



1001 Connecticut Avenue, NW  
Suite 204 • Washington, DC 20036

Tel 202-822-9000  
Fax 202-822-5077

June, 2002

## THE NEW ESEA: *A PRIMER FOR POLICY MAKERS*

**T**he No Child Left Behind Act (NCLB) requires all public schools to show yearly academic progress and make achievement gains on tests approved by each State and benchmarked against national assessments. Below are some basic questions and answers to help schools and districts put in place systems that meet these new Federal demands.

### WHAT MUST STATES DO FIRST?

Set standards, and set em' high. One of the fears about the NCLB Act is that states will enact low, meaningless standards to ensure that their schools can reach them. State must resist the temptation to create worthless standards just to ensure that they can be attained. They must set meaningful, challenging standards, not so they can make sure the NCLB Act works, but so students in the state are not short-changed. For math and reading, these standards have to be in place by this year. By the end of the 2005-2006 school year, states must have established science standards as well.

### ONCE STATES HAVE STANDARDS IN PLACE, WHAT COMES NEXT?

States must determine how those standards will be tested. What kind of test do they want? Generally, this comes down to two choices — criterion-referenced or norm-referenced exams. Criterion-referenced tests are tied directly to the state's standards. Norm-referenced tests are not tied to specific state standards, but still provide results down to the individual student level. While criterion-referenced tests will likely provide the most accurate assessment of student knowledge, they will need to be specifically tailored to each state, a more expensive process, but often more reliable and effective in the long run. Norm-referenced tests, in contrast, are relatively easy to obtain "off-the-shelf," making them less expensive and more readily accessible, but they are more general about student knowledge. Both are acceptable under the NCLB Act.



## WHAT DO DISTRICTS HAVE TO KNOW FIRST?

Along with setting final standards and tests, states must set a goal called Adequate Yearly Progress (AYP), which every public school will be required to meet. Here's how it works: Starting with the current (2001-2002) school year, states will establish a "baseline" from which AYP will be calculated. Each year, the data from the test that your schools must take will be assembled for your entire student population, and will also be disaggregated to account for several subgroups, providing a more complete reflection of progress. The subgroups are divided by:

1. Gender
2. Major racial or ethnic group
3. English proficiency status
4. Migrant status
5. Students with disabilities
6. Economically disadvantaged v. non-disadvantaged

## HOW IS AYP MEASURED?

The state begins by establishing what constitutes "basic," "proficient" and "advanced" knowledge of the subjects it tests, which must include reading/language arts, mathematics, and, by 2005-2006, new standards for science. More subjects can be included if the State desires. Using current assessments the State next determines at what level of proficiency its students as a whole currently are, and identifies how far it needs to go to get all students and sub-groups to the "proficient" level within 12 years. It then must set in motion a plan to raise the bar in equal increments over time, with the first increase coming no later than two years into the process, thereafter to be raised at least once every three years. From that point forward the student population and each subgroup must meet each year's level of AYP.

## WHAT HAPPENS IF AN ENTIRE SCHOOL OR SUB-GROUP POPULATION FAILS TO MAKE AYP?

Failure to make AYP for two consecutive years puts a school on the "needs improvement" path (a path that will be mapped out momentarily) unless a school is in a category called the "safe harbor."

## WHAT IS THE "SAFE HARBOR?"

If some subgroups don't make AYP, but the percentage of kids failing to achieve proficiency in a sub-group decreases by at least 10 percent from the previous year, a school is in the "safe-harbor," and is making progress. In addition to the 10 percent minimum standard, the sub-group (groups) would also have to make progress on one or more measurable objectives for "continuous and substantial improvement," objectives to be identified by individual states.



## ARE CHARTER STUDENTS EXEMPT FROM TAKING STATE TESTS?

Because of charters' unique accountability structure, you might think their students are exempt from taking the state assessments created to measure subject proficiency. **THEY ARE NOT.** Because charters are public schools, they must meet the same state standards as other public schools. However, they will continue to be held accountable by their authorizer, not directly by their state, unless the state *is* their authorizer. This means that charters will now be held accountable to state standards as well as all the performance measures identified in their charters.

## WHO IS RESPONSIBLE FOR HOLDING A CHARTER SCHOOL ACCOUNTABLE?

Charter schools are held accountable by their authorizers, as defined by the state law that created them. A charter's authorizer may be a school board, a university, a mayor, a municipal body, or a state board or other state-authorized entity. Charter schools will continue to report to their authorizers as before, adding AYP to the list of things that will be monitored. Charters will not, therefore, have to start reporting on their progress to anyone else. The new law protects charter schools from the kind of burdensome paperwork to which non-charter public schools may be subjected, so before responding to any other agency about AYP or the NCLB Act, a charter should check with its authorizer. Only its authorizer has the responsibility and authority to oversee a charter school's performance.

## HOW WILL WE KNOW IF A STATE'S TESTS AND STANDARDS KEEP PACE WITH THE REST OF THE COUNTRY?

The National Assessment of Educational Progress (NAEP) will be used to "audit" states' standards and testing programs. Essentially, if students are doing well on state assessments but performing poorly on the NAEP tests, it is an indication that a state's standards, tests or both are deficient. Likewise, NAEP scores that greatly exceed results of state tests might indicate that a state's standards and tests are particularly challenging.

## WHAT ARE THE DIFFERENCES BETWEEN THE NEW NCLB REQUIREMENTS AND PREVIOUS TITLE I REQUIREMENTS?

In contrast to previous practice in many states, there are no longer separate tests for Title I schools and other public schools. In addition, even children with disabilities will be responsible for demonstrating proficiency, and states must make accommodations and adaptations for all disabled children to be tested in the required subjects. Those requiring additional assistance will take an alternate assessment created by the state.

## WHEN DOES ALL OF THIS BEGIN?

In general, states have five years from now for all requirements to be fully operational (meaning annual assessments in reading and math will have been implemented and aligned with state standards, and new science standards will be in place). However, each year new factors are introduced with which your district will need to ensure compliance, so be sure to review the timeline below.



## TIMELINE FOR ACTION

Date/ Year	AYP Year	Event	Improvement Action
2001 - 2002		Baseline year for collecting student achievement data. That's THIS year. (Uses either annual grade 3-8 tests, or current assessment, depending on state).	An important note: Any school already identified as needing improvement according to the previous law, the Improving America's Schools Act (IASA), is considered to already be in its first failing year.
2001 - 2002		State sets "proficiency" level that must be met by schools and major student subgroups within 12 years.	
2002 - 2003	1	Verification year for student data.	Failure to show AYP here and in 2001-2002 necessitates development of improvement plan within 45 days of failure.
2003 - 2004	2	Schools for which 2002-2003 was the second consecutive year of failure to reach AYP start this year with "school improvement" label.	Must provide option for students to transfer to another, better performing public school (including charter), provide transportation, and implement improvement plan.
2004 - 2005	3	Schools for which the 2003-2004 school year was their third consecutive year of failure enter second "needs improvement" year.	Must provide supplemental services to students such as tutoring, after school programs, summer school (parents get list of providers), choice of another public school, transportation, and continue to carry out improvement plan.
2005 - 2006	4	All states must have implemented annual assessments in reading and math, aligned with state standards, for grades 3-8.  State science standards in place	
2005 - 2006	4	Schools for which 2004-2005 was their fourth consecutive year of failure move into "corrective action."	Must create a new improvement plan, and take at least one step involving changes of curriculum and altered governance. Students continue to have right to supplemental services and to transfer.
2006 - 2007	5	Schools for which 2005-2006 was their fifth consecutive year of failure must plan for "alternative governance."	School must make a plan to close and re-open as a charter school, a regular school with new staff, with a new curriculum, with new management, or run by the state.
2007 - 2008	6	Schools for which 2006-2007 was their sixth consecutive year of failure require "alternate governance."	The "alternative governance" plan formulated the previous year must be instituted.
2007 - 2008	6	All states must implement and administer science assessments at least once in each grade span 3-5, 6-9, 10-12. This is the last of the NCLB-mandated assessments.	

(Note: This chart shows calendar years as well as "AYP Year" -- they are not linked. Calendar years are only included to help you track when important provisions of the NCLB Act will go into effect. In other words, a school could fail to make AYP for the first time three years from now, and would at that time start its AYP year 1.)



## DOES THE NCLB AFFECT A SCHOOL IF IT'S ALREADY ACHIEVING PROGRESS?

A traditional public school or charter school that is doing well can be affected by other schools that are not. If a state has a law permitting public school choice, children are authorized to transfer to any public school designated by their district that has room, either traditional or charter. The NCLB Act says that when schools fail to meet AYP for two years or more, parents are permitted to send their children to another public school. This same ability applies to the parents of any student who is a victim of a crime or goes to a school designated by the state as unsafe.

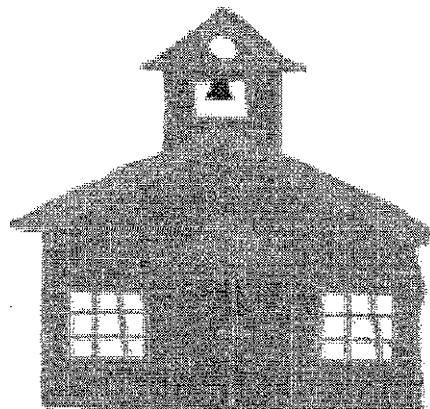
## WHAT HAPPENS TO A PUBLIC SCHOOL THAT *EXCEEDS* THE REQUIRED PROGRESS?

Schools that show improvement beyond what's required by the state, or that close achievement gaps between groups of students, can become eligible to receive recognition and bonus Federal funds to financially reward teachers. It's up to each state to determine if it will participate in Federal recognition programs, so find out whether or not your state plans to take part.

## HOW DOES THE NCLB ACT IMPACT LIMITED ENGLISH PROFICIENT (LEP) STUDENTS?

If a student has attended school in the United States (except Puerto Rico) for at least three consecutive years, starting no later than 2002-2003, then that student's progress toward meeting the State's reading/language arts standards must be measured using a test written in English. For students who do not meet that criterion, tests must be developed in a "linguistically accessible" form that can assess their mastery of subjects other than English. This LEP accommodation can continue for two more consecutive years (for a total of five years) if a school or district determines a student has not reached a level of proficiency sufficient to demonstrate his reading/language arts abilities.

Bottom line: The intent here, of course, is to push LEP kids onto a path leading to English fluency, rather than allowing them to languish in programs designed to accommodate their old language. So, after five years, they'd better be proficient English speakers.





## WHAT, IF ANYTHING, IS THE IMPACT OF THE ESEA ACCOUNTABILITY MEASURES ON PRIVATE AND HOME SCHOOLS?

Private and home schools are exempt from all provisions of the NCLB Act except for students who receive ESEA funds or services, such as through Title I. This does not, however, bar private, religious or home schools from participating in ESEA programs or services.

## HOW DO TEACHER CERTIFICATION REQUIREMENTS CHANGE?

The NCLB Act requires all teachers to be "highly qualified," and lays out important guidelines about what a teacher must do to meet that requirement. Essentially, there are four major avenues for becoming "highly qualified," depending where a teacher is in his or her career:

1. *Elementary or Secondary Teachers Currently Teaching:* Must have State certification - through traditional or alternate routes - or have passed their state's teacher licensing examination and hold a license to teach in the State.
2. *Elementary Teachers New to the Profession:* Must hold at least a bachelor's degree and have demonstrated subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum by passing a rigorous State test. Note: These requirements *can* be met by passing State certification or licensing tests, but do not have to be. In other words, the NCLB Act does not require new teachers to obtain State certification.
3. *Middle School or Secondary Teachers New to the Profession:* Must hold at least a bachelor's degree and have demonstrated a high level of competence in each subject the teacher teaches. Competence can be demonstrated by passing a rigorous State test in each subject the teacher will teach, by holding a bachelor's or higher degree in each subject or by completing course work equivalent to a major. Note: Once again, these requirements *can* be met by passing State-required certification or licensing tests, but do not have to be.
4. *Elementary, Middle or Secondary Teachers Re-entering the Profession:* Must either meet the same requirements as apply in 2 or 3 above or must demonstrate competence using a State evaluation that accounts for subject matter knowledge, teaching skills, and past experience with the subjects they will teach. Again, State certification is not required.



## WHAT YOU WILL WANT TO START DOING — TODAY!

### AT THE STATE LEVEL, ESTABLISH YOUR STANDARDS AND DECIDE HOW YOU WANT TO TEST THEM.

Remember, each state should set meaningful, challenging standards, and then must choose what kind of test they want to use to measure student performance.

### AT THE DISTRICT AND SCHOOL LEVEL, READ YOUR STATE STANDARDS:

If you don't know whether or not your state already has standards for reading/language arts and math, find out, and make sure your school's curriculum is aligned with those standards. Then you need to start monitoring what your state department of education is planning to do with those standards — keep them, alter them, or replace them entirely. After that find out what tests the state will be using, and learn more about assessments they might already use. Finally, with all this in mind, **GO TO THE STATE AND LET THEM KNOW WHAT YOU THINK OF THE STANDARDS!** According to the current draft rules, states will set standards and create assessments for them "in consultation with LEAs." A district has a right to prod a State to adopt strong, meaningful standards and demanding tests to measure them. For more on what constitutes strong curricula and assessments, visit our website at <http://www.edreform.com/standard.htm>.

### REVIEW AND COMPARE STATE TESTS TO OTHERS YOU MAY USE

7. Once your research is complete, you might find that the State is looking to create an assessment system that uses a combination of State and local tests. If this is the case, prepare to integrate tests you might already be using into the State's assessment scheme.
8. Make sure district-level administrators understand how assessment results will be reported, because starting next year (2002-2003) results must be publicly disseminated down to the student level, along with data about teacher qualifications, high school graduation rates, comparisons of all student subgroups, and the percentage of students not tested. These reports are the most important product of the NCLB — they will allow State, local and school administrators to see how good their "product" really is, and will show parents what they and their children are getting out of the education for which their hard-earned tax dollars are being used. **MAKE SURE THEY UNDERSTAND WHAT THE RESULTS ARE TELLING THEM.**

**IN SUM:** All of the above is good advice, and you shall do nothing but profit by following it, but keep in mind that not even the final U.S. Department of Education rules have yet been issued, much less those of your state, so circumstances are likely to change.

### BE READY TO ADAPT!

*For more information on the new federal guidelines go to <http://www.nclb.gov/>.*