

# No Child Left Behind – Understanding the Federal Education Law

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“No Child Left Behind” (NCLB) is the designated name of the 2001 law that reauthorized the Elementary and Secondary Education Act (ESEA) – the largest federal K-12 education program. The ESEA was originally passed in 1964 as a key component of President Lyndon Johnson’s “War on Poverty” initiative. ESEA sought to provide states with additional educational resources to serve disadvantaged students. Later, other programs were added to ESEA, including support for children with limited English skills, programs to reduce violence and drug use and others.

The reauthorization of ESEA in 2000 became a political football that bounced from the end of the Clinton administration, through the 2000 election campaigns and into the first two years of the Bush Administration. Both Democrats and Republicans struggled to gain ownership of the education issue, creating a debate that was high-profile, high stakes and ultimately, probably highly problematic for low-income students in the nation’s elementary and secondary schools.

The result of the tug-of-war over ESEA – which passed with strong bipartisan support – is a law that fundamentally changes the federal relationship to local schools and districts. No Child Left Behind represents a massive expansion of the federal oversight of schools. While many of the fundamentals of the law represent the work of progressive education advocates like the Education Trust and the Citizens Commission for Civil Rights, conservative forces managed to wrest control of the details of how those fundamentals play out. Many public school advocates believe that the law will eventually serve to undermine the very existence of public schools, transfer millions of public dollars into private hands and leave millions of children – mostly poor and minority – behind. Further, these advocates believe that these effects will not be accidental.

One set of key foundations of No Child Left Behind focuses around the accurate tracking of achievement and progress by all students within a school, not just the best and the brightest. Provisions include:

- ◆ a requirement that student achievement be tracked by *disaggregated* racial and economic groupings. Under previous versions of ESEA, schools could report average student achievement scores, masking the vast gap along race and class lines;
- ◆ required assessment of students annually in grades 3 – 8 in reading, math and eventually science;
- ◆ the setting of annual benchmarks for student achievement on standardized assessments, and penalties for certain schools (those with large populations of low-income children) that fail to meet those goals;
- ◆ a requirement that 95% of all students in the school, including special education and limited English proficient students take these annual assessments. Again, many schools have traditionally presented higher student achievement averages by excluding certain categories of students from the tests – or even suggesting that some kids stay home on test days. Under the new law, such exclusions are prohibited.

A second fundamental requirement of No Child Left Behind is that students be provided with teachers who are “highly qualified,” meaning that they have a degree in the subject or subjects that they are teaching, and can demonstrate content knowledge. The law recognizes what so many academic studies and community organizing campaigns have demonstrated over the last decade: that there is a shortage of highly qualified teachers in the nation’s public schools, and that low-income schools and schools with a majority students of color have disproportionately low numbers of these excellent teachers. No Child Left Behind requires that all teachers and paraprofessionals in Title I schools be “highly qualified” by the start of the 2005-2006 school year.

These cornerstones of No Child Left Behind created the foundation for what could have been a revolution in public education beneficial to low-income children and children of color. But through the course of reauthorization, as the Republicans attempted to claim control over the reformation of the public educa-

tion system in the United States, the President attempted to stake a claim as “the education President” and the Democrats struggled to remain at the table despite Republican control of Congress, the details of the Act emerged to support a conservative agenda that includes a focus on:

- ◆ punitive measures *against*, rather than *support for* low-income schools and schools with a majority of African American and/or Hispanic students;
- ◆ increased regulation of public schools, coupled with policies that encourage families to move their children to largely unregulated charter or private schools;
- ◆ diversion of federal education funds from low-performing schools and the transfer of that money to private for-profit entities;
- ◆ a windfall for corporations that create and sell standardized assessments, “supplemental services” (tutoring services) and other off-the-shelf curricula and “school reform” products;
- ◆ supporting a set of pro-voucher, pro-privatization nonprofit organizations with millions of federal dollars, ostensibly to help “educate” the public around various provisions of NCLB;
- ◆ mainstreaming of limited-English-proficient students, requiring them to become English language speakers within 3 years, with no acknowledgement or emphasis on the value of bilingualism.

Other provisions of the law that have angered progressive activists require schools to turn over student information to military recruiters, to require schools to allow discriminatory organizations like the Boy Scouts of America access to school facilities, and to stigmatize schools as “persistently dangerous” based on violent *student* behavior (that statistically is minimal and decreasing), rather than on the much more pervasive dangers that millions of students face in school each day, including crumbling facilities, lead paint, poor air quality, chemical exposure and other hazards.

After its passage in January, 2001, No Child Left Behind quickly drew a chorus of opposition from those with the closest contact with classrooms across the country – teachers, school administrators, superintendents and others. In the ensuing years as the provisions of NCLB have incrementally taken effect, the challenges

### **Does Adequate Yearly Progress Discriminate?**

*According to the Philadelphia School Notebook, in schools with significant demographic diversity, high student mobility and/or large numbers of limited-English-proficient students, the rigid requirements of AYP will result in schools being designated as “low-performing,” even if they are making significant progress. Under the law, if any single subgroup of students fails to make the targeted assessment goals in any given year, the entire school is designated as low performing. In the case of many suburban schools where schoolwide averages have masked the underachievement of small cohorts of minority students, AYP has effectively exposed disparities between the achievement levels of different groups of students and forced schools to address the academic needs of all students. But the more sub-groups a school has (differing racial groups, English language learners, low-income children), the more separate targets the school must meet.*

The Philadelphia Public School Notebook, a quarterly newspaper, has an excellent description of AYP’s impact on diverse schools in its Winter, 2004 issue. See: [www.thenotebook.org](http://www.thenotebook.org).

of implementation are becoming clear. Supporters of the law have argued that the law is working, by forcing districts to focus on disadvantaged students and schools. This is certainly true and laudable. Opponents however, argue that its implementation is routinizing education to the point where students as well as teachers are frustrated, stressed out and frequently unmotivated. Across the country, school administrators are decrying what they believe are unrealistic goals of the law, and the Administration’s failure to provide enough additional federal money to help districts pay for the changes it requires.

The Administration, meanwhile, has dismissed all criticism of No Child Left Behind as “whining,” and charging that supporters of the law want “change,” while opponents favor the status quo. In November of 2003 then- Secretary of Education, Roderick Paige, actually referred to the National Education Association – the nation’s largest union of teachers – as a “terrorist organization,” further polarizing the debate. In such a climate, rational conversation about how to strengthen public education and boost student achievement is impossible.

### **No Child Left Behind: Title by Title**

**(for an organizational chart of No Child Left Behind, [click here](#))**

#### **Title I: “Improving the Academic Achievement of the Disadvantaged”**

Title I of the Elementary and Secondary Education Act was a cornerstone of President Johnson’s “War on Poverty” program. For the first time, the federal government signaled that it was prepared to step in and insist that states provide an equal education to disadvantaged children – low-income students and children of color.

Title I has always been the centerpiece of the ESEA, and accounts for over 50% of the law’s total funding. Title I is even more central under No Child Left Behind.

Virtually all of the high-profile provisions of No Child Left Behind

are embedded in Title I. While in the past, Title I provisions largely applied only to the individual schools that receive the funding, NCLB includes all schools within a *district* that receives Title I funding, making its reach much, much broader than past versions of the law.

The key provisions in Title I of NCLB include:

***Adequate Yearly Progress*** — Adequate Yearly Progress (AYP) is the state defined, quantified annual goal for bringing students of different socioeconomic status, race, and ethnicity within individual schools and districts to a set level of “proficiency” by 2012.

The law requires all schools to demonstrate that all groups of students are making progress each year, with the eventual goal of having 100% of students scoring in the “proficient” range on standardized assessments by 2013. Failure to meet AYP goals – even in just a single segment of the student population – leads to sanctions against a school. Importantly, however, while the AYP requirements apply to all schools in a district, NCLB’s *sanctions* are required only for schools that receive Title I funds.

Sanctions under this section include the “Public School Choice” provision, which allows students enrolled in certain designated “Low-Performing Schools” to transfer to another public school in the district, and to have transportation costs paid for; and “Supplemental Educational Services,” which allow parents of students in certain “Low Performing Schools” to contract for tutoring services for their child. In each case, the costs are paid through district Title I dollars. Under No Child Left Behind, districts must use 5% of its Title I funds to pay for transportation costs, and an additional 10% of its Title I funds for either transportation or supplemental services, as necessary. In short, as much as 15% of a district’s Title I funds may be channeled outside of its Title I schools to cover these costs.

***Annual School Report Cards*** - Comparing data about local schools to data from other schools in the district and state is an important way for parents to monitor school success. Organized parents can analyze and act on the basis of these data. No Child Left Behind requires states to produce annual report cards for individual schools as well as districts, and to make these available

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to parents. Report cards *must* include both aggregated and disaggregated information on student achievement, as well as graduation rates and information about teacher qualifications. The reports must be available in other languages as needed in the district. In addition to the report cards, NCLB requires school districts to proactively notify parents that information on teacher quality is available to them, and to notify parents of any student being taught by a long-term substitute or a teacher who is not fully certified.

**Teacher Quality:** A new focus of research over the last decade has shown that teacher quality has a significant impact on student achievement. At the same time, research has consistently shown that the most highly experienced and qualified teachers are disproportionately assigned to more affluent and successful schools. No Child Left Behind attempts to solve the problem of disparities in teacher quality on several fronts. Title I contains new requirements for schools to hire “highly qualified” teachers and paraprofessionals, and sets deadlines for all public school teachers and paraprofessionals to meet the new definition. It allows the state to intervene if school districts do not meet interim teacher quality goals. The law provides designated funding in Title II and allows use of Title I funding for a range of activities intended to achieve the goal of every teacher being highly qualified. Finally, it requires state data collection on the distribution of teachers to determine the extent to which poor and minority students are taught by unqualified teachers.

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Title I of No Child Left Behind requires all local school districts to ensure that all Title I teachers hired after the first day of the 2002-03 school year are “highly qualified” as defined in Title IX. *All* public school teachers must be highly qualified by the end of the 2005-06 school year.

## **Title II: “Preparing, Training, and Recruiting High Quality Teachers and Principals”**

Title II authorizes funds to be used for a broad range of activities to enhance teacher and principal quality.

Eligible local activities include: reforming teacher/principal licensure; creating alternative routes to licensure; recruitment and retention of teachers/principals (includes emphasis on recruiting teachers from highly qualified paraprofessionals, minorities, and others underrepresented in the teaching field); developing merit-based performance systems; professional development; teacher training to integrate technology into teaching; enabling teachers to become highly qualified; reforming tenure systems; implementing teacher testing for subject matter.

States and local school districts must develop plans with annual measurable objectives to ensure that all teachers in core subjects are highly qualified by the end of 2005-06.

Districts that fail to make progress toward these objectives after two consecutive years must develop an improvement plan and receive technical assistance from the state.

After three years without progress, the district must agree with the state on how teacher quality funds will be used and must jointly plan activities with the state. Also, the district cannot hire paraprofessionals from that point on (unless to fill a vacancy or address higher enrollment or special needs).

In addition, Title II authorizes several discretionary grant programs that support teacher and principal quality.

## **Title III: “Language Instruction for Limited English Proficient and Immigrant Students”**

Title III of NCLB replaces the Bilingual Education Act (formerly Title VII of ESEA), and provides resources for districts with large numbers of Limited English Proficient (LEP) students. The law does not require schools to use English immersion programs. However, NCLB does require that LEP students take standardized tests – along with everyone else – in English, within three years of entering the school system. Advocates for students with limited English skills worry that this new rule puts unfair pressure on schools to

immerse students in English-only programs rather than provide high quality bilingual or dual language programs with academic content to students in their native language while helping them learn English. Advocates predict that schools will reduce the time students spend in native-language or bilingual classes in order to get them ready for the tests.

#### **Title IV: “21<sup>st</sup> Century Schools”**

This section of No Child Left Behind contains the Safe and Drug-Free Schools and Communities Act, which provides some support to districts to implement violence prevention programs in and around schools, as well as some drug and alcohol abuse programs. In addition, the 21<sup>st</sup> Century Schools portion of the title provides resources for community learning centers to provide tutoring and non-school hour programs for disadvantaged children.

#### **Title V: “Promoting Informed Parental Choice and Innovative Programs”**

This section of the bill contains provisions to support Charter Schools. Throughout reauthorization, Republicans fought hard to win federal funding for vouchers as a part of ESEA. While those efforts were successfully halted by Democrats opposed to vouchers (with the exception of the eventual passage of a \$75 million voucher program for the District of Columbia), the law does provide significant support for charter schools, including the law’s only funding stream for school facilities.

Title V also includes a program to provide additional counseling services to secondary schools – an important and valuable effort that the Bush administration has failed to fund for the past two years.

#### **Title VI: “Flexibility and Accountability”**

Republicans attempted unsuccessfully to provide much of the federal ESEA monies as block-grants, with few requirements attached. However, Title VI allows states to apply for waivers on some provisions of the bill, and authorizes the transfer of funds between Titles II – IX. In effect, a state can decide to use funds

provided for teacher training, for example, to support charter school programs or anti-violence programs within schools. Democrats managed to protect Title I from being raided; under Title VI, states may transfer funds from other sections of the bill *into* Title I programs, but may not transfer money out of Title I to any other section.

### **Title VII: “Indian, Native Hawaiian and Alaska Native Education”**

Title VII provides special programming and support to school districts located on Indian Reservations and districts with high percentages of Native peoples. Supports include the development and use of curricula that focus on Native history and culture, early childhood programs, health and education programs and others.

### **Title VIII: “Impact Aid Program”**

Impact Aid is provided to schools and districts that serve majorities of children of those serving in the military. This includes programs to support military base schools.

### **Titles IX and X: General Provisions**

Title IX is generally a catch-all for a range of other programs and provisions that found their way into the law. It includes technical details about the use of federal funds and waivers. But nestled within this language are several important provisions.

One is the law’s definition of a “highly qualified teacher” as referred to in Titles I and II *[for the definition, and a discussion of its pros and cons, see the [Organizer’s Guide to NCLB](#)]*. These pages also contain a description of “quality professional development” that is comprehensive and could be very useful to community groups working to improve the quality of training and support for teachers.

In addition to these definitions, Title IX has provisions that:

- ◆ require schools to allow the Boy Scouts to meet on school facilities (a response to many schools that barred meetings of local Boy Scout troops in protest of the organization’s discriminatory practices against gay men and scouts);

- ◆ require schools to provide student information to military recruiters; and
- ◆ require states to allow students in schools designated as “persistently dangerous” (referring to violence, rather than the perhaps-more pervasive environmental or facilities hazards) to transfer out to “safer” schools.

A noteworthy program included in Title X is the McKinney-Vento Homeless Education Assistance program. The program requires that school districts immediately enroll homeless students in their school of origin or in another school, depending on the child’s best interest. The program provides funding for special services to homeless children including educational services as well as health care referrals and other supports.

## Implementation and Timeline

Implementation of No Child Left Behind by states, districts and schools has been anything but smooth. Many education experts charge that the law’s mandates, if fully implemented, will result in a majority of the nation’s schools being designated as “in need of improvement,” including many, many schools that are making great strides in student achievement. The law has clearly – for better or worse – caused many states and districts and teachers to begin a mad scramble for compliance – with mixed results. In some schools, pressure to ensure that students pass annual assessments as required by NCLB has resulted in a wave of preparatory tests, and even tests to prepare for the preparatory tests. Some Texas schools are now testing students *weekly* in an extreme effort to improve student performance on fill-in-the-bubble assessments. Teachers report high levels of frustration and anxiety as their jobs become nothing more than so-called “drill and kill.”

Other stories about the law’s impact on schools and districts provide a glimpse into some of the implications for the nation’s schools:

- ◆ In New York City, a high-performing school with special small class-size programs was forced to become a “receiving school” under NCLB’s choice provisions. Incoming students from low-performing schools raised class sizes

above school limits and resulted in a lack of space and a higher student:teacher ratio.

- ◆ People for the American Way, in a 2003 report (*Funding the Movement*, November 2003) publicizes the fact that the Department of Education has, in the past three years, provided grants totaling \$75 million to organizations that promote vouchers and privatization of schools. Many of those grants have utilized No Child Left Behind provisions that fund “community organizations” to help educate the public about the law.

In addition to the confusion and struggle over implementation of NCLB, much of the national debate has revolved around Congressional funding for the law. Though the language of the bill included authorizations of \$26.4 billion, Congress appropriated only \$22.2 billion in the law’s first year — \$4 billion under the authorization. This under-funding has led states to challenge No Child Left Behind as an “unfunded mandate.” Many states raised attention to this issue by passing legislative resolutions prohibiting the use of state money to implement provisions of the federal law, or threatening to refuse to comply with No Child Left Behind, at the cost of turning back federal education money. While the Department of Education has smoothed over these ruffled feathers in states and large cities, some smaller districts have, in fact, declined participation in NCLB at the cost of losing their federal dollars for education.

## Implementation Timeline

The requirements of No Child Left Behind are scheduled to take effect over a period of several years. Some of the key implementation milestones include:

**January 8, 2002:** No Child Left Behind is enacted into law and provisions become effective in general.

- ◆ All new paraprofessionals hired after this date, working in a Title I school or program supported with Title I funds must meet new eligibility criteria.

**First day of 2002-03 school year:** All new Title I teachers must meet definition of “highly qualified.”

### **Beginning with 2002-03 school year:**

- ◆ States must have established process for determining whether schools meet Adequate Yearly Progress.
- ◆ States must assess Limited English Proficient (LEP) students annually.
- ◆ States and districts must produce annual report cards.
- ◆ States must use 2% of their Title I, Part A funds for school improvement.
- ◆ States and districts must report annually on their progress in having all teachers “highly qualified” by the end of the 2005-06 school year.
- ◆ School Improvement sanctions begin to take effect.

### **School year 2003-04:**

- ◆ States continue to use 2% of their Title I, Part A funds for school improvement.
- ◆ Districts must continue to spend 5-10% of Title I, Part A funds on professional development activities to assist teachers to become “highly qualified.”

### **School year 2004-05**

- ◆ Districts must spend 5% of Title I, Part A funds on professional development activities, as above.
- ◆ Sanctions for schools in need to improvement continue.

**January 8, 2005:** The Secretary of Education must submit to the President and Congress an interim assessment of Title I programs and their impact on States, districts, schools and students.

### **School year 2005-06**

- ◆ States must develop science standards.
- ◆ States must implement annual assessments required under Title I.
- ◆ Secretary of Education must submit an annual report to Congress with a list of each state that has not made Adequate Yearly Progress under Title I and has not met its objectives under Title III, based on department reviews.

- ◆ States must use 4% of their Title I, Part A funds for school improvement.
- ◆ Sanctions for schools in need of improvement continue.

**January 8, 2006:** Deadline for paraprofessionals who were hired prior to 1-8-02 to meet new eligibility criteria.

**End of 2005-06 school year:** All teachers must be “highly qualified.”

### **School year 2006-07**

- ◆ States must continue to use 4% of their Title I, Part A funds for school improvement
- ◆ Sanctions for schools in need of improvement continue.

**January 8, 2007:** Deadline for Secretary of Education to submit to President and Congress a final assessment of Title I programs and their impact on states, districts, schools and students.

### **School year 2007-08**

- ◆ States must administer an annual science assessment at least once in each of grades 3-5, 6-9 and 10-12.
- ◆ States must continue to use 4% of their Title I, Part A funds for school improvement.
- ◆ Sanctions for schools in need of improvement continue.

**End of 2007-08 school year:** No Child Left Behind expires. If not reauthorized by that date, it will be automatically extended.

**By the end of the 2013-14 school year:** All students must be proficient on the annual state assessments in reading, math and science.

*(Excerpted from “No Child Left Behind Act [ P.L. 107-110] Effective Dates and Master Timeline by National Education Association Government Relations office. Revised February 15, 2002. For additional information, contact Joel Packer, NEA Government Relations, [Jpacker@nea.org](mailto:Jpacker@nea.org).)*

A report by the Education Commission of the States, released in July, 2004 details state-by-state progress in implementing these

provisions. It is available at: <http://www.ecs.org/ecsmain.asp?page=/html/special/nclb/reporttothenation/reporttothenation.htm>.

## Conclusion


As of the summer of 2004, most community organizing groups have not (yet) launched local campaigns aimed at forcing compliance with, challenging the provisions of, or focusing on opportunities raised in No Child Left Behind. The significant exception is the Association of Community Organizations for Reform Now, or ACORN.

In 2002, ACORN conducted a series of investigative actions across the country, leading to a report on the implementation of the Supplemental Educational Services provisions called for in Title I. ACORN found that many states had not yet created an official list of “authorized providers” of tutoring services, and that in several states, such providers were not available to parents in various parts of the state.

ACORN’s next target was the requirement that data on qualified teachers be provided to parents. During the fall of 2002 ACORN members in many cities demanded the teacher quality data for their schools, compared the distribution of highly qualified teachers across the district, and called for programs to support and retain teachers and increase the quality of professional development available to teachers, particularly in low-income schools.

In January 2004 ACORN launched a national “Invest in Schools, Invest in Kids” campaign to challenge the Administration’s insufficient funding of its federal education initiative. The campaign is aimed at raising the level of debate nationally around our collective investment in public education. For more information on “Invest in Schools, Invest in Kids,” see ACORN’s website at [www.acorn.org](http://www.acorn.org).

Aside from ACORN, many community organizers have not yet focused on No Child Left Behind and have maintained their own agendas and strategic plans for working on education issues. Indeed, the degree to which NCLB implementation has a direct impact on individual schools seems to vary widely across the country, based on a variety of factors.



In 2004, the Center for Community Change, the National Center for Schools and Communities, and the Cross City Campaign for Urban School Reform surveyed community organizations to see whether NCLB was having a significant impact on their work at the local school level, and what parents were reporting. The results of that survey can be seen in the report: [“26 Conversations About Organizing, School Reform and No Child Left Behind.”](#)

Regardless of whether you are feeling the direct impact of NCLB at the neighborhood level, it's important for organizers and leaders to have a solid base of knowledge about No Child Left Behind. Even if your organization chooses not to engage directly around the law and its implications, it is likely that the decision-makers that you target in your education organizing work *will* be heavily focused on compliance with NCLB. Through that lens, virtually any demand on a school district – whether or not it directly relates to NCLB – is likely to be seen as either supporting or interfering with the district's efforts to comply with the federal law. For that reason, astute leaders and organizers will develop ways to frame their education demands within the context of the massive new federal mandates.

There is a wealth of information, and a range of impressive resource materials on No Child Left Behind. In addition, the Center for Community Change has developed a web-based resource for organizers. [Organizers Guide to NCLB](#) provides information by issue about NCLB mandates, funding, the political implications of the issues and which groups have organized around which issues. Some of the best documents we've found are included in the [Where to Find It](#) pages of this guide. If you know of other particularly helpful materials, we'd appreciate receiving them from you!