

No Child Left Behind Act

Summary of Selected Provisions

Testing

Basic Provisions. The No Child Left Behind Act (NCLB) requires annual state tests in at least reading and math for every child in grades three through eight, beginning in the 2005-2006 school year. In 2007-2008, schools must add science tests, although these are not required on an annual basis. The state tests must:

- ▶ Be aligned with state academic standards
- ▶ Be valid and reliable for the purposes for which they are being used
- ▶ Be consistent with nationally-recognized professional and technical standards
- ▶ Be useful for diagnostic purposes (although not restricted to this use)

- ▶ Allow for test data to be disaggregated by race, ethnicity, English proficiency, gender, migrant, disability, and socioeconomic status

English Language Learner Provisions. English language learners (ELLs) must be tested, to the extent practicable, in the language and form most likely to yield accurate results for ELLs, except that ELLs who have attended schools in the U.S. (not including Puerto Rico) for three consecutive years must be tested in English unless it is determined, on a case-by-case basis, that native-language tests will yield more accurate results. In that case, those ELLs can be tested in their native language for up to two additional years. States must have begun administering English-language proficiency tests to ELLs by the 2002-2003 school year.

Measuring Academic Progress

Adequate Yearly Progress (AYP). Each state may set its own definition of AYP and is required to ensure that *all* students meet the state's "proficient" level of academic achievement in 12 years from the 2001-2002 school year (100% proficiency). AYP must include separate measurable annual goals for all students and groups of students, characterized by race, ethnicity, English proficiency, disability, and socioeconomic status.

AYP must be based on each state's academic standards and shall be measured primarily by the state assessments, and may include other measures, such as:

- ▶ Other assessments
- ▶ Grade retention rates
- ▶ Attendance rates

- ▶ Participation in gifted and advanced courses
- Elementary schools must use one additional measure, and high schools must use graduation rates.

Baseline Data. The states must use 2001-2002 school-year data on student proficiency levels as the baseline data against which states must measure progress toward meeting AYP. The baseline data must be set based on the subgroup of students with the lowest proficiency level, or on the school within each state whose students are at the 20th percentile ranking, whichever measure is higher.

Schools with a subgroup of students (such as ELLs) who are not making AYP can avoid sanctions if that subgroup makes some progress.

Accountability and Sanctions

School Improvement. A school shall be identified for “school improvement” if it fails to make AYP for two consecutive years. Schools must come up with a two-year school improvement plan that addresses the specific problem that caused the school to be identified for improvement, includes professional development, and enhances parental and community involvement. Sanctions are triggered in the following manner after the school has been identified for improvement:

Year Two – Students attending schools identified for school improvement can immediately transfer to another school in the district.

Year Three – Students in such a school can continue to transfer and can receive supplemental services outside of the school if the school fails to make AYP *one* year after it has been identified for school improvement.

Year Four – If the school fails to make AYP for *two* years after it has been identified for school improvement, students can continue to transfer and receive supplemental services, and the school can be reconstituted. Reconstitution includes such options as replacing the staff relevant to the school’s failure to make AYP, changing the curriculum, and extending the school day or year.

Year Five – If a school fails to make AYP for *three* years after it has been identified for school improvement, the above student services and school-level options apply. In addition, the school can be reopened as a charter school, turned over to a private management company, or be subject to a state takeover.

Report Cards

The legislation requires state report cards that must contain information such as:

- ▶ Student achievement data disaggregated by race, ethnicity, gender, English proficiency, disability status, migrant status, and poverty
- ▶ Academic objectives for each subgroup
- ▶ The percentage of students not tested
- ▶ Information on other indicators of progress
- ▶ High school graduation rates
- ▶ Professional qualifications of teachers in the state

School district report cards must include some of these measures as well as district- and school-level information, including:

- ▶ How many schools in the district have been identified for school improvement
- ▶ How students in the district fared on the state assessment and other AYP measures
- ▶ At the school level, whether a school has been identified for improvement

Bilingual Education

Title III of the No Child Left Behind Act makes certain changes to the Bilingual Education Act, now called the English Language Acquisition, Language Enhancement, and Academic Achievement Act. These include:

Program Structure. With a few changes, the Bilingual Education Act remains a competitive program until at least \$650 million is appropriated. At that point, the Emergency Immigrant Education Program and the Bilingual Education Act are consolidated and converted into a new formula-based program.² The purpose of the program remains the same: to provide high-quality instructional programs so that ELLs learn English and attain high levels of academic achievement.

National Reservation of Funds. The legislation reserves funds at the national level for certain activities, including a 6.5% reservation of the federal funding amount for a national professional development program that will be competed at the national level to colleges/universities.

State-to-School District Distribution of Funds. States will receive the money and from that amount reserve up to 15% of state funds to support instructional services, tutoring, and mentoring for recently-arrived immigrant children and youth. States will provide funds to school districts based on the number of ELLs in the district. Districts will be required to

provide the state with a program plan, which must comply with Title I provisions to test children annually in English who have been in the United States for three or more consecutive years, and show how schools will help students meet academic achievement and English-language-acquisition benchmarks.

Program Improvement. Language instruction educational programs will be required to develop an improvement plan, including professional development and program improvements, if they fail to meet performance objectives for two consecutive years. If programs are still failing after four consecutive years, then the programs will be required to revamp their approach to educating ELLs, and states may withhold funds or require replacement of personnel related to program failure.

Parental Involvement. The final measure retains current law regarding notifying parents of their child's participation in bilingual or ESL programs. The agreement does provide parents of ELLs with greater choice and information regarding services for their children, and expands outreach to involve parents more effectively in programs.

After-School Programs

The No Child Left Behind Act makes significant changes to the 21st Century Community Learning Centers (21st Century) program, which provides funding for after-school programs. These include:

Definition of Community Center. The previous law defined 21st Century "community centers" as school-based after- or before-school centers. The new law allows other entities to operate these centers, including community-based organizations (CBOs). The new law also explicitly defines these centers as entities that help students meet academic standards and provide family literacy services, which include adult ESL services.

Funding Stream. The previous law sent funds to school districts that applied for a 21st Century grant. The new law will send funds to states based on the proportion of Title I funds they receive compared to other states. These funds will then be competed to school districts, CBOs, or consortia of such eligible entities. Priority will be given to school districts or CBOs in areas with Title I students.

Time Limits. The agreement does not include House language to require a three-year limit on language instruction for ELLs. Programs will be held accountable for ensuring that students make gains in learning English and academic achievement.

Use of Native-Language Instruction. The legislation does not impose a restriction on schools which would have allowed them only to use English-only programs, and allows school districts to choose an approach that will help ELLs succeed academically.

Performance Objectives and Accountability. The legislation requires states to establish annual achievement objectives for the development and attainment of English proficiency of students enrolled in language instruction educational programs. Programs will be held accountable for meeting these annual targets, while also meeting AYP to ensure that students keep up with challenging academic standards.

Services Allowed. The new law allows grant recipients to provide a variety of services, including:

- ▶ Academic enrichment services, particularly in reading, math, and science
- ▶ Arts and music education activities
- ▶ Tutoring services (including those provided by senior citizen volunteers) and mentoring programs
- ▶ Programs that provide after-school activities for ELLs which emphasize language skills and academic achievement
- ▶ Recreational activities
- ▶ Telecommunications and technology education programs
- ▶ Expanded library service hours
- ▶ Programs that promote parental involvement and family literacy
- ▶ Programs that provide assistance to students who have been truant, suspended, or expelled, to allow these students to improve their academic achievement
- ▶ Drug- and violence-prevention programs, counseling programs, and character education programs

Parental Involvement

The No Child Left Behind Act retains parent provisions from the Elementary and Secondary Education Act, which provide school-based parental involvement services. In addition, it includes the Parental Information and Resource Centers from

Goals 2000, which provide state-level parent assistance services. It also establishes Local Family Information Centers, which provide parent information and training through CBOs to parents of Title I students.

Sources: *No Child Left Behind Act* Conference Report; National Association for Bilingual Education