, even though the Oakland City Transit System provided free bus tickets for the children who needed transportation to another school, only 168 students out of a possible 20,000 eligible students transferred in 2002-03. In the Clark County School District (Las Vegas), Nevada, 6,000 parents were notified of their child's eligibility to transfer to a school not identified for improvement in 2002-03, but only 130 students actually transferred. **Table 3-D** displays data from selected case study districts about the numbers of students eligible to transfer and the numbers actually changing schools.

School district officials in our case studies generally expressed the belief that parents are reluctant to take their children out of their home schools and prefer to support the improvement efforts occurring in these schools rather than change schools. In Bayonne, New Jersey, only 50 students of about 2,200 eligible changed schools due to the NCLB choice provisions in 2002-03. District staff members see this as an indication that parents in this neighborhood-oriented city prefer their neighborhood schools and want to keep their children close to home. The Cleveland Municipal School District, another case study district, is now moving to neighborhood schools, a philosophy that parents support, after years of busing for desegregation purposes. District officials attribute the low level of participation in choice to the fact that parents want to keep children in their home schools, where they feel comfortable.

Similarly, the Colorado Springs District 11 in Colorado attributes the small number of transferring students in the school district to parents wanting to keep their children in the neighborhood school. Officials at the Grant Joint School Union High School District also note that immigrant families preferred to keep their children close to home in safe and familiar neighborhoods.

With so few students transferring, school districts are finding that the 20% set-aside of Title I funds is adequate to provide transportation for public school choice and supplemental services to all students who request services. According to our district survey, 99% of the responding districts that had schools identified for improvement indicated that the 20% set-aside was not a challenge to the successful implementation of the NCLB choice provisions.

Table 3-B Percentage of Identified Schools Offering Public School Choice as a Result of NCLB in 2002-03 and 2003-04, by District Type and District Size

	2002-03	2003-04
	PERCENTAGE OF IDENTIFIED SCHOOLS OFFERING CHOICE WITHIN STRATA	PERCENTAGE OF IDENTIFIED SCHOOLS OFFERING SCHOOL CHOICE WITHIN STRATA
TOTAL (all districts)	46%	51%
DISTRICT TYPE		
Urban	47%	55%
Suburban	51%	58%
Rural	29%	23%
DISTRICT SIZE		
Very Large	65%	69%
Large	52%	82%
Medium	82%	67%
Small	19%	18%

Table Reads: In 2002-03, an estimated 46% of Title I schools that were identified for improvement were offering school choice. The following year, in 2003-04, an estimated 51% of such schools were offering choice.

Source: Center on Education Policy, December 2003, District Survey, Items 23, 29 (Table 13)

Table 3-C Average Percentage of Students Eligible for NCLB School Choice and Average Percentage of Students Who Changed Schools

AVERAGE PERCENTAGE OF ALL STUDENTS WHO WERE ELIGIBLE TO CHANGE SCHOOLS IN SURVEY DISTRICTS		AVERAGE PERCENTAGE OF ELIGIBLE STUDENTS WHO CHANGED SCHOOLS IN SURVEY DISTRICTS	
2002-03	2003-04	2002-03	2003-04
16%	12%	1%	2%

Table Reads: In 2002-03, among districts that had schools offering choice, the average percentage of students who were eligible to change schools was 16%. In that same school year, 1% of eligible students changed schools.

Source: Center on Education Policy, December 2003, District Survey, Items 24, 30 (Table 14)

Table 3-D Use of School Choice in Selected Case Study Districts

STATE	SCHOOL DISTRICT	ELIGIBLE STUDENTS	PARTICIPATING STUDENTS
CALIFORNIA	Escondido Union Elementary School District	1,500 (2002-03)	180 (2002-03)
		N/A	N/A
CALIFORNIA	Oakland Unified School District	20,000 (2002-03)	168 (2002-03)
		40,000 (2003-04)	207 (2003-04)
COLORADO	Colorado Springs District 11	3,144 (2002-03)	72 (2002-03)
		1,640 (2003-04)	75 (2003-04)
FLORIDA	Collier County School District	none	
		1,500 (2003-04)	56 (2003-04)
IDAHO	Joint School District #2-Meridian	2,000 (2002-03)	0 (2002-03)
		500 (2003-04)	0 (2003-04)
ILLINOIS	Chicago Public Schools	26,000+ (2002-03)	1,165 (2002-03)
		270,000 (2003-04)	1,097 (2003-04)
KANSAS	Kansas City Public Schools	4,500 (2002-03)	127(2002-03)
		N/A	59 (2003-04)
MASSACHUSETTS	Boston Public Schools	18,768 (2002-03)	45 (2002-03)
		N/A	70 (2003-04)
NEVADA	Clark County	6,000 (2002-03)	130 (2002-03)
NEW JERSEY	Bayonne School District	2,200 (2002-03)	50 (2002-03)
OHIO	Cleveland Municipal School District	1,200 (2002-03)	27 (2002-03)
SOUTH CAROLINA	Berkeley County School District	2,456 (2003-04)	112 (2003-04)

N/A: Not Available

Source: Center on Education Policy, December 2003, District Case Studies

Current Issues, Problems, and Obstacles

Since January 2003, stories in newspapers from around the country have indicated that the implementation of the NCLB choice provisions is fraught with problems relating to transportation, transfer options, and just poor overall planning. In Baltimore, for example, school officials indicated that school buses are unreliable; as one principal said, “I have to work with the parents, and we’re grateful to the parents for getting the students here and [we] try to make other arrangements with cab service to get the other children here” (Fields, 2003). In Chicago, Mayor Richard Daley made a statement at a national conference that the law was creating a logistical nightmare (Rossi, 2003).

These types of problems were confirmed by our state surveys, district surveys, and district case studies. Based on this evidence, we have identified several issues affecting implementation of the public school choice provisions of NCLB.

Numbers of Receiving Schools

Evidence collected by the Center indicates that districts are struggling with the quality and quantity of receiving schools—better-performing schools to which students attending schools identified for improvement can transfer. This problem is most dramatic in districts with high numbers of low-performing schools and in rural school districts.

Table 3-E Numbers of Schools in Districts Offering NCLB School Choice and Average Number of Schools Available to Receive Student Transfers

	2002-03
NUMBER OF SCHOOLS OFFERING CHOICE	AVERAGE NUMBER OF SCHOOLS AVAILABLE TO RECEIVE STUDENT TRANSFERS
One school	3
2 – 3 schools	3
4 – 5 schools	3
More than 5 schools	2

Table Reads: In 2002-03, districts with one school offering NCLB choice had an average of three receiving schools available to receive student transfers.

Source: Center on Education Policy, December 2003, District Survey, Items 23, 29 (Table 13a)



Our district survey shows that on average, districts with more low-performing schools have fewer receiving schools for students to attend than do districts with fewer low-performing schools. **Table 3-E** illustrates this relationship. In the 2002-03 school year, a district with one school in school improvement had, on average, three receiving schools available for students who wished to transfer, while districts with more than 5 schools in school improvement had, on average, only two schools available for transfer students.

Rural schools and districts, in particular, are having difficulties finding receiving schools because they have so few schools altogether and the schools they do have tend to be far apart. Seventy-seven percent (37 out of 48) of the states that responded to our state survey indicated that certain areas of the state—most often rural areas—were facing challenges in implementing accountability requirements. Several states, including Delaware, Florida, Louisiana, Nebraska, Ohio, Oregon, South Dakota, and Wisconsin, indicated that many rural districts have only one school per grade configuration. Nebraska noted that 90% of its school districts do not have multiple buildings at any grade level. Iowa indicated that only 8 of its 371 school districts have more than one high school, which is also the case for many of the state's elementary and middle schools. And Maine reported that only one district in the state has more than one high school.

Information from the case studies corroborates some of the problems with receiving schools in rural areas or in districts that cover a large geographic area. In school year 2002-03, for example, the only two elementary schools in the Fort Lupton Weld Re-8 School District, Colorado, were required to offer choice, so there were no eligible receiver schools within the district. The district offered to provide transportation for students to attend schools in a neighboring district, but no parents chose to send their children to the other district, which was several miles away.

Collier County School District in Florida is a county-wide district that covers a large expanse of southwestern Florida and contains both urban and rural sections. One high school and one elementary school in Immokalee, a rural part of the district with a large population of immigrant agricultural workers, were required to offer choice for school year 2003-04. The elementary school students had two other schools within reasonable distances to choose from, but the only available receiving high schools were in the city of Naples, a 60 to 90 minute bus ride away.

Currently, this problem of receiving schools in rural areas has not come to a head because a relatively small percentage of rural schools has been identified for improvement and must offer school choice—as noted earlier, about 6% of rural school districts in 2003-04. As the No Child Left Behind Act moves toward testing more students in more grades, more schools are likely to be identified for improvement, and the proportion of rural districts that must offer choice is likely to increase. In this situation, the problem of insufficient options for receiving schools is likely to impact more children and more schools.

School Capacity

Many school districts also struggle with not having enough space in receiving schools to accommodate all of the students who are eligible to transfer. Many large urban and suburban school districts with low-performing schools find that the supply for choice does not meet the demand. Either there are not enough better-performing schools that students can transfer to or the schools that are available have reached their capacity of the number of students they can physically accommodate.



Perhaps one of the most dramatic cases occurred in the Chicago Public Schools (CPS). As illustrated in our case study, CPS did not have enough seats in better-performing schools to accommodate the large numbers of eligible applicants. In school year 2003-04, 270,000 students were eligible to transfer. An estimated 19,000 applications were received for students who wished to transfer, but because of limited capacity the district could only set aside 1,100 seats. CPS used a lottery system to select students for the available seats. Of the eligible students, 1,097 were offered the opportunity to transfer schools in 2003-04. CPS has been criticized for creating a lottery system, but district officials assert that the time, money, and manpower devoted to implementing choice could be better spent on other interventions.

In the Center's state survey, we asked states whether their school districts had capacity issues that limited the number of receiving slots available to students who wished to transfer for the 2002-03 school year. Of the responding states, 73% (33 out of 45) reported that their districts had capacity issues related to choice.

Districts responding to our survey ranked class size limits in potential receiving schools and a lack of physical space to receive transferring students as the second and third most serious challenges they faced in implementing choice, right after delays in identifying schools. As shown in **Table 3-F**, 28% of districts felt that class size limits were a serious challenge to carrying out choice, and 26% felt that lack of physical space was a serious challenge.

States noted that providing supplemental education services in lieu of choice is the solution most often used by school districts where transfers within the district are not feasible (See **Table 3-G**). In the 2002-03 school year, 44% (14 out of 32) of the responding states in this category indicated that districts with capacity issues offered supplemental education services in this situation. This number rose dramatically to 60% (21 out of 35) of responding states when asked the same question for the 2003-04 school year. Our district survey confirms these findings, as discussed in more detail in the next section on supplemental education services. Few states said that their districts were using other alternatives mentioned in the USED guidance as possible solutions to capacity problems, such as arranging for inter-district transfers, setting up mobile classrooms, creating charter schools, or hiring more teachers.

Offering supplemental services when capacity issues arise is a logical solution for school districts. USED's non-regulatory guidance allows districts to exercise this option under certain circumstances. Also, funds for these services are earmarked in Title I, so districts have resources to pay for the services. Our state survey also indicated that districts did not pursue more expensive options to increase capacity, such as creating charter schools. This finding may not be surprising, considering the newness of the law and the amount of effort involved in creating a school, as opposed to hiring additional teachers or simply expanding class size.

Communication with Parents

Because of the low numbers of students participating in the choice option, some parents and advocates have charged that many parents are not receiving information soon enough or in an appropriate form to allow them to make decisions about transfer.

Several officials whom we interviewed in the U.S. Department of Education asserted that the low rates of participation in choice are partly due to poor outreach to and communication with parents by states and districts. They contend that school officials have a vested interest in persuading parents that their children are better off in their current schools.

Table 3-F Challenges to District Efforts to Implement the NCLB Choice Provisions in 2002-03

ISSUE	PERCENT OF DISTRICTS REPORTING THAT, IN AN EFFORT TO IMPLEMENT THE NCLB CHOICE PROVISIONS, THE FOLLOWING ISSUES WERE:			
	NOT A CHALLENGE	SMALL CHALLENGE	MODERATE CHALLENGE	SERIOUS CHALLENGE
Schools were not identified for improvement prior to the start of the school year, delaying district efforts to notify parents of the school choice option	37%	17%	11%	34%
The district was not able to provide adequate information to parents about the public school choice option	72%	15%	12%	1%
Class size limits prevented the district from offering alternate schools for eligible students to attend	45%	10%	17%	28%
All potential receiving schools in the district were identified for improvement	88%	1%	11%	0%
District had only one receiving school at the grade span of the school identified for improvement	81%	7%	6%	6%
Receiving schools lacked the physical space to accept transfers	47%	14%	14%	26%
An amount equal to 20% of the district's Title I allocation was not adequate to provide transportation to all students who requested transfers to alternate schools or fulfill all requests for supplemental services	99%	1%	0%	1%
Inability to negotiate agreements with other districts to receive students who wish to transfer	81%	11%	0%	8%
Inability to meet the needs of special education students in alternate schools	84%	12%	1%	3%
Inability to meet the needs of limited English proficient students in alternate schools	91%	1%	1%	8%

**Percentages may not add up to 100 due to rounding*

Table Reads: In 2002-03, an estimated 34% of districts with schools required to offer school choice reported that a "serious challenge" to their efforts to implement the NCLB choice provisions was the fact that schools were not identified for improvement prior to the start of the school year, delaying district efforts to notify parents of the school choice option. Conversely, 37% of districts with schools required to offer school choice reported that the issue of schools not being identified for improvement prior to the start of the school year was "not a challenge" to district efforts to implement the NCLB choice provisions.

Source: Center on Education Policy, December 2003, District Survey, Item 33 (Table 16)

Table 3-G Number of States Reporting Actions Taken by School Districts When Capacity Issues Prevented Districts from Offering NCLB Public School Choice 2002-03 and 2003-04

SCHOOL YEAR 2002-03

	TO A GREAT EXTENT	MODERATELY	MINIMALLY	NOT AT ALL	DON'T KNOW
Exceeded class size mandates	0	2	6	11	14
Created charter schools	0	1	1	24	7
Added more teachers to receiving schools	0	1	9	9	14
Added mobile classrooms (and teachers) to receiving schools	0	0	4	16	13
Negotiated agreements with other school districts to receive students who wished to transfer	0	0	4	16	10
Offered supplemental education services	5	5	4	8	10
Other (Specify):				1	2

SCHOOL YEAR 2003-04

	TO A GREAT EXTENT	MODERATELY	MINIMALLY	NOT AT ALL	DON'T KNOW
Exceed class size mandates	1	1	6	10	17
Create charter schools	0	2	2	19	12
Add more teachers to receiving schools	1	2	12	4	16
Add mobile classrooms and teachers to receiving schools	0	1	6	11	17
Negotiate agreements with other school districts to receive students who wish to transfer	0	0	7	13	13
Offer supplemental education services	6	9	6	5	9
Other (Specify):				1	1

Source: Center on Education Policy, December 2003, State Survey, Items 18 and 19



As regards the timeliness of the parent notifications, districts assert that they cannot notify parents sooner because they are not receiving information from the state in a timely manner about which schools are in school improvement status. USED officials also recognized in our interviews that this has been a problem, and our district survey backs up this contention. An estimated 45% of school districts responding to our survey felt that their efforts to notify parents were seriously or moderately hindered because schools had not been identified by the start of the school year. In Nevada, for example, there were problems with the testing company, and the first set of scores was determined to be invalid. Schools were not notified until September 2003, which delayed the efforts of the Clark County School District to notify parents.

Responsibility for other problems with parent notification may lie with the districts. While not all districts may be communicating with parents effectively, our case studies and other research show that districts have undertaken a variety of means, including some innovative approaches to getting information to parents about the NCLB choice option. The Collier County, Florida, district notified parents by mail, and the letters were sent out in three different languages. The district also published announcements in the newspapers and broadcast them on the Spanish language radio station and the cable TV channel reserved for educational use. Flyers were also posted throughout the community.

Many districts have translated letters into other languages. But in districts with many language groups, such as Grant Joint Union High School District in California, where 69 different languages are spoken by the students, translating information into all languages is nearly impossible. This is not an isolated issue; many other school districts have numerous language groups.

In a national effort to improve the dissemination of information to parents about the NCLB choice and supplemental services provisions, USED awarded a total of \$1.3 million in federal grants in October 2003 to three national organizations: the Black Alliance for Educational Options, the Hispanic Council for Reform and Education Options, and the Greater Educational Opportunities Foundation. These groups will focus on cities with large low-income and minority communities and will provide parents in these communities with information on the choice and supplemental education service options under NCLB (Reid, 2003). The Department also awarded a Parent Information Resource Center grant of \$1.8 million over two years to a Washington, D.C.-based, advocacy group that strongly supports choice, the Center for Education Reform. This group will help to provide outreach to parents in Florida, Georgia, South Carolina, and North Carolina (Center for Education Reform, 2003).

Logistical Arrangements

Some school districts have logistical issues that hinder their ability to make public school choice available to eligible students. Transportation is one such issue, particularly the distance between schools in rural and remote areas. In answer to an open-ended district survey question about the NCLB requirements that respondents would change or eliminate, some district officials said they would like to eliminate the school choice provision because of the high cost of transporting students to their school of choice. Examples of their comments:

Eliminate the need to provide school choice for parents in failing schools . . . Transporting children to other schools will take away dollars from schools that need the money to help students.

Eliminate the transportation requirements for students going to other school districts . . . it is not practical.



Administrators who responded to our state survey or participated in our district case studies noted that transportation issues become heightened in rural and remote areas, where students may have to take non-traditional modes of transportation to get to another school. Two extreme situations occur in two states. Alaska state officials indicated that in some school districts there are no roads to access other schools. Officials in Kodiak Island Borough School District, Alaska, a case study district comprising small villages on different islands, pointed out that students in some of its village schools could exercise choice only by getting on an airplane to fly to another island. Hawaii state officials noted that there were “no receiving schools within a reasonable traveling distance” in some cases, and choice would require a plane trip.

Issues to Watch Concerning Choice

Characteristics of Students Who Transfer

States were also asked about the demographic and educational characteristics of students who changed schools in 2002-03 due to the NCLB choice provisions. Forty-one states, or 85% of responding states, indicated that they did not have demographic information on these students. Although states are required to report these data to USED, their responses suggest that state data collection processes are still in development. It will be easier in future years to look at the trends since states are now required to report this information to USED in their consolidated application.

Little Effect Experienced

A few states responded that there are no challenges in implementing choice thus far. For example, New Hampshire observed that only a limited number of its schools had been identified as needing improvement—not enough for districts to have faced problems implementing choice. North Carolina noted that only a few schools have been identified for improvement, and the number of students choosing to transfer has been too small to draw accurate assumptions at this time. Although some states and their school districts have not encountered problems thus far, it will be important to monitor what is happening in states and districts that have encountered problems. This could help the states and districts that have few schools identified for school improvement in the future if their numbers of schools in need of improvement increase. It could also define where legitimate problems are with the choice provisions in NCLB and point to areas where the law or regulations may need to be amended or revised.

Unsafe School Choice

As part of the parental choice options of the No Child Left Behind Act, students who attend schools that have been labeled persistently dangerous or who have been victims of violent crimes in a school now have the option to transfer to a safer school. Under this new provision, states are required to:

- Establish a “State Unsafe School Choice Option” policy;
- Identify persistently dangerous schools;
- Identify types of offenses that are considered to be violent criminal offenses;

- Provide a safe public school choice option; and
- Certify compliance with the Unsafe School Choice Option.

On June 16, 2003, USED issued a notice of final deadlines for implementing the Unsafe School Choice Option. The June 16th notice established that states must identify schools in enough time to allow school districts to notify students of their option to transfer. Students who were in schools that had been identified as persistently dangerous must have been given the opportunity to transfer 14 calendar days before the start of the 2003-04 school year. The 14-day deadline will be the same for all years following 2003-04.

All of the states' Unsafe School Choice Option policies were submitted to and approved by USED. In the consolidated applications that states submitted to USED in September 2003, states included the number of schools that were labeled persistently dangerous. According to these state numbers, only six states (Nevada, New Jersey, New York, Oregon, Pennsylvania, and Texas) identified any schools as persistently dangerous. These numbers were current as of September 30, 2003, and could have been updated since then. The remaining states reported no unsafe schools.

As shown in **Table 3-H**, only 54 schools in the nation were identified as persistently dangerous. Philadelphia alone had as many persistently dangerous schools as the rest of the nation combined—more of a commentary on the differences in states' criteria for determining these schools than on the safe or unsafe conditions in that city relative to other cities (Robelen, 2003). As an example, the entire state of California, the most populated state with its share of major urban areas, had no persistently dangerous schools.

Table 3-H Number of Schools Identified as Persistently Dangerous by State

STATE	NUMBER OF SCHOOLS IDENTIFIED
Nevada	8
New Jersey	7
New York	2
Oregon	1
Pennsylvania	28
Texas	6

*Puerto Rico, not included in our report, also reported 9 unsafe schools.

Source: U.S. Department of Education, 2003 State Consolidated Applications



Critics have charged that the thresholds set by some states to determine persistently dangerous schools are so rigid as to make the likelihood of identifying schools slim. An article in the *New York Times* dated September 28 explored this contention by examining Colorado's policy (Dillon, 2003). A school with 1,000 students must have 180 offenses, which can range from weapons violations to felonies like assaults and homicides, for two consecutive years in order to be labeled persistently dangerous. If the school has 179, it will not qualify as a dangerous school. Some skeptical observers have suggested that states have fashioned their criteria to keep numbers low, so as not to alarm parents.

Supplemental Education Services

Federal Actions

As described in last year's report, supplemental education services include tutoring or similar types of assistance for low-income students in Title I schools that have not made adequate yearly progress for three or more consecutive years. These services can be purchased from state-approved public or private service providers using federal dollars.

Non-Regulatory Guidance

In last year's report, we noted that the U.S. Department of Education had taken little action to date concerning supplemental education services. Whereas draft guidance on the public school choice provisions of NCLB had been issued during school year 2002-03, USED had not released similar guidance for supplemental education services. A "Dear Colleague" letter sent to the chief state school officers from Secretary Paige served as the only guidance to help states and school districts implement supplemental services in school year 2002-03.

On August 22, 2003, the Department published the long-awaited final non-regulatory guidance for supplemental education services. (Preliminary guidance was issued in August 2002.) Much of the information contained in this guidance is a repeat of the statute; however, the guidance does clarify many questions that had perplexed states and districts during the preceding school year. This non-regulatory guidance expands on the responsibilities of states and school districts as regards supplemental services. It gives USED's interpretation of how to address certain areas that were not clear from reading the law and elaborates on other points of the statute. Among the issues clarified by the guidance are the following:

STATE-APPROVED SERVICE PROVIDERS

States must develop an approved list of service providers that describes the services, qualifications, and demonstrated effectiveness of each provider approved by the state to offer supplemental education services. Providers can be for-profit, nonprofit, public, or private school entities; educational agencies; public or private institutions of higher education; or faith-based groups.

Individuals or groups of individuals can be approved as service providers if they organize as a nonprofit or for-profit entity and meet the applicable statutory requirements. Providers that operate independently of the school may provide services on the



location of a school that has been identified for improvement if they meet the requirements of the law.

States must grant only full approvals to qualified providers, rather than provisional or time-limited approvals. For example, a state cannot conditionally approve a provider for one-year. The state list of approved providers must be updated at least once a year. States must enforce federal civil rights requirements for providers who receive federal funds for purposes other than supplemental education services. So if a provider receives funds to provide supplemental education services but received no other federal dollars, it is exempt from federal civil rights requirements. There are exceptions, however, relating to provisions of the Americans with Disabilities Act and requirements for anti-discriminatory hiring practices in the Civil Rights Act of 1964. If a provider directly receives funds for another purpose and also provides supplemental services as part of NCLB, it is subject to federal civil rights requirements.

EVIDENCE OF PROVIDER EFFECTIVENESS

The guidance reiterates the requirement in the law that supplemental service providers have a “demonstrated record of effectiveness,” with states determining what constitutes suitable evidence that this requirement has been met. However, the guidance encourages states to take a “flexible approach in determining effectiveness” to give parents as many choices as possible. This statement could be viewed as encouraging states to put more emphasis on expanding the pool of providers than on ensuring those on the list are effective, a policy that appears to weaken the effectiveness requirement. It could also be interpreted that the term “effectiveness” is so vague that it could be defined in several ways by parents, and USED wanted to keep things as flexible as possible.

SERVICES TO STUDENTS WITH DISABILITIES AND ENGLISH LANGUAGE LEARNERS

States must ensure that supplemental services provided to students with disabilities and English language learners are appropriate. If providers are not equipped to serve these students, the school district must either provide appropriate services itself with the necessary accommodations or arrange to provide these services through a contract with a provider who can deliver appropriate service. Although school districts can generally be approved as supplemental service providers, those districts that have been identified for improvement are not allowed to provide supplemental services. However, if no approved provider qualifies, these districts can provide supplemental services to students with disabilities and/or English language learners who require special accommodations or services directly or through a contractor. USED prefers, however, that in this situation a contractor be the provider.

MONITORING PROVIDER SERVICES

The state must develop a technique for monitoring the quality, performance, and effectiveness of services offered by providers. Providers can use either their own assessment or a standardized assessment given by the district or state to measure student academic progress.

ROLE AND RESPONSIBILITIES OF SCHOOL DISTRICTS

School districts have several responsibilities related to supplemental services. They must notify parents about the availability of services; help parents choose providers if



they need help; determine which students can receive services if the resources do not allow all low-income students to be served; enter into an agreement with the provider selected by the parents; assist the state in identifying providers within the school district; provide information that the state needs to monitor the quality and effectiveness of services; and uphold the privacy of students receiving services from providers. Neither the school district nor the providers can release the names of students participating in services unless the parents grant written consent. The guidance specifies ways in which districts and providers can ensure the privacy of students.

STUDENT ELIGIBILITY

The guidance also elaborates on which students are eligible for supplemental services within those schools that have been identified for improvement. Eligibility is determined by a student's income and whether they are receiving Title I services, not by whether the student belongs to a subgroup that does not make AYP. In schools with a Title I schoolwide program, all low-income students are eligible for supplemental services, but in schools with a Title I targeted assistance program, only low-income students who are actually receiving Title I services are eligible.

DEALING WITH PROVIDER ISSUES

The non-regulatory guidance suggests that services be provided until the end of the school year or until funds are exhausted. It also cautions that parents should be informed of and agree to the duration of services.

HIGH DEMAND FOR A PROVIDER

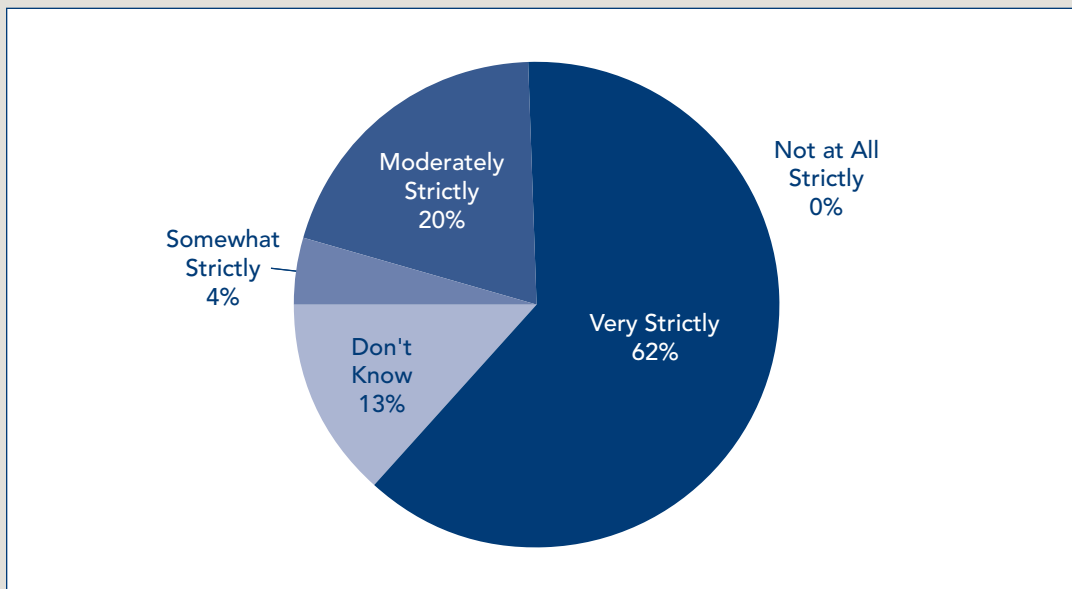
In cases where too many parents demand a particular provider, school districts should establish procedures for selecting students, giving priority to the lowest-achieving eligible children. If no providers are available within the geographic region and if the school district itself cannot provide services, the district can request an exemption from part or all of the supplemental services provisions. If e-learning, online, or distance learning technologies are an option for the school district, the district requesting an exemption must explain why it is unable to use these avenues to provide supplemental services. If granted an exemption, the district must reapply each time the state updates its approved provider list.

ROLE OF PARENTS

The role of the parents of students eligible for supplemental services is threefold. Parents should:

- Select the service provider that they want to deliver services to their child from the state-approved list of providers. (Parents may request the help of the district.)
- Ensure that their child is attending supplemental education sessions.
- Monitor their child's academic achievement and progress toward the instructional goals set in collaboration with the provider.

Figure 3-B Percentage of States Ratings of How Strictly USED Is Interpreting Supplemental Education Services Provisions in the NCLB Law



Source: Center on Education Policy, December 2003, State Survey, Item 57

PROVIDING SERVICES BEFORE THE SECOND YEAR OF SCHOOL IMPROVEMENT

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If a school district cannot provide public school choice and opts to provide supplemental services to schools in their first year of school improvement, it does not have to abide by all of the requirements in the law regarding supplemental services, such as the requirement that only low-income students can be offered supplemental services.

PROVIDING SERVICES TO AT-RISK STUDENTS WHO ARE NOT LOW-INCOME

If a school district elects to provide supplemental services to students who are at risk of not meeting the academic achievement standards but do not qualify based on the family income criteria, the district may not count funds used for this purpose against the 20% set-aside for choice and supplemental services.

State and Local Implementation

In this year's state survey, states were asked how strictly they felt USED is interpreting the supplemental education services provision. About 82% (37 out of 45) of state respondents said they felt the U.S. Department is interpreting this provision moderately strictly or very strictly (See **Figure 3-B**). This may explain why state compliance with the supplemental service requirements has gone up since last year, as explained below.



Approved Service Providers

In fall 2002, we reported that 15 states had a list of approved supplemental education service providers, whereas all states were required to have their lists at that time. Most states were waiting on final regulations and guidance from USED or were still involved in determining whether providers met the criteria, and some states did not take much action because they had no schools in the second year of school improvement. By fall 2003, the situation had improved; according to data from the Education Commission of the States (2003), it appears that 44 states and D.C., by that time, had developed their approved lists of service providers. With additional time and with more schools entering the second year of school improvement, more states complied with this requirement.

According to data from the U.S. Department of Education, there are more than 1,400 approved providers of supplemental services in 42 states and the District of Columbia. Of this total, about 63% are private companies, 32% are school districts and public schools, about 3% are colleges and universities, and 3% are other types of entities (USED, 2003).

School districts have themselves become approved providers of supplemental services for various reasons. Our case studies suggest that several districts became service providers because there was a paucity of outside providers in the area. In the Bayonne School District in New Jersey, the district was the only provider for school year 2002-03. Other districts became providers because they believed they could deliver better services that were more closely connected with the students' classroom work than outside providers could. Some districts also felt they could deliver services more cost effectively. Other districts were experiencing problems with outside providers, such as a lack of communication with parents or administrative and contract problems, so the district became a provider to give parents another alternative. In some districts, the decision was a matter of convenience for parents. In Berkeley County School District, South Carolina, 209 students were eligible for supplemental services this school year, but no parents chose to have their child receive services from an outside provider because of the distances they would have to travel to participate. The district is also a provider, however, so many students receive tutoring services through a comprehensive after-school program sponsored by the district that also provides transportation for participants.

The representation of faith-based organizations among the approved providers has been low, according to U.S. Department of Education officials whom we interviewed. This may be because these groups are not accustomed to dealing with state bureaucracies, the officials said, but the Department plans to work with faith-based organizations and other possible providers to try to widen the options of approved providers.

Types of Services

Our case studies suggest that the supplemental services offered by providers vary in their mode of delivery. Typically services are delivered through before- and after-school programs, Saturday programs, or even summer programs. Colorado Springs District 11 provided services through family literacy nights. In the Boston Public Schools, supplemental services are organized and delivered by site coordinators. In several districts, such as Clark County, Nevada, students are receiving services from online providers.

Figure 3-C Average Number of Supplemental Service Providers Available to Students in 2002-03, by District Type and District Size

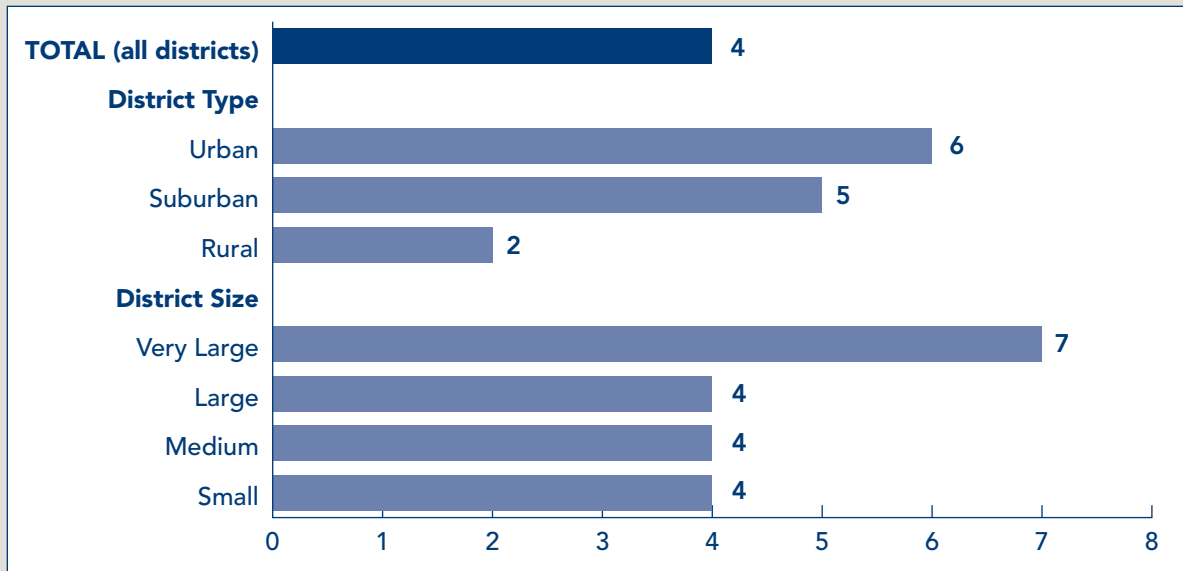


Figure Reads: Among the districts that had schools where students were eligible to receive supplemental services, the average number of providers that were available to students in 2002-03 was four.

Source: Center on Education Policy, December 2003, District Survey, Item 44 (Table 20)

Numbers of Service Providers

Our district survey asked respondents to indicate the number of service providers available to students within the district for the 2002-03 school year. Among districts that had schools where students were eligible to receive supplemental services, the average number of providers available to students that year was four. As **Figure 3-C** shows, there was very little variation based on district size, with the exception of very large school districts, which had an average of seven providers whereas large, medium, and small school districts all had an average of four providers. However, there was wide variation by urbanicity. Urban and suburban school districts shared similar averages, with urban school districts having six providers per district, on average, and suburban districts had five.

As **Figure 3-C** further shows, rural districts were at a distinct disadvantage, with an average of just two providers per district. Our state survey further confirms the small number of providers available to students in rural areas. About 65% (30 out of 46) of the responding states asserted that certain areas of the state, mostly rural areas, faced unique challenges in implementing the supplemental education service provisions. These comments from the state survey describe the problem:

For the most part, providers have chosen not to serve rural areas.

There are fewer providers in rural areas.

Only the corporate giants are available in the most rural areas.

Table 3-I Percentage of Districts with Any Schools Where Students Are Eligible to Receive Supplemental Educational Services (SES) under NCLB, by District Type and District Size

	2002-03		2003-04	
	PERCENT OF DISTRICTS THAT HAVE SCHOOLS WHERE STUDENTS ARE ELIGIBLE TO RECEIVE SUPPLEMENTAL EDUCATION SERVICES	PERCENT OF DISTRICTS THAT DON'T KNOW	PERCENT OF DISTRICTS THAT HAVE SCHOOLS WHERE STUDENTS ARE ELIGIBLE TO RECEIVE SUPPLEMENTAL EDUCATION SERVICES	PERCENT OF DISTRICTS THAT DON'T KNOW
TOTAL (all districts)	13%	9%	10%	12%
DISTRICT TYPE				
Urban	23%	2%	30%	4%
Suburban	14%	6%	13%	10%
Rural	12%	12%	5%	14%
DISTRICT SIZE				
Very Large	21%	0%	48%	1%
Large	31%	0%	43%	0%
Medium	6%	7%	4%	8%
Small	13%	10%	7%	14%

Table Reads: In 2002-03, an estimated 23% of urban districts that receive Title I funds had schools where students were eligible to receive supplemental services.

Source: Center on Education Policy, December 2003, District Survey, Items 35, 41 (Table 17)

Percentage of Districts With Schools Eligible for Supplemental Services

The percentage of school districts with any schools in which students were eligible for supplemental education services dropped slightly from 13% for school year 2002-03 to 10% for school year 2003-04. (See **Table 3-I**.) It should be noted, however, that these percentages could include districts with schools in the first year of improvement that should be offering public school choice but have elected to provide supplemental services because choice was not a viable option. The 2003-04 data may be less definite than the 2002-03 data because some districts did not know the improvement status of their schools at the time of the survey due to state delays. In fact, the percentage of districts which said they did not know whether they had schools where students were eligible to receive supplemental services increased from 9% in 2002-03 to 12% in 2003-04, with increases across all district types and sizes.

Our district survey shows that in the 2003-04 school year, 48% of school districts with schools where students were eligible to receive supplemental services had begun providing them through state-approved providers at the time of our survey. In other words, of the 10% of districts that reported having schools where students are eligible to receive supplemental education services, almost half had begun providing such services this school year.

The biggest increase in the percentage of districts with schools where students were eligible to receive supplemental services occurred in the very large districts—from 21% of these districts in 2002-03 to 48% in 2003-04. (See **Table 3-I**.) A moderate increase occurred in large districts, but the percentage of districts with schools in this category dropped among medium-sized and small districts—from 13% of schools to 7%, in the



case of small-sized districts. Similarly, the percentage of urban districts with schools where students were eligible to receive supplemental services rose somewhat between 2002–03 and 2003–04—an increase from 23% in 2002–03 to 30% in 2003–04 for urban districts. In contrast, the percentage of suburban and rural districts with schools in this category declined. Rural districts showed a sharper decline than suburban districts—from 12% to 5%—during this period. However, we see that the percentage of districts responding that they “don’t know” also increased.

If one looks at **Table 3-1** in conjunction with **Table 3-A**, it becomes evident that the percentage of responding districts with schools where students are eligible to receive supplemental services is greater than the percentage with schools eligible to receive choice. This finding is puzzling on its face, because there are more schools in their first year of school improvement (when they must provide choice) than in their second, third, fourth or later year (when they must provide supplemental services and choice). We surmise that this is because some districts are offering supplemental services instead of choice in the first year of school improvement because choice is not feasible. This explanation is consistent with the finding that greater percentages of rural districts and small districts are offering supplemental services than are offering choice—perhaps because they do not have receiver schools into which students can transfer.

Percentage of Schools Implementing Supplemental Services

Our local survey also asked districts how many of their schools had students who were eligible for supplemental education services under NCLB in school years 2002–03 and 2003–04. Their responses were compared with the total number of Title I schools in these districts that had been identified for school improvement, in order to arrive at a percentage of “improvement” schools with students eligible for supplemental services.

As **Figure 3-D** illustrates, the percentage of schools identified for improvement that had students eligible for supplemental services increased during the past year—33% of improvement schools in 2003–04 compared with 27% in 2002–03. The percentages increased substantially for large, medium, and small school districts between the 2002–03 and the 2003–04 school year. However there was a slight drop for very large school districts from 43% in 2002–03 to 38% in 2003–04. In large school districts the percentages increased from 35% for 2002–03 to 47% for 2003–04 and in medium-sized districts, these percentages increased from 14% in 2002–03 to 24% in 2003–04. Similar increases were evident for small school districts.

Figure 3-E also shows that out of the schools that had students eligible to receive supplemental services in the 2002–03 school year, 51% of these schools were located in urban districts, while 25% were in suburban districts and 24% in rural districts. The following school year, however, the relative share of schools in urban districts with students eligible for supplemental services declined to 33%, while the share in suburban districts more than doubled, to 52%. There was also a decline in the relative share of these schools located in rural districts.

Student Participation

Our local survey data show that among districts with schools identified for improvement, the average percentage of students eligible to receive supplemental services remained steady at 31% for both the 2002–03 and 2003–04 school years. But the estimates of the average percentage of eligible students who were actually *receiving* supplemental services declined during this time, from 46% of eligible students in 2002–03 to 25% of eligible students in

Figure 3-D Estimated Percentage of Schools Identified for Improvement with Students Eligible to Receive Supplemental Services by District Type and District Size

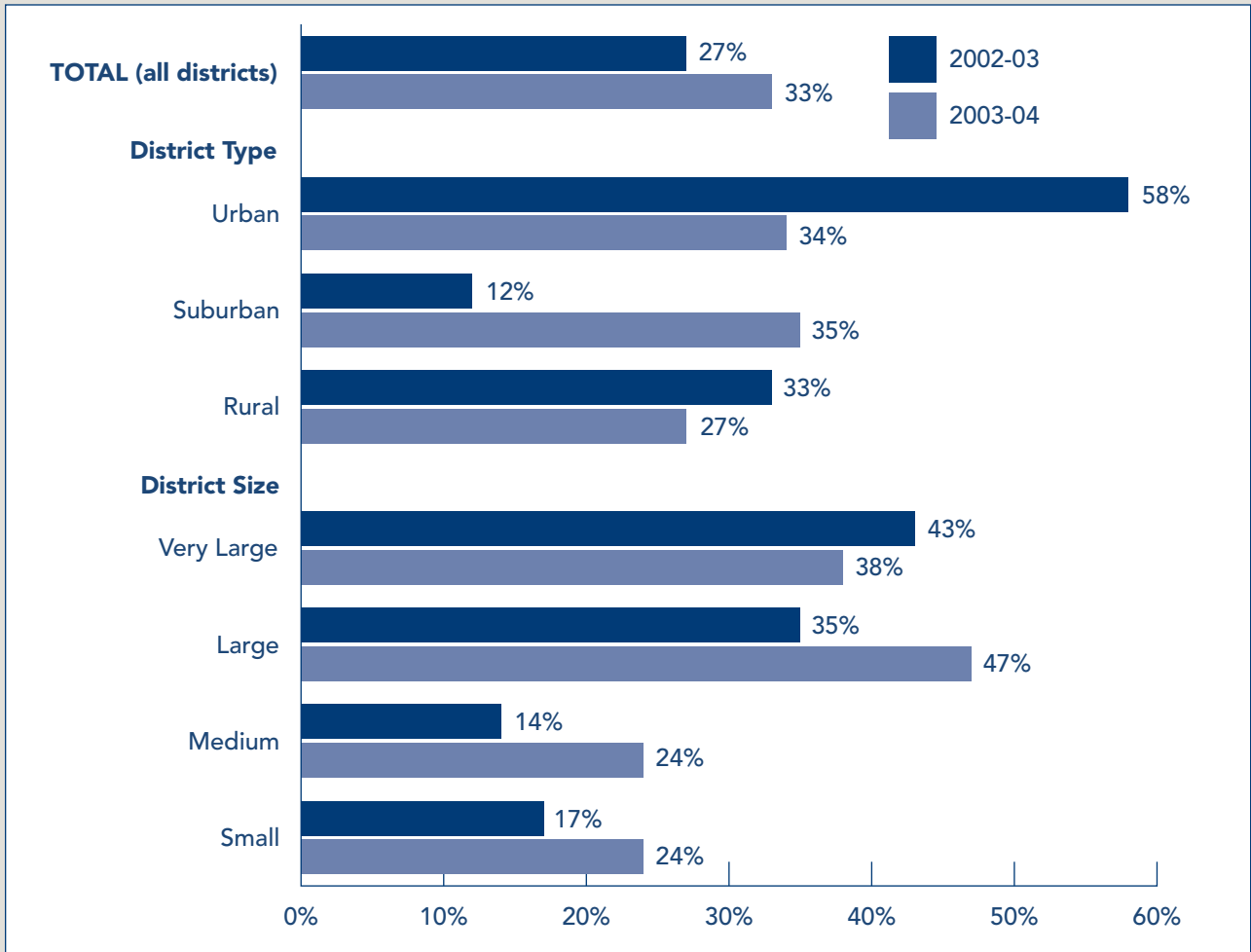


Figure Reads: In 2002-03, an estimated 58% of Title I schools identified for improvement in urban districts had students who were eligible to receive supplemental services. The following year, in 2003-04, an estimated 34% of Title I schools identified for improvement in urban districts had students who were eligible to receive supplemental services.

Source: Center on Education Policy, December 2003, District Survey, Items 36, 42 (Table 17b)

Table 3-J Average Percentage of Students Eligible to Receive Supplemental Educational Services Under NCLB in Districts with Schools Identified for Improvement and Average Percentage of Students Who Received These Services

	AVERAGE PERCENTAGE OF STUDENTS ELIGIBLE TO RECEIVE SUPPLEMENTAL SERVICES		AVERAGE PERCENTAGE OF ELIGIBLE STUDENTS WHO RECEIVED SUPPLEMENTAL SERVICES	
	2002-03	2003-04	2002-03	2003-04
TOTAL (all districts)	31%	31%	46%	25%

Table Reads: In 2002-03, in districts with schools where students were eligible to receive supplemental education services, the average percentage of students to receive supplemental services was 31%. In that same school year, the average percentage of eligible students who actually received services was 46%.

Source: Center on Education Policy, December 2003, District Survey, Items 37, 43 (Table 18)

Figure 3-E Distribution of Schools with Students Eligible to Receive Supplemental Education Services under NCLB, by District Type and District Size

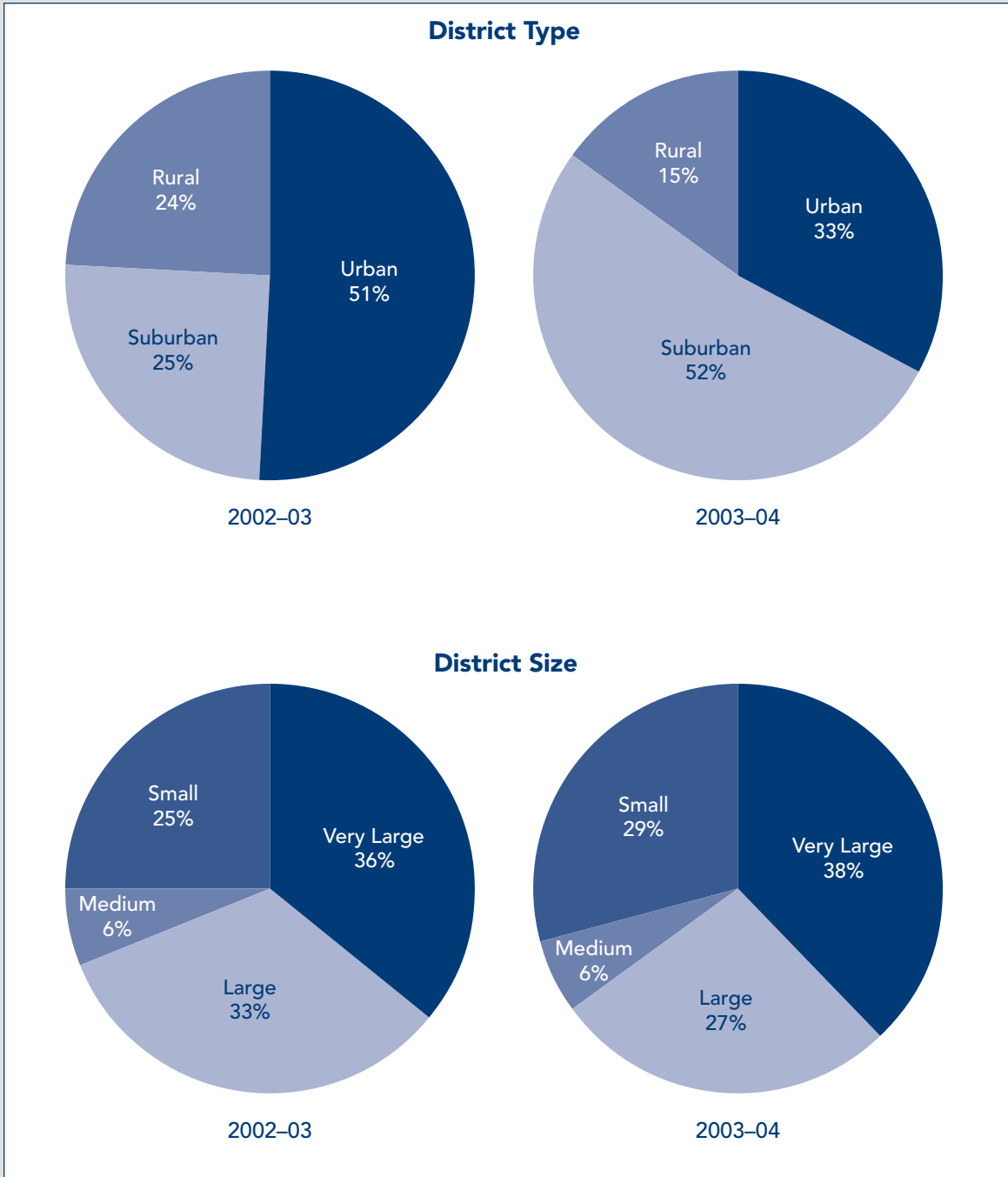


Figure Reads: In 2002-03, an estimated 51% of the Title I schools with students who were eligible to receive supplemental services were in urban districts. The following year, in 2003-04, an estimated 33% of Title I schools with students who were eligible to receive supplemental services were in urban districts.

Source: Center on Education Policy, December 2003, District Survey, Items 36,42 (Table 17b)



2003–04. (See **Table 3-J**.) This is probably because at the time of our survey, although most districts knew which schools would need to offer supplemental services to low-income students, they did not know how many students were actually receiving services.

In some of our case study districts, participation rates in supplemental services were lower. In California’s Escondido Union Elementary district, for example, only 143 students of the 1,245 eligible students were actually receiving supplemental services, about 11%.

Even though the percentage of eligible students who are taking advantage of supplemental services is not as high as it should be, it is still much higher than the percentage taking advantage of choice. This is all the more interesting because all students in a school identified for improvement have to be offered choice if space is available, but only low-income students have to be offered supplemental services. Perhaps participating in supplemental services is the more popular option because it gives a student individualized attention to address his or her academic needs. Parents could also consider it to be less dramatic or disruptive for students and for family life, compared to changing schools.

Supplemental services are viewed as a direct remedy to a problem and are offered to students who qualify for Title I. As one USED official noted in our interviews, public school choice and supplemental services should be viewed as instructional measures rather than punitive ones. If seen by schools as a sanction they will not succeed, the official said; they need to be considered an instructional strategy for kids who are not learning.

Current Issues, Problems, and Obstacles

More districts and schools are implementing the supplemental education services provision in school year 2003–04 than did the previous year. As implementation expands, states and school districts are encountering issues and obstacles that were unforeseen a year ago. When asked an open-ended question about the NCLB requirements that they would change or eliminate, some district respondents said they would like to eliminate the supplemental services requirements or at least reduce the amount set aside for transportation for public school choice and for supplemental education services. The following comments from the district survey convey these views:

Eliminate the Supplemental Services provision; it is very expensive and is of minimal value.

I do not agree that district funds should be used to pay for out-of-state distance learning classes that are being taught by teachers who do not have to meet the highly qualified requirements. Districts should be able to use the funds to provide their own programs using their best teachers.

Supplemental Service funds should go to districts that would provide services without the profit motive.

The requirements for providers of Supplemental Services are not as rigorous as what school teachers and administrators must meet. I would not use federal funds to support a program being operated by individuals not held to the same standards that public school employees are held to.

Supplemental Services for any qualified provider will cause a cottage industry to develop that will be driven by profit and not academics.



The main issues related to supplemental services that emerged from our state and local surveys and case studies can be grouped into five broad categories: access to approved service providers; funding and costs; information and communication; administrative and logistical issues; and quality of service providers.

Access to Providers

Our case studies and state survey both revealed that it remains a challenge to ensure that all eligible students have access to supplemental education services. In the state survey, only 17% of states (8 out of 46) responded that approved providers were providing the same frequency, duration, and range of services to all areas of the state, while 26 states reported providers were not.

In some districts, services are needed for only one student, but some providers have balked at setting up contracts for a single student, preferring to keep to a larger minimum number of students. This could pose problems for small schools, rural schools, or districts that are not in close proximity to the provider. The following comments are illustrative of the views of state officials:

For the most part, providers have chosen not to serve rural areas. There are generally not enough students to make it financially viable.

Providers have to have a minimum number of students in order for services to be cost-effective.

[There are] limited options since so many providers require minimum numbers of students before they will provide services.

Another access issue that has surfaced concerns the use of online providers. States and districts have indicated that this is not always a viable option, because of limitations in hardware, software, or Internet access in some rural or low-income areas. Several states commented in their survey response that accessing distance learning providers came with its own set of problems:

[There is] sporadic rural district connectivity.

Small rural areas have technology limitations for online providers.

The on-line providers have been very difficult to work with.

Only online providers are available, but most do not [provide] services to young elementary students.

Funding and Costs

It appears that the true cost of providing tutorial services is not always evident at the outset. With providers charging different hourly rates for tutoring, the number of hours of service a student can receive for a fixed amount of funds will vary. This is an issue that should be addressed more clearly in the beginning of the process, so parents will know how much tutoring their child will actually receive for the district's subsidy and can make better informed decisions about which services best meet the needs of their child.

In addition, the costs of overseeing computer labs for students who opt to receive tutoring services through online providers also come out of the set-aside for supplemental services, as do the costs of maintaining and paying for wear and tear of the computers. Some service providers are also calculating part of their administrative costs into the tutorial fee.

Information and Communication

Several questions remain about how well information about supplemental education services is being disseminated to parents and students, as well as to districts, school staff, and service providers. A report released in early fall 2003 by the organization Advocates for Children asserted that Title I eligible parents in New York City never received information on supplemental services or received it in a manner, form, or language they could not understand. In fact, parents of children assigned to schools in need of improvement in New York sued the New York City and Albany districts, charging in their court filings that they have been “intentionally misinformed, misled, and uninformed about their rights” under NCLB to transfer schools and receive supplemental services (Walsh & Sack, 2003).

This issue was also a focal point at a fall forum hosted by the U.S. Department of Education on supplemental education services. Participants from all sectors emphasized the need for better and timelier information about supplemental services. Some parent

Box 3-A Supplemental Services in the Cleveland Municipal School District

In school year 2002-03, six of Cleveland’s 110 schools were required to offer supplemental education services. These services were underutilized by parents, according to Theresa Yeldell, the district’s executive director of family and community empowerment, with only 104 students receiving these services in 2002-03. District officials would like to see more eligible students participating in supplemental services this year, and are taking more aggressive steps to promote them.

The district has found that communicating opportunities to parents is difficult, and the logistics are not always easy for parents to arrange. For example, sometimes parents must bring their children to school early or arrange for them to stay late.

The Cleveland district is itself an authorized provider of supplemental services. As for the other providers, district officials have sometimes had difficulty obtaining sufficient information from these providers to be able to inform parents about the services available. In addition, Yeldell said, the state’s list of approved providers is changing almost continually, which makes it difficult for the district to keep up.

Yeldell also expressed concern about the quality of some of the supplemental service providers on the list. In one case, the provider had no sites in Cleveland, and another program was so loosely configured that it had a “fly-by-night feeling to it,” according to Yeldell. In another instance, parents chose a provider, but the provider decided not to serve Cleveland because not enough students were interested. District officials also fear that if anything goes wrong with outside providers, parents will blame the district. As of fall 2003, however, the providers that had signed a formal contract to provide services to Cleveland had all honored their contracts.

Source: Center on Education Policy Case Study



groups felt that the letters being sent to parents informing them about these services were too long and complicated and buried key information about supplemental services amid other information. Some state representatives noted that they did not receive sufficient information from providers about the costs of the services, while providers felt they were not receiving adequate information about the numbers of students who will be served or the amount of payments providers will receive for these students.

As more schools are required to provide supplemental education services, good information and communication will become an even greater priority. Also, it would be helpful to know how information about these services is being passed down from the state, to the district, to the affected school, and to the providers, and most importantly, to parents. It would also be useful to study the role that information dissemination plays in the frequency and selection of supplemental service providers.

Our case study districts were using a variety of methods to inform parents about supplemental services. One innovative suggestion came from Colorado Springs District 11, which has two schools that were required to provide both choice and supplemental services. In addition to notifying parents by mail, the school district made announcements at football games about the availability of choice and supplemental services.

Officials in some case study districts also pointed out that it may be necessary to change parents' attitudes about the concept of "school" to encompass a longer learning day in a variety of settings.

Administrative and Logistical Issues

Negotiating effective contracts among districts, service providers, and parents is also proving to be a problem in some areas. Participants in the USED supplemental services forum felt they could benefit from models of good contracts. Some providers have also complained about the complexities involved in setting up separate contracts with each district that intends to use their services.

Administering supplemental services and making arrangements with providers can also be difficult and time-consuming for school districts. In our case study of the Grant Joint Union High School District in California, the director of categorical programs calculated that he and his staff spent more than 500 hours on supplemental services in school year 2002–03. Yet NCLB provides no additional funds to cover a district's cost of managing and overseeing supplemental services. **Box 3-A** describes some of the problems the Cleveland Municipal School District in Ohio, another case study district, confronted in its efforts to oversee supplemental services.

The logistics of transporting children to supplemental services and adjusting family schedules was a concern of parents in several case study districts. In rural districts, ranging from Bloomfield, New Mexico, to Romulus, New York, parents were hesitant to send their children to before- or after-school services because it would make for such a long day for the children, who already had long bus rides to and from school.

Quality of Providers

The No Child Left Behind Act leaves it to states to determine which providers of supplemental service are of sufficient quality to receive state approval. Furthermore, USED guidance discourages school districts from placing additional requirements or restrictions on providers. But some school districts have expressed concerns about the



quality of providers and have wondered how they will be monitored. Slightly over half the states responding to our state survey (53%) indicated that they have a system in place for monitoring provider performance, while 41% said they do not have such system in place.

In our local survey and case studies, district officials noted that the requirements for supplemental service providers were not as rigorous as those pertaining to public school teachers and administrators. They questioned the fairness and wisdom of allowing federal funds to flow to providers that are not held to the same standards as public school employees and that may receive little scrutiny once they are approved.

Districts have also raised cultural issues and security issues related to supplemental service providers. Officials in Grant Joint Union High School District, one of our case study districts, noted that tutors are not always familiar with or aware of the cultural backgrounds of local families and may be less effective for this reason. Nor are the tutors always aware of the crime reputations of some of the neighborhoods where they are delivering services; the Grant district is taking precautions to ensure that legal liability is not an issue in the event of any incidents. At the same time, Grant district officials are also watchful of the security of their students. District staff were unsure whether the district was responsible—or for that matter, whether anyone was responsible—for doing criminal background checks of tutors employed by outside providers, and whether this issue was being addressed by state or federal program administrators.

A set of issues related to the quality of service providers warrants further study. It would be useful to know, for example, how states are monitoring the quality of providers, which methods for overseeing the quality of providers are most effective, how well parents are satisfied with services their children receive from providers, and what states have learned about best practices or model systems for monitoring the quality of services. In addition, research on whether supplemental services are helping students learn more reading and math and the educational value added would be more difficult to answer, but extremely useful information.

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CHAPTER 4

Quality of Teachers and Paraprofessionals

Key Findings

Teachers

- Although the teacher requirements of NCLB are pushing states and districts to develop needed policies and systems, implementation is proceeding slowly. States are struggling, for example, to define what “highly qualified” means for teachers currently in the classroom and to develop and fund systems to count and track these teachers.
- Districts with greater enrollments of low-income students are less likely to report that all of their teachers are highly qualified. This is especially true of high schools.
- Teacher shortages in high-poverty schools, high-need subject areas, and rural areas are making it difficult for some districts to attract or retain teachers who meet the NCLB qualification requirements.
- Early evidence suggests that districts have been slow in fulfilling the NCLB requirements to notify parents of children in Title I schools whose teachers are not highly qualified.
- Most states and districts are reporting that a significant majority of their teachers already meet NCLB’s requirements for being highly qualified, but researchers have raised serious questions about the reliability of this information.
- States are reporting vast differences in the percentage of teachers receiving high-quality professional development, perhaps reflecting varying definitions of the quality, capabilities for tracking delivery, and amount of training actually offered.

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Paraprofessionals

- Many states and districts are currently unable to report the percentage of Title I paraprofessionals who are highly qualified.
- Of those states that have reported data, a majority say that fewer than half of their Title I paraprofessionals are highly qualified.
- Many states acknowledge that certain areas of the state will face significant challenges in ensuring that all Title I paraprofessionals are highly qualified.
- States and districts are using a variety of strategies to ensure that their Title I paraprofessionals are highly qualified.



Teacher Quality

Introduction

Although implementation of the No Child Left Behind Act during 2002–03 has concentrated mainly on the law’s accountability provisions, the federal government, states, and school districts have made some progress over the past year in carrying out the law’s requirements for teachers. By the end of school year 2005–06, all teachers of core academic subjects must be “highly qualified” according to the law’s definition—an unprecedented commitment to teacher quality in federal education law. The NCLB teacher requirements create opportunities for states and school districts to focus on improving the quality of their teaching force and their evaluation and support systems for teachers. But this is a tall order, for reasons ranging from inequities in the distribution of teachers to a lack of systems for tracking teacher qualifications. To produce the benefits intended, states and districts must first establish or improve necessary systems for hiring, placing, tracking, and training teachers, and notifying parents about the qualifications of their children’s teachers.

Major Federal Developments

Since the release of last year’s report, there have been three major developments related to teacher quality at the federal level. First, the U.S. Department of Education released updated guidance on teacher and paraprofessional quality. Second, the U.S. Secretary of Education issued a second annual report on teacher quality. Finally, the U.S. Department of Education began sending Teacher Assistance Teams to states to help administrators answer questions about NCLB’s teacher requirements and to provide assistance in meeting these requirements.

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Updated Guidance on Teacher Quality Provisions

Last year, CEP reported on the draft guidance issued by the U.S. Department of Education on June 6, 2002 for the “Improving Teacher Quality State Grants” program authorized by Title II and on final Title I regulations issued by USED on November 26, 2002. Because of publication deadlines, however, last year’s report did not address updated draft guidance on the Teacher Quality State Grants program issued by the Department on December 19, 2002. On September 12, 2003, USED updated the guidance once again, noting that it planned to consolidate all its teacher quality guidance and release “expanded and updated guidance on the administration of the Title II, Part A Improving Teacher Quality State Grants program.” As of January 9, 2004, the Department had not released this final guidance.

The timing of the December 2002 updated draft guidance was a concern among district and state administrators, who had to start planning for school year 2002–03 and beyond without final guidance. At least half of the states responding to a 2003 U.S. General Accounting Office (GAO) survey about their plans for meeting NCLB’s highly qualified teacher requirements indicated that USED could provide more information and better support. Specifically, states noted that they needed more information on, or assistance with, professional development programs, best practices related to teacher quality, and incentives for teachers to teach in high-poverty schools. According to GAO,



USED has identified several steps it will take in its 2002–07 strategic plan related to these issues.

Both the December 2002 and the September 2003 updated draft guidance provided new information on a range of topics, including the use of federal funds, alternate routes to teacher certification/licensure, definition of highly qualified, evaluation of teachers, funds accounting, needs assessment and planning, parental notification, flexibility, partnerships with higher education, the competitive grant process, and qualifications of middle school teachers.

Three points in the updated draft guidance are especially noteworthy. First, the guidance issued in December 2002 takes a strict interpretation of the NCLB requirements for subject-area expertise among middle school teachers, while the guidance issued in September 2003 relaxes the requirements somewhat. NCLB requires most middle school teachers (there are exceptions for teachers working in a K–8 school) to meet the same subject expertise requirements as high school teachers to be considered highly qualified—in other words, they must be certified and have a college major, degree, or equivalent coursework in each of the subjects they teach or must pass a rigorous test of content knowledge in these subjects. The December 2002 draft guidance elaborated on this provision by declaring that middle (and high) school teachers will *not* be considered highly qualified if they:

- Pass a state “generalist” exam in math, science, English, and social studies;
- Have only a college minor in a subject (as opposed to a major); or
- Are highly qualified in one subject, such as physics, but are teaching a different subject, such as math, even if the additional subject is related.

This interpretation presented a challenge to many school districts. Currently, many middle school teachers are trained as generalists, meaning that they do not have particular expertise (a college major, for example) in the subject they are teaching or have only a college minor. Many other middle school teachers are highly qualified in one subject they teach, such as math, but are actually teaching more than one subject, such as math and physical science. The December 2002 guidance made clear that these teachers will not be considered highly qualified and suggested that many teachers will need to update their academic training or leave their positions. The guidance was also expected to force middle schools, especially those in rural areas, to scramble to fill positions with individuals who have subject-area expertise.

The September 2003 guidance attempted to clarify some of the confusion and mollify concern surrounding the status of middle school teachers. It offers states additional flexibility with regard to teachers of core academic subjects in grades 6 through 8, advising states to “examine the degree of rigor and technicality of the subject matter that a teacher will need to know in relation to the state’s content standards and academic achievement standards for the subjects in those grade levels. It is up to the states to make this decision.” Importantly, states are also granted the authority to consider teachers with middle school certification to be highly qualified and to approve tests that are specifically developed for middle school teachers as long as the tests are “rigorous content-area assessments that are developed specifically for middle school teachers and aligned with middle school content and academic standards.” Unfortunately, this guidance was released well after districts needed to make hiring decisions for school years 2002–03 and 2003–04. The local case studies that we conducted for this study revealed that many districts, such as Berkeley County, South Carolina; Escondido, California; and Napoleon, North Dakota, continued to be concerned through fall 2003 about the subject expertise of their middle-school teachers.



A second point worth noting about the December 2002 and September 2003 guidance is the relative freedom the guidance gives states in carrying out certain aspects of the highly qualified teacher requirements. The federal government will not review the tests used by states to determine whether new teachers have the necessary subject-area knowledge. Nor will the U.S. Department of Education review or require approval of state methods for evaluating current teachers' knowledge and teaching ability.

This lack of oversight is good news for states, which can develop systems without interference from, or delay by, the federal government. It remains to be seen, however, whether all states will develop tests and processes for evaluating current teachers that are valid, reliable, and in the best interest of their students or whether expediency will prevail. It also remains to be seen whether the creation of unique state systems results in a variety of innovative approaches well suited to each state's educational needs or whether the lack of consistency across states prevents researchers and policymakers from analyzing important teacher quality issues.

Finally, the September 2003 guidance focused on the definition of "highly qualified" and includes suggestions for states on how to develop their alternative definition for veteran teachers. Title IX, Part A of NCLB defines "highly qualified" in a fairly prescriptive way for new teachers, but the law provides states flexibility in defining highly qualified for veteran teachers. As with new teachers, the law requires veteran teachers to hold at least a bachelor's degree. NCLB, however, allows veteran teachers to either meet the other requirements for a new teacher (i.e., demonstrate relevant subject knowledge by passing a test or completing at least the equivalent of an undergraduate academic major or advanced certification in the subject taught) or demonstrate competence in all academic subjects that the teacher teaches based on a "high objective uniform state standard of evaluation" (HOUSSE) that meets 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; and
- May involve multiple, objective measures of teacher competency.

The new guidance reinforces the idea that states should consider several factors when developing their HOUSSE criteria, should arrive at an "objective" way of determining teachers' content knowledge, and should consider, but not primarily rely upon, a teacher's previous experience in teaching the relevant academic subject. Prior to the release of the guidance, however, many states appeared to be making one or more positive annual evaluations the main criterion for judging a teacher to have subject matter competency, so states will need to make some adjustments (Title I Monitor, 2003a).



Report from the Secretary of Education

In June 2003, Secretary of Education Rod Paige issued the second annual report on teacher quality (USED, 2003). The report highlights both positive developments and “areas of potential concern” regarding state efforts to ensure a highly qualified teacher in every classroom. On the positive side, the report indicates that many states have made great advances in meeting the highly qualified teacher requirements. For example, 35 states had linked their teacher certification requirements to student content standards, and 35 require prospective teachers to hold a subject-area bachelor’s degree for initial certification. In addition, all but 8 states require statewide assessments for beginning teachers, and 32 states require teaching candidates to pass a test in at least one academic content area.

The report suggests, however, that states still have a long way to go to meet the NCLB’s requirements, as described below. The Secretary also laments the fact that many state regulations for certifying new teachers are “burdensome and bureaucratic” and prevent many potentially excellent teachers from entering the profession. At the same time, the report contends that in many states, the pass scores for teacher certification tests are set too low, allowing many individuals who lack sufficient academic preparation to enter the profession.

Finally, the report charges that states have made little progress in reducing the percentage of the teaching force that lacks full certification. In particular:

- Seven states report having more than 10% of their teachers on waivers (teaching with emergency, temporary, or provisional licenses) during the 2001–02 school year.
- High-poverty school districts were more likely to employ teachers on waivers than affluent districts, an average of 8% of teachers in high-poverty districts compared with 5% in other districts in school year 2001–02.
- Teachers lacking full certification are not evenly distributed across subject areas, ranging from 8% for special education and career/technical education teachers to 4% for art and elementary education teachers.

To counter these trends, the Secretary points to several “innovations in traditional teacher preparation”—including collaborations between schools and universities and between university departments (such as the departments of science and of education) that increase the rigor and relevance of teacher training—and “innovative alternative routes” to teaching. To further these efforts, USED has given \$35 million to the American Board for Certification of Teacher Excellence, created by the National Council on Teacher Quality and the Education Leaders Council to be “the first national alternative route to full teacher certification” (www.abcte.org).

The Secretary’s report has not been without its critics. An analysis by the Education Trust (2003), for example, faults the Department for failing to ensure that the teacher quality data reported by states “meets some minimum standards of reliability and usefulness.” This analysis notes, for instance, that some states have reported wild swings in the total number of teachers working and questions the quality of the state data. The Education Trust also questions the quality of the Department’s own data. For example, the analysis claims that the Secretary’s report overstates the teacher shortage by focusing on teachers who have a major in the subject they are teaching while ignoring the “many thousands” of teachers who did not major in the subject they teach but did pass a test or demonstrate subject matter knowledge in compliance with NCLB. Recent state reporting and CEP’s surveys of states and districts support this criticism, as described later in this chapter.



Teacher Assistance Teams

This year, the U.S. Department of Education also formed Teacher Assistance Teams to provide technical assistance to states to help them meet the NCLB teacher requirements, not to monitor compliance. As explained by Secretary Paige in a letter to the chief state school officers dated July 28, the teams will “hear what’s working in your state in the realm of teacher quality, share ideas that are working in other states around the country, provide advice for compliance issues, and assist in setting and meeting goals.” As of December 4, 2003, Teacher Assistance Teams had visited approximately half the states. Department officials interviewed for this study by the Center on Education Policy indicated that all states will be visited by the end of February 2004.

Each team is composed of six individuals: three “external experts,” one staff person from the Department’s Title II, Part A program, one representative of the Assistant Secretary for Elementary and Secondary Education, and a representative from Westat, a research group that is USED’s contractor on the project. The three external experts come from a diverse pool of educators, including teachers, principals, superintendents, current and former state education agency personnel, researchers, and representatives from institutions of higher education.

The Assistance Teams focus their guidance on four main areas:

- Development of the state’s HOUSSE criteria for evaluating veteran teachers;
- Strategies for ensuring highly qualified teachers in special education classes and alternative schools;
- Strategies for ensuring highly qualified teachers in middle schools; and
- Strategies for ensuring highly qualified teachers in rural schools.

USED plans to post lessons learned and best practices from these visits and research on a website soon, according to a federal official that we interviewed.

State and Local Actions

To begin realizing the opportunities offered by NCLB to improve the quality of the teaching force, NCLB contains several benchmarks related to teacher quality that states and school districts were required to meet during school year 2002–03. In particular:

- All teachers hired after the first day of school year 2002–03 to work in a program supported by Title I funds were required to meet the NCLB definition of highly qualified.
- By the beginning of school year 2002–03, school districts were required to inform parents of students attending Title I schools that they could request information on the qualifications of their children’s teachers and to tell these parents if their child was assigned to or taught by a teacher who is not highly qualified under NCLB criteria for four or more consecutive weeks.
- By May 2003, states were supposed to have set annual measurable goals for each of their school districts and schools, including annual increases in both the percentage of teachers who were highly qualified and the percentage receiving professional development to become highly qualified.
- By fall 2003, school districts receiving Title I, Part A funds were to begin filing annual reports to the state on their progress in meeting their annual measurable



goals, and states were to submit an annual progress report to the U.S. Secretary of Education.

As described below, many of these requirements have not been met. On the positive side, however, several states and districts have taken significant strides toward ensuring that all their students are taught by a highly qualified teacher.

After reviewing research from our own state and local surveys and case studies and other outside sources, the Center on Education Policy has reached several conclusions about the progress of states and school districts in meeting NCLB teacher requirements.

Varying Reports on Numbers of Highly Qualified Teachers

Most states and school districts report that a majority of their teachers are highly qualified, but these percentages vary by state and district and the data may not be reliable.

In last year's report, we cited data showing that large numbers of students are being taught by teachers with inadequate content knowledge and preparation in the subjects they are teaching. The report also pointed out that the problem of under-prepared teachers is more prevalent in schools with large proportions of minority students and low-income students. Studies released during the past year provide further evidence of this trend. Yet, in reports to USED and other sources, many states are claiming that most of their teachers are highly qualified and that the difference between the percentage of highly qualified teachers in all schools and the percentage in high-poverty schools is minimal. These state numbers, however, are being called unreliable by many analysts.

NATIONAL DATA SHOW MANY NOT HIGHLY QUALIFIED

National data from the U.S. Secretary of Education and other sources suggest that significant numbers of teachers are not highly qualified. According to a special analysis conducted for the Education Secretary's report, only 54% of the nation's secondary teachers were highly qualified during school year 1999-2000. Although some, including the Education Trust (2003), believe the percentages to be higher, these data suggest that out-of-field teaching, prohibited by NCLB, is a serious problem across the country. Similarly, a recent analysis of the 1999-2000 Schools and Staffing Survey by Richard M. Ingersoll, an associate professor at the University of Pennsylvania (cited in Olsen, 2003), found that 16% of high school students and 44% of middle school students nationwide take at least one class with a teacher who did not even minor in the subject being taught.

The GAO found similar trends in its study, as 23 of 37 state officials reported teacher shortages in high-need subject areas, especially math, science, and special education. Similarly, a Texas A&M study found that nearly one-quarter of the 39,000 teachers hired in Texas school districts in fall 2002 were not trained in their subjects (Stutz, 2003). In Dallas and other large urban districts in Texas, an estimated 30% of new teachers were not certified in the subject they taught. The Texas report concluded that "school districts are continuing to hire less-than-fully certified teachers to meet their needs."

STATES REPORT MAJORITY ARE HIGHLY QUALIFIED

Regardless of the national data, most states have reported that a large majority of their teachers are already highly qualified, although some states are far from meeting the goal. To receive NCLB funding, states were required to submit to the U.S. Department of Education a consolidated application containing information and assurances on a vari-



ety of NCLB programs. As one element of this application, states had to report the percentage of classes in their public schools that were taught by a highly qualified teacher as defined by the Act; **Table 4-A** displays these percentages. Although states' reported percentages range from a low of 16% (in Alaska) to a high of 98% (in Idaho and Wisconsin), most states (24 out of 40 that included estimates) indicated that in 2002–03, more than 85% of their classes were taught by highly qualified teachers. Only four states (10%) reported that 50% or fewer of their classes were taught by a highly qualified teacher.

Many analysts have expressed skepticism about the accuracy of the numbers reported by states in their consolidated applications, and, indeed, states have admitted to guessing the percentage of highly qualified teachers in their classrooms (Keller, 2003) or providing artificially high numbers so as to “spare teachers' feelings” (Associated Press, 2003). In addition, it appears likely that in reporting the percentages, some states mistakenly interpreted state certification as the same as being highly qualified. According to a USED official interviewed by the Center, the Department's Teacher Assistance Teams are working with states to help them understand the difference, and the percentages that states must report by December 22, 2003 as part of their “consolidated reports” are expected to be significantly lower.

Despite the high percentages of classes taught by highly qualified teachers that states reported on their consolidated applications, our state survey suggests that many states are having difficulty complying with the highly qualified requirement for newly hired Title I teachers. Seventeen of 47 states responding to the survey reported having this difficulty, with an additional 13 answering that they “don't know” whether their state is having difficulty. States noted several problems. The following comments are illustrative of what the states reported:

Some of the teachers that are coming out of the teacher preparation pipeline are not highly qualified when they graduate. [School districts] do not have enough candidates that already meet the requirements to hire only those that do.

[The state's] certification requirements for special education and bilingual and [English as a second language] do not meet the highly qualified NCLB definition.

[The state] has a severe teacher shortage with up to 15% of teachers within the state not meeting state certification requirements in the 2001–02 school year. While the state has implemented alternative certification programs, a statewide electronic teacher recruitment center, and other methods to assist districts in recruiting highly qualified teachers, this is not a statistic that will be easily reversed.

DISTRICTS VARY GREATLY IN PERCENTAGES OF HIGHLY QUALIFIED

Like states, school districts have sent mixed messages about the percentage of their teachers who are highly qualified according to NCLB criteria. The percentages reported in our district survey and case studies vary widely, with some districts indicating that almost all their teachers are highly qualified and others acknowledging problems in this area.

On our district survey, one-fifth of district administrators (21%) reported having difficulty finding qualified Title I teachers as new hires for the 2003–04 school year. Greater percentages of very large school districts (84%) and urban districts (33%) report having difficulty. In addition, districts reported high percentages of current teachers meeting the NCLB definition of highly qualified and little difference in the percentage of highly qualified elementary school, middle school, and high school teachers (see **Table 4-B**), despite

Table 4-A State Reports of the Percentage of Classes Taught by Highly Qualified Teachers

STATE	% OF CLASSES TAUGHT BY HQ TEACHERS IN 2002-03	STATE	% OF CLASSES TAUGHT BY HQ TEACHERS IN 2002-03
Alabama	35.3%	Montana	NA
Alaska	16%	Nebraska	90%
Arizona ¹	84%	Nevada	50%
Arkansas	97%	New Hampshire	86%
California	48%	New Jersey	NA
Colorado	85.7%	New Mexico	NA
Connecticut	96.0%	New York	NA
Delaware	85%	North Carolina	NA
District of Columbia	74.6%	North Dakota	91.1%
Florida	91.1%	Ohio	82%
Georgia	94%	Oklahoma	64%
Hawaii	86.7%	Oregon	81.8%
Idaho	98.1%	Pennsylvania	95%
Illinois	NA	Rhode Island	63%
Indiana	96.2%	South Carolina	50%
Iowa	NA	South Dakota	85.7%
Kansas	80%	Tennessee	NA
Kentucky	95%	Texas	75.8%
Louisiana	NA	Utah	95.9% ³
Maine	NA	Vermont	92%
Maryland	64.5%	Virginia	80%
Massachusetts	NA	Washington	83%
Michigan	95%	West Virginia	94%
Minnesota ²	96%	Wisconsin	98%
Mississippi	85%	Wyoming	95%
Missouri	94.7%		

- 1 Percentage of teachers in state who are highly qualified. This is different from the percentage of classes taught by highly qualified teachers, information that the state does not have.
- 2 Percentage of highly qualified teachers teaching core classes. The state expects to have data on the percentage of classes in the summer of 2004.
- 3 The state notes, however, that 71.0% of its teachers are "interim" and only 24.9% are "fully" highly qualified.

NA=Not available

Source: Center on Education Policy, analysis of state consolidated applications, November 2003.

analyses suggesting that middle and high schools would have a much more difficult time than elementary schools in ensuring a highly qualified teacher in every classroom. Specifically, 93% of the districts we surveyed reported that most or all of their elementary school teachers are highly qualified, while 85% of districts reported that this is the case for their middle school teachers, and 82% reported that this is the case for their high school teachers. These high percentages suggest that many district administrators, like state administrators, may incorrectly believe that teacher certification or licensure is comparable to being highly qualified. Districts did report, however, a problem staffing highly qualified teachers in “other types of schools,” which include schools with unique grade configurations (e.g., K-8, 7-12), alternative high schools, charter schools, and early childhood centers.

In addition, the type and size of a district appears to have little influence on administrators’ perception of their proportion of highly qualified teachers. Between 86% and 96% of urban, suburban, and rural districts receiving Title I funds reported that most or all of their elementary school teachers are considered highly qualified (see **Table 4-C**), although the percentages are lower for middle/junior high and high school teachers. For example, approximately three-quarters of urban districts considered all or most of their middle/junior high school and high school teachers to be highly qualified. Although traditional K-12 schools reported few problems with assigning a highly qualified teacher to all classrooms, it is important to note that only about one-third of urban, suburban, and rural districts reported that all or most of their teachers who work in “other types of schools” are highly qualified.

Similarly, more than 90% of very large, medium, and small districts receiving Title I funds reported that all or most of their elementary school teachers are highly qualified,

Table 4-B Percentage of Districts Reporting That Various Proportions of Their Teachers Are “Highly Qualified,” by School Level in School Year 2003–04

SCHOOL LEVEL	ALL TEACHERS	MOST TEACHERS	SOME OR FEW TEACHERS	NO TEACHERS
Elementary school teachers	61%	32%	2%	2%
Middle/junior high school teachers	43%	42%	6%	2%
High school teachers	43%	39%	3%	3%
Teachers in other types of schools (e.g., K-8)	20%	13%	0%	13%

Table Reads: In 2003-04, of the districts that reported having a system in place to classify teachers as “highly qualified,” an estimated 61% reported that all their elementary school teachers are highly qualified.

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 48 (Table 23)

Table 4-C Percentage of Districts Reporting That Various Proportions of Their Teachers Are “Highly Qualified,” by School Level and District Type, 2003–04

	Elementary School Teachers	Middle/Junior High School Teachers	High School Teachers	Teachers in Other Types of Schools
URBAN DISTRICTS				
All or Most Teachers	86%	79%	74%	39%
Some or a Few Teachers	2%	6%	3%	3%
No Teachers	2%	2%	2%	12%
SUBURBAN DISTRICTS				
All or Most Teachers	90%	82%	75%	32%
Some or a Few Teachers	2%	10%	3%	0%
No Teachers	2%	0%	5%	17%
RURAL DISTRICTS				
All or Most Teachers	96%	89%	90%	35%
Some or a Few Teachers	1%	2%	2%	0%
No Teachers	2%	4%	1%	10%

Table Reads: In 2003-04, of rural districts that have a system in place to classify teachers as “highly qualified,” an estimated 96% reported that all or most of their elementary teachers are “highly qualified.”

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 48 (Table 23a)

Table 4-D Percentage of Districts Reporting That Various Proportions of Their Teachers Are “Highly Qualified,” by School Level and District Size, 2003–04

	ELEMENTARY SCHOOL TEACHERS	MIDDLE/JUNIOR HIGH SCHOOL TEACHERS	HIGH SCHOOL TEACHERS	TEACHERS IN OTHER TYPES OF SCHOOLS
VERY LARGE DISTRICTS				
All or Most Teachers	92%	26%	28%	26%
Some or a Few Teachers	0%	66%	64%	7%
No Teachers	0%	0%	0%	0%
LARGE DISTRICTS				
All or Most Teachers	84%	75%	86%	47%
Some or a Few Teachers	0%	12%	0%	1%
No Teachers	0%	0%	0%	14%
MEDIUM DISTRICTS				
All or Most Teachers	94%	89%	84%	40%
Some or a Few Teachers	0%	0%	4%	0%
No Teachers	1%	1%	5%	18%
SMALL DISTRICTS				
All or Most Teachers	93%	84%	83%	31%
Some or a Few Teachers	2%	6%	2%	0%
No Teachers	3%	3%	3%	12%

Table Reads: In 2003-04, of small districts that have a system in place to classify teachers as “highly qualified,” an estimated 93% reported that all or most of their elementary teachers are “highly qualified.”

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 48 (Table 23b)



while 84% of large districts report this to be the case (see **Table 4-D**). However, whereas 75–89% of small, medium, and large districts reported that all or most of their middle/junior high and high school teachers are highly qualified, only about one-quarter of very large districts reported. Again, very few districts reported that all or most of their teachers in “other types of schools” are highly qualified.

CEP’s case studies further confirm that most local administrators believe a majority of their teachers to be highly qualified according to the NCLB definition. Seventy-three percent of the case study districts that provided us with data on their teachers (22 out of 30 reporting) estimated that at least 90% of their teachers were highly qualified under NCLB (see **Table 4-E**). Altogether, these estimates ranged from a low of 26% of teachers estimated to be highly qualified in rural Kodiak Island Borough, Alaska, to a high of 100% of teachers in nine districts.

Of the nine districts that reported that all of their teachers were highly qualified, six were small rural districts (Cloquet, Minnesota; Hermitage, Missouri; Heartland, Nebraska; Romulus, New York; Marlboro, Vermont; and Waynesboro, Virginia). One was a small suburban district (Avon, Massachusetts), and two were medium-sized urban districts (Bayonne, New Jersey, and Sheboygan, Wisconsin). It is not clear why the small rural districts in this group have been more successful in finding and keeping highly qualified teachers than some other rural districts. Some of these case study districts have higher than average achievement, which could make them an appealing place to teach. Most are very small, so they employ few teachers. Two of the districts, the Heartland School District in Nebraska and Romulus Central Schools in New York, have experienced declining enrollments in recent years, so they have not had to hire many teachers. It is also possible that the districts assumed that teachers who were fully credentialed under state standards were also highly qualified or overestimated their percentage of highly qualified teachers in other ways, something that could easily happen in the many states that had not finished developing their HOUSSE criteria at the time of our case studies.

Struggles to Define and Track Highly Qualified Teachers

States and school districts are struggling to define “highly qualified” and to count and track the number of teachers meeting their definitions. Although NCLB provides a general framework for defining a “highly qualified” teacher, the legislation still allows states to develop their own definitions within this framework, and states are having a difficult time doing so (Scavongelli, 2003; Berry, 2003).

STATES STRUGGLING TO DEVELOP CRITERIA FOR VETERAN TEACHERS

In particular, states are struggling to define what highly qualified means for veteran (as opposed to new) teachers who do not have a major in the subject they teach and have not passed a subject-matter test. Their definitions will be embodied in the “high objective uniform state standard of evaluation” they are required to develop to evaluate the qualifications of veteran teachers. Although states’ definitions do not require approval by USED, only 10 had finalized their HOUSSE definitions by July 2003, most likely due to the late guidance provided by USED. The Maryland State Board of Education approved its HOUSSE definition on October 28, 2003, after lengthy discussions with USED regarding the use of advanced professional certificates at the middle and elementary school levels and for special education teachers.

Table 4-E Estimated Percentage of Teachers Who Are Highly Qualified Under NCLB in Case Study Districts

STATE	DISTRICT	ENROLLMENT	TYPE	REPORTED % OF HQ TEACHERS
Massachusetts	Avon	730	Suburban	100%
Minnesota	Cloquet	2,278	Rural	100%
Missouri	Hermitage	320	Rural	100%
Nebraska	Heartland	350	Rural	100%
New Jersey	Bayonne	8,400	Urban	100%
New York	Romulus	580	Rural	100%
Vermont	Marlboro	78	Rural	100%
Virginia	Waynesboro	2,980	Rural	100%
Wisconsin	Sheboygan	10,315	Small City	100%
Idaho	Meridian	25,937	Suburban	99%
California	Escondido	19,229	Suburban	98%
Mississippi	Pascagoula	7,480	Suburban	98%
Kansas	Kansas City	20,756	Urban	97%
Louisiana	St. John Parish	5,589	Suburban	95% ¹
Texas	Cuero	1,993	Rural	95%
Florida	Collier County	37,109	Rural and Urban	94%
Illinois	Chicago	438,589	Urban	93%
Nevada	Clark County	268,357	Urban	93%
California	Oakland	51,613	Urban	92%
Arkansas	Fayetteville	8,164	Small City	90%
New Mexico	Bloomfield	3,190	Rural	90%
North Dakota	Napoleon	236	Rural	90%
South Carolina	Berkeley County	26,375	Rural and Urban	89%
Massachusetts	Boston	62,400	Urban	88%
Oregon	Tigard-Tualatin	11,826	Suburban	88%
Vermont	Orleans	1,217	Rural	81%
North Carolina	Wake County	108,400	Urban, Suburban, Rural	77%
Alabama	Calhoun County	9,480	Rural	67%
Colorado	Fort Lupton	2,622	Rural	61%
Alaska	Kodiak Island	2,750	Rural	26%

¹ Does not include percentage of special education teachers who are highly qualified.

Note: Responses are ranked in order of percentages. Districts not reporting are not shown.

Source: Center on Education Policy, December 2003, District Case Studies



Arizona, South Dakota, and Ohio have finalized processes for determining whether veteran teachers are highly qualified using HOUSSE. The criteria developed by these three states demonstrate that although states have considerable flexibility in developing their HOUSSE criteria, many appear to be using similar models. Arizona has developed a rubric that assigns points to teachers depending on their years of experience teaching in the content area, college coursework in the content area, professional development and activities related to the content area, service related to the content area, and awards, presentations, and publications related to the content area. A teacher who amasses 100 points across these categories will be considered highly qualified by the state, according to Arizona's consolidated state application.

Similarly, veteran teachers in South Dakota must meet the NCLB definition of highly qualified for new teachers or meet one of the following HOUSSE "rules," according to information included with the state's consolidated application:

- Be fully authorized by the state for all teaching assignments and have at least three years of teaching experience; or
- Pass a subject-specific state test in content and pedagogy; or
- Have a graduate degree in the content area; or
- Be a reading specialist; or
- Hold National Board Certification in a specific or broad discipline.

Under Ohio's HOUSSE system, as laid out in the state department of education's "Highly Qualified Teacher Rubric," teachers receive up to:

- 24 points for years of experience in a teaching assignment;
- 27 points for college coursework in the content area;
- 27 points for college coursework in pedagogy related to the content area;
- 24 points for professional development in the content area;
- 25 points for professional activities (such as writing curriculum guides or standards, teaching in the content area for a college or university, or serving as a Reading Recovery teacher); and
- 6 points for recognition in content area, such as awards or publications.

The similarity but lack of standardization in how states define HOUSSE for veteran teachers has had both positive and negative consequences. On the positive side, states' efforts are leading to a variety of approaches, encouraged by USED, that could help analysts and policymakers identify practices that have the greatest impact on student learning (Title I Monitor, 2003b). On the negative side, state efforts are expensive (Title I Monitor, 2003b) and some of them are not consistent with federal law.

Our case studies also show that some state applications of NCLB requirements can be surprising and even bewildering for local districts. The Wake County Public School System in North Carolina, for instance, had believed that its competitive salaries and professional development efforts had produced a well-qualified teaching force, but when the state released its criteria for determining whether teachers meet the NCLB qualifications, the district learned that only 77% of its classrooms were being taught by a highly qualified teacher. The main problem, according to our case study contacts, was in how the state characterized resource teachers, such as an art teacher, who serve numer-



ous classrooms. If the art teacher is not fully qualified, then all the classrooms that he or she serves would be considered as not having a highly qualified teacher.

According to our case study of Chicago, to cite another example, some teachers in Illinois who meet the state standards for teacher qualifications and hold Illinois endorsements are not considered highly qualified teachers under NCLB. Illinois requires teachers who teach reading at least half time to have a reading endorsement, our case study contacts said, while NCLB requires this endorsement if the teacher teaches only one reading class. Similarly, Illinois high school teachers and subject-specialists in middle schools needed grade-level certification and endorsements in subjects taught 60% of the time, allowing 40% of subjects taught to be outside their certification area. NCLB, on the other hand, requires all middle and high school teachers to hold an endorsement or college major, or pass a state subject-specific test for each academic subject taught.

STATES LACK CAPACITY TO COUNT AND TRACK

States and districts currently lack the capacity to count and track highly qualified teachers. The GAO study (2003) of state reactions to the NCLB teacher requirements found that states did not have the information needed to determine whether their teachers meet the criteria to be highly qualified. States also reported that due to delayed guidance from USED, they did not have the information they needed to develop methods for evaluating the subject-area knowledge of their current teachers. Seven of eight states visited by GAO did not even have data systems that could track teacher qualifications by subject.

Our case studies confirm GAO's conclusion; we found that states face significant difficulties in assembling accurate information about teacher qualifications. Some case study districts reported receiving little, limited, or inaccurate information from their states about whether current teachers meet the highly qualified definition. For example, Pascagoula, Mississippi reported that it had received from the state department of education a list of teachers who did not meet the criteria for being highly qualified, but the list contained errors and it was not updated as of fall 2003.

Given the GAO's findings, it is somewhat surprising that 40 out of 51 states (including the District of Columbia)—78%—were able to include in their consolidated applications to the U.S. Department of Education the percentage of highly qualified teachers both as an average across the state and in high-poverty classrooms (**Table 4-A**).

NCLB does not require states to identify teachers who do not meet their highly qualified definition, and our state survey found that many states are leaving the responsibility of identifying these teachers to their districts. For example, according to CEP's state survey, Massachusetts conducted a series of workshops for school districts last spring to explain the new NCLB accountability provisions, but districts are responsible for judging actual teacher qualifications. Kansas reported on its survey that the state has defined highly qualified and has shared the definition with districts. Kansas state officials report that many districts are reviewing their teachers' files to determine whether teachers meet the definition. By late fall of 2003, the Kansas State Department of Education expected to finish processing the 2003-04 data from its Licensed Certified Report to determine which veteran teachers need to complete the state's content area rubric to meet HOUSSSE criteria.

Unfortunately, many districts, especially large ones, also lack a system to classify teachers as highly qualified. According to our district survey, 22% of all districts lack a classification system, but for very large districts, this percentage doubles to 46% (see

Figure 4-A Percentage of Districts with a System in Place to Classify Teachers as “Highly Qualified,” in 2002–03, by District Type and District Size

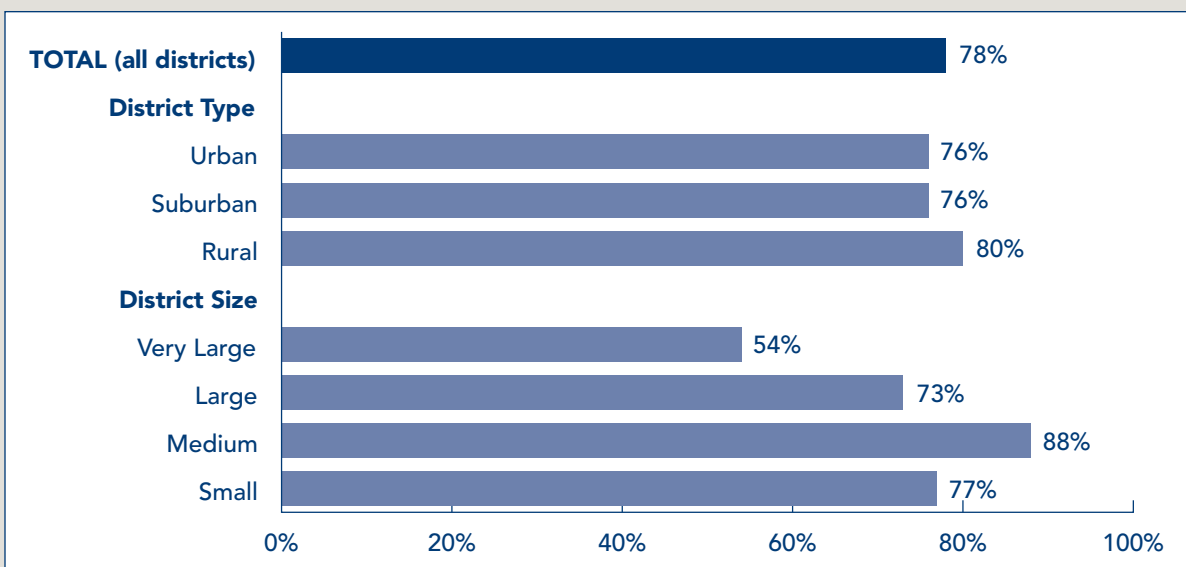


Figure Reads: An estimated 76% of suburban districts that receive Title I funds have a system in place to classify teachers as “highly qualified.”

Source: Center on Education Policy, December 2003, District Survey, Item 47 (Table 22)

Figure 4-A). This overall lack of capacity is troubling, since many states appear to be handing much of the responsibility for classifying and counting highly qualified teachers to their districts.

Inequities in Distribution of Highly Qualified Teachers

Inequities exist in the distribution of highly qualified teachers, although the current data that states have reported to the U.S. Department of Education do not show these patterns, mostly because USED did not ask for the kinds of comparative data that would reveal them and, according to many analysts, the state data are inaccurate.

INEQUITIES BETWEEN HIGH-POVERTY AND LOW-POVERTY SCHOOLS AND BETWEEN HIGH-MINORITY AND LOW-MINORITY SCHOOLS

CEP’s district survey found that as student poverty increases, a district is much less likely to report that all of its teachers, especially those in high schools, are highly qualified (see **Table 4-F**). Specifically, 74% of districts with student poverty rates of 10% or lower report that all their elementary school teachers are highly qualified. Only 31% of districts with student poverty rates from 76–100% report that all their elementary school teachers are highly qualified. Similarly, 51% of districts with student poverty rates of 10% or lower report that all their high school teachers are highly qualified, while only 12% of districts with student poverty rates from 76–100% do so. The trend is similar for districts with regard to the percentage of minority students. That is, as the percentage of minority enrollment increases in a district, the less likely it is to report that all of its teachers, especially those in high schools, are highly qualified (see **Table 4-G**). None of

Table 4-F Percentage of Districts Reporting That All of Their Teachers at the Following Levels Are Highly Qualified, by District Poverty Level

PERCENT RECEIVING FRPL IN THE DISTRICT	ELEMENTARY TEACHERS	MIDDLE SCHOOL TEACHERS	HIGH SCHOOL TEACHERS
1-10%	74%	51%	51%
11-25%	64%	50%	46%
26-50%	62%	41%	44%
51-75%	61%	35%	38%
76-100%	31%	31%	12%

Table Reads: An estimated 74% of school districts where 1–10% of their students receive free or reduced-price meals under the National School Lunch program report that all of the elementary school teachers are highly qualified, while 31% of the school districts where 76–100% of their students receive free or reduced-priced meals report that all of their elementary school teachers are highly qualified.

Source: Center on Education Policy, December 2003, District Survey, Item 48

Table 4-G Percentage of Districts Reporting That All of Their Teachers at the Following Levels Are Highly Qualified, by Percentage of Minority Enrollment

PERCENT MINORITY ENROLLMENT IN THE DISTRICT	ELEMENTARY TEACHERS	MIDDLE SCHOOL TEACHERS	HIGH SCHOOL TEACHERS
No Minority	62%	38%	53%
1-10% Minority	70%	52%	58%
11-25%	73%	52%	48%
26-50%	49%	34%	23%
51-75%	22%	22%	22%
76-100%	22%	13%	0%

Table Reads: An estimated 53% of school districts with no minority students report that all of their high school teachers are highly qualified, while 0% of school districts where 76–100% of their students are from minority groups report that all their high school teachers are highly qualified.

Source: Center on Education Policy, December 2003, District Survey, Item 48

Table 4-H State Reports of the Percentage of Classes Taught by “Highly Qualified” Teachers in All Schools and High-Poverty Schools

STATE	% OF CLASSES TAUGHT BY HQ TEACHERS IN 2002-03	% OF CLASSES IN HIGH-POVERTY SCHOOLS TAUGHT BY HQ TEACHERS IN 2002-03
Alabama	35.3%	29%
Alaska	16%	16%
Arkansas	97%	97%
California	48%	35%
Colorado	85.7%	84.6%
Connecticut	96%	94.7%
Delaware	85%	85%
District of Columbia	74.6%	65.4%
Florida	91.1%	92.9%
Georgia	94%	95%
Hawaii	86.7%	84%
Idaho	98.1%	98.6%
Indiana	96.2%	95%
Kansas	80%	80%
Kentucky	95%	97%
Maryland	64.5%	46.6%
Michigan	95%	90%
Minnesota ¹	96%	94.1%
Mississippi	85%	81%
Nebraska	90%	82%
Nevada	50%	50%
New Hampshire	86%	84%
North Dakota	91.1%	93.8%
Ohio	82%	78%
Oklahoma	64%	57%
Oregon	81.8%	71.5%
Pennsylvania	95%	93%
Rhode Island	63%	58%
South Carolina	50%	50%
South Dakota	85.7%	16.4%
Texas	75.8%	69.3%
Utah	95.9% ²	96.4% ³
Vermont	92%	93%
Virginia	80%	73%
Washington	83%	88%
West Virginia	94%	96%
Wisconsin	98%	96.9%
Wyoming	95%	99%

Note: The following states did not provide data in at least one of the categories: Arizona, Illinois, Iowa, Louisiana, Maine, Massachusetts, Missouri, Montana, New Jersey, New Mexico, New York, North Carolina, and Tennessee.

- 1 Percentage of highly qualified teachers teaching core classes. The state expects to have data on the percentage of classes in the summer of 2004.
- 2 However, the state notes that 71.0% are “interim” and only 24.9% are “fully” highly qualified.
- 3 However, the state notes that 85.3% are “interim” and only 11.1% are “fully” highly qualified.

Source: Center on Education Policy, analysis of state consolidated applications, November 2003.



the districts with minority enrollment rates of 76–100% report that all their high school teachers are highly qualified.

Previous research corroborates CEP's findings. Richard Ingersoll has found that in high-poverty schools, nearly one-fifth of high school students and more than half of middle school students take at least one course with a teacher who did not attain even a minor in the subject (cited in Olson, 2003). Moreover, secondary students in high-poverty schools are twice as likely as those in low-poverty schools (26% versus 13%) to have teachers who are not licensed in the subjects they teach.

In addition, Ingersoll (cited in Olson, 2003) has found that students in high-poverty and high-minority schools also are more likely to be taught by inexperienced teachers. At the elementary level, fewer than 9% of teachers in low-poverty schools have less than three years' experience, compared with more than 13% of teachers in high-poverty schools. In high-minority elementary schools, nearly 15% of teachers are new.

NCLB requires states to measure the extent of uneven distribution of highly qualified teachers and take steps to fix it. Neither the law nor its accompanying guidance, however, provides states with strategies for complying with these provisions. Furthermore, instead of asking states to compare the percentages of highly qualified teachers in high-poverty schools with those in low-poverty schools (as required on states' report cards), USED has asked much less of states on their consolidated applications for NCLB funding. On these applications, states were required to compare the percentage of classes in high-poverty schools taught by highly qualified teachers with only the overall state average percentage in *all* schools, rather than with the percentage of classes in low-poverty schools taught by a highly qualified teacher. This method is unlikely to draw attention to the significant inequality of teacher qualifications between high-poverty and low-poverty schools, which has been identified by a significant body of research (Education Trust, 2003).

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Indeed, states' estimates on their applications of classes in high-poverty schools taught by a highly qualified teacher differ little from their estimates of classes in all schools taught by a highly qualified teacher (**Table 4-H**). For example, Arkansas reports that 97% of its public school classes are taught by a highly qualified teacher and that 97% of its classes in high-poverty schools are taught by highly qualified teachers. Minnesota reports averages of 96% and 94% respectively, and Washington reports averages of 83% and 88%. Overall, three-quarters of the states with data report that at least 80% of all classes are taught by a highly qualified teacher, and 63% of these states report that at least 80% of classes in high-poverty schools are taught by a highly qualified teacher. Thirteen states did not provide data on the percentage of highly qualified teachers in high-poverty schools, so it was not possible to make a comparison.

In the GAO study (2003), state and district officials cited many conditions that hinder their ability to ensure all their teachers are highly qualified. For example, a vast majority of states responding to the survey (32 of 37) reported that teacher salaries were low compared with other occupations. Significantly more high-poverty than low-poverty districts identified barriers to ensuring that all their teachers are highly qualified, according to GAO's survey responses. The GAO study also noted that high-poverty districts are significantly less likely to have programs to support new teachers.

Our own case studies confirm this finding and suggest why it may be so. For example, Fort Lupton, Colorado—a rural pre-K district north of Denver—loses many teachers to neighboring districts that pay higher salaries. Collier County, a large district in southern Florida, has high teacher turnover in its high-poverty schools because so many teachers want to live in the highly desirable, and wealthier, beach area of the county.



SPECIAL CHALLENGES OF RURAL AND URBAN SCHOOLS

Rural and urban schools may have difficulty meeting the goal for a highly qualified teacher in every classroom by 2005–06, according to responses to our state survey and other evidence. Of the 47 states responding to our survey question asking them to anticipate whether all teachers in the state teaching core academic subjects will be highly qualified, eight responded “no” and another 11 responded “don’t know.” Of those states anticipating that all teachers would not be highly qualified by the NCLB deadline, almost all pointed to the difficulty of staffing small and/or rural schools where teachers often teach more than one academic subject. On a separate question regarding which areas of the state may have special difficulty in meeting the highly qualified teacher requirements, 31 states report that they expect particular districts to have difficulty. Almost all these states identified small and rural districts as having particular problems ensuring a highly qualified teacher in every classroom.

Similarly, 35 of 46 states responding to the survey reported that certain areas have faced or will face “unique challenges in implementing the teacher quality provisions of NCLB” (with 6 states reporting “don’t know”). These states that expected particular areas to have difficulty overwhelmingly cited rural areas as the most severely impacted. For example, a state official made the following comment in our survey:

Recruiting qualified teachers to sparsely populated areas is very difficult. Teachers in these settings are often required to be able to teach in more than one academic area and may not be highly qualified in every subject they teach.

Information from our case studies sheds further light on the challenges in rural areas. In Orleans Central Supervisory Union, Vermont, the tranquility and beauty of this rural region serves as both a blessing and a challenge for recruiting and retaining teachers. On the one hand, it is considered a desirable place for young people who have chosen the teaching profession, with two ski areas for winter and many lakes for the summer, a very low cost of living, and excellent teaching conditions (the average class size is 12:1). On the other hand, the Orleans superintendent finds that he is continually recruiting teachers—not only because he cannot find teachers, but because the district has difficulty retaining them. The isolation and long distances from urban areas, as well as the lure of higher paying jobs in the cities, ultimately proves to be a bigger obstacle than the isolated beauty is a boon.

In addition to the general expectation that rural districts will have great difficulty meeting the highly qualified teacher requirements, five states in our survey—Maryland, Massachusetts, Michigan, Pennsylvania, and Virginia—felt that large urban districts would face special difficulties. Large urban districts tend to have the highest concentrations of poor and minority students, crowded classrooms, high teacher and administrator turnover, and buildings in need of repair, factors that create challenges for drawing and retaining teachers. A state official responding to our survey summed up the challenge as follows:

It will take Herculean efforts for districts to either replace conditional teachers with highly qualified teachers or to help them complete their certification requirements in time for the 05-06 school year.

Both rural and urban districts report problems in recruiting. In our district survey, one-fourth of rural districts (27%) and one third (33%) of urban districts reported that they are having difficulty hiring highly qualified teachers as new hires. These percentages are higher than that reported by suburban districts (13%). From the district perspective, it appears that

Figure 4-B Percentage of Districts Reporting Difficulty in Finding Highly Qualified Title I Teachers As "New Hires" in 2003-04, by District Type and District Size

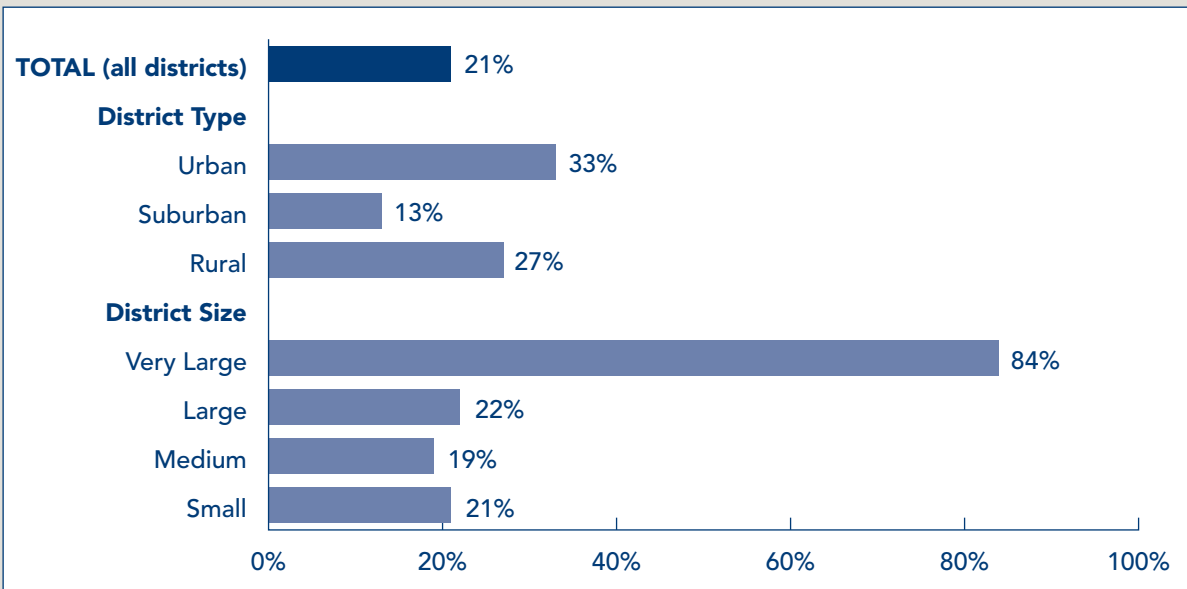


Figure Reads: In 2003-04, of large districts that have a system in place to classify teachers as "highly qualified," an estimated 22% report having difficult finding highly qualified teachers as "new hires."

Source: Center on Education Policy, December 2003, District Survey, Item 49 (Table 24)

Figure 4-C Percentage of Districts Requiring Middle and Junior High School Teachers to Be Certified in Content Area, by District Type and District Size

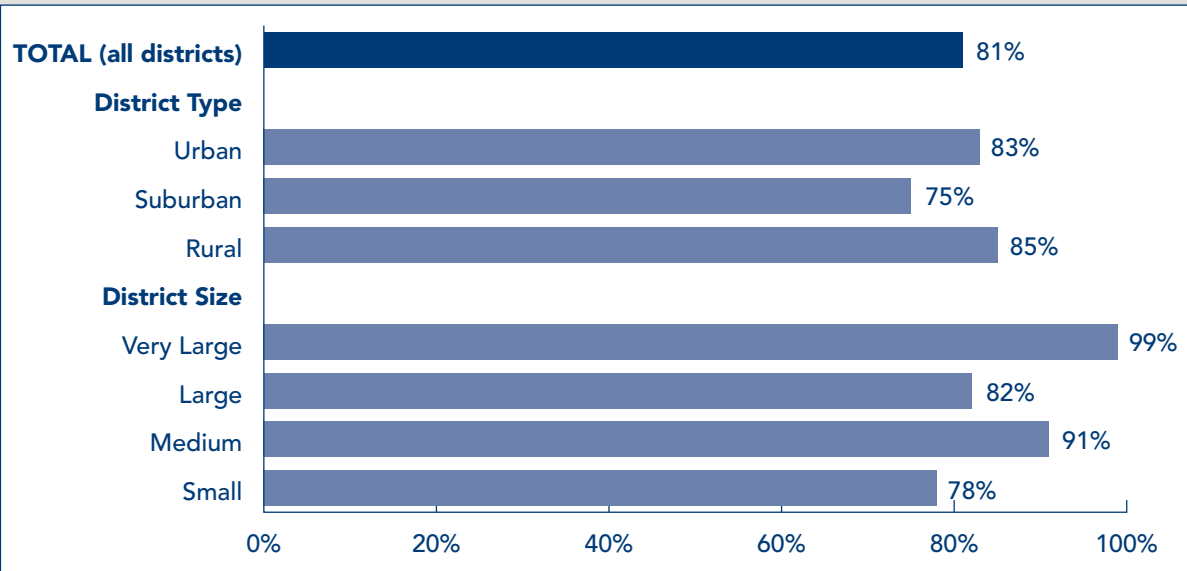


Figure Reads: Of large districts with a system in place to classify teachers as "highly qualified," an estimated 82% report that either the district or the state requires middle/junior high school teachers to be content-certified in the subject area they teach.

Source: Center on Education Policy, December 2003, District Survey, Item 55 (Table 29)



very large districts, 84% of which reported having difficulty finding highly qualified teachers as new hires, are having more problems than rural districts (see **Figure 4-B**).

Some of districts' problems could be of their own making. Many large urban districts, for example, miss the opportunity to hire large numbers of highly qualified teacher candidates for a variety of reasons, including several cited by Jessica Levin and Meredith Quinn (2003) of the New Teacher Project:

- Cumbersome application process
- Too many layers of bureaucracy
- Inadequate customer service
- Poor data system
- Lack of urgency
- Late dates required for teacher notification for leaving their positions
- Teachers' union transfer requirements that often give existing teachers the first pick of openings before any new teachers can be hired
- Late budget timetables
- Inadequate forecasting.

Levin and Quinn (2003) observed, "Because of hiring delays, these districts lose substantial numbers of teacher candidates—including the most promising and those who can teach in high-demand shortage areas—to suburban classrooms that typically hire earlier." Levin and Quinn also found that such districts are "left scrambling at the 11th hour to fill" teaching vacancies despite having hundreds of applicants in high-need areas and many more total applicants than vacancies to fill. Tired with waiting, between 31% and 60% of applicants withdraw from the hiring process, often to accept jobs with districts that made offers earlier. Further, Levin and Quinn found that it is often the best candidates with the most job options who are the most likely to remove themselves from the hiring process of hard-to-staff districts, forcing these districts to fill their vacancies from a lower quality applicant pool.

MIDDLE SCHOOL, SPECIAL EDUCATION, AND HIGH-NEED SUBJECTS

The greatest state and local concerns are with middle school teachers, special education teachers, and some secondary school content areas. Our state survey and case studies suggest that the NCLB requirements for highly qualified teachers are expected to be especially challenging for middle school teachers, a finding supported by many analysts (Perlstein, 2003; Berry, 2003). Our state survey found that 31 out of the 47 responding states anticipate having difficulty meeting the requirement for middle school teachers to be highly qualified, with another two states expressing uncertainty. One state official noted in survey comments that teachers currently graduating from the state's teacher preparation programs who want to teach middle school do not meet the subject-knowledge requirement under NCLB. Another state respondent claimed that NCLB's requirements are "not consistent with interdisciplinary teaching strategies."

Our district survey, though, suggests that the problem is less severe. Approximately 8 in 10 districts (81%) reported that the district or its state requires middle or junior high school teachers to be content certified. Very large districts are especially likely to report that they have such a requirement (see **Figure 4-C**).



STEPS STATES AND DISTRICTS ARE TAKING TO ADDRESS PROBLEMS

States appear to be moving slowly to address teacher inequities, and some states are taking advantage of flexibility provisions to delay accountability in this area. Many districts, however, are taking important steps toward ensuring a highly qualified teacher in every classroom.

Although many states and districts have launched efforts to attract and retain skilled teachers, few of those initiatives focus on matching qualified teachers with high-need schools, a key strategy for ensuring access to highly qualified teachers for students in these schools (Center for Reinventing Public Education, 2003). For example, according to *Education Week's* 2003 edition of its Quality Counts report (Olson, 2003):

- Although 25 states have alternative routes to teaching programs, only 11 target these programs on filling subject-area shortages, and only 3 states target these programs on producing teachers for high-need schools.
- Although 24 states provide college scholarships, loans, or other tuition assistance to prospective teachers, only 7 target these programs on candidates committed to working in high-poverty, high-minority, or low-achieving schools.
- Six states offer housing aid to teachers, but only three of them gear the incentives toward teachers willing to work in the neediest schools.
- Five states provide signing bonuses for teachers, but only California and Massachusetts gear these bonuses to teachers willing to work in high-need schools or districts.
- Thirty-four states and the District of Columbia offer retention bonuses to veteran or highly qualified teachers, primarily those who have earned National Board Certification, but only five of them target those bonuses to teachers in high-need schools.

Even states that have targeted incentives to attract highly qualified teachers to high-need schools might have to scale back their efforts due to a poor economy. Mississippi, for example, scaled back a scholarship program designed to draw teachers to areas where they are needed most (Olson, 2003).

Some states are finding wiggle room within the strict deadlines for having highly qualified teachers by using their authority to waive certain federal requirements under the federal Ed-Flex program (Title I Monitor, 2003c). Under this program, the U.S. Secretary of Education designates certain states as “Ed-Flex” states, which permits those states to waive certain federal statutory and regulatory requirements for their school districts. The program is available to all states but requires a rigorous application process. Currently, 10 states have Ed-Flex authority.

North Carolina recently used its status as an Ed-Flex state to gain some flexibility on teacher quality requirements. The state issued waivers to school districts, on a case-by-case basis, of the requirement in section 1119(a) of NCLB to hire only highly qualified Title I teachers beginning in fall 2002. These waivers will be in effect through the end of school year 2003–04. Blanket waivers for all school districts in the state are not permitted under the Ed-Flex program, and districts must apply to the state for a waiver. North Carolina still expects to fully meet the 2005–06 deadline for having highly qualified teachers. North Carolina school districts are “easing their path” toward compliance, according to Rene Islas, special assistant to Secretary Rod Paige (cited in Title I Monitor, 2003c).

As of December 2003, at least five more states—Alabama, California, Maryland, Pennsylvania (focused only on Title I programs in Philadelphia), and South Dakota—



had asked USED for at least one extra year before implementing various provisions of the highly qualified teacher requirement (Title I Monitor, 2003c; Title I Monitor, 2003d). To date, only Maryland and Pennsylvania have been successful in postponement since they, like North Carolina, are Ed-Flex states. South Dakota, which is the only state known to have filed a formal waiver to extend the timeline for implementing the highly qualified teacher requirement, has been waiting since April 2003 for a response from USED (Title I Monitor, 2003d). In the future, other states may look to Ed-Flex for flexibility, especially since all states have received approval for their accountability systems, one of the conditions for Ed-Flex eligibility.

In addition, many districts are taking important steps toward ensuring a highly qualified teacher in schools with the most difficulty hiring and retaining them. Some districts are providing targeted financial incentives. For example, in addition to improving general teaching skills related to curriculum, instruction, and assessment, the Berkeley County district in South Carolina encourages and assists teachers who teach in Title I schools to obtain advanced degrees and National Board Certification. The district also provides assistance to cover tuition costs, textbooks, supplies, mileage and testing fees are provided. A teacher who is nationally certified is provided a yearly stipend of \$5,000 as a further incentive for teaching in a rural Title I school.

Other districts are collaborating with local colleges. For example, we learned from one of our case studies that Escondido Union Elementary School District, a suburban district in California outside San Diego that has had difficulty finding highly qualified teachers, is working closely with California State University, San Marcos, to develop effective programs for credentialing teachers.

Finally, some districts are using distance learning to staff hard-to-fill positions. For example, small and rural Heartland School District (student population 350) in Nebraska has a stable teaching force that meets NCLB requirements, according to our case study. The district, however, has difficulty staffing specialized courses with a highly qualified teacher, so it has turned successfully to distance learning as a tool for students who wish to take courses such as calculus.

Slow Compliance with Parent Notification Requirements

Title I, Part A of NCLB 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. These parents have the right at any time to request and receive timely information on the professional qualifications of their children's classroom teachers. Available evidence raises questions about whether districts are fully complying with the NCLB requirements to notify parents of children whose teachers are not highly qualified.

On August 7, 2003, the Alabama State Board of Education went on record as opposing the NCLB requirement for districts to notify parents in school year 2002-03 about the qualifications of their children's teachers. Indeed, Alabama officials hope to delay reporting for a year, believing that parents will not completely understand the information they receive. The state hopes to "buy some time" to negotiate with the U.S. Department of Education, said state superintendent of education Ed Richardson (cited in Redden, 2003).

Alabama may not be alone in its failure to implement NCLB's parent notification requirement. A survey of 23 states and the District of Columbia by the Association of Community Organizations for Reform Now (ACORN, 2003) found that districts have

Table 4-1 Average Number of Schools Sending Out Notices to Parents Whose Students Have Been Assigned to or Taught by a Teacher Who Is Not “Highly Qualified,” by District Type and District Size, 2002–03

TOTAL (ALL DISTRICTS)	5
District Type	
Urban	12
Suburban	5
Rural	3
District Size	
Very Large	49
Large	6
Medium	5
Small	2

Table Reads: Among urban districts that have systems in place to classify teachers as highly qualified, the average number of schools sending out notices to parents when students have been assigned to or taught by a teacher who is not “highly qualified” is 12.

Source: Center on Education Policy, December 2003, District Survey, Item 51 (Table 26)

been slow to implement the parent notification requirements, noting that only 38% (9 states) had the required teacher quality information as part of the information on their state report cards.

Our own district survey found that 23% of districts with systems in place to track highly qualified teachers in Title I schools have notified parents when their children have been assigned to or taught by a teacher who is not highly qualified. This figure, however, must be interpreted with caution, as it is unclear whether the remaining 77% of districts had no children in Title I schools assigned to a teacher who was not highly qualified or whether they did have such situations but failed to notify parents as required by law.

Although the extent to which districts are sending letters to parents is not known, our district survey indicated that in districts that had systems in place to classify teachers as highly qualified, an average of five schools within the district reported sending out notices to parents when students have been assigned to or taught by a teacher who is not highly qualified (see **Table 4-1**). In very large districts that had systems in place to classify teachers as highly qualified, an average of 49 schools within each district sent out notices to parents in this situation, compared with 6 schools in large districts, 5 schools in medium-sized districts, and 2 schools in small districts.

Of urban districts with a system in place to classify teachers as “highly qualified,” an average of 12 schools sent out notices to parents when students have been assigned or taught by a teacher who is not highly qualified, compared with 5 schools in suburban and 3 schools in rural districts.

Chicago, one of our case study districts, is an example of an urban district that spent significant time developing a process to advise parents of their rights to know about the



educational qualifications of their children's teachers. The district sent initial letters to parents informing them of their right to request this information, according to district officials. The district also had to notify parents if their child was not being taught by a highly qualified teacher, but the district did not have records showing which children were assigned to which teachers. To construct this information, the central office staff and the principals worked together to match elementary-level students with specific teachers. For high school students, the central office staff compiled all the letters. All told, the district sent more than 100,000 letters to parents notifying them about the credentials of their children's teachers, our case study contacts said.

One complication in complying with the notification requirements is that although NCLB requires all teachers of core academic subjects to be highly qualified by the end of school year 2005-06 and, starting in school year 2002-03, requires all districts to notify parents if their child is being taught by a teacher in a Title I school who is not highly qualified, NCLB does *not* require states to determine which teachers are and are not currently highly qualified by a certain deadline. Therefore, districts must proceed with these requirements without knowing how many teachers actually meet the requirements. Another problem is that the U.S. Department of Education appears unlikely to scrutinize state efforts to ensure a highly qualified teacher in every classroom. The Department is not requiring states to submit their definitions of highly qualified, although some states are including this information in other materials they are providing to the Department. This lack of attention by the federal government has meant that states have focused their time and energy on meeting other NCLB requirements (ACORN, 2003; Berry, 2003; Education Trust, 2003).

Investments in Professional Development

States and districts plan to invest heavily in teacher professional development, but it remains to be seen whether the quality will improve.

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Title II, Part A of NCLB provides grants to states and districts to increase student academic achievement by improving teacher quality and securing more highly qualified teachers and principals. States may use Title II, Part A funds to support and improve teacher certification processes, reform teacher tenure systems, evaluate activities, and provide technical assistance. States and districts may also use funds to recruit and retain teachers and administrators and to provide "high-quality" professional development, defined by Title IX of NCLB in a very specific way, as outlined in **Box 4-A**.

NCLB requires that 100% of teachers receive high-quality professional development by the end of the 2005-06 school year. Many states (24) reported to USED that the majority of teachers received high-quality professional development in 2002-03, and nine states reported that at least 90% of their teachers received high-quality professional development (**Table 4-J**). However, some mixed messages emerged from our analysis of the estimates that states submitted on their consolidated applications for NCLB funding. In particular, states had to show the percentage of their teachers who are receiving high-quality professional development. They also had to provide benchmarks for years 2003-04 through 2005-06 for ensuring 100% compliance by 2005-06.

First, a significant number of states (19) did not provide the required information at all. Second, states that did provide the information for 2002-03 reported vastly different percentages, perhaps reflecting varying definitions of quality, capabilities for tracking its delivery, and the amount of training actually offered to teachers. Estimates range from a low of 12% of teachers receiving high-quality professional development in North Dakota to a high of 100% in Alaska, Arkansas, Connecticut, Vermont, and

Box 4-A NCLB Definition of High Quality Professional Development

Title IX of NCLB defines “high quality” professional development as professional development programs or activities that:

- Improve and increase teachers’ knowledge of the academic subject they teach and enable them to become highly qualified;
- Are an integral part of schoolwide and districtwide educational improvement plans;
- Give educators the knowledge and skills to provide students with the opportunity to meet state standards;
- Improve classroom management skills;
- Are high-quality, sustained, intensive, and classroom-focused to have a positive and lasting impact on classroom instruction and the teacher’s performance in the classroom;
- Are not short-term workshops or conferences;
- Support the recruiting, hiring, and training of highly qualified teachers;
- Advance teacher understanding of effective instructional strategies;
- Are aligned with and directly related to standards, assessments, curricula, and programs;
- Are developed with extensive participation of teachers, principals, parents, and school administrators;
- Are designed to give teachers the knowledge and skills to provide instruction and appropriate language and academic support services to limited English proficient children;
- Provide training for educators in the use of technology in the classroom to improve learning in the curricula and core academic subjects;
- Are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement;
- Provide instruction in methods of teaching children with special needs;
- Include instruction in the use of data and assessments to inform and instruct classroom practice; and
- Include instruction in ways designed to help educators work more effectively with parents.

Table 4-J State Reports of the Percentage of Teachers Receiving High-Quality Professional Development (Actual for 2002-03 and Planned for Other Years)

STATE	% OF TEACHERS RECEIVING HIGH-QUALITY PROFESSIONAL DEVELOPMENT			
	2002-03	2003-04	2004-05	2005-06
Alabama	82.7%	88.5%	94.2%	100%
Alaska	100%	100%	100%	100%
Arkansas	100%	100%	100%	100%
California	25%	50%	75%	100%
Colorado	60.3%	75%	90%	100%
Connecticut	100%	100%	100%	100%
Delaware	75%	85%	95%	100%
District of Columbia	60%	80%	90%	100%
Georgia	69%	80%	90%	100%
Hawaii	17%	40%	60%	85%
Idaho	94.2%	96.1%	98.1%	100%
Indiana	99%	100%	100%	100%
Kansas	50%	55%	60%	65%
Louisiana	53%	68%	83%	100%
Missouri	60.6%	65%	72%	80%
Nebraska	52%	64%	86%	100%
Nevada	36%	57%	78%	100%
New Hampshire	75%	85%	95%	100%
New Jersey	98%	99%	99%	100%
North Dakota	12%	41%	70%	100%
Oregon	79.2%	80.6%	82%	83.4%
Pennsylvania	86%	91%	96%	98%
Rhode Island	65%	75%	85%	100%
South Dakota	22%	46%	72%	100%
Tennessee	49.1%	66.1%	83.1%	100%
Texas	90.5%	94%	97%	100%
Utah	18%	23%	28%	30%
Vermont	100%	100%	100%	100%
Virginia	85%	87%	90%	100%
Washington	46%	48%	50%	60%
Wisconsin	100%	100%	100%	100%
Wyoming	79%	82%	85%	90%

Note: The following states provided no data: Arizona, Florida, Illinois, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan (benchmarks only), Minnesota, Mississippi, Montana, New Mexico, New York, North Carolina, Ohio, Oklahoma (benchmarks only), South Carolina, and West Virginia.

Source: Center on Education Policy, analysis of state consolidated applications, November 2003.

Wisconsin (and 98% and 99% in New Jersey and Indiana, respectively). Finally, eight states—Hawaii, Kansas, Missouri, Oregon, Pennsylvania, Utah, Washington, and Wyoming—indicate that they do not plan to ensure that all teachers in the state receive high-quality professional development by 2005-06, with Utah planning on training only 30% of all teachers by that time (Table 4-J). A majority of states responding to CEP’s survey (29 out of 47, with five reporting “don’t know”) indicated that the state is providing professional development to help teachers who do not meet the NCLB qualification requirements.

Our district survey suggests that districts are using most of their Title II funds on professional development and class-size reduction, not surprising given that Title II combined the professional development and class-size development programs that existed separately under previous law. Districts are planning virtually no changes in the allocation of funds between school years 2002-03 and 2003-04 (see Figure 4-D).

Our district survey also found that districts are engaged in a variety of activities to help teachers meet the highly qualified requirements of NCLB by the end of the 2005-06 school year (see Table 4-K). Offering training, as opposed to funding for college courses or professional development opportunities, appears to be the most popular general strategy. Almost half of districts are focusing “to a great extent” on training on how to use data and assessments to improve classroom practice, perhaps a response to NCLB’s production of more disaggregated data from a greater number of tests. Districts are also emphasizing training to improve teachers’ knowledge of instructional strategies for students with different learning styles—a reflection on NCLB’s requirements for demonstrating adequate

Figure 4-D Average Percentage of Title II, Part A Funds Allocated by District to Various Activities in 2002-03

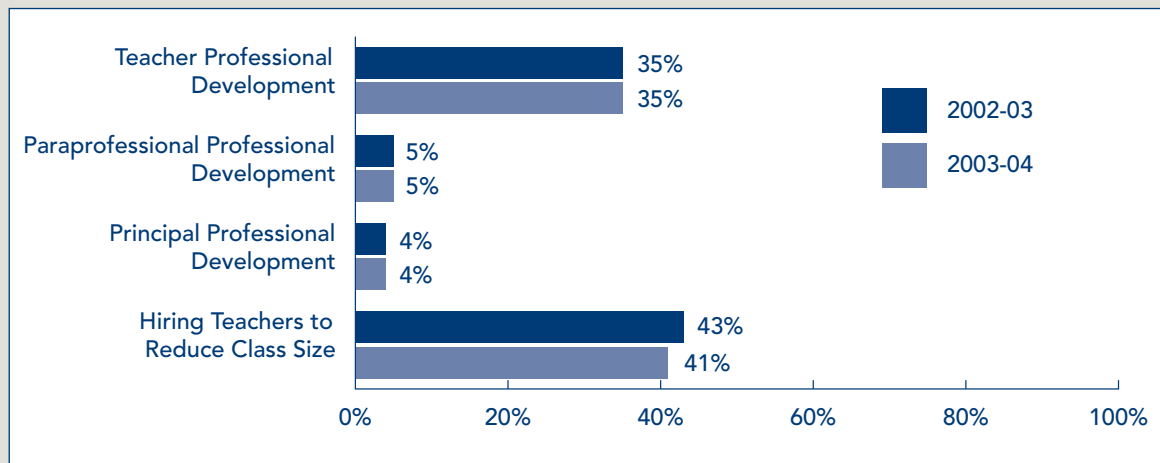


Figure Reads: In 2002-03, among the districts with systems in place to classify teachers as “highly qualified,” the average percentage of Title II, Part A funds that these districts allocate to teacher professional development is an estimated 35%.

Source: Center on Education Policy, December 2003, District Survey, Item 54 (Table 28)

yearly progress for subgroups of students. Training in the use of technology and in core academic subjects are other popular emphases for professional development.

The following comments from district administrators on our local survey explain the benefits that districts are seeing from NCLB's emphasis on high-quality professional development:

[The] district is now concentrating on high-quality professional development rather than [on] one-day workshops as a result of NCLB restrictions on how professional development funds are used.

Staff [receive] excellent [professional] development to improve teaching skills. I have seen the new skills used in classrooms.

Our case studies found that many districts are devoting considerable attention to professional development—not only to prepare teachers to meet the NCLB qualifications requirements but also because the districts believe that professional development for teachers is a key to raising achievement for students. For example, in Cuero Independent School District, Texas, 100% of the district's African American students reached proficient levels in math (grades 3 and 4), writing (grade 4), and social studies (grades 8, 10, and 11)—an accomplishment that district staff credits mainly to Cuero's extensive, well-structured professional development program. In Cloquet, Minnesota, the achievement of American Indian students has improved significantly over the past two years, as the percentage of American Indian students scoring proficient in math rose from 38%

Table 4-K Percentage of Districts Responding That They Plan to Provide Various Kinds of Training or Funding to Teachers to Help Them Meet the "Highly Qualified" Requirements of NCLB by the End of 2005-06

TYPE OF ASSISTANCE	PERCENTAGE OF DISTRICTS RESPONDING THAT THEY PLAN TO PROVIDE VARIOUS KINDS OF TRAINING OR SUPPORT TO THE FOLLOWING EXTENT:		
	TO A GREAT EXTENT	MINIMALLY OR SOMEWHAT	NOT AT ALL
Training in core academic subjects	34%	32%	25%
Training to improve knowledge of instructional strategies that address the needs of students with different learning styles (e.g., students with disabilities, special needs, limited English proficiency)	45%	43%	7%
Training on how to use data and assessments to improve classroom practice	49%	38%	9%
Training in the use of technology	44%	44%	7%
Funds to support the acquisition of advanced degrees	21%	27%	46%
Funds to support the professional development hours required to maintain their state certification	37%	38%	20%
Other	15%	5%	37%

Table Reads: Among the districts that have systems in place to classify teachers as "highly qualified," an estimated 7% report that they do not plan to provide training to teachers in the use of technology to help them meet the highly qualified requirements of NCLB by the end of the 2005-06 school year.

Note: Percentages do not add to 100 because "Don't Know" responses are not shown.

Source: Center on Education Policy, December 2003, District Survey, Item 52 (Table 27)



in 2002 to 69% in 2003, and the percentage scoring proficient in reading rose from 56% in 2002 to 81% in 2003. District officials attribute these gains largely to professional development that focused on meeting the needs of this subgroup and improving teachers' outreach to parents of children who were not performing well.

Several other districts in our case studies have comprehensive professional development programs. Several districts were training teachers to make better use of student performance data to refine their instruction. For example, Fayetteville Public Schools, Arkansas emphasizes the importance of involving teachers in academic improvement, especially through teachers analyzing student performance data. The district hired a literacy specialist and a math specialist to work directly with teachers and administrators in 2003-04. These individuals will focus on helping teachers to disaggregate student achievement data and to further align curriculum with state standards and frameworks. In addition, the district plans to provide multiple opportunities during school year 2003-04 for teachers in various content areas to use "vertical teaming"—in other words, to examine the alignment of curriculum within a school and across grade levels among feeder schools.

Despite districts' apparent emphasis on professional development, some analysts have expressed concern that states will not upgrade the quality of professional development received by teachers, consistent with NCLB requirements (Berry, 2003). The U.S. Department of Education will not monitor plans for professional development, and early indications are that states are focusing more on NCLB's enforced mandates, such as adequate yearly progress, than on elements such as professional development (Berry, 2003).

Uncertainty about the Ultimate Effects of NCLB Teacher Requirements

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States and districts are unsure as to whether NCLB will lead to an increase in the quality of teachers.

The overall goal of Title II of NCLB is to improve the quality of the nation's teaching force. Do administrators believe that NCLB will help to achieve this goal? Our state and district surveys found that administrators are split in their perceptions and that some are unsure whether NCLB will lead to greater numbers of better teachers. Many states responding to the state survey (22 out of 47) believe that NCLB will ultimately result in a better prepared teaching force. One state administrator described the improvements expected from NCLB as follows:

Districts and schools will focus more resources and energy on securing highly qualified teachers. Teacher training programs will be enhanced and hiring incentives will be implemented to ensure highly qualified teachers.

Still, more than a third of states (16 out of 47) believe that NCLB will *not* result in a better prepared teaching force. These states seem to believe that the Act does not go far enough, either because the state's standards for teachers are already high or because NCLB addresses teachers' content knowledge but not other aspects of teaching. Two comments from state administrators captured this view:

Teachers may end up with more content knowledge but they will not have the training in how to deliver effective instruction.

The requirement for existing teachers is not rigorous. New teachers will be better prepared, but will still face the challenges of being a new teacher.



Respondents to our district survey were divided about equally in their opinions on whether NCLB will result in a higher quality teacher workforce. While just under a third of respondents indicated that NCLB will definitely improve the quality of the workforce, a little less than a third expressed uncertainty, and over a third of respondents said that NCLB will not improve the quality of the teacher workforce. One optimistic district administrator lauded the emphasis on professional development and incentives:

The quality of the teacher workforce will improve for two reasons. First, because there will be more staff development, and [second] because the teachers who can't take the pressure to do well will leave the profession. Hopefully [the teachers who leave the profession] will be the ones with the limited skills.

Those doubting the impact of NCLB on the quality of the teacher workforce identified several obstacles, including a lack of technical assistance and professional development, teacher shortages, low salaries, and poor benefits that they felt would impede the success of the law's teacher requirements. For example, one district administrator noted:

At present, it is doubtful [that NCLB will lead to an increase in the quality of the teacher workforce] due to the lack of clear guidance, support, and technical assistance from the state department of education and the U.S. Department of Education.

Other district administrators apparently believe that the NCLB merely emphasizes the wrong characteristics, at least for some types of teachers. For example, some administrators in Berkeley County, South Carolina, one of our case study districts, oppose the rigorous requirements for academic expertise among middle school teachers, noting that students in 5th and 6th grades might be better served by the more general certification for elementary school teachers.

Paraprofessional Requirements

Introduction

Unlike the teacher requirements, which apply to all teachers of core academic subjects in *all* public schools, NCLB's requirements for paraprofessionals—the formal term for teachers' assistants—apply only to those providing instructional services in Title I-supported programs. 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 to be considered “highly qualified” according to the law's definition. Evidence collected for our study indicates that states and school districts are having more difficulty complying with the requirements for paraprofessionals than with those for teachers.

Major Federal Developments

The paraprofessional requirements of the Act received less attention from the U.S. Department of Education during 2003 than the teacher requirements. The Department did not release any major guidance or regulations about the paraprofessional require-



ments this year. Final regulations governing these provisions had already been published in November 2002. Similarly, USED's Teacher Assistance Teams, while providing states with assistance in complying with the highly qualified teacher provisions of NCLB, offer no assistance on the highly qualified Title I paraprofessional requirements.

State and Local Actions

Many states and school districts took steps during 2003 to implement the law's paraprofessional requirements. States had to submit information on numbers of highly qualified paraprofessionals as part of their consolidated applications for NCLB funding. Districts began taking steps to prepare their paraprofessionals to meet the NCLB deadlines, such as collaborating with institutions of higher education to offer the necessary courses, or establishing training programs to help prepare paraprofessionals to pass a competency test. But in many districts, a sizeable proportion of paraprofessionals does not meet the Act's requirements, so the challenge is significant.

Inadequate Information on Paraprofessionals' Qualifications

Many states and districts are currently unable to report the percentage of Title I paraprofessionals who are highly qualified. According to our analysis of states' consolidated applications, states have less information on their paraprofessionals' qualifications than their teachers' qualifications. Eighteen of the 51 states (including the District of Columbia) were unable to report data at all (see **Table 4-L**).

Part of the problem faced by states is that many of their districts do not have systems in place to classify paraprofessionals who are qualified under NCLB. According to our district survey, 31% of all districts do not have such systems in place. Interestingly, a higher percentage of suburban districts (37%) than urban or rural districts, and a higher percentage of large districts (28%) than very large and medium districts, report having no system in place. Very large districts are the most likely to have systems in place (see **Figure 4-E**).

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Substantial Numbers of Paraprofessionals Not Highly Qualified

Of those states that reported data in their consolidated applications, a majority indicated that fewer than half of their Title I paraprofessionals are highly qualified. Those states that did report paraprofessional qualifications data on their consolidated applications made clear that a smaller percentage of paraprofessionals than teachers are considered highly qualified (see **Table 4-L**). State estimates for the percentage of highly qualified paraprofessionals range from a low of 4.5% in Ohio (and 5% in the District of Columbia) to a high of 87% in Idaho. Idaho, however, appears to be an outlier, because the next highest percentages are 67%, 60%, and 56% reported by Georgia, Kansas, and Nevada, respectively. And, of the 33 states reporting data, 24 report that fewer than 50% of their paraprofessionals are highly qualified. On our state survey, some states—including Colorado, Delaware, Maryland, Oregon, and Wisconsin—indicated that salaries for paraprofessionals may be insufficient to hire individuals who are considered highly qualified under NCLB provisions.

Our case studies suggest that many Title I paraprofessionals are not highly qualified (**Table 4-M**). Although three case study districts (Heartland, Nebraska; Hermitage, Missouri; and Romulus, New York) reported that all their Title I paraprofessionals are

highly qualified, two (Grant, California; and Sheboygan, Wisconsin) reported that none are highly qualified, and about half (14 of the 26 with data) reported that 30% or fewer are. In Bloomfield, New Mexico, a rural district that covers 1,500 square miles in the remote “Four Corners” region, the great majority of paraprofessionals, 84% do not meet NCLB qualifications. To address this situation, the Bloomfield district is reimbursing paraprofessionals for the cost of coursework to meet NCLB requirements offered through the district and local community college.

Challenges of Rural and Urban Districts

Rural and urban districts will face significant challenges in ensuring that all Title I paraprofessionals are highly qualified. As with teachers, certain districts are expected to have more difficulty ensuring that all instructional paraprofessionals in Title I schools are highly qualified. Twenty-three of 46 states responding to our state survey reported that certain areas of the state have faced or will face unique challenges in implementing the Title I paraprofessional qualifications provisions, with 9 reporting they did not know. Of those reporting challenges, a majority indicated that certain areas of the state, especially those in rural communities, simply have an inadequate pool of applicants for paraprofessional positions.

In very rural districts, paraprofessionals often play a very critical instructional role, but their training also poses special challenges, according to our case studies. For example, in Kodiak Island Borough, Alaska, teachers are difficult to recruit and retain in the

Figure 4-E Districts Reporting That They Have a System in Place to Classify Paraprofessionals As Qualified

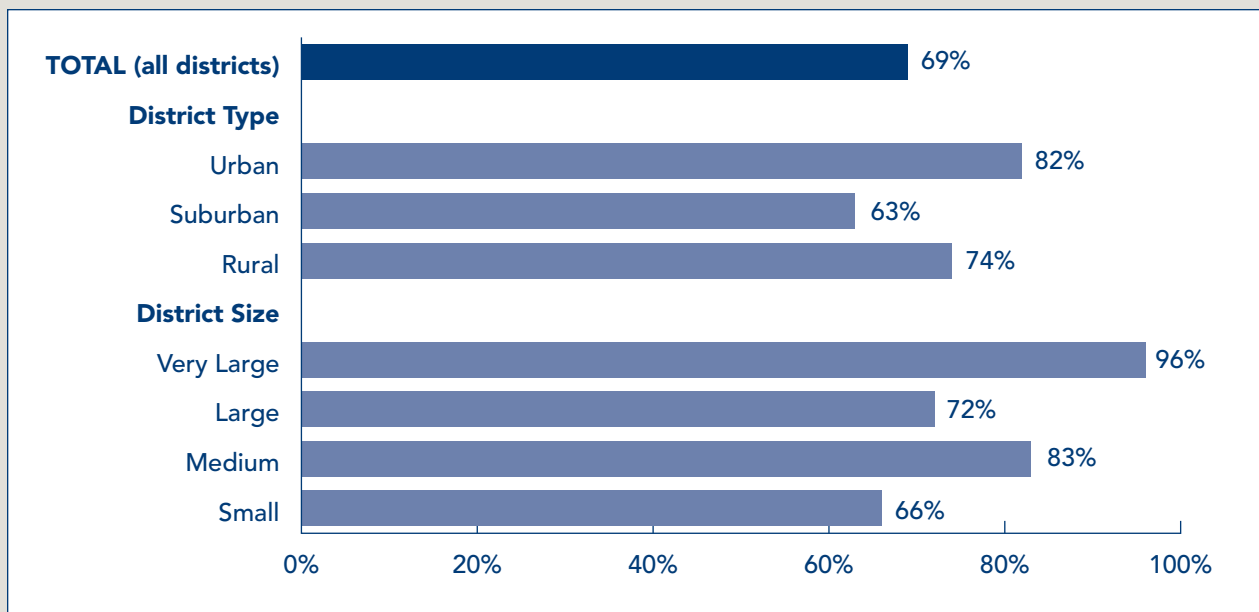


Figure Reads: Of rural districts that receive Title I funds, an estimated 74% report that they have systems in place to classify paraprofessionals as qualified.

Source: Center on Education Policy, December 2003, District Survey, Item 56 (Table 30)

Table 4-L State Reports of the Percentage of Highly Qualified Paraprofessionals in Title I Schools for 2002-03

STATE	% OF HIGHLY QUALIFIED PARAPROFESSIONALS IN TITLE I SCHOOLS FOR 2002-03
Alabama	38.3%
Alaska	27%
Arizona	38%
California	20%
Colorado	22.2%
Connecticut	30%
Delaware	52%
District of Columbia	5%
Florida	39%
Georgia	67%
Hawaii	10.9%
Idaho	87%
Kansas	60%
Maryland	21%
Missouri	26%
Nebraska	42%
Nevada	56%
New Hampshire	54%
New Jersey	42%
Ohio	4.5%
Oregon	44.3%
Pennsylvania	19%
Rhode Island	40%
South Dakota	54%
Tennessee	40.8%
Texas	49.3%
Utah	46%
Vermont	31%
Virginia	24%
Washington	39%
West Virginia	53%
Wisconsin	35%
Wyoming	54%

Note: The following states provided no data: Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Mexico, New York, North Carolina, North Dakota, Oklahoma, and South Carolina.

Source: Center on Education Policy, analysis of state consolidated applications, November 2003.

Table 4-M Percentage of Title I Paraprofessionals in Selected Case Study Districts That Meet the NCLB Definition of Highly Qualified, According to District Reports

STATE	DISTRICT	ENROLLMENT	TYPE	TOTAL NUMBER OF TITLE I PARAPROFESSIONALS	REPORTED % OF HQ TITLE I PARAPROFESSIONALS
Missouri	Hermitage	320	Rural	1	100%
Nebraska	Heartland	350	Rural	5	100%
New York	Romulus	580	Rural	5	100%
Mississippi	Pascagoula	7,480	Suburban	180	82%
Arkansas	Fayetteville	8,164	Small City	158	72%
Oregon	Tigard	11,682	Suburban	39	69%
South Carolina	Berkeley County	26,375	Rural and Urban	312	60%
Idaho	Meridian	25,937	Suburban	2	50%
Nevada	Clark County	253,009	Urban	432	50%
Virginia	Waynesboro	2,980	Rural	21	38%
California	Escondido	19,229	Suburban	123	30%
Alaska	Kodiak Island	2,750	Rural	7	29%
Massachusetts	Avon	730	Suburban	14	29%
Ohio	Cleveland	69,534	Urban	23	26%
California	Oakland	51,613	Urban	400	25%
Colorado	Fort Lupton	2,622	Rural	40	20%
Minnesota	Cloquet	2,278	Rural	12	17%
New Mexico	Bloomfield	3,190	Rural	67	16%
Louisiana	St. John	5,589	Suburban	84	15%
Kansas	Kansas City	20,425	Urban	93	12%
Florida	Collier County	37,109	Rural and Urban	255	10%
Texas	Cuero	1,993	Rural	25	8%
Alabama	Calhoun County	9,480	Rural	149	4%
California	Grant	12,682	Urban	9	0%
Wisconsin	Sheboygan	10,315	Small City	23	0%

Source: Center on Education Policy, District Case Studies, December 2003

most rural schools, so the district relies on paraprofessionals to provide continuity of instruction and maintain cultural and language connections with the students. Upgrading paraprofessionals' skills, however, presents many challenges. For example, many paraprofessionals cannot go to school in the summer because they must use this time to hunt and fish to feed their families during the long winter. Almost three-quarters of Kodiak's paraprofessionals do not meet the NCLB definition of highly qualified.

Our district survey confirms that certain areas will have difficulty meeting NCLB requirements for Title I paraprofessionals. Across all districts that have systems in place to classify paraprofessionals as qualified, 62% reported that "all or most" paraprofessionals that provide instructional services have satisfied the NCLB qualification requirements (see **Table 4-N**). However, urban, very large, and large districts reported relatively low percentages of qualified paraprofessionals, an interesting finding given that urban and very large districts are most likely to have systems in place to classify paraprofessionals, as discussed above. Also, rural and small districts reported greater proportions of highly qualified Title I paraprofessionals than urban or suburban districts, another interesting finding given the concern expressed by states that rural districts would have the most difficulty meeting the paraprofessional requirements. It is possible that rural districts are having fewer problems than anticipated because the number of positions is relatively small. For example, our case study of the Hermitage, Missouri, school district revealed that the district employs only one Title I paraprofessional with instructional responsibilities, and that person is highly qualified, which means that the district is in 100% compliance, at least for the present. Another reason may be that poor economies in rural areas create a larger labor pool from which districts can hire paraprofessionals.

Table 4-N Proportion of District's Title I Paraprofessionals Providing Instructional Services That Have Satisfied the Qualification Requirements of NCLB

	ALL	MOST	SOME OR FEW	NONE
TOTAL (all districts)	39%	23%	25%	11%
DISTRICT TYPE				
Urban	13%	34%	49%	1%
Suburban	33%	18%	28%	16%
Rural	48%	25%	19%	8%
DISTRICT SIZE				
Very Large	0%	37%	58%	0%
Large	13%	14%	61%	0%
Medium	20%	42%	19%	14%
Small	48%	19%	21%	12%

Table Reads: Of urban districts that have systems in place to classify paraprofessionals as qualified, 13% report that all paraprofessionals have satisfied the requirements of NCLB regarding their qualifications.

Note: Percentages do not add to 100 because "Don't Know" responses are not shown.

Source: Center on Education Policy, December 2003, District Survey, Item 57 (Table 31)



States Delegating Tasks to Districts

States appear to be delegating to districts the responsibility of ensuring that their Title I paraprofessionals are highly qualified. Districts appear to be responding by using a variety of strategies.

According to our state survey, many states are providing little assistance to help Title I paraprofessionals meet the NCLB requirements. For example, almost half (45%) of the states are offering no tuition assistance and approximately 44% are providing no training in academic subjects, while 41% are providing no training in instructional strategies that address the needs of special education or limited English proficient students (see **Table 4-O**).

Thirteen states reported that they are using strategies not listed in this table. For example, the Colorado Department of Education requires school districts to develop a process to meet the requirement for paraprofessionals. New Jersey is developing a series of options, including designing a portfolio assessment for paraprofessionals. Texas has developed an optional observational assessment that school districts may use to determine whether their paraprofessionals are highly qualified.

Districts, too, are reporting the use of a variety of strategies for preparing their paraprofessionals to be qualified. According to our district survey, approximately one-third of districts with systems in place to classify paraprofessionals as qualified are providing, to a great extent, training to improve knowledge of instructional strategies that address the needs of students with different learning styles, again perhaps reflecting NCLB's requirements to demonstrate adequate yearly progress for subgroups of students. Districts also appear to be emphasizing training in core academic subjects. Districts appear to be focusing more of their attention on training paraprofessionals than on providing them with funds to support the acquisition of a post-secondary degree (see **Table 4-P**).

Our case studies illustrate some of the strategies districts are using to ensure that all their Title I paraprofessionals are highly qualified by 2005-06. Some districts are partnering with local colleges and universities and covering the expenses for paraprofessionals to enroll in classes to help them earn needed credentials. For example, Collier County School District in Florida has developed a partnership with community colleges in Immokalee and Naples and is encouraging employees to take courses by covering all expenses with Title I funds. The district estimates, however, that as many as half of its paraprofessionals will not be able to earn an associate's degree for child care or other reasons. Many of the paraprofessionals are Hispanic and needed for their Spanish language skills. The district has also selected a state-approved competency assessment and plans to provide free training for employees willing to take the test.

Other districts are focusing almost exclusively on helping their paraprofessionals pass a test that will certify them as highly qualified, even if they do not have an associate's degree. Fayetteville Public Schools in Arkansas, another case study district, includes paraprofessionals in all district professional development opportunities. They are provided with test-prep materials designed to prepare them for the state-adopted paraprofessional test, and they are sent to conferences designed specifically for the student populations with which they work. In the fall of 2003, for instance, all paraprofessionals working with migrant children were invited, at district expense, to attend an out-of-town, two-day workshop dealing with multicultural education, teaching strategies, and health issues. Currently, 72% of the district's paraprofessionals meet the NCLB requirements.

Some case study districts are looking to arrange for both college credentialing and test-taking options to cover all their Title I paraprofessionals. In Colorado's Fort Lupton School District, only 6 of the 52 paraprofessionals have had two years of college.

Table 4-O Number and Percentage of States Using Strategies to Varying Degrees to Ensure That Title I Paraprofessionals Are “Highly Qualified”

TYPES OF ASSISTANCE	TO A GREAT EXTENT	MODERATELY OR MINIMALLY	NOT AT ALL
Providing training to paraprofessionals in core academic subjects	9 (20.9%)	15 (34.9%)	19 (44.2%)
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, LEP)	10 (22.7%)	16 (36.4%)	18 (40.9%)
Offering tuition assistance	5 (12.5%)	17 (42.5%)	18 (45.0%)
Working with institutions of higher education to develop a course of study for paraprofessionals	15 (34.1%)	20 (45.5%)	9 (20.5%)
Other	8 (57.1%)	5 (35.7%)	1 (7.1%)

Note: Percentages in rows do not add to 100 because “Don’t Know” responses are not shown.

Source: Center on Education Policy, December 2003, State Survey, Item 40 (Table 40)

Table 4-P Percentage of Districts Reporting They Provide the Following Types of Assistance to Title I Paraprofessionals to the Following Degrees

TYPES OF ASSISTANCE	TO A GREAT EXTENT	MINIMALLY OR SOMEWHAT	NOT AT ALL
Training in core academic subjects	27%	37%	27%
Training to improve knowledge of instructional strategies that address the needs of students with different learning styles (e.g., students with disabilities, special needs, limited English proficiency)	32%	44%	19%
Funds to support the acquisition of an associate’s degree or other college degree	16%	16%	59%
Other	12%	5%	49%

Table Reads: Of districts that have systems in place to classify paraprofessionals as qualified, an estimated 59% report that they provide no funding to support the acquisition of an associate’s degree or other college degree to assist Title I paraprofessionals in meeting the “highly qualified” requirements of NCLB by the end of the 2005-06 school year.

Note: Percentages in rows do not add to 100 because “Don’t Know” responses are not shown.

Source: Center on Education Policy, December 2003, District Survey, Item 58 (Table 32)



Nearby universities offer training for paraprofessionals. Even though many employees attended these classes, there was no college credit attached to the courses, so participants did not receive credit toward meeting NCLB qualifications. Plans are in place for the district's paraprofessionals to receive training at AIMS Community College, where they will receive credit for the coursework they take. The district staff is also finalizing plans for an assessment to measure whether paraprofessionals have the specific knowledge required by NCLB. The staff is also working on ways to assess paraprofessionals' ability to assist in instruction, also required by law. Paraprofessionals will receive assistance to help them pass this test and meet the NCLB requirements, according to the district officials involved in our case study.

In St. John the Baptist Parish Public Schools in Louisiana, paraprofessional training is also in place, and as an incentive for employees to get started, their tuition to a two-year college is paid with Title I funds. It is the intent of St. John to encourage paraprofessionals to take the coursework, not only as a way to meet the NCLB requirements and perhaps develop future teachers, but also to prepare them to assist teachers more effectively with teaching students. Some 32 paraprofessionals were enrolled in the college courses offered by River Parishes Community College in fall 2003.

To help to credential their paraprofessionals, 39 of the 48 states we surveyed reported developing or adopting an assessment to measure the knowledge and competency of their Title I paraprofessionals, consistent with NCLB. Of the 39 states, 25 adopted ParaPro (a commercial assessment), 6 developed a state exam, and 15 reported using other assessments. (The numbers do not add up to 39 since some states selected more than one type of exam.)

According to our district survey, two-thirds of the districts already administer an assessment to measure whether Title I paraprofessionals have met a rigorous standard of quality, with very large districts most likely to do so (see **Figure 4-F**). Districts appear to be relying mostly on their state education agency or a testing company for test development, or an assessment developed on their own, with suburban and rural districts more likely than urban districts to rely on their state agency (see **Table 4-Q**).

The case studies shed further light on how districts are approaching these assessments for paraprofessionals. For example, Pascagoula, Mississippi, intends to use the ACT Work Keys tests in Reading for Information, Math Applications, and Writing to assess the competency of paraprofessionals, while Clark County, Nevada, is relying on the state-approved Praxis exam. Escondido, California, is an example of a case study district that developed and field-tested its own proficiency test for paraprofessionals. The test is based on the California High School Exit Exam, which, according to district officials, requires higher order skills than those expected on California's proficiency tests for paraprofessionals. The test is now in use, and paraprofessionals are receiving training to help them pass it. The plan is to use a combination of performance assessments and the proficiency test to meet NCLB requirements for paraprofessionals who do not have two years of college or an associate's degree.

These efforts may not be typical, however, since our district survey shows that most districts are allocating relatively few Title II funds to professional development for paraprofessionals, when compared with teacher or principal professional development or the hiring of teachers to reduce class size (see **Figure 4-D**). This is occurring despite the fact that most districts acknowledge that paraprofessionals' qualifications are a significant problem.

Figure 4-F Percentage of Districts Administering an Assessment to Measure Whether Title I Paraprofessionals Have Met NCLB Qualifications, by District Type and District Size

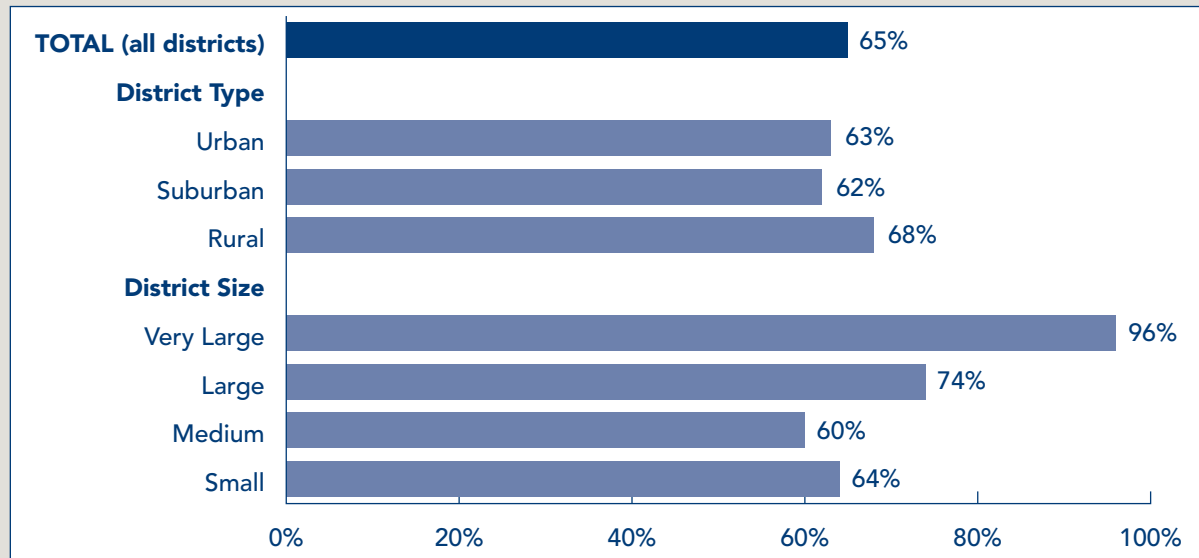


Figure Reads: Among medium-size districts that have a system in place to classify paraprofessionals as qualified, an estimated 60% report that the district or state currently administers an assessment to measure whether Title I paraprofessionals have met a rigorous standard of quality.

Source: Center on Education Policy, December 2003, District Survey, Item 60 (Table 34)

Table 4-Q Entities That Have Prepared or Are Preparing an Assessment for Title I Paraprofessionals That Meets NCLB Requirements

ENTITY	PERCENTAGE OF DISTRICTS REPORTING THAT THE FOLLOWING ORGANIZATIONS PROVIDED ASSESSMENTS FOR TITLE I PARAPROFESSIONALS THAT MEET NCLB REQUIREMENTS							
	ALL DISTRICTS	DISTRICT TYPE			DISTRICT SIZE			
		Urban	Suburban	Rural	Very Large	Large	Medium	Small
State Education Agency	60%	39%	62%	61%	43%	35%	63%	63%
Our school district	25%	24%	26%	25%	10%	32%	24%	26%
Another school district in the state	7%	4%	12%	4%	4%	11%	9%	7%
Testing company	32%	40%	34%	29%	93%	58%	36%	26%
An outside expert	9%	9%	12%	7%	1%	15%	5%	10%
None of the above	5%	3%	6%	5%	0%	2%	18%	3%
Don't know	6%	6%	4%	8%	0%	1%	8%	6%

Table Reads: Of urban districts that have systems in place to classify paraprofessionals as qualified, an estimated 39% report that the state education agency is preparing or has prepared an assessment for Title I paraprofessionals that meets the requirements of NCLB.

Note: School districts could select more than one entity.

Source: Center on Education Policy, December 2003, School District Survey, Item 59 (Table 33)



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CHAPTER 5

Miscellaneous Issues

Key Findings

Scientifically Based Research

- While the Comprehensive School Reform program has provided substantial guidance on types of instructional programs with a basis in scientific research, there is no evidence that this guidance is having an effect on the selection of programs at the school level.
- The U.S. Department of Education has issued no guidance on how to implement the scientifically based research requirement that is specific to the Title I program. However, in December 2003, USED did issue a general document on the identification and implementation of educational practices supported by rigorous evidence. Unless this general document is used widely in Title I, the largest federal program aiding elementary and secondary education, districts and schools might not make substantial changes in their instructional programs and approaches that are derived from scientifically based research.
- The U.S. Department of Education has been more forceful in implementing the scientifically based research requirement in Reading First than in other programs under the No Child Left Behind Act.
- States are at various points in the implementation of the scientifically based research provisions. Some states cannot require districts to adopt certain programs because of state constitutional restraints, while other states have developed lists of programs from which districts can choose.

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Reading First

- The U.S. Department of Education has put a heavy emphasis on the use of scientifically based research in its guidance and its review of state applications for the Reading First program.
- States report that the Reading First program requirements are being strictly implemented by the U.S. Department of Education.

English Language Learners

- Most states are still using commercially available assessments to test the English language proficiency of English language learners, but more than half the states are in the process of developing new tests, either on their own or as part of a consortium, that fully meet the requirements of the No Child Left Behind Act.



- As part of their NCLB consolidated applications, states were required to submit baseline data from school year 2002–03 about the total number of students identified as English language learners in the state and the number at each level of English language proficiency. The number of ELLs ranged from about 890 in Vermont to almost 1.6 million in California.
- Most states appear to be pooling their resources through four consortia to develop English language proficiency standards and English language proficiency assessments.
- A few states have gained approval from USED of policies that allow ELLs to remain in this subgroup for accountability purposes for several years after becoming proficient in English, until they reach academic proficiency on state exams in English language arts.

As part of this year’s study of the No Child Left Behind Act, the Center on Education Policy has examined three additional aspects of the law:

1. The requirements for scientifically based research scattered throughout the Act;
2. The Reading First program authorized by Title I, Part B, of the Act; and
3. The provisions in Title I and Title III for improving the academic achievement and language proficiency of English language learners.

Although these issues have not been the focus of as much activity during 2003 as the other areas discussed in this report, they are nevertheless important and could take on greater significance in future years.

Scientifically Based Research

Introduction

Numerous sections of the No Child Left Behind Act require educators to use instructional programs and approaches that are based on scientific research. In fact, the phrase “scientifically based research” appears over 100 times in the law. These requirements arose from the concern of members of Congress and others that schools were implementing programs and approaches that had no scientific evidence of effectiveness and were not improving children’s academic achievement. These provisions were also intended to stimulate educational researchers to apply more scientific procedures to their studies—more like research in the hard sciences. Better research will yield better information on effectiveness, the thinking goes, and more widespread adoption of the results of this research will produce better programs for children, which in turn will lead to higher academic achievement.

The Act contains a specific definition of scientifically based research that applies to all programs in NCLB (except Reading First, which has its own, somewhat less stringent, definition). This definition first looks to experimental studies that randomly assign subjects to experimental and control groups as the strongest test of a program’s effectiveness, but includes quasi-experimental research, which might include matched groups for comparison with those receiving the treatment, as well. The definition also calls for research that has been accepted by a peer-reviewed journal or has been otherwise reviewed by a panel of experts.



By applying this definition to programs, the federal government obviously wanted states, districts, and schools to choose programs and approaches that had the strongest scientific research behind them. If implemented as intended, the requirement should produce substantial change in the types of programs and approaches being used in classrooms. However, the Act provides no specific penalties for selecting programs or approaches that lack a foundation in scientifically based research. It is left to the U.S. Department of Education and the states to enforce the provision. Finally, since this approach to research has not been the norm in education, critics of the requirement have pointed out that few programs and approaches will meet a stringent application of the definition. Rather, the various programs and approaches available to school districts can be placed on a continuum, ranging from no evidence of effectiveness to rather strong evidence derived from scientific research. For these and perhaps other reasons, the scientifically based research requirements have not been as strictly enforced as other requirements in NCLB.

Major Federal Developments

Comprehensive School Reform Program

In our January 2003 report, we noted that three programs—Reading First, Teacher Quality, and Comprehensive School Reform—had issued guidance on the topic of scientifically based research. Of the three, information on model, school-level instructional approaches with a basis in scientific research is available only for the Comprehensive School Reform program, which provides funds to states and districts to implement whole-school reform strategies to improve achievement. To estimate the impact of the scientifically based research requirement on local practices, we compared the models chosen for implementation in 1998, the first year of the Comprehensive School Reform program, with the models chosen in 2002, when the second cycle of awards was made. The goal was to see whether school districts had moved substantially toward models with a research base more closely aligned with the definition in the Act.

Our efforts to do this analysis were complicated by the fact that the U.S. Department of Education has not categorized school reform models in relation to the Act's definition of scientifically based research. Nor has the national What Works Clearinghouse, described below, issued any information yet from its review of the evidence supporting various educational approaches. However, the American Institutes for Research did issue a publication, *An Educator's Guide to School Reform* (Herman et al., 1999), which attempted to determine the relative strength of the research base for many of the major school reform models in use. The report grouped models into five categories: positive effects, promising evidence, marginal evidence, mixed-weak evidence, and no research. Many of the models selected often by schools were not reviewed by AIR and are not included in this comparison. The comparison should be read with caution, since the AIR guide was published in 1999 and additional research on some of models, such as America's Choice, has occurred since then.

As the **Table 5-A** illustrates, our comparison revealed no movement toward those models that AIR rated as having the strongest research base. Rather, the percentage of schools selecting models with positive, promising, or marginal evidence decreased, while the percentage selecting models that AIR found to have weak or mixed evidence or no research basis increased. However, there may be reasons for this trend. For instance, schools that are implementing certain models receive technical assistance from university staff, consultants, or other experts trained in the particular model, and for some



models, these staff may have been near their capacity and unable to add many more schools in 2002.

Title I

As we reported last year, the federal Title I office has not issued any regulations or guidance on scientifically based research, in spite of the promise for change it makes. Nor did the states address the issue in the accountability plans submitted to the U.S. Department of Education in January 2003 or in the consolidated applications submitted in September 2003. The topic does not appear to be front and center in Title I program implementation; rather, USED has focused its efforts on accountability, public school choice, and supplemental services.

Reading First

Of all the programs authorized by NCLB, USED has developed the most guidance on scientifically based research for the Reading First program. There are several reasons for this emphasis:

1. Reading First, a new program, started with the understanding that it would emphasize reading approaches based on scientific research. Former Assistant Secretary for Elementary and Secondary Education Susan Neuman, under whom the program was placed, was herself a reading researcher, and Reid Lyon of the National Institute of Child Health and Development provided support for the use of scientifically based research. Unlike many other programs in the No Child Left Behind Act, the Reading First program did not require a change of focus to concentrate on the use of this type of research.
2. The definition for scientifically based research that applies to Reading First differs from the one that applies to other programs in NCLB. The Reading First definition does not require the research to be experimental or quasi-experimental in nature, nor does it require results to be presented in sufficient detail to allow other studies to replicate or build on the findings. It is likely that this somewhat less stringent standard will allow more programs and approaches to qualify.
3. Early reading has received substantial attention from researchers.
4. Reading First applications must describe the states' approaches to improve reading in their respective states. These applications were extensively reviewed by panels of experts. According to interviews with Departmental officials conducted by the Center on Education Policy, this review addressed both the state's attention to scientifically based research and the overall plan of the state to implement the program at the district and school levels. The Department also provided feedback from the review to the states, which often had to amend their original applications.

In the Center's state survey, virtually all states responded that the requirements of Reading First were being strictly enforced by USED, as described in Chapter 1. Since scientifically based research is one of the main features of the program, it is no surprise that federal program officials are paying such attention to it.

Table 5-A Numbers and Percentages of Schools in the Comprehensive School Reform Program Choosing Various Reform Models, 1998 and 2002

CATEGORY	MODEL	1998		2002	
		NUMBER	% OF TOTAL	NUMBER	% OF TOTAL
Positive	Direct Instruction	63	3.5%	33	2.5%
	Success for All	252	13.9%	55	4.1%
	High Schools That Work	51	2.8%	19	1.5%
Promising	Communities For Learning	28	1.5%	1	>0.1%
	Core Knowledge	51	2.8%	13	0.9%
	Different Ways of Knowing	26	1.4%	7	0.5%
	Expeditionary Learning	27	1.4%	15	1.1%
	School Development Program	34	1.8%	26	1.9%
Marginal	Accelerated Learning	116	6.4%	20	1.5%
	Onward to Excellence II	22	1.2%	17	1.3%
Mixed/Weak	Coalition of Essential Schools	48	3.9%	21	6.4%
No Research	America's Choice	63	3.5%	67	4.9%
	Atlas Communities	18	1%	8	0.6%
	Co-Nect	48	2.6%	62	4.7%
	Modern Red Schoolhouse	25	1.4%	21	1.6%

Table Reads: In 1998, 63 schools, or 3.5% of all schools funded under the Comprehensive School Reform program, chose to implement the Direct Instruction reform model. In 2002, 33 schools, or 2.5% of all schools funded, chose that model.

Source: Center on Education Policy, Compiled from data from SEDL Comprehensive School Reform Database



What Works Clearinghouse

The What Works Clearinghouse was established by the U.S. Department of Education to provide information on scientifically based research and set up mechanisms to help states, districts, and schools make better choices in their instructional programs. A major activity of the Clearinghouse is to review programs and instructional approaches on a variety of topics and produce evidence reports on instruction and programs on those topics. In order to ensure the quality of its review and maximum credibility for its results, the Clearinghouse has followed a step-by-step approach to its task, constantly seeking input from the field and assembling teams of researchers to evaluate evidence.

Initially, the Clearinghouse sought advice from the field on which topics would be reviewed. The Clearinghouse then developed standards and protocols for evidence reviews, which were approved by its technical advisory group. For its first period of review, which began in April 2003 and is scheduled to end in winter 2004, the following topics were selected:

1. Interventions for beginning reading
2. Curriculum-based interventions for increasing K-12 math achievement
3. Programs for preventing high school dropouts
4. Programs for increasing adult literacy
5. Peer-assisted learning in elementary schools: reading, mathematics, and science academic gains
6. Interventions to reduce delinquent, disorderly, and violent behavior in middle and high schools
7. Interventions for elementary school English language learners: increasing English language acquisition and academic achievement.

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The Clearinghouse plans to issue two evidence reports on the first topic, three on the second, and one on each of the remaining topics. The first reports, scheduled for completion in early 2004, are on teaching mathematics for middle schools, preventing high school dropouts, and increasing adult literacy. Others will follow, with all reports on these topics scheduled to be available by winter 2004.

While this cautious approach to topic selection and review is understandable, the timetable presents a problem for schools and districts seeking to meet the requirements of No Child Left Behind. For instance, the report on interventions for students with beginning reading difficulties is scheduled for release in winter 2004. The earliest time it can be of use to schools and districts is for the 2004-05 school year, well into the life of NCLB and the adequate yearly progress requirement.

Additional Activities

In the fall of 2003, the Department issued two documents that pertain to scientifically based research and indicate that more attention may be paid to it in the future.

On November 4, 2003, a Notice of Proposed Priority was published in the *Federal Register* indicating the Department's intention to give a priority to applications for funding from Departmental programs that will be evaluated using scientifically based evaluation strategies (USED, 2003). As explained in the notice, "Establishing this priority makes it possible for any office in the Department to encourage or to require



appropriate projects to use rigorous scientifically based evaluation strategies to determine the effectiveness of a project intervention.” The notice also states that “this priority will allow program participants and the Department to determine whether the project produces meaningful effects on student achievement or teacher performance.” The notice does not name specific programs or the extent of priority that would be given to applications—that information typically would be included in the notices that invite applications for the individual programs. The comment period for this notice ended on December 4, 2003. A final regulation, taking into account comments received, will be published in the *Federal Register* in the future.

On December 10, 2003, USED released a report prepared by the Coalition for Evidence-Based Policy (2003) entitled *Identifying and Implementing Educational Practices Supported by Rigorous Evidence: A User Friendly Guide*. This report discusses randomized controlled trials and matched comparison group studies. The report includes descriptions of what to look for to determine if these trials and studies were conducted in a manner to elicit supportable findings and describes how educators should evaluate whether specific interventions provide either strong (from randomized trials) or possible (from matched comparison groups) evidence of effectiveness. It also includes a list of places to find evidence-based interventions and a checklist to use in evaluating whether an intervention is backed by rigorous evidence of effectiveness.

State and Local Actions

State Survey Results

States have taken several approaches to implementing the scientifically based research requirement. Of the 46 states that responded to a question on our state survey, 16 said that they maintained lists of curricula or instructional programs that meet the NCLB definition of scientifically based research for use by schools districts, though only 6 required districts to use these programs for Title I. The most common response to a survey question about the source of information districts use to determine the scientific base of research behind a program was evidence provided by the vendor that developed and/or marketed the program. While the vendor should provide evidence of the program’s effectiveness, school officials should examine the evidence carefully in light of the definition of scientifically based research to determine its relative strength.

Consistent with the omission of scientifically based research from Title I regulations and guidance, states saw this as an area less strictly enforced by the U.S. Department of Education than other areas. We asked states to rank federal enforcement on a scale ranging from “not at all strictly” to “very strictly” for several areas, including public school choice, supplemental education services, adequate yearly progress, highly qualified teachers, paraprofessional qualifications, scientifically based research, and Reading First. Scientifically based research was ranked as “very strictly enforced” by the fewest number of states, the only item given such a ranking by less than half of the states. Fifteen states responded that they did not know the level of enforcement in this area. One state noted a critical need for guidance in this area, specifically asking for a list of Title I programs that meet the scientifically based research definition.

State survey responses offered additional information on this topic, particularly on the difficulty states are having with it. One state, for instance, reported that it requires that district consolidated plans provide evidence that they “are using scientifically based research for all funding sources” but does not provide a list of programs that meet the standard. This state also said that “all curricula and instructional programs are deter-



mined by local educational agencies . . . pursuant to the state constitution,” which suggests that some state officials feel uncomfortable exerting too much influence over local choices of instructional programs. Other states that do provide lists do not require the districts to select programs solely from them. One state explained that it reviews specific instructional packages in reading, mathematics, and science to determine whether they are supported by scientifically based research or show promise, and that it “give[s] information to the districts to use.” Districts then select strategies, not necessarily from the information provided by the state.

District Survey Responses

School districts reported paying more attention to the scientifically based research provisions than is apparent in actions by the federal Department of Education or the states. For instance, 70% of the districts responding to our district survey reported that they maintain lists of curricular and instructional approaches that are grounded in scientifically based research (see **Figure 5-A**).

Our survey also asked the districts that maintained these lists whether they required them to be used by Title I schools, and 64% of these districts answered, “Yes” (see **Figure 5-B**).

The survey also asked districts how they determined whether the curricula or instructional programs offered in their Title I schools are grounded in scientifically based research (see **Table 5-B**). Thirty-eight percent of the districts surveyed reported that the programs they selected were on a state list of programs that met the scientifically based research criteria, although, as noted earlier, most states did not maintain such lists and few of those that did required their use.

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Examining evidence provided by the vendor was another common method of determining whether programs are scientifically based, with 35% of the responding districts reporting that they used this option. Twenty-eight percent of the districts said they reviewed the results of programs operating in other schools. By comparison, 25% said they used other approaches, and 4% said they don’t know how they determine if curricula or instructional programs are grounded in scientifically based research.

A related question asked districts about how much assistance they received from various entities in determining which Title I programs are grounded in scientifically based research. Districts reported that states were the greatest source of this type of assistance, with 44% saying that state education agencies assisted them in this process “to a great extent,” and 38% reporting that state agencies assisted them “somewhat” (see **Table 5-C**). Education service agencies or local consortia were the second most common response. Relatively few districts reported receiving a great deal of assistance from either the National Clearinghouse on Scientifically Based Research or the U.S. Department of Education, and even fewer from private organizations.

From these survey results, it would appear that districts are paying more attention to the scientifically based research requirements than are states and the Title I program in the U.S. Department of Education. However, these results should be viewed with caution since, at the time the survey was taken, districts lacked federal and state guidance on the topic and may not be fully aware of the specificity of the definition in the Act. They may be responding to the term alone rather than the requirements included in it.

In summary, the impact of the scientifically based research requirement cannot yet be determined. Much will depend on the work of the Clearinghouse and the acceptance of its reports by states, districts, and schools, and the impact of the Department’s

Figure 5-A Percentage of Districts Reporting That They Have a List of Curricula or Instructional Programs Grounded in “Scientifically Based” Research for Title I Services by District Type and District Size

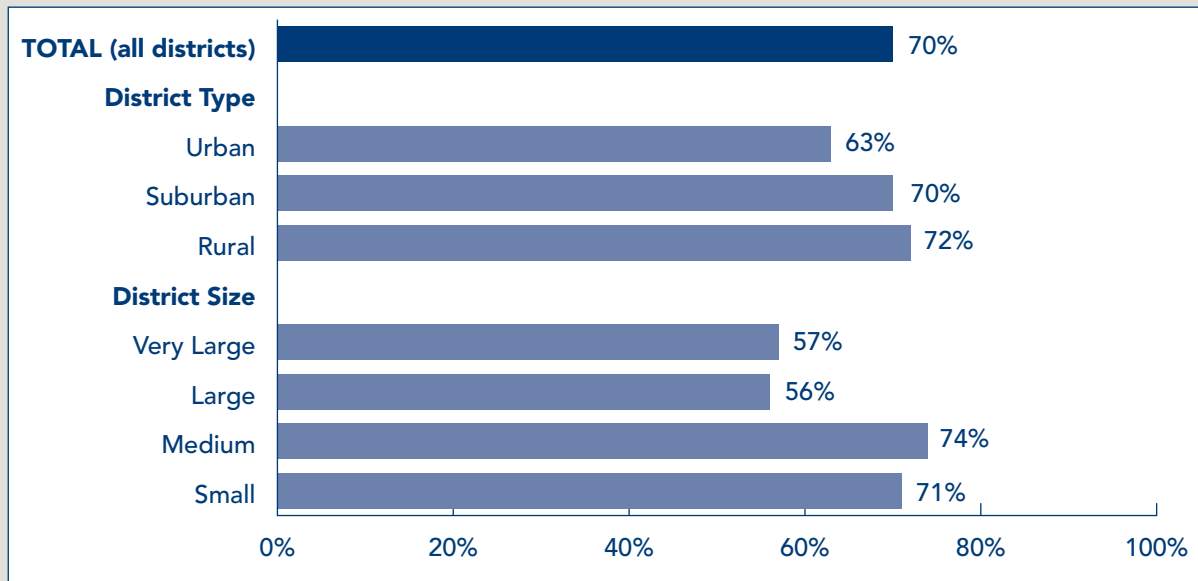


Figure Reads: Of districts that received Title I funds, an estimated 70% of suburban districts reported that they have a list of curricula or instructional programs grounded in “scientifically based” research that can be used for Title I services.

Source: Center on Education Policy, December 2003, District Survey, Item 63 (Table 35)

Figure 5-B Percentage of Districts That Require Title I Schools to Use a List of Curricula or Instructional Programs Grounded in “Scientifically Based” Research to Select Their Programs, by District Type and District Size

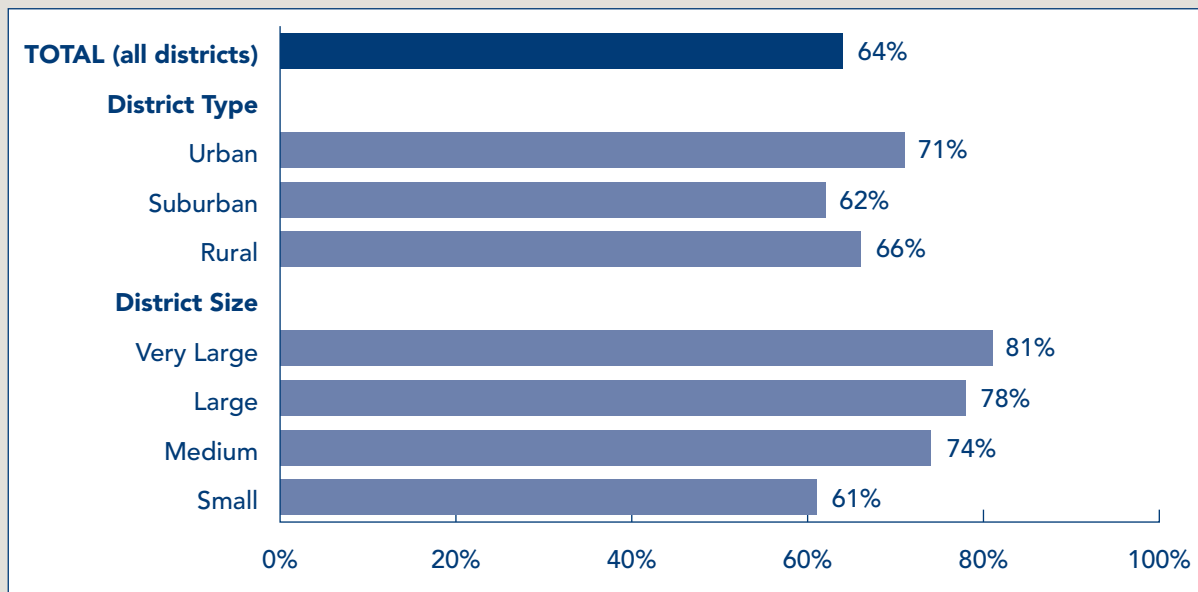


Figure Reads: Of small districts that have a list of curricula or instructional programs that can be used for Title I services that are grounded in scientifically based research, an estimated 61% reported that Title I schools are required to use the list to select curricula or instructional programs.

Source: Center on Education Policy, December 2003, District Survey, Item 64 (Table 36)

Table 5-B Percentage of Districts Using Various Methods to Determine If Curricula or Instructional Programs Offered in Title I Schools Are Grounded in Scientifically Based Research

METHOD	PERCENTAGE OF DISTRICTS REPORTING THEY USE THE FOLLOWING METHODS
Program was on a list provided by the state as meeting scientifically based research criteria	38%
Examine evidence provided by vendor	35%
Review the results of programs operating in other schools	28%
Don't know	4%
Other	25%

Table Reads: An estimated 38% of districts reported that they determine whether the curricula or instructional programs offered in Title I schools are grounded in scientifically based research if the program was on a list provided by the state as meeting scientifically based research criteria.

Note: Percentages do not add up to 100 since districts could select multiple methods.

Source: Center on Education Policy, December 2003, District Survey, Item 65 (Table 37)

Table 5-C Extent to Which Districts Receive Assistance from Various Organizations and Agencies in Determining Which Title I Curricula or Instructional Programs Are Grounded in Scientifically Based Research

ORGANIZATION OR AGENCY	TO A GREAT EXTENT	SOMEWHAT	MINIMALLY	NOT AT ALL
State Education Agency	44%	38%	13%	3%
Education service agencies or other local consortia	29%	30%	12%	19%
Regional Educational Laboratories	14%	15%	18%	37%
Institution of Higher Education	12%	21%	13%	43%
Comprehensive Regional Technical Assistance Centers	10%	13%	9%	46%
U.S. Department of Education	9%	31%	22%	27%
National Clearinghouse on Scientifically Based Research	9%	24%	23%	30%
Private organization(s)	3%	12%	6%	60%
Other	4%	1%	0%	56%

Table Reads: An estimated 60% of districts report that they do not rely on private organizations at all in determining which Title I curricula or instructional programs are grounded in scientifically based research.

Note: Responses are ranked according to the percentage of districts responding "to a great extent." Percentages do not add to 100 because "Don't Know" responses are not shown.

Source: Center on Education Policy, December 2003, District Survey, Item 67 (Table 39)



recent activities regarding this topic. In addition, if there is to be substantial impact, it has to take place within the Title I basic program where the dollars, schools, and students are. So far, there is little evidence that the requirement is having an impact in Title I schools, but it is an area to watch in the future as school districts and states become more familiar with the requirements for programs to be based in scientific research.

Reading First

Introduction

Reading First is a new program initiated under the No Child Left Behind Act. It replaced the Reading Excellence Act, enacted under the previous administration. Reading First provides more funds than were available under Reading Excellence, limits services to children in grades K-3, and, most importantly, puts heavy emphasis on the use of programs with a strong research base to support their effectiveness.

Major Federal Developments

Under the Reading First program, funds are allocated to states in proportions relative to the number of low-income children in each state. States apply to the U.S. Department of Education for their allocations. Applications are then reviewed by a panel of experts selected by the Secretary of Education, the National Institute for Literacy, the National Research Council of the National Academy of Sciences, and the National Institute of Child Health and Human Development. Once approved, states are awarded grants in the amounts of their allocations. Grants to states are for a six-year period, and states are required to submit a progress report at the end of the first three years. An expert review panel evaluates this progress report to determine if the state is making significant progress in meeting the program's purposes.

States may retain up to 20% of their allocations for professional development and technical assistance activities, as well as for planning, administration, and reporting related to the program. Local school districts are eligible to apply to the state for the remaining 80% of the funds provided they:

- Have the highest numbers or percentages of students in kindergarten through grade 3 reading below grade level and;
- Meet at least one of the following conditions:
 - Are either in an empowerment zone or enterprise community; or
 - Have a significant number or percentage of schools identified for improvement under Title I; or
 - Have the highest numbers or percentages of children counted for allocations under Title I.

Although Reading First grants to local school districts may be for up to six years, the program guidance issued by USED “strongly encourages states to limit the subgrant period to a duration of two to three years.” At the end of that time, the Department suggests in guidance for Reading First issued in April 2002 that local districts that



have shown strong reading gains would be eligible to have their grants renewed. Local school districts must use funds to improve reading instruction for children in grades kindergarten through 3 in schools with the highest percentages or numbers of students reading below grade level in those grades and in Title I schools that have been identified for improvement under that program or have the highest numbers or percentages of low-income children.

During the initial funding cycle for Reading First, USED has focused its energy on two main activities: (1) reviewing and approving applications submitted by the states and (2) providing assistance to states in revising their applications to meet program requirements.

State applications are reviewed by a panel of experts. Awards are made as state applications are approved. The first awards were announced in April 2002 and additional ones stretched out over the next 18 months. One Congressional staff person that we interviewed for this study expressed concern over the length of time it took the Department to make awards to states, noting that funds would not be granted to local school districts until a year after they were appropriated.

As of September 30, 2003, all states had received funds. Most applications were not approved as originally submitted. Some applicants submitted one or two revisions before they were approved. The long period of application and review and the necessity for revisions indicate the high level of attention the Department is paying to this program.

State and Local Actions

States have spent most of their efforts under the Reading First program on applying for and receiving funds and designing and implementing competitive award processes for eligible local school districts. Most states have made or will be making their initial awards to local districts for school year 2003-04.

In response to the Center's state survey question about USED enforcement of program requirements, Reading First was the program described as being the most strictly enforced. Of the 45 states that responded to this question, 38 stated that the program requirements were strictly enforced, 4 replied that they did not know the level of enforcement, 2 replied that the requirements were moderately strictly enforced, and one said that they were somewhat strictly enforced. In contrast, the next most highly rated provision in regard to strictness of enforcement, adequate yearly progress in Title I, was rated as being strictly enforced by 34 states. (The state ratings for other NCLB programs are discussed in Chapter 1.) Other provisions were rated as strictly enforced by 16 to 32 states. The high score for Reading First is probably a reflection of states' experience with the review process, which has been extensive.

Because most districts are just now beginning to receive or use Reading First funds, little can be said about district activities for this program. At least two of our case study districts, the Collier County School District in Florida and the Cleveland Municipal School District, have received Reading First grants. Collier County is using its new Reading First grant to place "reading coaches" in its schools. These coaches will serve as role models for teachers by modeling effective reading instruction. The coaches will also provide staff development and training in effective teaching methods.

Cleveland received its grant in July 2003 and plans to fund programs in 20 schools. The district will use its funds in a variety of ways. Initially, the schools will upgrade their reading series. Five data analysis coaches will also work with



the schools to help them use test scores, classroom work, and other data to make instructional decisions about reading. The Reading First schools will also institute a 90-minute block of time for literacy instruction, so that students can focus in depth on reading. Funds will also be used to hire a district administrator to coordinate the activities at the 20 schools.

Standards, Assessments, and Objectives for English Language Learners

Introduction

As discussed in our report of last year, NCLB requires states and school districts not only to include all English language learners in their regular state accountability and assessment systems, but also to establish standards and assessments specifically addressing the language acquisition needs of ELLs. Thus, for the first time in federal law, states are being held accountable for the language acquisition of English language learners.

Major Federal Requirements

In serving English language learners (also known as limited English proficient or LEP students), states and school districts must pay attention to two different but interconnected titles of the No Child Left Behind Act: the Title I program to improve academic achievement for disadvantaged students and the Title III program to help English language learners and immigrant students become proficient in English. Titles I and III are similar in their approach to assessing ELLs in that both Titles:

- Require states to develop standards and assessments of English language proficiency for ELLs (with some slight differences in specific requirements);
- Require school districts to test the English language proficiency of English language learners in the four domains of reading, writing, speaking, and listening—and in the case of Title III, in the additional domain of comprehension; and
- Require districts and states to report on students' progress toward English language proficiency.

States may use the same assessment to meet the requirements of both Titles and may fulfill the Title III demand to measure comprehension skills by assessing reading and listening skills. The specific requirements of each Title affecting English language learners are laid out below.

Title I

Title I requires states and school districts to annually test all English language learners in math and English/language arts with the same state assessment used for all students. States and districts must also include ELLs as a separate subgroup when determining adequate yearly progress. If necessary, districts may use reasonable accommodations to assess ELLs in academic content areas, such as math and reading, but not to assess their



language proficiency. English language learners who have been in the United States for three or more consecutive years must be assessed in reading or language arts in English. The school districts and state education agencies can decide at the end of the three years to conduct assessments in a language other than English for an additional two years if the student is still not proficient in English. Decisions on which students should receive an extra two years should be made on an individual basis.

The accommodations that districts may use when assessing ELLs include:

- Assessment in the student’s native language;
- Linguistic simplifications—for example, using simpler words to assess content knowledge and skills;
- Simplified instruction;
- Extra time; and
- Permission to use a dictionary or glossary on the assessment.

Title III

Formerly a competitive grant program under Title VII of the Elementary and Secondary Education Act as amended by the Improving America’s Schools Act (the predecessor law to NCLB), Title III was transformed into a program of formula grants to states in NCLB. States receive grants based on their numbers of limited English proficient students and immigrant children, and in turn make subgrants to school districts based on their share of the state’s population of these children. The goal of the program is to increase students’ language proficiency, as well as their academic achievement. In February 2003, the U.S. Department of Education released final non-regulatory guidance on standards, accountability, and assessments in the Title III program.

Title III and its accompanying guidance call on states to establish three main elements of an accountability system for English language learners: 1) English language proficiency (ELP) standards; 2) annual measurable objectives for increasing the proficiency of ELLs; and 3) assessments for measuring the English language proficiency of ELLs.

The ELP standards—which are distinct from the English/language arts standards that states must develop for their broader NCLB accountability systems—should define progressive levels of competence in the use of English in the four domains of listening, speaking, reading, and writing. According to the non-regulatory guidance, these levels of competence must include descriptions of the characteristics typical of each level and the assessment cut scores that will be used to differentiate each level.

The 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. These percentages must go up each year. In addition, the measurable objectives should set targets for English language learners to meet the state’s general academic content standards developed for Title I.

The ELP assessments must be given annually to English language learners. In addition to the four domains mentioned above, the assessments must cover a fifth domain, comprehension, but this can be done as part of the listening and reading assessments, according to the non-regulatory guidance.



All three elements—the standards, measurable objectives, and assessments—are directly connected. The non-regulatory guidance encourages states to link their ELP standards to their academic content and performance standards developed under Title I. States should further ensure that as students achieve higher levels of English proficiency, they are also making gains in the academic content areas assessed under Title I. The annual measurable objectives should address the progress of ELLs in both language proficiency and the general academic content areas. The ELP assessments must be aligned with the ELP standards and be capable of gauging students' progress toward the annual measurable objectives.

Beginning with school year 2002-03, all states receiving Title I, Part A funds are required to report to the U.S. Department of Education on the progress of their ELLs in acquiring English language skills. Through an annual peer review process, the Secretary determines whether a state has made adequate yearly progress and has met the annual measurable achievement objectives for language acquisition set under Title III.

Similarly, school districts receiving Title III funds must assess and report on the language acquisition skills of their English language learners. If a state determines that a school district has not made AYP in this area for two consecutive years, the district must develop an improvement plan, and the state must provide technical assistance to the school district. If the school district fails to improve the English language skills of its ELLs for four or more consecutive years, it must modify its curriculum, program, and method of instruction. At this stage, the state can also decide to terminate the district's Title III funding and require the district to replace education personnel associated with its failure.

State and Local Actions

Criteria for ELP Assessments

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To fulfill the assessment requirements for English language learners, states can develop their own assessments, use a commercial assessment, or come up with a list of several assessments from which school districts can select. However, any test used to measure English language proficiency must be aligned with the state's ELP standards. When we surveyed states last year, most were using one of three commercial assessments, but some were in the process of developing their own assessment or had joined a consortium of states that aimed to develop a single assessment. The February guidance from USED allows states to change their tests in midstream as long as they can ensure continuity and program accountability across assessments.

If a state chooses to use several assessments, it must:

- Set technical criteria for the assessments;
- Ensure the assessments are equivalent to one another in their content, difficulty, and quality;
- Review and approve each assessment;
- Ensure that the data from all assessments can be disaggregated for comparison and reporting purposes and can be disaggregated by English language proficiency levels and grade levels; and
- Ensure that the assessments are aligned with the state English language proficiency standards.



Several commercial assessments have become available for testing English language proficiency. **Box 5-A** describes the major ones.

The February 2003 guidance clarifies that school districts may use reasonable accommodations when giving ELLs an academic content assessment but *not* when administering an English language proficiency assessment.

Review of State Consolidated Applications

As part of their consolidated applications for federal funds under NCLB, states had to submit baseline data from the tests of English language proficiency administered in school year 2002–03. States were required to submit the total number of students identified as limited English proficient, the total number and percentage of limited English proficient students at each level of English language proficiency, and a list of the assessments used to determine proficiency. These applications were due in the U.S. Department of Education by September 1, 2003.

The Center on Education Policy reviewed these consolidated applications, and we found that the information states actually submitted on ELLs varied greatly. For instance, Alabama is currently in a compliance agreement with USED because of its past failure to fulfill all the requirements of the Improving America's Schools Act, so in this year's application, it only had to report the total number of students who attained English language proficiency. *Education Week* reported on November 19 (Zehr, 2003) that only 11 states and the District of Columbia have received full approval from USED for their Title III plans; these include Colorado, Hawaii, Indiana, Louisiana, Michigan, Nevada, New Hampshire, New Mexico, Utah, Vermont, West Virginia, and the District of Columbia. **Table 5-D**, drawn from *Education Week* (Zehr, 2003) shows the information submitted by states in their consolidated applications.

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Three main findings about state approaches to English language assessment emerged from our review of consolidated applications and the information collected by *Education Week*. First, although most states are still using one of three commercial assessments—the Language Assessment Scales (LAS), the IDEA Proficiency Test (IPT), or the Woodcock-Munoz—more than half are in the process of developing new tests, either on their own or as part of a consortium, that fully meet the requirements of the law.

Second, as **Table 5-D** shows, 13 states currently have English language proficiency standards in place, 2 states (Florida and South Dakota) do not have ELP standards at all, and the remaining states are in the process of developing ELP standards.

Third, according to information gathered by *Education Week* from state consolidated applications and other resources, the number of limited English proficient students in states ranged from 890 in Vermont to 1,599,542 in California. This finding has implications for state funding and state capacity to carry out the provisions of NCLB. The number of ELLs in a state determines the amount of Title III funds it will receive to implement the provisions, so states with large populations of ELLs receive more money. States with more ELLs also have more experience with issues of assessing and educating these students. Smaller states that receive less money must still create ELP standards and language proficiency assessments, however. Most states are coordinating their resources with other states to accomplish these goals.

Consortia for Developing English Language Tests

In last year's report, we indicated that several states and organizations were collaborat-

Box 5-A Commonly Used Assessments to Determine English Language Proficiency

IDEA PROFICIENCY TESTS (IPT) — Designed to assist districts with the process of identifying limited English proficient students and with redesignating these students as fluent English proficient students for placement in mainstream classes after a period of instruction in special programs for LEP students, and for tracking their progress while in the programs.

- *IDEA Oral Language Proficiency Tests (IPT-Oral)*
Available in English and Spanish, these tests provide English and Spanish speaking designations.
- *IDEA Reading & Writing Proficiency Tests (IPT- Reading and Writing)*
Written and normed to meet the standards of the American Psychological Association as an assessment of reading and writing skills.

LANGUAGE ASSESSMENT SCALES — Language Assessment Scales (LAS®) products assess language ability and proficiency, from Pre-Kindergarten through Adult students.

- *Pre-LAS*
English and Spanish, for the assessment of oral language proficiency of pre-primary school students (Pre-Kindergarten, Kindergarten).
- *Language Assessment Scales: Oral English, Forms 1C and 1D*
Measures oral proficiency in both Spanish and English languages. This tool is a means of identifying limited or non-English speaking children who can benefit from bilingual programs.
- *Language Assessment Scales: Oral-English, Forms 2C and 2D*
Measures oral proficiency in both Spanish and English languages. This tool is a means of identifying limited or non-English speaking children who can benefit from bilingual programs.
- *Language Assessment Scales, Reading Writing in Spanish, Forma 1A. (LAS R/W)*
The Language Assessment Scales, Reading/Writing in Spanish, Forma 1A (LAS R/W) is a screening test to assess students' proficiency in reading and writing in Spanish. It is designed for children in grades 2 and 3.
- *Language Assessment Scales, Reading/Writing in Spanish, Forma 2A (LAS R/W)*
The Language Assessment Scales, Reading/Writing in Spanish, Forma 2A (LAS R/W) is a screening test to assess students' proficiency in reading and writing in Spanish. It is designed for children in grades 4 through 6.
- *Language Assessment Scales, Reading/Writing in Spanish, Forma 3A (LAS R/W)*
The Language Assessment Scales, Reading/Writing in Spanish, Forma 3A (LAS R/W) is a screening test to assess students' proficiency in reading and writing in Spanish. It is designed for secondary school students in grades 7 through 9+.

MACULAITIS ASSESSMENT — The five levels of the MAC II evaluate the English proficiency of students in K-12 in four areas: Speaking, Listening, Reading, and Writing. National norms (based on data collected in 2000-01) are available for each level, for each of these four subtests. The MAC II will also offer a 10-minute screening test for entering LEP students in any grade.

WOODCOCK LANGUAGE PROFICIENCY BATTERY (WLPB) — The WLPB-R provides an overall measure of language proficiency and expanded measures of oral language, reading, and written language in both English and Spanish.

WOODCOCK-MUÑOZ LANGUAGE SURVEY (WMLS) — The WMLS, available in English and Spanish, is designed to be a screening instrument for use when designating program placement for English language learners.

Source: National Clearinghouse for English Language Acquisition & Language Instruction Educational Programs



ing on the development of assessments that meet the requirements of Title III. Using grant money from the U.S. Department of Education to help states develop assessments, several major consortia efforts are underway, as explained in **Table 5-D**.

MOUNTAIN WEST CONSORTIUM

The Mountain West consortium consists of several Western states, including Alaska, Colorado, Idaho, Montana, New Mexico, North Dakota, Oregon, Utah, Wyoming, and the Bureau of Indian Affairs. This consortium received \$1.8 million to develop an English language acquisition test. Measured Progress, a testing company, is a partner in this consortium and is currently developing the assessments.

The test will be piloted in March 2004, field tested in September 2004, and delivered in December 2004. The test will cover five grade spans: K-1, 1-2, 3-5, 6-8, and 9-12. It will assess the domains of reading, writing, listening, and speaking. States will receive the test and use it as they see fit.

STATE COLLABORATIVE ON ASSESSMENT AND STUDENT STANDARDS

The Council of Chief State School Officers hosts the State Collaborative on Assessment and Student Standards/Limited English Proficient (SCASS/LEP), a group of states and other members that are developing various products to support standards-based assessments for English language learners. One member state, Nevada, received \$2.2 million as part of the USED Enhanced Assessment Grant to develop an English language assessment. The consortium has partnered with the American Institutes of Research to help develop the assessment. The language assessment will test the four domains of listening, speaking, reading, and writing. Comprehension will be determined through a composite score of reading and listening. The test will cover four grade spans: K-2, 3-5, 6-8, and 9-12. Pilot tests were conducted in May 2003, and all spans except K-2 will be ready for member states in September 2004. The consortium has not yet made a decision on whether the assessments will be made available to non-member states. Three subcommittees consisting of representatives from member states have begun research on the following topics: 1) appropriate accommodations for ELL special education students; 2) issues in assessing secondary ELL students, from content area assessments to high school exit exams; and (3) linking of state ELP standards to state content standards.

WIDA CONSORTIUM OF STATES

Wisconsin received a grant of just over \$2 million from USED to lead the WIDA Consortium of States. The consortium includes Wisconsin, Delaware, Arkansas, the District of Columbia, Maine, New Hampshire, Rhode Island, Vermont, the Center for Applied Linguistics, the Center for Equity and Excellence in Education, Second Language Testing, Inc., and the University of Wisconsin. The University of Illinois may join the consortium in the future.

This consortium is working to enhance current alternate assessments and is also in the process of developing a new English language proficiency assessment. Piloting of the new assessment will take place in spring 2004, and field testing will happen in fall 2004, but the final assessment will not be available until 2005.



Issues, Obstacles, and Problems

The Center on Education Policy has identified several issues that have posed challenges to states and school districts as they implement standards, assessments, and measurable objectives for English language learners.

GROUP IS NOT STATIC

As noted in Chapter 2, a major complaint about the treatment of English language learners in the NCLB accountability system relates to the unique nature of the subgroup. Unlike most of the other subgroups in the law, the subgroup of English language learners is continually changing, as students who gain proficiency in English eventually exit the subgroup, while new students who have little or no English proficiency are continuously entering the subgroup. This is the case for ELLs at all grade levels, all language levels, and all academic performance levels. The constant mobility of students in this group makes it difficult for the subgroup to post annual gains in average achievement, because students who achieve proficiency in English and perhaps other subjects leave, and other students who have no or limited proficiency in English and/or math, reading, or science enter the subgroup. Yet districts and schools are penalized if the subgroup does not consistently make AYP.

Several states like California and Indiana have developed policies to begin to address this problem. For instance, in its negotiations with USED over its accountability plan, California gained approval to have ELLs continue to stay in the ELL subgroup after they reach English proficiency. These students become a new subcategory of the ELL subgroup: Redesignated Fluent English Proficient (RFEP) students. The state notes that this approach is consistent with the federal definition of limited English proficient students in paragraph (25) of Section 9101 of Title IX of NCLB. RFEP students will continue to be included until they have attained the proficient level on the California state test in English/language arts for three years (California Department of Education, 2003).

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MANY LANGUAGE MINORITY GROUPS IN SOME DISTRICTS

According to the USED, 80% of ELLs are Spanish speakers. Although Spanish is still the dominant language group in most school districts, many school districts are enrolling students from many other language groups. As indicated in our case studies, even some small, rural districts enroll a diverse group of English language learners in terms of language, national origin, parents' level of education, and other characteristics. Many of the major language proficiency assessments are designed for Spanish speakers, and with numerous languages, assessment and instruction can become quite complicated.

Kodiak Island Borough, a district of more than 2,700 in a remote area of Alaska, has students who speak 16 different languages, including several spoken by Alaska Natives. And about 45% of the students in Fort Lupton Weld Re-8, a district of more than 2,600 in Colorado, are English language learners, so any effort to raise achievement must have a major focus on the needs of these students. At the other end of the size scale, the Boston Public Schools mentioned raising the achievement for the 15% of the district's students who are English language learners as one of their biggest challenges. Although Spanish is the most common language spoken by students, Boston students speak more than 80 languages. Consistent with Massachusetts state law, the district recently switched the instructional emphasis for ELLs from mostly bilingual education to structured immersion programs in mainstreamed classroom, and is concerned about how this will

Table 5-D State Plans for Assessing English Language Proficiency

PLANS UNDER WAY			
STATE	NUMBER OF ENGLISH LANGUAGE LEARNERS	DOES THE STATE HAVE ELP STANDARDS	ENGLISH LANGUAGE PROFICIENCY TEST USED OR CONSORTIUM DEVELOPING TEST
Alabama	10,159	Yes	State Collaborative on Assessment and Student Standards ³
Alaska	13,666	In progress	Mountain West Assessment Consortium
Arizona	118,786	In progress	Crafting own state English language assessment
Arkansas	13,778	In progress	Wisconsin Delaware & Arkansas Consortium
California	1,599,542 ¹	Yes	California English Language Development Test
Colorado	86,129 ¹	In progress	Mountain West Assessment Consortium
Connecticut	19,853	In progress	Language Assessment Scales
Delaware	3,528	In progress	Wisconsin Delaware & Arkansas Consortium
District of Columbia	4,879	In progress	Wisconsin Delaware & Arkansas Consortium
Florida	203,428	No	Five state consortium working with accountability works/ETS
Georgia	63,142	Yes	Undecided
Hawaii	12,732	In progress	State Collaborative on Assessment and Student Standards
Idaho	19,853	In progress	Mountain West Assessment Consortium
Illinois	115,347 ¹	In progress	Wisconsin Delaware & Arkansas Consortium
Indiana	25,119	In progress	State Collaborative on Assessment and Student Standards
Iowa	13,961 ¹	In progress	State Collaborative on Assessment and Student Standards
Kansas	24,742	In progress	ELD Standards by the University of Kansas
Kentucky	6,871	In progress	State Collaborative on Assessment and Student Standards
Louisiana	8,705	In progress	State Collaborative on Assessment and Student Standards
Maine	3,013	In progress	Wisconsin Delaware & Arkansas Consortium
Maryland	24,213 ¹	In progress	Five state consortium working with accountability works/ETS
Massachusetts	51,546 ¹	Yes	MA English proficiency assessment
Michigan	46,700	In progress	Five state consortium working with accountability works/ETS
Minnesota	43,925	Yes	Test of Emerging Academic English Minnesota Student Oral Language Observation Matrix
Mississippi	2,401	Yes	Stanford English Language Proficiency Test

Missouri	13,058	Yes	Maculaitis Assessment of Competencies
Montana	7,043 ¹	In progress	Mountain West Assessment Consortium
Nebraska	13,331	In progress	State Collaborative on Assessment and Student Standards
Nevada	55,643	Yes	State Collaborative on Assessment and Student Standards
New Hampshire	2,997	In progress	Wisconsin Delaware & Arkansas Consortium
New Jersey	57,880 ¹	In progress	State Collaborative on Assessment and Student Standards
New Mexico	62,393	Yes	Mountain West Assessment Consortium
New York	177,095 ¹	Yes	NY State ESL Achievement Test
North Carolina	60,012 ¹	In progress	Initial Proficiency Test-Plus
North Dakota	6,176 ¹	In progress	Mountain West Assessment Consortium
Ohio	23,981 ¹	In progress	State Collaborative on Assessment and Student Standards
Oklahoma	24,347	In progress	State Collaborative on Assessment and Student Standards
Oregon	52,168	In progress	Mountain West Assessment Consortium
Pennsylvania	38,425 ¹	In progress	Five state consortium working with accountability works/ETS
Rhode Island	6,856	In progress	Wisconsin Delaware & Arkansas Consortium
South Carolina	6,977	In progress	State Collaborative on Assessment and Student Standards
South Dakota	3,361	No	Stanford English Language Proficiency Test
Tennessee	15,007 ¹	In progress	Five state consortium working with accountability works/ETS
Texas	567,612 ¹	Yes	Undecided
Utah	45,341	In progress	Mountain West Assessment Consortium
Vermont	890	In progress	Wisconsin Delaware & Arkansas Consortium
Virginia	49,652	Yes	State Collaborative on Assessment and Student Standards
Washington	73,150	In progress	Washington Language Proficiency Test
West Virginia	1,432	Yes	State Collaborative on Assessment and Student Standards
Wisconsin	32,588 ²	In progress	Wisconsin Delaware & Arkansas Consortium
Wyoming	2,596	In progress	Mountain West Assessment Consortium

Source: M.A. Zehr, *English proficiency can take a while in state ESEA plans*. *Education Week*, Nov. 19, 2003.

1 Data collected by means other than an English-language assessment

2 Data for 2001

3 With the Council of Chief State School Officers.

affect student achievement. Spanish speaking ELLs are also the largest language minority group in the Clark County School District, which includes Las Vegas, Nevada; here the ELL population speaks 57 different languages. All of the district's 52 schools are having difficulty making AYP, in many cases because of a lack of progress for ELLs, and 18 of the schools are in, school improvement.

HELPING ENGLISH LANGUAGE LEARNERS MAKE AYP AS THEY ACQUIRE ENGLISH

A major challenge that many schools and districts face is ensuring that English language learners are learning in core academic subjects as they acquire English. With the NCLB requirements to test students using grade-level tests, English language learners will not make adequate yearly progress if they do not learn the material expected of students at their grade. Many districts, including those that were the focus of our case studies, have expressed concern about their ability to make AYP for the English language learner subgroup, and numerous schools around the nation have missed their state AYP targets specifically because of the performance of the ELL subgroup. **Box 5-B** describes the situation faced by one case study district, the Sheboygan, Wisconsin, school district.

In Escondido Union Elementary School District, California, a case study district, 44% of the students are English language learners. The district, which receives Title III and other funding for ELLs, has used a variety of instructional programs—including two-way bilingual, structured English immersion, and parallel language development—to help these students learn English and their other subjects. District staff members are looking at disaggregated data from the 2003 test administration to see if there are any

Box 5-B Adequate Yearly Progress for ELLs in Sheboygan, Wisconsin

The requirements to make AYP for each major subgroup have posed new challenges for the Sheboygan Area School District in Wisconsin, especially for English language learners. Although Sheboygan's ELL students out perform ELL students in comparable districts, the district understands it must mount specific efforts to address the academic needs of this subgroup.

The district has a program funded under NCLB Title III specifically designed to assist English language learners at two sites, an elementary school and a middle school. Testing procedures are in place to determine both the English proficiency and the academic achievement of all language minority students.

Sheboygan's ELL population continues to increase: 19% of the district's students, or about 2,000 children, are not yet proficient in English. The diversity of this group is dramatic and reflects the changing demographics of the city. This population includes children of Spanish-speaking families who were once migrant but later settled into jobs in small industry; children whose families are Hmong refugees from Southeast Asia, brought to the Midwest by local churches; and families from Bosnia, Albania, and other countries.

Students in Sheboygan speak 20 different languages, and most of the programs for English language learners are of the English immersion type. According to Wisconsin state law, parents must be offered the opportunity to have their children enrolled in a bilingual program, but Sheboygan parents overwhelmingly opt for immersion. The district continues to increase its level of support and resources to schools that have large numbers of English language learners. This support includes after-school programs funded by the district and Title I and additional assistance for English language learners from Title III.

Source: Center on Education Policy, December 2003, District Case Studies



differences in ELL performance, based on the type of instruction students received. English language learners in Escondido are grouped based on their language proficiency for explicit and systematic English instruction for a minimum of 30 minutes per day.

The Pascagoula, Mississippi, School District, a district of 7,480 students serving a ship-building community between Biloxi, Mississippi, and Mobile, Alabama, has seen a growing influx of English language learners in recent years. In the past, the district's population of English language learners typically did not exceed 25 students and was fairly stable. Three years ago, however, Pascagoula experienced its first surprise increase in English language learners when, the week after school started, Spanish-speaking children began to enroll, until the total of English language learners eventually reached 110 students. This increase has continued, with students coming from Mexico, Puerto Rico, Costa Rica, and other Latin American countries. This school year the enrollment includes 203 English language learners. Sixty-seven percent speak Spanish, 20% speak Vietnamese, and the rest speak Thai, Bulgarian, Gujarati, Romanian, Tagalog, Cantonese, Navajo, and German. School officials believe that the district does a fair job in teaching English, but they have concerns about assuring that all ELL students are on grade level in content areas. Each new student is tested for English proficiency and a schedule for individual small group sessions is arranged. Although these students receive close attention, the staff feels that more needs to be done in order for all students to be successful.

Conclusion

The Title III and Title I provisions that impact ELLs are some of the most profound mandates for this group ever. States and districts not only must closely monitor the academic achievement of ELLs, but they must also monitor their language proficiency acquisition. States realize that their expertise in this area may not be the strongest and resources to do the job are limited. To implement the new provisions effectively, most states have come together to form a unified agenda, through the consortiums, on how to best assess these students.

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APPENDIX A

Details on Research Methods

The Center on Education Policy used a variety of research methods to collect data and information for this study of implementation of the No Child Left Behind Act. This appendix describes in detail the primary research methods used, including interviews with Congressional sources and federal officials, a review of state plans and consolidated applications, a survey of state departments of education, a survey of local school districts, and case studies of individual school districts.

Congressional and Federal Interviews

From July through October 2003, staff and consultants of the Center on Education Policy interviewed three members of Congress who were involved in authoring the No Child Left Behind Act and guiding it through the legislative process: Congressman Michael Castle (R-DE), Congressman George Miller (D-CA), and Congressman Dale Kildee (D-MI). In addition, we interviewed five senior Congressional staff members of the majority and minority staffs of the key committees in the House and Senate. They are: Sarah Ritting, education legislative assistant to Congressman Castle; Sally Lovejoy, majority staff, House Committee on Education and the Workforce; Alex Nock, minority staff, House Committee on Education and the Workforce; Denzel McGuire, majority staff, Senate Committee on Health, Education, Labor, and Pensions; and Danica Petroschius, minority staff, Senate Committee on Health, Education, Labor, and Pensions.

From August through December 2003, CEP staff and consultants interviewed nine principal officials in the U.S. Department of Education who are responsible for administering the No Child Left Behind Act. These interviewees included Eugene Hickok, Under Secretary of Education; Ronald Tomalis, Acting Assistant Secretary for Elementary and Secondary Education; and Kay Rigling, General Attorney, Division of Elementary, Secondary, Adult, and Vocational Education, Office of the General Counsel. They also included the following individuals in the Office of Elementary and Secondary Education who oversee various aspects of NCLB: Kerri Briggs, Special Assistant to the Assistant Secretary; Joe Conaty, Director, Academic Improvement and Teacher Quality Programs; Chris Doherty, Reading First Program Manager; Jackie Jackson, Acting Director, Student Achievement and School Accountability; Celia Sims, Special Assistant to the Assistant Secretary; and Carolyn Snowbarger, Special Assistant to the Assistant Secretary.

Review of State Plans and Applications

In the spring of 2003, a CEP consultant reviewed and analyzed the accountability plans that states had to submit to USED by the end of January; these plans described states' methods for determining adequate yearly progress and meeting other accountability provisions of the law. All of the state plans had been posted online on the USED web site, so CEP reviewed these versions, as well as a database of state accountability plans compiled by the Council of Chief State School Officers.

In September and October of 2003, staff and consultants of the Center on Education Policy reviewed and analyzed the consolidated applications that states had to submit to USED by September 1 to receive funds for the various programs under NCLB. CEP staff reviewed the final versions of these applications on site at the U.S. Department of Education headquarters. In particular, CEP staff examined the information in these plans regarding the estimated numbers of highly qualified teachers, numbers of persistently dangerous schools, and numbers of limited English proficient students, as well as state standards and assessments for English language proficiency.

State Survey

In March 2003, 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 summer of 2003. We asked the chiefs 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 July 2003, a survey containing 60 questions was sent to the state contacts, either as an electronic version or hard copy. A copy of the survey instrument is included in Appendix B.

States returned the surveys to CEP from August through December. A total of 47 states and the District of Columbia 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 48. Several 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

The Center on Education Policy contracted with Policy Studies Associates (PSA) to conduct a survey of district implementation of the No Child Left Behind Act. PSA designed a survey instrument of 88 questions in collaboration with CEP staff, with the goal of enabling CEP to assess how implementation of NCLB is proceeding at the local level. A copy of this Survey of District Implementation of the No Child Left Behind Act is included in Appendix C.

PSA administered the district survey in the fall of 2003 to a nationally representative sample of 402 districts that receive Title I funds. The survey was sent to Title I and other federal programs administrators in these districts. PSA also compiled and analyzed the data from the 274 districts that returned their surveys, developed data tables, and reported the data to CEP, along with districts' responses to open-ended questions. CEP staff and consultants further analyzed the data for publication in this report.

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. Because we wanted to make comparisons by urban, suburban, and rural location, a stratified sample was drawn. That is, the universe of districts was stratified by location type (urban, suburban, and rural), and separate samples of 136 districts were drawn from each of the three location-type strata.

The universe, drawn from the 2001–2002 CCD, includes “operating” Local Education Agencies (“districts”). Operating districts include those districts listed in the CCD as (1) a local school district that is not part of a supervisory union (Type 1) and those listed as (2) 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 percent 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 percent), 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 ability to make inferences to the entire population of students in the country. The exclusion of very small districts was motivated by an interest in the number of students captured in the sample—the total N of students.

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 eleven largest urban 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	PERCENT OF DISTRICTS	NUMBER OF STUDENTS	PERCENT OF STUDENTS
Huge Urban	11	0.09	3,451,872	7.4
Other Urban	678	5.68	9,915,672	21.2
Suburban	5,443	45.59	24,377,215	52.2
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 four strata for sampling purposes: (1) the eleven largest urban districts, (2) other urban districts, (3) suburban districts, and (4) rural districts.

An initial sample of 419 districts was drawn, evenly divided among other urban, suburban, and rural districts. Approximately two percent of districts sampled were expected to report that they did not receive Title I funds. These districts would then be excluded from the study. Assuming a response rate of 75 percent, this initial sample of 419 eligible districts was expected to yield 300 completed surveys.

Survey Instrument and Data Collection Procedures

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The Survey of District Implementation of the No Child Left Behind Act focused on the following research questions:

1. How are districts implementing the No Child Left Behind Act with respect to specific legislative provisions, including Title I accountability, public school choice and supplemental educational services, teacher and paraprofessional quality, the use of scientifically based research, and persistently dangerous schools?
2. What provisions of NCLB have positively affected districts? What provisions of NCLB present 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 late September, the survey was administered online to all prospective respondents who had obtainable e-mail addresses. That is, e-mail messages were sent to each prospective respondent that explained the study, invited their participation, and directed them to click on a link—included in the email message—which took them to the website where they could access and complete the online survey.

The remaining respondents received by mail a hardcopy version of the survey. The survey form (both online and hardcopy versions) was accompanied by a letter that included an explanation of the study and its procedures, and provided a return date and the name, telephone number, and e-mail address of a survey team member. The hardcopy version of the survey was sent by mail along with a stamped, self-addressed

envelope for returning the completed survey. Prior to survey administration, a letter was sent to district administrators that: (1) reviewed the study purposes, (2) estimated the time it would take to complete the online survey, and (3) 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 returning the completed survey.

Our follow-up procedures entailed contacting (by telephone or e-mail) all survey respondents who had not returned a survey two weeks after the surveys were sent. By contacting respondents directly, team members were able to determine the cause of the delay and take immediate action to alleviate any problems (e.g., answer questions or concerns about the study, e-mail or mail another survey to replace the misplaced one). If a completed survey was not received within ten days of first contact with non-respondents, non-respondents were contacted a second time. Follow-up phone calls or e-mails were conducted a minimum of three times to all non-respondents. Finally, after exhausting all traditional follow-up techniques, the survey was administered by telephone to a small number of respondents.

Out of 419 districts sampled, 17 districts responded by reporting that they do not receive Title I funds. Of the 402 remaining districts, 274 completed surveys, for a response rate of 68 percent. Very few districts—27—refused to participate in the study. In the remaining districts, administrators were willing to participate but unable to complete the survey in the time allotted for survey administration. The following table shows the distribution of these districts by location and by size. Because response rates do not vary significantly across cells (i.e., urban–rural, urban–suburban, and suburban–rural differences were not statistically significant at the $p=.05$ or $p=.01$ levels), we have little reason to be concerned about non-response bias. Moreover, we tested for any systemic bias that may be present among the group of non-responders and found nothing of significance. That is, we tested for differences among non-responders by type, size, state, and region, and found that non-responders were randomly distributed across each stratum.

	NUMBER OF RESPONSES	RESPONSE RATE
Urban	93	66%
Suburban	79	63%
Rural	102	75%
TOTAL	274	68%

Analysis

Districts were sampled at different rates from each of the four sampling categories. For the largest urban districts, all 11 districts were sampled. For other urban districts, we sampled at an approximate rate of one of every 5 districts; for suburban, one of every 40 districts; and for rural, one 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 district would represent one district—itsself—in the sample. Each other urban district in the sample would represent about five districts, whereas each suburban district would represent about 40 districts and each rural district would represent about 43 districts. Urban districts are significantly over-represented in the sample, and as a result had a much higher prob-

ability 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. However, in order to avoid over-representing urban districts in overall national calculations, the data must be weighted during analysis.

The weights were created by calculating how many national districts each responding district in the sample represents, separately for each stratum. 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

	NUMBER OF DISTRICTS	NUMBER OF RESPONSES	WEIGHT
Huge Urban	11	7	1.5714285
Other Urban	678	87	7.7931034
Suburban	5,443	78	69.782051
Rural	5,806	102	56.921568
TOTAL	11,938	274	43.569343

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 such 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.

Case Studies

Three consultants to the Center conducted case studies of local implementation in 33 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 consultants collected information for these case studies through telephone and personal interviews with key contact people in the school districts and through other research. The interviews and research were conducted between May and December 2003. 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. Although many of the findings in the case studies describe



actions the districts took during school year 2002-03 to implement NCLB, an effort was made to also include updated information about activities during the fall of 2003.

The complete texts of all 33 case study reports are also available on the website, www.cep-dc.org. The 33 case study districts include the following:

Alabama: Calhoun County School District

Alaska: Kodiak Island Borough School District

Arkansas: Fayetteville Public Schools

California: Escondido Union Elementary School District

California: Grant Joint Union High School District

California: Oakland Unified School District

Colorado: Colorado Springs District 11

Colorado: Fort Lupton Weld Re-8 School District

Florida: Collier County School District

Idaho: Joint School District #2 – Meridian

Illinois: Chicago Public Schools

Kansas: Kansas City, Kansas Public Schools

Louisiana: St. John the Baptist Parish Public Schools

Massachusetts: Avon Public School District

Massachusetts: Boston Public Schools

Minnesota: Cloquet Independent School District #94

Mississippi: Pascagoula School District

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

Oregon: Tigard-Tualatin School District

South Carolina: Berkeley County School District

Texas: Cuero Independent School District

Vermont: Marlboro Elementary School

Vermont: Orleans Central Supervisory Union

Virginia: Waynesboro School District

Wisconsin: Sheboygan Area School District

APPENDIX B

State Implementation Study of the No Child Left Behind Act

State Survey

NOTE: All items shaded in BLUE are items for which the information you provide will be kept strictly confidential. For all other items, the data you provide may be reported by individual state.

Sample Question: To answer a question, put an X to the RIGHT of ONE response option. For example, if you like chocolate ice cream, you would complete item #1 as follows:

1. Do you like chocolate ice cream? (Put an X to the RIGHT of ONE response option)

a. Yes	X
b. No	
c. Don't Know	

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Title I Accountability

1. To date, have NCLB funds been sufficient for developing *state academic content standards as required under NCLB*? (Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	

If you responded no, please explain your answer in the space below.

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2. To date, have NCLB funds been sufficient for developing *state assessments*? (Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	

If you responded no, please explain your answer in the space below.

--

3. To what extent was the U.S. Department of Education’s peer review and approval process of the state’s accountability work plan helpful? (Put an X to the RIGHT of ONE response option)

a. Very Helpful	<input type="checkbox"/>
b. Somewhat Helpful	<input type="checkbox"/>
c. Neutral	<input type="checkbox"/>
d. Not Helpful	<input type="checkbox"/>

What aspects of the process worked well?

How could the process have been more helpful?

4. As a result of the U.S. Department of Education’s peer review and approval process, did the state have to make significant changes to its accountability work plan? (Put an X to the RIGHT of ONE response option)

a. Yes	<input type="checkbox"/>
b. No	<input type="checkbox"/>
c. Don’t Know	<input type="checkbox"/>

If yes, what significant changes were made?

Do you believe that these changes improved the state plan? Why or why not?

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5. Does the state plan to make additional changes to its NCLB accountability work plan before the beginning of the 2003–04 school year? (Put an X to the RIGHT of ONE response option)

a. Yes	<input type="checkbox"/>
b. No	<input type="checkbox"/>
c. Don’t Know	<input type="checkbox"/>

If yes, what changes are planned?

6. Has the state identified any school districts that did not make adequate yearly progress in the 2002-03 school year? (Put an X to the RIGHT of ONE response option)

a. Yes	<input type="checkbox"/>
b. No	<input type="checkbox"/>
c. Don't Know	<input type="checkbox"/>

If yes, how many districts have been identified as not making AYP in SY 2002-03?
What is the state doing to assist the identified school districts?

7. Is the state applying the NCLB sanctions (i.e. public school choice, supplemental services, corrective actions, school restructuring) to non-Title I schools that are identified as needing improvement?

a. Yes	<input type="checkbox"/>
b. No	<input type="checkbox"/>
c. Don't Know	<input type="checkbox"/>

8. Have any areas of the state, such as rural areas, faced any unique challenges in implementing the accountability requirements of NCLB? (Put an X to the RIGHT of ONE response option)

a. Yes	<input type="checkbox"/>
b. No	<input type="checkbox"/>
c. Don't Know	<input type="checkbox"/>

If yes, please explain the challenges.

9. Which of the following accountability requirements of NCLB do you see as having a positive effect on student achievement? (Put an X to the RIGHT of ALL response options that apply)

a. Developing an accountability system based on content and performance standards	<input type="checkbox"/>
b. Developing a uniform accountability system that is used for all districts and schools in the state	<input type="checkbox"/>
c. Developing an accountability system that includes sanctions and rewards	<input type="checkbox"/>
d. Defining adequate yearly progress for the state	<input type="checkbox"/>
e. Defining adequate yearly progress for districts	<input type="checkbox"/>
f. Defining adequate yearly progress for schools	<input type="checkbox"/>
g. Setting statewide annual measurable objectives for increasing the academic achievement of <i>all students</i>	<input type="checkbox"/>

h. Setting statewide annual measurable objectives for increasing the academic achievement of <i>economically disadvantaged students</i>	
i. Setting statewide annual measurable objectives for increasing the academic achievement of <i>students from major racial and ethnic minority groups</i>	
j. Setting statewide annual measurable objectives for increasing the academic achievement of <i>students with disabilities</i>	
k. Setting statewide annual measurable objectives for increasing the academic achievement of <i>students with limited English proficiency</i>	
l. Setting separate adequate yearly progress goals for reading and mathematics	
m. NCLB accountability requirements do not have a positive effect on student achievement	
n. Other (please specify):	

10. In what ways, if at all, are the NCLB accountability requirements having a positive effect on student achievement? (Please describe below)

11. Which of the following accountability requirements of NCLB do you see as creating negative or unintended consequences for your state? (Put an X to the RIGHT of ALL response options that apply)

a. Developing an accountability system based on content and performance standards	
b. Developing a uniform accountability system that is used for all districts and schools in the state	
c. Developing an accountability system that includes sanctions and rewards	
d. Defining adequate yearly progress for the state	
e. Defining adequate yearly progress for districts	
f. Defining adequate yearly progress for schools	
g. Setting statewide annual measurable objectives for increasing the academic achievement of <i>all students</i>	
h. Setting statewide annual measurable objectives for increasing the academic achievement of <i>economically disadvantaged students</i>	
i. Setting statewide annual measurable objectives for increasing the academic achievement of <i>students from major racial and ethnic minority groups</i>	
j. Setting statewide annual measurable objectives for increasing the academic achievement of <i>students with disabilities</i>	
k. Setting statewide annual measurable objectives for increasing the academic achievement of <i>students with limited English proficiency</i>	
l. Setting separate adequate yearly progress goals for reading and mathematics	
m. Other:	
n. Do not see any unintended consequences for my state	

12. What are the negative or unintended consequences of NCLB's accountability requirements? (Please describe below)

--

13. To what extent do you believe that, over time, the NCLB accountability requirements will result in increased student achievement? (Put an X to the RIGHT of ONE response option)

a. Not at all	
b. A little	
c. Somewhat	
d. To a great extent	
e. Don't Know	

Please explain your answer.

14. To what extent do you believe that, over time, NCLB will result in a narrowing or widening of the achievement gap between each of the following groups of students in your state? (For each row, put an X in ONE box)

	Gap Will Narrow Considerably	Gap Will Narrow Somewhat	Gap Will Stay Same	Gap Will Widen Somewhat	Gap Will Widen Considerably	N/A: No Gap	Subgroup Too Small to Track	Don't Know
a. White students vs. Black students								
b. White students vs. Asian students								
c. White students vs. Hispanic students								
d. White students vs. Native American students								
e. LEP students vs. non-LEP students								
f. Students with disabilities (as defined under IDEA) vs. students without disabilities								
g. Low-income students vs. students who are not low-income								

Public School Choice

15. In the 2002–03 school year, approximately what percentage of districts in the state had schools that were required by NCLB to offer public school choice (Provide a number in the box to the right)

a. Percent of districts in the state with schools required to offer public school choice as a result of NCLB	
b. Don't Know	

16. In the 2002–03 school year, approximately what percent of students in the state were *eligible* to exercise their school choice option as a result of NCLB and approximately what percent of eligible students actually *changed* schools? (For each, provide a number in the box to the right)

a. Percent of eligible students	
b. Percent of eligible students who actually changed schools	
c. Don't Know	

17. To your knowledge, to what extent were the following issues challenges to districts' efforts to implement the NCLB choice provisions in 2002–03? (For each row, put an X in one box)

	Not a Challenge	Minimal Challenge	Moderate Challenge	Major Challenge	Don't Know
a. Schools were not identified for improvement prior to the start of the school year, delaying district efforts to notify parents of the school choice option					
b. Districts were not able to provide adequate information to parents about the public school choice options					
c. Class size limits prevented districts from offering alternate schools for eligible students to attend					
d. Lack of physical space in alternate schools					
e. An amount equal to 20 percent of districts' Title I allocations was not adequate to provide transportation to all students who requested a transfer to alternate schools and provide supplemental educational services					
f. Inability to negotiate agreements with other districts to receive students who wish to transfer					
g. Inability to meet the needs of special education students in alternate schools					
h. Inability to meet the needs of limited English proficient students in alternate schools					
i. Other (SPECIFY):					

18. In the 2002-03 school year, to what extent did school districts do each of the following to address capacity issues that limited the number of receiving slots available for students who wished to transfer to another school? (For each row, put an X in one box)

Districts did not have school capacity issues		GO TO QUESTION 19
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	Not at All	Minimally	Moderately	To a Great Extent	Don't Know
a. Exceeded class size mandates					
b. Created charter schools					
c. Added more teachers to receiving schools					
d. Added mobile classrooms (and teachers) to receiving schools					
e. Negotiated agreements with other school districts to receive students who wished to transfer					
f. Offered supplemental education services					
g. Other (Specify):					

19. For the 2003-04 school year, to what extent are school districts planning to do each of the following to increase the capacity of receiving schools to accept students who wish to transfer or provide additional educational services to such students? (For each row, put an X in one box)

Districts did not have school capacity issues		GO TO QUESTION 20
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	Not at All	Minimally	Moderately	To a Great Extent	Don't Know
a. Exceed class size mandates					
b. Create charter schools					
c. Add more teachers to receiving schools					
d. Add mobile classrooms and teachers to receiving schools					
e. Negotiate agreements with other school districts to receive students who wish to transfer					
f. Offer supplemental education services					
g. Other (Specify):					

20. In the 2002-03 school year, of the students who actually changed schools as a result of the NCLB Title I public school choice provision, what were their demographic and educational characteristics? (For each category below, provide a percent in the box to the right. IF THERE ARE NO STUDENTS in a particular category WHO CHANGED SCHOOLS, TYPE "0" IN THE APPROPRIATE BOX)

Do not have demographic information on students who changed schools in 2002-03 as a result of NCLB		GO TO QUESTION 21
--	--	-------------------

a. % White Students	
b. % Black Students	
c. % Hispanic Students	
d. % Asian/Pacific Islander Students	
e. % American Indian/Alaskan Native Students	
f. % Other Race (Specify):	
g. % Low Income Students	
h. % English Language Learners/Limited English Proficient Students	
i. % Special Education Students	

21. Have certain areas of the state, such as rural areas, faced any unique challenges in implementing the public school choice provisions? (Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	
If yes, please describe the challenges.	

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Supplemental Educational Services

22. How many supplemental service providers have been approved by the state? Please indicate the TOTAL number of providers as well as the number of providers in each of the following categories: (For each, provide a number in the box to the right)

a. TOTAL Number of supplemental service providers approved by the state	
b. Number of private, for profit providers	
c. Number of private, nonprofit providers	
d. Number of school districts that are approved providers	
e. Number of other public entities that are providers	
f. Number of providers that ONLY provide online services	
g. Other providers (SPECIFY BELOW)	
h. Don't Know	
i. OTHER TYPES OF PROVIDERS:	

23. To what extent did the state have difficulty with each of the following in its efforts to develop a list of supplemental service providers? (For each row, put an X in one box)

	Not at All	Minimally	Moderately	To a Great Extent	Don't Know
a. Encouraging providers to apply					
b. Developing provider selection criteria					
c. Determining whether provider applicants' services were research-based					
d. Determining whether provider applicants' instructional strategies were of high quality					
e. Determining whether provider applicants' services were effective in raising student achievement					
f. Determining whether provider applicants' services were consistent with the instructional program of the LEA and with state academic content standards					
g. Determining that the provider is financially sound					
h. Ensuring that the range of service providers with respect to location and service reflected local need					
i. Providing guidance for provider applicants about pricing or location of services					
j. Other (SPECIFY BELOW)					

24. Are the approved providers offering services to all areas of the state? (Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	
If no, please explain why not.	

25. Are the approved providers offering the same services (i.e., the same frequency, duration, and range of services) to all areas of the state?

a. Yes	
b. No	
c. Don't Know	
If no, please explain why not.	

26. In the 2002-03 school year, approximately what percent of districts in the state had schools that were required to offer supplemental services? (Provide a number in the box to the right)

a. Percent of districts in the state with students eligible to receive services	
b. Don't Know	

27. In the 2002-03 school year, approximately what percent of students were eligible to receive supplemental services, and approximately what percent of the eligible students actually received such services in the state? (For each, provide a number in the box to the right)

a. Percent of students eligible to receive supplemental services	
b. Percent of eligible students who actually received supplemental services	
c. Don't Know	

28. Has the state put in place a system for monitoring provider performance? (Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	

If yes, does the state have any data on how effective these supplemental services have been in improving student achievement?

--

If yes, please briefly describe how the monitoring will occur (e.g. on site reviews, reports from school districts, etc.).

--

29. Have certain areas of the state, such as rural areas, faced any unique challenges in implementing the supplemental services provisions? (Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	

If yes, please explain the difficulties.

--

Teacher Quality

30. Which of the following changes, if any, is the state making to its teacher preparation and or certification/licensure requirements to ensure that all teachers teaching core academic subjects are “highly qualified” by the end of the 2005–06 school year? (Put an X to the RIGHT of ALL response options that apply)

a. Revising requirements for teacher preparation programs	<input type="checkbox"/>
b. Revising state certification requirements	<input type="checkbox"/>
c. Revising state licensure requirements	<input type="checkbox"/>
d. Creating or adopting a new state test of teacher knowledge and competency	<input type="checkbox"/>
e. Creating or adopting a method other than a test for evaluating teacher knowledge and competency	<input type="checkbox"/>
f. Other (SPECIFY BELOW)	<input type="checkbox"/>
OTHER CHANGES:	

31. Has the state yet informed school districts about which teachers in the district meet the NCLB definition of “highly qualified”? (Put an X to the RIGHT of ONE response option)

a. Yes	<input type="checkbox"/>
b. No	<input type="checkbox"/>
c. Don't Know	<input type="checkbox"/>
If YES, when did the state provide the information to school districts?	
If NO, when does the state plan to provide the information to school districts?	

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32. Does the state anticipate that all teachers in the state teaching core academic subjects will be highly qualified, as defined under NCLB, by the end of school year 2005–06? (Put an X to the RIGHT of ONE response option)

a. Yes	<input type="checkbox"/>
b. No	<input type="checkbox"/>
c. Don't Know	<input type="checkbox"/>
If NO, please explain why.	

33. To your knowledge, are there particular districts that are having or will have special difficulty in meeting the requirement for all teachers teaching core academic subjects to be highly qualified by the end of SY 2005-06? (Put an X to the RIGHT of ONE response option)

a. Yes	<input type="checkbox"/>
b. No	<input type="checkbox"/>
c. Don't Know	<input type="checkbox"/>
If YES, how many districts are having or will have special difficulty?	
If YES, please explain the nature of district difficulties in meeting the NCLB requirements regarding teachers teaching core academic subjects.	

34. Has the state had any difficulty meeting the requirement that newly hired Title I teachers meet the NCLB definition of "highly qualified"? (Put an X to the RIGHT of ONE response option)

a. Yes	<input type="checkbox"/>
b. No	<input type="checkbox"/>
c. Don't Know	<input type="checkbox"/>
If YES, please describe the difficulties.	

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35. How is the state ensuring that Title I teachers hired after the start of the 2002-03 school year meet the highly qualified requirement? (Put an X to the RIGHT of ONE response option)

a. Requiring district to report on all new hires in these schools	<input type="checkbox"/>
b. Reviewing hires while on onsite reviews	<input type="checkbox"/>
c. Getting written assurances from school districts	<input type="checkbox"/>
d. Other (SPECIFY BELOW)	<input type="checkbox"/>

36. Does the state anticipate having any difficulty meeting the requirement for middle school teachers to be highly qualified? (Put an X to the RIGHT of ONE response option)

a. Yes	<input type="checkbox"/>
b. No	<input type="checkbox"/>
c. Don't Know	<input type="checkbox"/>
If YES, please describe the difficulties.	

37. Is the state providing any professional development or other assistance to help teachers who do not meet the NCLB qualification requirements? (Put an X to the RIGHT of ONE response option)

a. Yes	<input type="checkbox"/>
b. No	<input type="checkbox"/>
c. Don't Know	<input type="checkbox"/>

If yes, please describe.

38. Have any areas of the state, such as rural areas, faced or will they face any unique challenges in implementing the teacher quality provisions of NCLB? (Put an X to the RIGHT of ONE response option)

a. Yes	<input type="checkbox"/>
b. No	<input type="checkbox"/>
c. Don't Know	<input type="checkbox"/>

If yes, please describe the challenges.

39. Do you believe that, over time, NCLB will result in a better prepared teaching force? (Put an X to the RIGHT of ONE response option)

a. Yes	<input type="checkbox"/>
b. No	<input type="checkbox"/>
c. Don't Know	<input type="checkbox"/>

If YES, why do you believe that NCLB will or will not result in a better prepared teaching force?

Paraprofessional Qualifications

40. To what extent is the state providing each of the following to ensure that Title I paraprofessionals who provide instructional support meet the requirement of completing two years of college or passing a rigorous exam demonstrating knowledge by January 8, 2006? (For each row, put an X in one box)

	Not at All	Minimally	Moderately	To a Great Extent	Don't Know
a. Providing training to paraprofessionals in core academic subjects					
b. 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, LEP)					
c. Offering tuition assistance					
d. Working with institutions of higher education to develop a course of study for paraprofessionals					
e. Other (Specify):					

41. Has the state developed or adopted an assessment to measure Title I paraprofessional knowledge and competency consistent with the NCLB requirements? (Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	
If yes, what kind of exam? (Put an X to the RIGHT of ONE response option)	
a. A state exam	
b. ParaPro	
c. Other (Specify):	

42. Have certain areas of the state, such as rural areas faced or will they face unique challenges in implementing the Title I paraprofessional qualifications provisions? (Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	
If YES, please describe the challenges.	

LEP Students

43. Were all students who are English language learners assessed during school year 2002-03 to determine their language proficiency? (Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	

44. Has the state developed or adopted an assessment that districts must use to measure the language proficiency of English language learners? (Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	

If yes, does the assessment measure all of the required domains of language acquisition as defined by NCLB? (Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	

If no, is the state requiring school districts to adopt their own exams to measure LEP student proficiency? (Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	

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Fiscal Concerns

45. How has the fiscal climate in the state affected the *state's* implementation of the No Child Left Behind Act? (Please describe below)

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46. Is the state department of education facing any hiring freezes or funding cutbacks that may affect implementation of NCLB? (Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	

If yes, please describe the nature of the hiring freezes or funding cutbacks. What departments and/or programs in the SEA are affected?

--

47. How is the state's fiscal situation affecting the implementation of NCLB in *school districts and schools*? (Please describe below)

--

State Capacity

48. Do you believe that the state department of education has a sufficient number of staff to carry out the legislative requirements of NCLB? (Put an X to the RIGHT of ONE response option)

a. Yes	<input type="checkbox"/>
b. No	<input type="checkbox"/>
c. Don't Know	<input type="checkbox"/>
If no, please explain.	

49. Do you believe that the state department of education has sufficient in-house expertise to provide technical assistance to schools and districts that have been identified as needing improvement? (Put an X to the RIGHT of ONE response option)

a. Yes	<input type="checkbox"/>
b. No	<input type="checkbox"/>
c. Don't Know	<input type="checkbox"/>
If no, please explain.	

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50. Which of the following is the state undertaking to assist schools identified as needing improvement? (Put an X to the RIGHT of ALL response options that apply)

a. Providing professional development	<input type="checkbox"/>
b. Providing technical assistance	<input type="checkbox"/>
c. Establishing school support teams	<input type="checkbox"/>
d. Other (SPECIFY BELOW)	<input type="checkbox"/>
OTHER CHANGES:	

Flexibility

51. Is the state taking advantage of any of the flexibility provisions contained in NCLB?
(Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	
If yes, which provisions? (Put an X to the RIGHT of ALL response options that apply)	
a. Participating in the State Flexibility ("State-Flex") Program	
b. Transferring administrative funds across programs	
c. Other (Specify):	
To what extent is the state finding this flexibility has streamlined the administration of its federal programs? (Put an X to the RIGHT of ONE response option)	
a. Not at all	
b. Minimally	
c. Somewhat	
d. To a great extent	

52. Are any school districts in the state taking advantage of any of the flexibility provisions contained in NCLB? (Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	
If yes, which provisions? (PUT AN X TO THE RIGHT OF <u>ALL</u> RESPONSE OPTIONS THAT APPLY)	
a. Participating in the Local Flexibility ("Local-Flex") Demonstration Program	How many districts? _____
b. Transferring federal administrative funds across programs	How many districts? _____

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Scientifically Based Research

53. Does the state have a list of curricula or instructional programs that can be used for Title I services that meet the NCLB definition of "scientifically based"? (Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	
If yes, are Title I schools required to use the list to select their curricula or instructional programs? (Put an X to the RIGHT of ONE response option)	
a. Yes	
b. No	
c. Don't Know	
If no, which of the following do school districts do to determine whether the curricula or instructional program offered in Title I schools are grounded in scientifically based research? (Put an X to the RIGHT of ALL response options that apply)	
a. School districts are not doing anything	
b. Examine evidence provided by the vendor	

c. Review results of programs operating in other schools	
d. Apply past experience with the program	

54. Has the state received assistance from an outside entity in determining which Title I curricula or instructional programs meet the NCLB definition of scientifically based? (Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	
If yes, which of the following entities provided the assistance? (PUT AN X TO THE RIGHT OF ALL RESPONSE OPTIONS THAT APPLY)	
a. Regional Educational Laboratories	
b. Comprehensive Regional Technical Assistance Centers	
c. National Clearinghouse on Scientifically Based Research	
d. Institutions of Higher Education	
e. U.S. Department of Education	
f. Private Organizations	
g. Other (Specify):	

Reading First

55. Did the state apply for a Reading First grant? (Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	

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56. Did the state receive a Reading First grant? (Put an X to the RIGHT of ONE response option)

a. Yes	
b. No	
c. Don't Know	
If YES, how will the state's grant be used to improve student reading? (Please explain)	

General Questions

57. In your state's experience, how strictly is the U.S. Department of Education interpreting the NCLB law with regard to the following provisions? (For each row, put an X in one box)

	Not at All Strictly	Somewhat Strictly	Moderately Strictly	Very Strictly	Don't Know
a. Public School Choice					
b. Supplemental Educational Services					
c. Adequate Yearly Progress					
d. Highly Qualified Teachers					
e. Paraprofessional Qualifications					
f. Scientifically Based Research					
g. Reading First Program					

58. To what extent have each of the following been helpful to the state in its efforts to implement NCLB? (For each row, put an X in one box)

	Very Helpful	Helpful	Neutral	Not Helpful	Don't Know
Regulations issued by the U.S. Department of Education					
Non-regulatory guidance issued by the U.S. Department of Education					
U.S. Department of Education staff responses to inquiries the state has made regarding implementation of NCLB					

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59. Has the state had federal funds withheld or been threatened with the withholding of federal funds for failure to meet deadlines?

a. Yes, funds have been withheld	
b. No, but the state has been threatened with the withholding of federal funds for failure to meet deadlines	
c. No	
d. Don't know	

60. What were the state's greatest challenges in implementing NCLB over the last 18 months? (Please describe below)

APPENDIX C

District Implementation Study of the No Child Left Behind Act

District Survey

This survey is being conducted on behalf of the Center on Education Policy (CEP), an independent non-profit organization that advocates for public education and improved public schools. CEP is conducting a survey of 400 randomly selected school districts that will enable it to draw some conclusions about how the implementation of NCLB is proceeding at the local level. Specifically, CEP hopes to be able to answer questions about districts' Title I accountability, public school choice, supplemental educational services, teacher and paraprofessional quality, the use of scientifically based research, and the effects of persistently dangerous schools. In addition, CEP hopes to determine which provisions of NCLB have had a positive effect on districts and which have proved to be more challenging.

Please be assured that your survey responses will remain strictly confidential; no one other than the study team will have access to completed surveys. In addition, survey data will be reported in the aggregate; study reports and other products will not identify any district or individual by name. CEP intends to release its study findings in a report it will issue in January 2004. Finally, please know that upon completion of the survey, we will send you a \$50 gift card to Barnes & Noble as a gesture of our appreciation.

Please complete the survey and return it to Policy Studies Associates in the enclosed, postage-paid envelope no later than **October 6, 2003**.

Schools in Need of Improvement 2003-04

1. **This school year (2003-04)**, does the district have any elementary, middle/junior high, or high schools identified for improvement under Title I? How many schools have been identified for improvement for one, two, three, or four or more **consecutive** years? (*Write in the numbers on the lines below. If the district has none of a type of school, write "0" on the line. Enter the number "888" if you don't know the answer. NOTE: Please report information regarding the number of schools identified for improvement even if that information is preliminary.*)

	Elementary Schools	Middle/Junior High Schools	High Schools	Other grade combinations (e.g., K-8)
Schools identified for improvement under Title I for 1 year	_____	_____	_____	_____
Schools identified for improvement under Title I for 2 consecutive years	_____	_____	_____	_____
Schools identified for improvement under Title I for 3 consecutive years	_____	_____	_____	_____
Schools identified for improvement under Title I for 4 consecutive years or more	_____	_____	_____	_____
TOTAL number of schools identified for improvement under Title I	_____	_____	_____	_____

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2. Is the information you provided in **Question 1** on the number of Title I schools identified as in need of improvement for 2003-04 **preliminary** or **final**?

The information reported in Question 1 is preliminary 1
 The information reported in Question 1 is final 2

3. How many **non-Title I** schools have been identified for improvement under the No Child Left Behind Act in 2003-04? (*Write in the number on the line below. If the district has no non-Title I schools identified for improvement, write "0" on the line. Enter the number "888" if you don't know. NOTE: Please enter the number of schools even if the number is preliminary.*)

Number of schools _____

4. Is the information you provided in **Question 3** on the number of non-Title I schools identified for improvement in 2003-04 **preliminary** or **final**?

The information reported in Question 3 is preliminary 1
 The information reported in Question 3 is final 2

5. How many Title I schools, if any, which were identified as not making adequate yearly progress (AYP) this year (2003-04) were designated as such because only one subgroup did not make adequate yearly progress **OR** because 95% of the students in those schools did not take the exam? (NOTE: Please report information on the number of schools not making AYP even if that information is preliminary. Enter the number "888" if you don't know the answer.)

Number of schools identified as not making AYP because only **ONE subgroup did not make AYP** _____ Schools

Number of schools identified as not making AYP because **95% of the students did not take the exam** _____ Schools

6. Is the information you provided in **Question 5** on the number of schools not making AYP in 2003-04 **preliminary** or **final**?

The information reported in Question 5 is preliminary 1

The information reported in Question 5 is final 2

7. This year, in 2003-04, how many schools that had been identified for improvement **EXITED THAT STATUS** because the schools made adequate yearly progress for two consecutive years? (If the answer is "0", enter "0" on line below. Enter the number "888" if you don't know the answer. NOTE: Please report information on the number of schools even if that information is preliminary.)

Number of schools _____

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8. Is the information you provided in **Question 7** on the number of schools that exited improvement status this year (2003-04) **preliminary** or **final**?

The information reported in Question 7 is preliminary 1

The information reported in Question 7 is final 2

9. Are there any answers to the questions in this section on schools identified as in need of improvement this year (2003-04) that you would like to explain further?

Schools in Need of Improvement 2002-03

10. Last year, **in 2002-03**, were any schools in this district **identified for improvement** under Title I?

Yes 1

No 2 (Go to Question 17)

11. Last year, **in 2002-03**, how many schools were identified for improvement under Title I? *(Write in the numbers on the lines below. If the district has none of a type of school, write "0" on the line. Enter the number "888" if you don't know the answer.)*

	Elementary Schools	Middle/Junior High Schools	High Schools	Other grade combinations (e.g., K-8)
Schools identified for improvement under Title I for 1 year	_____	_____	_____	_____
Schools identified for improvement under Title I for 2 consecutive years	_____	_____	_____	_____
Schools identified for improvement under Title I for 3 consecutive years	_____	_____	_____	_____
Schools identified for improvement under Title I for 4 consecutive years or more	_____	_____	_____	_____
TOTAL number of schools identified for improvement under Title I	_____	_____	_____	_____

12. Last year, in 2002-03, how many **non-Title I** schools were identified for improvement under the No Child Left Behind Act? *(Write in the number on the line below. If the district had no non-Title I schools identified for improvement, write "0" on the line. Enter "888" if you don't know the answer.)*

Number of schools _____

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13. Last year, in 2002-03, which of the following actions did the district take with **Title I schools identified for improvement?**

	ACTION TAKEN IN 2002-03?	
	NO	YES
Notifying parents of improvement status	0	1
Joint school improvement planning	0	1
Providing students with public school choice, with transportation provided	0	1
Providing students with supplemental education services (e.g., tutoring) from a state-approved provider	0	1
Requiring the implementation of a new research-based curriculum/instructional program	0	1
Decreasing management authority at the school level	0	1
Appointing an outside expert to advise the school	0	1
Extending the school day or year	0	1
Restructuring the internal organization of the school	0	1
Reassigning or demoting the principal	0	1
Replacing school staff who are relevant to the failure to make AYP	0	1
Replacing all or most of the school staff	0	1
Reopening the school as a public charter school	0	1
Entering into a contract with a private management company to operate the school	0	1
State takeover	0	1
Other (Please explain in "Comments" space below)	0	1

Additional Comments:

14. Last year, in 2002–03, what kinds of assistance were provided to schools identified for improvement in this district? Who provided the assistance? (if you did not receive a type of assistance, select “N/A Assistance Not Provided”)

	Provided by District	Provided by State	Provided by Other Source	NA/Asst. Not Provided
School support teams	1	2	3	4
Distinguished teachers	1	2	3	4
Special grants to support school improvement	1	2	3	4
Additional professional development or special access	1	2	3	4
Mentor or coach for the principal (e.g., distinguished principals)	1	2	3	4
Additional full-time school-based staff to support teacher development	1	2	3	4
Other (Describe in “Comments” field below.)	1	2	3	4

Additional Comments:

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15. Last year, in 2002–03, to what extent did your district allocate resources (i.e. time, money, staff) to the following strategies for improving schools identified for improvement or schools in corrective action?

	Not at All	Minimally	Somewhat	To a Great Extent	Don't Know
Improving the school planning process	1	2	3	4	5
Increasing the use of student achievement data to inform instruction and school improvement	1	2	3	4	5
Increasing the quality and quantity of teacher and principal professional development	1	2	3	4	5
Matching curriculum and instruction with standards and/or assessments	1	2	3	4	5
Selecting and/or implementing a school reform model	1	2	3	4	5
Selecting and/or implementing a new curriculum or instructional program	1	2	3	4	5
Providing before- or after-school, weekend, or summer programs	1	2	3	4	5
Creating new options or choices for parents and their students	1	2	3	4	5
Using research to inform decisions about improvement strategies	1	2	3	4	5
Restructuring the school day to teach core content areas in greater depth (e.g., establishing a literacy block)	1	2	3	4	5
Hiring additional teachers to reduce class size	1	2	3	4	5

Using specialists to deliver targeted instruction to groups of low-achieving students	1	2	3	4	5
Increasing monitoring and district oversight	1	2	3	4	5
Analyzing and revising the school budget/reallocating resources (i.e., time, money, staff) to support school improvement	1	2	3	4	5
Other (Describe in "Comments" field below.)	1	2	3	4	5

Additional Comments:

16. Are there any answers to the questions in this section on schools identified as in need of improvement last year (2002-03) that you would like to explain further?

Assistance in Implementing NCLB and Improving Student Performance

17. Overall, how would you rate *the quality* of assistance the district has received from the following organizations and agencies regarding the implementation of the No Child Left Behind Act?

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	Very Helpful	Somewhat Helpful	A Little Helpful	Not Helpful	NA/ Did Not Receive Assistance
State Education Agency	1	2	3	4	5
Institutions of Higher Education	1	2	3	4	5
Regional Educational Laboratories	1	2	3	4	5
Comprehensive Regional Technical Assistance Centers	1	2	3	4	5
National Clearinghouse on Scientifically Based Research	1	2	3	4	5
Education service agencies or other local consortia	1	2	3	4	5
Private organization(s)	1	2	3	4	5
U.S. Department of Education	1	2	3	4	5
Other (Describe in "Comments" field below.)	1	2	3	4	5

Additional Comments:

18. To what extent does the district consider narrowing the *gaps in performance* on the state assessment among the following groups of students to be a challenge?

	Not a Challenge	Small Challenge	Moderate Challenge	Serious Challenge	N/A: No Gap in Performance	N/A: Subgroup Too Small to Track	Don't Know
White students vs. Black students	1	2	3	4	5	6	7
White students vs. Asian students	1	2	3	4	5	6	7
White students vs. Hispanic students	1	2	3	4	5	6	7
White students vs. Native American students	1	2	3	4	5	6	7
LEP students vs. non-LEP students	1	2	3	4	5	6	7
Students with disabilities (as defined under IDEA) vs. students without disabilities	1	2	3	4	5	6	7
Low-income students vs. students who are not low-income	1	2	3	4	5	6	7

Additional Comments:

19. At which school level are the gaps in performance in *reading/language arts* among the following groups of students the largest, based on results of the state assessment?

	Elementary Schools	Middle Schools	High Schools	Other Types of Schools (e.g., K-8)	N/A: No Gap in Performance	N/A: Subgroup Too Small to Track	Don't Know
White students vs. Black students	1	2	3	4	5	6	7
White students vs. Asian students	1	2	3	4	5	6	7
White students vs. Hispanic students	1	2	3	4	5	6	7
White students vs. Native American students	1	2	3	4	5	6	7
LEP students vs. non-LEP students	1	2	3	4	5	6	7
Students with disabilities (as defined under IDEA) vs. students without disabilities	1	2	3	4	5	6	7
Low-income students vs. students who are not low-income	1	2	3	4	5	6	7

Additional Comments:

20. At which school level are the gaps in performance in *mathematics* among the following groups of students the largest, based on results of the state assessment?

	Elementary Schools	Middle Schools	High Schools	Other Types of Schools (e.g., K-8)	N/A: No Gap in Performance	N/A: Subgroup Too Small to Track	Don't Know
White students vs. Black students	1	2	3	4	5	6	7
White students vs. Asian students	1	2	3	4	5	6	7
White students vs. Hispanic students	1	2	3	4	5	6	7
White students vs. Native American students	1	2	3	4	5	6	7
LEP students vs. non-LEP students	1	2	3	4	5	6	7
Students with disabilities (as defined under IDEA) vs. students without disabilities	1	2	3	4	5	6	7
Low-income students vs. students who are not low-income	1	2	3	4	5	6	7

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Additional Comments:

21. Are there any answers to the questions on assistance received implementing NCLB or improving student performance on state assessments that you would like to explain further?

School Choice and Supplemental Education Services

School Choice

22. This school year, in 2003-04, does the district have any schools that are required to offer public school choice as a result of NCLB?

Yes	1	
No	2	(Go to Question 28)
Don't Know	3	(Go to Question 28)

23. This year, in 2003-04, how many **schools** in the district are required to offer public school choice **as a result of NCLB**? (Write in the number on the line below. If the district has no schools required to offer public school choice, write "0" on the line. If you don't know, enter the number "888." NOTE: Please report information regarding the number of schools required to offer public school choice even if that information is preliminary.)

Number of schools required by NCLB to offer public school choice _____

24. This year, in 2003-04, how many **students** in the district are **eligible** to exercise their school choice option as a result of NCLB, and how many students have **actually changed** schools? (Write in the numbers on the lines below. If the district does not have any students eligible, write "0" on the lines. Enter the number "888" if you don't know. NOTE: Please report information regarding the number of students eligible to exercise their school option and on the number of students who have actually changed schools, even if that information is preliminary.)

Number of students **eligible** to change schools in 2003-04 _____

Number of students who **actually changed** schools in 2003-04 _____

25. This year, in 2003-04 when parents consider a transfer for their children because their school has been identified for improvement under Title I, how many receiving schools, on average, do they have to choose among in the district? (Write in the numbers of schools on the line below. Enter the number "888" if the district is not required to offer public school choice. NOTE: Please report information regarding the number of receiving schools parents have to choose among even if that information is preliminary.)

Number of receiving schools available for children _____

26. What percent of eligible students in the district are limited to two or fewer schools into which they can choose to transfer? (Write in the percent of students on the line below. Enter the number "888" if the district is not required to offer public school choice.)

Percent of students _____ %

27. Is the information you reported for 2003-04 in **Questions 23-26** regarding the number of schools required to offer public school choice, the number of students eligible to exercise their school choice option, and the number of receiving schools students have to choose among **preliminary** or **final**?

- The information reported in regarding school choice is preliminary 1
- The information reported in regarding school choice is final 2

28. Last year, in 2002-03, did the district have any schools that were required to offer public school choice as a result of NCLB?

- Yes 1
- No 2 (Go to Question 34)
- Don't Know 3 (Go to Question 34)

29. Last year, in 2002-03, how many schools in the district were required to offer public school choice? *(Write in the number on the line below. If the district had no schools required to offer public school choice, write "0" on the line. If you don't know, enter the number "888.")*

Number of schools required by NCLB to offer public school choice _____

30. Last year, in 2002-03, how many **students** in the district were **eligible** to exercise their school choice option as a result of NCLB, and how many students **actually changed** schools? *(Write in the numbers on the lines below. If the district did not have any students who were eligible to exercise their school choice option, write "0" on the lines. Enter the number "888" if you don't know.)*

Number of students **eligible** to change schools in 2002-03 _____

Number of students who **actually changed** schools in 2002-03 _____

31. Last year, in 2002-03 when parents considered a transfer for their children because their school had been identified for improvement under Title I, how many receiving schools, on average, did they have to choose among in the district? *(Write in the numbers of schools on the line below. Enter the number "888" if you don't know.)*

Number of receiving schools available for children _____

32. In 2002-03, what percent of eligible students in the district were limited to two or fewer schools into which they could choose to transfer? *(Write in the percent of students on the line below. Enter the number "888" if you don't know.)*

Percent of Students _____ %

33. In 2002-03, to what extent were the following issues challenges to the district's efforts to implement the NCLB choice provisions?

	NOT A CHALLENGE	SMALL CHALLENGE	MODERATE CHALLENGE	SERIOUS CHALLENGE
Schools were not identified for improvement prior to the start of the school year, delaying district efforts to notify parents of the school choice option	1	2	3	4
The district was not able to provide adequate information to parents about the public school choice option	1	2	3	4
Class size limits prevented the district from offering alternate schools for eligible students to attend	1	2	3	4
All potential receiving schools in the district were identified for improvement	1	2	3	4
District had only one receiving school at the grade span of the school identified for improvement	1	2	3	4
Receiving schools lacked the physical space to accept transfers	1	2	3	4
An amount equal to 20 percent of the district's Title I allocation was not adequate to provide transportation to all students who requested transfers to alternate schools or fulfill all requests for supplemental services	1	2	3	4
Inability to negotiate agreements with other districts to receive students who wish to transfer	1	2	3	4
Inability to meet the needs of special education students in alternate schools	1	2	3	4
Inability to meet the needs of limited English proficient students in alternate schools	1	2	3	4
Other (Specify in "Comments" field below)	1	2	3	4

Additional Comments:

34. Are there any answers to the questions in this section on public school choice you would like to explain further?

Supplemental Education Services 2003-04

35. This year, in 2003-04, does the district have any schools where students are eligible to receive supplemental education services?

- Yes 1
- No 2 (Go to Question 41)
- Don't Know 3 (Go to Question 41)

36. This year, in 2003-04, how many ***schools*** in the district have students who are eligible to receive supplemental education services, as required under NCLB? (*Write in the number on the line below. If the district has no schools in this category, write "0" on the line. Enter the number "888" if you don't know. NOTE: Please report information regarding the number of schools that have students eligible to receive supplemental services even if that information is preliminary.*)

Number of schools where students are eligible to receive supplemental education services _____

37. This school year, in 2003-04, approximately how many ***students*** are eligible to receive, and how many are receiving, supplemental education services, as required under NCLB? (*Write in the numbers on the lines below. If the district has no schools where students are eligible, write "0" on the line. Enter the number "888" if you don't know. NOTE: Please report information regarding the number of students who are eligible--and who are receiving--supplemental services even if that information is preliminary.*)

Number of students **eligible** to receive supplemental education services _____

Number of students **receiving** supplemental education services _____

38. Is the information you reported for 2003-04 in **Questions 36 and 37** regarding the number of schools and students affected by the supplemental services provisions **preliminary** or **final**?

The information reported in supplemental services is preliminary 1

The information reported in supplemental services is final 2

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39. Has the district begun providing supplemental services to students this year (2003-04) through state-approved providers under Title I?

Yes 1 (Go to Question 41)

No 2

40. Why hasn't the district begun providing supplemental services through approved providers under Title I this school year, in 2003-04? (*Select All that Apply*)

We have not yet received a list of approved providers from the state _____ 1

We don't yet know which schools have been identified for improvement _____ 2

We are in the process of notifying parents and setting up supplemental services__ 3

No parents have signed up for services to date _____ 4

Other _____ 5

If you selected "Other", please specify:

Supplemental Education Services 2002-03

41. Last school year, in 2002-03, did the district have any schools where students were eligible to receive supplemental educational services?

- Yes 1
- No 2 (Go to Question 46)
- Don't Know 3 (Go to Question 46)

42. Last school year, in 2002-03, how many **schools** in the district had students who were eligible to receive supplemental education services, as required under NCLB. (*Write in the number on the line below. If the district had no schools where students were eligible to receive supplemental services, write "0." Enter the number "888" if you don't know.*)

Number of schools where students were eligible to receive supplemental education services _____

43. Last school year, in 2002-03, approximately how many **students** were **eligible** to receive, and how many **received**, supplemental education services, as required under NCLB. (*Write in the numbers on the lines below. If the district has none of a type of school, write "0" on the line. Enter the number "888" if you don't know.*)

Number of students *eligible* to receive supplemental education services in 2002-03 _____

Number of students *receiving* supplemental education services in 2002-03 _____

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44. Last school year, in 2002-03, how many supplemental service providers were available to students in the district? (*Write in the number on the line below. If the district has no providers available to students, enter "0" on the line. Enter the number "888" if you don't know.*)

Number of providers _____

45. Last school year, in 2002-03, to what extent was each of the following a challenge to the successful **implementation** of supplemental services in this district?

	NOT A CHALLENGE	SMALL CHALLENGE	MODERATE CHALLENGE	SERIOUS CHALLENGE	DON'T KNOW
Reaching parents to inform them of the availability of supplemental services	1	2	3	4	5
Lack of providers in the area	1	2	3	4	5
Providers not having established reputation with parents	1	2	3	4	5
Provider facilities not conveniently located	1	2	3	4	5
Provider services not meeting the instructional needs of students	1	2	3	4	5
Monitoring provider effectiveness	1	2	3	4	5
Competition from existing after-school programs	1	2	3	4	5

Inadequate information for parents about supplemental services	1	2	3	4	5
Inadequate time for parents to learn about supplemental services	1	2	3	4	5
An amount equal to 20 percent of the district's Title I allocation is not adequate to fulfill all requests for supplemental services or provide transportation to all students who request transfers to alternate schools	1	2	3	4	5
Schools were not identified for improvement prior to the start of the school year, delaying district efforts to notify parents of eligible students of the availability of supplemental services	1	2	3	4	5
Other (Specify in "Comments" field below)	1	2	3	4	5

Additional Comments:

46. Are there any answers to the questions on school choice you would like to explain further?

Teacher Quality

47. Does the district yet have in place a system to classify teachers as "highly qualified" according to the NCLB definition?

- Yes 1
- No 2 (Go to Question 56)
- Don't Know 3 (Go to Question 56)

If you selected **other**, please specify.

48. For this school year, 2003-04, approximately what proportion of teachers in the district meet the NCLB definition of "highly qualified" (i.e., teachers of core academic subjects are licensed by the state, hold a bachelor's degree, and demonstrate competence in their subject area) at each of the following school levels?

	ALL TEACHERS	MOST TEACHERS	SOME TEACHERS	A FEW TEACHERS	NO TEACHERS	DON'T KNOW
Elementary school teachers	1	2	3	4	5	6
Middle/junior high school teachers	1	2	3	4	5	6
High school teachers	1	2	3	4	5	6
Teachers in other types of schools (e.g., K-8)	1	2	3	4	5	6

49. Has the district had any difficulty finding highly qualified Title I teachers as “new hires” for this school year, 2003-04?

Yes	1
No	2
Don't Know	3

50. As required under NCLB in 2002-03, have any Title I schools had to notify parents when students have been assigned to or taught by a teacher who is not “highly qualified”?

Yes	1	
No	2	(Go to Question 52)
Don't Know	3	(Go to Question 52)

51. How many schools sent out such notices?

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Number of Schools _____

52. To what extent is the district providing the following types of training or funding to *teachers* to assist them in meeting the “highly qualified” requirements of NCLB by the end of the 2005-06 school year?

	NOT AT ALL 1	MINIMALLY 2	SOMEWHAT 3	TO A GREAT EXTENT 4	DON'T KNOW 5
Training in core academic subjects					
Training to improve knowledge of instructional strategies that address the needs of students with different learning styles (e.g., students with disabilities, special needs, limited English proficiency)	1	2	3	4	5
Training on how to use data and assessments to improve classroom practice	1	2	3	4	5
Training in the use of technology	1	2	3	4	5
Funds to support the acquisition of advanced degrees	1	2	3	4	5
Funds to support the professional development hours required for teachers to maintain their state certification	1	2	3	4	5
Other (Describe in “Comments” field below.)	1	2	3	4	5

A few paraprofessionals	4
No paraprofessionals	5
Don't know	6

58. To what extent is the district providing the following types of training or funding to Title I paraprofessionals to assist them in meeting the “highly qualified” requirements of NCLB by the end of the 2005-06 school year?

	NOT AT ALL	MINIMALLY	SOMEWHAT	TO A GREAT EXTENT	DON'T KNOW
Training in core academic subjects	1	2	3	4	5
Training to improve knowledge of instructional strategies that address the needs of students with different learning styles (e.g., students with disabilities, special needs, limited English proficiency)	1	2	3	4	5
Funds to support the acquisition of an associate's degree or other college degree	1	2	3	4	5
Other (Describe in “Comments” field below.)	1	2	3	4	5

59. Which of the following entities is preparing or has prepared an assessment for Title I paraprofessionals that meets the requirements of NCLB (i.e., to assess paraprofessionals' knowledge of and ability to assist in instruction in reading/reading readiness, writing/writing readiness, and mathematics) that your school district will use/adopt?

	VERY HELPFUL	SOMEWHAT HELPFUL	A LITTLE HELPFUL	NOT HELPFUL	NA/ DID NOT RECEIVE ASSISTANCE
State Education Agency	1	2	3	4	5
Our school district	1	2	3	4	5
Another school district in the state	1	2	3	4	5
Testing company	1	2	3	4	5
An outside expert	1	2	3	4	5
None of the above	1	2	3	4	5
Don't know	1	2	3	4	5
Other (Describe in “Comments” field below.)	1	2	3	4	5

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If you selected **other**, please specify.

60. Does the district or state currently administer an assessment to measure whether Title I paraprofessionals have met a rigorous standard of quality?

Yes	1	(Go to Question 62)
No	2	

61. When does the district or state expect to begin assessing the qualifications of Title I paraprofessionals?

Month _____

Year _____

Don't Know, nothing scheduled _____

62. Are there any answers to the questions on teacher quality or paraprofessionals you would like to explain further?

Scientifically Based Research

63. Does the district have a list of curricula or instructional programs that can be used for Title I services that are grounded in “scientifically based” research, as defined by NCLB?

- Yes 1
- No 2 (Go to Question 68)
- Don't Know 3 (Go to Question 68)

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64. Are Title I schools required to use the list to select their curricula or instructional programs?

- Yes 1 (Go to Question 66)
- No 2
- Don't Know 3

65. How does the district determine whether the curricula or instructional programs offered in Title I schools are grounded in scientifically based research, as defined by NCLB? (*SELECT ALL THAT APPLY.*)

- Examine evidence provided by the vendor 1
- Review the results of programs operating in other schools 2
- Program was on a list provided by the state as meeting 3
- Scientifically based research criteria 3
- Don't Know 4
- Other 5

If you selected **other**, please specify.

66. Has the school district received assistance from an outside entity in determining which Title I curricula or instructional programs are grounded in *scientifically based research*, as defined by NCLB?

- Yes 1
- No 2 (Go to Question 68)
- Don't Know 3 (Go to Question 68)

67. To what extent did the following organizations or agencies provide assistance in determining which Title I curricula or instructional programs are grounded in scientifically based research? (PLEASE SELECT ONE RESPONSE IN EACH ROW)

	NOT AT ALL	MINIMALLY	SOMEWHAT	TO A GREAT EXTENT	DON'T KNOW
State Education Agency	1	2	3	4	5
Institution of Higher Education	1	2	3	4	5
Regional Educational Laboratories	1	2	3	4	5
Comprehensive Regional Technical Assistance Centers	1	2	3	4	5
National Clearinghouse on Scientifically Based Research	1	2	3	4	5
Education service agencies or other local consortia	1	2	3	4	5
Private organization(s)	1	2	3	4	5
U.S. Department of Education	1	2	3	4	5
Other (Describe in "Comments" field below.)	1	2	3	4	5

If you selected **other**, please specify.

68. Are there any answers to the questions on Scientifically Based Research you would like to explain further?

Persistently Dangerous Schools

69. Does the district have any schools that have been designated as “persistently dangerous” according to the NCLB definition?

- Yes 1
- No 2 (Go to Question 72)
- Other 3 (Go to Question 72)

If you selected **other**, please specify.

70. This school year, in 2003-04, how many schools in the district are designated as “persistently dangerous”? (Write in the number on the line below. Enter the number “888” if you don’t know.)

Number of schools designated “persistently dangerous” _____

71. This school year, in 2003-04, how many **students** in the district are eligible to exercise their school choice option as a result of their school being designated as persistently dangerous under NCLB, and how many students actually changed schools? (Write in the numbers on the lines below. If the district does not have any students eligible, write “&”0” on the line. Enter the number “888”; if you don’t know.)

Number of students *eligible* to change schools _____

Number of students who *actually changed* schools _____

72. Are there any answers to the questions on Persistently Dangerous Schools you would like to explain further?

English Language Learners

73. Last school year, in 2002-03, approximately what percentage of students enrolled in the district participated in the district’s assessment of English language proficiency? (If the district does not have any students who participate in an assessment of English language proficiency, enter “0”. If you don’t know, enter “888”.)

Percent of students _____%

74. Last school year, in 2002-03, approximately what percentage of English language learners enrolled in the district sufficiently improved their English proficiency to be considered English language learners no longer? (If the district does not have any students who participate in an assessment of English language proficiency, write “0”. If you don’t know, write “888”.)

Percent of students _____%

Reading First

75. Does the district have a *Reading First* Program?

- | | | |
|--|---|---------------------|
| Yes | 1 | |
| No, the state did not apply for Reading First funding | 2 | (Go to Question 78) |
| No, the district applied for but did not receive a Reading First subgrant from the state | 3 | (Go to Question 78) |

76. When did the district receive its Reading First subgrant?

Month_____

Year_____

77. What programs does the district plan to implement with the Reading First subgrant?

General Questions

78. What are *three* positive effects of NCLB on the district? How do you know this? Which NCLB requirements have contributed to these positive effects?

1. _____

2. _____

3. _____

79. Which *three* requirements of NCLB present the most serious implementation challenges for the district? Why?

1. _____

2. _____

3. _____

80. Does the district believe that the NCLB requirements are compatible and/or consistent with *state* efforts to raise student achievement? Are they compatible with *district* efforts to raise student achievement?

81. Which three requirements of NCLB, if any, would you change or eliminate? Why?

1. _____

2. _____

3. _____

82. Do you think that, over time, NCLB will lead to an increase in student achievement? Do you think it will lead to a decrease in the achievement gap? Why or why not?

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83. Do you believe that, over time, NCLB will lead to an increase in the quality of the teacher work force for all students? For disadvantaged students in the poorest schools? Why or why not?

84. Are there any answers you would like to explain further? For example, was there a question or questions in this survey that you felt did not allow you to explain fully the situation in your district? Were there important issues related to the implementation of NCLB that this survey did not ask about? Please use the space below to explain further anything of importance to you regarding district implementation of NCLB.

District Characteristics

85. How many Title I and non-Title I schools does the district have at each school level? (Write numbers on the lines below. If the district has none of a type of school, write “0” on the line.)

	NUMBER OF SCHOOLS			
	ELEMENTARY	MIDDLE/ JUNIOR	HIGH	OTHER GRADE COMBINATIONS (E.G., K-8)
Title I schools	_____	_____	_____	_____
Non-Title I schools	_____	_____	_____	_____

86. Approximately how many students were enrolled in the district last year (2002-03)? (If you don’t know, enter “888”.)

_____ Number of students

87. Of the students enrolled in grades K-12 in this district last year (2002-03), approximately what percent were: (If you don’t know, enter “888”.)

	PERCENT OF STUDENTS
Eligible for free/reduced-price lunch?	_____
Students with IEPs?	_____
Limited-English-proficient (LEP) students?	_____
Migrant students (students who move from school to school because they are children of migrant agricultural workers, including migratory dairy workers and migratory fishers)?	_____

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88. Of the students enrolled in grades K-12 in this district last year (2002-03), approximately what percent were: (If you don’t know, enter “888”.)

	PERCENT OF STUDENTS
American Indian or Alaska Native?	_____
Asian?	_____
Black or African American?	_____
Hispanic?	_____
Native Hawaiian or other Pacific Islander?	_____
White?	_____
Multiracial and other?	_____

Credits and Acknowledgments

This report was coordinated by Diane Stark Rentner, CEP’s Deputy Director, and researched and written by Nancy Kober, CEP consultant; Naomi Chudowsky, CEP consultant; Tom Fagan, CEP consultant; Madlene Hamilton, CEP’s Research Associate; and Scott Joftus, CEP consultant. Keith Gayler, CEP’s Associate Director, assisted in the analysis of the state and school district survey data. Jack Jennings, the Center’s Director, wrote the Overview of Major Findings and provided advice on the report’s content and organization. Elizabeth Pinkerton, CEP consultant, conducted 31 of the 33 case studies. Barbara Buell, CEP consultant, conducted the case study of the Chicago Public Schools, and Caitlin Scott, CEP consultant, conducted the case study of the Cleveland Municipal School District. Myrna Mandlawitz, CEP consultant, researched and wrote the material in Chapter 2 about the IDEA and NCLB requirements for testing students with disabilities. Gina E. Russell, CEP intern, conducted an analysis of the case study sites to determine how representative the selected sites are to school districts nationwide on a variety of factors. Toni E. Painter, CEP Administrative Assistant, and Susie Pamudji, CEP Staff Assistant/Receptionist, provided valuable support in mailing and compiling information from surveys and assisting with other research. Leslie Anderson of Policy Studies Associates was the project leader for the school district survey, and Imeh Williams, also of Policy Studies Associates, was the lead data analyst.

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State Education Agency and School District Officials

We at the Center on Education Policy want to express our gratitude to the hundreds of individuals who assisted us with this project, including officials in the 47 states and the District of Columbia who responded to our state survey, individuals in 274 school districts across the nation who participated in our school district survey, and school district personnel in 33 sites who spent several hours with us explaining how the implementation of the No Child Left Behind Act was proceeding in their districts for our case studies. Their cooperation is all the more appreciated, given the timing of these surveys and interviews, which, for the most part, took place during the school year. Specifically, we would like to thank the following individuals:

State Survey

Alabama: Dr. Edward R. Richardson; Dr. Catherine Moore

Alaska: Roger Sampson, Barbara Thompson, Karen Rehfeld

Arizona: Tom Horne, Nancy Konitzer

Arkansas: Raymond J. Simon, Dr. Charles D. Watson
California: Jack O’Connell, Camille Maben
Colorado: William J. Moloney, William Windler
Connecticut: Dr. Theodore S. Sergi, Abigail L. Hughes
Delaware: Valerie Woodruff, Robin Taylor
District of Columbia: Dr. Paul Vance, Dr. Robert Rice
Florida: James Horne, Martha K. Asbury
Georgia: Kathy Cox, Stuart Bennett
Hawaii: Patricia Hamamoto, Clayton Fujie, Joyce Mikami
Idaho: Dr. Marilyn Howard
Illinois: Dr. Robert Schiller, Gail Lieberman
Indiana: Dr. Suellen K. Reed, Dwayne S. James
Iowa: Ted Stillwill, Judy Jeffrey
Kansas: Dr. John A. Tompkins, Dr. Alexa Pochowski, Judi Miller
Kentucky: Gene Wilhoit, Diane Robertson
Louisiana: Cecil J. Picard, Dr. Robin G. Jarvis
Maine: Susan A. Gendron, Patrick R. Phillips
Maryland: Dr. Nancy Grasmick, Dr. Ron Peiffer, Paulette Melton
Massachusetts: Dr. David P. Driscoll, Mark McQuillan
Michigan: Thomas D. Watkins, Jr., Dr. Jeremy M. Hughes
Minnesota: Dr. Cheri Pierson Yecke, Greg Marcus
Mississippi: Dr. Henry L. Johnson, Dr. Kris Kaase
Missouri: Dr. Kent King, Dr. Delores Beck
Nebraska: Dr. Doug Christensen, Dr. Marilyn Peterson
Nevada: Dr. Jack McLaughlin, Gloria Dopf
New Hampshire: Nicholas Donohue, Patricia Butler
New Jersey: Dr. William L. Librera, Gloria Hancock
New Mexico: Michael J. Davis, Dr. Bill Blair
New York: Richard P. Mills, James A. Kadamus, Raymond Kesper
North Carolina: Dr. Michael E. Ward, Janice Davis
North Dakota: Dr. Wayne G. Sanstead, Greg Gallagher
Ohio: Dr. Susan T. Zelman, Mitchell D. Chester
Oregon: Susan Castillo, Patrick Burk
Pennsylvania: Dr. Vicki L. Phillips, Carina Wong
Rhode Island: Peter McWalters, David V. Abbott
South Carolina: Inez M. Tenebaum, Ellen M. Still
South Dakota: Tom Hawley, Diane Lowery
Texas: Dr. Felipe Alanis, Dr. Rachel C. Harrington

Utah: Dr. Steven O. Laing, Laurie Lacy
Vermont: David C. Larsen, Bud Meyers
Virginia: Dr. Jo Lynne DeMary, Dr. Patricia I. Wright
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, Dr. Annette Bohling, Jason Nicholas

Case Studies

Alabama, Calhoun County School District: H. Jacky Sparks, Bobby Burns
Alaska, Kodiak Island Borough School District: Betty Walters, Marilyn Davidson, Brian O’Leary
Arkansas, Fayetteville Public Schools: Dr. Bobby C. New, Michelle Boles
California, Escondido Union Elementary School District: Dr. Mike Caston, Pat Peterson
California, Grant Joint Union High School District: Dr. Larry Buchanan, Rick Carder
California, Oakland Unified School District: Dr. Randolph Ward, Wilhelmina Sims
Colorado, Colorado Springs District 11: Dr. Norman F. Ridder, Mary Gromko
Colorado, Fort Lupton Weld Re-8 School District: Stephen Morrison, Kathi Van Soest
Florida, Collier County School District: H. Benjamin Marlin, Barbara Mascari, Kimball Thomas
Idaho, Joint School District #2 – Meridian: Christine Donnell, Dr. Linda Clark
Illinois, Chicago Public Schools: Arne Duncan, Xavier Bontana, Dan Bugler, Philip Hansen, Lizzy Whitehorn
Kansas, Kansas City, Kansas Public Schools: Dr. Ray Daniels, Jim Clevenger
Louisiana, St. John the Baptist Parish Public Schools: Michael Coburn, Annette Jennings
Massachusetts, Avon Public School District: Margaret Frieswyk, Paul Zinni
Massachusetts, Boston Public Schools: Dr. Thomas Payzant, Charlotte Harris
Minnesota, Cloquet Independent School District # 94: John Langenbrunner, Randy Thudin
Mississippi, Pascagoula School District: Dr. Hank Bounds, Dr. Susan McLaurin
Missouri, Hermitage School District: Shelly Aubuchon
Nebraska, Heartland School District: Dr. Norm Yoder
Nevada, Clark County Schools: Dr. Carlos Garcia, Dr. Susan E. Wright
New Jersey, Bayonne School District: Dr. Patricia L. McGeehan, Dr. Ellen O’Connor
New Mexico, Bloomfield School District: Dr. Harry Hayes, Lena Natoni
New York, Romulus Central Schools: Casey Barduhn
North Carolina, Wake County School District: Bill McNeal, Karen Banks
North Dakota, Napoleon School District: Jon Starkey

Ohio, Cleveland Municipal School District: Barbara Byrd-Bennett, Myrna Elliot Lewis, Carol Hauser, Erbert Johnson, Peter Robertson, Nina Turner, Theresa Yeldell

Oregon, Tigard-Tualatin School District: Dr. Steve Lowder, Susan Carlile, Susan Stark Haydon

South Carolina, Berkeley County School District: Dr. J. Chester Floyd, Sheldon Etheridge

Texas, Cuero Independent School District: Dr. John Hall, Debra Baros

Vermont, Marlboro Elementary School: Lauren Poster, David Ahern, Francie Marbury, Cheryl Ruth

Vermont, Orleans Central Supervisory Union: Dr. Ron Paquette

Virginia, Waynesboro School District: Dr. T. Lowell Lemons, Betsy Mierzwa

Wisconsin, Sheboygan Area School District: Jeanne Bitkers, Joe Sheehan, John Pfaff

Federal Interviewees

We are grateful for the insight provided by the following individuals whom we interviewed for this report:

U.S. Department of Education

Eugene Hickok, Under Secretary

Ron Tomalis, Acting Assistant Secretary for Elementary and Secondary Education

Jackie Jackson, Acting Director, Student Achievement & School Accountability, Office of Elementary and Secondary Education

Kay Rigling, General Attorney, Division of Elementary, Secondary, Adult & Vocational Education, Office of the General Counsel

Kerri Briggs, Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education

Celia Sims, Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education

Carolyn Snowbarger, Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education

Chris Doherty, Reading First Program Manager, Office of Elementary and Secondary Education

Joe Conaty, Director, Academic Improvement & Teacher Quality Programs, Office of Elementary and Secondary Education

U.S. Congress

Congressman Michael Castle

Congressman George Miller

Congressman Dale Kildee

Sally Lovejoy, Majority Staff, House Education and Workforce Committee

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The Center on Education Policy would also like to thank the following people who reviewed this report in its draft form: Margaret Goertz, Julia Lara, Abby Potts, Paul Manna, Wayne Riddle, and Lowell Rose. We would also like to thank Virginia Edwards, Lynn Olson, Kathryn Doherty, Ron Skinner, and Lisa Staresina from *Education Week* for their advice and assistance. The content of this report is the responsibility of CEP alone; it has not been endorsed by either the individuals who reviewed the document or the organizations for which they work.

Foundations

We also want to express our gratitude to the charitable foundations that support this project: The Joyce Foundation, The Ewing Marion Kauffman Foundation, The Carnegie Corporation, and The Spencer Foundation. We also drew on general resources from The George Gund Foundation, The Atlantic Philanthropies and Phi Delta Kappa International. The statements made and views expressed are solely the responsibility of the Center.