



NASSP No Child Left Behind Legislative Recommendations

The NASSP No Child Left Behind Task Force, selected in October 2004, is composed of 12 active middle level and high school principals or assistant principals and three district officials from across the country. Each member possesses a solid knowledge of the No Child Left Behind Act (NCLB) through practitioner experience and other research.

The mission of the NCLB Task Force has been to study the effects of the law and regulations on school leaders and the nation's diverse education structure, to identify specific challenges and problems related to NCLB that inhibit improved student achievement and the identification of low-performing schools, and to develop proposals and formal recommendations for Congress to improve NCLB and its regulations.

The U.S. Department of Education (ED) should be required to review and evaluate all state accountability plans to improve reliability and validity of adequate yearly progress (AYP) data by incorporating *confidence intervals*¹, *subgroup size*², and full academic year consideration in AYP formula calculations. The department also should provide education and assistance to states where gaps and disparity exist.

Rationale:

- Much like the confidence intervals applied in standardized assessments, confidence intervals applied to AYP at the school level will provide a more accurate measure of a school's performance.

- Currently, some states benefit from the use of confidence intervals applied to AYP; however, some individual schools are, in effect, being penalized because confidence intervals are not applied at the school level.
- Differing AYP systems in each state require that each state, rather than the federal government, develop a confidence interval system that works for its local schools.
- The great disparity in the definition of subgroup size benefits some schools and penalizes others.
- The great disparity in the definition of full academic year benefits some schools in some states and penalizes others.

Funding should not be taken away as a sanction for Title I schools that are not meeting proficiency levels, and school districts should be allowed the right of *funding transfer*³ in year three of corrective action.

Rationale:

- Imposing funding sanctions is a regressive policy that impedes a school's ability to provide the services required to improve student achievement.

The requirement that Title I funds be reserved for transportation should be eliminated; funds needed for transportation should be in addition to—not subtracted from—a district's Title I allocation.

Rationale:

- Use of Title I funds for transportation costs is a regressive policy. Title I funds are intended for school improvement purposes and should be used for in-school programs.
- As more Title I schools reach year three of corrective action, the full 20% set-aside will potentially be used for supplemental services and school choice, leaving little funding for other instructional support in schools that have the greatest demonstrated need.

- A negative consequence of the transportation set-aside is that school districts are supplanting state transportation funds with federal funds.

If funds for supplemental services are unspent due to calendar constraints, an additional calendar year should be allowed for schools and states to spend the funding in a more flexible manner (e.g., for other traditional Title I services).

Rationale:

- Current federal law and regulations require schools to reserve a percentage of Title I funds for supplemental services expenses. If the funds are not expended by the end of the year, there is a small window of time within which schools can use these funds for other purposes. There is not always sufficient time and flexibility to expend these funds.
- The late release of unused set-aside funds and the resulting impracticality of being able to spend all those funds in that school year, results in the appearance of excessive carryover and decreased district need, which is quite the opposite of reality.
- Funds that are not appropriated until late in the school year should be carried over to the next school year.

All public schools, charter schools, and nonpublic schools receiving federal funds should be required to use the same state assessment and meet the same state criteria for determining AYP.

Rationale:

- Schools identified as “receiving schools” must meet AYP criteria and/or Safe Harbor provision to gain authorization to receive federally funded transfer students.

The graduation rate should be extended to within at least five years of entering high school.

Rationale:

- The requirement to report graduation within four years does not take into account each student’s individual learning needs.

- High school graduation should be based on mastery of subjects, not on completion of seat time.

Students who complete high school with a state-approved exit document⁴ should be counted as graduates.

Rationale:

- States have approved many types of high school exit documents to meet the unique needs of students.
- Any document that a state has approved for graduation should be accepted by the ED.

Identified special-needs students who complete high school with a state-approved exit document should have until age 21, inclusive⁵, to be counted as graduates as defined by the Individuals with Disabilities Education Act (IDEA).

Rationale:

- IDEA allows students with disabilities to be educated by and graduate from public high schools until age 21, inclusive; therefore, NCLB should adopt statutes already written into existing federal law.

The scores of English language learners (ELL) should not be used in the determination of AYP until these students have developed language proficiency, as evidenced by a research-based and state-approved assessment.

Rationale:

- Research suggests that 7–10 years is required for individuals to become cognitive academic language proficient—the level of language proficiency required to demonstrate academic proficiency on assessment. [Banks, J. (2004). *Multicultural Education: Issues and Perspectives*. Hoboken, NJ: Wiley Jossey-Bass.] NCLB requires reporting scores of new ELL students in three years, a period of time often insufficient for the development of language functionality.
- The practice of testing students in the English language on academic assessments is confusing, inappropriate, and of little value for ELL students who have not yet mastered the language.

AYP should not be based on the results of one test, but should be based on the results of multiple assessments and multiple opportunities to retake the test.

Rationale:

- Multiple assessments provide greater reliability in determining individual student progress toward meeting graduation requirements.

Safe Harbor⁶ should be defined as demonstrated improvement and should apply to all required reporting areas.

Rationale:

- When a district or school can demonstrate overall subgroup growth on the state assessment and on all “other academic indicators,” it should not be labeled as “in need of improvement.”
- Schools or districts that do not meet AYP or do not show improvement in all “other academic indicators” shall be designated as “in need of improvement.”

States should calculate AYP for each student subgroup on the basis of state-developed growth formulas that calculate growth in individual student achievement from year to year.

Rationale:

- *Individual student growth⁷* is the most important indicator of student success.
- The most accurate measures of student and school performance analyze individual student growth from year to year.
- In implementing an individual growth model to measure annual student achievement, assessments used to determine AYP must be aligned to provide consistent, individual student longitudinal performance information.
- Current NCLB AYP determination only measures student performance by comparing different sets of students at the same grade level.

- The current AYP calculation has many schools and districts focusing on students closest to the cut scores rather than those with the greatest need.

A portion of federal funds, including Title II and Higher Education Act funds, should be allocated for professional development programs specifically focused on local schools in the area of adolescent literacy and in the use of data to improve student achievement.

Rationale:

- The instructional leader and the school’s leadership team must have the capacity to improve student achievement through the use of data.
- The pedagogy of teachers in secondary schools must include strategies to improve adolescent literacy.
- Access to data does not always mean understanding or utilization.
- State allocation of federal funds for training might not be currently used to train local school staff members on literacy and the proper use of data.
- Higher education programs in principal and teacher preparation must provide training in the use and interpretation of data to improve student achievement.

Lack of a highly qualified teacher should not be grounds for litigation.

Rationale:

- Parents of children in classrooms that do not have a highly qualified teacher should not have grounds to sue the school, principal, or district.
- For many districts it is very difficult to find highly qualified teachers for every subject, particularly in rural and high-need areas. Also, in many of these areas, teachers teach more than one subject because of the lack of qualified candidates.
- There are more productive means of solving situations where there is a lack of a highly qualified teacher, such as moving the student to another classroom with a highly

qualified teacher or providing mediation between the parent and teacher to understand how and when the teacher will become highly qualified.

There should be an allowable use of funds under Title II of NCLB to create meaningful teacher mentoring programs that significantly sustain the retention and development of new teachers.

Rationale:

- An issue of paramount concern is the importance of mentoring and sustaining new teachers, because research indicates that many new teachers leave the profession within the first five years of service.
- Funding to provide programs designed to retain these teachers and provide them with the skills to persist is essential to meet the intent of NCLB.

The number of alternative assessments that are counted toward making AYP should be expanded to accommodate schools that have high populations of students with *cognitive disabilities*⁸ and more accurately reflect the true school population of students with cognitive disabilities.

Rationale:

- Expanding the percentage of students who may count toward the number of alternative assessments helps to accommodate schools and districts that have high populations of students with cognitive disabilities and more accurately reflect the true population of students with cognitive disabilities.

Special education teachers should have until the beginning of the 2007–08 school year to complete the requirements for highly qualified status

Rationale:

- With the inception of NCLB in 2002 and subsequent guidance and regulations from the ED, general education teachers had a very specific definition of “highly qualified.” During the first years of the law, such a clear definition was not afforded to special education teachers.

- When IDEA was reauthorized in fall 2004, continued definition and guidance was given to special education teachers. However, at this point they were two years behind their peers in beginning the process of becoming highly qualified; therefore, it is reasonable that special education teachers should be given an extension to reach highly qualified status.

Teachers of students with disabilities, who hold special education certification should be considered highly qualified to provide instruction in grades 9–12.

Rationale:

- Special education certification courses train individuals to provide targeted remediation for students with special needs in the curriculum areas measured by NCLB.
- Special education teachers must also pass tests of general knowledge to become certified and should therefore reliably possess the general knowledge covered in grades 9–12.

Teachers with special education certification who have or acquire highly qualified status in English, mathematics, or science should receive a yearly tax credit of \$2,500 for the duration of service in those subject areas.

Rationale:

- Teachers who currently hold a special education certification and who have or acquire highly qualified status should be rewarded with incentives for pursuing professional development that will allow them to teach in special education and subject-matter areas.
- Acquiring extra certifications after one has already completed a state’s required licensure requirements presents a hardship to personnel who already have a salary below the average for individuals with bachelor’s degrees.
- These teachers should be compensated for adding this licensure, which is an added financial responsibility.

Teachers who are highly qualified in English, mathematics, or science and who have or acquire special education certification should receive a yearly tax credit of \$2,500 for the duration of service.

Rationale:

- There is a severe shortage of special education teachers.
- Offering an incentive, such as a tax credit, to those subject-matter teachers who pursue special education certification may help recruit and retain more special education–certified teachers.
- Subject-matter teachers deal with many different types of students in general classroom settings, including some mildly disabled children. Allowing subject-matter teachers to become special education certified will help them educate the diverse student population they teach. It also represents the spirit of NCLB in providing the most challenging and high-quality education to every student.

Those teachers entering the special education field who hold a Federal Family Education Loan or Federal Direct Loan should be given tuition reimbursement of up to \$17,500 after completing their first five years of service as a special education teacher in a public school.

Rationale:

- There is a severe shortage of special education teachers.
- The federal government needs to find ways to recruit and retain teachers in this field.
- The federal government has offered tuition reimbursement for teachers in high-need areas in math and science, and a similar program should be offered to all highly qualified special education teachers who are in need in every school in the nation.
- The amount of reimbursement offered to teachers who meet these requirements should be \$17,500. In addition, a teacher should have to remain in the special education field for five years before receiving reimbursement to encourage retention.

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Definitions

- 1. Confidence interval.** A confidence interval is a range of values percentages within which we are reasonably confident a school's proficiency value lies. A school's proficiency percentage is subject to random variation from year to year. If a school is told that 50% of students are proficient, with a confidence interval of 45%–55%, one would conclude that the true proficiency percentage of the school could be as low as 45% or as high as 55%. To evaluate AYP, compare the AYP target to the upper limit of the confidence interval (55% in the present example): If the AYP target falls above the upper limit, the school has not met AYP; if the target is less than or equal to the upper limit, the school meets AYP.
- 2. Subgroup size.** A subgroup is a group of students who are economically disadvantaged, students from a major racial and ethnic group, or students with disabilities or students with limited English proficiency. Subgroup size is determined by the state and is based on subgroup populations. Subgroup size is set at the number of students required in a subgroup to yield statistically reliable information.
- 3. Funding transfer.** NCLB designates that federal funds be allocated to specific programs and purposes. Federal laws limit when these funds may be obligated and spent, yet variables such as delays in the federal funding process make it difficult for schools and school districts to plan effective budgets. Allowing unused funds to be transferred at the end of the year and offering a lengthier time period within which to spend the funds would ensure more effective use of unallocated federal resources.
- 4. Exit document.** States vary considerably in graduation requirements and the type of exit documents available for all students. Most states offer a number of exit options, including a standard regular diploma, an IEP diploma, a certificate of attendance, an honors diploma, and other options. Only nine states offer the standard regular diploma as the only exit document for students.

NCLB law requires secondary schools to include a secondary academic indicator of graduation rates when determining AYP. NCLB defines graduation rate as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years.

- 5. Age 21 inclusive.** According to the Education for All Handicapped Children Act of 1975, a free appropriate public education is available to all children with disabilities residing in the state between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.
- 6. Safe Harbor status.** Safe harbor is a growth model that acknowledges improvement and gives credit for demonstrated progress toward meeting an achievement benchmark even if the target is not fully achieved. If a student subgroup in a school does not meet academic proficiency on state assessments, it will still meet AYP if the percentage of students not meeting proficiency decreases by 10% from the previous year and if the subgroup makes progress on one or more other academic indicators described in the law.
- 7. Individual student growth model.** NCLB currently tracks student achievement through an improvement model, which measures progress by tracking proficiency in different student cohorts (e.g., this year's third-grade students are compared to last year's third-grade students). In contrast, an individual student growth model measures progress by tracking the achievement score or proficiency level of individual students from one year to the next.
- 8. Cognitive disability.** Neither NCLB or IDEA law define cognitive disability. IDEA regulations define cognitive disability as mental retardation and traumatic brain injury. The Americans with Disabilities Act defines a cognitive impairment as one that affects a person's ability to reason, understand, and learn and distinguishes two categories: learning disabilities and mental retardation.



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