

## **No Child Left Behind: Trends and Issues**

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*The No Child Left Behind Act is the most ambitious piece of education legislation ever enacted by Congress. Designed to promote accountability and prod states to address educational inequities, NCLB includes significant provisions regarding assessment, sanctions for low-performing schools and districts, teacher quality and standards for educational research.*

On Jan. 8, 2002, surrounded by members of both the Democratic and Republican congressional leadership, President George W. Bush signed No Child Left Behind (NCLB) into law. NCLB is the nation's most significant federal legislation on K–12 schooling since the Elementary and Secondary Education Act (ESEA) of 1965, and the most ambitious federal intervention in a domain long regarded as the preserve of state and local government.<sup>1</sup>

Enacted just months after the Sept. 11, 2001, terrorist attacks, Congress approved NCLB by large, bipartisan majorities. The U.S. Senate supported the new law 87-10, and the House of Representatives endorsed it 381-41.<sup>2</sup> Emerging from an exhaustive year of negotiations, NCLB refashioned federal education policy in the areas of testing, accountability and teacher quality. More than anything else, NCLB was a demand by Washington, D.C. policymakers that state and local officials do something about low-performing schools.

### **From ESEA to NCLB**

Proposed in 1965 as a pillar of President Lyndon Johnson's "Great Society," the original ESEA included five titles. The heart of the law was a program of aid for the education of disadvantaged children. This provision, Title I, claimed the lion's share of ESEA funding. Over time, critics both left and right expressed concerns about the failure of Title I to improve achievement visibly among low-income students.<sup>3</sup>

By the early 1990s, Republican and Democratic leaders largely agreed that school improvement required more than targeted assistance, new texts and better curricula. The remedies urged by Presidents George H.W. Bush and Bill Clinton shared a commitment to higher standards, accountability, measured student achievement and increased school choice. The Clinton administration sought to use the 1994 ESEA reauthorization and the companion "Goals 2000" legislation to require every state to establish academic standards and assess whether students had met them.<sup>4</sup>

Sympathetic observers regarded the 1994 ESEA's call for all states to create performance-based accountability systems by 2000 as a radical advance. However, given the law's voluntary cast and the federal government's lack of enforcement authority, most states failed to comply.<sup>5</sup> That experience would color the 2001 deliberations over NCLB (which, technically, was the much-delayed reauthorization of the 1994 ESEA).

## **NCLB Standards and Assessment**

The heart of NCLB is its language on standards and assessment, which aggressively supersized the tentative requirements of the 1994 ESEA. Eager to support a Republican president after two terms under a Democratic White House, conservatives on Capitol Hill accepted requirements regarding standards, testing and accountability that they had resisted as federal overreaching in 1994 and 1999.

The NCLB accountability system requires states to develop content standards for what students should know and be able to do, as well as complementary state assessments. It then requires states to annually test students to measure competency in the "core subjects" of reading and math. By 2013–14, all states are to ensure that 100 percent of students are "proficient" on state reading and math standards. The law leaves it to the states to determine the content and rigor of these standards and tests.<sup>6</sup>

NCLB requires states to set academic standards that define three levels of achievement: basic, proficient and advanced. For each assessment, each state must then develop corresponding tests in reading, math and eventually science. These assessments are to be administered every year in grades three through eight and at least once in high school. States also are required to design and administer a science assessment by 2007–08 and to test students at least once each in elementary, middle and high school.

Adequate yearly progress (AYP) is the metric used to evaluate school and district performance under NCLB. The expectation is that all schools and districts will "make AYP." The concept of "making AYP" can be compared to schools and districts jumping over a bar. The bar is the percentage of children that must score "proficient" on the math and reading assessments. Over time, states must raise the bar so that, by 2013–14, it is set at 100 percent. For instance, a state could deem a school to be making AYP if 50 percent of its students were "proficient" in reading in 2007, so long as expectations were stepped up to 100 percent by 2013–14.

Calculating AYP is not as simple as measuring the percentage of students that meet the proficiency standard. Instead, NCLB requires that states hold schools accountable for various subpopulations by calculating AYP for each of a variety of subgroups. Each state is required to analyze the achievement of the following subgroups within each school: all racial/ethnic groups (white, African-American, Latino, Native American and so on); low-income students; students with disabilities; and students with limited English proficiency. In order for schools or districts to make AYP, each subgroup must clear the AYP bar in reading and in math. Obviously, some subgroups will be quite

small. To protect student confidentiality and heighten statistical reliability, states are allowed to establish a minimum size for subgroups to be counted.

NCLB's testing requirements pose a number of challenges, and the legislation and subsequent guidance from the U.S. Department of Education have tried, with mixed success, to address these. The law stipulates schools must test 95 percent of their enrolled students in order to make AYP. It also includes a "safe harbor" provision that allows schools that miss the AYP bar to still make AYP if they increase the percentage of students who are proficient at a rapid enough rate and permits schools and districts to exclude from AYP calculations a small portion of special needs students.

### **NCLB Sanctions**

The standards and testing provisions themselves constitute only the first two-thirds of the NCLB accountability system. NCLB links test results to consequences for schools and school districts. Under NCLB, schools that fail to make AYP are subject to a series of cascading remedies, sanctions and interventions that are designed to compel the schools to improve and to grant additional options to children in those schools. These interventions become increasingly intense if the school or district continues to fail for consecutive years, eventually resulting in major changes in school status, governance, staffing or all of the above.

If a school fails to make AYP two years in a row, it enters "in need of improvement" status. Once in improvement status, district and school officials must develop a school improvement plan, as well as explain to parents what the label signifies and what the school is doing to improve its rating. In addition to these school improvement activities, schools that fail to make AYP for two consecutive years must offer students the option of transferring to a district school that is making AYP. Schools that fail to improve for a third straight year must provide supplemental education services, or free tutoring, to needy students. A fourth year of failure prompts what the law terms "corrective action," which could entail staffing changes, curriculum reform or the extension of the school day and year. Finally, if a school fails to make AYP for a fifth year, the district must restructure that school, either by converting it to a charter school, replacing the majority of the staff, hiring an educational management company, turning it over to the state, or through imposing another remedy of the state's choosing. The sanctions for districts are similar in intent to those for schools but different in the particulars. Districts that fail to make AYP for multiple years are eventually subject to restructuring, including the possibility of state takeover.<sup>7</sup>

### **Highly Qualified Teachers**

Beyond its accountability and choice provisions, the other radical development adopted by NCLB was the federal mandate that all children be taught by a "highly qualified teacher" by the end of the 2005–06 school year (during 2005, the Department of Education pushed back the effective date to 2006–07). The rule applied to "core" academic subjects like mathematics, science and history. Unlike the testing and

accountability provisions, the highly qualified teacher (HQT) language focuses less on outcomes than on “inputs”—it seeks to ensure that all schools have quality teachers who are knowledgeable about the content they teach.

To be deemed “highly qualified,” a teacher must have attained a bachelor’s degree, have passed the state teacher licensing examination or obtained a state teaching certification, and have demonstrated subject knowledge. Again, as with state standards and assessments, the law allows states to determine what all this means in practice.<sup>8</sup> That flexibility has yielded much concern that states have exploited loopholes to appease current teachers, improve apparent results, and reduce implementation headaches. Table A depicts the many ways in which some states allow teachers to obtain highly qualified status. In the 2004–05 school year, the most recent for which data are available, 47 states reported that at least 70 percent of their core academic classes were taught by highly qualified teachers and 33 states reported that the percentage of classrooms with highly qualified teachers was above 90 percent.<sup>9</sup>

### **Research and Reading First**

Despite their import, NCLB’s accountability and teacher quality provisions comprise only a small portion of the sprawling legislation. The law encompasses 10 separate titles authorizing more than 50 federal education programs. Noteworthy in NCLB is the emphasis on “scientifically based research” (SBR), a phrase that appears in reference to everything from reading programs, to teacher training, to school safety. SBR is defined as “the application of rigorous, systematic and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs.” The focus on scientifically based research has potentially far-reaching consequences for classrooms, policy and research.<sup>10</sup>

For good and ill, the import of SBR is illustrated by the law’s Reading First program. Based on the conclusions of the National Reading Panel, convened in 1997 at Congress’s request, Reading First requires schools seeking federal funds to implement a classroom-based reading program that includes the elements of “scientifically based” instruction. In 2006, the Reading First program was a source of controversy after the United States Department of Education Office of Inspector General report raised concerns about politicized implementation and potentially arbitrary use of scientific standards.<sup>11</sup>

### **Debating NCLB**

NCLB has been a subject of fierce debate. Critics have attacked the system for encouraging states to engage in gamesmanship, promoting a fixation on testing, failing to acknowledge the different burdens borne by different schools, and setting unrealistic goals.<sup>12</sup> Meanwhile, supporters have applauded the focus on results and the attention AYP has brought to race- and class-based disparities in achievement.

This mixed assessment is reflected in public opinion. Like most pieces of sweeping and compromise-filled legislation, NCLB elicits mixed reactions. Parents and voters tend to endorse its goals while expressing concerns about its means. In fall 2006, the 38th Annual Phi Delta Kappa/Gallup Poll of the Public's Attitudes Toward the Public Schools reported that 45 percent of adults knew "a great deal" or "a fair amount" about NCLB, while 55 percent knew "very little" or "nothing at all." When asked to rate the overall impact of NCLB on "the public schools in your community," 26 percent of respondents thought the effect was positive, and 21 percent thought it was negative.<sup>13</sup>

## **Emerging Trends**

Perhaps the fiercest dispute over NCLB implementation has revolved around funding. Funding for the education programs in NCLB increased after the law's passage, with Title I funding rising 45 percent between 2001 and 2006.<sup>14</sup> The General Accounting Office ruled in 2004 that the federal aid fully covered the mandated expenses.<sup>15</sup> Meanwhile, critics like National Education Association President Reg Weaver have responded that, through 2006, the federal funds fell roughly \$40 billion short of the amount promised by the law's authorization.<sup>16</sup> Many states have argued that the actions necessitated by NCLB cost billions more than the law provides.<sup>17</sup> What effect such pleas will have in a tight fiscal environment remains to be seen.

While the funding question may have yielded the fiercest rhetoric, the most substantive concern has been the degree to which NCLB gives states an incentive to "game" the NCLB accountability system by setting lax standards. Table B shows that states like Oklahoma, Rhode Island and Iowa claim that more than 90 percent of their schools are making adequate yearly progress, even though federal National Assessment of Educational Progress data report that no more than 33 percent of the fourth-graders in any of those states are "proficient" in reading. This phenomenon is a result of the latitude that NCLB gives states to select tests, set standards and determine passing rates, and has fueled interest in national standards or in replacing the 50 different states assessments with a national test. As two former U.S. secretaries of education, both Republicans, argued in September 2006, "We can now see that [NCLB] gives states entirely too much discretion over standards and tests while giving federal bureaucrats too much control over how schools operate. The remedy? ... Washington should set sound national academic standards and administer a high-quality national test."<sup>18</sup>

State reaction to the law has been mixed, with press coverage highlighting vocal resistance to the law in states like Connecticut and Utah. This resistance has been newsworthy because states have the right to opt out of the law by forfeiting their federal NCLB funding.

Responding to state resistance, U.S. Department of Education officials have reaffirmed their commitment to NCLB's accountability goals while accepting modifications regarding the testing, sanctions and teacher quality provisions. Department of Education officials and prominent Democratic leaders grade the new law differently;

as Secretary Margaret Spellings has explained, “I like to talk about No Child Left Behind as Ivory soap. It’s 99.9 percent pure. There’s not much needed in the way of changes.”<sup>19</sup> Rep. George Miller, perhaps the leading Democratic voice on education, has said, “I would give [NCLB] an A in terms of the goals that it has set ... in trying to develop a system to make sure that each and every child is proficient. I would give it an F for funding.... And on implementation, I would give it a C.”<sup>20</sup>

One widely discussed modification to NCLB accountability is the effort to focus it less on the level at which a school’s students are performing and more on their rate of improvement.<sup>21</sup> State interest in such “value-added” accountability is motivated by the concern that many schools serving disadvantaged populations will otherwise be deemed “in need of improvement,” even though students are making respectable achievement gains. In November 2005, Spellings allowed a handful of states to experiment with “value-added” approaches; in 2006–2007, two states began using value-added systems.<sup>22</sup>

NCLB has altered the American education landscape. It has focused attention on achievement and on racial and economic “achievement gaps” while nationalizing the education debate to an unprecedented degree. In the process, it has upended traditional education politics and created new federal-state tensions. With public opinion mixed, the law scheduled for reauthorization in 2007, and its most ambitious demands still ahead, the long-term impact of NCLB is still very much up in the air.

### **About the Author**

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Nevada		x	x				x			x	x		5
New Hampshire	x	x	x	x									4
New Jersey		x	x		x	x	x					1	6
New Mexico	x	x	x	x			x	x				1	7
New York		x	x		x		x		x			5	10
North Carolina	x	x	x		x	x	x	x	x				8
North Dakota		x	x		x	x	x		x		x		7
Ohio		x	x		x	x	x		x	x	x		8
Oklahoma	x	x	x		x	x	x		x				7
Oregon		x											1
Pennsylvania		x	x			x	x					1	5
Rhode Island		x	x		x	x	x		x				6
South Carolina								x					1
South Dakota		x									x	1	3
Tennessee	x	x	x		x	x	x	x	x		x		9
Texas		x	x				x						3
Utah		x	x				x						3
Vermont		x	x		x		x		x			1	6
Virginia													
Washington		x						x					2
West Virginia		x	x		x	x	x		x				6
Wisconsin		x		x				x			x		4
Wyoming		x	x		x	x	x		x				6

**Table B**  
**INCONSISTENCY IN STATE STANDARDS**

State	Percent of Public School Districts That Made Adequate Yearly Progress (AYP), 2004-2005	State	Percent of Public Schools That Made Adequate Yearly Progress (AYP), 2004-2005	State	Percent of Students Proficient or Advanced in Fourth Grade Reading, 2004-2005	Percent Of Students Proficient or Advanced in 4th Grade Reading (NAEP)
Delaware	100	Oklahoma	97	Mississippi	89	18
Wisconsin	99.8	Rhode Island	95	Nebraska	88.5	33
Arkansas	98	Iowa	93.9	South Dakota	87.9	33
Maine	98	Montana	93.3	Tennessee	87.1	27
South Dakota	98	New Hampshire	92	Idaho	86.9	33
Michigan	96.3	Tennessee	91.9	Colorado	86.6	36
Iowa	94.2	Wisconsin	91.7	Georgia	85.4	26
Tennessee	94.1	Kansas	91.4	Alabama	83.2	22
Vermont	94.1	North Dakota	91.4	Oklahoma	83	26
Kansas	93.3	Vermont	90.8	North Carolina	82.4	30
Montana	92.9	Nebraska	89.7	New Jersey	81.6	38
Wyoming	91.7	Mississippi	89	West Virginia	81.2	26
Oklahoma	91	Michigan	88.5	Wisconsin	81	33
North Dakota	89.6	Utah	87.4	Maryland	80.9	32
Pennsylvania	89.6	Arizona	87	Washington	79.5	35
New York	88.4	Louisiana	83.8	Iowa	79.4	33
Texas	88.4	West Virginia	83.2	Texas	79	29
Indiana	87.7	Virginia	82.7	Utah	78	35
Connecticut	82	Washington	82.7	Alaska	76.9	26
Nevada	82	Minnesota	82	North Dakota	75.5	35
Minnesota	80.7	South Dakota	82	Montana	74.8	36
Nebraska	80.7	Georgia	81.8	Indiana	73	30
Mississippi	77	Pennsylvania	80.6	Florida	72	30
Arizona	76	New York	80.2	Michigan	69.4	31
Illinois	73	Connecticut	80	Kentucky	68	30

Washington	70.9	Wyoming	79.6	Louisiana	67.4	20
Alabama	67.9	Texas	78.5	Connecticut	67	39
Missouri	60.6	Maine	77	Arizona	62.6	24
California	60.2	Ohio	75.7	Hawaii	55.2	23
Colorado	59.3	Colorado	75.3	Maine	53	36
Utah	59.3	Delaware	74.3	New Mexico	51.8	21
Louisiana	58.8	Maryland	73.2	Arkansas	51	29
Ohio	55.8	Arkansas	73	Massachusetts	50	44
Virginia	50.7	Illinois	71	California	47.9	22
Georgia	45.3	Kentucky	70	Wyoming	47	34
Kentucky	44	Oregon	67.5	Nevada	41.5	21
Alaska	40.7	Missouri	65.2	South Carolina	35.3	26
Massachusetts	39.3	California	61.6	Virginia	N/A	37
Idaho	38	Indiana	59.7	Delaware	N/A	35
New Mexico	33.7	Alaska	59	District of Columbia	N/A	11
Oregon	33.7	Massachusetts	56.9	Illinois	N/A	30
District of Columbia	28	North Carolina	56.8	Kansas	N/A	33
South Carolina	21.2	Alabama	53.3	Minnesota	N/A	38
Maryland	16.6	Idaho	51	Missouri	N/A	32
West Virginia	9.1	South Carolina	49.9	New Hampshire	N/A	39
North Carolina	7	New Mexico	47.3	New York	N/A	34
Florida	6.6	Nevada	44.4	Ohio	N/A	35
Hawaii	N/A	District of Columbia	40	Oregon	N/A	30
New Hampshire	N/A	Hawaii	34	Pennsylvania	N/A	36
New Jersey	N/A	Florida	28.2	Rhode Island	N/A	30
Rhode Island	N/A	New Jersey	N/A	Vermont	N/A	38

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<sup>1</sup> Frederick M. Hess and Michael J. Petrilli, *No Child Left Behind Primer* (New York: Peter Lang, 2006), 3–26.

<sup>2</sup> Andrew Rudalevige, “No Child Left Behind: Forging a Congressional Compromise,” in Paul E. Peterson and Martin R. West, eds., *No Child Left Behind? The Politics and Practice of School Accountability* (Washington, D.C.: Brookings Institution Press, 2003), 23–54.

<sup>3</sup> Diane Ravitch, “A Historical Perspective on a Historic Piece of Legislation,” in John Chubb, ed., *Within Our Reach: How America Can Educate Every Child* (New York: Rowman & Littlefield, 2005), 35–51.

<sup>4</sup> Frederick M. Hess and Michael J. Petrilli, *No Child Left Behind Primer* (New York: Peter Lang, 2006), 3–26.

<sup>5</sup> See former United States Secretary of Education Richard W. Riley’s statement before the United States House of Representatives Committee on Education and the Workforce on the Reauthorization of the Elementary and Secondary Education Act of 1965, 11 February 1999.

<sup>6</sup> Detailed information on the mechanics of No Child Left Behind is available at the United States Department of Education web site, <http://www.ed.gov/nclb> (28 October 2006).

<sup>7</sup> See Education Commission of the States, “No Child Left Behind: State Requirements Under NCLB,” June 2005, [www.ecs.org/clearinghouse/44/27/4427.pdf](http://www.ecs.org/clearinghouse/44/27/4427.pdf) (28 October 2006).

<sup>8</sup> Terry M. Moe, “A Highly Qualified Teacher in Every Classroom,” in John E. Chubb, ed., *Within Our Reach: How America Can Educate Every Child* (Lanham, Md.: Rowman & Littlefield, 2005), 173–99.

<sup>9</sup> Kevin Carey, “Hot Air: How States Inflate Their Educational Progress Under NCLB” (Education Sector, May 2006), 18.

<sup>10</sup> Detailed information on what the scientifically based research language entails is available at the United States Department of Education web site, [www.ed.gov/nclb](http://www.ed.gov/nclb) (28 October 2006).

<sup>11</sup> United States Department of Education Office of Inspector General, “The Reading First Program’s Grant Application Process: Final Inspection Report,” September 2006, ED-OIG/I13-F0017.

<sup>12</sup> Linda Darling-Hammond, “From ‘Separate but Equal’ to ‘No Child Left Behind’: The Collision of New Standards and Old Inequalities,” in Deborah Meier and George Wood, eds., *Many Children Left Behind: How the No Child Left Behind Act Is Damaging Our Children and Our Schools* (Boston: Beacon Press, 2004), 3–32.

<sup>13</sup> Lowell C. Rose and Alec M. Gallup, “The 38th Annual Phi Delta Kappa/Gallup Poll Of the Public’s Attitudes Toward the Public Schools” (Phi Delta Kappa/Gallup, September 2006), 50.

<sup>14</sup> House Committee on Education and the Workforce Issue Brief, “Education Funding: Setting the Record Straight on Education Spending Myths,” June 2006, [www.house.gov/ed\\_workforce/issues/109th/education/funding/fundingmyths.htm](http://www.house.gov/ed_workforce/issues/109th/education/funding/fundingmyths.htm) (28 October 2006).

<sup>15</sup> United States General Accounting Office, “Unfunded Mandates: Analysis of Reform Act Coverage,” May 2004, [www.gao.gov/new.items/d04637.pdf](http://www.gao.gov/new.items/d04637.pdf) (28 October 2006).

<sup>16</sup> National Education Association News Release, “Schools Lack Funding to Comply with No Child Left Behind, According to New Report from Center on Education Policy,” 29 March 2006, [www.nea.org/newsreleases/2006/nr060329.html](http://www.nea.org/newsreleases/2006/nr060329.html) (28 October 2006).

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<sup>17</sup> William J. Mathis, “The Cost of Implementing the Federal No Child Left Behind Act: Different Assumptions, Different Answers,” *Peabody Journal of Education* 80, no. 2 (2005): 90–119.

<sup>18</sup> William J. Bennett and Rod Paige, “Why We Need a National School Test,” *Washington Post*, 21 September 2006, sec. A, p. 25.

<sup>19</sup> Lois Romano, “Tweaking of ‘No Child’ Seen,” *Washington Post*, 31 August 2006, sec. A, p. 4.

<sup>20</sup> Business Roundtable Speech Transcript, “The Fourth Annual No Child Left Behind Forum: Assessing Progress, Addressing Problems, Advancing Performance,” 20 September 2006 (28 October 2006).

<sup>21</sup> John Chubb et al., “Do We Need to Repair the Monument? Debating the Future of No Child Left Behind,” *Education Next* 5, no. 2 (Spring 2005): 8–19.

<sup>22</sup> United States Department of Education Press Release, “Secretary Spellings Announces Growth Model Pilot, Addresses Chief State School Officers’ Annual Policy Forum in Richmond,” 18 November 2005, [www.ed.gov/news/pressreleases/2005/11/11182005.html](http://www.ed.gov/news/pressreleases/2005/11/11182005.html) (28 October 2005).