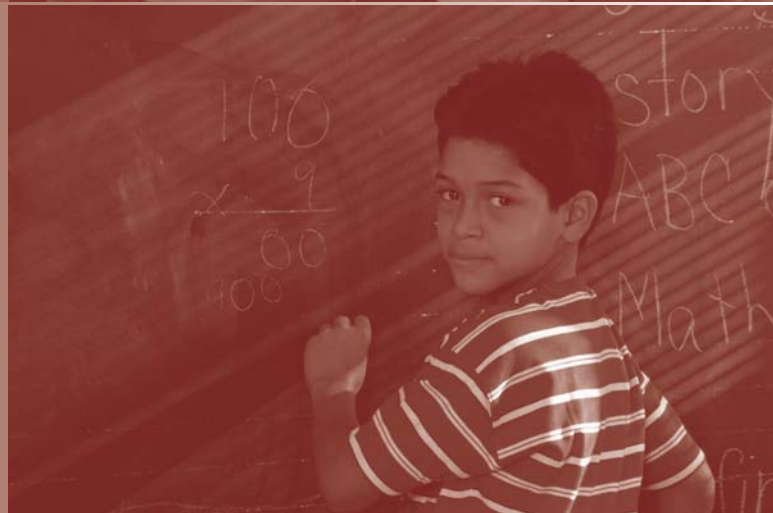




Education Commission
of the States

ECS Report to the Nation State Implementation of the No Child Left Behind Act

RESPECTING DIVERSITY AMONG STATES





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July 2004

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As governor of the Commonwealth of Virginia, I have worked hard to implement targeted, innovative reforms to improve our schools. In our modern economy, educational achievement is probably the single greatest predictor of prosperity, a more stable family life and good citizenship. With a good education, every child has a passport to economic opportunity. We know good schools create new opportunities for children who too often are caught in the grip of poverty and despair. Education is the great “equalizer” that renews the promise of our democracy.

This is why, as chairman of the Education Commission of the States (ECS), I am proud to issue the following *ECS Report to the Nation: State Implementation of the No Child Left Behind Act*.

Although the No Child Left Behind Act (NCLB) has demanded much of states, it also has served as a constant reminder of how necessary it is to keep moving ahead with state reforms. Given the extensive nature of NCLB, it is not surprising that many legislators, policymakers and researchers are now asking how we, as a nation, are doing.

The following ECS report attempts to provide an answer by examining state progress, highlighting state approaches, describing emerging issues and identifying what’s been learned. As an independent, nonpartisan organization, ECS is uniquely qualified as the only organization that serves every major policymaking group: governors, state boards, chief state school officers and legislators. ECS has focused on what it knows best: state policies.

Policymakers long have responded to the problems facing our schools, and the results have plainly been mixed. More than 20 years ago, the National Commission on Excellence in Education published an important report entitled *A Nation at Risk*. Twenty years later, while progress has been made, we are still at risk. And the urgency of eliminating that risk is greater than it ever has been before. As reflected in the following pages, states are working in partnership with other states and with the federal government to meet these challenges and make our schools work for all students.

I encourage you to read and consider the implications of the ECS report.

A handwritten signature in black ink that reads "Mark R. Warner". The signature is written in a cursive, flowing style.

Mark R. Warner
2003-04 ECS Chairman
Governor of Virginia

Introduction

Two-and-a-half years after being signed into law by President George W. Bush, the No Child Left Behind Act (NCLB) remains a source of nationwide interest – generating both strong support and deep concern.

To many, NCLB embodies – and even elevates – America’s longstanding commitment to public education and the central role it plays in maintaining the nation’s economic competitiveness, the strength of its institutions, the vitality of its communities and the well-being of its citizens. Others view NCLB as well-intended but far beyond the capacity of states, districts and schools to carry out. Still others see the law as a burdensome and unwarranted intrusion on state and local prerogatives and responsibilities.

NCLB clearly establishes the improvement of public education as a vital and urgent national priority, and sets ambitious goals: To eliminate gaps in achievement between students who have traditionally performed well in school and those who have not, and ensure all students are proficient in reading and mathematics by the 2013-14 school year; to guarantee every classroom in the nation is staffed by a highly qualified teacher; and to make all schools safer and more productive learning environments.

NCLB is not an entirely new strategy for education reform. It builds upon the accountability and assessment requirements of its predecessor, the 1994 Elementary and Secondary Education Act, and in many ways mirrors the general direction of states’ education policy initiatives over the past decade.

But NCLB differs from past initiatives in two important ways. First, it represents a more systemic approach to achieving reform and improvement, tying together a variety of requirements and incentives in areas ranging from student testing, school safety and reading instruction, to professional development for teachers and technical assistance for low-performing schools. Second, it significantly raises the stakes – for states, districts and schools – for failure to make steady, demonstrable progress toward improving student achievement.

ECS’ NCLB Database

Several months after NCLB was signed into law, the U.S. Department of Education granted the Education Commission of the States (ECS) \$2 million for one year to track and report on state policy activity – statutes, regulations, rules and directives – related to 40 different elements of the law.

ECS is particularly well-suited to undertake such tracking and reporting activities. ECS has nearly 40 years of experience helping states adopt and implement policies to improve their education system in ways consistent with their unique historical, social, economic and political contexts. ECS is also the only national organization whose staff serves all of the constituencies that are vital to realizing the full promise and potential of NCLB: governors and their education policy advisors, legislators and legislative staff, chief state school officers, state education board members, and state higher education officers.

In early 2003, ECS researchers, working in conjunction with state policymakers and their staffs, began building a database, www.ecs.org/NCLBdatabase, that eventually developed into the most comprehensive and detailed source of information on states’ progress toward implementing NCLB.

Blending text and graphics, the database provides a series of snapshots – from March 2003 through March 2004 – showing where each state (and the District of Columbia) stands with regard to implementing seven categories of NCLB requirements: standards and assessments, adequate yearly progress, school improvement, supplemental services, safe schools, report cards and teacher quality. These snapshots offer a rich data set (some 2,040 time-sensitive indicators) for analyzing activity among the states. Together, they provide a solid foundation for identifying trends occurring across the nation.

Since the initial 12-month grant period, ECS staff has continued to maintain and update the NCLB database using a variety of means: an initial online survey sent to state departments of education; online bill-tracking mechanisms; scans of various policy databases; reviews of legislative and state department of education Web sites; electronic requests for veri-



fication and updates; contracted services with other organizations serving similar constituent groups; and ongoing presentations to and conversations with gubernatorial, legislative, state department and state board staff.

(It should be noted the ECS database records – and provides direct links to – only *enacted state policy*. It does not include planned and existing programs that have been approved by the U.S. Department of Education as required by the law, but that are not yet reflected in final state policy.)

About This Report

ECS Report to the Nation is designed to share the information ECS has harvested and the insights gained over the course of the past 18 months. Through this work, ECS developed five recommendations and a set of suggested actions for consideration as federal and state leaders continue to implement the law (see page vii and Appendix A).

Like our NCLB database, this report is organized around the seven major categories of the law's requirements mentioned above. Each of the seven sections provides a look at:

- **How States Are Doing** – graphics summarizing the progress and extent of implementation efforts
- **What States Are Doing** – examples of policy approaches within and across states and some state highlights
- **Issues and Challenges** – a review of emerging issues and major difficulties facing states.

The online version of this report, available at www.ecs.org/ReportToTheNation, offers an additional feature – a brief summary of and links to useful articles, reports, research studies, databases and other resources.

Major Findings

ECS' analysis of NCLB implementation efforts shows that states have made considerable progress, particularly over the past year. As of March 2004:

- All 50 states had met or were partially on track to meeting half of the 40 NCLB requirements being tracked by ECS – an 11% increase over March 2003.
- All but two states and the District of Columbia had met or were partially on track to meeting 75% of the requirements – an impressive 109% increase over March 2003.
- Five states – Connecticut, Kentucky, New York, Oklahoma and Pennsylvania – had met or were partially on track to meeting all 40 NCLB requirements.

Among the NCLB provisions that the overwhelming majority of states have managed to meet are those requiring them to test new teachers, to ensure 95% of students participate in assessments and to establish criteria for safe schools.

But a number of NCLB requirements are proving particularly challenging for states. For example:

- Few states are on track to implementing high-quality professional development for all teachers.
- Only 10 states appear fully on track to ensuring both new and veteran teachers are qualified to teach in their subject area.
- Fewer than half the states are on track to making sure scientifically based technical assistance is provided to low-performing schools.
- Many states do not have in place the technology infrastructure needed to collect, disaggregate and report data at the school, district and state levels. NCLB doesn't require the development of statewide data systems but, without them, states will have difficulty meeting a number of the law's requirements.

Introduction

The way in which states have gone about addressing the law's requirements varies. While many appear to be dealing with the requirements piecemeal, a few states have chosen a different path. A notable example is Nevada, which used an omnibus bill to revise a number of statutes affected by NCLB requirements.

In short, while many challenges and much hard work lie ahead, the overall picture is encouraging.

States are clearly moving forward – albeit somewhat unevenly – to implement NCLB. The progress they have made so far is particularly impressive considering that only 17 states ever fully complied with the requirements of NCLB's predecessor, the 1994 Elementary and Secondary Education Act. In fact, states are attending to NCLB in a way not seen since the mid-1970s, when they rose to the challenge of implementing Public Law 92-142 (the Individuals with Disabilities Education Act) and Title IX of the Educational Amendments of 1972, which prohibited discrimination based on gender.

Conclusion

NCLB continues to generate reaction and opinion ranging from staunch support to skepticism to opposition.

On the one hand, there still are complaints that NCLB is yet another unfunded mandate, providing neither the flexibility nor the resources that states will need to meet its requirements; that it fails to adequately take into account the fundamental differences between urban and rural schools and districts; that the goal of having all children proficient in reading and math within a decade is a pipe dream; and that its emphasis on testing will have a deleterious effect on teaching and learning.

But for many, NCLB is seen as a historic opportunity, a challenge that America can – and must – meet. Jim Guthrie, a professor at Vanderbilt University and an ECS Distinguished Senior Fellow, has argued that NCLB represents the culmination of progressive waves of education reform over the last century: those that built the basic structure of public education in the United States, those that guaranteed access for all students and, now, those focused on ensuring the success of all students. To many, NCLB embodies the nation's recognition of and commitment to two imperatives, one moral and the other economic; namely, that education is a civil right, and that a high-quality, high-performing education system is vital to maintaining America's competitiveness in the world economy.

The question now is whether state and national leaders will succumb to pressures to retreat from the ambitious goals of NCLB, or whether they will rise to the continuing challenge of bringing those goals to life in classrooms across the nation.

ECS has identified five overarching recommendations – and a number of suggested actions – for federal officials and state policymakers to consider should they choose to modify or adjust provisions of the No Child Left Behind Act.

The following list was developed through a process that included extensive analysis of state policy activity, comprehensive review of state government reports and academic literature, and conversations with and comments from our constituents.

ECS believes the items on this list represent a general consensus concerning NCLB. Individual constituents may hold different positions or favor other courses of action. ECS not only recognizes these differences, but also welcomes and encourages further discussion and debate among its constituents.

Recommendations

In ECS' view, the following five issues merit immediate attention and consideration on the part of federal officials and state policymakers:

1. Embrace NCLB as a Civil Rights Issue

At its core, NCLB is a civil rights issue and requires commitment. The 50th anniversary of *Brown vs. Board of Education* is a stark reminder that school integration has not been accompanied by equality of student academic achievement across color and income lines. The clearly set goals of NCLB offer an unprecedented opportunity to raise expectations and significantly narrow achievement gaps that persist in U.S. schools.

2. Ensure Performance Growth of All Students, Not Just Low-Performing Students

The promise of NCLB to raise the achievement of students who have been struggling should not obscure the need to raise the achievement of all students, regardless of current academic standing. NCLB provides a unique opportunity to ensure improvement for all students.

3. Reassess Adequate Yearly Progress

Adequate yearly progress (AYP) must be thoroughly analyzed to ensure it measures school and district effects on student progress. The reassessment should take into consideration that AYP currently does not follow the progress of cohorts of students over time – an approach that provides a more accurate picture of student performance and how schools and teachers are contributing to the gains.

4. Strengthen Highly Qualified Teacher Requirements

States must ensure their High Objective Uniform State Standard of Evaluation (HOUSSE) plans meet both the letter and the spirit of the law. In many instances, states have set high standards for veteran teachers, but they are accompanied by less rigorous provisions that provide a “trap door” through which teachers can escape the intent of the law.

5. Build State and Local Capacity

A growing number of schools are being labeled as “in need of improvement” at a time when state departments of education and local districts are experiencing budget and staff reductions. Nevertheless, states and districts must continue to build capacity for assisting schools in need of improvement. This may require reallocation of resources and new forms of collaboration.

Note: See Appendix A for Recommended Actions

This section includes NCLB requirements involving state academic standards and assessments; assessment of English-language proficiency; the inclusion of students with disabilities, migrant students and students who are learning English; and disaggregation of achievement results.

The ECS database reflects verification of enacted state policy, whether statute, rule, regulation or formal directive. The database does not include planned and implemented programs approved by the U.S. Department of Education as required by No Child Left Behind, but that are not yet reflected in final state policy. Information in the database and determinations made in this report are those of ECS alone. They do not reflect judgments upon or recommendations to individual states, nor do they imply ECS certification of individual state activity. Likewise, the information and determinations do not imply certification by or approval of the U.S. Department of Education.

Reading Standards

States have academic content standards in reading/language arts in grades 3-8 and high school as required under the 1994 Elementary and Secondary Education Act.

How States Are Doing

	March 2003	March 2004
Y	(25/49%)	(40/78%)
P	(26/51%)	(11/22%)
N	(0/0%)	(0/0%)
U	(0/0%)	(0/0%)

In March 2004, 40 states appeared to be on track to meet the Reading Standards requirement, compared with 25 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

Mathematics Standards

States have academic content standards in mathematics in grades 3-8 and high school as required under the 1994 Elementary and Secondary Education Act.

How States Are Doing

	March 2003	March 2004
Y	(26/51%)	(38/75%)
P	(25/49%)	(13/25%)
N	(0/0%)	(0/0%)
U	(0/0%)	(0/0%)

In March 2004, 38 states appeared to be on track to meet the Mathematics Standards requirement, compared with 26 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

Science Standards

States have academic content standards in science in one grade level 3-5, one grade level 6-9 and one grade level 10-12 no later than 2005-06.

How States Are Doing

	March 2003	March 2004
Y	(48/94%)	(48/94%)
P	(3/6%)	(3/6%)
N	(0/0%)	(0/0%)
U	(0/0%)	(0/0%)

In March 2004, 48 states appeared to be on track to meet the Science Standards requirement, the same as in March 2003.

- Y Appears to be on track
- P Appears to be partially on track
- N Does not appear to be on track
- U Unclear or data not available

Annual Reading Assessments

States administer a system of standards-based assessments in reading/language arts in grades 3-8 and in high school no later than 2005-06.

How States Are Doing

	March 2003	March 2004
Y	(17/33%)	(30/59%)
P	(34/67%)	(21/41%)
N	(0/0%)	(0/0%)
U	(0/0%)	(0/0%)

In March 2004, 30 states appeared to be on track to meet the Annual Reading Assessments requirement, compared with 17 in March 2003.

- Y Appears to be on track
- P Appears to be partially on track
- N Does not appear to be on track
- U Unclear or data not available

Annual Mathematics Assessments

States administer a system of standards-based assessments in mathematics in grades 3-8 and in high school no later than 2005-06.

How States Are Doing

	March 2003	March 2004
Y	(16/31%)	(29/57%)
P	(35/69%)	(22/43%)
N	(0/0%)	(0/0%)
U	(0/0%)	(0/0%)

In March 2004, 29 states appeared to be on track to meet the Annual Mathematics Assessments requirement, compared with 16 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

Assessments in Science

States administer standards-based assessments in science in one grade level 3-5, one grade level 6-9 and one grade level 10-12 no later than 2007-08.

How States Are Doing

	March 2003	March 2004
Y	(27/53%)	(37/73%)
P	(12/24%)	(7/14%)
N	(10/20%)	(7/14%)
U	(2/4%)	(0/0%)

In March 2004, 37 states appeared to be on track to meet the Assessments in Science requirement, compared with 27 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

Tennessee was the first state to implement annual assessments, preceding the enactment of NCLB by about 10 years. An online version of the state's academic standards, particularly reading, is notably clear and easy to navigate.

<http://www.state.tn.us/education/ci/cistandards2001/la/cienglishlanguagearts.htm>

Pennsylvania rules (22 PA. CODE CH. 403) require the implementation of a value-added assessment system to provide school districts with information and analyses that promote focused program improvement to increase performance. **Tennessee** established a value-added assessment system in 1997, and last year **Ohio** enacted H.B. 3 (Sec. 3302.021), which requires the state department of education to use a system designed for collecting necessary data, calculating the "value-added progress dimension," analyzing data and generating reports. The legislation prohibits the department from paying more than \$2 per student for data analysis and reporting, although it does not preclude the department or any district from entering into a contract for the provision of additional services at a higher fee per student.

In **Texas**, a section of S.B. 1108, enacted in 2003, requires the state commissioner of education to develop, in coordination with representatives of institutions of higher education and school districts, a diagnostic and assistance program for each subject assessed. The law also requires the commissioner to seek private funding to make available and maintain on the Internet each diagnostic and assistance program.

<http://www.capitol.state.tx.us/tlo/78R/billtext/SB01108F.HTM>

Legislation in **Utah** requires the state board of education to adopt rules for the conduct and administration of state assessments that allow teachers to review – prior to the start of the year – the test results for students who will be assigned to them. The law also allows districts to have tests administered and scored electronically to accelerate the review of test scores and their usefulness to parents and educators. Also, students' scores on the 10th-grade basic-skills competency tests are to be recorded on their transcripts.

In **Virginia**, H.B. 159, enacted in 2002, directed the state department of education to develop a Web site enabling educators to suggest improvements to the state's Standards of Learning. Another piece of legislation, also enacted prior to NCLB, provides that the Standards of Learning in all subject areas be reviewed and revised every seven years to maintain rigor and to reflect a balance between content knowledge and the application of knowledge.

In **Oklahoma**, a provision of H.B. 1414, enacted in 2003, requires testing window dates to be set as near to the end of the course as possible, with testing results to be delivered to school districts before the beginning of the next school year.

In **Arizona**, the state board of education has approved Superintendent Tom Horne's plan to reduce the amount of classroom time devoted to testing by combining elements of the Stanford 9 exam with Arizona's Instrument to Measure Standards test – meaning students will face only one standardized exam a year instead of two. The state has asked testing companies to write an exam that can be fully implemented – or at least field-tested – in the 2004-05 school year.

In **Illinois**, the preamble to Public Act 093-0426 states that school districts are "encouraged and expected to reduce the local assessments of students in the grades and subjects assessed by the state," once the state assessment system is fully in place in the 2005-06 school year. The act goes on to stipulate that, as of 2005-06, the maximum time allowed for all state testing in grades 3-8 is 38 hours across those grades.

<http://www.legis.state.il.us/legislation/publicacts/fulltext.asp?Name=093-0426>

In **Arkansas**, H.B. 1132, enacted in 2004, allows the state department of education to extend the deadline for test results if the deadline substantially increases the cost of administering the tests or compromises the validity of the test results.

<http://www.arkleg.state.ar.us/ftp/proof/bills/2003s2/public/HB1132.pdf>

Minnesota has established an 11-member assessment advisory committee to review all state assessments and submit recommendations to the state education commissioner and to legislative committees that have jurisdiction over K-12 educa-

tion policy and budget issues. Members of the committee, which expires in June 2014, are appointed by the commissioner.

See Section 11: http://www.revisor.leg.state.mn.us/cgi-bin/getbill.pl?session=1s83&version=latest&number=HF302&session_number=0&session_year=2003

In **North Dakota**, S.B. 2065, enacted in 2003, requires the state to develop and implement state assessments in reading/English language arts, mathematics and science in identified grades. Specific activities include: the development of state content standards and state achievement standards; the alignment of state content standards with test items; the development of future test items; the administration and scoring of student tests; the establishment of achievement cut scores related to the state achievement standards; the printing and dissemination of reports to students, schools, districts and the state; the development of school and district report cards and profiles; the use of student data analysis and reporting applications; and associated professional development and technical assistance to schools. The legislation stipulates the costs of developing and implementing the state assessments will be borne by the state and not by school districts.

Issues and Challenges

Resources. The costs of increased testing continue to be a major concern, especially for states that will have to add several subjects and grades to their assessment programs. Additionally, NCLB requires the use of standards-based assessments, which tend to be more expensive than basic, off-the-shelf exams. Grants to states, however, are available under the flexibility and accountability section of NCLB (Sec. 6111) to pay for developing additional assessments.

Turn-around time. If states administer assessments as late in the year as possible to maximize instructional time for the year, it is difficult to have results returned in time to calculate adequate yearly progress and provide adequate notice to schools and districts identified as “in need of improvement.”

Local control. This is an issue for states, such as **Nebraska** and **Iowa**, where assessments have traditionally been left to districts.

Narrowing the curriculum. Concerns have surfaced that NCLB’s focus on math and reading is prompting schools to emphasize those subjects at the expense of other subjects. A recent report by the Council for Basic Education, *Academic Atrophy: The Condition of Liberal Arts in America’s Public Schools*, suggests that schools are spending more time on reading, math and science but squeezing out social studies, civics, geography, languages and the arts. http://www.c-b-e.org/PDF/cbe_principal_Report.pdf

Computer-based assessments. The U.S. Department of Education has turned down requests by several states, including **South Dakota** and **Idaho**, to be allowed to use computer-based “adaptive” tests as part of their efforts to meet NCLB assessment requirements. The department, however, has accepted computer-adaptive tests if they are aligned to the state’s content and achievement standards, and meet other assessment requirements such as technical quality. Adaptive online testing adjusts the level of difficulty based on how well a student answers questions. With an increasing number of states using computer-based assessments for various subject areas, grade levels or special populations of students, it is likely that requests for approval of this form of testing will continue to be made.

Potential cheating. Several states have put policies in place to address the possibility that the pressure for improved performance might cause cheating. In **Michigan**, for example, the state treasury department is required to notify a school district or public school academy of suspected irregularities in the administration of state assessments or the preparation of students for the tests. District and school officials are given at least five days to respond before the suspected irregularities are reported.

<http://www.michiganlegislature.org/documents/2001-2002/publicact/htm/2002-PA-0592.htm>

Using longitudinal data. Most states will need assistance in learning how to manage and maximize the use of longitudinal achievement data. Traditionally, states have compared the performance of this year's 3rd graders, say, with last year's 3rd graders, rather than tracking cohorts of students – or individual students – over time. Options include a quasi-longitudinal approach, comparing, for example, the reading scores of 4th-grade students in 2003 with the 5th-grade reading scores of students in 2004; or a true longitudinal comparison, comparing each student's growth over a year with the statewide average, which helps pinpoint weaknesses in curriculum, programs or instructional strategies.

Assessment opt-outs. Most states have not addressed the impact of policies allowing parents to request their child not be required to participate in assessments. One notable exception is **California**, where Superintendent Jack O'Connell asked the state board of education to count students with opt-out waivers as having participated, but given a score of "not proficient."

Assessment of English Language Proficiency

States ensure school districts administer an annual assessment of English proficiency to all limited-English-proficient (LEP) or English language learner (ELL) students by the beginning of the 2002-03 school year.

How States Are Doing

	March 2003	March 2004
Y	(25/49%)	(47/92%)
P	(13/25%)	(1/2%)
N	(12/24%)	(3/6%)
U	(1/2%)	(0/0%)

In March 2004, 47 states appeared to be on track to meet the Assessment of English Language Proficiency requirement, compared with 25 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

In **New York**, school districts are required to identify and assess students with limited English proficiency through use of the Language Assessment Battery-Revised (LAB-R) test and the New York State English as a Second Language Test, respectively. Test results are reported in terms of designated levels of proficiency, not percentile scores.

<http://www.regents.nysed.gov/July2003/0703brca1.htm>

California Education Code Section 313 requires that the state department of education use multiple criteria in determining whether to reclassify a pupil as proficient in English, including but not limited to all of the following:

- Assessment of language proficiency using an objective assessment instrument, including but not limited to the English language development test
- Teacher evaluation, including but not limited to a review of the pupil's curriculum mastery
- Parental opinion and consultation
- Comparison of the pupil's performance in basic skills against an empirically established range of performance in basic skills based on the performance of English-proficient pupils of the same age, that demonstrates whether the pupil is sufficiently proficient in English to participate effectively in a curriculum designed for pupils of the same age whose native language is English.

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=00001-01000&file=313>

Issues and Challenges

High expectations. Expectations for developing speaking, reading and writing skills should be no lower for English language learners than for native English speakers or for students studying French, German or other foreign languages. If English language learners are to achieve higher expectations, schools will have to find ways of providing more time to help them formally learn English. This might require adding a classroom period to the school day, and staffing such classes with teachers trained in methodologies for teaching English as a second language or for teaching English language learners.

Calibrating the system. The exit criteria for English language learner programs must be periodically reviewed and adjusted to ensure students aren't leaving programs before they are ready or staying in programs too long. Some policies suggest retesting students one to two years after exiting such programs to make sure they were in fact ready to move on – and that they don't regress.



Inclusion of English Language Learners

States have a policy in place to ensure inclusion of 100% of English language learners (ELL) in state academic (reading/language arts, mathematics, science) assessments no later than the year specified for each subject.

How States Are Doing

	March 2003	March 2004
Y	(25/49%)	(47/92%)
P	(15/29%)	(4/8%)
N	(11/22%)	(0/0%)
U	(0/0%)	(0/0%)

In March 2004, 47 states appeared to be on track to meet the Inclusion of English Language Learners requirement, compared with 25 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

In **North Dakota**, a 2003 amendment to the state's funding formula for educating English language learners increased the amount of funding schools receive for students with poor English skills, ranging from a multiple of 10 for the lowest proficiency to a multiple of four for students with higher proficiency. It also requires districts to assess each eligible student using a proficiency test that is aligned to the state's English-language proficiency standards and test.

In **Texas**, S.B. 1108, enacted in 2003, requires the state commissioner of education to develop training materials and resources to assist teachers who are helping students with limited English proficiency to meet state performance expectations. Several months later, the state education agency announced the creation of a \$10 million effort to identify programs and practices that are achieving strong academic results with English language learners; to develop effective training for teachers of ELL students; to link teachers with research-based materials that produce strong academic results for these students; and to create additional educational support systems, such as newcomer centers for ELL students who have recently immigrated.

In **Virginia**, H.B. 2442 amended the state's Standards of Quality to require school boards to identify ELL students and enroll them in appropriate instructional programs. It also requires state funding for 10 full-time-equivalent instructional positions for each 1,000 students identified as having limited English proficiency.

Massachusetts has made wide-ranging changes in its bilingual education policies. Legislation enacted in 2003 established the Office of Language Acquisition to aid the state education commissioner in overseeing creation of district-level programs for English language learners, and to gather and disseminate to districts information on effective programs, practices and techniques for bringing ELL students to English proficiency.

Every school district is required, on an annual basis, to determine the number of limited-English-proficient K-12 students it serves, to provide information on the type of English language learners program it offers, and to report the number of students formerly enrolled as English language learners who enroll in postsecondary institutions. Limited-English-proficient students are required to be taught to the same academic standards and curriculum frameworks as all students. Student performance plans must describe opportunities given by the school to ensure students' progress in meeting reading, writing, speaking and listening skills in English, as well as opportunities given these students to meet academic standards and curriculum frameworks.

Districts are required to provide teachers with development in second-language acquisition techniques, and professional development plans are to be filed annually with the state commissioner. In addition, candidates for provisional or standard teacher certification or recertification must have completed state board-required courses in second-language acquisition.

<http://www.state.ma.us/legis/laws/seslaw02/sl020218.htm>

In 2004, Illinois lawmakers created a new testing option for English language learners who have been enrolled in bilingual education program for fewer than three cumulative academic years, and whose lack of English would prevent them from understanding test questions. Previously, such students were exempted from state tests. Now they may take an “accommodated” state test, the Illinois Measure of Annual Growth in English, for up to two years, until they are determined to be ready to take the regular state tests.

Issues and Challenges

Research. State policymakers need to encourage and invest in the development of research on the best ways to teach English language learners. Such research is particularly critical to helping urban school districts focus their limited resources on those approaches that have been scientifically proven to be effective. Research should focus on ways to enhance or adjust scientifically based approaches so they are effective not only in helping English language learners learn content but also in contributing to the development of their proficiency in English.

Quality of instructional programs. Teachers face the daunting task of simultaneously building literacy, developing writing ability and enhancing English language growth. Teaching students for whom English is a second language requires helping them with the double demands of acquiring a new language, while simultaneously mastering academic content. Given the range of different languages students speak and the great variations in home literacy levels and quality of preschool experiences, a one-size-fits-all approach will not work.

One option for states is to integrate teacher professional development in effective instruction for English language learners with the reading curricula used. Professional development efforts should focus on the actual ways and means of teaching students effectively – such as strategies for building vocabulary, “sheltered” instructional techniques and peer-assisted learning that pairs English language learners with native English speakers. Sheltered instructional techniques include strategies such as language modification (simplified, for example) or use of other supports such as bilingual dictionaries, slower speech, etc.

Test translation. According to a presentation made by Stanley Rabinowitz of WestEd at a 2003 ECS State Leader Forum, assessing reading and mathematics in students’ native language presents problems. Test translation is expensive, time consuming and problematic. It is difficult to determine in which languages and/or dialects to translate, tests cannot just be translated word for word, and schools need various support documents (e.g., manuals) and native-language proctors. There are scoring challenges as well as comparability, reliability and validity issues. An additional problem is students are often less literate in their native language than they are in English.

From the U.S. Department of Education

English language learner students, during their first year of enrollment in U.S. schools, are given the option of taking the reading/language arts content assessment in addition to taking the English language proficiency assessment. They would take the mathematics assessment, with accommodations as appropriate. States may, but would not be required to, include results from the mathematics and, if given, the reading/language arts content assessments in adequate yearly progress calculations.

In addition, for AYP calculations, states may for up to two years include in the English language learner subgroup students who have attained English proficiency. This would allow schools and districts to get credit for improving English language proficiency from year to year.

<http://www.ed.gov/nclb/accountability/schools/factsheet-english.html>

States should study and implement alternate solutions such as simplifying vocabulary within word problems on math exams. States also could develop an “item bank” for assessment questions – perhaps on a rolling five-year schedule.

Ideologies. Until recently, the dominant theory in bilingual education was that proficiency in a student’s native language is needed before full-time instruction in English can be provided. But according to a 1997 report by the National Academy of Sciences, *Improving Schooling for Language-minority Children: A Research Agenda*, there is virtually no research to support this position. Successful instructional programs do appear to include the following characteristics:

- Some native-language instruction
- For most students, a relatively early phasing in of English
- Teachers trained in instructing English language learners.

<http://www.nap.edu/openbook/0309054974/html/>

Early identification of student needs. Public policies should be developed to promote early screening of English language learners in reading. State policymakers should encourage urban school districts, in particular, to use screening measures in kindergarten and 1st grade to identify students in need of intensive early intervention. If students are in native-language programs, screening should be in their native language. If students are in an English-only program, assessment should be in English. Policymakers should be aware, however, that low scores on English assessments do not always signify a reading difficulty. Such low scores can also signify that a student has not yet been taught a particular skill in English and simply needs instruction.

Screening methods in early reading should be designed to focus on phonemic awareness and letter-naming fluency, as opposed to a student’s oral-language proficiency. English-language development, however, should remain a critical component of instruction.

Inclusion of Students with Disabilities

States have a policy in place to ensure inclusion of 100% of students with disabilities in state academic (reading/language arts, mathematics, science) assessments no later than the year specified for each subject.

How States Are Doing

	March 2003	March 2004
Y	(37/73%)	(51/100%)
P	(9/18%)	(0/0%)
N	(4/8%)	(0/0%)
U	(1/2%)	(0/0%)

In March 2004, 51 states appeared to be on track to meet the Inclusion of Students with Disabilities requirement, compared with 37 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

The **Indiana** assessment system includes an alternate assessment component, the Indiana Standards Tool for Alternate Reporting (ISTAR). With ISTAR, teachers rate students' performance on math and language arts standards and functional skills using evidence such as observation, work samples and portfolios. The ratings are tabulated to provide a score relative to the student's abilities, grade level and individual progress from one year to the next.
www.istar.doe.state.in.us

In **California**, S.B. 842, enacted in 2003, requires publishers to make basic instructional materials more accessible to students with disabilities. Print materials must have sharp, clear, high-contrast and highly legible fonts. Video products must be open captioned, meaning that all viewers see the captioned information. To provide a better match between individual performance and abilities, digital multimedia programs are required to allow the user to control the sizing of images and fonts, the speed and volume of audio, and colors and contrasts.

South Dakota has enacted legislation designed to help speed the production and availability of textbooks in Braille. The new law requires textbook publishers, on request, to provide the South Dakota State Library with electronic copies of texts that have been adopted by districts in the state.

Issues and Challenges

In a presentation made to a 2003 ECS State Leader Forum, Stanley Rabinowitz of WestEd noted the following problems:

- **Distinctions among disabilities.** The Individual Education Plan (IEP) created for special education students is customized, taking into account varying levels and types of disabilities. Much concern has arisen over the fact that NCLB, by contrast, treats students with disabilities as a single class of students.
- **Past practice.** In the past, the test scores of students with disabilities have been excluded from school accountability analyses. Now that their scores are being included, the adequate yearly progress failure rate is being linked to special education students, and it will be easy for the public and schools to blame "those kids." There is also a legacy of

From the U.S. Department of Education

Up to 1% of all students in the grades tested at the state or district level are allowed to meet an alternate achievement standard.

<http://www.ecs.org/ecsmain.asp?page=/html/issue.asp?issueid=195>

low expectations for students with disabilities. The track record of schools and districts in ensuring such students access to the general curriculum is, at best, uneven.

Rabinowitz identified the following needs:

- **Greater consistency** with federal and state statutes and regulations
- Support for the principle of **supremacy of the student's individual education plan (IEP)** in determining the most appropriate assessment and accountability standards for each disabled student
- **Adequate training** for administrators, teachers, parents and, most especially, IEP teams to ensure academic programs and assessment requirements reflect each student's full capabilities
- **Sufficient resources** for state assessment programs to develop a variety of accommodations for the full range of disabled students
- **Comprehensive monitoring** of school and district practices to identify and weed out abuses, and identify schools requiring additional professional development for staff.

Many parents, teachers and other stakeholders see the NCLB provisions regarding disabled students as an opportunity to improve the chances that such students will be provided an adequate education. The following excerpt from a position paper issued by the Washington State Special Education Coalition (WSSEC) summarizes the concerns and hopes of many stakeholders:

“Over the years, special education students have routinely had to start outside of regular education and somehow prove membership or otherwise earn their way back into the regular environment. They are indeed guaranteed individualized services and specially designed instruction, but in an effort to deliver those services, too often, segregated services have been used. This has inadvertently led to the isolation of these students and restricted the range of their educational and community possibilities. Individual, specially designed instruction remains essential but in no way necessitates isolation. The WSSEC believes it is time to recognize the value of a well-supported, diverse learning environment and to build that environment systematically and thoroughly for the benefit of ALL students.”

<http://www.wssec.org/content.php3?mode=contentID&contentID=9>

Inclusion of Migrant Students

States have a policy in place to ensure inclusion of 100% of migrant students in state academic (reading/language arts, mathematics, science) assessments no later than the year specified for each subject.

How States Are Doing

	March 2003	March 2004
Y	(27/53%)	(47/92%)
P	(17/33%)	(4/8%)
N	(6/12%)	(0/0%)
U	(1/2%)	(0/0%)

In March 2004, 47 states appeared to be on track to meet the Inclusion of Migrant Students requirement, compared with 27 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

Ohio law that preceded NCLB (Sec. 3301.30) requires the state department of education to (1) actively encourage, assist and support boards of education in applying for moneys for programs for preschool children of migrant agricultural laborers under Title I; (2) establish an official relationship with the **Texas** Education Agency and the **Florida** Department of Education to cooperate and exchange information concerning education for children of migrant agricultural laborers, and coordinate its activities and services for such children with those states and any other states that provide for such children; (3) take all necessary steps to compensate for the lack of continuity in instructional curriculum experienced by children of migrant agricultural laborers as a result of their parents' occupation; and (4) encourage boards of education to offer alternative evening and tutorial programs for children of migrant agricultural laborers and their families during late spring, summer and early fall.

Issues and Challenges

Potential invisibility. Under NCLB, migrant students must be included in the adequate yearly progress calculations if they have attended for the "full academic year" (defined differently by each state). By virtue of being migrant, however, they frequently move from area to area, school to school. This means their scores will be reported, but most likely not counted in AYP calculations. Policymakers and the media should be watchful of reported data for this subgroup to help ensure these students are being given equal opportunities to learn.

Mobility of the "whole child." Few, if any, states have addressed the critical issue of ensuring continuity of services to students who move frequently from school to school. One option for policymakers to consider is providing students with an "electronic backpack" of everything the next school needs to know about him or her – recent samples of work, test results, remediation provided or needed, and other information that will help smooth the student's transition and save teachers time and energy.

Disaggregation of Results

State, district and school level results are disaggregated and reported by required subgroups (race/ethnicity, low income, disability, English language learner, gender, migrant).

How States Are Doing

	March 2003	March 2004
Y	(13/25%)	(47/92%)
P	(25/49%)	(3/6%)
N	(12/24%)	(1/2%)
U	(1/2%)	(0/0%)

In March 2004, 47 states appeared to be on track to meet the Disaggregation of Results requirement, compared with 13 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

A number of states (including **Arkansas, Connecticut, Delaware, Florida, Georgia, Hawaii, Louisiana, Massachusetts, Minnesota, Mississippi, Oregon, South Dakota, Tennessee, Texas** and **Vermont**) currently have a statewide student identifier system that can be used to match records over time. In 2003, at least five states (**California, Michigan, North Dakota, Ohio** and **Wyoming**) enacted policies requiring the development of student information systems.

In **Michigan**, H.B. 4401, enacted in 2003, creates a “center for educational performance and information” within the state’s department of management and budget. Some of the center’s duties are to (1) coordinate the collection of all data; (2) collect data in the most efficient manner possible to reduce the administrative burden on reporting entities; (3) establish procedures to ensure the validity and reliability of the data and the collection process; (4) develop data collection policies, including but not limited to policies that ensure the privacy of individual student data; (5) provide data in a useful manner to allow state and local policymakers to make informed policy decisions; and (6) provide reports to citizens to allow them to assess resource allocation and the return on their investment in the education system. <http://www.michiganlegislature.org/documents/2003-2004/billenrolled/house/pdf/2003-HNB-4401.pdf>

Ohio has created a task force to study the state’s accountability system, make recommendations, periodically review fees for data analysis and reporting, periodically report to the department and state board, and examine the implementation of the “value-added progress dimension” and the reporting of performance data.

Issues and Challenges

Capacity. Disaggregation of achievement data is more difficult for states that do not have a sophisticated student information system.

New types and uses of data. Typically, schools have collected figures on free- and reduced-lunch eligibility on a schoolwide level, but they traditionally have not connected this information to the individual student level. Under NCLB, a major challenge for states will be figuring out how to make such connections, so achievement can be reported by low-income status, for example, and parents can be notified when their child is not being taught by a “highly qualified” teacher. Even in states with sophisticated student information systems, tying teacher data to student records adds

a new level of complexity, as that data has typically been maintained in separate systems (at the state level or higher education institution level). Interest in developing unique teacher identifiers is likely to grow. Several states, including **California, Kentucky, Texas** and **Virginia**, have already developed or are considering developing such identifiers.

Data quality. Few state policies have addressed the issue of data quality. For example, how are records on family income levels obtained, confirmed, updated and audited? Who assigns race/ethnicity status: The family? The student? School office personnel? The importance of establishing processes and controls for ensuring the quality of data likely will grow as states are compared with one another.

Gauging improvement. Traditionally, states have compared the performance of this year's 3rd graders, say, with last year's 3rd graders, rather than tracking cohorts of students – or individual students – over time. Options include a quasi-longitudinal approach, comparing, for example, the reading scores of 4th-grade students in 2003 with the 5th-grade reading scores of students in 2004; or a true longitudinal comparison, comparing each student's growth over a year with the statewide average.

Longitudinal data that can be disaggregated by different groups provides useful, accurate information about school and student progress. It allows educators and policymakers to:

- Look at student growth by school for different types of students (for example, are some middle schools preparing Hispanic students for high school better than others?)
- Identify which programs work best for which students at which ages
- Identify the relationship between early achievement levels and later student success
- Look more accurately at patterns of mobility and dropout rates across student groups.

This section includes requirements related to adequate yearly progress (AYP), including: single accountability system, inclusion of all students and schools, continuous growth to 100% proficiency, annual determination of AYP, accountability for all subgroups, definition of AYP based primarily on academics, inclusion of graduation rate and an additional indicator in the calculation of AYP, separate math and reading objectives, and 95% participation of each subgroup in assessments.

The intent of NCLB is to hold states accountable for improving all students' performance. States must determine whether schools make adequate yearly progress, as defined by each state and as measured by the following:

- All students' progress – as measured by annual statewide tests – toward proficiency in language arts/reading and math by 2013-14
- The progress of each subgroup of students – racial/ethnic, low income, students with disabilities and those with limited proficiency in English – toward proficiency on these tests
- Ninety-five percent participation of each subgroup in the tests
- All students' progress on two indicators – graduation rates, in the case of high schools, and a state-determined indicator for elementary and middle schools.

Schools receiving federal Title I funds that do not make AYP for two consecutive years are considered “in need of improvement” and face accumulating consequences for each year they do not make AYP. Further, such schools must make AYP for two consecutive years to be removed from “in need of improvement” status.

The ECS database reflects verification of enacted state policy, whether statute, rule, regulation or formal directive. The database does not include planned and implemented programs approved by the U.S. Department of Education as required by No Child Left Behind, but that are not yet reflected in final state policy. Information in the database and determinations made in this report are those of ECS alone. They do not reflect judgments upon or recommendations to individual states, nor do they imply ECS certification of individual state activity. Likewise, the information and determinations do not imply certification by or approval of the U.S. Department of Education.

Single Accountability System

States have a single statewide accountability system that applies to all public schools and local education agencies (LEAs), as required by the 1994 Elementary and Secondary Education Act (ESEA). (State operates a single accountability system for Title I and non-Title I schools).

How States Are Doing

	March 2003	March 2004
Y	(28/55%)	(41/80%)
P	(7/14%)	(5/10%)
N	(14/27%)	(4/8%)
U	(2/4%)	(1/2%)

In March 2004, 41 states appeared to be on track to meet the Single Accountability System requirement, compared with 28 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

Several states, including **Colorado** and **Florida**, have chosen to maintain their existing state accountability systems in tandem with the NCLB system.

Georgia is one of a number of states with a separate agency or office responsible for carrying out duties involving student accountability. The Office of Education Accountability (recently renamed the Office of Student Achievement) has responsibility for developing an accountability system that includes “expectations of student achievement, measurement of student achievement, databases of such measurements, analysis of such data for trends in achievement, interventions, awards, the intended and efficient expenditure of allotted education funds, and public awareness of all such components.”

http://www.legis.state.ga.us/cgi-bin/gl_codes_detail.pl?code=20-14-26

From the U.S. Department of Education

States have great flexibility in joining their current accountability systems with NCLB. Some states (e.g., California, Louisiana) used their current accountability systems as additional academic indicators. Other states (e.g., Virginia, North Carolina) decided to give their schools two separate ratings – a state rating and the NCLB AYP rating. A few states are using AYP as a conditional requirement for achieving the highest state rating. For example, Ohio schools can receive the top state rating only if they have not been identified for improvement.

<http://www.ed.gov/news/pressreleases/2004/01/01142004.html>

Issues and Challenges

One common approach has been to enact language stipulating that the state has a single statewide accountability system. In **Ohio**, for example, the state board of education in 2003 adopted the design for a “unitary accountability system” aimed at ensuring all schools and districts make adequate yearly progress.

www.ode.state.oh.us/Accountability/default.asp

In **South Dakota**, S.B. 40, enacted in 2003, creates a single accountability system that includes all schools, students and subgroups, and sets annual objectives based on math and reading scores.

Different sanctions. The rationale behind requiring a single accountability system is to prevent a “double standard” of expectations – one for Title I and one for all other schools. NCLB, however, does not require states to apply the same sanctions to low-performing non-Title I schools as to Title I schools. NCLB does require that state plans include sanctions and rewards to hold schools and districts accountable for student achievement and for ensuring they make adequate yearly progress [see Sec. 1111(b)(2)(A) (iii)]. In theory, states could apply the same sanctions to both types of schools, but it is unclear if such an approach is occurring on a wide basis.

As noted above, some states have chosen to operate their existing accountability systems in tandem with the NCLB system. Parallel systems such as these don’t necessarily constitute a double standard, assuming both systems apply equally to all schools, but they may produce confusion among parents, teachers and the media.

Inclusion of All Students and Schools

States have an accountability system that includes all public school students and schools. (No students or schools are exempt from state accountability system, including alternative schools, juvenile detention schools, special education, state-operated).

How States Are Doing

	March 2003	March 2004
Y	(30/59%)	(42/82%)
P	(9/18%)	(5/10%)
N	(12/24%)	(4/8%)
U	(0/0%)	(0/0%)

In March 2004, 42 states appeared to be on track to meet the All Schools (and Students) Included in Accountability System requirement, compared with 30 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

In **Delaware**, regulations specify that charter schools, and reorganized and vocational-technical school districts, are subject to rewards, sanctions and other accountability activities.

In **Illinois**, S.B. 878, enacted in 2003, specifies that a school district “includes other public entities responsible for administering public schools such as cooperatives, joint agreements, charter schools, special charter districts, regional offices of education, local agencies and the Department of Human Services.”

In **Texas**, AYP calculations include students confined by court order in a residential program or facility operated by or under contract with the Texas Youth Commission. But H.B. 2683, enacted in 2003, states that such students are not considered to be students of the school district in which the program or facility is located, and that their performance on tests or other academic indicators is to be determined, reported and considered separately from the performance of students in that district.

<http://www.capitol.state.tx.us/cgi-bin/tlo/textframe.cmd?LEG=78&SESS=R&CHAMBER=H&BILLTYPE=B&BILL-SUFFIX=02683&VERSION=5&TYPE=B>

Issues and Challenges

Definition of the academic year. How the full academic year is defined influences whether all students are really included in the accountability system. States have control over how the academic year is defined, and although no one would recommend that they take advantage of this flexibility to minimize the number of schools not making AYP, if a definition results in designations that are not “fair and accurate,” it is only reasonable to expect that adjustments be made.

From the U.S. Department of Education

A few states (such as Colorado) have defined full academic year as enrollment from test administration to test administration. Other states (including Michigan and New Mexico) have defined full academic year as enrollment from some predetermined head-count date in the fall to test administration. The application of this definition means that schools are only held accountable for those students they have an opportunity to teach for at least a full academic year – which is the intent of the law.

<http://www.ed.gov/news/pressreleases/2004/01/01142004.html>

Low-performing and/or transient students. While the pressure is on for states to make sure all students and schools – including juvenile delinquent and alternative schools (for expelled/suspended students) – improve performance and meet AYP targets, students served in these programs typically have major discipline and engagement problems. These schools typically are very low performing and in the past have probably not received the necessary attention and assistance to improve student achievement.

Student mobility. A related issue, which few states have addressed, has to do with student mobility. State policies need to ensure districts feel a sense of responsibility for low-performing students who come to them from other districts – whether they are there for a full academic year or not. Similarly, there should be a sense of responsibility on the part of the “sending” district to see that a struggling student’s new district is aware of his or her specific needs for support and assistance, rather than simply a feeling of “good riddance.”

High-achieving students. In a February 2, 2004, article entitled “In Era of Scores, Schools Fight Over Gifted Kids,” *Wall Street Journal* writer Daniel Golden describes how NCLB has exacerbated the tensions around certain programs for gifted students. If the scores of students attending special programs are counted in their neighborhood (home) school’s AYP calculations, the school in which the program is housed risks a significant loss in its test scores (because they can’t count the scores of the brightest kids). If the school that houses such programs counts gifted students’ scores in its AYP calculations, those students’ neighborhood (home) schools will probably be less inclined to allow or encourage talented students to leave to enroll in gifted programs.

Continuous Growth to 100% Proficiency

States have defined AYP based on expectations for growth in student achievement that is continuous and substantial, such that all students are proficient in reading/language arts and mathematics no later than 2013-14.

How States Are Doing

	March 2003	March 2004
Y	(7/14%)	(33/65%)
P	(21/41%)	(10/20%)
N	(23/45%)	(8/16%)
U	(0/0%)	(0/0%)

In March 2004, 33 states appeared to be on track to meet the Continuous Growth to 100% Proficiency requirement, compared with seven in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

In **Washington**, a section of H.B. 2012, enacted in 2003, created a pilot program aimed at encouraging school districts to provide early, intensive reading and language assistance to struggling students. Participating districts must agree to: (1) implement a tiered set of research-based instructional interventions that address reading and language deficits, (2) use multiple diagnostic instruments to identify the literacy needs of each student, (3) ensure parents are informed of diagnosed student needs and have input into which interventions are used, (4) actively engage parents as partners in the learning process, (5) comply with state special education requirements, and (6) participate in an evaluation of the program as determined by the state superintendent.

Prior to NCLB, **Virginia** enacted legislation requiring local school boards to develop and implement programs of prevention, intervention or remediation for at-risk students – those whose scores are in the bottom quartile on Virginia State Assessment Program tests or who fail to achieve a passing score on any Standards of Learning assessment in grades 3, 5 and 8.

In **Utah**, a section of an omnibus bill, S.B. 154, requires school districts to: administer progress-based assessments to help identify schools, teachers and students in need of remediation, and determine the resources needed to implement remediation; develop early warning systems for students or classes failing to make progress; work with the state office of education to establish a library of documented best practices; and implement training programs for school administrators that include how to help every child achieve optimal learning in core academics.

Texas has enacted legislation authorizing school districts to provide a flexible-year program for students who did not, or are unlikely to, perform well on certain assessments, and for those at risk of not being promoted to the next grade level. Districts may allow additional instructional days for such a program.

In **Ohio**, a section of H.B. 3, enacted in 2003, mandates that school districts provide intervention services to students who score below the proficient level on a required state assessment.

In **Kentucky**, legislation aimed at closing the achievement gap mirrors NCLB's emphasis on sustained progress toward 100% proficiency. S.B. 168 requires schools and districts to regularly review and revise their plans, strategies, activities and timelines for improving the achievement of specific groups of low-performing students.

www.lrc.state.ky.us/Statrev/ACTS2002/0302.pdf

Issues and Challenges

The goal itself. A number of state leaders and educators have questioned whether moving all students to 100% proficiency by 2013-14 is a realistic goal, especially for student groups that have traditionally not performed well. In an article entitled “No Child Left Behind: The Mathematics of Guaranteed Failure” in the winter 2004 issue of *educational HORIZONS*, Lowell C. Rose notes that “students who have had the greatest difficulty achieving must demonstrate the greatest progress.” He points to a significant body of research suggesting that improvement must be measured against the point at which students begin, and not by a single goal for all groups as is the case under NCLB. The law assumes, he says, “that improvement is continuous and consistent and that goals can be reached in a fixed time, regardless of the distance to be traveled.”
<http://www.pilambda.org/horizons/v82-2/Rose.pdf>

Low-performing schools. Some low-performing schools may never reach the ultimate goal of proficiency because the larger and/or more diverse the school, the greater the number of improvement indicators that apply and the more difficult it is to meet AYP targets from year to year. This problem has major ramifications in terms of states’ ability to achieve the 100% proficiency because they, too, are judged on whether they make AYP on an annual basis. (On the other hand, NCLB allows “safe harbor” if schools make a 10% reduction in the proportion of one of their student subgroups rated as not proficient. If that group also makes progress on one or more academic indicators, the school will be considered to have made AYP for that year.)

States must identify the specific needs of low-performing schools and ensure they receive assistance and resources to help them succeed. This will be a major challenge, since state departments of education staff have been significantly trimmed over the past years, and most departments do not adequately share information about effective interventions.

Clearly, states cannot wait until 3rd grade to intervene with low-performing schools and students. Too many students do not enter elementary school ready to learn and face an uphill battle from the start. States must invest more in prevention policies and programs, which may reduce the amount of intervention dollars spent later. In particular, state policymakers, education leaders and early learning experts should join forces to ensure all children are well-prepared prior to and after kindergarten.

Small schools. In an October 2003 report for The Rural School and Community Trust, Theodore Coladarci examines the difficulties involved in determining adequate yearly progress in small schools, where there is greater year-to-year volatility in achievement because of random variations in the student population. Coladarci suggests setting statistical “confidence intervals” that can be used to determine both achievement status and improvement, as well as reduce the likelihood that small schools, in particular, will be falsely identified as failing.
<http://www.ruraledu.org/docs/nclb/coladarci.htm>

Level playing field. States have been given flexibility to set proficiency levels on state exams. While this flexibility is supportive of state control, it could serve as a disincentive to set high expectations and exacerbate what are already notable variations in the rigor of exams from state to state.

Students in multiple subgroups. A Latino child who is just learning English and comes from a low-income family would fall into three subgroups. If that child is not proficient in reading, he or she would impact the proficiency level of all three groups – raising the likelihood that the school would not make AYP. For highly diverse schools, this situation would probably not be unusual.

From the U.S. Department of Education

While states have to ensure their intermediate goals increase in equal increments over the NCLB timeline, they have great flexibility in determining how often their intermediate goals increase. States can raise their intermediate goals every year or every two or three years. Alaska, Ohio and Arizona have created a trajectory that is more aggressive in the second half. Missouri’s trajectory increases in equal increments every three years. New Jersey’s trajectory increases every three years, where the increases are calculated based on an equal percent growth expectation. Illinois’ goals increase in 2005, 2007 and then annually until 2014. Arkansas’ and Washington’s goals increase every year until 2014. States also have the flexibility to set the same trajectory for all their schools or to establish different trajectories based on grade level.
<http://www.ed.gov/news/pressreleases/2004/01/01142004.html>

Annual Determination of AYP

States make annual determination as to whether all schools and districts have made adequate progress.

How States Are Doing

	March 2003	March 2004
Y	(27/53%)	(44/86%)
P	(14/27%)	(5/10%)
N	(9/18%)	(2/4%)
U	(1/2%)	(0/0%)

In March 2004, 44 states appeared to be on track to meet the Annual Determination of Adequate Yearly Progress requirement, compared with 27 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

In **New Hampshire**, the accountability system includes “statewide performance targets for all schools, and systematic measurement of school performance at the state and local levels.” The system includes a ranking of each school and district based on the percentage increase of improvement as compared with its performance in the previous year.

Massachusetts law requires the state board of education to “adopt a system for evaluating on an annual basis the performance of both public school districts and individual public schools.”

Issues and Challenges

Number of schools not making AYP. According to *Education Week*, the percentage of schools failing to make AYP in the 2002-03 school year varied from a low of 8% in **Minnesota** to a high of 87% in **Florida**. Initial numbers from three states (**Kansas**, **Texas** and **Connecticut**) identified 10-20% of their schools as not meeting AYP, while two states (**South Carolina** and **Idaho**) identified between 70% and 80%. The variations are primarily a result of the difference in standards and proficiency levels across states, and some officials in states with a large number of schools on the list have voiced concern that their states are being “punished” for having high standards. A number of other areas in which NCLB allows flexibility – minimum size of subgroups, the selection of factors used to calculate AYP, the targets for incremental improvements and how a full academic year is defined – also contribute to how many schools make the “need improvement” list.

Variations in state reporting. The reporting of school performance varies widely from state to state. Reporting may take the form of one or more of the following: (1) a statewide list of schools that did not make AYP, (2) a list of only Title I schools that did not make AYP, (3) a list of schools that did not make AYP based on 2002-03 test results only, (4) a list of schools that did not make AYP in previous years, and (5) a list of schools that did not make AYP and/or schools “in need of improvement. Only the last reporting variation (5) is required by NCLB.

Some states provided the percentage and number of schools that did not make AYP for particular reasons (X number did not test 95% of all student groups, for example, or in X number of schools, one or more student subgroups missed performance targets). Some states reported the number of AYP indicators that schools did not meet (X number of schools missed between one to five indicators, for example, or X number of schools missed six to 10 indicators).

Indicator 2

Adequate Yearly Progress (AYP)

Most states did not provide a breakdown of the number and percentage of schools subject to various levels of consequences (such as being required to offer choice options or supplemental services, or being eligible for technical assistance). Several states did not report AYP lists until after the beginning of the year, so parents were unable to take advantage of choice options. NCLB, though, only requires states to report schools “in need of improvement” before the beginning of the school year.

Data collection. Questions are emerging about how to improve the quality of data and the efficiency and usefulness of student information systems.

Accountability for All Subgroups

States hold all public schools and districts accountable for the achievement of four individual subgroups (racial/ethnic, low income, students with disabilities and those with limited English proficiency).

How States Are Doing

	March 2003	March 2004
Y	(9/18%)	(46/90%)
P	(15/29%)	(3/6%)
N	(24/47%)	(2/4%)
U	(3/6%)	(0/0%)

In March 2004, 46 states appeared to be on track to meet the Accountability for All Subgroups requirement, compared with nine in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

Three states (**Nebraska**, **Ohio** and **Wisconsin**) and one territory (**Puerto Rico**) set a higher minimum number for the students-with-disabilities subgroup.

In determining the size of student subgroups for AYP purposes, states are about evenly split between those that have chosen to use solely a minimum number – ranging from 50 students at the high end to five students at the low end – and those using a minimum number in conjunction with a “confidence interval.” Only one state – **Montana** – uses solely a confidence interval approach. **North Dakota** does not set a subgroup number, but compares data over several years to determine subgroup performance (and also uses a confidence interval of 99%); and **Oregon** requires 42 test scores for accuracy.

In a few states, accountability for subgroups does not appear to be required by law or by rules and regulations, but in practice these states – **Arizona** and **Hawaii**, for example – do hold schools and districts accountable for the achievement of individual subgroups.

Some states, such as **Arkansas**, require AYP calculations to match the student subgroups defined in NCLB. Other states use more-specific categories. In **Delaware**, for instance, subgroups are delineated, for AYP purposes, as: children with disabilities; economically disadvantaged students; students with limited English proficiency; and race/ethnicity, divided into African American/black, American Indian/Alaska native, Asian/Pacific Islander, Hispanic and white.

Issues and Challenges

Impact of reporting subgroup data. In the past, achievement information for students with disabilities, English language learners and students from low-income families has rarely been made public. This data could be used to excuse poor performance, or it could serve as a catalyst for making sure more students in these groups are provided access to the general curriculum – and to higher expectations. State policies can help ensure the latter.

Fine-tuning subgroup sizes. As implementation proceeds, it is likely that states will adjust minimum subgroup sizes – especially if the group size strongly impacts the number of schools not making AYP. For example, **Maryland** set its minimum subgroup at five, and will use statistical significance tests to ensure AYP determinations are fair and accurate for subgroups of varying sizes. If they are found not to be, it would not be unreasonable for the state to consider raising the minimum. The same holds true for states such as **California**, which have set considerably higher minimum subgroup sizes.

From the U.S. Department of Education

States have the flexibility to determine what constitutes a major racial or ethnic subgroup. Texas, for example, only designates subgroups as major racial or ethnic groups when they constitute a certain percentage of the state population. In practice, there are only three ethnic subgroups in Texas' AYP definition: African American, Hispanic and white.

<http://www.ed.gov/news/pressreleases/2004/01/01142004.html>

“Invisible” students. Scores for students who don't remain at any given school for the full academic year but move around within the district would count at the district level. But if students change schools across district lines and do not attend for a full academic year in any district, they might not be included in any AYP calculation. Achievement data for these students would be reported at all levels, however. States might consider policies to provide incentives for schools and districts that truly make an effort to ensure unusually mobile students don't slip through the cracks.

High-diversity, high-need schools. According to a December 2003 report by Policy Analysis for California Education (PACE), the more diverse the school, the more likely it is to not make AYP. The PACE report recommends that state boards of education include in NCLB plans their own method for closing achievement gaps and consider a simpler set of subgroups. The triple counting of Latino children with limited English proficiency from low-income families, for example, does little to help educators reallocate resources inside schools.

http://pace.berkeley.edu/policy_brief_03-4_Pen.Div.pdf

State policymakers also need to consider ways of increasing awareness and encourage sharing of practices that have proven successful in schools serving large numbers of high-need students. A recent report by the Virginia Joint Legislative Audit and Review Commission found that successful “challenged” schools had leaders who recognize and address gaps between student needs and actual levels of support provided. Such schools, the report said, set high expectations for all students, address a wide range of behavioral problems, and continuously assess how they can compensate for a lack of parental support – creating after-school and Saturday programs, for example, or buying alarm clocks for students who can't rely on their parents to wake them.

AYP Based Primarily on Academics

States have defined AYP based primarily on student performance on their state's academic assessments.

How States Are Doing

	March 2003	March 2004
Y	(30/59%)	(44/86%)
P	(13/25%)	(4/8%)
N	(6/12%)	(3/6%)
U	(2/4%)	(0/0%)

In March 2004, 44 states appeared to be on track to meet the Primarily Based on Academics requirement, compared with 30 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

In **Arkansas**, S.B. 33, enacted in 2003, specifies that the calculation of “annual improvement gains” or “student learning gains” is to be based on students’ academic progress from one year to the next on nationally normed assessments, and that the “annual performance” of schools and districts is to be based on student achievement on state-mandated criterion-referenced exams.

<http://www.arkleg.state.ar.us/ftp/acts/2003s2/public/act35.pdf>

State board policy in **Michigan** identifies academics as the primary factor in AYP determination, and state statutes require schools to show progress over multiple years. State law, however, precludes pupil performance from being the only factor used in the state accreditation process.

New Mexico's school ratings primarily consider academics, but also take into account graduation and dropout rates, attendance rates, parent and community involvement, and school safety.

<http://www.nmcpr.state.nm.us/nmac/parts/title06/06.019.0001.pdf>

California's Academic Performance Index (API) is based primarily on performance on state assessments.

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=52001-53000&file=52051-52052.5>

Issues and Challenges

Emphasis on testing. Many state policymakers and educators have voiced concern over what they see as an over-reliance on unproven assessment methodologies, and have questioned whether the science of large-scale assessment is equal to the task assigned to it by NCLB. Some argue that test results provide only part of the picture of a school's success and accomplishments. Many schools, for example, have reduced discipline problems, increased parental involvement and demonstrated in other ways that they are providing a safe and engaging learning environment for their students.

Indicator 2

Adequate Yearly Progress (AYP)

AYP Definition Includes Graduation Rate and an Additional Indicator

States have AYP definitions that include graduation rates for high schools and an additional indicator for middle and elementary schools.

How States Are Doing

	March 2003	March 2004
Y	(20/39%)	(37/73%)
P	(15/29%)	(7/14%)
N	(16/31%)	(7/14%)
U	(0/0%)	(0/0%)

In March 2004, 37 states appeared to be on track to meet the Includes Graduation Rate and Additional Indicator requirement, compared with 20 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

Attendance is the most common “additional indicator” states are using to measure the annual progress of elementary and middle schools – in combination, in some cases, with various other indicators.

In **Texas**, S.B. 894, enacted in 2003, requires the state education commissioner to develop a process for auditing school district dropout records electronically. Schools identified by the audit as being at high risk of having inaccurate records are subject to having their records monitored by an on-site state team.

<http://www.capitol.state.tx.us/tlo/78R/billtext/SB00894F.HTM>

In **Arizona**, a high school is required to have a four-year graduation rate of 70.5% (or show a 1 percentage-point improvement over its graduation rate the previous year), and an elementary school is required to have a 94% attendance rate (or show a 1 percentage-point improvement over the previous year’s rate). The 94% figure is based on the expectations for school attendance rates set by the state’s school finance laws.

Rhode Island has set a goal of improving its baseline attendance rate – currently, 90% – to 95%. Schools with attendance rates that fluctuate between 90% and 95% are considered to have met the state’s expectations.

Minnesota is one of several states whose indicators include both graduation rates and dropout rates, in addition to average daily attendance.

Issues and Challenges

Accuracy and usefulness of current data. Current methods of calculating graduation rates do not provide an accurate picture of the number of students failing to complete high school. A new report from the Urban Institute Education Policy Center offers an alternative method – called the Cumulative Promotion Index, or CPI, which requires accurate information on enrollment and diploma counts, rather than the notoriously unreliable dropout data on which other methods rely. Using this method, the Urban Institute researchers found that the national graduation rate is just 68%, with roughly one-third of all high school students failing to complete high school on time.

In addition, only 30 states currently publicly disaggregate graduation rates by subgroups for at least two of the three levels (state, district and school) required by NCLB (*ECS StateNote*, “Report Cards,” 2004).

AYP Based on Separate Math and Reading Objectives

States have AYP based on separate reading/language arts and math achievement objectives.

How States Are Doing

	March 2003	March 2004
Y	(22/43%)	(40/78%)
P	(10/20%)	(9/18%)
N	(17/33%)	(2/4%)
U	(2/4%)	(0/0%)

In March 2004, 40 states appeared to be on track to meet the Based on Separate Math and Reading Objectives requirement, compared with 22 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

How States Are Doing

In **South Dakota**, S.B. 40, enacted in 2003, requires that annual measurable objectives in both reading and mathematics be established to ensure continuous and substantial academic improvement of the achievement of all students (and all subgroups of students).

Washington has adopted a policy that requires schools and districts to establish separate reading and mathematics improvement goals.

<http://www.k12.wa.us/accountability/041203%20New%20LanguageClean.pdf>

Issues and Challenges

Narrowing the curriculum. Concerns have surfaced that NCLB's focus on math and reading is prompting schools to emphasize those subjects at the expense of other subjects. A recent report by the Council for Basic Education, *Academic Atrophy: The Condition of Liberal Arts in America's Public Schools*, suggests that schools are spending more time on reading, math and science but squeezing out social studies, civics, geography, languages and the arts.

http://www.c-b-e.org/PDF/cbe_principal_Report.pdf

Indicator 2

Adequate Yearly Progress (AYP)

95% of Students in All Subgroups Assessed

For schools to make AYP, states ensure at least 95% of students in each subgroup enrolled are assessed.

How States Are Doing

	March 2003	March 2004
Y	(11/22%)	(43/84%)
P	(14/27%)	(6/12%)
N	(26/51%)	(2/4%)
U	(0/0%)	(0/0%)

In March 2004, 43 states appeared to be on track to meet the 95% of Students in All Subgroups Assessed requirement, compared with 11 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

To address the problem of truancy, **North Carolina** has passed legislation requiring school principals to report to the district attorney and county social-service authorities any student who has 10 absences, if the principal finds that the student’s parent has not made a good-faith effort to comply with the law. It is then up to the director of social services to determine whether to undertake an investigation.

<http://www.ncga.state.nc.us/html2003/bills/AllVersions/Senate/S421vc.html>

In **Arizona**, guidance to schools and districts from the state department of education on the grounds for appealing AYP determinations (*Arizona’s Accountability System: Volume II Technical Manual*) makes explicit that elementary schools have a two-week window in which students can make up exams they missed.

Issues and Challenges

Truancy and dropout rates. Schools’ ability to ensure all but a small percentage of their students, across subgroups, participate in statewide testing is crucial to meeting the AYP provisions of NCLB – and thus avoiding the possibility of being identified as a school “in need of improvement.”

In **Georgia**, for example, roughly two in three of the 846 schools across the state that did not make AYP failed to do so solely because they did not meet the 95% test-participation requirement, according to a September 2003 announcement by the state department of education. State Schools Superintendent Kathy Cox said the statistic – which isn’t surprising considering Georgia’s truancy and dropout problems – underscores the importance of improving student attendance rates.

Absences and “opt-outs.” NCLB leaves the administrative details of testing up to states, including what to do about students who are absent on test days because of illness or other legitimate reasons. While some states have adopted

From the U.S. Department of Education

States will be able to average participation rates over a three-year period, and if this average meets or exceeds 95%, the school will still meet the AYP requirement. Thus, schools that are performing well in this category may not be identified as “in need of improvement” because of a one- or two-year dip in their participation rates. In addition, students who are unable to take the test during the testing and make-up windows because of a unique, significant medical emergency will not count against the school’s participation rate.

<http://www.ed.gov/news/pressreleases/2004/03/03292004.html>

policies allowing make-up tests and/or giving schools the flexibility to schedule assessments during “testing windows,” most states have yet to address this issue. Nor have most states addressed the impact of policies allowing parents to request that their child not be required to participate in assessments. One notable exception is **California**, where Superintendent Jack O’Connell asked the state board of education to count students with opt-out waivers as having participated, but given a score of “not proficient.”

Clearly, meeting the 95% test-participation requirement has emerged as a make-or-break factor in schools’ ability to demonstrate adequate yearly progress. State policymakers can improve schools’ chances of doing so by ensuring test-administration policies are as clear, coherent and flexible as possible.

This section includes NCLB requirements involving timely identification of schools in need of improvement, corrective action and restructuring; the provision of technical assistance to such schools; public school choice; rewards and sanctions; school recognition; school restructuring; and corrective action for local education agencies.

The ECS database reflects verification of enacted state policy, whether statute, rule, regulation or formal directive. The database does not include planned and implemented programs approved by the U.S. Department of Education as required by No Child Left Behind, but that are not yet reflected in final state policy. Information in the database and determinations made in this report are those of ECS alone. They do not reflect judgments upon or recommendations to individual states, nor do they imply ECS certification of individual state activity. Likewise, the information and determinations do not imply certification by or approval of the U.S. Department of Education.

Timely Identification

States identify schools in need of improvement, corrective action or restructuring before the start of the school year, and ensure that school districts notify parents in a timely fashion.

How States Are Doing

	March 2003	March 2004
Y	(4/8%)	(27/53%)
P	(36/71%)	(23/45%)
N	(11/22%)	(1/2%)
U	(0/0%)	(0/0%)

In March 2004, 27 states appeared to be on track to meet the Timely Identification requirement, compared with four in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

Many states are taking advantage of the flexibility NCLB allows in terms of how and when schools in need of improvement are identified.

Arkansas, for example, requires that schools in need of improvement be identified and reported annually by May 1 for the following year.

Some states provide notice by publishing report cards that include the performance status of schools. **Delaware**, for example, requires that school profiles be available on the state department of education's Web site on or before August 1 of each year.

A few states have adjusted their assessment programs and/or taken advantage of developments in testing and technology to help them more quickly diagnose and intervene in low-performing schools.

In **Arizona**, for example, the state board of education has approved Superintendent Tom Horne's plan to reduce the amount of classroom time devoted to testing by combining elements of the Stanford 9 exam with Arizona's Instrument to Measure Standards test – meaning students will face only one standardized exam a year instead of two. The state has asked testing companies to write an exam that can be fully implemented – or at least field-tested – in the 2004-05 school year.

In **Oklahoma**, a provision of H.B. 1414, enacted in 2003, requires testing dates to be set as near to the end of the course as possible, with test results to be delivered to school districts before the beginning of the next school year.

Issues and Challenges

Availability of test results. For a variety of reasons – ranging from states’ testing schedules to slow and overburdened data processing to inadequate dissemination plans – test results are not always available well before the beginning of the school year.

Errors in test results and miscalculation of the number of schools in need of improvement. The following headlines illustrate the problem: “**Michigan** test data: Four months late and counting” (*Education Week*, September 24, 2003); “Errors fill state testing data; Meaningful conclusions in doubt” (*Chicago Tribune*, December 19, 2003); “Thousands of exams tossed out by state” (*Chicago Tribune*, December 28, 2003); “**Connecticut** tests delayed by scoring glitches” (*Education Week*, February 11, 2004); “Failing schools underreported” (*Washington Times*, January 14, 2004). A certain number of bugs in the system should be anticipated, but the more bugs there are, the more public confidence is reduced. As the stakes increase, so will the demand for timely and accurate data.

From the U.S. Department of Education

States can make identifications on the basis of preliminary analysis, identify the schools directly with public announcements to follow or roll out the identification of schools. Because of its testing schedule, Connecticut will identify elementary and middle schools in need of improvement in the spring and high schools in the fall. Idaho first released its list of Title I schools identified for improvement in early August and followed with preliminary AYP reports for all schools in November. South Carolina made preliminary identifications in mid-August, with the public release of information in late September.

<http://www.ed.gov/news/pressreleases/2004/01/01142004.html>

Technical Assistance

States have systems in place to provide “scientifically based” technical assistance to schools identified for school improvement, corrective action and restructuring, and states have made LEAs aware of their technical assistance responsibilities to schools implementing improvement plans.

How States Are Doing

	March 2003	March 2004
Y	(5/10%)	(23/45%)
P	(42/82%)	(25/49%)
N	(4/8%)	(3/6%)
U	(0/0%)	(0/0%)

In March 2004, 23 states appeared to be on track to meet the Technical Assistance requirement, compared with five in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

States have adopted various technical assistance approaches, including scientific- or criteria-based models, successful-school models and programs focusing on developing principals who specialize in turning around struggling schools.

In **Arkansas**, S.B. 46, enacted in 2004, created a program to be administered by the Arkansas Leadership Academy that provides annual bonuses for qualified principals serving in schools in academic distress. The three-phase program will focus on: expanding the knowledge base and leadership skills of the principal, requiring the principal to apply strategies and collect evidence of improvement in student learning and school processes, and requiring the principal to publicly demonstrate the ability and skills that lead to sustained academic improvement. State-paid bonuses will be highest for “master” principals serving in the highest-need schools – up to \$25,000 a year, with an additional \$15,000 after three years and another \$10,000 after five years.

Virginia has established criteria for reading and math models or programs and published a document describing those that have been approved by the state board of education, along with instructional materials that have proved successful with low-achieving students. In addition, Governor Mark Warner has created a program designed to develop a cadre of principals that specialize in turning around chronically troubled schools. The training program, which will develop 10 specialists a year for two years, will focus on business and education strategies that have proved effective in turning around low-performing organizations. Each specialist will serve under contract as the principal of a low-performing school for a minimum of three years. Specialists will be eligible for incentives such as additional retirement benefits or deferred compensation.

In **North Carolina**, H.B. 797, enacted in 2003, requires the state board of education to: identify schools that successfully made AYP; study the instructional, administrative and fiscal practices and policies used by these schools; and create assistance models based on these policies and practices, with the assistance of the schools of education in the state university system and the University of North Carolina Center for School Leadership Development. Technical assistance is to be provided first to those districts with high concentrations of schools that are not meeting AYP. The state board must determine the number that can be served effectively in the first two years.

In **Tennessee**, schools that are not making AYP receive intensive weekly services on site through the Tennessee Exemplary Educator Program. The program targets schools with the greatest need to improve student achievement. In collaboration with the Appalachian Educational Laboratory, the state selects and provides training to a cadre of recently

retired educators who work for the department as independent contractors. They model innovative teaching strategies, serve as mentors to principals and teachers, analyze student performance data, connect schools with professional development providers, and build capacity for continuous improvement. These individuals begin working with a school once it has been identified by the state and put on notice that it is in need of improvement, and continue to work with the school until it makes AYP for two years.

<http://www.state.tn.us/education/acctemplaryeducator.htm>

In **West Virginia**, H.B. 4002, passed in 2002, requires the state board of education to establish a competitive program that will allow schools to apply for funds to implement programs to strengthen student learning ability. The highest priority will be given to pre-kindergarten and elementary schools. Proposed programs must include: assessment of the cognitive abilities of students; physical screening to identify barriers to a student's ability to learn; development of a student-specific program to improve learning ability, based on the results of the assessment and physical screening; and administration of learning development exercises. Programs also must be evaluated for their impact on student test scores, referrals to special education and other measures of performance.

South Dakota is offering technical assistance through the Internet – a great idea for a well-wired, sparsely populated state. Schools identified as “under improvement” must submit a plan identifying how their improvement activities will use scientifically based practices. The state department of education offers a page on its Web site providing guidelines for determining what constitutes scientifically based practice, and allowing schools to submit queries about specific practices. In 2003, the department also hosted workshops in Rapid City, Pierre and Sioux Falls to help schools identify scientifically based research.

<http://www.state.sd.us/deca/NCLB/scientificbasedresearch.htm>

In **Rhode Island**, the state's System for Improving Low-performing Schools is a collaborative process designed to actively engage schools and districts, and provide “progressive support and intervention” that is tailored to their varying needs, interests and strengths rather than one-size-fits-all. The state also requires that strategic plans for technical assistance in reading, math and writing document a scientific research basis.

http://www.ridoe.net/schoolimprove/salt/resources/prog_support.doc

Ohio is one of the few states that surveys districts and schools on the performance of the state department of education, as part of its use of the Baldrige continuous-improvement model. Here is a link to the department's application for the Ohio Award for Excellence. See 7.1 Customer Focus Results.

<http://www.ode.state.oh.us/baldrige/PDF/OAETier2App-2001.pdf>

In **Delaware**, the state department of education commissions an annual survey by an independent entity to determine the level of satisfaction among constituencies – school boards, school administrators, teachers, parent organizations and the business community – dependent on the department's services and policies. The business community plays an active role in reviewing the department's management practices, evaluating the quality of its strategic plan and objectives, and determining the cost-effectiveness of the technical assistance it provides to school districts.

Issues and Challenges

Lack of capacity. Providing high-quality, sustained technical assistance to low-performing schools poses a challenge for states, particularly those in which state education departments have experienced cutbacks. To compensate for limited staff capacity, some states are trying to develop a library of successful practices and new program evaluation tools – with a focus on the encouragement of research at the school and classroom levels (i.e., an inquiry-based approach in which teachers learn to look at data and develop potential solutions). A related challenge is the requirement that states provide evidence their technical assistance is getting results or is founded on the “scientifically based research” principles itemized in NCLB. Few states currently evaluate the quality of their services – let alone the quality of technical assistance.

Other specific challenges for states include:

- How to more effectively identify and disseminate successful models not only for improving reading, math and science instruction, but also for improving student performance in all subjects, teacher professional development and school leadership practices.
- How to reallocate resources and build capacity. In a recent report by ECS for the state of **Washington**, school accountability officials noted the critical importance of adequate funding for interventions. Some contend that using a free-market approach to providing technical assistance to low-performing schools will ensure the highest quality of service.
- How to make better use of regional service centers to provide professional development and technical assistance to districts. How are these centers held accountable for their performance? To whom do they report? What measures determine their performance? What happens if they don't perform well?

Public School Choice

If schools fail to make AYP for two consecutive years, states identify those schools as needing improvement. State public school choice laws must allow students in those schools the option to transfer to a school within the district that has not been identified as needing improvement, unless such an option is prohibited by state law. The district continues to provide students with this option as long as a school fails to make AYP.

How States Are Doing

	March 2003	March 2004
Y	(25/49%)	(34/67%)
P	(23/45%)	(16/31%)
N	(3/6%)	(1/2%)
U	(0/0%)	(0/0%)

In March 2004, 34 states appeared to be on track to meet the Public School Choice requirement, compared with 25 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

According to ECS research, no states prohibit the transfer of students from schools in need of improvement to schools not in need of improvement. (Thirty-four states explicitly allow students to transfer to other schools within their districts, while 17 states don't explicitly allow such transfers.)

Several states have enacted public school choice laws that are specifically targeted to students in low-performing schools. For example, public school choice laws in **Georgia**, **Oklahoma** and **Tennessee** allow students in low-performing schools to attend a different school within their school district.

In **Arkansas**, a new law – the Opportunity Public School Choice Act of 2004 – requires parents and students to be notified as soon as practicable once a school has been designated Level 1 performance (lowest level) for two or more consecutive years. School transfer is one available student option, and the state is responsible for transportation of students.

Some states and districts are looking beyond traditional public schools to offer the necessary choices to students in low-performing schools, including charter schools and publicly funded voucher programs.

For example, in 2003, **Colorado** enacted a publicly funded voucher law that applies to 11 school districts that had at least eight schools categorized as “low” or “unsatisfactory” in the state’s accountability system for the 2001-02 school year. To receive a voucher in these 11 districts, a student must be eligible to receive a free or reduced-cost lunch and meet other requirements, depending on his or her grade level. Eligible students may use a voucher to attend a private or parochial school that is participating in the program. (This law is being challenged in court.)

Under a publicly funded voucher law enacted in **Florida** in 1999, students in any school rated “F” for two out of four years by the state’s accountability system may use an opportunity scholarship to attend a higher-scoring public school or a private or parochial school.

Issues and Challenges

Numbers exceed supply. In many states, it appears the student population eligible for transfer opportunities far exceeds the supply of seats in higher-performing schools. In some states – such as **Kentucky, Louisiana** and **Texas** – school-choice laws were written to anticipate this problem and allow students to transfer to schools outside their district, if the other district agrees to accept them.

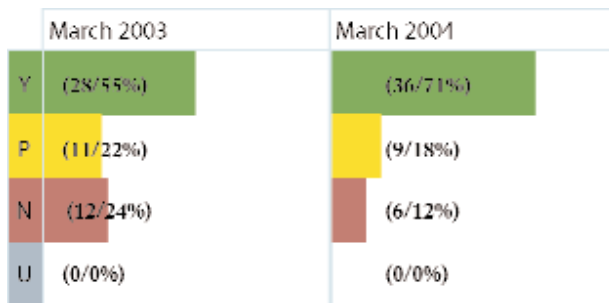
Lack of incentives to accept transfers. According to ECS research, no states currently offer incentives to encourage districts to accept students transferring from other districts. Many districts and schools are reluctant to take students from low-performing schools for fear this could increase their chances of not making AYP. Incentives might take the form of additional state funding or a one- or two-year “safe harbor” (with the approval of the U.S. Department of Education) for schools before they are held accountable for students who transfer.

Timely, straightforward notice. Concerns have arisen over whether states are identifying schools in need of improvement in a way that gives districts enough time to notify parents of their right to transfer their children. There are concerns, too, over varying degrees of forthrightness on the part of districts in informing parents of their options. In some cases, states provide districts with templates for such written notifications.

Rewards and Sanctions

States have implemented a system of rewards and sanctions for all schools (both Title I and non-Title I) based on AYP.

How States Are Doing



In March 2004, 36 states appeared to be on track to meet the Rewards and Sanctions requirement, compared with 28 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

Arkansas, California and Texas provide monetary and non-monetary rewards to schools based on absolute and improved performance. At the other end of the spectrum, these states require low-performing schools to create and implement improvement plans, and have the authority to place them on probation, remove their accreditation, reconstitute them, close them and take them over (Arkansas and Texas) or reconstitute them, close them and take them over (California).

Issues and Challenges

“Triggers” for rewards and sanctions. Most states had a system of rewards and sanctions for individual schools in place prior to the enactment of NCLB. A major challenge for these states has been how to implement the system of rewards and sanctions required by NCLB in harmony with the systems already in place.

The “triggers” in states’ existing rewards-and-sanctions systems vary widely. For example, the trigger for a reward might be a school’s hitting an absolute performance level, such as 80% of its 4th-grade students achieving the proficiency target on the state reading and math tests. Or the trigger for a sanction might be a school’s landing in the lowest-performing category for five consecutive years on the 4th-grade state reading and math tests.

By contrast, the trigger for NCLB’s system of rewards and sanctions is whether or not schools meet their AYP targets. The law doesn’t specify which rewards must be given at what level of performance (except that states are required to designate schools as “distinguished” if they have made the greatest gains in closing the achievement gap or exceeded AYP). But it does specify the range of sanctions that must be put in place at certain points in time for Title I schools. States also are required to have sanctions for non-Title I schools, even though they may be different from those outlined

From the U.S. Department of Education

States have great flexibility in fashioning their systems of rewards and sanctions for both Title I and non-Title I schools. They can focus the type and level of assistance they provide to struggling schools depending on the nature of the school’s difficulty... (and on) the specific subgroups that missed AYP. Additionally, states have the flexibility to require all schools, regardless of Title I status, to offer school choice and supplemental educational services or to have a different set of sanctions for its non-Title I schools. Regarding their system of rewards, states have flexibility to determine what these rewards might be. In some states, rewards are banners, plaques or ceremonies, while in other states rewards come in the form of financial benefits for schools and teachers.

<http://www.ed.gov/news/pressreleases/2004/01/01142004.html>

in NCLB. Thus, states must figure out whether to: (1) use their existing sanctions, (2) apply NCLB sanctions to all schools or (3) create a new system of sanctions for non-Title I schools.

Jennifer O'Day's study, *Complexity, Accountability and School Improvement*, sets forth four principles useful to state policymakers in designing and implementing rewards and sanctions systems. For example, it is crucial, in O'Day's view, that information be available on both student performance and adult performance, and that attention be paid to developing the knowledge base necessary for valid interpretation of the data.

O'Day also notes that negative incentives (stigma of probation, threat of reconstitution) tied to a single assessment measure appear to have resulted in two tendencies that work against improvement. First, attention can become focused not so much on student learning, but rather on getting off and staying off probation. Second, schools on probation have shown a tendency to adopt strategies that produce immediate increases in test scores, often at the expense of longer-term success.

School Recognition

States have developed strategies, such as distinguished schools designations, academic rewards or financial rewards, to recognize schools that have significantly closed the achievement gap, exceeded AYP or made the greatest gains in student performance.

How States Are Doing

	March 2003	March 2004
Y	(29/57%)	(38/75%)
P	(0/0%)	(0/0%)
N	(22/43%)	(13/25%)
U	(0/0%)	(0/0%)

In March 2004, 38 states appeared to be on track to meet the School Recognition requirement, compared with 29 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

In **Illinois**, a school that meets AYP criteria for two consecutive school years is exempt from review and approval of its improvement plan for the next two succeeding school years.

In **Maryland**, the state board of education may, on the recommendation of the state superintendent, make monetary or nonmonetary rewards to schools that significantly close the achievement gap between subgroups or that exceed AYP in reading or in mathematics for two or more consecutive years. The board also may designate certain schools as distinguished schools that have made the greatest gains in closing the achievement gap or exceeding AYP.

Ohio has developed the State Superintendent's Schools of Promise program, which is designed to heighten awareness of the potential of Ohio schools to close achievement gaps. Among other things, the program includes: identifying schools annually that meet or exceed specific student performance and diversity criteria; issuing news releases about these schools and awarding banners identifying them as a School of Promise; and holding forums, network meetings, professional conferences and other events that draw attention to programs, policies and practices that contribute to the success of these schools and the achievement of their students.

Issues and Challenges

Parallel systems. NCLB requires that states recognize schools, but they may create different systems for Title I and non-Title I schools. Thus, states must decide whether to create a system of rewards that applies to all schools, or separate sets of rewards for Title I and non-Title I schools. If states create parallel systems, they may send contradictory messages; for example, a school may be recognized under the state's reward program, but may not be recognized under NCLB's reward program because it failed to make AYP.

Timing of rewards. Over time, a school's test scores may fluctuate due to various factors, including differences in the students being tested each year and one-time extenuating circumstances within schools, classrooms and states. Also, too much weight on a single-year change in test scores might not reflect fundamental improvement. States are thus faced with some tough questions: At what point are various rewards most appropriate? Should states reward schools for one year of gains at one grade level? Or should they only reward schools for multiple years of gains at multiple grade levels? Is there a middle ground?

Sustainability. A final challenge concerns whether states can sustain commitments to provide monetary rewards to schools, particularly in times of tight budgets. For example, in 2002, California suspended its rewards program because of the state's budget crisis. Such suspensions are understandable, but they may weaken the credibility of the state's larger accountability systems by undermining administrators', teachers' and parents' trust.

School Restructuring

If schools fail to make AYP for five consecutive years, state laws must authorize districts to restructure those schools in one of the following ways:

- Reopen the school as a public charter school
- Replace all or most of the school staff, which may include the principal, who are relevant to the school's failure to make AYP
- Enter into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the school as a public school
- Turn the operation of the school over to the state education agency, if permitted under state law and agreed to by the state
- Any other major restructuring of the schools' governance arrangement that makes fundamental reforms.

How States Are Doing

	March 2003	March 2004
Y	32/63%	38/75%
P	0/0%	0/0%
N	19/37%	12/24%
U	0/0%	1/2%

In March 2004, 38 states appeared to be on track to meet the School Restructuring requirement, compared with 32 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

While this provision requires districts (as opposed to states) to restructure schools, it is important to examine whether state laws authorize any of the school restructuring options outlined in NCLB. According to ECS research, 37 states authorize at least one of the NCLB school restructuring options. Here are three examples:

In **Missouri**, if a school is found to be “academically deficient” after two educational audits, policies target both the school and board: (1) the local school board may suspend, after due process, the indefinite contracts of “contributing teachers”; (2) the state commissioner of education may, on the recommendation of the second audit team, conduct a recall election of local school board members; (3) the local school board may not grant tenure to any probationary teacher until one year after the “academically deficient” designation is lifted; and (4) the local school board may not issue new contracts or renew contracts to either the superintendent or the principal for a period of longer than one year.

In **Colorado**, a school designated as “unsatisfactory” under the state’s accountability system must submit a school improvement plan. If the school remains “unsatisfactory” after the first full year of its improvement plan, the state board of education is required to recommend that the school be converted to an independent charter school, unless the school makes a specific amount of improvement, in which case it is allowed to continue to operate under the improvement plan for another year. If the school remains “unsatisfactory” after the second full year of its improvement plan, the state board is required to recommend that it be converted to an independent charter school. The state board must then seek proposals from contractors to manage the school.

In **Louisiana**, the state board of education has the power to take over chronically low-performing schools and include them in a new statewide “recovery school district.” The state board can take over a school if its district fails to submit

reconstitution plans for it, the state board of education does not approve the plan, the district fails to carry out the plan as agreed or a school is rated “academically unacceptable” for four years in a row. Once the state takes over a school, it may enter into a charter with an organization for the operation and management of the school.

Issues and Challenges

Controversy and complexity. The five school restructuring options outlined in NCLB are among the most controversial provisions of the law. One of the least controversial of the options – replacing all or most of a school’s staff – is still a difficult and complex task. Therefore, district leaders (and state leaders in the case of a state takeover of a school) must tread carefully in this terrain.

Obviously, district and state leaders must do everything in their power to assist low-performing schools before they face school restructuring – whether that means more professional development for reading teachers, smaller class sizes for 1st through 3rd graders or additional funding for before- and after-school programs. If a school fails to improve after receiving such assistance, district and state leaders must be prepared to address the following questions:

- What are the academic shortcomings of the school (e.g., reading achievement)? What other problems at the school make dealing with these shortcomings difficult (e.g., unclear school mission and inconsistent school leadership)?
- Given these shortcomings and problems, which of the five school restructuring options in NCLB makes the most sense?
- How will district and state leaders involve the community so school restructuring serves as a catalyst for creating the right environment at the school to address shortcomings and problems?
- How will district and state leaders ensure strong school leadership, high-quality teachers and adequate levels of funding are provided to schools facing any of the five school restructuring options?

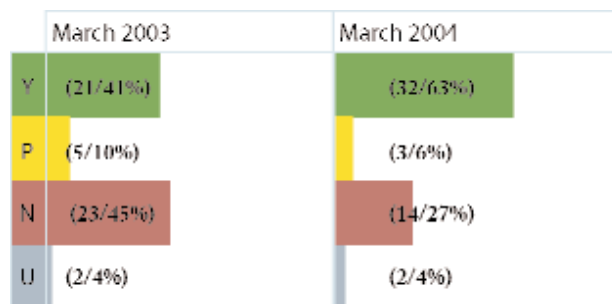
District and state leaders who view the school restructuring provisions of NCLB as a potential catalyst for school improvement may be particularly attracted to the chartering and contracting options. These options may create opportunities for individuals and organizations to bring new ideas and new approaches to the problem of chronically low-performing schools.

Corrective Action for LEAs

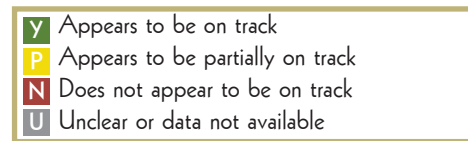
State laws must authorize their state education agencies to take at least one of the following actions against a local education agency (LEA) in need of corrective action:

- Defer programmatic funds or reduce administrative funds
- Institute and fully implement a new curriculum
- Replace the LEA personnel who are relevant to the failure to make AYP
- Remove particular schools from the jurisdiction of the LEA and establish alternative governance arrangements for public governance and supervision of these schools
- Appoint a receiver or trustee to administer the affairs of the LEA in place of the superintendent and school board
- Abolish or restructure the LEA.
- In conjunction with at least one of the above actions, authorize students to transfer from a school operated by the LEA to a higher-performing public school operated by another LEA, and provide transportation or the costs of transportation to these students.

How States Are Doing



In March 2004, 32 states appeared to be on track to meet the Corrective Action for LEAs requirement, compared with 21 in March 2003.



What States Are Doing

States have had more experience with some of the corrective-action options than others. Nearly half of the states have experienced takeovers of districts, while very few, if any, have abolished or restructured a district.

Several states have enacted legislation or regulations that allow them to implement most or all of the corrective-action options outlined in NCLB. In **Maryland**, the state board of education recently adopted new rules on public school standards. One of these rules – COMAR 13A.01.04.08 – allows the state board and the state superintendent to take at least one of the following corrective actions:

- Defer, reduce or redirect state and federal programmatic and administrative funds including per-pupil funding
- Order the local school system to institute and fully implement a new curriculum
- Order the local school system to replace school principals and executive officers with qualified personnel approved by the state board and the state superintendent
- Remove particular schools from the direct control of the local school board and establish alternative arrangements for public governance and supervision of such schools
- Order a reorganization of the local school system that groups specified schools under the direct supervision of an executive officer who reports directly to the local school superintendent or chief executive officer

- Through court proceeding, appoint a receiver or trustee to administer the affairs of the local school system in place of the superintendent and school board
- With legislative declaration, abolish or restructure the local school system.

In **Kentucky**, S.B. 168, enacted in 2002, requires the state department of education, by November 1 of each year, to provide every school council or principal with nonaggregated data on students' performance on statewide tests and an analysis of the achievement gap between subpopulations of students. Districts and local school councils must set biennial targets for reducing gaps and compose plans addressing specified areas. The strength of this law appears to come from setting explicit processes and timelines while leaving the details of the plans up to the local level.

<http://www.lrc.state.ky.us/KRS/158-00/649.PDF>

Issues and Challenges

Controversy and complexity. Once a state determines a district to be in need of corrective action, it faces the challenge of accurately identifying the problems within the district's low-performing schools as well as barriers at the district level that may contribute to or exacerbate the problems. Then the state must figure out what corrective action to apply to the district.

Other challenges include: (1) how to involve the community so that the corrective actions serve as catalysts for creating the right environment within the district and its schools to address problems and barriers; and (2) how to ensure strong district and school leadership, high-quality teachers and adequate levels of funding are provided to districts facing any of the corrective actions. States also must figure out how to tie corrective actions at the district level to teaching and learning changes needed within the district's low-performing schools.

This section covers criteria for defining persistently dangerous school and transfer policies for students in unsafe schools and victims of violent crime.

The ECS database reflects verification of enacted state policy, whether statute, rule, regulation or formal directive. The database does not include planned and implemented programs approved by the U.S. Department of Education as required by No Child Left Behind, but that are not yet reflected in final state policy. Information in the database and determinations made in this report are those of ECS alone. They do not reflect judgments upon or recommendations to individual states, nor do they imply ECS certification of individual state activity. Likewise, the information and determinations do not imply certification by or approval of the U.S. Department of Education.

Criteria for Unsafe Schools

States have developed criteria for identifying “persistently dangerous” schools.

How States Are Doing

	March 2003	March 2004
Y	(7/14%)	(50/98%)
P	(9/18%)	(1/2%)
N	(34/67%)	(0/0%)
U	(1/2%)	(0/0%)

In March 2004, 50 states appeared to be on track to meet the Criteria for Unsafe Schools requirement, compared with seven in March 2003.

- Y** Appears to be on track
- P** Appears to be partially on track
- N** Does not appear to be on track
- U** Unclear or data not available

Transfer Policy for Students in Unsafe Schools

States have established and implemented a statewide policy allowing students to transfer out of a school that has been identified as persistently dangerous into another public school within the district.

How States Are Doing

	March 2003	March 2004
Y	(8/16%)	(49/96%)
P	(7/14%)	(2/4%)
N	(35/69%)	(0/0%)
U	(1/2%)	(0/0%)

In March 2004, 49 states appeared to be on track to meet the Transfer Policy for Students in Unsafe Schools requirement, compared with eight in March 2003.

- Y** Appears to be on track
- P** Appears to be partially on track
- N** Does not appear to be on track
- U** Unclear or data not available

Transfer Policy for Victims of Violent Crime

States have established and implemented a statewide policy allowing students who are victims of a violent criminal offense to transfer to another public school within the district.

How States Are Doing

	March 2003	March 2004
Y	(7/14%)	(49/96%)
P	(8/16%)	(2/4%)
N	(35/69%)	(0/0%)
U	(1/2%)	(0/0%)

In March 2004, 49 states appeared to be on track to meet the Transfer Policy for Victims of Violent Crime requirement, compared with seven in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

States are using a variety of factors and approaches to identify persistently dangerous schools:

- Most states consider offenses or incidents occurring during a three-year period, some consider a two-year period, and a few consider a combination of two and three years.
- Among the methods used for determining the threshold of offenses/incidents: a combination of a percentage of the student enrollment for some offenses and a specific number for other offenses; a specific number of offenses; or a percentage of the student population. Percentage rates range from one-half percent to 6%.
- States' definitions of offenses/incidents vary from detailed lists of offenses to more generic descriptions. The number of schools in a state determined to be persistently dangerous depends on the combination of factors included in a state's policy. A state using a narrowly defined list of offenses also may have a low threshold for the number of offenses, thus increasing the number of schools determined persistently dangerous. A state using a detailed offense list might have a high offense threshold, resulting in a relatively low number of persistently dangerous schools.

As a means of identifying schools at risk of being designated persistently dangerous, **Arkansas** requires schools and districts to report transfers under the unsafe-school choice option and the Public School Choice Act.

Florida schools meeting certain criteria are required to conduct an anonymous schoolwide survey of students, parents and personnel. If a majority (51%) of the survey respondents perceive the school as unsafe, the school is designated persistently dangerous.

In **Indiana**, a panel of local and state school safety experts determine if a school that has met the established criteria for the third consecutive year should be identified as persistently dangerous.

Schools identified as persistently dangerous in **Mississippi** and **North Dakota** have an opportunity, prior to final determination, to provide additional information to the state department of education or the state board of education.

South Dakota's policy considers all offenses occurring on school property, at school-sponsored events or on buses – 24 hours a day, 12 months a year – whether committed by or victimizing students, school personnel or nonschool personnel.

Virginia has clarified and revised the requirements for principals' reports to the local law enforcement agency of incidents occurring on school buses, school property or at school-sponsored activities. The new policy (1) calls for making distinctions between assaults that don't result in bodily injury and those that do, and (2) eliminates the mandate that principals report to local law enforcement all incidents involving assault and assault and battery. Principals, however, must still notify the parents of the students involved as well as the division superintendent, and still have the discretion to report to local law enforcement those assaults as well as assaults and batteries without bodily injury.

<http://leg1.state.va.us/cgi-bin/legp504.exe?031+ful+CHAP0954>

In some cases, state policies involving the designation of persistently dangerous schools contain certain limits or exemptions. **Michigan** and **Tennessee**, for example, exclude alternative schools that have been created to serve suspended or expelled students. **Mississippi**'s policy excludes charter schools, but includes alternative schools that have higher thresholds of incidents than other public schools. **New Jersey**'s policy applies only to schools in a district receiving Title I funds.

Issues and Challenges

The impact of the label. Classifying a school as "persistently dangerous" is, as one state superintendent noted, "the kiss of death" for that school. For the most part, parents remain fairly patient with publicly available school performance results, but many might not feel comfortable leaving their children in schools designated as unsafe – especially when it takes dramatic safety issues to result in such a designation.

Quality and credibility of data. What constitutes an assault might vary from principal to principal. The line between "too prescriptive" policy and policy that allows data to vary is a fine one. Clearer classifications would contribute to better quality data.

Most states appear to have legitimately and in good faith selected indicators that represent serious threats to student and faculty safety. But these indicators typically are just one element of a formula that includes adjustments for school size, "consecutive-year" requirements and other calculations. The complexity of these formulas, along with an apparent lack of retroactive data, has so far resulted in very few schools being identified as unsafe. According to an August 19, 2003, article in *USA Today*, 44 states and the **District of Columbia** reported having no persistently dangerous schools. In six states, 52 schools made the list (**Pennsylvania**, 28; **Nevada**, eight; **New Jersey**, seven; **Texas**, six; **New York**, two; and **Oregon**, one). These numbers likely will increase, however, as the data collected become more consistent with the criteria established by states.

From the U.S. Department of Education

The Unsafe School Choice Option (USCO) requires that each state receiving funds under the ESEA implement a statewide policy requiring that students attending a persistently dangerous public elementary or secondary school, or students who become victims of a violent criminal offense at school, be allowed to attend a safe public school. This guidance highlights the important USCO and provides guidance on some provisions that may be useful in administering these requirements. (U.S. Department of Education, May 2004)

<http://www.ed.gov/policy/elsec/guid/unsafeschoolchoice.doc>

This section includes NCLB requirements on criteria for identifying supplemental services providers, maintaining a list of approved providers, monitoring supplemental services providers and assuring that districts are arranging for the provision of supplemental services.

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Criteria for Supplemental Services

States have established criteria to identify effective supplemental service providers by the beginning of the 2002-03 school year.

How States Are Doing

	March 2003	March 2004
Y	(43/84%)	(48/94%)
P	(1/2%)	(2/4%)
N	(7/14%)	(1/2%)
U	(0/0%)	(0/0%)

In March 2004, 48 states appeared to be on track to meet the Criteria for Supplemental Services requirement, compared with 43 in March 2003.

- Y** Appears to be on track
- P** Appears to be partially on track
- N** Does not appear to be on track
- U** Unclear or data not available

List of Approved Supplemental Services Providers

States maintain a list of approved providers, which is supplied to districts by the beginning of the 2002-03 school year.

How States Are Doing

	March 2003	March 2004
Y	(31/61%)	(45/88%)
P	(3/6%)	(3/6%)
N	(17/33%)	(3/6%)
U	(0/0%)	(0/0%)

In March 2004, 45 states appeared to be on track to meet the List of Approved Supplemental Services Providers requirement, compared with 31 in March 2003.

- Y** Appears to be on track
- P** Appears to be partially on track
- N** Does not appear to be on track
- U** Unclear or data not available

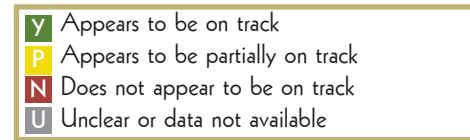
Monitoring Supplemental Services Providers

States have developed standards for monitoring the quality of supplemental service providers.

How States Are Doing



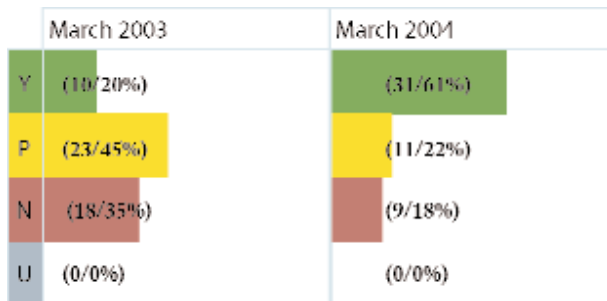
In March 2004, 36 states appeared to be on track to meet the Monitoring of Supplemental Services requirement, compared with 28 in March 2003.



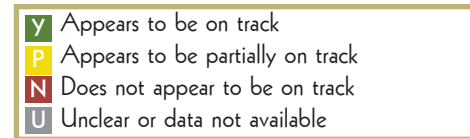
Implementation of Supplemental Services Providers

States ensure eligible school districts are arranging for provision of supplemental services by a provider selected by parents.

How States Are Doing



In March 2004, 31 states appeared to be on track to meet the Implementation of Supplemental Services requirement, compared with 10 in March 2003.



What States Are Doing

Most of the activity involving the supplemental services provisions of NCLB has taken place at the state department level, rather than through legislatures or state boards. Nearly all states have included NCLB language in their supplemental-service requests for proposals (RFPs) and their standards for selection of providers. Consequently, most of the states have very similar approaches.

Kentucky allows school districts to become approved supplemental education service providers, in addition to private companies or nonprofit organizations. Thirteen districts with schools currently identified for improvement have become supplemental service providers and are on the state approved list – primarily because there were few or no providers willing to offer services to students in their districts. Most of these districts are in rural or remote areas.

Pennsylvania has established a \$25 million-a-year program to help close the achievement gap in struggling school districts by funding evidence-based tutoring. Another state program, Classroom Plus, provides grants so families can enroll below-proficient students in the tutoring program of their choice.

A few states took the policy route in meeting this NCLB requirement. For example, the **Arkansas** legislature in 2004 passed S.B. 33, Section 6, which requires that students attending schools receiving an annual performance category Level 1 for two consecutive years be offered supplemental educational services.

<http://www.arkleg.state.ar.us/ftpoot/bills/2003s2/public/SB33.pdf>.

New Mexico has a similar policy, enacted as part of H.B. 212 in 2003.

Issues and Challenges

Availability of providers, parent notification, and monitoring and evaluation. According to an August 2003 survey by the Council of Chief State School Officers, states faced a variety of challenges in providing supplemental services in the 2002-03 school year, chiefly the difficulty of finding qualified providers, particularly in big-city school systems and in rural or remote school districts.

http://www.ccsso.org/Whats_New/Newsletters/Chiefline/3303.cfm

A recent analysis by Siobhan Gorman for the American Enterprise Institute and the Thomas B. Fordham Institute found that five major provider types are emerging: large for-profit corporations, smaller for-profit firms, school districts, non-profit community-based organizations and online companies – with large for-profit companies and school districts the most common. Gorman also found wide variations in how districts notify parents of their right to supplemental services for their children, and how clearly the options available to them are presented.

http://www.aei.org/events/eventID.684,filter.all/event_detail.asp or

http://www.aei.org/docLib/20040120_Gorman.pdf.

Few states have addressed the monitoring of supplemental services providers. Are students provided with effective services that help improve their school performance? Are states able to adequately evaluate all providers? Will providers be removed from the state-approved list if they fail to offer high-quality services? According to Harvard University's Civil Rights Project, demand for services in the first year was low, with fewer than 16% of eligible students requesting and receiving supplemental services. In most districts in the project's study, the percentage of students was less than 5%.

http://www.civilrightsproject.harvard.edu/research/esea/call_nclb.php

This section includes NCLB requirements involving state, district and school report cards.

The ECS database reflects verification of enacted state policy, whether statute, rule, regulation or formal directive. The database does not include planned and implemented programs approved by the U.S. Department of Education as required by No Child Left Behind, but that are not yet reflected in final state policy. Information in the database and determinations made in this report are those of ECS alone. They do not reflect judgments upon or recommendations to individual states, nor do they imply ECS certification of individual state activity. Likewise, the information and determinations do not imply certification by or approval of the U.S. Department of Education.

State Report Card

By the beginning of the 2002-03 school year, states are to prepare and disseminate an annual state report card that includes all of the following:

- Aggregated achievement information on state assessments in reading/language arts and mathematics
- Disaggregated student group (race/ethnicity, disability, socioeconomic level, gender, migrant status, limited English proficient) achievement data on statewide assessments
- Most recent two-year trend data reported by subject area and grade level in areas where assessments are required
- Data comparing annual student achievement goals to actual achievement levels of each group of students
- Aggregated information on state indicators used to determine AYP
- Percentage of students not tested, disaggregated by student subgroups listed above
- High school graduation rates, one elementary school indicator and one middle school indicator
- Performance of school districts toward making AYP, including identifying numbers, names and percentages of schools in need of improvement
- Data on teacher qualifications, including number of teachers with emergency certification and percentages of classes not taught by “highly qualified” teachers.

How States Are Doing

	March 2003	March 2004
Y	(3/6%)	(19/37%)
P	(48/94%)	(31/61%)
N	(0/0%)	(1/2%)
U	(0/0%)	(0/0%)

In March 2004, 19 states appeared to be on track to meet the State Report Card requirement, compared with three in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

Many states reported on some or all of the required indicators prior to NCLB, as well as others of their choosing (see *ECS StateNote* on State Performance Indicators, January 2002, at <http://www.ecs.org/clearinghouse/32/12/3212.doc>). Over the past two years, the number of states reporting on all of the NCLB-required elements has grown dramatically. (see *ECS StateNote* on Report Cards, February 2004, at <http://www.ecs.org/clearinghouse/49/72/4972.doc>).

The designs of report cards vary widely. Among the best designed and easiest to use are those in:

- **Delaware** <http://issm.doe.state.de.us/profiles/>
- **Indiana** (includes private schools) <http://www.doe.state.in.us/htmls/performance.html>
- **Kansas** <http://online.ksde.org/rcard/>
- **Tennessee** http://evaas.sasinschool.com/tn_reportcard/welcome.jsp

In **Arizona**, report cards are required to include the reading programs used for kindergarten and grades 1-3. Reports also must allow comparison of programs across the district and must identify the program of reading instruction used in each classroom.



Issues and Challenges

Student data. States need a statewide student-identifier system in place to help match student records over time and as students change schools and districts. Otherwise, it is difficult to satisfy requirements such as accurate graduation rates and correct identification of students enrolled in English as a Second Language or bilingual programs for three years. The costs of expanding current data infrastructures depend on the nature of each state's data system and also whether states act alone or collaborate with other states. States are in varying degrees of readiness to implement these state information systems.

Teacher quality data. Even in states with statewide data systems that are based on unique student identification numbers, collection of and access to teacher quality data often are difficult. Currently, fewer than 30 states have report cards that include all NCLB-required teacher data and/or provide such information for state, district and school levels. (*ECS StateNote*, "Report Cards," 2004)

Typically, information on teachers is collected and resides outside the primary state data system. A few states – **Kentucky**, **Texas** and **Virginia** – have begun developing "unique teacher identifiers" that will allow easier integration of teacher data into the primary statewide data system, and **California** and **South Carolina** are considering doing so. A major challenge will be ensuring the identifiers are portable across district/state lines without fear of duplication or misidentification.

Dissemination. Many state report cards have been redesigned and improved, but their availability is not widely known among parents and community members.



This section covers NCLB requirements involving the definition of “highly qualified” teachers, subject-matter competence, testing of new elementary school teachers, annual measurable objectives for ensuring a highly qualified teacher in every classroom, and annual measurable objectives for ensuring high-quality professional development.

The ECS database reflects verification of enacted state policy, whether statute, rule, regulation or formal directive. The database does not include planned and implemented programs approved by the U.S. Department of Education as required by No Child Left Behind, but that are not yet reflected in final state policy. Information in the database and determinations made in this report are those of ECS alone. They do not reflect judgments upon or recommendations to individual states, nor do they imply ECS certification of individual state activity. Likewise, the information and determinations do not imply certification by or approval of the U.S. Department of Education.

Highly Qualified Teachers Definition

States have adopted definitions for “highly qualified teachers” that meet NCLB requirements and are currently in effect for all Title I teachers. New Title I teachers must meet requirements upon being hired. All others should be working toward meeting the requirements by 2005-06. The NCLB requirements are as follows:

Elementary school teachers of “core academic subjects” – English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history and geography teachers must be fully licensed or certified by the state and must not have had any certification or licensure requirements waived on an emergency, temporary or provisional basis. The specific courses included under “arts” have been left to the states’ determination.

- *New* elementary teachers must have at least a bachelor’s degree and pass a state test demonstrating subject knowledge and teaching skills in reading/language arts, writing, mathematics and other areas of any basic elementary school curriculum.
- *Current* elementary teachers must have at least a bachelor’s degree and meet the requirements described above or demonstrate competency in all subjects taught. In addition to the state test, a “high objective uniform state standard of evaluation” (HOUSSE) can be used to judge competency. This evaluation standard must provide objective information about the teacher’s knowledge in the subject taught and can consider, but not use as a primary criterion, time spent teaching the subject.

Middle/secondary school teachers of core academic subjects – The same ones listed above for elementary teachers must be fully licensed or certified by the state and must not have had any certification or licensure requirements waived on an emergency, temporary or provisional basis.

- *New* middle/secondary teachers must have at least a bachelor’s degree and demonstrate competency in each of the core academic subjects taught or complete an academic major or coursework equivalent to a major, graduate degree or advanced certification.
- *Current* public middle/secondary teachers must have at least a bachelor’s degree and meet the requirements described above or demonstrate competency in all core subjects taught. As with elementary teachers, the HOUSSE may be used to judge competency.

Teachers pursuing alternative routes to certification. Teachers who are not yet fully certified but have at least a bachelor’s degree and have demonstrated subject-matter competency may begin teaching under certain conditions. They must be participating in a certification program under which they receive high-quality professional development that is sustained, intensive and classroom-focused; participate in a teacher mentoring program or intensive supervision that consists of structured guidance and ongoing support; teach for three years or less; and demonstrate satisfactory progress toward full certification as prescribed by the state.

Charter school teachers. Teachers of core academic subjects in charter schools must have a bachelor’s degree and subject-matter competency in each subject taught, but do not necessarily have to be fully state certified. The department’s guidance states, “Charter school teachers must meet requirements of the state’s public charter school law, which may differ from the requirements for full state certification.”

How States Are Doing

	March 2003	March 2004
Y	(10/20%)	(23/45%)
P	(21/41%)	(27/53%)
N	(19/37%)	(1/2%)
U	(1/2%)	(0/0%)

In March 2004, 23 states appeared to be on track to meet the Highly Qualified Teachers Definition requirement, compared with 10 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

Alabama has drawn attention to reimbursement programs and courses around the state for teachers who need to reach highly qualified teacher status.

<http://www.alsde.edu/html/HighlyQualified.asp>

The **Georgia** Professional Standards Commission adopted certification rules in February 2004 that allow a new “test-out” route to initial certification (eliminating the requirement for specific degree majors and content work for individuals seeking provisional certification).

Emergency rules passed by the **Illinois** State Board of Education clarified current policies and practices for issuing elementary, secondary, special and early childhood certificates. The rules made explicit how the requirements apply to various groups of candidates, including those who are completing approved programs, those who come to Illinois with comparable credentials from other states or countries, and those who are seeking “subsequent” (not their first) certificates.

http://www.isbe.net/nclb/pdfs/highly_qualified_teacher_criteria.pdf and
<http://www.isbe.net/rules/archive/pdfs/25elimreturnreceiptcodeonly.pdf> and
<http://www.isbe.net/rules/archive/default.htm>

In **New York**, a “highly qualified” teacher (1) has a bachelor’s or higher degree *and* (2) is certified (except for certain charter school teachers) for the subjects he or she is teaching (or doing permissible “incidental teaching”) *and* (3) has demonstrated subject-matter competency in all core academic subjects he or she is teaching. New York’s Field Memo #09-2003 does a good job of clarifying the types of questions that typically arise among teachers and principals.

<http://www.highered.nysed.gov/nclb09-2003c.htm>

Some states specifically describe teachers not considered to be “highly qualified.” For example, **Ohio** board rules state that teachers who are not considered to be highly qualified include those who hold conditional permits or temporary licenses, and those teaching outside their field.

Oregon has clarified how NCLB impacts special education teachers by integrating the federal guidance into state law. Special education teachers who do not directly instruct students in core academic subjects or who only provide consultation to highly qualified teachers are not subject to the same requirements that apply to teachers of core academic subjects. Elementary special education teachers must meet the highly qualified requirements of NCLB, hold a special education endorsement and teach only in pre-primary through grade 8 in a self-contained special education classroom. Middle-level or secondary special education teachers must meet all requirements, plus hold a special education endorsement, and partner with a highly qualified teacher if teaching a core academic subject in which he or she is not highly qualified.

http://arcweb.sos.state.or.us/rules/OARS_500/OAR_584/584_038.html

Utah's omnibus bill S.B. 1 established an alternative route to becoming highly qualified – competency-based licensing. It allows local boards or charter schools to request a competency-based license for a person who meets the following qualifications: (1) elementary staff must hold at least a bachelor's degree and have demonstrated, by passing a rigorous state test, subject knowledge and teaching skills in core areas of the elementary curriculum; and (2) middle or secondary candidates must hold at least a bachelor's degree and have demonstrated a high level of competency in each of the academic subjects in which he or she teaches by passing a rigorous state academic subject test in each area taught, and completed an academic major, graduate degree, coursework equivalent to an undergraduate academic major, or advance certification in subjects taught. Individuals holding competency-based licenses, however, will be at-will employees and are not eligible for career-employee status (unless they also hold a traditional license).

<http://www.le.state.ut.us/~2003/bills/sbillenr/sb0154.pdf>

Some states have excelled in communicating their actions regarding NCLB's highly qualified teacher provisions.

California, for example, has published an NCLB Teacher Requirement Resource Guide.

<http://www.cde.ca.gov/pr/nclb/teachqual/nclbresourceguide.pdf>

New Hampshire has created a "toolkit" that clearly explains the impact of the law on its teachers.

http://www.ed.state.nh.us/ProfessionalDevelopment/HQT/Guidance_for_Highly_Qualified_Teachers.pdf

Vermont and **Michigan** both created a clear, easy-to-understand chart that describes how and which current licenses and endorsements coincide with the state's highly qualified teacher definition. Michigan also has made a significant effort to inform higher education institutions about NCLB's impact on teachers through its NCLB Forum for Teacher Preparation Institutions.

http://www.michigan.gov/documents/Agenda_7-22-02_72765_7.pdf

Issues and Challenges

"Certified" vs. "qualified." NCLB forces states to confront the fact that a previously "certified" teacher isn't necessarily a "highly qualified" teacher. It requires them to review the level of subject-matter expertise previously demanded of teachers, and raise it if necessary, and to not only redesign certification procedures and standards for beginning teachers, but also find ways to reach teachers already in the classroom. In addition, states have had to implement new recruitment strategies for teacher shortage areas, which often were addressed through out-of-field teaching and emergency waivers.

The middle grades. ECS' analysis reveals that most states' definitions of highly qualified teachers resemble one another in the relatively straightforward areas of state certification and educational requirements. One category of teachers, however – those who teach the middle grades – has proved somewhat problematic.

Early on, there were concerns that NCLB's provisions regarding middle school teachers appeared to demand a level of subject mastery more similar to that of a secondary teacher than an elementary teacher. Traditionally, many middle school teachers have been prepared and certified through an elementary or K-8 program that typically do not require a high level of subject-matter expertise. What's more, middle grades are often housed in elementary buildings. The NCLB requirements sent states, which lump middle school certification with elementary certification, scrambling to review the levels of teacher licensure and adjust them to ensure that middle school teachers have the background they need to be considered highly qualified.

From the U.S. Department of Education

Do teachers who primarily teach English language learners need to meet the "highly qualified" requirements? The answer is yes, if they provide instruction in core academic subjects. In addition, teachers of English language learners who teach in instructional programs funded under ESEA Title III must be fluent in English and any other language in which they provide instruction, including having written and oral communication skills.

<http://www.ed.gov/programs/teacherqual/guidance.pdf>

The federal guidance has become more flexible over time, however, and now effectively leaves it up to states to define which grades constitute elementary and middle school. But it continues to encourage states to “examine the degree of rigor and technicality of the subject matter that the teacher will need to know in relation to the state’s content standards and academic achievement standards for the subjects that will be taught.”

States also face the challenge of addressing out-of-field teaching in middle schools, which will require ensuring all teachers of core subjects have demonstrated competency in the courses they teach. To address this challenge, states may design content tests specifically for middle school teachers.

Special education and bilingual/ESL teachers. Some states are clearly echoing federal guidance in defining the qualifications of teachers of students with special needs (special education and teachers of English language learners). States should clearly denote the conditions under which these teachers need to demonstrate a subject-matter competence (when teaching content in a stand-alone situation) and when they do not (when serving in a classroom where another teacher has primary responsibility for the content). It seems reasonable to assume the majority of schools across the country will need to make major adjustments in this area; yet a number of states still haven’t fully assessed the possible implications for special education and bilingual/ESL teachers.

Rural schools. How to define, assess and deliver professional development to teachers to comply with the NCLB provisions on highly qualified teachers is a vexing issue in many rural states in the Midwest and West, including **Alaska**. In rural areas, to cover all courses while serving smaller numbers of students, it is common for a single teacher to instruct in various core subjects. These teachers will have to submit to a test, additional coursework or the HOUSSSE to demonstrate subject-matter competency not just in one core subject, but in all the subject areas they teach. These teachers are only highly qualified in a subject in which they meet all the requirements. Teachers teaching out-of-field are not highly qualified.

To ease the pressure, U.S. Secretary of Education Roderick Paige on March 14, 2004, announced that (1) teachers in small, rural and isolated areas will be considered highly qualified as long as they are highly qualified in at least one subject, (2) teachers will have three more years to become highly qualified in the additional subjects they teach, and (3) newly hired teachers will have until their third year of teaching to become highly qualified. This does not relieve states of their responsibility to make sure rural teachers receive academic assistance and high-quality professional development to help them become highly qualified, but it does give them more time to organize and deliver services. (U.S. Department of Education Fact Sheet on Flexibility for Highly Qualified Teachers, 2004)

<http://www.ed.gov/nclb/methods/teachers/hqtflexibility.html>

Early childhood education and pre-K teachers. Teachers who work with the youngest children will be affected by the NCLB provisions on highly qualified teachers only if they are included in the state’s elementary and secondary school system. This raises several questions. Might states that consider pre-K and early childhood education as part of their elementary and secondary system be inclined to readjust the system to avoid venturing into the highly complex area of early childhood teacher qualifications by 2006? Conversely, might these requirements discourage other states from integrating pre-K into their school system? While this is an area that needs further research and analysis, it has the potential to dramatically affect the early learning community.

Shortage areas. States face the challenge of analyzing certification and preparation programs to determine how they affect the supply of highly qualified teachers in critical shortage areas – in math, science and certain other subjects, as well as in hard-to-staff urban and rural schools. Many states will need to collaborate with teachers unions, the media and community organizations to heighten awareness and understanding of the problem.

Long-term substitutes. Few states have addressed the NCLB requirement that long-term substitute teachers of core academic subjects be highly qualified. There have been reports of schools that are requiring long-term substitutes who are not highly qualified to take off every 20th day to keep from having to notify parents that their children are being taught by a teacher who is not highly qualified.

Subject-matter Competence

States have developed a system whereby new and current elementary, middle and secondary teachers, in core academic subjects, must demonstrate subject-matter competence. System must be in place no later than the beginning of the 2002-03 school year for new Title I teachers and no later than 2005-06 for all core academic subject teachers.

How States Are Doing

	March 2003	March 2004
Y	(10/20%)	(11/22%)
P	(31/61%)	(38/75%)
N	(8/16%)	(2/4%)
U	(2/4%)	(0/0%)

In March 2004, 11 states appeared to be on track to meet the Subject-matter Competence requirement, compared with 10 in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

For states, figuring out how to ensure the subject-matter competency of new teachers has been a considerably less difficult task than determining how to assess the competency of current teachers. NCLB gives states considerable latitude in designing the specific mechanism they use – a “high objective uniform state standard of evaluation” (HOUSSE) – to allow current teachers to demonstrate knowledge of their subject area without necessarily having to undergo further training or take a test. States are free to tailor this evaluation standard to their particular licensure systems and teaching landscape. The HOUSSE can be used by elementary teachers as an alternative to a subject-related test, and by middle and secondary teachers as an alternative to an examination, major, major equivalency, graduate degree or advanced certification in the core content area taught.

The U.S. Department of Education in March 2004 provided additional flexibility by announcing that states may now allow science teachers to demonstrate their competency either in “broad field” science or individual fields (biology, physics or chemistry), and allow multisubject teachers to demonstrate – through a single process – that they are highly qualified in each of the subjects they teach.

States’ efforts to comply with the NCLB provisions involving subject-matter competency reflect a wide variety of approaches.

Utah has created a program that allows the state board of education to award scholarships to teachers in small schools or districts to help them obtain an endorsement or a master’s degree. Teachers receiving the scholarships must agree to teach for two years in one of these districts or schools in the subject area in which they received their endorsement or master’s degree.

Mississippi has developed a four-step process aimed at ensuring current teachers of core academic subjects will be “highly qualified” by the end of the 2005-06 school year.

From the U.S. Department of Education

The highly qualified teacher requirements apply only to teachers providing direct instruction in core academic subjects. Special educators who do not directly instruct students in core academic subjects or who provide only consultation to highly qualified teachers in adapting curricula, using behavioral supports and interventions, or selecting appropriate accommodations, do not need to demonstrate subject-matter competency in those subjects.

<http://www.ed.gov/nclb/methods/teachers/hqtflexibility.html>

In **New Mexico**, H.B 212 and related actions by the state board of education established a three-level licensure system for teachers and created a standard of evaluation for determining subject-matter competence.

New Hampshire has explicitly laid out how evaluators assisting with the HOUSSE process will be trained.

<http://www.ed.state.nh.us/ProfessionalDevelopment/HQT/CEILpartner.htm>

Kentucky's Education Professional Standards Board has developed an innovative Web tool that allows teachers to do a step-by-step assessment of whether they meet the definition of "highly qualified."

<http://www.kyepsb.net/NCLB.html>

In **Iowa** and **Kansas**, the state departments of education have made efforts to link university programs to academic standards to ensure new teachers will meet those standards. Also in Kansas, Transition to Teaching grants provide up to \$1,500 a year to help pay the costs of tuition, materials and supervisory costs for online professional education courses to be completed while teaching in a high school.

<http://www.ksde.org/cert/TransitionTeaching.htm>

Oregon's HOUSSE plan requires veteran middle school teachers to have completed 24 quarter (or 16 semester) hours at a nationally accredited college or university in the subject area they teach, in addition to having three or more years of experience.

At least two states – **Wisconsin** and **Idaho** – assert their licensure policies already ensure certified teachers are highly qualified, and therefore have no HOUSSE.

From the U.S. Department of Education

No Child Left Behind provides flexibility in developing assessments for teachers to demonstrate subject-matter competency. States may tailor teacher tests to the subjects and level of knowledge needed for effective instruction.

<http://www.ed.gov/nclb/methods/teachers/hqtflexibility.html>

Issues and Challenges

Unevenness. Under NCLB requirements, any standard states adopt for evaluating current teachers must "be aligned with challenging state academic content and student academic achievement standards" and provide "objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches." Each state's charge, then, is to create an evaluation that strikes a balance between rewarding experienced teachers for years of subject-specific knowledge, effort and service, while creating or maintaining rigorous but fair content standards for all teachers – whether novice or veteran.

But while nearly all states have now developed HOUSSE plans, a careful examination of the plans reveals a business-as-usual approach on the part of most states – not nearly enough objective, measurable criteria, and, with a few exceptions (**North Carolina** and **Ohio**, for instance), not explicitly tied to their content standards. In some cases, the various evaluation strategies and mechanisms built into states' HOUSSE plans – including point systems, professional development requirements, performance evaluation and portfolios – appear unlikely to ensure the level of subject-matter competency called for in NCLB.

Middle grade teachers. NCLB requires that middle school teachers demonstrate subject-matter competency in a manner similar to secondary teachers, which has caused confusion in cases where middle grades are still housed in elementary buildings, such as K-8 schools. In September 2003, the U.S. Department of Education advised that it is up to each state to determine whether the degree of subject-matter rigor demanded of a middle grades teacher coincides with the state's content standards and academic achievement standards for the subjects in those grade levels. Existing middle school teachers who trained under the elementary umbrella will be hardest hit; they will likely be the largest segment of the teaching corps needing additional coursework or training to meet NCLB's "highly qualified" teacher requirements.

Test for New Elementary Teachers

States have a test in place for new elementary school teachers. The test must demonstrate subject knowledge and teaching skills in reading/language arts, writing, mathematics and other areas of an elementary curriculum.

How States Are Doing

	March 2003	March 2004
Y	(40/78%)	(43/84%)
P	(5/10%)	(4/8%)
N	(5/10%)	(4/8%)
U	(1/2%)	(0/0%)

In March 2004, 43 states appeared to be on track to meet the Test for New Elementary Teachers requirement, compared with 40 in March 2003.

- Y** Appears to be on track
- P** Appears to be partially on track
- N** Does not appear to be on track
- U** Unclear or data not available

What States Are Doing

North Carolina is among several states attempting to make the preparation of elementary school teachers more discipline-based by requiring a “second academic concentration” for elementary and special education majors.

Issues and Challenges

Typically, elementary teachers are responsible for “doing it all” – teaching various core academic subjects and, in many cases, art and physical education as well. For states, developing assessments that fairly and reliably measure adequate knowledge in the core academic disciplines will be a challenging task. Although cut-off scores for these initial assessments will vary by state, determination of the minimum scores has been left to the states. In addition, the number of semester hours that equate with a subject-matter major varies widely from state to state, and sometimes even from institution to institution and program to program. Living with such discrepancies is probably a necessary tradeoff for ensuring state control.

Highly Qualified Teacher in Every Classroom (Annual Measurable Objective)

States have established an annual measurable objective for local districts to increase the percentage of highly qualified teachers so all teachers of core academic subjects in both elementary and secondary schools are highly qualified no later than the end of the 2005–06 school year. (State has annual measurable objectives that, at a minimum, track the following information: highly qualified teachers, teachers with a bachelor’s degree, state certified teachers, teachers who demonstrate subject-matter competency. Additional indicators are acceptable as well.)

How States Are Doing

	March 2003	March 2004
Y	(0/0%)	(0/0%)
P	(8/16%)	(50/98%)
N	(43/84%)	(1/2%)
U	(0/0%)	(0/0%)

In both March 2004 and March 2003, no state appeared to be on track to meet the Highly Qualified Teacher in Every Classroom requirement.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

Except in plans submitted to the U.S. Department of Education, few states publicly have actually mapped out annual measurable objectives for ensuring every classroom is staffed by a highly qualified teacher by the 2005-06 school year. **New York**, though, has an updated Teacher Quality Plan that requires districts and schools to establish a plan for annually increasing the percentage of highly qualified teachers. The state has yet to actually set the numerical targets, however.

Issues and Challenges

Lack of data. The major challenge for states is to develop systems that allow them to determine where they stand in relation to the end goal of assuring all teachers are “highly qualified” by the end of the 2005-06 school year. Many states do not have the common coding and information systems in place to allow them to electronically collect – let alone analyze – data on the status of teacher qualifications across school districts.

Supply and demand. A 2003 report by the National Commission on Teaching and America’s Future, entitled *No Dream Denied*, makes the case that overall in the United States there is no teacher shortage, but rather a teacher retention and distribution problem. Still, many districts across America have a general shortage of teachers, and many more have severe shortages of physical science, mathematics, special education and English as a Second Language or bilingual education teachers. And even if large numbers of previously licensed teachers were to return to teaching, they likely would not meet today’s expectations for “highly qualified” teachers. The problem is particularly acute in urban and rural communities, which struggle to attract and retain qualified teachers. Less-experienced teachers often end up in urban (and low-income rural) schools that face numerous challenges in helping all students succeed.

High-quality Professional Development (Annual Measurable Objective)

States have created annual measurable objectives for increasing the percentage of teachers receiving high-quality professional development. The measurable objectives must be included in the states' consolidated plan.

How States Are Doing

	March 2003	March 2004
Y	(2/4%)	(0/0%)
P	(7/14%)	(12/24%)
N	(41/80%)	(39/76%)
U	(1/2%)	(0/0%)

In both March 2004, no states appeared to be on track to meet the High-quality Professional Development requirement, compared with two in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

In **North Carolina**, a legislative mandate requires the state board of education to engage the University of North Carolina's Center for School Leadership Development in bringing high-quality professional development to the state's most challenged schools and districts. Detailed planning has resulted in a distinct plan for each school district involved. Success will be determined by the growth in student achievement in the targeted schools.

From the U.S. Department of Education

Some states are taking advantage of NCLB provisions that allow them to use funds available under Title II, Title III, Title V local technology funds and IDEA (Individuals with Disabilities Education Act) to improve teacher professional development.

Georgia, for example, is using its Title II funds to provide consultants who work with school districts to improve professional development and increase the number of highly qualified teachers. **Florida** and **Alabama**, using the funding flexibility NCLB allows, are providing extensive, scientifically based professional development for elementary teachers in reading.

<http://www.ed.gov/news/pressreleases/2004/01/01142004.html>

Issues and Challenges

Capacity. Defining "high-quality professional development," establishing improvement goals as well as a way of tracking progress toward those goals, and ensuring all teachers have access to the same level and quality of professional development will be no small feat for states and districts. A major problem involves states' ability to collect the data needed to establish improvement goals and track annual progress. Typically, there is little coordination or evaluation of the diverse state- and district-funded programs that constitute teacher professional development; in many cases, it is difficult even to determine how much is spent on professional development from year to year, let alone how well the money is spent.

Providing teachers with high-quality professional development is particularly challenging for rural schools and districts. The U.S. Department of Education has offered advice on creative ways – including the use of distance-education programs – to provide teachers with the training and learning opportunities they need to achieve and maintain competency.

In addition to the five recommendations outlined on page vii, ECS has developed a number of actions for consideration by federal officials and state policymakers as they move forward in implementing NCLB.

Like the recommendations, the following list was developed through a process that included extensive analysis of state policy activity, comprehensive review of state government reports and academic literature, and conversations with and comments from our constituents.

ECS believes the items on this list represent a general consensus concerning NCLB. Individual constituents may hold different positions or favor other courses of action. ECS not only recognizes these differences, but also welcomes and encourages further discussion and debate among its constituents.

State/Federal Relations

Federal officials should:

- Not allow the nation to retreat on the promises or possibilities of NCLB. Recognize the unique political and cultural contexts of states, and accord them the necessary flexibility to accomplish their goals. Keep pressure on states, but give them credit for moving forward on NCLB.
- Ensure the research and development opportunities NCLB affords are not overshadowed by the law's management challenges. Provide incentives that encourage states to serve as laboratories of research and development, thereby broadening the scope and deepening the impact of NCLB.
- Use the ECS NCLB database management tool to facilitate implementation and promote the cross-fertilization of ideas and practices. Build on the NCLB database to develop a simulation model capable of generating "loose" correlations between particular policies and increases in student achievement.
- Push for greater transparency in and comparability among data sets to better inform public debate, and challenge what appear to be limited or questionable public policy pronouncements.

Assessment

Federal officials should:

- Allow for greater variation in testing options; for example, computer-based adaptive and value-added assessments, exams that reflect the varying capabilities of students with disabilities, and other emerging assessments. Require each testing option to be documented as valid, reliable and aligned with state standards.

State policymakers should:

- Ensure state policies support the use of longitudinal data to report on the performance of cohorts of students to more accurately gauge achievement gains attributable to schools.
- Ensure state policies support the development and use of unique student identifiers to (1) allow achievement to be monitored more accurately over time. and (2) provide more accurate data in areas such as graduation rates and transitions between different levels of the education system.

Inclusion of English Language Learners and Students with Disabilities

Federal officials should:

- Make modifications that allow different cultural biases to be accommodated or provide more time for students to undergo acculturation. This is particularly important for students who are recent immigrants and do not or cannot relate in conceptual terms to subject matter that reflects mainstream American culture.
- Reconcile differences between NCLB and the Individuals with Disabilities Education Act.
- Revise guidelines to recognize that students with special needs may achieve at different rates and levels.

State policymakers should:

- Develop policies that focus attention on helping English language learners not only acquire subject knowledge, but also become more proficient in English.
- Promote early screening, in reading, of English language learners and students with disabilities to identify those who need intensive intervention prior to 3rd grade, and ensure such assistance is provided.
- Develop oversight mechanisms to ensure expectations for students with disabilities are aligned with IEPs (individual education plans), yet allow students access to the general curriculum.

Adequate Yearly Progress

Federal officials should:

- Maintain commitment to the goal of 100% proficiency by 2013-14. Ensure state NCLB plans continue to support this goal, even if an increasing number of schools are identified as in need of improvement.
- Initiate an independent reassessment of AYP to determine what constitutes meaningful growth, and to ensure the current formula is a statistically viable means of determining adequate yearly progress.
- Allow exceptions for states with large rural areas, where district populations do not exceed 100 students, to reconfigure the 1% rule under AYP so at least two students doing well on an alternative assessment could be counted as proficient. Otherwise, districts with only one or no student classified as proficient would not qualify for the flexibility in NCLB.

State policymakers should:

- Maintain commitment to the goal of 100% proficiency by 2013-14.
- Review and/or develop policies that target resources to high-quality early childhood education programs so all students enter kindergarten ready to learn and succeed. Waiting until 3rd grade to identify and intervene with low-performing students may make NCLB goals unattainable.
- Develop policies for information systems that promote the use of longitudinal data and unique student identifiers to ensure accurate data reporting within and across states for all students, regardless of whether they are a member of a particular subgroup.
- Consider policies that support a strategic planning process to improve the continuity and transfer of academic achievement status for each student. Such a process would allow more efficient and effective exchange of information across each student's education career, especially for those who participate in choice programs or are mobile for other reasons.

School Improvement/Supplemental Services/Safe Schools

Federal officials should:

- Ensure all eligible students have access to supplemental services, appropriate interventions and safe schools. This may require federal officials to make a greater investment in technical assistance programs to turn around low-performing schools. Children simply cannot wait seven years for the most serious NCLB measures to take effect.
- Hold states accountable for reviewing their “persistently dangerous” school definitions to eliminate the possibility that no school, in effect, could be labeled as such.
- Ensure interventions to improve low-performing schools – such as conversion to charter status or the use of management companies – are based on scientifically based research.

State policymakers should:

- Develop and fund policies that support effective and sustainable technical assistance responses (for example, prioritize level of intervention based on level of need and compress timelines whenever possible) and consider innovative programs (for example, a community-based model of intervention that addresses the larger cultural context of schools).
- Develop state policies that set rigorous standards for supplemental service providers.
- Support and fund incentives for districts to accept students from low-performing schools; for example, allow schools that accept significant numbers of low-achieving students to be “held harmless” over a reasonable time period for the progress of those students. Federal officials might need to make allowances for such incentives.
- Assume responsibility for improving all low-performing schools, not just those receiving Title I funds.
- Ensure districts are providing timely and straightforward notice to parents regarding supplemental services and options to attend other district schools.
- Review policies that define what constitutes a “persistently dangerous” school to ensure they meaningfully reflect what constitutes an unsafe environment.

Highly Qualified Teachers

Federal officials should:

- Provide clear, consistent and timely guidance regarding compliance with the highly qualified teachers provisions of NCLB.
- Insist that states provide accurate and accessible data on the qualifications and competence of teachers.

State policymakers should:

- Ensure state laws or board policies reflect an expectation that High Objective Uniform State Standards of Evaluation (HOUSSE), combined with the state’s certification requirements, truly guarantee all teachers are knowledgeable in the subjects they teach.
- Develop data systems that provide a clearer picture of the quality and effectiveness of teacher preparation programs (where teachers are trained, where they are placed, their performance in the classroom and so on).
- Develop state policies that provide teachers – particularly those in hard-to-staff schools – with greater access to high-quality professional development.

- Ensure state policies require all teachers using alternative routes to certification to demonstrate subject-matter competency, and provide a strong, consistent induction and mentoring program.
- Ensure the quality of teachers in high-poverty schools is comparable to the quality of teachers in more affluent schools.
- Develop policies that provide significant incentives for accomplished teachers who agree to teach in hard-to-staff schools.

Money

Federal officials should:

- Meet NCLB funding obligations, once accurate levels of need are determined.
- Provide incentives for school improvement interventions in non-Title I schools.
- Identify which NCLB requirements are being delayed in which states because of cost concerns, and structure market incentives to respond to the findings.

State policymakers should:

- Work to refine accounting practices and procedures across state, district and school levels. Ensure money is accounted for in ways that lead to increased knowledge of factors and conditions that influence student performance.
- Invest in the development of statewide-data systems capable of complex analysis and reporting, and of providing longitudinal data and unique student identifiers. Push for adequate federal funding for such systems. In cases where privacy objections arise, the federal government should rely on an independent council to set guidelines on use and security.
- Ensure state finance systems reflect the new priorities of NCLB.

Since the last quarter of 2002, ECS has been tracking state policy activity – laws, regulations, rules, directives and practices – related to 40 different elements of the No Child Left Behind Act. These data, compiled by ECS researchers in conjunction with state policymakers and their staffs, will be updated frequently as policies change and new information becomes available.

The following tables reflect data last updated on March 15, 2004. It shows that:

- All states (but not the **District of Columbia**) had met or were partially on track to meeting 50% of the NCLB requirements being tracked by ECS – an 11% increase over March 2003.
- All but two states (but not the **District of Columbia**) had met or were partially on track to meeting 75% of the requirements – an impressive 109% increase over March 2003.
- Five states – **Connecticut, Kentucky, New York, Oklahoma** and **Pennsylvania** – had met or were partially on track to meeting all 40 NCLB requirements.

The development of the ECS database was funded in large part by a grant (R215UO20019) from the Office of Innovation and Improvement, U.S. Department of Education. Information contained within the database and the determinations made on this site are those of ECS alone. The decision points used by ECS in these determinations can be accessed at <http://www.ecs.org/clearinghouse/44/28/4428.pdf>

Note: The numbers in the tallies will total 51, as the District of Columbia was included.

Indicator	Description	Y on track	P partially on track	N not on track
Standards and Assessments				
Reading Standards	State has academic content standards in reading/language arts in grades 3-8 and high school as required under the 1994 Elementary and Secondary Education Act (ESEA).	40	11	0
Mathematics Standards	State has academic content standards in mathematics in grades 3-8 and high school as required under the 1994 ESEA.	38	13	0
Science Standards	State has academic content standards in science in one grade level 3-5, one grade level 6-9 and one grade level 10-12 no later than 2005-06.	48	3	0
Annual Assessments in Reading/Language Arts	State administers a system of standards-based assessments in reading/language arts in grades 3-8 and in high school no later than 2005-06.	30	21	0
Annual Assessments in Mathematics	State administers a system of standards-based assessments in mathematics in grades 3-8 and in high school no later than 2005-06.	29	22	0
Assessments in Science	State administers standards-based assessments in science in one grade level 3-5, one grade level 6-9 and one grade level 10-12 no later than 2007-08.	37	7	7
Assessment of English Language Proficiency	State ensures that Local Education Agencies (LEAs) administer an annual assessment of English proficiency to all Limited English Proficient (LEP) students by the beginning of the 2002-03 school year.	47	1	3
Inclusion of English Language Learners	State has a policy in place to ensure inclusion of 100% of LEP students in state academic (reading/language arts, mathematics, science) assessments no later than the year specified for each subject.	47	4	0
Inclusion of Students with Disabilities	State has a policy in place to ensure inclusion of 100% of students with disabilities in state academic (reading/language arts, mathematics, science) assessments no later than the year specified for each subject.	51	0	0
Inclusion of Migrant Students	State has a policy in place to ensure inclusion of 100% of migrant students in state academic (reading/language arts, mathematics, science) assessments no later than the year specified for each subject.	47	4	0
Disaggregation of Results	Results are disaggregated and reported at the state, LEA and school level by required subgroups.	47	3	1

Indicator	Description	Y on track	P partially on track	N not on track
Accountability (Adequate Yearly Progress)				
Single Statewide Accountability System	A single statewide accountability system applies to all public schools and local education agencies (LEAs), as required by the 1994 Elementary and Secondary Education Act (ESEA). (State operates a single accountability system for Title I and non-Title I schools).	41	5	4 +1 unknown
All Schools (and students) Included in Accountability System	All public school students are included in state accountability system. (No students or schools are exempt from state accountability system, including alternative schools, juvenile detention schools, special education, state-operated).	42	5	4
Continuous Growth to 100% Proficiency	State's definition of adequate yearly progress (AYP) is based on expectations for growth in student achievement that is continuous and substantial, such that all students are proficient in reading/language arts and mathematics no later than 2013-14.	33	10	8
Annual Determination of Adequate Yearly Progress	State makes annual determination as to whether all public schools and LEAs have made AYP.	44	5	2
Accountability for All Subgroups	All public schools and LEAs are held accountable for the achievement of individual subgroups. (LEAs and schools are held accountable for achievement of the following student groups: economically disadvantaged, major racial or ethnic groups, students with disabilities, Limited English Proficient).	46	3	2
Primarily Based on Academics	State's AYP definition is based primarily on the state's academic assessments.	44	4	3
Includes Graduation Rate and Additional Indicator	State's AYP definition includes graduation rates for high schools and an additional indicator for middle and elementary schools.	37	7	7
Based on Separate Math and Reading Objectives	AYP is based on separate reading/language arts and mathematics achievement objectives.	40	9	2
95% of Students in all Subgroups Assessed	For a school to make AYP, state ensures that it assessed at least 95% of students in each subgroup enrolled. (At least 95% of all student subgroups – economically disadvantaged, major racial or ethnic groups, students with disabilities, Limited English Proficient – must be assessed for a school to make AYP.)	43	6	2

Indicator	Description	Y on track	P partially on track	N not on track
School Improvement				
Timely Identification	State identifies schools for school improvement, corrective action or restructuring before the start of the school year and ensures local education agencies (LEAs) notify parents in a timely fashion.	27	23	1
Technical Assistance	State has a system in place to provide “scientifically based” technical assistance to schools identified for school improvement, corrective action and restructuring, and the state has made LEAs aware of their technical assistance responsibilities to schools implementing improvement plans.	23	25	3
Public School Choice	State’s public school choice law allows students attending schools that have been identified as “in need of improvement” to transfer to another public school in the district that has not been identified for improvement.	34	16	1
Rewards and Sanctions	State has implemented system of rewards and sanctions for all schools (Title I and non-Title I) based on adequate yearly progress (AYP).	36	9	6
School Recognition	State has developed strategies, such as distinguished schools designations, academic rewards or financial rewards, to recognize schools that have significantly closed the achievement gap, exceeded AYP or made the greatest gains in student performance.	38	0	13
School Restructuring	State law authorizes at least one of five alternative governance options (reopening as charter school, replacing all or most of the school staff; entering into a contract with an entity, such as a private management company, to operate the public school; or turning the operation of the school over to the state) or other “major restructuring” of school governance.	38	0	12 +1 unknown
Corrective Action for LEAs	<p>State law authorizes and a process is in place for the state education agency (SEA) to take at least one of the following actions against LEAs that are in corrective action.</p> <ul style="list-style-type: none"> • Deferring programmatic funds or reducing administrative funds • Instituting and fully implementing a new curriculum • Replacing LEA personnel • Removing particular schools from the LEA and establishing alternative governance arrangements • Appointing a receiver or trustee in place of the superintendent and school board • Abolishing or restructuring the LEA • Authorizing students to transfer to a higher-performing school operated by another LEA, together with the provision of transportation and at least one other action in the preceding six items. 	32	3	14 +2 unknown

Indicator	Description	Y on track	P partially on track	N not on track
Safe Schools				
Criteria for Unsafe Schools	State has developed criteria for identifying “persistently dangerous” schools by the beginning of the 2003-04 school year.	50	1	0
Transfer Policy for Students in Unsafe Schools	State has established and implemented a statewide policy allowing students to transfer out of a school that has been identified as persistently dangerous into another public school within the district.	49	2	0
Transfer Policy for Victims of Violent Crime	State has established and implemented a statewide policy allowing students who are victims of a violent criminal offense to transfer to another public school within the district.	49	2	0

Indicator	Description	Y on track	P partially on track	N not on track
Supplemental Services				
Criteria for Supplemental Services	State has established criteria to identify effective supplemental service providers by the beginning of the 2002-03 school year.	48	2	1
List of Approved Supplemental Services Providers	State maintains list of approved providers, which it supplies to districts by the beginning of the 2002-03 school year.	45	3	3
Monitoring of Supplemental Services Providers	State has developed standards for monitoring quality of supplemental service providers.	36	3	12
Implementation of Supplemental Services	State ensures eligible local education agencies (LEAs) are arranging for provision of supplemental services by a provider selected by parents.	31	11	9

Indicator	Description	Y on track	P partially on track	N not on track
Report Cards				
Report Cards	State prepares and disseminates an annual state report card that includes all required information, by the beginning of the 2002-03 school year.	19	31	1

Indicator	Description	Y on track	P partially on track	N not on track
Teacher Quality				
Highly Qualified Teachers Definition	State has adopted definition for “highly qualified teachers” that meets the requirements of No Child Left Behind, by the beginning of the 2002-03 school year.	23	27	1
Subject-matter Competence	State has developed a system whereby existing elementary and middle and secondary teachers, in core academic subjects, must demonstrate subject-matter competence. System must be in place no later than beginning 2002-03 for new Title I teachers and no later than 2005-06 for all core academic subject teachers.	11	38	2
Test for New Elementary Teachers	State has test in place for new elementary school teachers. The exam must be available by the time teachers must demonstrate they meet highly qualified requirements. (The test must demonstrate subject knowledge and teaching skills in reading/language arts, writing, mathematics and other areas of an elementary curriculum.)	43	4	4
Highly Qualified Teacher in Every Classroom (annual measurable objective)	State has established an annual measurable objective for local education agencies (LEAs) to meet the goal for “highly qualified teachers” in every classroom. System must be in place no later than beginning 2002-03 for new Title I teachers and no later than 2005-06 for all core academic subject teachers. (State has annual measurable objectives that, at a minimum, track the following information: highly qualified teachers, teachers with a bachelor’s degree, state certified teachers, teachers who demonstrate subject-matter competency. Additional indicators are acceptable as well.)	0	50	1
High-Quality Professional Development (annual measurable objective)	State has established an annual measurable objective for increasing the percentage of teachers receiving high-quality professional development. The measurable objective must be included in state’s consolidated plan.	0	12	39

Methodology Underpinning the NCLB Database

Recognizing the complexity of the policy process, ECS undertook a rigorous methodology for gathering and including accurate information in the NCLB database.

First, ECS worked with the U.S. Department of Education to define 40 key requirements of NCLB. These requirements then were refined into indicators that became an approximately 140-page online survey sent in October 2002 to key NCLB contacts or area specialists in each state department of education. The survey asked respondents if they believed the state was in compliance, partially in compliance or not in compliance with the federal law on each indicator, and to provide evidence of such through actual statutory or regulatory citation, as well as any planned activity.

ECS staff then reviewed survey responses, creating a side-by-side template with the state response on one side and the ECS finding on the other side in an attempt to verify, if not clarify, the state's position. (When states did not respond, ECS staff researched the policies in those states, leaving the state side blank to accommodate any future state response.)

The preliminary findings were compiled and forwarded to the U.S. secretary of education and the White House. In addition, individual state reports, which included ECS findings and comments, were returned to each chief state school officer for additional clarification and comment. ECS followed these reports with telephone conference calls with personnel in more than half the states to clarify and modify findings. (When ECS staff and personnel in the states disagreed over findings, ECS noted such in the comments section.) When all was said and done, ECS staff had spoken to representatives in all but two states. Ultimately, staff condensed the information into one electronic template that was transferred to the Web site and launched in January 2003 (<http://www.ecs.org/nclbdatabase>).

ECS has continued to update this information through various means. It established a search capacity within Westlaw to track policy enactments across all 40 indicators. Staff across the organization constantly reviewed state gubernatorial, legislative, department and state board Web sites to ascertain whether new policies were being enacted. ECS sent out electronic notices throughout the year to key education policy leaders and staff, asking for relevant database updates. It also profiled the database throughout the following year at education policy meetings and media briefings, again asking for updates, and held meetings with key constituents. Literally, tens of thousands of ECS staff hours have gone into maintaining the database. ECS also engaged the National Association of State Boards of Education and the National Conference of State Legislatures as subcontractors to assist with tracking and reporting on activities undertaken by their respective constituencies.

Finally, ECS was in constant contact with the U.S. Department of Education to clarify and cross-reference any findings. The ECS database records – and provides direct links to – only ENACTED state policy. It does not include planned and existing programs that have been approved by the U.S. Department of Education as required by the law, but that are not yet reflected in final state policy. Data sets were “locked down” on a quarterly basis, so snapshots could be compared across time and trends could be established.

ECS decided upon a legend structured around four color keys indicating whether the state (1) appears to be on track to being in compliance, (2) appears to be partially on track to being in compliance or (3) does not appear to be on track to being in compliance. The fourth key signified unclear or unavailable data. ECS also placed disclaimers throughout the surveys and resulting database, indicating the determinations made were solely those of ECS and did not reflect judgments of or certification by the U.S. Department of Education.

ECS believed that offering the data live on the Web site every day would show users the basis for decisions made as well as the willingness of ECS staff to update information as changes became available. In addition, staff believed state policymakers, staff, researchers, teachers and the general public would quickly recognize any mistakes and submit newly minted policy enactments for review and change. This practice has brought forth increased constituent engagement and numerous changes that might otherwise have been missed because of the vagaries associated with policy development.

Finally, the procedures undertaken for the database not only assure information will be available to policymakers, the public and the media when they need it, but also that ECS remains committed to seeing the information is as accurate as humanly possible.



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