

No Child Left Behind in America's Great City Schools: Five Years and Counting

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INTRODUCTION

No Child Left Behind (NCLB), the nation's boldest reform of federal education policy, is nearly five years old. And it is becoming increasingly evident that this landmark legislation is both living up to many of the promises that its strongest proponents hoped for and encountering many of the pitfalls that its harshest critics warned against.

The promise of NCLB, of course, rests in its pledge to attain academic proficiency for all students by 2013-14. The law sets bold goals, mandates extensive testing, requires greater transparency in public reporting, offers parental choice, and holds school officials accountable for results.

At the same time, the law has attracted widespread opposition, spurred what some see as an overemphasis on test preparation, narrowed curricula, and encouraged new ways of gaming the system. NCLB also introduced a new vocabulary into the education vernacular: n-sizes, highly qualified teachers, performance bars, and, especially AYP—that shorthand for “adequate yearly progress.”

So far, test scores in reading and mathematics have increased—at least in some places. Reading scores nationally on the National Assessment of Educational Progress (NAEP) have shown few gains, but reading scores in large central cities—where the law is mostly targeted—show significant increases. Math scores, for their part, are going up everywhere. No one is doing well in science. More importantly, the country's largest central city school systems are narrowing gaps between themselves and the nation in both reading and math, with much of the gain in reading coming since NCLB was passed. It is not clear that the new federal law drove those gains, but it may have helped to sustain them.

At the same time, NCLB has undercut good instruction by creating a new set of procedural rules that often have little to do with student achievement. Five years after the law's enactment, a school and school district may be in full compliance with NCLB and still not be raising student achievement, because most of the legislation's provisions have little to do with improving the quality of classroom instruction. Conversely, it is quite possible to raise student achievement substantially and not comply with any of the law's requirements. This anomaly is critical for both proponents and opponents of NCLB to reconcile if recommendations for the law's reauthorization are to make sense.

This paper examines the status of *No Child Left Behind* in America's Great City Schools. In particular, the paper looks at the law's cascading accountability system. It includes an inventory of schools in “improvement” status; examines choice and supplemental education services programs and how they have evolved over time; and focuses on the law's “corrective

action” and “restructuring” provisions and how urban school systems are implementing them. A final section discusses the overall status of NCLB in city school systems and summarizes persistent problems.

The Council of the Great City Schools, a coalition of the nation’s largest public school systems, endorsed NCLB when it was heading toward congressional ratification. In fact, the Council- was the only mainstream national education organization to do so, and it continues to support the law to this day. Yet the organization also sees many of the same problems in the Act that its most energetic opponents see. This paper tries to balance both perspectives as a prelude to next year’s reauthorization process.

STATUS OF NCLB IN THE GREAT CITIES

The Council of the Great City Schools administered a 13-page survey to its 66- member urban school districts to gather data on various aspects of NCLB’s implementation. Thirty-six districts have responded to date (54.6 percent) with data on school years 2002-03 through 2005-06.¹

The 36 districts responding to the survey enroll more than 5.1 million students (not counting preschool students). Of these students, 65.3 percent are eligible for a free or reduced-price lunch, 18.4 percent are English language learners, and 12.9 percent are students with disabilities.

These 36 districts operate 7,446 schools enrolling an average of 690 students per school. Some 5,894 of these schools (79.2 percent), enrolling about 3.0 million students, are Title I schools and are subject to NCLB’s accountability provisions. The remaining schools in these districts are not Title I schools.

Adequate Yearly Progress (AYP)

School year 2002-03 was the first year that districts were subject to NCLB’s requirements to report test data on the academic progress of all major student subgroups. The results were used to determine which schools would undergo *school improvement*, *corrective action*, or *restructuring*, the three main stages of sanction under NCLB.

In school year 2005-06, 581 schools in the 36 districts on which we have data were in their first year of school improvement (Level I) because they had not made Adequate Yearly Progress (AYP) for two consecutive years. These schools must prepare an improvement plan, receive technical assistance, devote 10 percent of their Title I allocation to professional development, and offer parents the option of transferring their children to a higher-performing school.

Some 715 additional schools were in their second year of school improvement (Level II) because they failed to make AYP for three consecutive years. These schools continue to receive technical assistance and offer transfers, but must also make supplemental education services available to their students.

Furthermore, 458 schools in the 36 districts were identified for corrective action. Schools in this category failed to hit their performance targets for four consecutive years. They must continue to receive technical assistance, offer transfers, provide supplemental services, and do at least one of the following: replace relevant staff, implement a new curriculum, decrease management authority, appoint an outside advisor, extend the school day or year, or reorganize.

Finally, 449 schools in the 36 districts were in restructuring status—the last stage of NCLB’s accountability system. Schools in this category had not met their academic goals for five straight years, and must carry out the sanctions from the previous stages and make necessary arrangements for alternative governance.

In all, 2,203 schools in these 36 districts were placed in various improvement categories in school year 2005-06. (Table 1.) This number had increased from 975 schools in 2002-03, when NCLB first went into effect, and now constitutes 29.6 percent of all schools in these districts and 37.4 percent of Title I schools in the big cities. About 26.1 percent of schools nationwide in “need of improvement” are in one of these 36 cities.

Table 1
Number of Urban Schools in School Improvement, Corrective Action, or Restructuring by Category and Year

Category of Improvement	2002-03	2003-04	2004-05	2005-06
School Improvement (Level I)	261	501	930	581
School Improvement (Level II)	370	236	383	715
Corrective Action	261	574	380	458
Restructuring	83	181	352	449
Totals	975	1,492	2,045	2,203

Survey results also showed considerable variation from city to city in the numbers of schools that were designated for improvement in 2005-06. New York City, Los Angeles, Clark County (Las Vegas), Hillsborough County (Tampa), and Philadelphia appeared to have the largest number of schools in this situation. New York City had 340 schools in “need of improvement.” Los Angeles had 190 schools in sanction; Clark County had 153 schools; Philadelphia had 109 schools; and Hillsborough County had 98 schools. One city—Omaha—had no schools in “need of improvement.”

Some of the variation is due to the size of the districts. Much of the variation does not appear to have much relation to the relative performance of the districts. For example, the Boston and San Diego school districts had similar reading and math scores on the NAEP, but 47 percent of Boston’s schools were in school improvement status, compared with 15 percent of San

Diego's—a disparity reflecting differing definitions of proficiency used by their respective states.

The data also indicate that only 283 schools in the 36 city school districts failed to make Adequate Yearly Progress in 2005-06 because their testing rate was below the 95 percent required under NCLB. On the other hand, 2,043 schools failed to make AYP because of reading and 1,598 did not make their math targets. In addition, 373 schools in the 36 districts were in “need of improvement” in 2005-06 because they missed their AYP targets in one subgroup only. Schools not making AYP solely because of their limited English proficient students or their students with disabilities were the most common.

Conversely, 388 schools made enough progress to be placed “on hold” by making AYP for one year after initially being tagged for improvement. And sanctions were lifted on 143 schools after they made AYP for two consecutive years after first being identified for improvement. Moreover, 217 schools made their reading targets using “safe harbor” and 208 schools made their math targets using this procedure. (“Safe harbor” refers to the minimum progress that a school can make in the short run to meet NCLB requirements.)

In addition, 23 urban school districts indicated that their respective states identified schools as low performing under an accountability system that was separate from the one under NCLB. All of these separate state systems scored schools on reading and math, but few also did so in science or social studies.

Finally, most of these districts (24 of 36) were now designated by their states for “district improvement.” These districts included Albuquerque, Anchorage, Baltimore, Birmingham, Boston, Clark County (Las Vegas), Cleveland, Columbus, Denver, Detroit, East Baton Rouge, Hillsborough County (Tampa), Indianapolis, Jackson, Jefferson County (Louisville), Los Angeles, Memphis, Miami-Dade County, Nashville, Newark, Norfolk (Va.), Palm Beach (Fla.), Philadelphia, and Providence.

Sixteen of the 24 districts were in districtwide sanction for not having attained state-set proficiency bars in reading; 17 had not met goals in math. Twenty of the 24 had not met performance targets for various subgroups, mostly poor, disabled, and limited English proficient students. Fifteen districts had not met their goals for African American students and 10 had not done so for their Hispanic students. Most districts in sanction had been in this status since 2003-04 or 2004-05, and five had been in “need of improvement” status since 2002-03. Most districts expected to remain under sanction through the 2006-07 school year.

Public School Choice

The law requires schools that have not made AYP for two years in a row to plan for improvement, receive technical assistance, set aside funds for professional development, and offer all students (regardless of achievement level or income) the opportunity to transfer to another school that has not been designated for improvement. The choice requirement, which has received considerable interest since NCLB began, has been particularly difficult to implement. In this section, we look at participation rates and trends; methods school districts used to inform

parents about their options; and restrictions districts placed on the process, the period during which parents had to make choices, and the capacity of receiving schools.

Transfer rates. Data from the 36 responding districts indicate that the number of students transferring from one school to another under NCLB was relatively small in 2005-06, compared with the total number of students enrolled in the eligible schools. (Any student attending a school in need of improvement is eligible to transfer, even if he or she was not part of a subgroup not making AYP.) Even so, the number of students transferring appears to have increased since 2002-03.

All but one of the responding districts (Omaha) had at least one school in “need of improvement,” and was required to offer a transfer under NCLB. Of the approximately 1.3 million students enrolled in one of the 2,203 school-improvement schools in 2005-06, 26,868 students requested a transfer, and 22,553 (1.7 percent of the total eligible) actually moved to another school—up from 11,292 in 2002-03. In addition, the data indicate that about 282 students transferred back to their home schools after moving away earlier.

Table 2
Number of NCLB Transfers in 2002-03 through 2005-06

2002-03	2003-04	2004-05	2005-06	2005-06	2005-06
Number of Transfers	Number of Transfers	Number of Transfers	Number Eligible	Number Requested	Number of Transfers
11,292	21,301	18,941	1,298,190	26,868	22,553

The upward trend in transfer rates between 2002-03 and 2005-06 suggests that districts may have gotten somewhat better at identifying available space and informing parents about their options than in previous years, and states have gotten better at providing at least preliminary data by the start of the school year. Still, the number of requests for NCLB transfers remains low and may have leveled off over the last two years.

City and school officials, community groups, and others have explained this low participation rate by noting that some parents do not want their children taking lengthy bus trips or riding public transportation. Some parents prefer having their children close to home. Other parents may not have gotten their first choices of schools that they wanted their children to attend. Some parents may not think the available options are any better than their current situations. And some may be frustrated by the application procedures. It is not clear that any one factor explains the relative small number of parents opting to move their children to other schools.

Methods for notifying parents. Thirty-four districts sent letters to parents informing them of their options. (Table 3.) Twenty-eight districts supplemented the mail with at least one other method of communication: Web sites, newsletters, flyers, parent and community meetings, or public service announcements (PSAs).

Table 3
Number of Cities Using Various Methods to Notify
Parents about Transfer Options in 2005-06

Letters Home	Parent Meetings	Notices	Web	Flyer	Fairs	PSA	Partner	Email	Other
34	21	16	16	10	7	6	1	0	7

The survey also asked districts how many languages they translated materials into when notifying parents about their choices. The average district indicated that it put its transfer notices into four languages. The New York City and Philadelphia school districts translated their notices into nine languages; those in Los Angeles and Boston into seven; the school district in Detroit into six; and the school districts in Anchorage, Columbus, Fresno, and Portland into five languages each. Only four districts did not translate their notices into languages other than English, and all were districts without sizable numbers of English language learners.

Still, some parents and groups indicated that they did not get the information or that insufficient notification was provided. It is likely that parents were missed. Mailing addresses are often incomplete, and mobility rates in cities are often high, making it difficult to locate some parents. We did not find any pattern between the number of transfer requests and the methods districts used to disseminate information.

We also looked at the wording of the correspondence sent to parents about their options. The nature of the letters has been controversial. Several groups have charged that letters to parents are often convoluted, jargon-filled, lengthy, and self-serving. Our scan of letters sent to parents in the various cities showed a range of features. Some letters were better written than were others. None of the letters were longer than two pages, although some school districts did not articulate the nature of the choice until the second page. Most letters explained, correctly, that the schools available through choice might or might not have services that parents want. All of the letters pointed out that the district would provide transportation, if required. And most letters had some information about the schools from which choices could be made. In general, our scan of letters mirrored what the General Accounting Office found in its study: that is, NCLB requires notices to have too much information to make them simple and short.

Numbers of choices and restrictions. All of the responding districts gave parents a choice of one or more schools to which they could transfer their children. The norm was to grant four or more options, at least at the elementary school level. (Table 4.) The number of choices also appears to have increased since 2002-03, when the norm was two or three options.

Table 4
Number of Cities Providing Varying Levels of
Choices by Grade Span in 2005-06

	4 or More Choices	2 to 3 Choices	1 Choice
Elementary or K-8 Schools	24	10	1
Middle Schools	11	13	3
High Schools	10	10	1

Most districts limited choices by zone, geographic region, feeder patterns, or clusters, however. Several districts paired a school in “need of improvement” with several other receiving schools from which parents might choose. Some districts also built special considerations into their options, such as the desire of parents to keep siblings together or the capability of particular schools to handle certain types of disabilities.

Most districts also had numerous non-NCLB choices that allowed more numerous and open-ended options than the four or so higher-performing schools available under NCLB. Students often were granted access to at least some of these choices, including charter schools, open enrollment options, cross-district transfers, magnet schools, and other possibilities. (Table 5) Only five of the surveyed school districts reported that they had no other choice options beyond those required under NCLB.

Table 5
Number of Cities Providing Other Non-NCLB Choices in 2005-06

Charters	Open Enrollment	Other School District	Magnets	Open Zones or Areas	Others
23	18	12	23	7	11

Moreover, the survey indicated that 325,323 students—or about 8 percent of all students—in the responding districts (not counting New York, which did not respond to this item) took advantage of some form of non-NCLB transfer option in 2005-06—about 14 times the number of students participating in choice under the law. If one adds to this rate the numbers of students choosing non-district charters and private schools, then overall choice rates exceed 30 percent.

Period to choose. We also looked specifically at the timing of parent notifications. We did this in two ways. First, we examined the dates on which spring testing data were returned to the districts, when the data were finalized, and when parents were first notified about their options. Second, we looked at how long the window remained open for parents to make their selections.

Four districts received their 2004-05 test data before the end of the school year; 19 received their data in June or July 2005; 10 districts received their data in August; and three received their data after the 2005-06 school year began. (Table 6.)

Table 6
Number of Cities Receiving State Data by Month and Informing Parents about Choices in 2005-06

	Initial Data from State	Data Finalized	Parents Informed
Before 2004-05 school year ends	4	0	3
June or July	19	8	6
August	10	18	16

After 2005-06 school year began	3	10	10

These results appear to be an improvement over 2002-3, when a substantial number of districts reported that they received their initial test results after the beginning of the school year.

Yet 25 districts were given fewer than the 30 days specified in the law to review their test results, make corrections, and resubmit changes. The average review period was 19 days. The data review process is important because states may not know whether a child has been in a particular school for an entire year and should be scored against that school’s AYP targets or the district’s—or both.

None of the districts had final data determining the number of schools in “need of improvement” before the end of the 2004-05 school year. Eight districts had their data finalized by the state by the end of July. Eighteen additional districts received their final data by the end of August. And 10 districts did not receive their final data until after the beginning of the 2005-06 school year. The results indicated that districts, generally, were getting their final data earlier than was the case in 2002-03, but 27 districts indicated that they did not have adequate time to make program changes.

In addition, three of the districts informed parents about their options before the end of the previous school year, 2004-05. Six districts informed parents of their options in June or July 2005. This process also appears to have been based on preliminary data, most likely from the districts’ Title I (Phase I) reports, which are filed in early summer.

Sixteen districts informed parents about their options in August and 10 districts had to wait until after the beginning of the 2005-06 school year to notify parents. These numbers also suggest somewhat earlier notifications of parents about their choice options than was the case in 2002-03.

We looked, as well, at the duration of time that parents were given to make their selections. Nineteen districts gave parents a month or more to make a choice about transferring schools and another eight provided three weeks to a month to respond with a choice. Eight additional districts provided parents somewhere between a week and two weeks to choose. No districts restricted parents to a week or less. (Table 7.)

**Table 7
Number of Cities Using Choice Windows of Varying Lengths in 2005-06**

Month or More	Three Weeks to a Month	One or Two Weeks	Less than a Week
19	8	8	0

It is hard to draw definitive conclusions from the data on this topic so far, but the pattern suggests a slight improvement since 2002-03. No correlation appears to exist between the number of transfers and the length of the windows.

School capacity and choice. We also looked at the issue of capacity to accommodate students in the receiving schools. The responding districts reported that they had identified 2,057 higher-performing schools (1,461 elementary, 182 K-8 schools, 246 middle schools, and 168 high schools) as potential receiving schools. (Table 8.)

**Table 8
Number of Receiving Schools in 2005-06**

Elementary Schools	Elementary-Middle Schools	Middle Schools	High Schools	Total Schools
1,461	182	246	168	2,057

Districts that had the most difficulty identifying schools to which students could transfer were those that lacked the physical capacity, had large numbers of their schools identified for improvement, and had small numbers of schools eligible to receive students.

When asked what the greatest challenges were in meeting the choice requirements under NCLB, the responding districts rated the timing of the NCLB choices as the greatest problem, followed by parent communications, the limited number of higher-performing schools in specified grade bands, and available space. Issues presenting the least problems were surrounding school districts, desegregation issues, and funds. Most districts reported having sufficient funds to implement NCLB’s choice provisions, but have had almost no success in getting the surrounding districts to take any of their students.

Supplemental Education Services

In addition to offering choice, the law requires schools that have not made AYP for three straight years to receive technical assistance, devote funds to professional development, and offer tutorial services. These tutorial services are to be delivered by a public or private provider selected by parents from a list of state-approved providers. School districts are then required to contract with the providers to deliver services. This section looks at participation rates, notification methods, numbers and types of providers, periods for choosing providers, contracts, services, and expenditures.

Participation rates. All but two of the 36 cities (Omaha and Norfolk) for which we have data had at least one school that was required to offer supplemental services under NCLB. These districts had 1,622 schools in school improvement (Level II or above) and indicated that they served 180,730 students in 2005-06 in a supplemental service program (up from about 110,000 students in 2003-04)—a rate of about 111 students per eligible school—or about 15.9 percent of all those eligible. (Table 9.) This participation rate is about the same as 2003-04, 112 students per school.

Table 9
Number of Students Receiving Supplemental Education Services (SES) in 2005-06

2005-06	2005-06	2005-05	2005-06
Number of Students Eligible for SES	Number of Students Receiving SES	Number of Schools with SES	Number of SES Students per School
1,140,584	180,730	1,622	111

Approximately 171,675 students—or about 95 percent of all students participating in SES in the 36 responding city school districts—received their services from private providers. Only 9,055 students—or five percent of those participating—received services from a school or district provider. This division of labor is probably substantially different from the pattern in 2003-04, the first year that SES was implemented, but the Council did not ask for these data in its first survey.

That year, only a handful of urban school districts (three) were in “improvement” status; in 2005-06, 24 districts were. The significance of this point rests in the fact that most districts that were providing SES on their own in 2003-04 were not doing so in 2005-06. (Two districts—Chicago and Boston—were allowed to provide their own supplemental services in 2005-06 under a special arrangement between the Council of the Great City Schools and the U.S. Department of Education.)

Preliminary data from the survey also indicated that cities where districts were allowed to offer their own services provided services to a higher proportion of eligible children (29.7 percent) than did cities where the school district was banned by Department of Education regulation from providing these services (10.9 percent). Considerable variation existed in the proportion of students served in each category, however.

Methods for notifying parents. The majority of districts responding to the survey used the same methods to inform parents about supplemental services as they did to inform them about school choice, including letters, flyers, Web sites, advertisements and media announcements, and other measures. (Table 10.) The data showed, however, that districts used more methods to inform parents about SES in 2005-06 than was the case in 2003-04. It is also apparent that districts used more methods to inform parents about SES than about transfer options. Most districts used at least four or five different methods of notifying the public about tutoring options in 2005-06, compared with one or two methods in 2003-04. Some districts notified parents of both opportunities in the same correspondence, while other districts did separate mailings.

Table 10
Number of Cities Using Specified Methods to Notify Parents about Supplemental Services in 2005-06

Letters Home	Flyer	Parent Meetings	Vendor Fairs	Notices	Web	Partner	PSA	Email	Other
34	30	29	23	19	17	10	9	0	14

A spot check of the correspondence sent to parents indicates that school districts did provide most of the required information. Some districts appeared to steer parents to specific providers with whom they had long-standing relations. Some districts did not provide parents with much information other than the list of the supplemental service providers sent by the state. Other districts prepared comprehensive directories for parents containing information about the kinds of services offered by each provider; the experience, qualifications, and effectiveness of the providers; and contact information. Sometimes, the names of the providers were simply listed in checklist fashion with no other information that would inform parents about provider services. Providers with high name recognition, like Sylvan or Princeton Review, probably have an advantage in these cases over other providers. Parents wanting services were usually asked to complete a form or sign up at specific locations or centers.

Finally, the survey results indicated that districts translated their SES notices to parents into languages other than English in approximately the same ways and in about the same numbers that they translated their notices about choice to parents. The average district translated its SES letters or notices into four languages other than English.

Numbers and types of providers. The Council's survey did not explicitly ask about the number of providers that were available in each district. In 2003-04, the average Great City School district had approximately 23 state-approved providers. The survey this year, however, did ask districts whether there were more or fewer external providers in 2005-06 than there were in previous years. Thirty-one of the 36 responding districts indicated that there were more providers now than before. Three districts indicated that there were fewer. If the number of providers per district has remained the same since 2003-04, then the average city now has approximately one provider for every two urban schools in Level II "school improvement," "corrective action", or "restructuring."

The types of providers varied somewhat from city to city. The Indianapolis school district, for instance, has a list parents can select from that includes large national tutorial services, such as the Princeton Review, Newton Learning, Education Station, PLATO Learning, Club Z, Babbage Net School, Socratic Learning, Inc., and Brainfuse. A number of local and regional providers are also on the list, including Boys and Girls Clubs of Indianapolis, Dyslexia Institute of Indiana, the Midwest Life Enhancement Services, Inc., and the Indiana State Council of Opportunities Industrialization Centers of America.

A look at most provider lists shows many of the same companies city to city. Catapult, Huntington Learning, Sylvan, A+ Tutors, ATS Consulting, and A to Z Home Tutoring are among the most common providers.

Some companies and providers specialize in a single content area, such as reading, and others concentrate on particular grades or grade spans. Few colleges, universities, or faith-based groups appear on any of the state lists. Moreover, only a few private school management firms, such as Edison, were evident. Five districts indicated that their teachers union was a state-approved SES provider.

Districts were also asked about areas in which there were particularly acute shortages of providers. Respondents indicated that external providers were in short supply for English language learners (16 cities), students with disabilities (15 cities), and middle and high school students (seven cities).

All city school systems that were not in “district improvement” status were approved to be their own supplemental service providers. Six cities were on their respective states’ provider lists; 28 were not approved providers. (Table 11.)

Table 11
Number of Cities Approved as Supplemental Service Providers in 2005-06

Approved Providers	Not Approved Providers
6	28

Period to choose providers. The survey also asked when the districts informed parents about the eligibility of their children for supplemental services and how long parents had to make a selection. This process generally took longer than it took to implement the choice provisions because of the logistical and contractual arrangements involved with SES.

Five districts were able to give parents SES options before the end of the previous school year (2004-05). Fifteen additional districts were able to notify parents over the summer months. Fourteen districts informed parents after the beginning of the 2005-06 school year. (Table 12.)

Table 12
Number of Cities Informing Parents about Supplemental Services by Date in 2005-06

Before 2004-05 school year ends	June or July	August	After 2005-06 school year began
5	3	12	14

The city school districts seem to be leaving the selection window open for longer periods than is afforded under the choice provisions. In addition, the SES windows appeared to be open longer in 2005-06 than they were in 2002-03. Parents had a month or more to choose a provider in 23 cities, compared with 19 districts in which parents had windows of that length to choose another school. Seven additional districts gave parents three weeks to a month and four others gave parents one or two weeks.

Table 13
Number of Cities Using SES Windows of Varying Lengths in 2005-06

Month or More	Three Weeks to a Month	One or Two Weeks	Less than a Week
23	7	4	0

The Birmingham school district, for instance, gave parents from August 7 to October 7 to choose a supplemental service provider. Clark County gave parents from September 13 to

October 24. Guilford County (Greensboro) left its window open from September 9, 2005, to March 1, 2006. Several other districts—Miami and Portland (OR)—provided two opportunities during the school year to choose a provider. And some districts—Hillsborough County (Tampa), Houston, Newark, Minneapolis, and others—instituted rolling enrollment opportunities over the course of the school year.

Start dates, duration, and nature of services. Most supplemental services are now provided by an external or private provider, and begin at various points in the first semester of the school year. Only three school districts began SES services in September; thirteen began in October; and eleven began in November. The remaining districts started services in December or January. The few districts that are allowed to provide their own services start at about the same time as the private providers started.

Still, the timing of school improvement services continues to be a problem for school districts. Under the law, districts are allowed 30 days to review state test data for errors. Schools are then given three months after first being tagged for not making AYP to develop a plan for improvement. Subsequently, districts are given 45 days to review and modify the plan. For most districts, this would mean putting a program into effect in mid-January if state test data were returned by the end of August—not enough time to produce any impact on spring test scores before triggering the next round of sanctions. On the other hand, if districts implement programs in October or November, then they are not devoting the time the law allows to do adequate planning on how to improve test scores. The Council’s data and review of sample school improvement plans suggest that the latter is occurring, resulting in very poor plans.

The Council’s survey also asked districts about the duration of their own services and the services of the private or external providers. On average, the private providers had tutoring sessions that lasted 85 minutes. Sessions ranged from one to two hours. In addition, the external providers typically offered two tutoring sessions a week for each participating child, for an average of 15 weeks.

The length and duration of services for district providers were similar to those offered by external providers, but one should note that there are few district providers to use for comparative purposes. No provider—private or district—offered services for periods shorter than six weeks or longer than 30 weeks. Tutorial sessions—both public and private—sometimes involved Saturday sessions.

In addition, 19 cities reported that external providers offered their services to students in groups of five or more; only two cities indicated that their external providers actually did one-on-one tutoring. The six districts providing their own SES did so for groups of five or more students. None provided one-on-one tutoring.

Districts also reported problems with students showing up for tutoring sessions, but district providers reported a somewhat higher attendance rate than did the external providers. Attendance rates at sessions provided by the districts averaged about seventy percent, while rates at sessions provided by external providers averaged about 63 percent.

Additionally, districts were asked whether they allowed external providers to offer their services on school grounds. Twenty-seven of the 34 responding districts that were required to offer SES indicated that some or all providers were permitted to tutor students in school classrooms, a substantial increase since 2003-04. Both the provider and the school can benefit when services are offered on school property, but schools initially were leery about the practice, particularly when they had large numbers of providers. Districts appear to be addressing this problem better than was the case at first.

Finally, the issue of instructional alignment remains a critical problem. NCLB states clearly that supplemental service providers are to ensure that their services are consistent with the instruction provided by the local educational agency and are aligned with state academic standards. Nevertheless, it seems unlikely that all the approved providers in each city are aligned with state standards to the same degree. Indeed, most providers use the same packaged program, regardless of the city they are in or the students whom they tutor. Twenty-six districts reported that they required external providers to align their programs with the districts' curriculum, but the extent and depth of alignment undoubtedly varies from city to city and from provider to provider within the same city.

Many urban school districts are discovering that they make the greatest academic gains when they use more cohesive—and sometimes more prescriptive—instructional programs that are evenly paced and aligned with state tests. Such programs ensure that teachers teach the skills measured on the state assessment before the test is given, rather than after it is given. Districts with the best instructional results often have very specific requirements or materials for their after-school interventions that may or may not be consistent with what the individual service providers are prepared to use. The problem is compounded as the number of providers and the variety of student skills-deficits grows. The ability of districts and providers to get this process right often determines whether the supplemental services provision of the law spurs student achievement, dampens it, or is irrelevant.

Districts are attempting to solve this alignment problem, in part, by providing external SES providers with more assessment data on the performance of participating students. The practice is tricky because there are confidentiality issues that require parental consent. Still, most cities now provide assessment data to external providers for individual students or groups of students. (Table 14.)

Table 14
Number of Cities Providing Various Types of Assessment Data to External Providers in 2005-06

State Test Scores	Grades	Standardized Test Scores	Sample Student Work	Quarterly Test Scores	None
26	19	15	7	7	4

This sharing of information is a new development in the provision of supplemental services.

Evaluation of services. Districts also face challenges regarding the evaluation of SES. The law requires that services be evaluated, providers be assessed, and approval of providers be withdrawn if success is not evident for two consecutive years. Eight responding districts indicated that they knew of private providers that had been removed from the approved list for one reason or another.

The law is ambiguous, however, about how evaluations are conducted and what success means; and most states clearly have not pursued these assessments actively. For districts and schools, success means making adequate yearly progress on state tests, but success may mean something else to outside providers. Most service providers prefer using their own evaluation tools to assess the effectiveness of their services. These tools may or may not be aligned with the state assessments, however, and may or may not have the requisite technical strength to measure academic gains reliably.

The Council asked its districts about the evaluation of SES. Twenty-one districts indicated that they were conducting their own evaluations of SES, and 19 districts indicated that their states were conducting or planning to conduct an evaluation. Most of the local evaluations entailed site visits, parent or student satisfaction surveys, or other program compliance assessments.

The limited number of evaluations of results suggests that tutorial sessions have had only modest effects on student achievement, at best. An analysis conducted by the Denver school system, for instance, showed that its external providers improved state test scores only marginally over students who received no services. (Denver cannot provide its own services.) Some providers produced significant gains, while others saw declines in state test scores. An evaluation in Minneapolis also showed limited impact.

Other preliminary analyses show that external providers and district providers produce comparable results. For example, an earlier report by the Chicago school district showed that the district's SES program ranked in the middle of about 15 external providers, i.e., the district improved achievement more effectively than about one-half the providers but less effectively than others. Otherwise, evaluations of these services remained scant.

Districts were also asked about their most significant challenges in implementing SES, regular and external. Respondents indicated that their toughest challenges involved what they described as "unscrupulous" vendors, student attendance at tutoring sessions, and parent communications. Issues seen as less troubling included the number of providers available to provide reading and math services, and services for English language learners and students with disabilities.

Contracts. The law is clear about the responsibility of school districts to inform parents about the nature of SES services and enter into contracts with private providers. Yet the law is largely silent about the mechanics. As a result, school districts and potential providers have found themselves tussling over the length of the contracts, pupil fees, billing and payment procedures, staff qualifications, union rules, and similar issues.

For instance, supplemental service providers and urban school districts often disagree about the logistics and conditions of delivering services. Many providers would like to receive a portion of their fees before work begins, but districts often prefer to pay as the work proceeds. The providers would like to charge the districts a flat fee for the number of students enrolled in the tutorial sessions. The districts think they should be charged only for the number of students who actually attend the instructional sessions. The providers would like to build transportation fees into their overhead charges, but the districts generally disallow these expenses because the law does not authorize them. Some providers would like to provide their services on school grounds, while the districts want the option to charge a reasonable fee for the use of their facilities.

Conflicts have also arisen about educational aspects of the supplemental services. The providers would like to provide their services as they were packaged, while the districts want services to be aligned with district curricula. The providers sometimes want to reject English language learners or students with disabilities because they require specialized services and facilities that the providers lack. The districts would like the providers to serve *all* eligible students.

A scan of sample contracts in districts showed that these contracts contained standard clauses, including a description of services to be provided, educational goals, and payment schedules and methods. Contracts typically also covered topics such as progress reports, indemnification protections, insurance, access to and confidentiality of student information, criminal background checks, and assurances against discrimination and drug use. Among other standard clauses were those dealing with audits and inspections, subcontracting limits, deliverables, workers compensation, nonperformance and termination. Some of the contracts are as short as three pages; others are 50 or more pages long. Such terms, involving sometimes-complicated contractual and financial arrangements, illustrate why supplemental services take longer to implement than the public school choice option.

Expenditures. Finally, we know that both the supplemental services provision and the choice requirement are affecting Title I expenditures. However, it does not appear that the law is having any impact on districts' general fund expenditures, because the vast majority of cities use only Title I funds to pay for supplemental services and choice.

While most funding for supplemental services and choice are coming out of regular Title I dollars, nine districts did use non-Title I funds. Twenty nine of the districts were told by their states to reserve 20 percent of their Title I allocations for supplemental services and choice. In Denver, for instance, 54 of its 170 schools were in school improvement status in 2005-06. The district set aside \$3 million for its choice program and \$2.7 million for its SES program—20 percent of its Title I allocation in all. The district eventually spent \$2 million on transfers and \$2.1 million on SES in response to demand—or 15 percent. Overall, districts budgeted the equivalent of 17.2 percent of their Title I allocations for choice and supplemental services in 2005-06.

The lack of increases in federal Title I appropriations over the last several years is also having an effect on the ability of districts to expand services and their overall receptivity to the law.

Finally, districts were asked about the average per pupil costs of supplemental services provided by external providers and those provided by the districts. Providers may charge the lesser of the Title I per pupil allocation or the cost of the service. Results indicated that, on average, the cost of services offered by external providers ran two to three times per child than did the costs for district or school providers. All districts showed this same pattern.

Corrective Action and Restructuring

No Child left Behind also requires that schools that have not made AYP for four consecutive years continue to receive technical assistance, offer transfers, provide supplemental services, and also undertake at least one of the following corrective actions: replace relevant staff, implement a new curriculum, decrease management authority, appoint an outside advisor, extend the school day or year, or reorganize. Approximately 458 schools in the 36 responding districts were in “corrective action” status.

The Council of the Great City Schools asked its member districts which actions they took with schools in this stage of sanction in 2005-06. The results indicated that the majority of responding districts provided technical assistance to schools in corrective action, afforded schools professional development, instituted new research-based curriculum, developed joint school improvement plans, and notified parents about the status of the school.

A modest number of districts appointed outside experts to advise the schools, replaced the principals, extended the school day, or decreased the management authority of the school. Few districts contracted the schools to a private entity to operate, replaced all the staff at the school, or turned the schools over to the states. (Table 15.)

Schools not making AYP for five straight years are placed into “restructuring” status. This designation requires schools to carry out the sanctions from the previous stages and make necessary arrangements for alternative governance. Approximately 449 schools in the 36 responding districts were in restructuring status.

Districts appeared to be most inclined to provide additional technical assistance, professional development, and to conduct additional planning. A modest number of districts implemented somewhat tougher sanctions: decreased management authority at the school, replaced the principals and relevant school staff, restructured or reorganized the schools, or appointed an outside advisor of some sort.

It was clear that most districts stayed away from the more punitive sanctions: reopening the schools as charters, replacing all or most of the school staff, contracting with a private entity to run the schools, or turning the schools over to the state. Some of this may be simple pain avoidance; some of it may be reluctance born of political experience. Getting rid of ineffective staff is harder than it should be, given that most districts are required to find new positions for

personnel in schools that have been reconstituted. In addition, most states have been reluctant to seize schools and most districts lack confidence that the states know what to do with them if they did. Finally, many cities have considerable experience contracting out selected schools to private providers, and the results are often mixed. The record of many charters and private providers is not much better in improving student achievement than that of regular schools.

Table 15
Number of Responding Districts Using Specified Strategies with Schools in Corrective Action and Restructuring

Strategy	Corrective Action	Restructuring
Provided technical assistance to schools	27	18
Provided professional development	27	17
Notified parents about status of schools	25	17
Developed a joint improvement plan	19	17
Implemented new research-based curriculum	16	14
Appointed an outside advisor for schools	16	12
Decreased management authority at schools	11	10
Extended the school day	9	7
Restructured the internal organization of schools	9	10
Replaced the principals of the schools	9	10
Replaced relevant school staff	8	9
Extended the school year	4	2
Replaced all or most of school staff	3	7
Reopened the schools as public charters	2	1
Contracted with a private entity to run schools	1	0
Turned the schools over to the state	1	0

District Improvement

Some 24 major urban school districts are now in “district improvement” status in 2005-06. These districts were asked about how their respective states had intervened. Eight districts indicated that their states required the district to implement new curriculum; four cities said that their states had reduced or deferred some funding; five indicated that the states had required some restructuring; and two districts noted that the states had required replacing some district personnel. None of the districts reported that their NCLB improvement status had resulted in their state’s takeover of individual schools or the appointment of a receiver or trustee to manage the district. (Table 16.)

Table 16
Types of State Interventions in Districts in Improvement Status in 2005-06

New Curriculum	Restructuring	Reduce Funds	Replace Personnel	State Takeover	Receiver or Trustee
8	5	4	2	0	0

All but six districts also indicated that they were receiving technical assistance from their respective states on developing improvement plans, recruiting highly qualified teachers, implementing choice and supplemental services, and analyzing assessment data. Only one-half of the responding districts indicated that they had received technical assistance from their states aimed at improving student achievement in reading and math, addressing the needs of English language learners or students with disabilities, or providing professional development. Most cities indicated that the assistance they received from their states involved regulatory compliance or school improvement grants of varying amounts rather than direct instructional guidance.

Most districts receiving assistance from their states rated the quality of that assistance as “moderate.” The Indianapolis school district reported that the assistance it received from the state on data analysis was particularly helpful. The Philadelphia school district also rated its state’s assistance as helpful. However, most districts did not have high expectations that their states had the capacity or expertise to provide adequate assistance in raising student achievement.

Finally, districts in “improvement” status were pursuing a number of steps to raise achievement and avoid sanctions. Most of these efforts were systemic in nature, rather than being focused on individual schools. The list of these efforts includes: clearer goal setting, better improvement planning, more stringent internal personnel accountability and evaluation systems, upgraded curriculum, better instructional interventions, closer alignment with state standards and assessments, more targeted professional development, more directly aligned supplemental materials, more benchmark testing, greater focus on data analysis, more intensive coaching and instructional monitoring, and other similar strategies.

DISCUSSION

No Child Left Behind is nearly five years old, and states and school districts across the country have struggled to implement the law to the best of their ability. Testing systems in the states are now largely in place and local programs have been reoriented to fit the framework of the Act. In fact, considerable progress has been made in a number of areas over the last five years. But the steps forward appear to be accompanied by new complications.

First, it is clear that states are returning spring testing data to their districts earlier than was the case when the Act was first being implemented. States also appear to be making AYP determinations earlier, and districts appear to be somewhat better positioned to use the data to make program decisions. At the same time, evidence shows that some states have moved their spring testing dates to late winter in order to get results back to the districts before the next school year, thereby reducing the amount of instructional time before assessments are given and sanctions are levied. Experience also suggests that the data states are returning to districts often are in very crude form. Finally, it is clear that cities are being given less time in which to review the data for errors or adjustments than was the case when the law first went into effect.

Second, participation rates in NCLB transfer options have increased substantially, even though they remain low. The data suggest that districts are providing somewhat longer windows during which parents can make a choice and that districts are attempting to communicate with parents using a wider variety of methods than was initially the case. In addition, districts appear

to be notifying parents of their options somewhat earlier and are doing so in multiple languages. Districts also appear to be giving parents more options among the available schools than was initially the case.

Overall, NCLB transfer rates remain low, however, for multiple reasons related to capacity, information, and demand. As the number of schools tagged for improvement increases, the number of available schools to choose from dwindles. Moreover, letters to parents could be clearer, although these letters are required by law to contain too much information for brevity or simplicity. And it is still not clear how eager parents are to send their children to schools outside their immediate neighborhoods. Still, it is clear that a considerable number of students are taking advantage of numerous non-NCLB options.

Nonetheless, districts indicated that their biggest challenge in boosting NCLB options was rooted in the timing of the various choices. Parents normally receive information on options for magnet schools, open enrollment, charters, and the like well before the close of the previous school year. In contrast, parents do not receive information on NCLB choices until the end of the summer at the earliest, and sometimes not until after the school year begins. By that time, parents who were inclined to move their children to another school may have already done so, or their options may be more limited. This delay in providing information to parents disadvantages the NCLB choice options.

Third, supplemental services have also seen some headway. The variety of methods now used by districts to inform parents about tutoring options is considerably better than it was at the start of the policy. The number of providers also remains high. Contracting has become somewhat more routine, windows in which to choose providers are open longer, assessment data are being shared more regularly across school and provider lines, and districts are far more likely to allow some providers onto school grounds to offer their services. These are not small steps.

It also appears that the number of students participating in SES has increased, but there is not much evidence that participation rates are growing beyond what might be expected from the larger numbers of schools required to offer the services. This finding is unexpected, so we offer a number of hypotheses as to why this pattern may be occurring. One possibility may be that school districts have increased their resistance to SES in order to hold onto as much of their Title I funding as possible. The evidence, however, does not suggest that this explanation is viable in that districts seem to be doing more to put the program into place. It seems unlikely, moreover, that resistance could have risen to a level that would have prompted such a leveling off in the face of increasing numbers of schools required to offer SES. If anything, the pressure brought to bear over the last several years on school districts to accommodate private service providers has resulted in somewhat greater acceptance of the services themselves.

Another possibility for the flat participation rates is centered on the decision by the U.S. Department of Education to bar school districts in “improvement” status from providing their own supplemental services, a ban not contained in the law itself. About 95 percent of students receiving SES in the responding districts now get their services from a private provider. The assumption by SES proponents has been that students would move to private providers on a one-to-one basis as districts were barred from providing their own services. This assumption may be

wrong, as the higher costs per child that most private providers charge may simply not accommodate the same number of students as the districts can. The numbers of students participating in SES would almost double if all districts were able to provide services regardless of their improvement status.

Finally, some districts have begun to operate their own afterschool programs with general funds. These programs, where they exist, now compete against the private providers without Title I funds being counted against NCLB. It could be that all of these explanations are true to one extent or another.

Fourth, the last couple of years have seen the beginning of corrective action and restructuring efforts. These sanctions are prompting some of the “softer” sanctions beyond choice and supplemental services. Use of tougher punishments is still limited. It is still too early to tell what the impact of these varied efforts will be. But experience outside of NCLB with many of the stiffer sanctions suggests that districts should either be given clearer authority to override local collective bargaining agreements in order to restructure schools or districts should engage in a more convincing partnership with the unions to get the job done.

Fifth, and finally, the effect of all these cascading sanctions on student achievement remains unclear. At the very least, the federal law deserves credit for extending the standards movement and underscoring the need to improve academic performance for all children and youth. The paradigm shift from universal access to universal proficiency has been an important one.

Student achievement in the nation’s urban schools, in particular, has increased over the last several years, but it is impossible to attribute all the gains directly to NCLB. It is certainly conceivable that NCLB—or some portion of it like Reading First—helped produce the academic increases, but it is also feasible that the law had little to do with them. A district could be in technical compliance with NCLB’s provisions and not see gains in student achievement, although ever-stiffer punishments would ensue. A district could also be raising student achievement without being in strict compliance with the law. Most city districts indicate that their gains are the result of more systemic instructional reforms beyond those called for in NCLB. Nonetheless, we are inclined to give NCLB the benefit of the doubt.

It is certainly not clear that NCLB-mandated sanctions, as currently defined and structured, are responsible for the gains. The research so far does not indicate that choice under NCLB has produced increases in test scores on a broad basis in either sending or receiving schools, much less districtwide. In addition, research on the effects of some of the corrective action and restructuring sections of the law on student achievement is still not very convincing.

Supplemental educational services have the potential of boosting performance, but it is not clear that the across-the-board gains seen in city schools can be attributed specifically to SES because participation rates remain static. A cursory inspection of the data suggests that SES participation rates are not correlated with the academic gains of various cities. Moreover, the preliminary evaluations emerging from local sources indicate that gains are modest at best, and often vary by provider. This effect may be the result, in part, of loose eligibility criteria set by the

states for who can actually provide services. The irony is that most district programs, where they exist, seem to do as well as the average private provider. Still, supplemental services hold greater potential for improving student achievement if structured more explicitly as instructional interventions than as sanctions.

Congress faces critical questions about the accountability system under NCLB as the law comes up for reauthorization: Are the sanctions doing anything more than punishing schools for poor performance, or is that sufficient? Are the sanctions the most effective ways of leveraging faster academic gains from the schools? Should the sanctions be redefined to put more emphasis on instructional intervention? Is it counterproductive to have districts in charge of picking and administering their own sanctions? Are we spending too much or too little on the sanctions for their benefits to students? Has the law devolved into an exercise in compliance rather than a lever for improving academic performance?

It is also worth considering whether the cascading nature of the sanctions—and not the sanctions themselves—are a drag on the districts. Many districts complain consistently about not having enough time to implement one set of strategies before they have to start putting another into place.

Answering these and similar questions is important if the law is to be more than a regulatory document with uncertain outcomes and divided loyalties. A paradigm shift such as *No Child Left Behind* was bound to produce unintended consequences, particularly in its first iteration. It is not clear that a constructive balance was struck the first time around. Yet it is worth the effort of people who want to see it succeed to figure out how the law could help accelerate achievement gains and retain real accountability.

In the meantime, the law continues to be a useful tool for the nation's big city schools and their attempts to reform and improve. Although it has proven complicated to implement and cumbersome to administer, it has helped America's urban schools direct attention to students who, for too long, were out of sight and out of mind. That alone has made NCLB worth the effort.

¹ Districts responding include Albuquerque, Anchorage, Atlanta, Baltimore, Birmingham, Boston, Broward County, Clark County (Las Vegas), Cleveland, Columbus, Denver, Detroit, East Baton Rouge, Fresno, Ft. Worth, Guilford County (Greensboro, NC), Hillsborough County (Tampa), Houston, Indianapolis, Jackson (MS), Jefferson County (Louisville), Los Angeles, Memphis, Miami-Dade County, Minneapolis, Nashville, Newark, New York City, Norfolk, Omaha, Palm Beach County, Philadelphia, Portland (OR), Providence, San Diego, and St. Paul