

**IMPLEMENTATION OF  
THE NO CHILD LEFT BEHIND ACT**

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**HEARING**  
BEFORE THE  
**COMMITTEE ON EDUCATION AND  
THE WORKFORCE**  
**HOUSE OF REPRESENTATIVES**  
**ONE HUNDRED SEVENTH CONGRESS**  
SECOND SESSION

HEARING HELD IN WASHINGTON, DC, JULY 24, 2002

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IMPLEMENTATION OF THE NO CHILD LEFT BEHIND  
ACT

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WEDNESDAY, JULY 24, 2002  
HOUSE OF REPRESENTATIVES,  
COMMITTEE ON EDUCATION AND THE WORKFORCE,  
WASHINGTON, D.C.

The committee met, pursuant to call, at 10:36 a.m., in Room 2175, Rayburn House Office Building, Hon. John A. Boehner [chairman of the committee] presiding.

Present: Representatives Boehner, McKeon, Castle, Johnson, Schaffer, Hilleary, Ehlers, Isakson, Goodlatte, Biggert, Tiberi, Keller, Wilson, Miller, Kildee, Owens, Payne, Mink, Andrews, Scott, Woolsey, Tierney, Kind, Sanchez, Ford, Kucinich, Wu, Holt, and Davis.

Staff Present: Alexa Callin, Communications Staff Assistant; Blake Hegeman, Legislative Assistant; Sally Lovejoy, Director of Education and Human Resources Policy; Patrick Lyden, Professional Staff Member; Maria Miller, Coalitions Director for Education Policy; Krisann Pearce, Deputy Director of Education and Human Resources Policy; Deborah L. Samantar, Committee Clerk/Intern Coordinator; Dave Schnittger, Communications Director; Rich Stombres, Professional Staff Member; Bob Sweet, Professional Staff Member; Heather Valentine, Press Secretary; Liz Wheel, Legislative Assistant; Charles Barone, Minority Deputy Staff Director; Denise Forte, Minority Legislative Associate/Education; Maggie McDow, Minority Legislative Associate/Education; Alex Nock, Minority Legislative Associate/Education; Joe Novotny, Minority Staff Assistant/Education; and Suzanne Palmer, Minority Legislative Associate/Education.

**Chairman Boehner.** The Committee on Education and the Workforce will come to order. A quorum being present, we are here today to hear testimony on the implementation of the No Child Left Behind Act. Under committee rule 12(b), the two opening statements are limited to the Chairman and Ranking Member or his designee, and if other members have opening statements they will be included in the hearing record, without objection. The hearing record will remain open for 14 days to allow Member statements and other extraneous material referenced during today's hearing to be part of the official hearing record. Without objection, so ordered.

**OPENING STATEMENT OF CHAIRMAN JOHN A. BOEHNER,  
COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF  
REPRESENTATIVES, WASHINGTON, D.C.**

**Chairman Boehner.** Good morning to all of you. Glad to see so many smiling faces here in the committee room.

We are here to discuss the ongoing implementation of H.R. 1, the No Child Left Behind Act of 2001, including accountability, adequate yearly progress, parental options, and flexibility. We also expect the hearing will address the activities and plans that the private sector and the states of Illinois and Colorado are undertaking to implement the new law.

Last year I was proud to work with my good friend Mr. Miller, Senator Gregg, and Senator Kennedy to help pass the No Child Left Behind Act, along with all of the members of this committee and others off the committee who worked together in a bipartisan way to produce this piece of legislation. Some of us are conservatives, others are liberals, but I think all of us share a common belief in the potential of the American education system. The four of us and the members of this committee worked together to overcome skeptics in both parties to pass what should be the most important change in education policy since 1965, as long as we have the courage, the focus, and the compassion to implement the bill as we wrote it last year.

The catalyst for the No Child Left Behind was, of course, the vision and leadership of President Bush. He believes strongly that every child should have the chance to learn. No Child Left Behind reflects that strongly held belief. It is about hope. It says that no child in America should be written off as unteachable, and no school should be written off as incapable of producing results.

Like many students, many schools today are victims of low expectations. For a generation, we have pumped billions of dollars into a system that lacked accountability, never insisting on results. Compassion was measured in terms of dollars spent instead of results produced. As long as government was spending as much money as it could on struggling schools, we believed we were doing all that we could to close the academic achievement gap and ensure that all students were achieving.

I believe that kind of thinking is no longer acceptable, and it is why No Child Left Behind has the potential to be a pivotal moment in American education. We are no longer willing to force parents to keep their children in schools that are dangerous or chronically failing, and we are no longer willing to accept that some public schools are locked in an irreversible collision course with disappointment and despair.

No Child Left Behind provides a road map and the resources for even the most troubled public schools in America to pull themselves up. It doesn't guarantee success, but it gives our poorest schools and the poorest students the fighting chance they so desperately need.

Accountability is the centerpiece of President Bush's plan to improve public schools and close this achievement gap that has existed between disadvantaged students and their peers since the federal government entered this arena in 1965. No Child Left Behind also provides new options for parents, gives greater flexibility to local schools, streamlines a number of federal education programs, expands local control, and targets billions of new funds to our most disadvantaged schools and their students, where it is needed most.

Children are the priority under No Child Left Behind, but schools are a priority, as well. The new law is built on the notion that every struggling child can learn, and every struggling school can rebound. Now, there are some who say that we can't help students in struggling schools without hurting the schools themselves. I think they are wrong. Expanding parental options is not a zero sum game. Yes, parents will be able to obtain private tutors and other supplemental services for their children through their child's share of the Title I resources. They will have this right for the first time ever, and I think it will have a powerful impact on their children. But school districts themselves will also have new funds, new resources, and new flexibility that go beyond anything that they ever dreamed was possible.

Every local district in America will receive dramatic new flexibility under the No Child Left Behind. The law gives this new flexibility to all 50 states and every local school district in the United States. It will also show demonstration projects that will be established across the nation to demonstrate the effectiveness of state and local control in improving student achievement.

As a result of this act, federal education funds increased dramatically and were targeted to poor schools and poor students, not just for Title I, but virtually every major ESEA education grant program, including teacher quality, which President Bush and Congress have, frankly, given a 35 percent increase to.

Schools that have not made adequate yearly progress for 2 consecutive years will qualify for immediate help. These schools will receive extra help, including technical assistance, to improve student achievement.

However, one thing must be crystal clear. Schools that continue to underachieve, even after extra help, will be required to change dramatically. Under this act, tougher measures take effect the longer that schools do not improve despite intensive assistance and extra help. No Child Left Behind sets goals for adequate yearly progress that are ambitious, but achievable. Many states already have high-quality accountability systems and definitions, while other states are working hard to improve upon theirs. All states will be able to establish stronger systems of accountability and definitions of AYP as a result of this law.

Secretary Paige, Under Secretary Hickok, and the department are committed to ensuring that the accountability, parental options, and flexibility provisions in the No Child Left Behind are implemented as soon as possible and, in the case of parental options, beginning this school year. I applaud them for their commitment because without these new options for parents, education reform for many may be an empty promise.

Every educator knows that there are children that are slipping through the cracks in today's public education system. We have a responsibility to give those children the education they deserve now, not years or decades from now. To acknowledge this is not to condemn public education, but it is rather the first step toward repairing those cracks and ensuring that no child in America is left behind.

Once again I want to thank you all for taking the time to be here and to participate in this important hearing. Closing the achievement gap in education will require a close partnership among parents, teachers, school officials, business leaders and lawmakers at all levels of government. Your participation here is a strong sign that this partnership is stronger than ever.

WRITTEN OPENING STATEMENT OF CHAIRMAN JOHN A. BOEHNER, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C. – SEE APPENDIX A

**Chairman Boehner.** I want to now yield to my friend and colleague, the Ranking Member of the Subcommittee on Education Reform, the gentleman from Michigan, Mr. Kildee.

***OPENING STATEMENT OF MINORITY RANKING MEMBER DALE E. KILDEE, SUBCOMMITTEE ON EDUCATION REFORM, COMMITTEE ON EDUCATION AND THE WORKFORCE, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.***

**Mr. Kildee.** Thank you, Mr. Chairman.

No Child Left Behind indeed is a bipartisan bill, and this legislation continues the great tradition of this committee dating back to at least Bill Goodling and certainly continuing with yourself, Chairman Boehner. As a matter of fact, in 1998, Buck McKeon and I worked very closely together to produce a bipartisan higher education bill. I hope that implementation of this bill will be done as well as the higher education bill.

I want to welcome to this committee this morning the Honorable Gene Hickok, the Under Secretary of Education. He and I have developed a very good working relationship, and we have a good friendship. I look forward to working with you. Thank you very much.

Yield back the balance of my time.

**Chairman Boehner.** Thank you, Mr. Kildee.



We have two panels of witnesses today. The first panel is the Under Secretary for the Department of Education, Dr. Eugene Hickok. He is not only an under secretary at the U.S. Department of Education, but he is the principal advisor to Secretary Paige. Prior to assuming his current duties, he served as Secretary of Education for the state of Pennsylvania, where he played a key role in implementing education reform. In addition, Dr. Hickok was a founding member and former chairman of the Education Leaders Council.

I will remind all members we will ask questions after Dr. Hickok has given his testimony.

With that, you may begin.

***STATEMENT OF EUGENE W. HICKOK, UNDER SECRETARY, U.S. DEPARTMENT OF EDUCATION, WASHINGTON, D.C.***

**Mr. Hickok.** Thank you, Mr. Chairman. Good morning to members of the committee, and thank you very much for this chance to meet with you to discuss implementation of the No Child Left Behind Act. I will read just a portion of my statement and submit it for the record, if that is okay.

As the Chairman mentioned, the enactment of No Child Left Behind was a watershed event in this Nation's history for federal support of K-12 education. It embraces key principles that underwrite not just the new law, but also our implementation of this new law. As was stated earlier, there are four key principles: increased accountability for results; more choices for parents and for students; greater flexibility for states, school districts and schools; and a focus on what works.

These key principles are the very heart of our implementation of this new law. They guide everything we do. When a piece of legislation like this is passed, educators across the country eagerly await information from the Department of Education on how this new and revised program will operate. We try to provide that information through regulations or non-regulatory program guidance. Through those kinds of documents, we interpret provisions that may be ambiguous in the statute, fill in the blanks and try to translate statutory text into plain English.

Our guiding principle with regard to implementing the law is to regulate only when it is absolutely necessary, because we think non-regulatory guidance provides states and local education agencies with greater flexibility, and that obviously is one of the key principles of this law. Therefore, we have worked very hard as a department to develop guidance for the major forms of the grant programs and have been able to meet our deadlines in almost every case.

In some areas we do have to issue regulations. In particular, the law itself has required us to go through the negotiated rulemaking process and issue regulations on standards and assessments. We went through that process in March and issued our final regulations under the statutory deadline earlier this month.

We also have determined that regulations are needed with regard to Title I provisions on adequate yearly progress, and we are issuing tentative regulations on that probably next week. Our goal in every case has been, whether it is regulations or guidance, to seek actively input from people outside of Washington, state chiefs, superintendents from large areas and small areas, people who every day deal with these issues in a far more direct way than we do in the department.

The department has spent a great deal of time looking at the consolidated applications this year. We knew that this would be critical to making sure money in the new budget gets to the states by July 1st, and it also is a first opportunity for us to send a message to the states that we want to be partners in this process. We put together a very, very strong review process of all the consolidated applications. It took a lot of time, but we turned them around quickly and were able to make the deadline.

We think the new flexibility provisions in No Child Left Behind offers untold opportunities at the state and district level to be creative with regard to this new law. We have published proposed rules for both state-Flex, as we call it, and Local-Flex, and we have taken steps to inform states and districts about the new provisions and to receive their input on implementation. We expect the first group of Local-Flex districts to be announced in December and the first states sometime in January. At this point in time, I think we have 13 states that have told us they are interested in applying for State-Flex.

On the competitive grant front, there is obviously a lot of interest there. I would mention two things that I think both epitomize what makes this new law so different and so important, and also how we are operating a bit differently with this new law. The first is Reading First. As you all know, Reading First embodies the President's commitment to ensure that all children learn to read by the third grade. All states are eligible to receive formula grants for implementation of programs of scientifically based reading instruction, particularly in those schools with high percentages of students not learning to read on grade level. But the statute also requires, as you all know so well, a very intensive peer review process of these applications to make sure that indeed this time every state that receives money is going to be offering support for reading that we know, based on science, has a better chance of working.

I am very proud to say that almost every state is engaged in a discussion with us on that peer review process. Some awards have been made. We anticipate some more being made soon. But the key ingredient here is that states and the department are actively engaged in making sure that we are partners in making sure kids can read by grade 3.

It is one thing to talk about rules and regulations and grants and contracts, but implementing No Child Left Behind really involves more than that. It involves a national conversation about the future of American education. It means bringing the whole country together around the idea that if we are continue to flourish as a nation, we must be serious about leaving no child behind.

Right after the President signed the legislation, we held a summit in Mount Vernon with state chiefs. To our knowledge, that is the first time a Secretary of Education from any administration has done that. Our goal was to host them and engage them from day 1 in a conversation about their concerns and their issues as well as this new law. Since then, we have met

countless times with other chiefs, with superintendents, with state legislators, with state board members, and with Governors' policy advisors. The goal here is to have as inclusive a conversation as possible with the business leaders from around the country.

We have had regional meetings on Title I, standards assessments, regulations, national conferences on teacher quality, on charter schools, and on supplemental educational services. This fall, we are planning our first national summit on performance to gather all these folks together to talk about that very important principle of educational change. Secretary Paige has also communicated directly with almost every superintendent in this Nation. He has sent letters trying to make sure that everybody is aware of the provisions of the law that take effect immediately. He sent letters to every state chief and superintendent in June to talk about school choice and supplemental services provisions that take effect this fall to make sure that he communicates directly in a no-nonsense, straightforward fashion about these principles. And later on today, he will send a letter to the field as well as, to state chiefs, to governors, and to local education leaders, about adequate yearly progress and those provisions to make sure that they are fully aware that this law does have tough, challenging new requirements. However, it also wants to build upon the good work done in most of our states on accountability systems. His goal with this letter is to send the message that we want to work with the states as we go down that road. Again, I think that is relatively new.

As the chairman said in his opening comments, we take our role very seriously to help lead this nation in education change, but we also take the fact that it is impossible without good strong work at the state and local level very seriously.

Let me finish with just one last comment, Mr. Chairman. I have been in this city now for a little over a year. I have been asked to head up the implementation efforts since it was signed in January. I want to echo the sentiments that have been expressed by others this morning, and that is this is a bipartisan effort. I want to thank the members of this committee. I want to thank their staff. I also want to thank publicly the members on the senate side and their staff from both sides of the aisle. This has been an extraordinary effort.

Secretary Paige says all the time it is one thing to pass a law, but it is another thing to implement it. It is not easy. As you know, writing this law was not easy. Making it work will not be easy, but it can only happen with that sense of bipartisanship that has been demonstrated so far, and for that I am truly grateful. Thank you, Mr. Chairman.

**Chairman Boehner.** Thank you, Dr. Hickok, for your appearance here this morning and the update.

WRITTEN STATEMENT OF EUGENE W. HICKOK, UNDER SECRETARY, U.S.  
DEPARTMENT OF EDUCATION, WASHINGTON, D.C. – SEE APPENDIX B

**Chairman Boehner.** Before I get into any questions, for the benefit of the members and others, both Mr. Miller and I and Senator Kennedy and Senator Gregg and our staffs have been highly

engaged in this process of implementation with the secretary and the department. We continue to work very closely together and in all honesty have a very good relationship as we have gone through this process.

Dr. Hickok, you mentioned that there is some communication coming from the secretary today to governors and state school chiefs about adequate yearly progress and other accountability measures. Do you want to expand a little bit on what we expect will be said?

**Mr. Hickok.** I will be glad to, Mr. Chairman.

Secretary Paige is going to send a letter to the field, a dear colleague letter that will have wide distribution at the state and local level. As we listen to the conversation, read the clips around the country, try to talk to education leaders and, frankly, business leaders and others around the country about this new law, one of the ongoing causes of anxiety is the issue of adequate yearly progress. It is a very complex issue, and it is one that a lot of states have been looking at and trying to figure out where they are now and where they need to be. There has been the misperception out there in some places that this new law tells the people and the states that they have to tear down whatever good things they have been doing and start all over again.

So one of the things we want to do with the letter is send the very strong message that this new law is all about building upon the quality accountability systems that have been put in place in some states. Now, we don't want to send the message that a lot of change isn't going to have to take place. A lot of change is going to have to take place. I think every state might have to go through some change to be in accord with these new provisions regardless of how strong a system they might have

We also want to send the message that under certain key principles of No Child Left Behind, including AYP, disaggregation of data, testing every student, making sure have you a single statewide accountability system, and making sure that as you look at test scores. You disaggregate data for all those groups, and those different scores are kept separate for math and for reading. It is somewhat complex material, but we think that it is past time to make sure that, as we go through implementation, the field is fully aware of what our thinking is. Each state will have to send their accountability system to the department, and as the statute says, there will be a peer review process to look at that. This letter is an attempt to help the state and local levels understand how that peer review process will work.

**Chairman Boehner.** Dr. Hickok, obviously the department has heard some grumbling about the accountability standards. Clearly, some Members have heard grumbling that the accountability system is too tough, too prescriptive, and too impractical to implement. You were on the ground for 6 years as the secretary of education of Pennsylvania. Give us your thoughts about whether these fears and this grumbling are grounded in reality.

**Mr. Hickok.** Well, I will say these are tough standards. I think we all agree. I know that you meant as a committee and as a Congress, to say something about the need for improvement. But in terms of the grumbling, I think some of that is based on the misperceptions I just outlined. I think some of that is required because it does require change, and change is difficult. It is difficult no

matter who you are and what you are doing. Change is going to be important here. If we don't make some changes, we will continue to not improve. But overall, speaking from my seat in Pennsylvania, I would look at this law as complementing what we attempted to do in Pennsylvania with our accountability system. This included state standards and tests based on those standards. It will require more testing than we did in Pennsylvania, but to me that is the rational way to pursue improving schools.

So I think a lot of it is based on misperception. A lot of it is based on the fact that change is going to have to take place. It will not be easy, but it is very, very important.

**Chairman Boehner.** You understand that under the act we require states to get to 100 percent proficiency in 12 years. Obviously we have some concerns being raised that that is too soon. And we have got others that don't want to have the four different subgroups having to meet adequate yearly progress according to the timetable as outlined by each of the states.

So I guess my question is - I know what my answer is, but I want to know what your answer is. Is 12 years long enough, or do you think longer than 12 years might be more adequate?

**Mr. Hickok.** I think 12 years is long enough. I share with many people a sense of urgency about this. I can't tell you how many times I have had a sense in my previous job and in this one of just how much this is needed. I sometimes sit back and go, how did we get to this point in time where you could have this many kids who can't read at grade level in this Nation? It is a sense of urgency. Frankly, when we frame the issue in that way, a lot of folks who might be wringing their hands and saying this is either impossible or too difficult begin to recognize we have to do this. In my opinion, this is in many ways a noble mission for a great Nation, and we will not be a great nation if we do not make this happen.

**Chairman Boehner.** Dr. Hickok, let me congratulate you, the Secretary, and the department for your sense of urgency here. I too share your concerns. As I have mentioned here before, I was a state legislator back in the early 1980s. While I wasn't heavily involved in education policy at the time, I always asked myself how we could continue to look the other way when we knew we had kids going from one grade to another that hadn't learned anything. I always described it as criminal neglect on the part of policymakers knowing that children were not getting an education.

I could get carried away with this and I better not. Let me say thank you, and let me yield to my good friend from Michigan Mr. Kildee.

**Mr. Kildee.** Thank you, Mr. Chairman.

Mr. Secretary, as other members of the committee, I was particularly pleased to see the importance placed on reading by the President and the department. I was pleased to learn that some of the first implementation efforts were on Reading First. However, as I have talked to both my state and local education officials, there has been some continual concern that in the department have a bias against certain reading curriculums, even those that have the necessary research basis. Will the department approve state applications that utilize scientifically based research regardless of what curriculum the state may wish to fund, and specifically is there any bias that you detect

within the department on the part of some towards such reading programs as Open Court or Reading Recovery?

**Mr. Hickok.** There has been a lot of talk about that around the country. Let me set the record straight as much as I can. The law talks about the importance of scientifically based research and certainly in reading instruction and in Reading First in, I believe, 11 places throughout the statute. That is the paradigm that we want to establish, that we change the way we teach reading in this country based upon what we know works.

There are essential components to reading instruction based in science. I am not the expert on this. As we have our reading leadership academies and as we do the peer review process of all the Reading First applications, let me assure you of two things. First, the criteria based on scientific research are what we use to guide the peer review process. We have no list of what is good or bad. If I might say so, we have no dog in that fight. There is no attempt to say this one can go and this one cannot in terms of programs. The goal here is to ensure that Reading Recovery or any other program in a state application can match the rigors of the peer review process based on scientific research. That is all we care about. We care about research and results, and that is the best way I can put it.

**Mr. Kildee.** So the department, then, would not deny applications that would fund Reading Recovery.

**Mr. Hickok.** Not just because it is Reading Recovery, of course not. If we have problems with an application, the first thing we do no matter what program we might be using is to go back to the state and work with them to make sure that their application reflects the scientific research paradigm we have been talking about.

**Mr. Kildee.** I appreciate that attitude and that policy in that department because I think, as you know, having been the chief school officer in Pennsylvania, and that not all the wisdom resides here in Washington D.C. There is a lot of wisdom out there in the states and local school districts. As Chairman Boehner knows, one of my great interests H.R.1 was the 21st Century Community Learning Centers program. One of the challenges this year for the department is to implement new grant structures, such as the change from a federal to local program to a state grant program. What technical assistance has the department provided the states as they design and implement their 21st century grant competitions? Will implementing this new grant structure lead to any difficulty in the department ensuring the remaining federal to local continuation 21<sup>st</sup> Century awards made under pre-H.R. 1 programs will continue to be funded?

**Mr. Hickok.** Well, with that program, unlike most of our programs, we do have couple of things. We do draft guidance and then regulation guidance. We are engaged with previous grant recipients at the state and local level to make sure they are fully aware of any changes in the program with regard to emphasis and programming. With regard to that particular program, we have been out with various events talking about how new opportunities are emerging in this area for 21st century learning grants. So it really is the same process we typically follow, and that is making sure that the field is fully engaged in a knowledgeable way of what they need to understand the changes in

the program.

**Mr. Kildee.** The department has a history of working with private organizations on the 21<sup>st</sup> Century program with the Charles Stewart Mott Foundation, particularly Under Secretary Riley, there was a very close relationship. Could you tell how the department is utilizing relationships with private groups, including the Charles Stewart Mott Foundation?

**Mr. Hickok.** As a matter of fact, the department received an award for that relationship not too long ago as an outstanding example of a partnership between the federal government, the Department of Education, and the private sector; not just a relationship in terms of working together, but actually pulling resources and leveraging resources to make sure you get more bang for the buck.

What we look at now is not just spending in education, but investing wisely with partners in education at the national, state, and local level. We think that is really the role that we should be playing more of, sort of a facilitator to leverage resources. We did that with the Mott Foundation and anticipate that we will continue to do that.

**Mr. Kildee.** I am very happy to hear that. I am very happy to hear you use the word "investing" when describing education. I think dollars for education are really an investment. They are not just spending. They will return to the Treasury far more than what is spent. A good moral investment, a good fiscal investment. Thank you very much.

**Chairman Boehner.** Before I recognize Mr. McKeon, let me congratulate the gentleman from Michigan for his tireless work on behalf of the 21st century learning centers and his cooperation as we went through it last year. They have quite a track record. And the gentleman from Michigan has done yeoman's work in guiding that program.

Let me recognize the gentleman from California Mr. McKeon.

**Mr. McKeon.** Thank you for yielding, Mr. Chairman.

I am happy to have you here with us today, Mr. Secretary. I appreciate it and the things that you are doing to implement this law. I was happy to hear you say that you think 12 years is long enough to get it into effect. I wish it could be 6 months. You know, when we think that a child now entering school may go through 12 years and graduate before this is fully implemented, that is a little concerning.

I had a friend years ago that was a principal in a high school in Los Angeles City Schools. He told me that they had recently done a study that showed it took 20 years from the time somebody conceived an idea and started to implement it in that school district, and it was much smaller then than it is now, before it was fully implemented throughout the school district. I worry that we could get caught up in bureaucracy and in the old ways of doing things, whether they are good or bad, and we really are resistant to change. I remember a supervisor I had one time said, the only constant in life is change. For many people, the only thing they want to accept is change.

So I appreciate what you are going through and how difficult it is to get this country, as large as it is, even though it is broken down into 50 states. There are many large organizations to accept and implement these ideas, realizing how important they are and how important our children are.

In that implementation, I know that there will be state and local difficulties. I am wondering what you are doing. Have you seen any of these problems yet, and what you are doing to address them?

**Mr. Hickok.** Well, I think most of the problems revolve around the need to adopt policies either through state boards of education or state legislatures that will lead a state toward full implementation of the law. Also at the state level, the economic situation is not as good as it was a year ago. So there is a lot of budgetary pressure and, therefore, political pressure with regard to making tough choices on implementation.

What we attempt to do is keep in constant contact through our regulatory process or through my office and others in just engaging in conversation with state and local leaders to make sure, one, they know that we are available if we can be of any help with regard to expertise and information, and, two, to find out what we need to know with regard to their situation. I can't emphasize that enough; I mean, literally conversations ideally at the state and local level.

We also try to monitor things. We have 10 regional offices all over this country. They are very much engaged with their regional leadership to make sure that they are available to do whatever they need to do to get information in and out. So it is a pretty comprehensive approach.

I would like to just share one more point about the urgency. For those that would doubt the importance of getting this done, I would urge them to do what I urge my staff to do all the time - can't do it right now because in most places the school isn't in session - but go visit an elementary school and spend some time looking at those kids, and you tell me whether or not we should be serious about making sure everyone can learn as quickly as possible. That is how urgent I think it is.

**Mr. McKeon.** Are you aware of any of these problems or difficulties arising yet? Are you seeing any resistance from any particular states or localities?

**Mr. Hickok.** I sort of see two things. On the positive side the state and many local areas, as I read my clips and read the press all over the country, I see a can do, must do attitude. However, it is not without some anxiety or a sense that is going to be tough. That is a good sign. No one is doubting it is going to be tough. The bad news is there are some places at the local and state level where there is much more of a this is impossible, it is unrealistic, and it is not going to happen attitude. With all due respect My response to that when I am asked is, it is the law. Part of our job is to make sure that we are going to help, but we are going to enforce the law. We will see if that leads to a more difficult circumstance down the road. But the most important thing is to send that message.

**Mr. McKeon.** Thank you very much.



**Mr. Castle.** [Presiding.] Thank you, Mr. McKeon.

Mrs. Mink.

**Mrs. Mink.** Thank you very much.

The Chairman indicated that there was a lot of grumbling because of the implementation of some of the features of the new law. I would like to indicate that in my state it was far more than grumbling it was loud screams of absolute frustration and concern about the impacts that the department was imposing upon the school district this fall. The law that we are examining today only went into effect in January. However, in that law we provided for certain provisions that were in existence prior to the enactment of this law to be implemented this fall. And that had to do with public school choice, that if the schools were in a failing status, lacking appropriate achievement or annual average yearly progress, that the school system had to offer the parents the option to move to a school that had the requisite performance standards.

The result in my state is that somewhere around 125 schools are in the category of lacking sufficient annual progress. It particularly hits the Second Congressional District, which is the rural part of my state. On one island, the big island, 25 schools are singled out for this transfer option for the students to move to another school. The big island is the size of the state of Connecticut, and traveling from one community to another is extremely difficult. There is no public transportation whatsoever. On the island people have to move about on private automobiles.

We have a state system, which further complicates it. The school superintendent says that roughly 50,000 students are affected by the decision of the department to impose this mandatory option or that the parents might have to move their children, and this creates a huge dilemma for my state.

Now, we are using examination or test standards, which date back to the year 2000. We did not have tests in my state in the year 2001 because we had a statewide strike, and, therefore, there was no examination data. So when you say 2 years in succession, we are talking about 1999 and the year 2000 because we have no data for the year 2001.

Now, I have met with at least 30 or 40 perhaps of the principals of the 95 schools that are listed in my district, and they explain to me the tremendous hazards of relying upon some of these test scores. For instance, there would be a school there which the third graders did exceptionally well, exceeded the standards in large proportions, but then in the fifth grade, which was the next level that was tested, there would be a lack of progress. And yet the entire school is targeted as failing, creating an enormous problem for that school in terms of morale. We are telling the students and teachers, you know, to do better, and when they do, the school is still penalized.

So my question is there is also a section in the law that says if there are extenuating circumstances, that the imposition of this requirement to transfer out be offered to the parents could be postponed for an additional year, would the department consider a request such as the one I have just outlined where there are no test scores for the year 2001 because of a statewide teachers'

strike?

**Mr. Hickok.** First of all, let me say that I am somewhat familiar with the situation in Hawaii, and I have been trying to keep up with the unique challenges of that state with regard to this very issue.

Let me also point out that the choice provision in the supplemental services provisions is in the law. It is not just the department imposing them; the fact is the law says they take effect this school year. Having said that, we have to be practical. We recognize in some areas, in rural locations -

**Mrs. Mink.** There is a section, which specifically says that they may be postponed for 1 year only upon extenuating circumstances beyond the control of the department.

**Mr. Hickok.** My point is that we will look at any request from a state with regard to how it would ask the statute to be applied with regard to that question. I can't answer whether or not we could do that. I have to find out what the facts are. But I do think it is important that everyone recognize that the choice provisions are by law supposed to start this fall. I don't want people to think this is the department saying you have to do it. Secretary Paige also sent a letter back in June that talked about those cases. Our thinking is in those cases where public school choice may not be as much of an option because there are no choices close by, rural locations as you suggest, then we think this spirit of the law is to determine whether there are other ways to create opportunities for choice within the school and other ways to get supplemental services available a year sooner.

So to us we have to be practical. We have to obey the law, obviously. We are willing to talk with you about what we can do to help, surely.

**Mr. Castle.** Thank you, Mrs. Mink.

Mrs. Biggert.

**Mrs. Biggert.** Thank you, Mr. Chairman.

Now that the law is passed and is being implemented, and we put resources into that bill, are the resources going to be adequate now to implement?

**Mr. Hickok.** If I might, I am going to rely upon two things, rather than just my experience. Our experience at the federal level with the current budget, which right now we think represents the budget that is going before the states right now, a dramatic investment in education. I am also going to rely upon my experience at the state level and echo the point that was made earlier. This Nation, through a combination of state, local and federal taxpayer dollars, spends a great deal of money on education. I think my experience at the state level tells me we need to spend that money in a much smarter fashion. We need to make sure that we use the investment mentality, and we see some return on the investment.

I think the money that the Congress has appropriated is adequate. It is not only adequate, I think it is by far enough to get us started on this implementation, that plus the commitment we have

made as an administration to continue to work on implementation. So I guess I am going on too long, but I care about this. I think the budget is fine for education.

**Mrs. Biggert.** Then there are other resources, such as teachers, that we are hearing about there is going to be such a teacher shortage. Is that something that you have to address right now while you are working?

**Mr. Hickok.** Certainly we are looking at teacher quality provisions and the issue of teacher supply and demand. It varies across the states and areas of needs, in terms of special education, elementary education and high school, et cetera. We are working with states on that all the time.

There is also a challenge on teacher preparation in this country. As standards become a way of doing business more and more, we need to make sure teacher preparation reflects that. It goes back to the comment I made earlier about ideas. Money without smart ideas will not be spent wisely. We need both, and this law creates that opportunity to take place.

**Mrs. Biggert.** Then to follow up on a couple of the other questions, in Illinois we are hearing rumblings about how we are going to be able to put children into schools. There have been schools that have been on the failure list for quite a while so that they already have had the 3 years perhaps of failing, or at least they need to have intervention and have somebody come into the schools or have the option for students to go to other schools. For example, in Chicago there is no place for these children to go. What will happen at the start of the school year?

**Mr. Hickok.** You mention Chicago. We have had conversations with the superintendent. I think we have some more work to talk about that this very afternoon as a matter of fact.

Chicago, not unlike many other urban areas, has lots of challenges in terms of schools. They are not making adequate yearly progress and, therefore, there is potential for large opportunities of choice, at least according to the law. Chicago tells us that the supply of empty seats pales in comparison to the number of qualified students who should be able to exercise choice. They also tell me, to their credit, that they want to do whatever they can to implement as much choice as possible this school year through a combination of transportation provisions and cluster provisions, which is what they do in Chicago. Our goal is to help them achieve that.

No one doubts that this first year in Chicago and some other places will not be without some challenge, but I think you will see some school choices in those areas. You will see some supplemental services. And you will see parents engaged in that conversation unlike ever before. That tells me in future years you will see even more school choice.

**Mrs. Biggert.** Thank you.

Thank you, Mr. Chairman.

**Mr. Castle.** Thank you, Mrs. Biggert.

Mr. Scott.

**Mr. Scott.** Thank you, Mr. Chairman.

Mr. Hickok, when we considered the bill, we noticed on the annual improvement a perverse incentive to encourage dropping out unless that was specifically dealt with. That is if you don't test those at the bottom, let them drop out, your average actually goes up. What is being done to discourage that perverse incentive?

**Mr. Hickok.** I think you are referencing the provisions that say that every student has to be tested. You disaggregate the data according to certain socioeconomic student groups so the actual challenge doesn't get lost in the averages. You also require in the law 95 percent of the students in the accountability system, at least. So the whole goal here is to deal with that perverse incentive, which has been a challenge. If you have an average score for a district that looks pretty good, but don't disaggregate to find out where different groups of students are, then some students who are experiencing real achievement gaps are never seen. We need to end that. That is what this law is all about.

**Mr. Scott.** How are we doing on developing tests generally? A lot of states had their own tests. I know Virginia has an SOL test, and that many of the states hadn't gotten up to the formal test required. Are we in the development of tests that can be used?

**Mr. Hickok.** Obviously, the department itself is not developing the tests. These are state standards, state assessments, and state accountability systems. But there has been considerable progress made in the testing business because of No Child Left Behind. Initially, I think there was some reaction in the field because they were worried that this new law might undermine some of the things they have done. Certainly, it challenges some accountability systems, but in terms of test development, my sense is that the test developers and, therefore, the states have been working pretty eagerly and diligently to find ways to make sure they have assessments based on state standards. They know it is the law, and it is not going to be something that we are going to back down from.

**Mr. Scott.** Have we had time to validate the tests so that you would know that they are validated for the purpose for which they are being used?

**Mr. Hickok.** We have not done that state by state. That would be part of the peer review process when the states come to the department with their accountability systems. We will have a team of experts. They are called psychometricians, and part of their job will be to look at the rigor, the validity of state accountability systems, and the relationship of assessments to state standards.

**Mr. Scott.** You are familiar with section 9534, the civil rights section. The language in the section says, A, in general, nothing in this Act shall be construed to permit discrimination on the basis of race, color, religion, sex except as otherwise permitted under Title IX national origin or disability in any program funded under this Act.

Some of us thought that that meant that you couldn't discriminate. How is the department interpreting that language?

**Mr. Hickok.** If I am correct, I think you are referencing the language in the 21st Century Learning Community. Our interpretation is in draft form. Our guidance is that nothing in that law alters existing civil rights law. That is a term of statutory construction. Therefore, existing civil rights laws with regard to discrimination remain in place.

**Mr. Scott.** Does that mean, although it says nothing in this Act shall be construed to permit discrimination, in fact it may permit discrimination?

**Mr. Hickok.** As I understand it, current law includes an exemption for faith-based organizations. For example, in the hiring of employees, they may give preference to individuals of their own faith. That is current civil rights law, and it is our understanding and analysis of this point in time that this new law has not changed that.

**Mr. Scott.** So although the language says nothing in this Act shall be construed to permit discrimination, in some cases there can be discrimination? That is the interpretation of the department? What language would we have had to put in the bill to prohibit discrimination?

**Mr. Hickok.** I was looking for some either legislative history or direct language that says the current exemption. I think it is called Title VII of civil rights laws is no more applicable or no more applies or is hereby amended or whatever.

**Mr. Scott.** Well, we are just talking about money out of this pot. What they do with the church money is their business, but some of us thought that this meant they couldn't discriminate with the federal money.

Thank you, Mr. Chairman.

**Mr. Castle.** [Presiding.] Thank you, Mr. Scott.

Mr. Isakson.

**Mr. Isakson.** Thank you, Mr. Chairman.

Thank you for what you are doing, Doctor. We appreciate it, and I commend you on the communication that I understand from your opening remarks going out today are addressing annual yearly progress. Am I correct in that?

**Mr. Hickok.** Yes. Thank you.

**Mr. Isakson.** Let me make sure I understand something. I have sensed in a number of situations since we passed the bill an apprehension and a fear among some in public schools over the accountability and over AYP, particularly, regarding those systems where they have a frequency of transient students, not necessarily children of Americans but maybe children of immigrants that

come in and come out of the systems. I want to make sure that I am right in my understanding in terms of the department's guidance.

This sort of addresses Mr. Scott's question, in a way. In determining annual yearly progress and whether or not a school is failing, the students all must be tested and then the numbers all must be disaggregated. There is flexibility to the extent that, you have systems where there may be 10 new students a week coming in and 10 leaving, because they are children of transient parents. That is not going to be an undue holding against the school because of those students but rather they will be disaggregated and funds may be used to address that specific lack of progress for a lack of a better term. Am I correct?

**Mr. Hickok.** Very much so. Frankly, my experience in Pennsylvania taught me that students in some locations move around the district, go to various schools within a district, or they come into a district halfway through the school year and then leave.

The issue of student transients is an important one, and we make sure that in the adequate yearly progress provisions and guidance and discussion that districts can take that into account. We take that into account in terms of making sure every student is still tested, but the transience issue gets into the accountability system. If a student has not been there for the entire school year, districts can take that into consideration and make sure that the accountability system reflects that issue. So we are very much aware of that issue and of that problem.

**Mr. Isakson.** Well, it has been my sense, just as there may have been a perverse motivation as was referred to by Mr. Scott, not to test, or to test, or the fear of testing students who are dropping out. There is also a perverse attitude among some that maybe if we have a whole lot of schools failing there will be a reaction within the system that this is a bad law and it will slow down the progress.

So my main focus and suggestion to the department as we go through this first year of implementation is to do exactly what you have done. First, communicate very widely with the systems on annual yearly progress about the failing school issue. Secondly, use a lot of judgment in those determinations so we don't have an over instrumentation of intent, causing a negative reaction against the long-term goal, which is to take these students that need attention rather than mask them in averages but in fact focus the light on them and the resources so we turn their lives around.

That is the intent. That was my intent in everything I did with the bill, and I know that is the department's intent. I just wanted to raise that issue and hope you will keep that communication going. I am going to do everything I can to get it down to the local LEAs so they know as well.

Thank you, Mr. Chairman; and if you have any comment further -

**Mr. Hickok.** I think one of the things we are trying to do is use a good deal of common sense as we talk about these issues and not get caught up in worst-case scenarios. I mean there is a lot of good work that needs to be done. If we are going to wring our hands and worry about worst-case scenarios that good work won't get done, so that echoes your point.

**Chairman Boehner.** [Presiding.] The Chair recognizes the gentleman from California, Mr. Miller.

**Mr. Miller.** Thank you very much and my apologies for not being here earlier. We had an outbreak of the California water wars in the other committee, so there will be nothing like that here.

But thank you very much for being here, Mr. Secretary; and I also want to thank you and the department, I think, for taking a very strong and realistic stand about what we intended to accomplish - when I say "we," I mean the Congress - with the bipartisan support of the legislation and certainly with the President and his direction and support. I would encourage you to continue to do that.

I think some of us felt that from time to time our efforts at reauthorization here were then gamed into the next reauthorization, and I think on behalf of the children that we are expressing so much concern about and spent so much time trying to devise these reforms and changes that we not allow that to happen again. So I appreciate what you have done today.

I want to ask a question on a subject we have discussed before and that is the question of the use of a statewide system of assessment. As I understand it, the department has left out the idea that states might be able to come up with a system that, while using different methods of assessments, would be the equivalent of a statewide standard. Now I have a lot of concern with that. I worry that it opens the door to a lot of mischief that is, in fact, inconsistent with the standard that we put in, which was a statewide system. I really worry that it allows us to compare progress from grade to grade, which I think is terribly important in those first few years.

I also would raise the question of whether or not it undermines what was one of the premiere goals of the President, and that was that we would be able to use NAPE so we could see how we are doing and that we could see whether or not this thing was on the level or not. So I want to express those concerns. I would be interested in your response.

I guess I would bolster those concerns by the national academy from the Appropriations Committee a couple of years ago when they said that, as they reviewed all of the available tests, cobbling them together to get the equivalency of a state-wide standard, they didn't think it was really possible.

Now I know you have indicated - I don't mean you. I mean, the department has indicated that they thought possibly in one or two states something might emerge that looks like a statewide standard or is the equivalent of a statewide standard. I just wondered where we are in that and is the test really whether or not - not that it looks like a statewide standard but is it the equivalent so that we can carry forth with the intents and purposes of Leave No Child Behind?

**Mr. Hickok.** You know, it is a very, very complex issue; and there is a lot more expertise out there than mine on that.

A couple of points. As you know, the statute required negotiated rulemaking on this very question; and that issue came up during negotiated rulemaking. The final regulations were

published earlier this month.

As that was going on within the department, Secretary Paige convened quite a few meetings with experts on assessment. These were not individuals who are trying to sell their test but experts on the assessment process. They were pretty explicit in saying that while it is possible to put together a system that is state-wide, based on state standards still using either some norm reference and criterion reference test or other kinds of assessments, it is very, very difficult. The bar is very, very high for the reasons you just pointed out.

So from a combination of those conversations plus the negotiated rulemaking, I think it is fair to say that we did leave the door open to that possibility. But before they can go through that door, meaning the states and their accountability systems, they are going to have to be able to demonstrate through the peer review process and our evaluation that they can indeed put together an accountability system that is state-wide, that has validity, that provides comparability, and that is based on state standards. If that can be done using something other than a single statewide test, then we think they should be allowed to do it. But it is a pretty high bar to climb.

**Mr. Miller.** So you - I guess what I am asking - the bright line that we thought we established is not being prejudiced by the fact that this was included in the base document even before that negotiation took place, and this is - I guess the barrier that you are talking about, the threshold that you would have to overcome, is, in fact, in your mind consistent with the legislation.

**Mr. Hickok.** Yes. I think that the threshold is to make sure that you have a statewide accountability system that is based on state standards that deal with the very issue you talked about. There might be a variety of ways to get there, and we are not going to close the doors on any ways yet. But some are a whole lot tougher to get through than others, and I think states recognize that. We recognize that. Our goal is the very same end point.

**Mr. Miller.** Let me ask you on - you mentioned on the question of the norm reference test, also. Again, we were trying to, as Mr. Isakson just pointed out in his discussion with you to hold systems accountable for each and every child and, hopefully, then make some determinations about those children and a resource allocation about those children that were falling behind.

There is an array of tools that can be used by districts and schools to hopefully focus and get those young people up to speed where they are having difficulty. But isn't the idea of a norm reference test sort of actually glossing over these kids again? I mean it really doesn't look like this is the belief that each and every child, you know, can in fact learn.

**Mr. Hickok.** If, indeed you used only a norm reference test, or even if you used criterion reference one year and norm reference the next year, that would not be adequate to satisfy the conditions of the law or the regulations. We leave open the possibility, because the experts say it is a possibility, of using the norm reference test, which has to be augmented - that is the technical term - on state standards. In essence, it is no longer purely a norm reference test. It is a test that has enough state standards measurement that you can make the kinds of comparisons over time you are talking about.



Again, that is tough to do. We have some examples in the literature of places where they attempted to do it and can provide evidence of the success of that approach. We are not saying that purely a norm reference test would satisfy the demands of the law. We agree with you on that.

**Mr. Miller.** Okay. Again, we didn't name the Act. But the name of the Act implies that we are going to have this focus on individual students and their achievement or their failure to achieve. You know, I want to make sure that that is what we are doing. Because I will just speak for myself, but I strongly believe that that was the bipartisan agreement.

I realize the difficulties with that. We all do. And when we tested that in previous years we weren't able to get there. But we did in this reauthorization.

I think the question of whether or not you have a state-wide standard and whether or not you allow an over reliance on norm reference tests is absolutely crucial to making these determinations about achievement and also then the question of whether or not we are leaving anybody behind. I just think you are kind of at the core of this system.

I guess I am told here that maybe when I suggested that the equivalent of this law says the same that the standard may be in fact higher than I was suggesting on what you end up to achieve, a state-wide standard.

**Mr. Hickok.** I would make a distinction between state standards and assessments.

**Mr. Miller.** No. I understand.

**Mr. Hickok.** There is no daylight between any of us on the law's requirements with regard to state standards. The issue becomes how you assess students based on those standards. I think it is the purest approach, but maybe not the easiest. If I were starting from ground zero in my home state, the easiest thing to do is have statewide criterion reference exams based on state standards.

However, we also embrace the notion that flexibility says that if a state can make the case that its testing regimen, 3 through 8, based on state standards, which is very high, a very high bar to climb, then they get a chance to make the case. I don't know if they can do it. I mean, the proof is going to be in the pudding, to be honest with you; and we think that the review process is going to be very, very rigorous. But there is enough evidence throughout that says to us they should be given an opportunity to try to do it.

Frankly, I don't think most states will. I think a lot of states are going to move the way. I have heard some states have already now. They are going to go toward a complete state criterion reference exam. But we think the bar has to be high. I think we are on the same level. I really do.

**Mr. Miller.** I appreciate your remarks. You know I am trying to pick my words carefully, and I appreciate the preciseness of your answer. Because, you know, I hope others are listening to this conversation, because I think this is where implementation sort of hits the road. It is not the easy thing to do. Hell, you know, we can all do those. It is the difficult things and it is the difficult things that we believed as a committee and we believed as a Congress and administration believed

gave us an opportunity to start to move the benefits of federal assistance to districts in a different direction and for maybe perhaps even a different constituency than have been allowed to happen over the last few years.

So, as I say, this is the core. But I appreciate your response because I think people really have got to be on notice of the seriousness with which we went through, you know, incredible discussions on this language and the extent to which we provided audiences for people who thought differently and the hours that the staff spent going through this and came up with what we believe to be important points in redefining our expectations about the use of this federal assistance and hopefully the benefits to the children that it is targeted at.

So thank you very much.

**Chairman Boehner.** Don't worry, Mr. Miller. We are going to get there.

I now recognize the gentleman from Texas, Mr. Johnson.

**Mr. Johnson.** You are sure we are getting there, huh?

I am glad to have you with us today. Thank you for your comments.

I would like to follow up on what Mrs. Mink and Mr. Miller were talking about, accountability and school choice. My question is do you expect the states and districts to be in compliance with public school choice and supplemental service options for students in underachieving schools where they have already been identified by the states?

**Mr. Hickok.** I think, by and large, what I see happening is a good-faith effort to make sure that they are indeed going to be in compliance with public school choice and supplemental services. There has been a lot of conversation on our part regarding both those issues at the state and local level. I can only tell you what I see in my clips and what I am picking up on in my conversations with state chiefs. But there is no lack of commitment on their part.

Now the practical realities might differ in various areas for various reasons, obviously. But I have not heard or seen too many people saying either we are not going to do it or we can't do it. I guess what we will do is we will cross that bridge when we come to it if we have to. But we would rather be optimistic.

**Mr. Johnson.** Well, if you get an aggregate test score out of a school that is bad and they label the whole student body in that school as bad as a result, how do you, under Mr. Miller's question, identify those kids that are in fact lower achieving from the average?

**Mr. Hickok.** Well, first of all, because the law requires disaggregation of data, you are able to determine pretty quickly over time where achievement gaps exist. Of course, in my opinion, the whole purpose of this law is to focus laser-like where the achievement gap is so we no longer close our eyes to that problem.

The practical implications are that many districts, because of a handful of students perhaps who do poorly on a test, might not make adequate yearly progress. There are clearly schools that are far better off in many ways than schools where large numbers of students are doing poorly. Hence, you are not making adequate yearly progress. We would encourage districts and states to distinguish among those levels of inadequate performance and to focus their technical assistance where it is needed most.

One of the things we are saying in this letter that's going out today by Secretary Paige is exactly that. It is a matter of the intensity with which schools need assistance. A school that is just falling under the inadequate category needs to focus on doing better. But a school where true profound failure is taking place has a far greater and more urgent and dramatic challenge. We would encourage states to make that distinction and act accordingly.

**Mr. Johnson.** Well, there is an example in our area, Garland, in particular. You may know of it. The school was threatened by Texas law as a low performing school, and they got rid of the principal and about three teachers. Now, the school is one of the top performers. So it shows me that leadership does make a difference.

Let me ask you, as a follow-up, what is the department doing to try to help the states ensure that they do meet these goals?

**Mr. Hickok.** The first thing we did back in January with those provisions of the law that take effect this coming school year including school choice and supplemental services, for example, was that we talked to all the states chiefs either in person or by correspondence and made sure they realized that. We have done that countless times since then, not just those two issues but anything that takes effect this fall.

I am sure I will hear there is some, but I don't know about the credibility of it. I can't imagine anyone realistically being able to assert, if they are a superintendent or a principal or a state chief that they didn't know that those provisions kick in this fall. This has been pretty serious news for a long, long time. That doesn't mean there won't be challenges, and we will help them with the challenges if we can. However, we have tried to be very comprehensive on making sure we talk about No Child Left Behind. We have made sure no superintendent is left behind on that one. They know about it.

**Mr. Johnson.** Thank you, sir.

Thank you, Mr. Chairman.

**Chairman Boehner.** The Chair recognizes the gentleman from New Jersey, Mr. Andrews, for 5 minutes.

**Mr. Andrews.** Thank you, Mr. Chairman.

Mr. Secretary, I want to follow up on the line of questioning Mr. Miller was just going through on the norm referenced assessments.

You said, I think correctly, a few minutes ago the purpose of this new law is to focus like a laser beam in particular on children who are not learning up to standard, to diagnose why that is, to borrow and import strategies from around the country that have worked with other children who are similarly challenged and having difficulty and then, frankly, to make changes in restructures in school districts that still don't make the progress that ought to be made. That whole system, of course, is predicated upon a fair and accurate identification on the person, on who - that person on whom that laser beam ought to shine.

Given that as background, why would we even consider norm reference testing? What argument would a state conceivably make that would sway the department as to why a norm referenced assessment should even be considered for this?

**Mr. Hickok.** Well, we haven't said that a norm reference assessment will be considered in the sense that it would not serve the purposes of the law because of the obvious reasons. It is a norm referenced on a national norm. Hence, it doesn't deal with state standards. What we have said is in regulations that if a state can use a combination of criterion references and norm references augmented, which means they have to take a norm reference test and make sure that they attach the state standards to it so they are testing state standards, and satisfy all the other demands of the accountability system, we are willing to look at it. However, we certainly don't think a norm reference test by itself can do it. We agree with you.

**Mr. Andrews.** I thought - are you familiar with the study that was done by the National Academy of Sciences about the feasibility of comparing and linking different academic tests? It was done as a result of the appropriations bill in 1998.

**Mr. Hickok.** I am not familiar with the exact study, but I have certainly heard about it.

**Mr. Andrews.** I am surprised. I thought everybody was. I say that facetiously.

But the National Academy of Sciences drew two basic conclusions in that report that Congress asked for. I am going to read you one of the reports\_one of the conclusions.

Reporting individual student scores from a foray of state and commercial achievement tests on the NAPE scale and transforming individual scores on these various tests and assessments into the NAPE achievement levels are not feasible. In other words, the National Academy of Sciences concluded that this matching system of taking a test that isn't standard based and sort of translating it into scores that are just won't work.

My concern here is that we - and I don't think this is an unduly cynical observation. We have created an enormous incentive for educators around the country that want to hold on to those billions of federal dollars and not have their way of life disrupted. We have created an enormous incentive for them to cook the books - a phrase not unknown in the news these days - but a way to recharacterize their test results in such a way that they are not going to lose this federal aid or have

to go through this restructuring.

I am very concerned that any possibility of basing these evaluations upon normative assessments creates a loophole through which a lot of these districts are going to be incentivized to exploit, and so I would urge the department to very seriously consider any reasoning as to why it would be necessary to use these normative assessments.

I mean, look, as I think Mr. Miller implied, we are not interested in achieving a result where a quarter of the children in struggling schools outperform the other three quarters. We are interested in achieving a result where every student in every school is learning up to a standard that is relevant to the economy in which we are living. So I would urge the department to look very, very carefully at any invitation to any state to avoid standards-based testing. I think it really is at the heart of this historic legislation that we - that the President signed earlier this year. I would \_

**Mr. Hickok.** I think we agree. Frankly, it may be the case. As states develop their accountability systems and come to us with their analysis and our experts and outside experts come to review all of this accountability, it may be the case where nobody can make that argument. Because we do have the very same goal in mind, there are going to be people out there who are going to test the degree to which we are committed to making sure no child is left behind. We know that. We will pass that test.

**Mr. Andrews.** I just think we are giving them the opportunity to test in a way that would be very difficult and slippery to follow.

I would ask the chairman of the committee that if we could continue to watch this issue as it develops. I think it is great that the chairman and the ranking member called us together to talk about this today because this above all other laws I have been involved with is really going to succeed or fail in its implementation by the department. So I would like to request that we watch this issue carefully and perhaps reconvene another hearing about this at an appropriate time, and I yield back.

**Chairman Boehner.** The gentleman certainly has my assurance. As Mr. Miller knows, we have had ample discussions with the department on this issue.

In our first conversation, I learned of a new science that was out there that I had never heard of before, psychometrics and psychometricians, that attempt to take these various tests and to equate them with a single standard and get paid for it. Now, I didn't know this existed. For those in the audience that want to know more about this, talk to the Secretary. He can tell you more about it.

But I do understand the concern. I think the Secretary and the department understand the concerns as well. Mr. Miller and I have had lots of conversations over this. In my view, the legislation does have an opening for a state that can meet the standard. But, trust me, we are very concerned about this.

I think you said correctly, as is the title of the bill, it is No Child Left Behind. That is our goal; and the system that ends up in place in each of the 50 states, we want to feel comfortable that they meet the goal of this legislation.

**Mr. Andrews.** If the chairman would just yield for one comment.

**Chairman Boehner.** Happy to yield.

**Mr. Andrews.** My own view on this is that I would urge the department to create what the lawyers call a "rebuttable presumption," that someone who comes in that wants to use normative-based assessments, the burden is on them to show to a very high standard as to why that really works. I think the burden should be a very heavy one and a very high standard before it is met.

**Chairman Boehner.** I think both Mr. Miller and I feel fairly confident that the department does in fact take that position.

With that, the Chair recognizes the chairman of the Education Reform Subcommittee, Mr. Castle.

**Mr. Castle.** I thank you, Mr. Chairman.

Secretary Hickok, let me start with OERI, education research. I have talked to you about this before.

We have passed what I think is a significant improvement in that particular area with legislation here in the House of Representatives. In the No Child Left Behind legislation, scientifically based research is referred to numerous times. It is clearly evident that we need to update what we are doing in the area of education research. That is agreed to by virtually everyone, even those people who are in education research today and even benefit from some of the federal programs which exist in terms of contractual funding or whatever. Yet we don't seem to have any movement whatsoever out of the Senate or, as far as I can ascertain, any interest.

Now I am used to the Senate not going ahead of the House. That has been typical from the time I have been in Congress, and they want to deliberate and all that kind of thing. But they can deliberate this one to death, as they have a few other pieces of legislation; and that concerns me a great deal.

Could you reaffirm or perhaps reconfirm the importance of education research? Maybe I need just a little stroking here. Because they don't seem to see it in the Senate. Have you had any contact with the Senate? Do you have any greater feeling they are going to move it than I have at this point?

**Mr. Hickok.** Well, this administration is very serious about improving the quality of educational research; and that is one of the reasons why it is sort of the backbone, it is one of the principles of No Child Left Behind. It is one of the backbones of the legislation, and I think it is mentioned 111

times in the legislation.

We have had conversations on the Senate side. I think I am right in saying I will be visiting a Member of the Senate this afternoon with Russ Whitehurst, our Assistant Secretary for OERI, and Secretary Paige to talk about this very issue.

I think it is fair to say and I can get staff to update you. I think it is fair to say we are making some progress. It is not always the most interesting issue for a lot of people. It is not the sexiest issue. It doesn't grab headlines.

But you are exactly right. If we do not do a better job on educational research, we have a great danger of being back here 10 years from now asking questions we should have been able to answer. So we are making some progress on the Senate side, and I will be glad to share more details with you if you want me to.

**Mr. Castle.** You know how we ultimately measure progress down here is subcommittees and committees reporting legislation, going to the floor, that kind of thing. Until we see that, it is all a little dubious as to where we are going. But any help we can give you on that we will.

My next question also is very general. In the course of recent years, perhaps half a dozen years, perhaps even more now, we have increased funding tremendously for education here at the federal level, the congressional level, much more so than anybody realizes. We have passed, in my judgment, a very strong piece of legislation in No Child Left Behind.

I appreciate and have read your comments and listened to what you had to say today, and I have read other people's comments as well. I have also listened to the states, which have a variety of concerns and maybe complaints about all this but essentially are doing their job.

But I always worry that, ultimately, in education that the whole morass of education sort of takes over, and ultimately we don't educate better. Because all we really should care about is how well we are educating these children and whether we are really advancing that.

I would like your general assessment without getting into the details of the yearly progress and all the measurements that we have. Do you feel that this is really taking hold and that we are really making advances in terms of educating our children better with all the modern technology and all the opportunities, which are out there? You have been in the state systems, deeply into it and you have seen it from the federal level. I just want some reassurance that what we are doing is absolutely working out there. Because that is ultimately what our goal needs to be.

**Mr. Hickok.** I think you are experiencing, for lack of a better term, a culture shift in education for a couple of reasons. It has been the national priority now for some time in terms of conversation budgets and politics. It has been a state issue in terms of standards and assessment now, in a variety of ways, for almost a decade.

I think we are beginning to see we are making a difference because we now have in this new law - and this was brought home to me just yesterday with a conversation I had with parents,

taxpayers, people who are not engaged in the enterprise of education but have a great deal at stake in the quality of that enterprise, much more engaged in this. We are beginning to reconnect the public through public education in part because of this new law and in part because of the campaign we are waging to make sure that they are engaged. So I do feel that we are moving pretty dramatically and pretty quickly in the right direction.

Now, change in terms of bottom-line test scores and student achievement is going to take some time. But I also think a lot more people are watching to see when that change takes place and if it takes place quickly enough, and that has got to be a good thing for us. So I do feel pretty good about things.

**Mr. Castle.** Let me ask you one final question. This has concerned me for some time.

I don't know if you can report on this or not. However, I have been concerned that with all the additional money that came in from No Child Left Behind, in addition to all the money we have been giving out all along, the states and local governments, particularly in times of economic problems, have been taking federal money and have been supplanting state and local dollars with federal dollars so that we are not really spending new and additional money when it gets down to the individual schools and school districts. I have seen that. I remember seeing it about California early on. However, I can't sit here and tell you I have any statistics that would confirm that.

Are you all paying attention to that and, if so, can you give us a report on it?

**Mr. Hickok.** We are hearing the same thing. Some places we just hear about it. Some places we have more direct evidence. As a matter of fact, in one state I actually sent a letter to the state chief at her request about the supplant issue, because she was looking to have some support to be able to take to the state legislature.

We will be able to uncover it, if it indeed takes place, in the audit process. But the law is pretty explicit almost everywhere about the supplantation issue. We recognize these are tough times in most states; and having come from a state position, I more than recognize it. I appreciate it. But having said that, the law is pretty explicit; and we still think the strong argument needs to be made that when you make tough choices you end up on the side of education in most cases.

**Mr. Castle.** Thank you, Mr. Chairman.

**Chairman Boehner.** The Chair recognizes the gentleman from Massachusetts, Mr. Tierney, for 5 minutes.

**Mr. Tierney.** I thank the Chair. Thank you, Mr. Secretary, for joining us today.

I have some somewhat parochial questions, but I think they are shared by a number of districts. With respect to the school choice issue on that, how is the school going to prove - when it comes to the set-aside, what are they going to have to prove to show that it is not necessary? What level of burden of proof is going to be there to show that they have no parents demanding that opportunity and things of that nature so that they can then spend money somewhere else? What is



the level of proof and how long do they have to wait before they satisfy the department that they have given people ample opportunity to actually get the benefit of the money before the season runs out?

**Mr. Hickok.** What we are telling the districts and the state is that they have to provide information to parents about their eligibility to participate in public school choice in terms of what schools might be available and the information about those schools. This will provide them with a sense of what options might be there and give parents a reasonable amount of time. That may be a fuzzy standard, but in terms of the federal government going to Boston and saying, give them 2 weeks or give them 2 days, we don't feel you want the federal government doing that. We have to rely upon the leadership at the local level.

After that period of time, we know in some cases that parents may not exercise any options; and that is fine. The most important thing is communication with parents.

That is critical. I can take you to some places where I used to live in Pennsylvania where districts did not let parents know about the options they had. When they don't know about it, they cannot take advantage of it. So, to us, the most critical ingredient is the options being made known to the parents.

**Mr. Tierney.** So assume that all that information is given to the parents, that you know they have informed them of their opportunity of the schools that are available, of the way the program works. A period of time would pass, and that community would say no parents have taken an opportunity on it. We think it is a reasonable period of time. We are going to spend the money.

Then the audit team comes in and says, we disagree on reasonableness. You didn't wait long enough.

**Mr. Hickok.** Well, I am sure we are going to have that kind of challenge down the road. But I think at least in this initial year I feel like that is the best guidance we can give.

The other thing I think we need to remember, and this is from Secretary Paige directly having managed a district, is that there are management challenges to this. While we don't want the management challenges to drive the policy, we cannot close our eyes to those management challenges. So I think, at least initially, our goal is to make sure choices are there, when we say choices, and that parents make choices if they so choose. But we are not going to dictate every jot and tittle of how to develop a policy at the local level on that.

**Mr. Tierney.** And the technical assistance that the department might be providing to these schools, is that available or it is just the guidelines and they are supposed to read them interpret them and go on their own?

**Mr. Hickok.** I am sorry.

**Mr. Tierney.** Well, what kind of technical assistance is the department offering to the local education agency with respect to these types of-?

**Mr. Hickok.** Well, we had a Dear Colleague letter that went out in June. We will have guidance available that talks about public school choice and on supplemental services. In addition to all that, we have had several meetings and discussions about both those issues.

I think of Boston in particular, because I have read some things in the newspapers about the Boston public school superintendent and his concern about implementation. I was pretty direct in my response. With all due respect, it is the law; and I think he respects the law and will try to do what he can to insure there is some public school choice.

**Mr. Tierney.** Well, he does. He is not in my district, but he is a friend, and I am sure he is going to respect that.

I thank you for your comments. It enables us to go back.

A number of the schools in my district have raised this concern. Obviously, they don't want to fall outside the law, but they want to, as you say, meet those managerial responsibilities and use that money. Money is desperate in a lot of these states, and they have to be able to cut at some point in time and move along.

So I appreciate your help and thank you for answering those questions. I yield back the balance of my time.

**Mr. Castle.** [Presiding.] Thank you.

Mr. Ehlers.

**Mr. Ehlers.** Thank you, Mr. Chairman.

Mr. Secretary, I apologize that I did not hear your testimony. I was chairing another committee in another room. But I scurried here as soon as I could, because I am very interested in this topic.

I find it interesting that I have heard this discussion about focusing like a laser on various issues and problems. What I find particularly interesting about it is, to the best of my knowledge, when I came in, there were only two members, perhaps even two individuals in the entire room who know how to focus a laser. And now that Mr. Holt has left there is only one left. That is me.

So I am going to focus that laser on an issue of great importance to me and I believe of great importance to the Nation. That issue is the fact that most Americans and most kids in school have no idea how to focus a laser, among many other scientific issues. There is no area of testing in this country that has lower scores than science. We found that out in Michigan when I was in the legislature and we started testing on science. All the other scores were up in the 70s, 80s; but science was at 17. As a result of that, and the publicity, those scores have gone up considerably.

But that is typical in this Nation.

I have spent a great deal of my time and effort here in trying to change that and have worked very hard in H.R. 1 to incorporate language that would improve that. As you well know, the jobs of the future require knowledge of science. This was really brought home to me recently in an NPR report on the changing job situation where the reporter asked a service manager at a garage, what do you look for in a mechanic? He said, well, the first thing is they have to have high school algebra and physics. That really set me back because, when I was in high school, the only ones who became mechanics didn't even take algebra and physics. That indicates the job market is changing.

Also, the fact that we have had to issue H1B visas in large amounts in this Nation during the past decade indicates once again we are not training our own people for our own jobs. There are many cases where we are exporting jobs not by setting up factories elsewhere but by contracting with scientists abroad and technicians and computer programmers to do our work.

This is clearly a major job. The Hart-Rudman report on national security, which was issued last year, highlighted this and ranked our Nation's poor understanding of math and science as the greatest security threat, even greater than conventional war. The only greater threat they said was nuclear warfare.

We have a problem. In H.R. 1 we thought we solved it. We dropped the Eisenhower Program, which in its last year, fiscal year 2001, had spent over \$375 million specifically to deal with sciences, teacher training, and science. We substituted the Partnerships Program, which, because H.R. 1 passed too late, received minimal funding in this fiscal year, but through a colloquy on the floor Mr. Holt and I were able to include in the report language that at least the same amount had to be spent this fiscal year.

Unfortunately, the President's budget came up with only \$25 million for that. I found that incomprehensible. That is a replacement for the Eisenhower Program, and we are funding what was a \$375 million program with \$25 million. I am trying to reverse that now, but in today's tight budget situation it is very tough.

My question to you, Mr. Secretary, is will you work towards putting the authorized amount, which is \$450 million, in H.R. 1? Will you work towards putting that in the President's budget next year?

The irony is this is not new money. This is allocated out of the teacher training funds in Title II. So it is not that we are going to need new money. It is simply taking a segment of the teacher training funds and allocating them specifically for math and science. Because we know most state boards of education are not going to allocate a sufficient amount for it. There are just not enough trained teachers and not enough trained administrators who understand the importance. So I would appreciate your comments and responses.

**Mr. Hickok.** Well, let me; first of all, echo what you said about the need to emphasize science and math education and also better preparation of science and math teachers, which this administration

is trying to address as well.

Let me also echo the fact that, if you look at today's workplace, the fact is you need much more knowledge of science and math to do jobs that, when I was young, you didn't even think were relevant to science and math, as you just talked about, the computerization of automobiles, et cetera. So I think we are all in agreement with that.

Obviously, with No Child Left Behind, science assessments and science standards are in the process of being a big part of accountability.

So, all that being said, I think one thing we have to do as we look at budget issues is not just numbers here but also how we balance what states need to be able to do in terms of their emphasis with regard to various disciplines. But we will be glad to look at it, and we will be glad to talk a lot more about it, because I think it is a national security issue. Education is generally, but certainly math and science are; and we will be glad to join forces with you on that.

**Mr. Ehlers.** Thank you. I will be knocking on your door. Thank you very much.

**Mr. Castle.** Thank you, Mr. Ehlers.

Ms. Woolsey.

**Ms. Woolsey.** Thank you, Mr. Chairman; thank you, Mr. Secretary, for being here.

I have to make an editorial remark. I can't sit here and talk about something that is as urgent as leaving no child behind and have it be a 12-year goal. My grandson is going to be in high school by then. We will have how many Congresses between now and 12 years? Oh, that is right—my math and science - six. And how many Secretaries are Under Secretaries and we going to have? How many reauthorizations?

It is going to be near to impossible to focus on what Mr. Miller was talking about, which is the goal of truly leaving no child behind. So I guess my question to you is, how are we going to get on track so that we can insure that what we intend to do can happen even if none of us are up here 12 years from now?

**Mr. Hickok.** Well, obviously, the 12-year time line, in many ways, is way too long. On the other hand, given the way this Nation operates with regard to education, decentralized, 50 different systems, thousands of different schools and districts, I think it is a practical response. But as I see it, the whole point of this law is to get the accountability systems in place as soon as possible.

When they are working, the beauty is it becomes impossible to ignore the problem. We have done a great job in this country of closing our eyes to failure. We have done a great job in this country of just refusing to acknowledge the problem. And with the good accountability system which is outlined in this law that becomes impossible. Once that is happening, you will see a greater sense of urgency at the state, local and federal level. Because now you not only have averages and scores, you have faces behind the averages. You have people who are being left

behind, and that all of a sudden makes it much more difficult to continue the status quo.

**Ms. Woolsey.** So it appears. And are you telling me we are starting with worst case first and then moving on to the things we want to do? But we are going to start with the most important issues first?

**Mr. Hickok.** All of this is important, but we think the accountability system is the linchpin. It is the primary issue. Once you get the system in place, then you can spend dollars wisely. Once you get the system in place, you find out what works and celebrate it and copy it. You can find out what doesn't work and do something about it.

**Ms. Woolsey.** So in order to make it work we are going to have to have trained teachers, and we have certainly identified a highly qualified teacher. We are saying we want to have teachers highly qualified within 4 years, and we are defining this as one that has obtained certification or licensure, obtained a bachelor's degree, demonstrated the subject matter competency. Is the department providing the states and school districts with help in order to implement this requirement?

**Mr. Hickok.** We are providing help in a couple of ways. We are providing help in terms of dollars for professional development. We are providing help in terms of studies on teacher preparation. We are also encouraging states and localities to look at alternative certification approaches, because qualification and certification are not always the same thing, especially in a standards-based environment. We are doing many things to try to help states both on the supply and demand issue but also on the overall quality issue.

**Ms. Woolsey.** Well, in my state of California, when we cut the class sizes, grades K through 3, it ended up with a lot of shortage, teacher shortage; and the schools that were most at risk and the kids most at risk were being taught by the least qualified teachers. Is there anything in the bill that is helping in that regard?

**Mr. Hickok.** The assignment of teachers to schools, which is in essence what you are talking about, is almost exclusively a local decision.

One thing we will do is talk a whole lot more about whether or not that assignment reflects the educational needs of kids. In far too many places - I mean, you mentioned California in this case - the best teachers in terms of experience, qualifications, and record go to schools where the need is not the greatest, for obvious reasons. They have a better chance of teaching students who are ready to learn, eager to learn, et cetera. That is driven by local decision-making, and I don't think you want the federal government to get engaged in assigning teachers to schools.

But we can talk about how good teachers need to go where they are needed most. If school districts aren't doing that, we would like to talk to school districts about thinking about doing that and draw some attention to it.

**Ms. Woolsey.** And with some, I hope, incentives to encourage.

Just one more just brief question. Are we ever going to address the fact that we undervalue our educators and that they ought to be paid a professional wage or salary like the rest of the professionals in this country?

**Mr. Hickok.** With regard to that issue again, based on my experience here and in Pennsylvania, I don't think I want to see the federal government getting engaged in teacher compensation. I do think we undervalue our educators, certainly our best educators. Again, that is a function of the way we have worked with the profession at the local level.

I can introduce you to one of the outstanding teachers in this country. The compensation is not great. It is good. She is not worried about the compensation. She wanted to be able to go to a school in her city that had a vacancy and that had a need. It was the worst performing elementary school in the city. She was an outstanding teacher, Teacher of the Year, as I recall. She was not allowed to do it because of the rules that govern these sorts of issues.

So it is a case of valuing our educators, it is a case of valuing the profession, and it is a case of trying to get local decision makers to rethink these issues. We certainly want to be a part of that.

**Ms. Woolsey.** Okay. Thank you very much, Mr. Chairman.

**Chairman Boehner.** [Presiding.] I congratulate the gentle lady for her point on valuing teachers. We all put teachers up on a pedestal. At some point in time, if we expect people to stay in this profession, we are going to have to pay them. While again I agree with the Secretary, it is probably not a federal issue. At some point, somebody on the ground is going to have to begin to dealing with it.

The gentleman from New York, Mr. Owens.

**Mr. Owens.** Mr. Secretary, I want to congratulate you and the administration on your sense of urgency. I think that it is very important that the implementation go forward. Most people have never seen the federal government, certainly the Department of Education; move as rapidly as you are moving in this case. But the degree at which the sense of urgency is sincere is partially measured by the kind of resources that you are going to put behind it.

We first would like to see the authorizations that are there for Title I, for example, to see the President really fully begin to fund that. We were supposed to have a doubling of Title I funds in 5 years, and the President's first installment of his budget would not double it, at the rate that he is going. So we would like to see that increased.

Also, it is obvious that if there are good schools that are available and there are bad schools and you want to have openings for youngsters to transfer to the good schools. Some of the good schools would be greatly aided and able to take more of the students from the low-performing schools if they had some money for renovation and for construction, which is totally off the board in the President's budget.

We did have at one point \$2 billion, a tiny amount compared to the need, but it was there in the last administration's last year with the budget; and it was very popular. The \$1.2 billion for renovation and construction, we have nothing now except \$175 million, I think, for charter school construction. Do you see us maybe taking a hard look at the situation and at least putting back the 1.2 billion along with that 175 million of charter school construction with the understanding that maybe it should be prioritized so that it goes to situations and districts where they need to improve the capacity of the good schools to absorb more students?

You know, it really is very much consistent with our concern with homeland security. You know, Mr. Ehlens was talking about the need for more science education. But, in general, we need to look at homeland security and the kind of education resources we are putting into the preparation of our population to carry out some of the tasks, which are demanded by homeland security. My shock is that in the whole Homeland Security Agency plan, the charts and diagrams, you see nothing about education in there. We have a huge education system here that has the capacity, without having to create anything new, has the capacity to provide the Arabic translators, for instance, who are absent still I understand. Even esoteric languages like Pashtu and Urdu and all of that ought to be a part of our effort to beef up homeland security, but education is left out completely.

Physical facilities like schools are always used when there is a real emergency. A physical emergency, the school building is used. Yet there is no money there to construct schools, to improve school construction or to have communications facilities in schools, which are top-notch. All the schools should be on the Internet and have computers, et cetera.

So I guess my question is, in terms of resources and the sense of urgency, can we see evidence that the administration really thinks this is a priority? We just voted this morning for an additional \$10 billion for the military. That is just an extra \$10 billion. Forty minutes of debate and not even 20 people voted against it. So we have a sense of priority for that on top of the supplemental budget and the regular budgets and added another \$10 billion just like that.

When we want to designate a priority around here, we know how to act behind that priority and give it the resources. At the other extreme, education at this time, this critical time, does not have adequate resources. The bill does not authorize adequate resources, and the President's budget does not even live up to the authorization. We are proceeding and saying that this is urgent but not providing the resources to states and localities. They don't have the money. They are in a fiscal bind themselves, and they need the federal government's help if this is a real priority, and I think it ought to be a real priority.

**Mr. Hickok.** Well, first of all, let me say that we never close our minds on any discussion. You asked if we would be open to discussions. We are always open to discussions, and I mean that sincerely.

Second of all, as the implementation starts and we see school choice begin to take place, that will introduce all kinds of new variables. One of them might be the issue of adequate facilities or whatever.

So we are going to have to watch this. You know, implementation does not take place in a vacuum. It might create new conversations that have been off the table in the past.

Having said that, there are two responses in terms of the budget. The first is, having been a former School Board member before I was even a state chief, I can tell you that as a School Board member I would have loved to know that the federal government was getting ready to spend all kinds of money on construction. That would provide me an incentive to do all kinds of things because it is no longer directly tied to my tax rates or my constituents at the local level. Without that tie, that opens up the possibility of all kinds of decision making that probably in retrospect we would have problems with. So I always get nervous about federal taxpayer dollars that are being spent without anyway of holding the local level management accountable for them. That is sort of a philosophical concern.

The other point I guess I would make that I tried to make earlier, and we can certainly perhaps disagree on this is that I do think that the President's budget in the past and current budget is up to the needs. I would like us to argue that the currency that we spend at the local level, the currency that we use at the state level needs to be more and more the currency of ideas and not just money. The ideas that are in No Child Left Behind and the ideas that will follow can do perhaps even more to improve education than dollars.

Dollars are important, and we think we have committed a lot of money to education at the federal level. But ideas are going to change things, and you can't buy a whole lot of ideas with money.

**Mr. Owens.** You know, our military leaders would have a whole lot of problems with that argument when it comes to priorities that they need. Thank you very much.

**Chairman Boehner.** The Chair recognizes the gentleman from Tennessee, Mr. Ford, for 5 minutes.

**Mr. Ford.** Thank you, Mr. Chairman.

Following up on what Mr. Owens was saying - thank you for being here, Mr. Secretary - how do you - I would imagine you talk with local school district leaders as you were developing the No Child Left Behind Act and as a former School Board member you would appreciate their concern. In my district, I have 1,500 openings for kids that would qualify for under the No Child Left Behind Act in terms of low performing schools and want to go provide those parents with choice. The problem is, I have 40,000 students. I would imagine I am not alone in facing that kind of challenge.

A quick question, one with regard to the transportation dollars, because there is some confusion amongst some school districts, including my own school board. I know that 20 percent, I believe, is set aside for transportation-related services; and you do have some other formulas, up to 5 percent can be spent for supplemental services.



**Mr. Ford.** Once we exhaust these 1,500 openings, and I might add my high schools I have no options because two of the schools, the only two schools with openings, are slots and are in the state's local performing rule and would also qualify under the No Child Left Behind Act definitions. So could we use the remainder amount of savings that we can - and there is some confusion, perhaps the regulations will clarify this - can those dollars be used, the 20 percent that you suggest or strongly urge be used, for transportation; can - once you have satisfied the transportation needs of the kids that want to transfer and meet the criteria, can the remaining dollars be spent for supplemental services at the low-performing school in which the child finds his or herself in at that moment?

**Mr. Hickok.** Our sense is yes. Our goal here is to provide the support where it is needed.

**Mr. Ford.** The regulations, I guess, will clarify that.

My second point is I find it a little puzzling, the response - I don't hold you responsible for it, but just the administration's response on this school construction issue, because as we see the - as we hear from the private sector regarding needs at plants and office space, they generally will build new offices or build a new plant to accommodate the growing need or growing demand for their products and goods. We clearly have a challenge on this front. As much as I appreciate your philosophical disagreement and concern about providing, I guess, dollars that really can be accounted for, really when you consider what we are doing, in some ways to be an unfunded mandate, if indeed - take my district alone. You got 38,500 kids, and in some senses if you look at two parents, you are talking about, I am not a great mathematician, but I think 77,000 parents who would be without a real choice.

We give them a wonderful - I know you all have done some great things at that building over there, putting that No Child Left Behind and painting red stuff on it and all, but in reality what have you done to really give kids and parents outside of the 1,500 in my district and I would have to think in other urban areas, in particular my district, I am from Memphis, Tennessee - what have you done for other - what is your answer rather to other school districts that have a similar problem?

I heard you say, we will wait to see the need. We know the need. We don't need to wait another 6 months for - I can tell you what is going to happen in 6 months. I can tell you what is going to happen in 6 weeks or for that matter 6 days from what I am going to hear from any local school leaders because I am already hearing it. How do we address this without being sincere and acknowledging that we have a school - we have a capacity challenge here that we can pretend that we can ignore. And as much as I appreciate your philosophical opposition, can we not develop - and there have been a number of ideas coming from this committee - can we not develop some way to hold local school systems accountable?

I appreciate you saying it the way you said it, because we can answer that question by saying school districts can do X, Y and Z. You will qualify for X number of dollars to address some of this capacity challenge in building new schools and doing the kinds of things that need to be to accommodate, at least in my district, the 38,500 students that will have no choice other than

the rhetorical choice that we give them.

**Mr. Hickok.** Well, let me go back to my previous point. As we implement, as school choice becomes a part of the way we understand public education in this country, and as we begin to see how many of those parents, either because they choose not to or because they choose to, actually try to implement and make choices, that will lead to conversations at the local level, and state levels. I would assume in this place about whether or not additional things need to be done with regard to capacity.

**Mr. Ford.** I don't mean to cut you off, Mr. Secretary, but I am a junior Member. I think I only get 4 minutes as opposed to the 5.

Do you not think that we will end up at that point? And if we do, to the extent you can speculate and extrapolate, can you give me some sense of where the administration's head might be on this? Because I think we are headed that way pretty rapidly. I know this Chairman and this committee defers to this administration often on these matters. Can you give us any sense of where you and Secretary Paige may land when it comes to this issue?

The time is out. If you could just respond to the second question. I know that the Supreme Court's decision on vouchers and choice, and will that - as you develop your regulations, will it reflect any change, thought, or perhaps changes in the laws as it relates to vouchers? I don't ask that question with any animosity. I got a little different opinion than some folks on my side on vouchers. I don't have a huge problem with them. If you can show me one that works, let's do it. But we still run into the same problem that we are going to run into in this thing here, which is how do you find the space? You got to build the school. So is there some sense of - can you give us any idea where the administration may stand on this as we think about this?

**Mr. Hickok.** We are certainly not closing the door to any conversation about that issue. We think it is a bit premature. We need to find out the nature of the challenge out there.

**Mr. Ford.** On school construction.

**Mr. Hickok.** School construction. But I think Secretary Paige has said publicly and I have said publicly, that we have some real problems going down that road for reasons I mentioned earlier.

With regard to the Supreme Court case, we are very pleased with it. We think it will add a new dimension to the conversation about where education needs to go in this country. I don't think it has much impact upon where we are with No Child Left Behind at this point in time. Down the road it might have a greater impact as public school choice and supplemental services become a larger part of what we do.

**Mr. Ford.** I hope the enthusiasm to incorporate this No Child Left Behind and the vouchers, you have the same enthusiasm with school construction, because even if you go to vouchers, you are going to still have to build more schools and have to find more space for these kids. And I am one that would be willing to listen to you all on vouchers as we go along.

**Chairman Boehner.** The gentleman's 6 minutes and 30 seconds have expired. The Chair recognizes the gentleman from New Jersey Mr. Holt.

**Mr. Holt.** Thank you, Mr. Chairman.

Mr. Secretary, thank you for helping us in this midcourse assessment. A number of the questions that I have or would have been addressed already with regard to assessment and civil rights. I wanted to talk a little bit about teacher quality and the fact that I think it is clear in No Child Left Behind that teacher quality is not just a matter of recruiting and hiring the right teachers, but providing the ongoing professional development that every teacher needs, however good they are when they start.

And I wanted to look specifically at science and math education. I know you have spoken about that briefly. I was out of the room when you did. It may be that the partnerships that replace the Eisenhower programs are in some ways better than the Eisenhower program that they replaced, but they clearly won't be better if they are not funded. And you probably know that the history of what happened in the House and in the other body in the appropriations that resulted in a \$450 million authorized program ending up with \$12 million; not even a pittance for any state, let alone for 50 states. I understand historically what happened here among - with our appropriators. What I don't understand is why the administration, then, came in this year at that low level for requests. And I hope that over the course of the last months you have reevaluated that, and, as we go through the appropriations process in coming weeks, that you will see that the administration will work to see that the science and math teacher professional development is fully funded. Can you give me an assurance that you will do that?

**Mr. Hickok.** I can give you an assurance, and I am not meaning to be glib here, but I can give you an assurance that we are willing to work with Congress as we go down the final path on this next budget and that we are working together to try to determine how best to determine spending levels for all of education. Obviously we made our recommendations to Congress, and Congress is now busy trying to do what they want to do with those recommendations, and we want to be part of that conversation. We do share a real sense of priority with teacher quality generally and, more specifically, right now on math and science. There are a variety of ways to get at that.

**Mr. Holt.** The point I want to make in math and science we are not dealing with an unrealized increase that we had hoped for, but rather an actual cut, a drastic cut, and science and math are important. They are important in H.R. 1. And so I think if H.R. 1 is going to have a chance of reaching its goal in that area, it is going to require a more forceful level of attention than I have seen so far from your department.

**Mr. Hickok.** I hear you, and I mean that sincerely. There are ways to demonstrate attention. Some of it is dollars, and some of it is policy priority.

**Mr. Holt.** Would you care to point to other things that you are doing to implement H.R. 1 other than funding it, then, in that area of math and science teacher professional development?

**Mr. Hickok.** One of the things we have tried to do on teacher professional development is to try to make it a higher standard of what constitutes good professional development. In the past and I am sure you are familiar with this, a lot of professional development has been a little iffy. We would like to find ways and are telling states they need to find ways they can link professional development to student achievement in whatever area. We need to find ways to link teacher preparation to student achievement. We need to find ways that make sure that as districts make tough choices on how to spend the professional development dollars, they have a better sense what their needs are. Most districts can't tell you what their teachers need; they just know professional development is a good thing.

**Mr. Holt.** In my remaining 2 minutes and 36 seconds - no, in 15 seconds, could you say specifically what you are doing to try to connect teacher professional development to student achievement? I mean, have you convened a group of science educators or - I mean, what are you doing to actually accomplish that?

**Mr. Hickok.** Our Title 2 staff working on professional development teacher preparation has done a great deal with regard to workshops and symposia. I think we delivered a grant last year to an organization that is doing exactly that. It is trying to tie professional development to student achievement and looking at the national program.

**Mr. Holt.** If I might ask if you would submit to the committee and to me a list of what you are doing for funding and apart from funding, I would appreciate it. Thank you.

**Mrs. Biggert.** [Presiding.] Thank you. I thank the Under Secretary for his time and valuable testimony, and you may now step down.

Mr. Kildee.

**Mr. Kildee.** Before the Under Secretary leaves, Madam Chairman, we have several other questions on which we wish to receive a response. I ask unanimous consent that I be able to submit those questions in writing, and that they, along with the department's responses, be included in the record.

**Mrs. Biggert.** Without objection, so ordered.

QUESTIONS SUBMITTED TO UNDER SECRETARY EUGENE W. HICKOK BY THE HONORABLE GEORGE MILLER, RANKING MEMBER, COMMITTEE ON EDUCATION AND THE WORKFORCE, WASHINGTON, D.C. AND RESPONSES FROM EUGENE W. HICKOK, UNDER SECRETARY, U.S. DEPARTMENT OF EDUCATION, WASHINGTON, D.C. – SEE APPENDIX C

**Mr. Kildee.** I want to thank the Under Secretary for your very clear and candid answers and appreciate working with you.

**Mr. Hickok.** Thank you, Mr. Kildee.

**Mrs. Biggert.** Obviously there was a lot of interest in your testimony and a lot of questions. We appreciate the time that you spent here.

I would now ask that the second panel come forward and take their seats. Unfortunately, we are running up against a time limit, so if they can do that quickly, we will be able to start the second panel. In the interest of time - and we do have a vote that is coming up, so I am worried about getting all of the testimony in before that - we will quickly run through the introductions. I don't mean to slight anybody as far as their bios, but we do want to get in this.

First of all, on the panel we have Professor Christopher Edley, Jr. Professor Edley has taught at the Harvard Law School since 1981. In addition, he is the founding co director of the Civil Rights Project at Harvard. He has served in the Clinton administration as Associate Director of the White House Office of Management and Budget, and then as special counsel.

I am very happy to have the opportunity to introduce Richard Laine to the committee, as I am really proud of the state of Illinois' commitment to truly leaving no child behind. Our state business community has played a central role in ensuring that our kids get the best possible education. Richard Laine, who I have worked with, is at the center of these business community efforts. He currently serves as director of education of the Illinois Business Roundtable, an organization comprised of CEOs of leading corporations in Illinois. The roundtable has made improving public education a top priority. He also serves as the executive director of Illinois' Business Education Coalition, and this is comprised of major business associations in the state, and they have come together for one purpose. That is to create a world-class learning environment for every student in Illinois.

Next we have Mr. William Windler, who is the assistant commissioner of the Office of Special Services for the Colorado Department of Education. He has served with the Colorado Department of Education since 1981, where his major responsibilities included the areas of accountability, accreditation, and the implementation of the Colorado Charter Schools Act.

So I would remind the witnesses that they have the timer lights and 5 minutes for testimony. If you could keep that to the 5 minutes, and I would remind the Members that the same 5 minutes rules for questioning apply after we receive the testimony.

So, Professor Edley, you may proceed.

***STATEMENT OF CHRISTOPHER EDLEY, JR., PROFESSOR, HARVARD LAW SCHOOL, HARVARD UNIVERSITY, CAMBRIDGE, MASSACHUSETTS***

**Mr. Edley.** Thank you, Madam Chair, and thank you, Congressman Kildee and members of the committee. My central message is this: If implementation and oversight follow the course of statutes past, the No Child Left Behind, NCLB, will not work. Your promises will be broken. If not properly implemented, NCLB, with its central focus on testing and sanctions, could cause substantial harm to students and our public education system. For example, if the department uses

its authority to enforce more frequent testing without ensuring that assessment systems meet scientific standards and that qualified teachers are available to the neediest students, then the emphasis on frequent testing would likely exacerbate existing disparities.

On the other hand, if properly implemented, I remain cautiously optimistic that NCLB can help with its focus on data transparency, disaggregation, teacher quality, consequences, and more. In my view, the single greatest reason to be hopeful is the bipartisan agreement to hold everyone accountable for the academic proficiency of traditionally underserved student groups. But remember, accountability was the foundational principle for NCLB's predecessor, the 1994 act. That statute was never fully implemented. Many states have always been substantially out of compliance, although have now made their bureaucratic bargain with the department to do better. Fine. But, in fact, we must do a much better job this time, which means taking aggressive action to avoid repeating our mistakes. I will highlight just 10 of the several suggestions in my prepared statement and then pray for questions.

Number one, in theory, data, and transparency will help drive reform, but history should heighten our concern because, again, some disaggregation of reporting has long been required with only modest compliance. NCLB raises the bar, but the department's consolidated plan signals a softening. Reasonably, it could take years to build the needed data systems. That is precisely why reasonableness is not an acceptable standard here. The department must move aggressively to help states build systems and to meet the statutory time lines and show immediate progress in reporting their data.

Number two, here is another warning sign. Earlier this year, the department proposed in the federal Register to use the familiar biannual Civil Rights Compliance Report, the so-called OCR survey, conducted since 1968 to collect basic achievement data at the school and district levels. Yet the department recently reversed course and dropped the idea of the OCR survey. What possible explanation can there be for this derailment? It smacks of a knee-jerk hostility toward anything labeled civil rights. This is minimal data reporting burdens on the state. It has been approved by OMB career staff. I am dismayed.

Third, NCLB requires that assessments be valid, reliable, consistent and nationally recognized, and consistent with nationally recognized professional standards. That is tough to do. But the scientific standards are rigorous for good reason. Triggers that can lead to wholesale restructuring of schools and even districts should be based on sound and valid measures, as should triggers that result in high-stakes consequences for individual students. The alternative is widespread abuse of standardized tests and tremendous barriers to effective reform.

The department's recent regulations appear to weaken the act's requirements, allowing, for example, the use of norm-referenced tests and a patchwork of state and local assessments. The resulting jury-rigged assessment systems will undoubtedly lack validity for some of the uses to which they will be put. More generally, if the assessment systems are cobbled together in haphazard fashion, the entire NCLB effort to make inferences from score trends will simply depart the realm of science altogether and just become scapegoating with numbers, junk science.

In short, the department's regulations raise serious concerns, so you must raise the bar for the department to ensure that states present substantial evidence that their assessment systems are valid and reliable.

Number four, on AYP we await the draft regulations, but, again, the consolidated plan requirements raise concerns. Most important, the requirements oblige states to report graduation rate data in the manner used by the National Center for Education Statistics, a definition inconsistent with language in the statute and the conference report, a definition that seriously underestimates the numbers of students who fail to graduate on time with a regular high school diploma. Someday, we are told, the department may modify the definition to ensure compliance with NCLB. That day should be yesterday.

Number five; I will pass over for now the area of parental involvement and hope for questions particularly regarding administrative chains.

Number six, moving to the area of resources. In the vital area of highly qualified teachers, the statutory promise of racial equity has already been compromised because the consolidated plans address distributional fairness in terms of poverty, which is great, but omit a direct focus on race. Why? In California, for example, the proportion of unqualified teaching faculty is 6.75 times higher in high minority schools than in low minority schools. The department seems to be inviting a continuation of this pattern. It boggles the mind.

**Mrs. Biggert.** Professor, if you could wrap up.

**Mr. Edley.** Let me wrap up simply by saying I speak as someone frustrated by the slow pace of institutional reform in our schools and school systems, but equally frustrated by the behind-the-scenes, business-as-usual posture of federal and state officials year in and year out regardless of the party in power. I also speak as someone who views education as second only to our Constitution as the font of justice and opportunity, and who views systemic reform of education as an indispensable prerequisite of the systemic elimination of color caste.

The oversight work of this committee could not be more important to our children and to the Nation. Thank you, Madam Chair.

WRITTEN STATEMENT OF CHRISTOPHER EDLEY, JR., PROFESSOR, HARVARD LAW SCHOOL, HARVARD UNIVERSITY, CAMBRIDGE, MASSACHUSETTS – SEE APPENDIX D

**Mrs. Biggert.** Thank you very much.

**Mrs. Biggert.** Mr. Laine.

**STATEMENT OF RICHARD LAINE, DIRECTOR, EDUCATION POLICY AND INITIATIVES, ILLINOIS BUSINESS ROUNDTABLE, CHICAGO, ILLINOIS**

**Mr. Laine.** Madam Chairwoman, members of the committee, I want to thank you for the opportunity for me to speak and testify, and my written comments are entered into the record. But I want to focus my comments on the new law and how much in effect of what we have been hearing about is the confusion that it is creating in the states and the media. However, as the law is rolling out, we understand that it is being interpreted, guidance is being written, questions are being answered, and challenges are being overcome. While some can argue that this will be an implementation nightmare for the state agencies, districts, and schools, we would argue from the business community this law has a potential of being an educational dream for all those students who have up until now been left behind.

The 1994 reauthorization of ESEA began to change the conversation and began to change the discussion of public education. Unfortunately, while the discussion was changing, we were not seeing the corresponding changes in action beyond the anecdotal classroom, school or district success. We all failed to recognize the truth of the quote attributed to Albert Einstein, who said that the definition of insanity is to do the same things we have always done and expect different results.

Too many educators and education stakeholders did more of the same following the 1994 reauthorization and expected better results. Illinois Standards Achievement Test results bear this out. In your home state what we found was that 54,000 third grade students do not meet reading standards statewide; 69,000 eighth grade students did not meet the state standards in mathematics; and nearly 40,000 11th grade students who took our 11th grade test, the PSAE, at best met state standards in one subject.

While some would argue that these numbers should serve as a eulogy for public education, I and the business community would argue that none of us can afford to bury our public schools. Those numbers must serve as an urgent call for more fundamental changes to public education. NCLB demands enhanced leadership, and the business community stands ready to partner and to be an outside catalyst to improve education and maintain the course when implementation becomes daunting.

The business community has already begun to step up. At the national level, the National Business Roundtable announced last month the launching of a campaign in seven key states to help the implementation of No Child Left Behind. Just last week the Illinois Business Roundtable along with the state board of education sponsored an all-day meeting for nearly 100 educators, elected officials, and business leaders from across Illinois. We had teachers and Senators, union leaders, and business CEOs. The idea was walking away from that with an idea that we can change education, and we must change education.



From the Illinois Business Roundtable's perspective, we have stepped up in a number of ways. We co developed the Illinois School Improvement Website with the Illinois state Board of Education and the North Central Regional Lab. This 2-year-old Website gives schools, districts, parents, and others the opportunity to look at data, specific to students, disaggregate the information, and use it to improve the quality of education. Additionally, we led the development of the Baldrige in Education Website. And in terms of building capacity in the teaching force, the Illinois Business Roundtable is the largest private funder of Illinois scholarships to support teachers to become nationally board certified. These are just some examples of the Business Roundtable. The rest of the business community, both in Illinois and across this country, is stepping up.

We see our commitment to continue in this partnership and focusing on building capacity, demanding public education ensures all children reach rigorous and relevant learning standards, and building the political clout and partnerships to ensure that No Child Left Behind truly achieves its original intent.

My written comments outline the opportunities that are provided in No Child Left Behind. Due to time constraints, I won't get into them except to say that they really focus on clarity, flexibility, and alignment. We must, both at the federal and state level, use these tools to change what we do in our schools.

Finally, what is a conversation on NCLB without addressing some of the hurdles? Allow the hurdles to be our end focus, and we will fixate on the reasons why not. Focus on educating every child to high standards, and we all fixate on how to succeed.

My written comments provide more details on the five hurdles I have identified. Due to time constraints here, let me just say that getting good information out to everyone and putting the message in terms of students that have been left behind, is crucial to helping people understand how we can use this as a lever for change.

In conclusion, NCLB lays out a 12-year agenda and requirement for improvement that has never been accomplished. Many naysayers will conclude that this is proof that NCLB will not work. The business community and I stand ready and argue that it is proof that doing more of the same over the next 12 years will not serve the children that we have a responsibility to. Our choice is clear: continue on with more of the same, or raise the ante, change the parameters, and change the capacity and expectations on public education. If we maintain the status quo, we guarantee that the economic opportunities in the workplace of far too many young adults will be severely limited. Take advantage of No Child Left Behind, and we have an opportunity to not only change the debate, but to change the actions of adults and the results for all children. Thank you.

WRITTEN STATEMENT OF RICHARD LAINE, DIRECTOR, EDUCATION POLICY AND INITIATIVES, ILLINOIS BUSINESS ROUNDTABLE, CHICAGO, ILLINOIS – SEE APPENDIX E

**Mrs. Biggert.** Thank you very much, Mr. Laine.

**Mrs. Biggert.** Mr. Windler.

**STATEMENT OF WILLIAM WINDLER, ASSISTANT COMMISSIONER,  
COLORADO DEPARTMENT OF EDUCATION, DENVER, COLORADO**

**Mr. Windler.** Good afternoon, and thank you for the opportunity to be here. I am here more or less in a celebration mode, because I feel that we are able to implement this act without a whole lot of difficulty, at least in our state. We recognize that there are issues in other states that have to be overcome, but I am here to say that in Colorado we are successfully implementing it.

Why do I say that? I say that primarily because we fully implemented the 1994 legislation. We have our standards in place. We have our assessment system in place. We have our definition of adequate yearly progress in place. It is tied to our final assessment system. We are also an Ed-Flex State. In addition, we have had a long history of intra and interdistrict choice. For example, we are well advanced in our development of charter schools.

Where are we in relationship to implementing H.R. 1? Well, we have already got our supplementary service requirement in place. The RFP has been issued. We have already accepted applications, and they will be put up on the Web within the next several days. So we have that available for school districts to choose from.

We have also completed our consolidated federal programs application that has already incorporated most of the H.R. 1 requirements into that that all LEAs have now responded to, including the required set-asides for supplementary services and for choice requirements. We have already been funded and approved Reading First and 21st Century Learning Communities. I believe we were one of the first three states to be funded under those programs.

We are intent and driven to close this achievement gap. You will notice that our application that we sent to the federal government also included our definition of adequate yearly progress that we believe is in total compliance with H.R. 1. Our proposed definition follows every individual child because we want to know where every individual child is in his or her educational venture. We want to be able to provide diagnostic information back to the school and back to the individual teachers so that they can modify instruction and take corrective action immediately.

We also have plans in place to separate all of the student achievement data by race, ethnicity, sex, and handicap conditions, by all of the required components. Our proposed definition takes into account the primary goal to close the achievement gap and to literally leave no child behind, no child, including gifted children and children that are already meeting the standards, because a part of our single accountability system is accreditation in Colorado. Accreditation expects all children to make a year's growth in a year's time, and those children that are behind more than a year's growth in a year's time, so that that achievement gap can be closed.

We believe that the definition that we have provided to the U.S. Department of Education more than meets those requirements because it sets very specific annual measurable goals and objectives for every subgroup, so that we can calculate annually how much every subgroup must

make in every school so that that school can be deemed to be making adequate yearly progress. These things we have in place.

We are also working with districts relative to the choice component in detail now. I think the 5 percent that has been talked about today is very important for transportation. After everything else has been exhausted, the approach that we would like to take is that it is no longer acceptable to say, we can't do something or we don't have the capacity to do something. Then talk to us. Because of remoteness out in eastern Colorado and the plains and because there aren't places to transport kids to, or in urban areas where there may be so many schools on improvement that there is really no viable transportation option. If that can be documented, then we want to know what they are going to do with those funds in lieu of to be targeted at those children who are farthest from meeting the standard. We want to provide that.

In summary, the reason that we submitted our definition of adequate yearly progress now before guidance was even provided is because we want to be able to tell districts and schools now how they are going to be judged starting in a few weeks. It is not acceptable, in our view, to wait another year to go through this process of review and explanation when the clock is already ticking. So, therefore, we have submitted a definition of adequate yearly progress so that we can begin immediately helping districts and schools understand how they are going to be judged relative to adequate yearly progress and know exactly where they stand in relationship to the state expectations.

We take this program very seriously. We feel that we are well on our way to full implementation of this act. Yes, there are a few rough edges that we need to work out. Like any other new program, we cannot know all of the answers up front, but if we don't step up and start doing something, we will never know all of the answers. I believe that we are well on the way. I just wanted to provide that information to you today.

WRITTEN STATEMENT OF WILLIAM WINDLER, ASSISTANT COMMISSIONER,  
COLORADO DEPARTMENT OF EDUCATION, DENVER, COLORADO – SEE APPENDIX F

**Mrs. Biggert.** Thank you very much.

**Mrs. Biggert.** I thank all of you for adhering to the time limits so that we will have a few minutes for questions. I will try and be brief so that we get more questions in.

Mr. Windler, can you suggest how Colorado's activities and plans for No Child Left Behind may be instructive to other states? How can you get involved with helping them?

**Mr. Windler.** Yes, ma'am. I have thought about this ever since you were drafting the original legislation. And, of course, it is built upon the premise that states have already fully implemented the 1994 legislation. I think it is going to be honestly difficult for some states to comply in a very quick manner because they have not complied with the standards development, the assessment development, and the prior definitions of adequate yearly progress. So states that are like that are

going to have problems.

I am just happy that I work in Colorado because we have been planning every year since 1993 on how to fine-tune and correct this system so that no literally child is left behind. So I guess my suggestion would be not to wait until somebody tells you what all of the answers are because we in many cases are the answers. You know, I can't wait until the U.S. Department of Education or Congress tells me what to do. We need to act now for these children.

**Mrs. Biggert.** Have you been contacted by any other states for some help in how you developed your plans?

**Mr. Windler.** Yes. I believe there are approximately 10 other states that have basically asked us for permission to use our requests for proposal for supplementary services, for example. I know that other states are interested in what we are doing with choice and other issues that are embedded in H.R. 1, and we are more than happy to share those experiences with folks.

**Mrs. Biggert.** Thank you.

And then, Mr. Laine, I have here some tools that you use on the Baldrige in Education and Illinois School Improvement Websites. I commend you on what you are doing when you go to the Website. I just recently learned about that and hope that you continue.

Going back to a question that I had with the Under Secretary about Chicago and Illinois and regarding the underachieving schools, there is some real concern about how schools are going to open in September. And you have drawn a distinction between schools that are not making progress in one or two subgroups versus schools that have been chronically unable to educate any of its subgroups. Could you address that issue and what is happening in Illinois and how the business community is addressing that?

**Mr. Laine.** Sure. I think what we have tried to use is almost a medical analogy, which is that if any of us were to go to our doctor, and the doctor said, you have high cholesterol and you have to lose a few pounds, hopefully the doctor won't say, you are terminal. Hopefully the doctor will say that you have to change your actions. In those cases where you don't change and your health gets worse, you have to have stronger interventions. We would make the distinction here as more and more schools get identified now, and when we move into AYP if we use the broad brush and say all these schools that are not making AYP are failures, we are recognizing the fact that probably 60, 70, 80 percent of the schools might then be considered failing.

My recommendation is that if the business community starts to understand and recognize the differentiation from continuous failing schools to schools that have populations where they are not serving well and that then are starting to identify progress, identifying resources and reallocating those resources, I think we all will be better able to understand how to use this law to improve it and to do it in a differentiated way depending on the needs of those kids and those schools. This is where the business community needs to be strong, because I think it won't be well taken if it is the education community saying it.

**Mrs. Biggert.** Thank you very much.

Gentleman from California Mr. Miller.

**Mr. Miller.** Thank you. I will be quick. We are going to have a vote shortly.

First, let me thank you all for your testimony. And, Chris, thank you very much for your statements on implementation. I think they just go right to the core of the issue here and about our ability in the past to gloss over these populations.

Again, I don't think any of us believe that this was going to be an easy decision or even that the information was going to be comforting, because unfortunately it is a bit of an indictment about our ability to gloss over the past and sort of take credit for doing something that really wasn't happening for 25 or 30 or 40 percent of the kids in the system. So I think you are quite timely there.

And, Mr. Laine, thank you for all your work on this. I think that when you take Chris' statement and your statement, that the numbers that you outline, when you say that some would see these numbers to serve as a eulogy for the public education, I would argue that none of us could afford to bury our public school systems. And this is about using this information now and coming to grips with it based upon what we all believe should happen in the education system in terms of the opportunity presented to each and every child and then the ability of that child to hopefully take advantage of that opportunity. So I appreciate that statement.

And I appreciate the involvement. When we got into some pretty difficult spots, the business community really helped us in the Congress on some of these concepts. And appreciate the roundtable's involvement there.

Mr. Windler, I want to infect everybody with your enthusiasm. I am watching -

**Mr. Windler.** It is light air out there.

**Mr. Miller.** I am reading all of the various journals. This thing is sort of following into the camp of people suggesting we can't do this, we don't have the ability to do this, and then there seems to be an another grouping of both states and individual districts that are sort of saying, all right, these are the rules, now let's come to grips with it.

One of the things that - and I don't know the details, but even Colorado's effort to get a hold of who are these children, who are they, where are they moving, what are they doing to try to really - so that you can make changes in these children education wise on a timely basis - one of the concepts that was outlined in the Texas system that attracted me and in our own following discussions with the president was that if we really had the information about who these children were in a real-time basis, we could then apply the resources or the talent, whether it is a mentor or a different teacher, a tutor, you know, Saturday school, summer school, whatever it is, we could go there in real time.

Now we find we have a test, and then the test may catch up with the child, but the child has moved to another school. And I am led to believe that Colorado is in the process of solving that informational problem about children and matching them with the necessary information should they transfer to other schools, and that is very encouraging. And a number of school districts have indicated that as they look now at their school population, that this is a very real opportunity about the allocation of resources and going to where the problem is. So we need that kind of, I think, encouragement and that kind of leadership in sharing that, as Judy suggested, with our school districts that, you know, just haven't quite gotten there yet.

**Mr. Windler.** We feel that it is very important to follow every individual child. It is the job of schools to know where every child is in the process. As a result we are looking at the AYP as a subset of the single accountability system, which in our state is much more comprehensive. I believe what the federal government has told us that they are interested in is to make sure that we have a literate populace and a populace that can do fundamental mathematics and so on.

So the system that we have proposed measures the value to which the educational system is adding to a child's life, where it is the job of the school to follow individual children, but they have to be a reflection of one another. If individual children in a school are performing well and progressing in each subgroup, then that is going to have a direct relationship in how we have defined adequate yearly progress for the school as a whole to help us determine the value of the system which has provided for the benefit of those children.

So, yes, we fully agree with what you had stated Mr. Miller.

**Mr. Miller.** Just one point, and then I will stop. I don't - that is, I don't want to suggest I am glossing over the civil rights concerns, because, again, we spent, as much time on that subject matter as anything in the conference room, and we are not done with that yet. But I think Mr. Scott will also address that. But thank you so much for having the center join this fray. It is a welcome voice in this one, Chris. Thank you.

**Mrs. Biggert.** Thank you.

The gentleman from Michigan Mr. Kildee.

**Mr. Kildee.** Thank you, Madam Chair.

First of all, I want to commend the second panel for their patience and endurance waiting so long to testify. We very much appreciate your testimony.

Dr. Windler, I appreciate what Colorado is doing. I think other states could learn from your work, particularly in the area of AYP and 21st Century Learning Centers, areas in which I have been very involved.

Let me ask, Dr. Edley, if we posit a continuum between the 1994 act when I was the Chair of the subcommittee, and the 2001 act, and if we help states achieve the requirements of the 1994

act, are we helping them move towards the requirements of the 2001 act?

**Mr. Edley.** Absolutely, Congressman. The difficulty that I want to emphasize is that the track record of pressing states effectively to come into compliance is pretty dismal. This is a bipartisan implementation failure, in my view, and as much as I love former Governor Riley and former Governor Clinton, I do think that there are times, there are many times, when the effort to apply common sense results in rewriting statutes, and that is a serious problem.

What I would be concerned about now is that having adopted a richer set of ambitions in the new statute, unless there is a concerted effort to break the back of this pattern of business as usual, we are going to have an even worse problem at holding feet to the fire around the country. So I am in a posture of saying that for all the difficulties, and for all the problems, and for all the concerns that are out there around the country, I think it is important to embrace the bad news and to do the best that we can, and I think that means in particular trying to avoid the business as usual.

I would like to focus on one particular aspect of that, and that is the state assessment systems problem. It is certainly a leg up if the states are already in compliance with the 1994 act, but very few states are, only 18. And even I would say suggest that some of those 18, there is a lot of winking going on in approving those systems. Now on a going-forward basis, if what we want out of these assessment systems is substantially more, what the department has done now by inviting the possibility of using norm-referenced tests in combination with local tests is like opening the door and saying, why don't you go spend a lot of time and a lot of resources looking for cold fusion.

I was a part of the National Academy of Sciences study. I have been on the Board of Testing and Assessment at the National Research Council for 6 years. I would claim some fatherhood in promoting the inclusion in that appropriations language of the commission to the NAS to do that study. I also invented the Internet. The conclusion that linkage couldn't be done to scientific standards needs to be taken to heart. When the peer review is done by the department this time around under this statute, I hope the committee will ensure that the people who do the peer review aren't trailing along behind them in their red wagon a giant rubber stamp, because the insistence that science govern this - that is what you wrote, you didn't say common sense should govern it, you said science should govern it - that is the only safeguard we have to ensure that assessment-driven reform is not going to be junk-science-driven reform, but is indeed going to be research based in science good for our kids.

**Mr. Kildee.** As you mentioned, we have had 2 administrations and 8 years in which we made certain requirements, including the disaggregated data that was put in IASA when we wrote the bill in 1994. Those 8 years have not always been that fruitful or well utilized, and the two administrations probably could have given a little more assistance or prodding to the states to achieve the requirements of that act.

**Mr. Edley.** Just to conceptualize a little bit, I think the department and the congress could think about this in three different ways. One way is if they don't surmount the hurdles, whack them financially and take away some money. I am actually in favor of doing more of that than most

people are.

The second way is at least be aggressive about checking the data on what is going on in the schools, in the districts, and at the state level so that we can hold open to public review your analysis whether or not we are achieving the goals of NCLB. That is number two. But, again, we already see in the implementation some backsliding in the department, so I am worried about that.

Then number three, it seems to me, is technical assistance. Get out in front of the curve. This bill is in some respects so difficult and so challenging that the department should be up here on the Hill and the states should be up here on the Hill saying, we need massive infusions of technical assistance so we can build the right assessment systems, so we can build and apply the right definitions of who is a dropout, so that they can actually discern whether or not supplemental services are snake oil or, in fact, delivering the goods for kids. So I think that third aspect of resources through technical assistance is an important opportunity.

**Mr. Kildee.** Thank you very much.

**Mrs. Biggert.** Thank you.

The gentleman from Virginia Mr. Scott is recognized for 5 minutes.

**Mr. Scott.** Thank you, Madam Chairman.

Professor Edley, you were in the room when I read the section 9534 that said nothing in this act should be construed to permit discrimination on the basis of race, color, religion and so forth. Were you surprised that that was interpreted as actually permitting discrimination?

**Mr. Edley.** Well, it is not the way I would have interpreted it had I been serving in the administration.

**Mr. Scott.** Let me ask you another question.

**Mr. Edley.** I am trying to be nonpartisan here.

**Mr. Scott.** You mentioned something about how graduation rates are calculated. Did I assume that they have kind of submerged dropout, and so you are missing the dropout impact?

**Mr. Edley.** Yes. That has happened. I think that the Under Secretary was not really responsive to your question. This heightened emphasis on testing does create a very serious risk that the averages, including the subgroup averages, will be inflated because of a push-out phenomenon as dropout rates go up. That is precisely why the Congress added dropout rates to the AYP definition, and it is absolutely critical. And you made clear in the statute and in the conference report that it has got to be a definition of dropout that doesn't assume that people who disappear transferred, but instead tries to keep track of that. There has got to be a definition of dropout that doesn't give the district credit for people who take 6 years to get through high school. We want it on time. It doesn't give them credit for people who just get a GED or some kind of alternative certification.



We want a real high school degree on time, a cohort analysis. They haven't preserved that in the regulations, they have simply punted the ball, and given the emphasis on testing and assessment, we really need the complementary part of the analysis, and I hope you will keep the heat on them.

**Mr. Scott.** Thank you.

Just subjectively, Professor Edley, can this thing work if we don't have an equalization in funding?

**Mr. Edley.** Well, look; I have to be completely honest with you. This thing isn't going to work. The real question is how close can we get to achieving the goals that you have laid out? And the answer is if you don't have substantial changes in the funding, not only an increase in the federal investment, but greater inter and intradistrict activity at the state level, we are going to fall far short of it.

My own belief is that just as you set now more ambitious goals in the Leave No Child Behind, in NCLB, it is also appropriate for the Congress and for the administration to ask the hard question: What kinds of resources are going to be required in order to achieve the goals that you legislated just 6 months ago? What kind of resources will be needed not just at the federal level, but from the state and local level? Right now that is just a guessing game. It is a concern for legal posturing. I think it could be analyzed.

A few years ago there was a GAO study suggesting that the shortfall in resources for school construction was about 112 billion. CRS, I think, has been doing some work asking how much would it take to build assessment systems around the country that would satisfy NCLB. I think that you could really press for a serious analysis about what the shortfall is in this Nation's investment just the way the Defense Department is full of numbers about what the shortfall is on investment in the military in order to achieve our national security objectives. Methodologically difficult, but I think it is worth a try.

**Mr. Scott.** Thank you.

**Mr. Laine.** If I could add, though, while the money is the issue, research that we have done clearly speaks to the fact that money does matter, it is how the money is spent also. So while we have seen significant increases, and there are still shortages in certain areas, until union contracts change, until we start to reallocate resources, until we start to reassign the best teachers with those kids with the greatest needs, just increasing aggregate dollars, similar to what we asked about disaggregating student data, we need to disaggregate all dollars and ask the question are they having the impact for those kids that have the greatest need.

**Mr. Scott.** If you are spending much more in some schools and much less in others, it doesn't matter how you allocate it, you are not going to have equality.

Mr. Windler, I don't have time for you to fully answer the question. I just wanted to pose the question. If you can get the information to us, I would appreciate it. Did I understand you to say you have done the testing, you have completed the research and everything you need for

testing?

**Mr. Windler.** Yes, sir. Our state assessment system has been fully approved by the U.S. Department of Education. It meets all of the -

**Mr. Scott.** If could you give us an idea of how much it cost for you to get all that together, I would appreciate it, and also identify any barriers to actual improvement. We got all this paperwork and getting ready, when the rubber meets the road, are there any barriers to actually improving education? Is this process helpful or a burden in you actually improving education?

My time has expired, so I don't have time for you to answer, but if you could get us that information, we would appreciate it.

**Mrs. Biggert.** I think the committee would appreciate that.

ADDITIONAL INFORMATION SUBMITTED FOR THE RECORD BY WILLIAM WINDLER,  
ASSISTANT COMMISSIONER, COLORADO DEPARTMENT OF EDUCATION, DENVER,  
COLORADO – APPENDIX G

**Mrs. Biggert.** Thank you, Mr. Scott.

The gentlewoman from California Ms. Woolsey.

**Ms. Woolsey.** Thank you, Madam Chairman.

And thank you for being so patient, the three of you. It must have felt like you were going through the 12-year implementation process sitting there with us. But speaking of that, over those 12 years there is going to be a lot of changes, up here in our administration, in the Secretaries of Education and the departments. How many of you are going to be around, and are you going to be watching what is happening, and what are you going to do about it if you see that it is going in the wrong direction?

I think we will start down at this end and move up, because I have a feeling that the Harvard professor has thought it through all right. Start with you, Mr. Windler.

**Mr. Windler.** I am not sure if I will be around in 12 years, but in the interim I can say that we at the Colorado Department of Education in any event are going to do everything to our ability to meet the spirit and the intent of this law. As I said before, we don't have everything figured out, but we are going to give it our best shot. I think that we have an environment in Colorado where our legislature, governor's office, and attorney general's office have set very, very high expectations for our state as evidenced in our CSAP program.

**Ms. Woolsey.** Thank you.

Mr. Laine.

**Mr. Laine.** I would make the argument that the business community will be the one consistent voice over the 12 years. The turnover at the state superintendent level, the governor level, at every level, even at the school district level and teacher in the classroom, we see a tremendous turnover. The business community has made the commitment today and for the next 12 years and beyond to say that No Child Left Behind needs to be the way we operate.

**Ms. Woolsey.** Thank you.

Professor Edley.

**Mr. Edley.** Yes, certainly, but let me broaden it and simply predict for you that the civil rights community as a whole is not only going to be around, but it is going to be increasingly militant and insistent that no child be left behind; that the disparities that are doing so much damage to the Nation in terms of socially, economically and morally are simply untenable. So there is a desperation, I think a growing desperation, among parents and civil rights groups to be extraordinarily aggressive. While there are many in the education establishment who are saying the 12 years is too soon, the civil rights community is saying 12 years is too long. We will be here.

**Ms. Woolsey.** Okay. Let me follow up on what you were just saying. Since NCLB, what you are calling it, which is great, sounds like nickel and diming, since it has not been funded adequately, and it probably never will be to the levels authorized anyway, in what ways do you see this affecting minority students?

**Mr. Edley.** Look, it is going to be terrible. I do not gainsay the importance of the federal dollars. It is absolutely critical. I have to tell you that I believe it is the responsibility of the authorizers to take the lead in educating the rest of the Congress on what needs to be done so that Congress collectively keeps its promises, keeps its promises. But, the other half of this statute is an effort to create structural changes and incentives so that the flow of state and local dollars will also change in order to make the achievement benchmarks that you laid out.

In a sense, we desperately need the increase in resources, but not just federal resources. You have opened the possibility of transforming the politics of state and local education finance and education governance. If implementation is aggressive, if your oversight is aggressive, and the more common sense is used to dilute the pointedness of your promises, the less progress we will make. The more you will be compromising the deal you have made with the American people.

So I would really focus on both sides of the coin of resources as well as the aggressive change in the systemic incentives and so forth.

**Ms. Woolsey.** Thank you very much, Madam Chairman. Yes, I yield to Mr. Scott.

**Mr. Scott.** Thank you, Madam Chairman.

Mr. Laine, you are representing the Business Roundtable. That is a critical link between education and work force. We don't have time for to you respond. If you could let me know how your interacting with the education policy to make sure that the people we are educating will be prepared for the jobs, how that works now, and any recommendations you would have to improve that linkage, I would certainly appreciate it. I served on a workforce task force when I was in the state senate in Virginia, and that is a critical element getting people properly prepared. If you could let us know what is going on now and any recommendations you would have under this legislation, I would appreciate it.

**Mr. Laine.** I will submit something and speak to the essential issue, as far as if we are not preparing the children to be successful in the workforce, we are not doing a good job.

**Mr. Scott.** Would you have recommendations?

**Mr. Laine.** I do, but I imagine your time isn't enough. I will submit it.

**Mr. Scott.** I appreciate it. Thank you.

**Mrs. Biggert.** The gentleman from Wisconsin Mr. Kind is recognized.

**Mr. Kind.** Thank you, Madam Chairman.

I appreciate the testimony from all of you today and your patience to stick around to answer a few more questions.

On the SEA reauthorization bill, I think, as do all of us who are deeply involved in the passage of the legislation, this is going to be an ongoing project that is going to require constant feedback in regard to the implementation of it, because part of the success of this is going to be the buy-in at the local level. Yes, we can talk all day about quality, and we can talk about resources, but we need the buy-in at the local level for this to be successful.

In that regard, we appreciate your testimony and what advice that you are offering this committee in regard to what we need to be doing, working together to make sure that that is successful for our children throughout the country. Part of the success of this will be some demographic changes that are occurring right now, the aging population.

We are losing, through retirement and attrition, so many of our teachers and good administrators. I have seen a study that in the next 4 to 5 years we could be losing about 50 percent of the current principals and superintendents throughout the country, and we could be facing a real leadership crisis in the education system.

And this act, through leadership academy, things that I and some others on the committee worked on that were trying to identify that and come up with some solutions in regard to the recruitment of a new generation of leadership and the replacement of quality teachers in the

classroom.

But also you notice in reviewing the legislation there is a lot of emphasis on research-based studies and the importance of putting things on the ground in the classroom that have some research-based scientific analysis behind it. There we see a role for the comprehensive research centers, the regional labs to play.

I noticed, Mr. Laine, in your written testimony in particular you were emphasizing the important role that regional labs can have in being able to deliver assistance in implementing the research that has been taking place. Do you have any suggestions to us in regard to the role that those labs are going to be playing and what the Department of Education or we can be doing to assist local school districts in implementing some of the research-based studies?

**Mr. Laine.** Sure. I think the regional labs play an important role in the sense that they help translate some of the esoteric research and even some of the rough research that is starting to appear into practical applications for schools and local educators. Teachers don't have that time, and so we need the labs. We need the universities to engage in it.

Most importantly, it goes to the part about sharing good ideas. You have 10 labs out there. It is an opportunity, if the department were to use them well, to stitch together the best thinking across the country to share what works within regions as well as across regions.

We have had the success of a very good lab, and what they have been trying to do is take the research, that I would argue is still very minimal except in certain areas, such as reading, and take it into the classroom. We need to do more of that.

**Mr. Kind.** The bells you hear going off indicates we have got a vote on, so I am sure the Chair wants to wrap up this panel's presence with us. But, real quickly, you know, we oftentimes compartmentalize various issues and that rather than taking a more comprehensive approach to education. We do this a little bit with ESEA, you know, separating it from IDEA; and that, too, is going to be coming up for reauthorization.

But I don't think we can talk about truly improving the education system in our country unless we also address the pressing needs of special education, the impact on budgets and making sure we can deliver some quality education to kids with special needs. Do any of you have any thoughts in regard to the upcoming IDEA reauthorization bill that we are going to be working on and what we should be paying attention to and concentrating on?

**Mr. Edley.** Well, I can say for the civil rights issue we have several, and I would be delighted to send those to you.

Let me just say briefly that one thing we have urged in some discussions that we have already had on the Hill is that you approach IDEA thematically. If you approach IDEA and the need for changes in a variety of respects in IDEA, including the achievement of the students, including eliminating racial disparities in over referrals and under servicing, and take those and approach it almost the same way you have done NCLB, that is to say, we want to increase student

achievement and we are going to have AYPs and we are going to have accountability for doing it, take the same approach with respect to IDEA. You don't have to regulate the micro details of what happens in every district in every school. But you have got to set some high standards for how you want the system of serving kids with special needs to improve over time and be aggressive about it.

I would also author OERI similarly. There is an equity agenda in OERI. I think the House-passed legislation, to be candid, misses the boat in a couple of respects and could be strengthened in the Senate or when you get to conference. You ought to be pushing to institute some kind of longitudinal tracking mechanism in the same way that Colorado is doing with privacy safeguards. You ought to be making these additional investments in technical assistance related to assessment measures.

**Mr. Kind.** As my time is expiring, let me just leave you with this thought in regards to IDEA. One of the most difficult issues is the funding issue. The President had a special education commission that worked on the reauthorization bill, and I feel and I think others did that it really fell short as far as coming forward with some strong recommendations where we go with the funding issue. So those of you who are heavily involved in education policy or are looking for some guidance and assistance there, if you could work with the administration, too, with ideas that you have. Because, obviously, that is a major issue that we need to grapple with; and I think the commission fell short in guidelines in that area.

Thank you, Madam Chair.

**Mrs. Biggert.** Thank you.

**Mr. Kildee,** before we close, I understand you have a request.

**Mr. Kildee.** Madam Chair, we have several other questions which we wish to receive a response. I ask consent that I be able to submit those questions in writing and that they, along with the responses of the panelists, be included in the record.

**Mrs. Biggert.** Without objection, so ordered.

**Mrs. Biggert.** I would like to thank the witnesses and the members for their valuable time and participation. I also thank the fact that the votes didn't occur at 1:00 and instead at 1:30 so we had the opportunity to ask the questions.

So if there is no further business, the committee stands adjourned.

[Whereupon, at 1:37 p.m., the committee was adjourned.]

***APPENDIX A -- WRITTEN OPENING STATEMENT OF CHAIRMAN JOHN  
A. BOEHNER, COMMITTEE ON EDUCATION AND THE WORKFORCE,  
U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.***





**STATEMENT BY CHAIRMAN JOHN A. BOEHNER**  
**EDUCATION AND THE WORKFORCE COMMITTEE**  
**HEARING ON**  
**“IMPLEMENTATION OF THE NO CHILD LEFT BEHIND ACT”**  
**JULY 24, 2002**

Good morning and thank you for being here. We're here to discuss the ongoing implementation of H.R. 1, the No Child Left Behind Act of 2001, including accountability, adequate yearly progress, parental options, and flexibility. In addition, the hearing will also address the activities and plans the private sector and the States of Illinois and Colorado are undertaking to implement the law.

I was proud to work closely last year with Senator Judd Gregg, Senator Ted Kennedy, and my friend George Miller to help pass the bipartisan No Child Left Behind Act. Some of us are conservatives, others are liberals. But we all share a common belief in the potential of American education.

The four of us – and the members of this committee – worked together to overcome skeptics in both parties to pass what should be the most important change in education policy since 1965 – as long as we have the courage, focus, and compassion to implement it.

The catalyst for No Child Left Behind, of course, was the vision and leadership of President Bush, who believes strongly that every child should have the chance to learn.

No Child Left Behind reflects that strongly held belief. It's about hope. It says no child in America should be written off as un-teachable and no school should be written off as incapable of producing results.

Like many students, many schools today are victims of low expectations. For a generation, we pumped billions into a system that lacked accountability, never insisting on results. Compassion was measured in terms of dollars spent, instead of results produced. As long as government was spending as much money as it could on struggling schools, we believed we were doing all we could to close the academic achievement gap and ensure all students were achieving.

That kind of thinking is no longer acceptable, and it's why No Child Left Behind has the potential to be a pivotal moment in American education. **We're no longer willing to force parents to keep their children in schools that are dangerous or chronically underachieving. And we're no longer willing to accept that some public schools are locked on an irreversible collision course with disappointment and despair.**

No Child Left Behind provides a roadmap – and the *resources* – for even the most troubled public schools in America to pull themselves up. It doesn't guarantee success – but it gives our poorest schools and poorest students the fighting chance they so desperately need.

Accountability is the centerpiece of President Bush's plan to improve public schools and close the achievement gap that has existed between disadvantaged students and their peers since 1965, when the ESEA was adopted. No Child Left Behind also provides new options for parents, gives greater flexibility for local districts, streamlines the number of federal education programs, expands local control, and targets billions in new funds to our most disadvantaged schools and students – where it is needed most.

Children are the priority under No Child Left Behind – but schools are a priority too. The new law is built on the notion that every struggling child can learn – and every struggling *school* can rebound.

There are some who say we can't help students in struggling schools without hurting the schools themselves. They're wrong.

Expanding parental options is not a zero-sum game. Yes, parents will be able to obtain private tutoring and other supplemental services for their children through their child's share of federal Title I funds. They'll have this right for the first time ever, and it will be powerful in its impact for their children. **But school districts themselves will also have new funds, new resources, and new flexibility that go far beyond anything they've had before:**

- **Every local school district in America will receive dramatic new flexibility under No Child Left Behind.** The law gives new flexibility for all 50 states and every local school district in the United States, and would also allow demonstration projects to be established across the nation to demonstrate the effectiveness of state and local control in improving student achievement.
- **Federal education funds are increased dramatically as a result of No Child Left Behind, targeted to poor schools and poor students.** Not just for Title I, but for virtually all major Elementary and Secondary Education Act grant programs, including teacher quality, which President Bush and Congress have given a 35 percent increase.
- **Schools that have not made adequate yearly progress (AYP, as determined by the state) for two consecutive years will qualify immediately for extra help.** These schools will immediately receive extra help, including technical assistance to improve student achievement.

However, one thing must be crystal-clear: schools that continue to underachieve – even after extra help – will be required to change dramatically. Under No Child Left Behind, tougher measures kick in the longer that schools do not improve despite intensive assistance and extra help. No Child Left Behind sets goals for adequate yearly progress (AYP) that are ambitious, but achievable. Many States already have high quality accountability systems and definitions,

while other States are working hard to improve upon theirs. All States, though, will be able to establish stronger systems of accountability and definitions of AYP as a result of the law.

Secretary Paige, Under Secretary Hickok and the Department of Education are committed to ensuring that the accountability, parental options and flexibility provisions in No Child Left Behind are implemented as soon as possible – and in the case of parental options, beginning this school year. I applaud them for this commitment, because without new options for parents, education reform is an empty promise.

Every educator knows there are children slipping through the cracks in today's public education system. We have a responsibility to give those children the education they deserve now – not years or decades from now. To acknowledge this is not to condemn public education; it's the first step toward repairing those cracks and ensuring that no child in America is left behind.

Once again, thank you for taking the time to be here today and to participate in this important hearing. Closing the achievement gap in education will require a close partnership among parents, teachers, school officials, business leaders, and lawmakers at all levels of government. Your participation here today is a strong sign that this partnership is stronger than ever.



***APPENDIX B -- WRITTEN STATEMENT OF EUGENE W. HICKOK,  
UNDER SECRETARY, U.S. DEPARTMENT OF EDUCATION,  
WASHINGTON, D.C.***



**DEPARTMENT OF EDUCATION**

Statement by

**Eugene W. Hickok, Under Secretary**

on

**Implementation of the No Child Left Behind Act****Committee on Education and the Workforce****July 24, 2002**

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you this morning to discuss the Department's implementation of the *No Child Left Behind Act*, the recent reauthorization of the Elementary and Secondary Education Act of 1965. The enactment of *No Child Left Behind* was a watershed event in the history of Federal support for K-12 education. It gives me great pleasure to discuss its significance and the Department's efforts to ensure its successful implementation across this country.

Mr. Chairman, only three days after taking office, President Bush unveiled *No Child Left Behind* as a comprehensive strategy for restructuring Federal elementary and secondary education programs and leading the way toward national reform and renewal in education. Less than a year later, he signed into law this remarkable, bipartisan legislation for improving the performance of America's elementary and secondary schools while ensuring that no child is trapped in an unsafe or failing school.

*No Child Left Behind* embodies the key principles and themes that the President emphasized upon taking office. These principles include:

- (1) Increased accountability for results: The *No Child Left Behind Act* provides for real performance accountability in the Title I program by requiring statewide accountability systems covering all public schools and students. These systems must be based on challenging State standards in reading and mathematics (and later, science), annual testing for all students in grades 3-8, and annual progress objectives for ensuring that all students reach proficiency in reading and math within 12 years. Schools and school districts that do not meet these objectives, both for all students and for specific student groups, will be subject to improvement, corrective action, and restructuring aimed at getting them back on track.

- (2) More choices for parents and students: The new Act significantly increases the choices available to students attending under-achieving schools. Beginning in the coming school year, these students must be given the opportunity to attend another public school that is making “adequate yearly progress” under Title I, and the district will provide transportation to that new school. Public school choice must also be provided for students in persistently dangerous schools. Students attending schools that do not make adequate yearly progress for three years in a row will have the opportunity to receive supplemental academic services, such as after-school tutoring, from providers who can demonstrate success in raising student achievement. The new law also requires states and school districts to post accessible, user-friendly information on the Internet about student performance, teacher characteristics, and graduation rates, as well as other school and district data. This information will help parents make informed choices when it comes to their children’s education and will also allow taxpayers and the general public to assess the quality of the schools they help fund. The bill also enhances the Department’s support for innovations in public school choice by creating programs for the support of voluntary public school choice and the financing of charter school facilities.
- (3) Greater flexibility for States, school districts, and schools: Through a number of mechanisms, the new Act greatly expands the flexibility of States, local educational agencies, and schools to use Federal funds in a manner that best reflects State and local needs and priorities. These mechanisms include the “State-Flex” and “Local-Flex” demonstration authorities, which will allow up to 7 States and 150 districts the flexibility to consolidate Federal program funds and use them for any authorized purpose, in exchange for committing themselves to improving student achievement and narrowing achievement gaps. The “transferability” authority, another new innovation, allows all States and most districts to transfer, across program categories, up to half their formula allocations for certain major programs.
- (4) A focus on what works: The new law consistently calls for States, school districts, and other grantees to use their ESEA funds to implement programs that reflect scientifically based research, that is, programs, activities, and strategies that high-quality research shows are truly effective in raising student achievement. The Congress clearly signaled a lack of patience with the faddishness that frequently substitutes for research-based approaches to educating our children. Particularly in the area of reading, where the Act created the new Reading First program, the Members said that we have a solid research base about what works; now it’s time to ensure that all our children benefit.

Those are some of the major themes and messages in the *No Child Left Behind Act*. These key principles are also guiding our implementation of the Act; they are reflected in



our regulations and non-regulatory guidance, and in the instructions we developed for formula and competitive grant applications.

I will use the remainder of my time to give you a brief overview of the Department's progress in implementing the Act.

### **Regulations and Program Guidance**

When a piece of legislation like *No Child Left Behind* is enacted, educators across the country eagerly await information from the Department on how the new and revised programs will operate. We provide that information either through regulations or non-regulatory program guidance. Through these documents, we interpret provisions that may be ambiguous in the statute, fill in a few of the blanks, and translate statutory text into plain English.

Our guiding principle in implementing *No Child Left Behind* is to regulate only when it is absolutely necessary, because non-regulatory guidance tends to provide States and local educational agencies with greater flexibility. Thus we worked assiduously to develop guidance for the major formula grant programs, and have at this point issued, in either final or draft form, guidance for Reading First, Teacher Quality State Grants, Language Acquisition State Grants, Comprehensive School Reform, Enhancing Education through Technology, 21<sup>st</sup> Century Community Learning Centers, and on Title I issues such as paraprofessionals and teacher quality. Draft guidance on supplemental services should be out in early August. For other programs, the guidance packages are in final clearance, and we fully expect to complete all of them during the remainder of the summer. We have worked closely with State educational agencies and others who administer these programs, to ensure that the guidance fully addresses their concerns.

In some cases, we do have to issue formal regulations. In particular, the Act called on the Department to develop, through a negotiated rulemaking process, regulations for the standards and assessment requirements under Title I. We carried out this negotiated rulemaking, or "reg-neg" as its called, during the second and third weeks of March. We assembled a panel of State and local officials, school principals, teachers, parents, and representatives of students and the business community. The negotiators successfully reached consensus on such important issues as the requirement for inclusion of all students in State assessments, the use of "out-of-level" tests in assessing students with disabilities, and the assessments administered to private school children who participate in Title I. After completion of the negotiations, we published proposed regulations in the *Federal Register*, took public comment on them (including at regional meetings that we convened in May), and published the final regulations by the statutory deadline set by Congress.

We also determined that regulations would be needed for certain other key Title I provisions, such as adequate yearly progress, accountability, and teacher and paraprofessional qualifications, because of the complexity of these provisions and the

need to resolve clearly some of the statutory issues. These proposed regulations will be published in the *Federal Register* during the week of July 29<sup>th</sup>.

### **Consolidated State Applications**

For each State formula program in ESEA, the Act provides detailed instructions on the information States must provide to the Department in their State applications. However, the Act also permits States to submit a consolidated application, in place of some or all of the individual program applications.

Because we knew that most or all States were likely to take advantage of the consolidated application option, the Department spent a great deal of time this winter and spring developing instructions for the consolidated application and working with States on their submissions. In the end, all States submitted consolidated applications. The Department's instructions, consistent with the statutory language, required States to provide, in their applications, only the minimum information needed for the Department to operate the programs, but also the data and documentation essential for ensuring program integrity and accountability. States responded very favorably to this direction, and we received many commendations from them on our conduct of the process. While States had only a short period of time to complete their applications, we were able to complete the reviews in time to make awards when the formula grant money became available on July 1.

### **New Flexibility Initiatives**

The new Act holds States and school districts accountable for educating all their children to high standards. But more than ever before, it gives them room to use Federal funds to develop and implement their own strategies for improving education. States and local educational agencies will have new opportunities to combine Federal funds, rather than using them within narrow categories, in a manner that reflects local needs and priorities.

The new flexibility provisions include the State and local flexibility demonstrations, or "State-Flex" and "Local-Flex" as we call them. They allow selected States and districts to consolidate their Federal funds and use them for any authorized purpose, in exchange for a commitment to improving student achievement. In addition to those competitive authorities, all States and most districts will be able to take advantage of the "transferability" provisions, which allow the transfer of up to half the money they receive under certain formula programs across those programs or into Title I.

Ever since the legislation passed, we have been working to ensure a swift and successful implementation of these important new authorities. We want all States and school districts to know about these new opportunities to improve their use of Federal dollars. We want to receive as many high-quality applications as possible for the demonstration programs, and are ready to provide technical assistance to applicants. We have published proposed rules for both State-Flex and Local-Flex, and have taken steps to inform States and districts about the new provisions and to receive their input on implementation. We

expect to announce the first group of Local-Flex districts in December and the first States in January. Thirteen States have told us that they intend to apply for State-Flex.

### **Competitive Grant Programs**

A major focus of our efforts in recent months has been on implementing the competitive grant programs included in the *No Child Left Behind Act*. We must make awards under most of the competitive programs by September 30, which has left us very little time between enactment of the statute and completion of the competitions. Some of the programs have proved to be very popular; for instance, for the Mentoring program we received more than 1,200 applications, for Early Reading First, we received more than 900, and for the Carol M. White Physical Fitness program, more than 700. We will spend much of the remainder of the summer conducting the peer reviews for these competitions and preparing to make the awards.

I should also mention two other programs that are not competitive but that have also been major areas of focus or activity. Reading First embodies the President's commitment to ensuring that all children learn to read by the third grade. All States are eligible to receive formula grants for implementation of programs of scientifically based reading instruction, particularly in schools where high percentages of students are not learning to read. The statute requires a different, particularly intensive peer review for Reading First than for other programs, and thus States could not include Reading First in their consolidated State applications. Thirty-nine States have now applied for the program, and we have proceeded with the peer reviews and are working collaboratively with States to correct any deficiencies in their applications. State applications have reflected both the great urgency to improve reading achievement and a great commitment to use proven methods to achieve that goal. On June 25, we announced the first group of Reading First awards – Alabama, Colorado, and Florida – and we expect to announce a second group in early August.

A second program that has required some special attention is the Small, Rural School Achievement program. The *No Child Left Behind Act* created this authority for low-enrollment districts serving rural areas to apply directly to the Department for flexible funding that supplements the funds they receive from the State formula programs. Our first action was to contact each State to determine which districts were eligible and to obtain average daily attendance figures for those districts. With that information in hand, we invited the districts, approximately 4,700 in all, to apply for the funding. Even though the application process is very simple and is accomplished entirely on line, many of these districts have never before applied directly to the Department for a grant and they have required considerable technical assistance in completing their applications. Last week we extended the application period in order to give the eligible districts some additional time to apply; we will, however, make all of these grants within the next few weeks.

### Public Outreach

Implementing *No Child Left Behind* involves more than just issuing regulations, reviewing applications, and making the grants. It really means bringing the whole country together around the idea that, if we are to continue to flourish as a Nation, no child really can be left behind, that it is time to stop making excuses for educational failure, and time to use the framework provided by this legislation to get on with what we have to do. Toward that end, we have communicated continually with governors, chief State school officers, school superintendents, teachers, parents, business leaders, and the general public on this Act and on the vision that it embodies.

On the week of the signing, Secretary Paige convened an historic summit with State superintendents to discuss implementation of the new law. The Secretary has traveled across the country, visiting over 15 cities to spread the word about the new options the Act makes available to parents, and has forged new partnerships with groups like the National Council of Negro Women, Alpha Kappa Alpha, and other groups that have strong links to parents and communities.

In the Department, we held heavily attended regional meetings to discuss the Title I standards and assessments regulations, national conferences on teacher quality and charter schools, and a special conference on supplemental educational services. For this fall, we are planning regional meetings on the topic of “Student Achievement and School Accountability” and a series of leadership academies on early childhood education. We also have held three leadership academies with State officials and one with big-city districts to acquaint them with the Reading First program

We created a series of publications on *No Child Left Behind*, including a parents’ guide, brochures and fact sheets that provide information for parents about key provisions of the law. We created publications that give parents tips on helping their children with reading and homework. These publications are available in both English and Spanish. We developed the NoChildLeftBehind.gov website, which provides a wealth of information to tens of thousands of constituents every week; our bi-weekly e-newsletter reaches over 11,000 subscribers; and, in the last four months, we have distributed over 100,000 parents’ guides to *No Child Left Behind*.

In conclusion, let me say that implementing *No Child Left Behind* has been a major challenge for the Department, but it is a challenge that we were very eager to take on, and I think we have responded to the challenge very strongly. I welcome your support as we continue with this most important endeavor to improve education for all the Nation’s children

I would be happy to answer any questions you may have.

***APPENDIX C - QUESTIONS SUBMITTED TO UNDER SECRETARY  
EUGENE W. HICKOK BY THE HONORABLE GEORGE MILLER,  
RANKING MEMBER, COMMITTEE ON EDUCATION AND THE  
WORKFORCE, WASHINGTON, D.C. AND RESPONSES FROM EUGENE  
W. HICKOK, UNDER SECRETARY, U.S. DEPARTMENT OF EDUCATION,  
WASHINGTON, D.C.***



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August 2, 2002

The Honorable Eugene W. Hickok  
 Under Secretary of Education  
 U. S. Department of Education  
 400 Maryland Avenue, SW  
 Washington, DC 20202

Dear Mr. Hickok:

Thank you for testifying before the Education and Workforce Committee regarding implementation of H.R. 1, the No Child Left Behind Act (NCLB). The members of this committee feel that implementation of this important law is a high priority. Unfortunately, several Members of our Committee were unable to ask questions due to time constraints and votes on the House Floor. These questions are listed below. Please provide responses to these questions by August 19, 2002.

- 1) What guidance are you providing to States about how to calculate adequate yearly progress when states are transitioning from one test to another?
- 2) Five states are operating under Compliance Agreements that are supposed to bring them into compliance with the IASA of 1994. Those states are not expected to have final assessments until 2004. What is the Department's position regarding when and how those states must comply with the adequate yearly progress requirements of the No Child Left Behind Act?
- 3) What has been done up to this point to find a new Title I director to replace Joe Johnson? Has the department put out a job description and solicited input from the public and constituency groups? What is the timeline and process needed to name a new Title I director?
- 4) Is the Department collecting current data on compliance with H.R. 1's public school choice provisions? If not, why is this? What effort has been made by the Department to ensure that parents get adequate notice and information to take advantage of these provisions? Please furnish any existing data the Department has collected on this topic to the Committee.
- 5) Which States and school districts are models for the rest of the nation with respect to implementing the public school choice provisions of H.R. 1?

The Honorable Eugene Hickok  
Under Secretary of Education  
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6) What is the Department doing to ensure ongoing, meaningful input from civil rights and parents' organizations on the implementation of H.R. 1 and especially its assessment provisions? If the Department does approve States which utilize both State and local assessments in their accountability systems, how will the Department ensure that such systems will be implemented properly and can produce valid and reliable results that properly identify schools under section 1116?

7) One of the biggest changes made by NCLB is the increased targeting of resources, especially the increased targeting of many within State formulas to low-income areas. What efforts is the Department making to ensure these new formulas are followed?

8) How does the Department view their role in implementation of NCLB? We've heard this morning of your efforts to assist States and localities through technical assistance. Is the Department also going to take an active role in enforcing the provisions of NCLB?

9) The consolidated application requirements for NCLB don't provide universal access by the public to State planning documents. Instead they are accessible to the extent provided under State law. These planning and related documents are the tools which States use to file their consolidated applications and also implement its ESEA programs. What is the basis of the decision to constrain accessibility to these documents per State law?

10) In January of this year, the Department released a notice in the Federal Register about using the Elementary and Secondary Schools Civil Rights Compliance Report to collect NCLB data at school and district levels. Yet the Department recently rescinded this notice. Since school districts and schools have been completing this form biannually since 1968, it made sense to use this form. Why did the Department abandon this approach and how will it collect NCLB data?

11) Does the Department plan to continue using the OCR Elementary and Secondary School survey to obtain data on compliance with civil rights laws?

12) What does the Department consider the role of OCR in the implementation of NCLB?

13) What is the status of the guidance for the 21<sup>st</sup> Century Community Learning Center program?

14) The Department has been performing outreach to the faith-based community about the availability of federal grants under NCLB. Please provide the committee with all documents and material related to Departmental efforts to solicit the faith-based community in addition to documents and material provided to the faith-based community at these outreach sessions.

15) How are these outreach sessions for the faith-based community funded by the Department? Please provide the approximate cost for holding these outreach sessions and any other related costs borne by the Department.

16) Does the Department plan to hold any grant competitions that would be restricted to faith-based applicants only? Is so, please provide detailed information on the grant program and number of anticipated competitions.



The Honorable Eugene Hickok  
Under Secretary of Education  
Page Three

17) Please provide a detailed status report on the Department's implementation and guidance activities concerning Sec. 1503 (Assessment Evaluation), Title II Part C Chapter C Subpart 5 (Teacher Liability), Sec. 9524 (School Prayer), Sec. 9525 (Equal Access to Public School Facilities) and Title X Part F (Student Privacy) of NCLB.

18) Constituents have indicated that the per pupil expenditures for the bilingual and immigrant students are less now that the two programs have been merged, then when they were separately authorized programs. Do you have information on this?


19) The Congress requested that a migrant records transfer system be developed for the migrant students in the Title I program. This interstate electronic system was to deliver education and health information to each of the states traveled by the migrant students. What is the current status of that congressional request?

20) In the next ten years, we will have to hire 2.2 million teachers just to stay even with the attrition of our teaching force. Most of these teachers, including all elementary school teachers, will be called on to teach science. Many will feel inadequate to teach it. We must change this attitude by significantly increasing the number of teachers who feel qualified to teach math and science, and by changing the environment of professional development to create an on-going system of improvement. One-way to do this is through the Math and Science Partnership program in the No Child Left Behind Act. What steps are you taking to expand, implement and fully fund the Math and Science Partnerships?

21) In Education and the Workforce Committee hearing you stated that the Department is engaged in math and science teacher training activities outside of the Department of Education Math and Science Partnerships. Could you please elaborate on steps the Department is taking?

Once again, thank you for testifying before the committee. I look forward to your responses to these questions.

Sincerely,



GEORGE MILLER  
Senior Democratic Member

cc: Honorable John Boehner, Chairman  
Honorable Ruben Hinojosa  
Honorable Rush Holt



## UNITED STATES DEPARTMENT OF EDUCATION

THE UNDER SECRETARY

February 10, 2003

Honorable George Miller  
Ranking Member  
Committee on Education and the Workforce  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Miller:

Enclosed are responses to questions submitted by you and other members of the Education and the Workforce Committee concerning the implementation of the *No Child Left Behind Act*. As you know, the Department has issued final Title I regulations and guidance on the other major programs contained in the *No Child Left Behind Act*. I hope these responses are helpful to you and your staff. If you have any further questions or need clarification on any of the responses, please do not hesitate to let me know.

Sincerely,

A handwritten signature in black ink that reads "Eugene W. Hickok".

Eugene W. Hickok

Enclosures

Answers to Questions for Under Secretary Hickok from Rep. George Miller

1. What guidance are you providing to States about how to calculate adequate yearly progress when States are transitioning from one test to another?

**Answer:** In September 2000 the Department issued guidance on the identification of schools and school districts in need of improvement or corrective action in States moving from transitional to final assessment systems. That guidance stated, among other things, that local educational agencies must conduct a determination of which schools are not making adequate yearly progress and are in need of improvement in all years, including years when the State's assessment system may be in transition. It also provided guidance on how to identify schools as in need of improvement when the State is in transition from one test to another. This guidance continues to apply.

The Department provided initial guidance in a letter from Secretary Paige to the chief State school officers on July 24, 2002, and issued final regulations on adequate yearly progress and other issues on December 2, 2002. The Department also prepared further guidance documents for use at four regional meetings held in October. We also launched a pilot project to review the assessment and accountability systems in five States for their compliance with the new Act, and have started the review process with other States. In addition to the peer review State visits, we are in the process of contacting each State to set up a preliminary meeting to discuss their AYP proposals. As of January 24 we have met with 28 States. When this specific issue (implementing the adequate yearly progress definition when the State is changing assessments) arises in individual States, Department staff will be available to provide guidance.

2. Five states are operating under Compliance Agreements that are supposed to bring them into compliance with the IASA of 1994. Those States are not expected to have final assessments until 2004. What is the Department's position regarding when and how those States must comply with the adequate yearly progress requirements of the No Child Left Behind Act?

**Answer:** All States must meet the requirements of NCLB. The Department is working with States that have received timeline waivers or have entered into compliance agreements, because of their inability to meet the 1994 requirements. The Department offers technical assistance to those States that is designed to assist them in meeting the 1994 requirements and the NCLB requirements as soon as possible.

For example, the compliance agreement (for each of the five States under such agreements) requires the State to immediately meet the requirements of NCLB, insofar as the completion of the State's assessment system permits. States must distribute report cards, and identify schools for improvement, based on data for all children in grades assessed and, where possible: (1) for subgroups; (2) for other indicators required by the NCLB Act; and (3) based on the application of the "95 percent rule." All the NCLB consequences (choice, supplemental services, corrective action, and reconstitution) must be implemented as required, depending on the school's status. The deadline for having all children performing at the proficient level by the 2013-14 school year is the same for all States, including those under compliance agreements.

## Answers to Questions for Under Secretary Hickok from Rep. George Miller

3. What has been done up to this point to find a new Title I director to replace Joe Johnson? Has the department put out a job description and solicited input from the public and constituency groups? What is the timeline and process needed to name a new Title I director?

**Answer:** Dr. Johnson resigned as the Director of School Achievement and School Accountability in the Office of Elementary and Secondary Education effective June 28. We announced the position on June 24, and candidates had 45 days (until August 9) to apply. We recently completed interviews with the final candidates for the position but decided that we needed to re-post the position and interview more candidates. Because this is a Senior Executive Service (SES) position, we will also have to clear the selection through the Office of Personnel Management, if our desired candidate is not already a member of the SES.

We did solicit input from the public and constituency groups, in hopes of generating applications from individuals with outstanding qualifications. We circulated the job announcement to education organizations (such as the Council of Chief State School Officers, the Education Leaders Council, and the American Association of School Administrators) and to recruitment agencies and web-site listings.

4. Is the Department collecting current data on compliance with HR 1's public school choice provisions? If not, why is this? What effort has been made by the Department to ensure that parents get adequate notice and information to take advantage of these provisions? Please furnish any existing data the Department has collected on this topic to the Committee.

**Answer:** The number of students and schools that participate in public school choice and supplemental service programs and activities is required to be included in the annual State report to the Secretary [Title I, section 1111(h)(4)(F)]. Once we receive that information, we will include it in the report to Congress required under section 1111(h)(5).

The Secretary sent a letter on June 14, 2002, to all chief State school officers to inform them of the choice provisions and of States' and LEAs' responsibilities for implementing those provisions. In addition, in the final Title I regulations published in the *Federal Register* on December 2, the Department advised State and local administrators of their new responsibilities, including the responsibility to make parents of children in low-performing schools aware of the opportunity to transfer their children to schools that have made adequate yearly progress. Finally, the Department issued nonregulatory guidance on December 4, 2002, that provides further detail on States', districts' and schools' responsibilities in this area.

5. Which States and school districts are models for the rest of the nation with respect to implementing the public school choice provisions of HR 1?

Answers to Questions for Under Secretary Hickok from Rep. George Miller

**Answer:** The No Child Left Behind choice requirements are new, and they are significantly different from previous provisions in this area. Therefore, it is premature to identify any States or districts as having a model program under the new law. As the new provisions go into effect, we will work to identify State and local practices and policies that appear to be having the greatest and most positive impact.

6. What is the Department doing to ensure ongoing, meaningful input from civil rights and parents' organizations on the implementation of HR 1 and especially its assessment provisions? If the Department does approve States which utilize both State and local assessments in their accountability systems, how will the Department ensure that such systems will be implemented properly and can produce valid and reliable results that properly identify schools under section 1116?

**Answer:** The negotiated rule-making committee that negotiated the standards and assessments regulations included parent representatives. Civil rights groups also participated in these proceedings and in the focus group sessions that preceded the negotiations, and submitted comments on the proposed regulations. Additionally, on August 5, the Assistant Secretary for Elementary and Secondary Education hosted a briefing on "The Role of Parents in No Child Left Behind." This briefing was held specifically for parents.

At the State level, parents are also represented in each State's Committee of Practitioners. Title I Directors hold State Committee of Practitioners meetings on a regular basis to act on State policies related to the administration of the Title I program.

A critical element of the Department's peer review process for State accountability systems is data quality and assessment rigor, particularly as they relate to a State's annual decisions about the achievement of public schools and LEAs. During prior peer reviews of final assessment systems, the Department required States to ensure that any local assessments used in addition to State assessments for accountability, were aligned with the State's reading or language arts and math standards, and that the assessment results could be validly and reliably combined with State assessment results. Additionally, the final regulations on standards and assessments, published in the *Federal Register* on July 5, 2002, require States that include a combination of assessments in their accountability system to be able to demonstrate in their State plan that the system has a rational and coherent design that indicates the contribution of each assessment toward, among other things, determining adequate yearly progress. The Department's monitoring will focus on the compliance with these requirements by States that use both State and local assessments systems.

7. One of biggest changes made by NCLB is the increased targeting of resources, especially the increased targeting of many within State formulas to low-income areas. What efforts is the Department making to ensure these new formulas are followed?

**Answer:** The Department takes care to ensure that it allocates all funds under the new Act correctly. For example, in the case of the new Education Finance Incentive Grants

Answers to Questions for Under Secretary Hickok from Rep. George Miller

(EFIG) formula under Part A of Title I, the Department carefully analyzed the statutory formula requirements and developed a computer-based model for calculating EFIG allocations to ensure full compliance with the new law.

In the case of programs under which the Department makes formula grants to States and the States then determine allocations to LEAs, such as the Title II Improving Teacher Quality State Grants program, the Department will enforce the new law in the same manner as it does for all other aspects of the ESEA. These methods include the provision of regulatory and non-regulatory guidance, technical assistance, program monitoring, and audit reviews.

8. How does the Department view their role in implementation of NCLB? We've heard this morning of your efforts to assist States and localities through technical assistance. Is the Department also going to take an active role in enforcing the provisions of NCLB?

**Answer:** Over the long term, we view our role as both providing technical assistance and in ensuring that the provisions of the No Child Left Behind Act are faithfully implemented.

In the initial months after Congressional passage of NCLB, our major activities were directed at interpreting the new law and communicating those interpretations as quickly and clearly as possible to the States, LEAs, and others. Although most of these communications efforts could be considered "technical assistance," they also pave the way for monitoring and accountability efforts because States and LEAs will be able to base their implementation decisions in part on our interpretations. In addition, because of the comprehensive nature of the NCLB reforms and the revolutionary changes we are demanding in a relatively short period of time, we expect to provide some flexibility to States and LEAs during the transition period covering the 2002-2003 school year.

During the 2002-03 school year, when most of the regulations and non-regulatory guidance packages will be issued in final, we will phase in an extensive program monitoring effort aimed at ensuring the NCLB provisions are implemented both in conformance with the law and with quality. But our technical assistance activities will also continue; the Department expects to continue holding conferences and other events on issues like identification of the scientifically based research in key areas, school choice, and early childhood education, and to issue publications in those areas.

Another critical part of the Department's role is evaluation and data collection. We are launching a comprehensive effort, through the new Policy and Program Studies Service and the Institute for Education Sciences (IES) Center for Education Evaluation, to evaluate the impact of NCLB and the reauthorized ESEA programs. In addition, the Department has begun, in cooperation with State and local officials, a "Performance-Based Data Management Initiative" that will link State and local sources of data on student demographics, achievement, and education funding in a manner that will facilitate analysis of the impact of NCLB reforms on student outcomes.

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9. The consolidated application requirements for NCLB don't provide universal access by the public to State planning documents. Instead they are accessible to the extent provided under State law. These planning and related documents are the tools which States use to file their consolidated applications and also implement its ESEA programs. What is the basis of the decision to constrain accessibility to these documents per State law?

**Answer:** The NCLB provisions on consolidated applications do not provide for public access to these documents. Indeed, the provisions of the statute do not address planning and related documents apart from the consolidated plan itself submitted to the Department. The Act requires the State to provide the public a reasonable opportunity to comment on the consolidated plan, but does not include comparable provisions for planning and related documents. Accordingly, this is a matter that needs to be resolved under State law.

10. In January of this year, the Department released a notice in the *Federal Register* about using the Elementary and Secondary Schools Civil Rights Compliance Report to collect NCLB data at school and district levels. Yet the Department recently rescinded this notice. Since school districts and schools have been completing this form biannually since 1968, it made sense to use this form. Why did the Department abandon this approach and how will it collect NCLB data?

**Answer:** The process of disseminating the OCR 2002 Elementary and Secondary School Survey ("E&S Survey") is actively underway. In the fall of 2002, the Office for Civil Rights distributed the survey to schools throughout the country, as is the long-standing practice. The notice that appeared in the *Federal Register* in January 2002 gave public notice that the Department was considering the possibility of adding additional elements to the survey, including questions on assessment results. After more careful analysis of this issue, however, the Department determined that the OCR E&S Survey would not be the most effective and cost-efficient vehicle for collecting those assessment data. The OCR 2002 E&S Survey is identical to the 2000 E&S Survey.

The Department is employing several strategies for gathering disaggregated achievement data from States. As we review and approve State assessment and accountability systems we will of course ensure that those systems comply with NCLB and are capable of yielding the necessary information. In the long run we will develop an automated information repository that will be capable of gathering State data electronically.

11. Does the Department plan to continue using the OCR Elementary and Secondary School survey to obtain data on compliance with civil rights laws?

**Answer:** The Department will continue to collect data that will give us an ability to understand the educational and civil rights attainments of the Nation's students, including those from racial and ethnic minorities and those who have disabilities.

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As noted in the answer to the previous question, the 2002 survey contains the same items as the 2000 version. In 2002, we collected the data from a sample of approximately one-third of the Nation's school districts, as has been the historical practice.

Over the next few years, OCR will also review its information collection efforts, to ensure that the office continues to collect data in an effective and cost-efficient manner and that OCR surveys mesh well with other data collections, consistent with the Performance-Based Data Management Initiative.

12. What does the Department consider the role of OCR in the implementation of NCLB?

**Answer:** OCR is playing an important role in implementing the Act. For example, OCR is involved in two significant rule-making initiatives related to NCLB. First, OCR is in the process of drafting a notice of proposed rulemaking based on a review of comments submitted in response to the Notice of Intent to Regulate (NOIR) in the area of single-sex education that the Department published on May 8, 2002. In Section 5131(a)(23) of the reauthorized ESEA, Congress directed the Department to examine the area of single-sex education. The legal and educational issues surrounding single-sex classes and schools are complex and sensitive and require consultations with other Federal agencies, as well as input from parents, community leaders, school districts, and interested individuals and organizations. The NOIR was intended to begin the process of public input on these important issues.

Second, OCR published a *Federal Register* notice on November 15, 2002, soliciting comments that would be used in developing a proposed regulation to implement the Boy Scouts of America Equal Access Act, which is Section 9525 of the reauthorized ESEA. Under this law, no public elementary or secondary school, local educational agency, or State educational agency that receives ED funds may deny equal access or a fair opportunity to meet to, or discriminate against, the Boy Scouts or any other patriotic society.

OCR has been involved in other NCLB implementation activities as well. For example, OCR was involved in the rule-making process to implement the assessment and accountability provisions of Title I, to ensure that these provisions are implemented consistent with civil rights requirements under the statutes that OCR enforces, such as requirements for provision of accommodations for students with disabilities. Similarly, OCR has played a role in development of the final Title I regulations and guidance for other provisions of the Act, such as the provisions requiring supplemental educational services for students in failing schools.

13. What is the status of the guidance for the 21<sup>st</sup> Century Community Learning Center program?

**Answer:** The Department distributed draft Non-Regulatory Guidance for the 21<sup>st</sup> Century Community Learning Centers program on February 18, 2002, and then



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distributed a revised draft in May 2002. We are continuing to review the draft guidance and expect to issue an updated version soon.

14. The Department has been performing outreach to the faith-based community about the availability of federal grants under NCLB. Please provide the committee with all documents and material related to Departmental efforts to solicit the faith-based community in addition to documents and material provided to the faith-based community at these outreach sessions.

**Answer:** The Department has been conducting outreach to community-based groups, including faith-based groups, concerning how these groups may work together with the Federal Government, the private sector, and each other to meet the needs of their communities. These outreach efforts are not limited to faith-based groups. Representatives of any type of organization may attend.

We are enclosing the following materials:

- a.) Brochures and letters sent to faith and community leaders inviting them to the Department's conferences;
- b.) Binder provided to each conference attendee; and
- c.) Letter and folder sent to individuals contacting the Department's Center for Faith-Based and Community Initiatives requesting information.

15. How are these outreach sessions for the faith-based community funded by the Department? Please provide the approximate costs for holding these outreach sessions and any other related costs borne by the Department.

**Answer:** The outreach activities of the Department's Faith-Based Center are funded with the Department's salaries and expenses funds. The estimated total cost for developing the necessary materials for outreach and for holding three outreach sessions conducted last year (in Pittsburgh, PA, Salisbury, NC, and Minneapolis, MN) was \$85,000. Excluding materials, the average cost of a conference is about \$25,000.

16. Does the Department plan to hold any grant competitions that would be restricted to faith-based applicants only? If so, please provide detailed information on the grant program and number of anticipated competitions.

**Answer:** No. The Department has not limited any competitions to faith-based organizations and has no plans to do so in the future. Nor have we granted any type of competitive preference to faith-based groups. Our goal is to leverage the contribution of community groups, including faith-based groups, to increase the effectiveness of programs authorized by Congress. This is accomplished by making sure that the grant-making process is a level playing field for all applicants and that community groups, including faith-based groups, have equal opportunity to compete for grant funding where permitted by law.

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17. Please provide a detailed status report on the Department's implementation and guidance activities concerning Sec. 1503 (Assessment Evaluation), Title II Part C Chapter C Subpart 5 (Teacher Liability), Sec. 9524 (School Prayer), Sec. 9525 (Equal Access to Public School Facilities) and Title X Part F (Student Privacy) of NCLB.

**Answer:** The Department plans to award a contract for the study of assessments as required by Section 1503 in Fiscal Year 2003.

Since there are no required implementation activities for the Title II Part C Chapter C Subpart 5 (Teacher Liability) provision, the Department currently has no plans for issuing any guidance on this provision.

Guidance on Section 9524 (school prayer) was released on February 7, 2003.

The Department issued and distributed a "Dear Colleague" letter on March 25, 2002, informing State and local educational agencies of the Section 9525 (Equal Access to Public School Facilities) requirements. A notice of intent to regulate on this section was published in the *Federal Register* on November 15, 2002.

Within the next few weeks we plan to distribute draft guidance on the NCLB Title X, Part F (Student Privacy) provisions of the act. The guidance will inform State and local educational agencies of their obligations under the Family Educational Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA). The Department is also preparing a model notification document and will publish draft regulations for comment in the near future.

18. Constituents have indicated that the per pupil expenditures for the bilingual and immigrant students are less now that the two programs have been merged, then when they were separately authorized programs. Do you have information on this?

**Answer:** For school year 1999 - 2000, the 50 States and the District of Columbia reported 3,730,966 limited English proficient students and 953,281 immigrant students for a total of 4,684,247. The fiscal year 2001 appropriation for the Bilingual and Immigrant Education programs was \$446 million. Consequently, these programs provided a per child amount of slightly more than \$95 per immigrant and limited English proficient student.

For school year 2001-2002, the 50 States and the District of Columbia reported a total of 4,043,227 limited English proficient students and 1,044,848 immigrant students for a total of 5,088,075. With a fiscal year 2002 appropriation of \$665 million for the new English Language Acquisition program, which replaced the previously authorized separate programs, the per child share jumped to almost \$131 per limited English proficient and immigrant student. This represents a 37 percent increase over 2001.

19. The Congress requested that a migrant records transfer system be developed for the migrant students in the Title I program. This inter-State electronic system was to deliver

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education and health information to each of the States traveled by migrant students. What is the current status of that congressional request?

**Answer:** The Department consulted with the States through a committee of practitioners to develop a "draft" set of minimum data elements required for the purpose of electronically exchanging health and educational information for migrant students. As required by Congress, the Department, on May 28, published in the *Federal Register* the proposed minimum data elements for public comment. The Department is currently preparing the final data elements based on analysis of the comments received. Simultaneous with the publication of the proposed minimum data elements in the *Federal Register*, we convened five focus groups with migrant education personnel and school guidance counselors to obtain additional feedback on the proposed minimum data elements. The Department will use the results of both information collections to propose a final set of minimum data elements.

Upon final specification of the minimum data elements, the Department plans to complete the following activities.

- a. Solicitation #1. Secure a contractor to develop a background paper that describes the problem of linking existing State migrant student record systems for the purpose of electronically exchanging the "minimum" health and educational information for migrant students. As part of the contract, hold a market research conference at which industry members will present their ideas on how to best resolve the problem.
  - b. Solicitation #2. Establish a design contract that will be awarded to two or more bidders.
  - c. Solicitation #3. Establish a contract with an external expert who can help evaluate and select the best overall design and merge the best design ideas where feasible.
  - d. Solicitation #4. Enter into a contract for implementation and maintenance of the winning design.
  - e. Solicitation #5. Establish a contract for regular independent verification and validation of contract implementation and to make recommendations for improvement.
20. In the next ten years, we will have to hire 2.2 million teachers just to stay even with the attrition of our teaching force. Most of these teachers, including all elementary school teachers, will be called on to teach science. Many will feel inadequate to teach it. We must change this attitude by significantly increasing the number of teachers who feel qualified to teach math and science, and by changing the environment of professional development to create an ongoing system of improvement. One way to do this is

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through the Math and Science Partnership program in the No Child Left Behind Act. What steps are you taking to expand, implement, and fully fund the Math and Science Partnerships?

**Answer:** The Department of Education has joined forces with the National Science Foundation (NSF) to carry out this program. We have established a Memorandum of Understanding with NSF to administer the program jointly, allowing us to leverage the funds from both agencies to address the important problems related to teachers' knowledge and skills in math and science. In the first year of this program NSF and ED combined funding and ran one grant competition, so that the initiative would not be splintered between the two agencies. We have been able to bring the strengths and resources of the two agencies to the table as we mount this initiative, which we believe will substantially strengthen its impact. We will continue to work together on monitoring the grants, providing technical assistance, conducting research, and evaluating the effectiveness of these partnerships over the next years.

21. In Education and the Workforce Committee hearing you stated that the Department is engaged in math and science teacher training activities outside of the Department of Education Math and Science Partnerships. Could you please elaborate on steps the Department is taking?

**Answer:** The No Child Left Behind Act of 2001 provides support for professional development in math and science in a number of different ways. The primary program that can serve this purpose is Title II, Part A (Teacher Quality State Grants), which provides States and local school districts with flexible formula grants that can support teacher training. The Department, in its Non-Regulatory Guidance, has encouraged States and local school districts to use these funds for math and science efforts, as the States will be held accountable for student achievement gains in mathematics starting this year, and in science by the year 2007. While the schools have discretion on how they spend these funds, they must show gains in these subjects. The statutory accountability for math and science achievement, and the fact that Title II-A is a successor to the Eisenhower Professional Development program (which means that an infrastructure that is accustomed to carrying out math and science professional development is in place in the States) makes it likely that a substantial portion of funding under the program will go into math and science professional development and teacher recruitment.

In addition, between 5 and 10 percent of Title I, Part A funding must be used for professional development in 2002 and 2003, and not less than 5 percent thereafter. Because of the historic Title I emphasis on math, the new accountability requirements, and the requirement for States to adopt standards and implement assessments in science by 2007-08, we can expect very significant Title I resources to be used for professional development in mathematics and, over time, the sciences.

Activities related to mathematics and science are also supported by the various education technology programs carried out under ESEA Title II, Part D, by the Department's

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regional laboratories and other technical assistance entities, and by a number of other programs across the Department.



***APPENDIX D -- WRITTEN STATEMENT OF CHRISTOPHER EDLEY, JR.,  
PROFESSOR, HARVARD LAW SCHOOL, HARVARD UNIVERSITY,  
CAMBRIDGE, MASSACHUSETTS.***





**THE CIVIL RIGHTS PROJECT**



HARVARD UNIVERSITY

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**KEEPING THE PROMISE OF “NO CHILD LEFT BEHIND”:  
SUCCESS OR FAILURE DEPENDS LARGELY ON IMPLEMENTATION  
BY THE U.S. DEPARTMENT OF EDUCATION**

**Testimony of Christopher Edley, Jr.\***

Before the

U.S. House of Representatives Committee on Education and the Workforce  
Oversight Hearing on the Implementation of the No Child Left Behind Act

July 24, 2002

\* Christopher Edley, Jr. is Co-Director of the Civil Rights Project at Harvard University, and Professor of Law at Harvard Law School. The Civil Rights Project is a university-based, multidisciplinary research and policy program focused on issues of racial and ethnic justice.

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**Keeping the Promise of “No Child Left Behind”:  
Success or Failure Depends Largely on Implementation  
by the U.S. Department of Education**

Testimony of Christopher Edley, Jr.<sup>1</sup> Before the  
U.S. House of Representatives Committee on Education and the Workforce  
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July 24, 2002

**Introduction**

Mr. Chairman, Ranking Member Miller, and members of the Committee, thank you for the opportunity to testify today on the early implementation of the No Child Left Behind Act of 2001 (“NCLB” or “Act”).<sup>2</sup> I want to commend you for holding this hearing, which I hope will be only the first of many periodic hearings regarding the implementation of this vitally important Act.

Today, I will focus my comments on the U.S. Department of Education’s early implementation efforts. I will recommend actions that the Department should take in the near term to ensure that states, districts, and schools understand and comply with the Act’s requirements — especially requirements designed to improve educational opportunity and achievement for poor and minority students.

**NCLB Implementation  
And the U.S. Department of Education**

NCLB contains many promises related to raising student achievement and closing achievement gaps – including gaps by race, ethnicity, poverty, disability, and limited English proficiency. Despite some meaningful progress, long-standing racial and ethnic disparities in educational opportunity and achievement continue. For example:

- **Reading and Math Achievement:** According to the National Assessment of Educational Progress, among 12th graders, 17% of Whites are reading below the basic level of competency, compared to 43% of Blacks, 36% of Hispanics, 35% of American Indian/Alaska Natives, and 25% of Asian American/Pacific Islanders.<sup>3</sup> NAEP scores for 12 grade math show even larger racial and ethnic

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<sup>1</sup> Christopher Edley, Jr. is Co-Director of The Civil Rights Project at Harvard University, and Professor of Law at Harvard Law School. The Civil Rights Project is a university-based, multidisciplinary research and policy program focusing on issues of racial and ethnic justice.

<sup>2</sup> No Child Left Behind Act of 2001, Pub. L. No. 107-110 (2001).

<sup>3</sup> U.S. Department of Education, Office of Educational Research and Improvement, National Center for Education Statistics, National Assessment of Educational Progress (NAEP) (1998).

disparities, with 20% of Whites scoring below basic compared to 70% of Blacks and 58% of Hispanics.<sup>4</sup>

- **Access to High Quality Teachers:** In California, for example, the proportion of unqualified teaching faculty is 6.75 times higher in high-minority schools (greater than 90% minority enrollment) than in low-minority schools (less than 30% minority enrollment).<sup>5</sup> “Nationally, in schools with the highest minority enrollments, students have been found to have less than a 50 percent chance of getting a mathematics or science teacher with a license and a degree in the field that they teach.”<sup>6</sup>
- **Graduation Rates:** A study of 35 of our nation’s largest urban districts (covering over 600 schools) revealed that in over 300 schools, 50% or more of the students enrolled in 9<sup>th</sup> grade failed to graduate by the time their cohort completed 12<sup>th</sup> grade.<sup>7</sup> Another 100 schools had rates approaching the 50% failure rate. Most of these districts had high percentages of minority students, and more than half of the weakest schools had at least 90% minority enrollment.<sup>8</sup>

These and countless other indicators portray a socially, economically, and morally unacceptable picture of opportunity in America that is coded by color and by class — a picture that must change as a matter of urgent national interest and simple justice.

The foundational principle in the NCLB is the agreement between Congress and the Administration on the importance of further action to hold states, districts, and schools accountable for improving educational outcomes for all children. Moreover, Congress determined that the nation’s higher expectations should be underscored with federal investments in critical resources and in technical assistance.

Most important, I believe, is that for the first time the academic achievement of the major racial and ethnic groups, socio-economically disadvantaged students, English language learners, and children with disabilities, will be at the core of whether our schools are judged to be successful. No longer can schools with sky-rocketing drop out rates or racially identifiable pockets of academic stagnation and failure earn a passing grade. There is much in the NCLB about which one might be concerned or even fearful, but the bi-partisan agreement to hold schools, districts, and states accountable for the academic

<sup>4</sup> U.S. Department of Education, Office of Educational Research and Improvement, National Center for Education Statistics, National Assessment of Educational Progress (NAEP) (2000).

<sup>5</sup> SRI International, *Teaching and California’s Future*, Center for the Future of Teaching and Learning (1999).

<sup>6</sup> Linda Darling-Hammond, *Apartheid in American Education: How Opportunity is Rationed to Children of Color in the United States* (2001).

<sup>7</sup> Robert Balfanz and Nettie Legters, *How Many Central City High Schools Have a Severe Dropout Problem, Where are They Located, and Who Attends Them?* (Paper presented at the Conference on Dropouts in America, Harvard University) (Jan. 13, 2001).

<sup>8</sup> *Id.*

proficiency of these traditionally underserved subgroups of students is to my mind the single greatest reason to be hopeful.

We must remember, however, that accountability was the foundational principle for the NCLB's predecessor, the Improving America's Schools Act of 1994.<sup>9</sup> Therefore, as we seek effective implementation of the NCLB we must take a hard look at compliance shortcomings under the old law and take aggressive action to avoid repeating our mistakes.

We must also pay attention to legitimate concerns across the country regarding whether and how the requirements of the NCLB can be met and its goals realized. Some of those concerns I share; others I do not. There are risks aplenty and it will take heroic efforts at all levels of the education system to minimize those risks — starting with this Committee's oversight. If not properly implemented, the NCLB (with its central focus on testing and sanctions) could cause substantial harm to students and our public education system. For example, if the Department uses its authority to enforce more frequent testing without ensuring that assessment systems meet scientific standards, and that qualified teachers are available to the neediest students, then the emphasis on frequent testing would likely exacerbate existing disparities. On the other hand, if properly implemented, I remain cautiously optimistic that the NCLB (with its focus on data transparency, disaggregation, teacher quality, consequences, and more) can help improve education and close gaps in opportunity and achievement for children who today, as in generations past, are the least well served by our educational system.

Along with the ambitions of the statute, therefore, implementation becomes all the more crucial. This is true for several reasons:

1. In many areas, the NCLB builds on the prior Improving America's Schools Act. Yet it is no secret that the prior Act's requirements were not fully implemented, and many states have not fully complied with some or many provisions of the prior Act. The Department must do better to ensure that states that are behind in their efforts catch up and quickly move forward. But *never in its history* has the Department performed well enough in this responsibility, and never has the Congress been vigilant enough in demanding what has been needed.
2. The NCLB also includes many *new* requirements, which are sometimes broadly defined. Many states will have to build the foundations and systems necessary to meet the Act's requirements. This places substantial importance on Department regulations and policy guidance, to ensure that states move quickly and effectively to do so. Otherwise, inertia will win and children will lose.
3. The Act charges the Department with oversight and enforcement, and in countless places there is substantial administrative discretion. The Department must work closely with states to ensure proper implementation of the Act, but the

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<sup>9</sup> Improving America's Schools Act of 1994, Pub. L. No. 103-382 (1994).

Department must also be willing to take action if states and districts fail to comply.

Secretary of Education Rod Paige has publicly recognized the importance of proper implementation and enforcement of the NCLB, saying in letters to states and districts earlier this year:

No Child Left Behind is now the law of the land. I took an oath to enforce the law, and I intend to do just that. I will help states and districts and schools comply with the law – in fact, I will do everything in my power to help – but I will not let deadlines slip or see requirements forgotten. When choosing between kids and the system, I choose the kids.<sup>10</sup>

Consistent with the spirit of these provisions [in the NCLB] and with the principle that requirements should not be waived if doing so would undermine the intent and purpose of the law, we do not intend to waive fundamental requirements on standards, assessments, adequate yearly progress, and accountability under the law.<sup>11</sup>

I strongly applaud this sentiment. Regrettably, however, the Department's first implementation steps already raise some concerns.

#### **Early Department Implementation of the NCLB and Recommended Actions**

Let me focus on three broad arenas in which the Department has taken action and should take additional action in the near term to ensure proper implementation and enforcement of the NCLB:

1. **Accountability** (including data, assessments, graduation rates, and adequate yearly progress);
2. **Parental Involvement** (including public input, access to information, and administrative complaint procedures); and
3. **Resources** (including teacher quality, technical assistance, supplement–not-supplant, and funding).

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<sup>10</sup> Letter from Rod Paige, U.S. Secretary of Education, to school district superintendents (Feb. 7, 2002).

<sup>11</sup> Letter from Rod Paige, U.S. Secretary of Education, to chief state school officers (Feb. 15, 2002).

## 1. Accountability

First, in terms of accountability, the NCLB requires that states: (1) collect and report key data on student achievement, disaggregated by race, ethnicity, poverty, and more; (2) develop assessment systems that are valid, reliable, aligned with state standards, and more; and (3) hold schools accountable for demonstrating adequate yearly progress (“AYP”) using multiple measures that reflect real improvements in student achievement. In each of these areas, the Department should take additional action to ensure proper compliance with the Act.

### *Data*

The NCLB requires that every state, district, and school annually collect and publicly report specific data on student achievement, disaggregated by race, ethnicity, poverty, limited English proficiency, disability, gender, and migrant status.<sup>12</sup> This transparency is the foundation for accountability under the Act – for empowering parents and for ensuring that states take action to improve student achievement and close achievement gaps. Yet many states do not have the systems in place to fully comply with these requirements. The Department must work with states to ensure that they quickly build the necessary systems and publicly report the data required by the NCLB.

The reason for heightened concern here lies in history: Some disaggregation and reporting of data have long been required, but few states have fully complied. The NCLB properly raises the bar, and this should be a central focus for the Department. In the Department’s Consolidated State Plan Requirements, released in May 2002, the Department allowed states to delay their data reporting and pledged to work with states to establish standards and formats for data reporting.<sup>13</sup> The Department must move aggressively to help states build their data systems, hold states to the timelines in the Act, and require that states show immediate progress in reporting their data.

Moreover, the Department must ensure that it is able to collect the required data at the state, district, and school level, to ensure effective implementation and oversight of the Act. Earlier this year, the Department proposed in the Federal Register to use the Elementary and Secondary Schools Civil Rights Compliance Report (the “OCR Survey”), administered biannually by the Department’s Office for Civil Rights, to collect these data at the school and district levels.<sup>14</sup> This makes great sense, because the OCR Survey is an instrument that schools and districts know and understand (since they have been completing it every other year since 1968). Yet the Department recently reversed course and announced that it would not be collecting achievement data through the OCR Survey.<sup>15</sup>

<sup>12</sup> No Child Left Behind Act of 2001 §1111(h)(1).

<sup>13</sup> Consolidated State Applications Under Section 9302 of the Elementary and Secondary Education Act, 67 Fed. Reg. 35,967, 35,971 (May 22, 2002).

<sup>14</sup> Notice of Proposed Information Collection Requests, 67 Fed. Reg. 2421 (Jan. 17, 2002).

<sup>15</sup> Submission for OMB Review, Office of Civil Rights, 67 Fed. Reg. 43,295, 43,296 (June 27, 2002).

It is reasonable to ask, Why not use the OCR survey? And how will the Department ensure that the needed data are reported and used? What possible explanation can there be for derailing this data collection? Surely there is not some knee-jerk hostility towards things labeled “civil rights”? Is there a reluctance to impose this minimal data reporting burden on the states, even though OMB career staff reportedly approved the change, and even though the entire point of NCLB is to promote accountability by, at minimum, making data readily available?

Let me generalize this point. The NCLB accountability provisions are predicated on the belief that parents and community members can and should play a continuing role in ensuring school improvement. However, many states fail to publish racially disaggregated achievement information, and often there is a substantial delay between data gathering and reporting to the public. Given this poor track record and the new subgroup accountability requirements, the Department must redouble its efforts to increase the flow of information at the school, district, and state level through a combination of technical assistance and enforcement action. Without improvement in this regard, parents and community members will be hamstrung by a simple lack of information.

### *Standards and Assessments*

The NCLB requires that states establish assessments for purposes of school and district accountability that are valid, reliable, consistent with nationally recognized professional standards, and more.<sup>16</sup> Given the Act’s substantial focus on testing and the negative consequences associated with inappropriate test use, these requirements are essential. Based on my experience as a member of the National Academy of Sciences Board on Testing and Assessment for the past six years, I can also tell you that meeting these requirements is not easy. They are rigorous for good reason. Triggers that can lead to wholesale restructuring of schools and even districts must be based on sound and valid measures, no less than triggers that result in high-stakes consequences for individual students. The alternative is widespread abuse of standardized tests and tremendous barriers to effective reform. Good tests and test use can provide one measure that, combined with other measures such as graduation rates, can help focus constructive public attention, target interventions, and improve educational opportunity and achievement. But bad tests and test use hinder education reform, undercut testing, and often harm individual students – especially poor and minority students.

The Department’s recent regulations regarding NCLB standards and assessments, released earlier this month, already appear to weaken the Act’s testing requirements<sup>17</sup> – allowing the use of norm-referenced tests, and allowing a patchwork of state and local assessments. The resulting jury-rigged assessment systems will undoubtedly lack validity for some of the uses to which they are put. Most troublingly, given the growing

<sup>16</sup> No Child Left Behind Act of 2001 §1111(b)(3)(C).

<sup>17</sup> No Child Left Behind Act of 2001 §1111(b)(8)(C).

use of these tests for high-stakes consequences directed at students, we should be concerned that such systems will fail to have curricular and instructional validity. More generally, if the assessment systems are cobbled together in haphazard fashion, the entire NCLB effort to make inferences from score trends will simply depart the realm of science altogether, and just become scapegoating-with-numbers. Junk science. In short, the Department's regulations raise serious concerns, and they also raise the bar for the Department to ensure that states present substantial evidence that their assessment systems are valid and reliable for all students and for all intended uses of those assessments. (I address the issue of technical assistance below.)

### *Adequate Yearly Progress ("AYP") and Graduation Rates*

The NCLB allows states to define AYP, but requires that they do so in a manner that promotes real achievement. For example, the Act expressly requires that AYP include not just state assessments but also "graduation rates," so that schools do not show AYP in terms of increased test scores based on more students dropping out of school.<sup>18</sup> For all students, and particularly students of color, graduating high school with a bona fide degree (not a GED or alternative certificate) is the biggest predictor of future success. Yet in many of our cities, more than 50 percent of minority students fail to graduate.

It is vital that the Department provide guidance to states on how to define AYP, and the Department is expected to release draft regulations shortly. However, the Department's Consolidated State Plan Requirements already raise some concerns. In those Requirements, the Department appropriately identified graduation rates as one of the five key indicators of state compliance with the Act, but the Requirements oblige states to report graduation rate data in the manner used by the National Center for Education Statistics,<sup>19</sup> which uses a definition that is inconsistent with the NCLB's statutory language (and its Conference Report language)<sup>20</sup> and that significantly underestimates the

<sup>18</sup> No Child Left Behind Act of 2001 §1111(b)(2)(C)(vi).

<sup>19</sup> Consolidated State Applications Under Section 9302 of the Elementary and Secondary Education Act, 67 Fed. Reg. 35,967, 35,973 (May 22, 2002).

<sup>20</sup> No Child Left Behind Act of 2001 §1111(b)(2)(C)(vi) (requiring that AYP "...include[] graduation rates for public secondary school students (defined as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years)..."); No Child Left Behind Act of 2001 §1111(h)(1)(C)(vi) (requiring same information on graduation rates be included in annual state report cards); Joint Explanatory Statement of the Committee of Conference, 107<sup>th</sup> Cong., Report on H.R. 1 (2001):

The Conferees intend that reporting of graduation rates described in clause (vi) shall be determined by reporting the percentage of students who graduate from high school with a regular diploma (not an alternative degree that may not be fully aligned with State academic standards, such as a certificate or GED), on time (within four years of starting the ninth grade for high schools that begin with the ninth grade or within the standard number of years for high schools that begin with another grade). The approach used to calculate graduation rates must also avoid counting dropouts as transfers. States that have or could have a more accurate longitudinal system that follows individual student progress through high school may use that system if approved by the Secretary as part of the State's Title I plan.... The Conferees intend that in addition to reporting graduation rates for secondary schools that for those districts that define secondary school as



numbers of students who fail to graduate with a regular high school diploma. The Department's Consolidated State Plan Requirements include a "note" indicating that the Department might modify the definition of "graduation rates."<sup>21</sup> The Department should do so to ensure compliance with the Act. And the Department should help states move toward more accurate reporting systems – including systems based on student identifiers that track individual student progress (with appropriate protections regarding privacy and use) – to ensure that no child is left behind.

## 2. Parental Involvement

Moving to the second category of concerns, the NCLB requires a substantial degree of parental and public involvement, including: (1) public input on the development and evaluation of federal, state, and district accountability plans; and (2) state administrative complaint procedures for parents and others who believe that the Act's requirements are not being met. These requirements, in addition to the public data reporting requirements described above, must be promoted and strengthened by the Department so that parents and others can act with valid and comprehensive information to promote school accountability and improvement.

### *Public Input*

In many places, the NCLB requires that states include public input in state planning, but the rapid timelines for NCLB action have not allowed substantial public involvement to date. The Department should work to ensure parental and public involvement over time, including providing guidance to states on how to establish effective systems and ensure parental and public involvement from diverse communities.

All fifty states recently filed consolidated state applications, seeking funds under numerous NCLB programs. But the NCLB's allowance of consolidated state plans does not obviate each state's obligation to document its plans and activities under each NCLB program. The Department's Consolidated State Plan Requirements properly recognize this, but they only require states to make available their planning documents consistent with state "open records" laws.<sup>22</sup> In some states, these laws are quite expansive. However, the requirement that states develop plans regarding their NCLB activities is a federal requirement, and parents and others should, at a minimum, have access to those plans to the extent permitted under the Freedom of Information Act. There is no reason that parents and others should not have meaningful access to plans and information required under federal law. The Department should clarify this point.

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including grades 6, 7, or 8, data should be reported on student progress from that entry grade level through twelfth grade with particular attention placed on the transition point between eighth and ninth grade.

<sup>21</sup> Consolidated State Applications Under Section 9302 of the Elementary and Secondary Education Act, 67 Fed. Reg. 35,967, 35,974 (May 22, 2002).

<sup>22</sup> Consolidated State Applications Under Section 9302 of the Elementary and Secondary Education Act, 67 Fed. Reg. 35,967, 35,970 (May 22, 2002).

### *Administrative Complaint Procedures*

For all states that submit consolidated state applications, the NCLB requires that the state adopt “written procedures for the receipt and resolution of complaints alleging violations of the law in the administration of the programs.”<sup>23</sup> This requirement, which was part of the 1994 Improving America’s Schools Act, is currently included in Department regulations.<sup>24</sup> Few states have fully developed and widely publicized such procedures. If the current administration believes that parents and communities are the engines of reform on the local level, and I believe they have said as much, then these regulations must be reaffirmed and strengthened to ensure that each state establishes meaningful, well-publicized procedures by which parents and others can take action at the state level if they believe that the requirements of the NCLB are not being met on the ground.

### **3. Resources**

Moving to the third general area of concern, the NCLB requires limited but important actions regarding the provision of education resources, including: (1) requiring that all students have full and equal access to “highly qualified” teachers; requiring the provision of “scientifically based” technical assistance; and (3) requiring that states “supplement not supplant” federal education funds. These requirements must be fully enforced. In addition, Congress must fund the NCLB at a level necessary to provide states and students a meaningful opportunity to meet high standards.

#### *Teacher Quality*

Substantial research confirms that a high quality teacher is the most important educational resource a school can provide. Yet, too many children, especially poor and minority children, are being taught by teachers with emergency certification, limited experience, limited formal knowledge of the areas in which they teach, etc. The NCLB requires that all teachers in core academic subjects be “highly qualified” by 2005-06 and that states take immediate action to ensure that poor and minority students have equal access to highly qualified teachers.<sup>25</sup> The Department must provide guidance and oversight to ensure that these requirements are met as quickly and fully as possible. This will be an exceedingly difficult task for states and districts, but even if gaps ultimately remain in access to highly qualified teachers, we should insist that those gaps not be correlated in any way with race or poverty.

Again, the Department’s initial regulations and guidance raise concerns. For example, the Department’s Consolidated State Plan Requirements properly identify teacher quality as one of the five key areas for state compliance with the NCLB. However, the

<sup>23</sup> No Child Left Behind Act of 2001 §9304(a)(3)(C).

<sup>24</sup> 34 C.F.R. § 299.10 (1999).

<sup>25</sup> *E.g.*, No Child Left Behind Act of 2001 §1119.

Requirements look at the distribution of highly qualified teachers only by the poverty of the students, not by race or ethnicity.<sup>26</sup> Despite the NCLB's state plan requirements in Title I,<sup>27</sup> Department guidance does not require states to ensure equal access to highly qualified teachers by race or ethnicity. The Department should correct this omission.

### *Technical Assistance*

The NCLB focuses in multiple ways on technical assistance to help ensure proper implementation and success at raising achievement and closing achievement gaps. For example, the NCLB requires that states reserve funds to provide technical assistance to schools identified for improvement under the Act,<sup>28</sup> and that districts provide technical assistance "based on scientifically based research."<sup>29</sup> The Department must act quickly and continuously to help ensure that educational interventions aimed at underperforming schools are effective, including analyzing state and local efforts and disseminating promising practices. Furthermore, it is essential that the Department provide technical assistance and guidance regarding the development of data and assessment systems (as described above) – to ensure that the courses being set and the substantial investments being made today are educationally sound, valid, and reliable for all children.

### *Supplement Not Supplant*

The NCLB requires in multiple places that states receiving federal funds for education use those funds only to supplement, not supplant, state funding.<sup>30</sup> Relatedly, states must maintain their efforts in funding education programs in order to qualify for federal funds.<sup>31</sup> These requirements often pose challenges, especially at times of state budget shortfalls, but they are vital to the Act's success, and they are the law. It is imperative that the Department clarify and fully enforce these requirements.

Of course, provisions of this sort are commonplace and notoriously ineffectual. An OMB Circular potentially invites wholesale evasion of the plain meaning of such statutory provisions.<sup>32</sup> If this Committee is serious about ensuring that new federal investments are not to be a form of fiscal relief, then you must take specific and forceful oversight action. Attention to the supplement-not-supplant issue is especially important in light of state education funding cuts occurring throughout the country, which have been prompted by the recent economic downturns.

<sup>26</sup> Consolidated State Applications Under Section 9302 of the Elementary and Secondary Education Act, 67 Fed. Reg. 35,967, 35,973 (May 22, 2002).

<sup>27</sup> No Child Left Behind Act of 2001 §1111(b)(8)(C).

<sup>28</sup> No Child Left Behind Act of 2001 §1003.

<sup>29</sup> No Child Left Behind Act of 2001 §1116(b)(4)(C).

<sup>30</sup> See, e.g., No Child Left Behind Act of 2001 §§1706, 5114, 5537.

<sup>31</sup> No Child Left Behind Act of 2001 §9521.

<sup>32</sup> See OMB Circular A-133 Compliance Supplement, Part 4-Department of Education (April 1999).

### ***Funding***

Finally, I want to encourage a certain fiscal militancy on the part of this Committee. Your hard work to win passage of the NCLB – with its substantial new requirements on states and its focus on accountability for outcomes – was substantively and politically linked to the promise that the federal government would play its role in ensuring that all children have the resources they need to achieve high standards. We know that in some of the poorest districts, eligible students go without these resources. Improved targeting of federal funds was part of the equation. More important, however, was the expected increase in appropriations.

The NCLB envisions a host of crucial investments made by all levels of government, in partnership. It will take substantial investments in assessment systems to make accountability work. The law wisely requires equitable access to high quality teachers, yet the current appropriations debate must not ignore reports that our growing teacher shortage is expected to reach unprecedented proportions.<sup>33</sup> In urban districts, close to 50 percent of newcomers flee the profession during their first five years of teaching.<sup>34</sup> These and other resource inadequacies could cripple meaningful implementation and kill the promise of NCLB. You as authorizers must take the lead in educating the rest of the Congress in its collective responsibility to keep the promise.

How? As we strive for accountability we must also evaluate the adequacy of resources to meet high standards. Perhaps GAO, the Department, the National Research Council, or a combination of them all, could undertake a comprehensive study of the resources needed to meet the goals of NCLB, together with the evident shortfall in the investments. I fully appreciate the methodological difficulty of such an undertaking, but some range of estimates might help inform an otherwise helplessly arbitrary process. The analysis could be updated as we gain more experience.

### **Conclusion**

There are countless implementation issues in an undertaking of this magnitude. This brief and preliminary survey does not address them all. For example, I have not addressed a host of concerns related to students the limited English proficiency. However, what I have covered does suggest certain important themes regarding NCLB implementation:

- Is there sufficient focus on and commitment to the mechanisms within the NCLB that might address directly the racial and ethnic gaps in achievement?

<sup>33</sup> The NEA Fact Sheet on the Teacher Shortage cites the NCES report, *The Baby Boom Echo Report, 1998*, which projects that by 2008, public school enrollment will exceed 54 million, an increase of nearly 2 million children over today and that “in high-poverty urban and rural districts alone, more than 700,000 new teachers will be needed in the next 10 years.” National Education Association, *Teacher Shortage, Fact Sheet*, (2002) (available at <http://www.nea.org/teaching/shortage/html>).

<sup>34</sup> *Id.* (citing Darling-Hammond & Schlan, 1996).

- Is there determination within the Department to anticipate state and local problems and invest creatively in the technical assistance that might mitigate harms and ensure compliance with the NCLB?
- Is there sufficient willingness within the Department to collect needed data and to prevent or remedy lax implementation by the states?
- Will the Congress do its part to keep the promises of the NCLB? Will the needed appropriations be delivered? Will your oversight be sufficiently diligent and creative to ensure proper implementation and enforcement of the NCLB, ASAP?

I speak as someone frustrated by the slow pace of institutional reform in our schools and school systems, but also frustrated by the business-as-usual posture of state and federal officials year-in and year-out, regardless of the party in power. I speak as someone, too, who views education as second only to our Constitution as the font of justice and opportunity, and who views systemic reform of education as an indispensable element of the systemic elimination of color caste. Like me, Americans of every party and persuasion are saying enough is enough.

I will avoid the over-used war metaphor. But the pace of the Department's work must match the urgency felt by an informed parent who senses the accumulating disadvantage of opportunities lost, month by month, year by year. We must insist that every responsible official struggle to do the impossible because so much is at stake. We must honor them in their commitment, but strengthen them in their resolve. The work of this Committee could not be more important to our children and to the nation. Ignore the headlines. *This* is the committee on homeland security.



***APPENDIX E -- WRITTEN STATEMENT OF RICHARD LAINE, DIRECTOR,  
EDUCATION POLICY AND INITIATIVES, ILLINOIS BUSINESS  
ROUNDTABLE, CHICAGO, ILLINOIS.***





**Testimony to the  
United States House of Representatives  
Committee on Education and the Workforce**

By

**Richard Laine**

**Director of Education, Illinois Business Roundtable**

July 24<sup>th</sup>, 2002

Chairman Boehner, ranking minority member Miller, Members of the committee, my name is Richard Laine (see attached biography). I am the Director of Education of the Illinois Business Roundtable (IBRT). The Illinois Business Roundtable was created in 1989 to enable the chief executive officers of Illinois' leading corporations to speak and act in a coordinated manner on a public agenda of common interest. Our current priority is improving the quality of public education across Illinois. The IBRT is chaired by Ed Rust, CEO and Chairman of State Farm Insurance and a leading voice of business on improving student learning across America.

I want to thank the Committee for the opportunity to testify regarding the roll out in Illinois of No Child Left Behind and the business community's role. This new law is currently creating much confusion in the states and in the media. The law is still being interpreted, guidance written, questions being answered, and challenges overcome. While we all can argue this will be an implementation "nightmare" for state agencies, districts and schools, this law has the potential of being an educational dream for all those children who have up until now, been left behind.

Being a father of an eighteen month old daughter, I am finding that the lessons of parenthood play out in many facets of life. Creating opportunities for my daughter's development and excitement around learning is tops among my priorities along with keeping her safe. But an equal responsibility that my wife and I have is setting parameters, defining clear expectations, establishing rules, and in those unfortunate instances, enforcing the rules in a clear and concise manner. A significant part of her learning is taking place now from the reactions she receives from her actions.

Organizations from the private sector to the public sector, including schools and school districts operate in much the same way. Individuals within an organization understand the rules and expectations, written or unwritten, and operate within those parameters. Those individuals that have the motivation, incentives and opportunities to continue their learning, do so. Those that understand the expectations, given the right tools and training, most often achieve those ends. But lacking clear focus and good knowledge, constrained by laws, rules and even labor contracts,

educators too often face excessive hurdles and looming disincentives when it comes time to meet the needs of those students with the greatest learning challenges.

If we look back on the reforms in America's public education system over the last two decades, it has been about creating a "standards-based" education system. But as we move in this direction, states and school districts have struggled with clarifying the expectations or standards they and the wider community have defined as to what a "successful" student should know and be able to do. This is just the first step. The task of building the knowledge, capacity and systems to pull the standards off the shelf and have them impact what happens in the classroom have occurred at too slow of a pace to serve all children in all schools.

When Congress reauthorized the Elementary and Secondary Education Act (ESEA) in 1994, it was a good step towards supporting states and providing a small lever to help them accelerate their efforts to improve student learning. The 1994 ESEA reauthorization:

- required standards in at least one grade in each of elementary, middle and high school—Illinois create the Illinois Learning Standards;
- mandated assessments that were aligned to the standards—Illinois created the Illinois Standards Achievement Tests;
- provided added flexibility—Illinois became one of twelve ED FLEX states;
- introduced a new concept know as "adequate yearly progress"—Illinois began to tackle some of the highest priority schools in Chicago, East St. Louis and other districts across Illinois; and
- increased federal dollars to the states over the last eight years—the Illinois legislature and local taxpayers increased aggregate spending on public schools by over \$5 billion dollars during the same eight year period.

In effect, the 1994 reauthorization began to change the discussion in public education from one of more money for education to one of how do we think about spending the existing, and new dollars in different ways to achieve better results for all students. Part of that change in discussion recently has been the introduction of the concepts of "closing the achievement gap" and high standards for all children. Unfortunately, while the discussion is changing, we are not seeing the corresponding changes in action beyond the anecdotal classroom, school or even district. Indeed, as noted in last Sunday's Chicago Tribune, many of the 129 Chicago Public Schools that have not made "adequate yearly progress" under the 1994 law have been in trouble for decades. Yet NCLB is being "blamed" for the consequences for the failings of these schools.

What the 1994 ESEA law did not do was create options to engage parents and consequences to engage the system if student learning did not improve. Thus, while public education received significant increases in local, state and federal dollars over the late 1990s along with the requirement to create milestone standards and assessments to measure points along a student's journey through elementary and secondary school, student learning did not significantly increase in all schools and for all children.

We all failed to recognize the truth of the quote attributed to Albert Einstein who said "the definition of insanity is to do the same things we have always done and expect different results." Too many educators and education stakeholders did more of the same following the 1994 ESEA

reauthorization and expected better results. Regrettably, for the millions of students that our public education system continues to fail to serve adequately, we have not made the fundamental changes necessary to significantly improve student learning.

Results from the 2000-2001 Illinois Standards Achievement Tests bear this out:

- Over 54,000 third grade students, 38% of those tested did not read at or above standards. Worse yet, 60% of third grade students from low-income families did not meet reading standards as compared to only 25% of their more affluent classmates that did not meet the rigorous standards;
- 69,000 eighth grade students, 49% of those tested did not meet the state's math standards. The percentages are even more horrendous if we disaggregate the data and look at the results for students from low-income families, 75% not meeting, as compared to the rest of their peers, of whom 39% did not meet the eighth grade math standards; and
- Twenty-five percent of all 11<sup>th</sup> grade Illinois students did not meet the Illinois Learning Standards in ANY area assessed on the Prairie State Achievement Examination (PSAE assesses reading, writing, math, science or social science) and another eleven percent of Illinois' 11<sup>th</sup> graders met standards in just one of the subject matters tested in the Prairie State Achievement Examination. That means nearly 40,000 11<sup>th</sup> grade students that took the PSAE, at best, met state standards in only 1 subject. This number is significantly worse if we were to factor in those children that dropped out of school prior to the 11<sup>th</sup> grade.

While some would argue that these numbers should serve as the eulogy for public education, I would argue that none of us can afford to bury our public schools. These numbers must serve as an urgent call for more fundamental changes to public education than what has occurred in the past 100 years. NCLB rightfully recognizes that these are not final measures, but the baseline data against which we must measure this state's future actions.

Illinois, like many other states, is only just this year going to be in full compliance with the 1994 ESEA law. But that does not mean the heavy lifting has progressed far enough to make the fundamental changes necessary to ensure no child is left behind. Some would argue that this is a reason that NCLB should be delayed or slowed down. The business community says **ABSOLUTELY NOT!!!** Until we change the incentives, both positive and negative, and increase the knowledge and capacity of the public education system the fundamental changes to public education will not occur. NCLB accelerates the necessary changes in two ways. NCLB creates consequences on the system and invests additional dollars in what research tells us is important. NCLB also demands enhanced leadership at the school, the district and at the state level. That new leadership, consisting of educators and the broader community is necessary to develop the knowledge and capacity to create an aligned system around clear and rigorous state standards, build high quality assessment tools, invest in strengthening the knowledge and skills of our teachers and school leaders, and then reallocate the resources to do things differently. And it will be up to the broader community, specifically the business community, to serve as a partner, and also as an outside catalyst for maintaining the course when implementation becomes daunting.

The business community has already begun to step up to its responsibility as a strong partner in this endeavor. In many states, my counterparts are taking active roles in getting information on NCLB out to educators and the broader community. At the national level, the national Business Roundtable announced last month the launch of a campaign in seven key states to help support implementation of the No Child Left Behind Act. The states – California, Florida, Georgia, Illinois, Michigan, New York and Ohio – represent almost 40 percent of all students ages 5 – 17 in the United States. The Business Roundtable is working closely with the Secretary’s office and in partnership with local business roundtables in each state to assist governors, state legislators, educators, and the broader community in using NCLB to leverage improvements in student learning.

Just last week, the Illinois Business Roundtable along with the State Board of Education sponsored an all day meeting for nearly 100 educators, elected officials and business leaders from across Illinois (see attached agenda). We had teachers and senators, union leaders and business CEOs. We had leaders from Chicago to Cairo. And most importantly, with the help of the presentation from Mr. Sandy Kress, we had everyone walk away saying that we must do better for all the children of Illinois.

The meeting was Illinois’ next step towards building an aligned system—one that uses NCLB as a lever to accelerate the school improvements we have already begun. It was the business community’s continued demonstration that we must be at the table, and with NCLB, ensure that everyone recognizes that there is no walking away from the table.

We cannot allow the implementation of NCLB to simply be one more “random act of improvement” or a superficial change that educators attempt to wait out. The goal of the meeting was to determine the best way to move ahead in Illinois with the implementation of the NCLB law and begin to have everyone understand that the results will depend on how we ALL step up.

From the Illinois Business Roundtable’s perspective, we have stepped up in a number of ways. We co-developed the Illinois School Improvement Website (<http://www.ilsis.isbe.net>) with the Illinois State Board of Education and the North Central Regional Educational Laboratory (NCREL). This two year-old website provides disaggregated information on the state assessment and helps schools and districts use the data to improve the quality of their students’ learning. Additionally, we led the development of the Baldrige in Education Website ([www.baldrigeineducation.org](http://www.baldrigeineducation.org)) with funding support from NCREL. This site is helping local educators use the Baldrige framework for continuous improvement purposes and share what works as schools and districts strive for excellence. In terms of building the capacity of the teaching force, the Illinois Business Roundtable is the largest private funder in Illinois of scholarships to support teachers to become Nationally Board Certified. Our members have contributed \$200,000 for each of the last two years and have committed to raise another \$200,000 this coming year.

The Illinois Business Roundtable also recognizes that implementation of NCLB will take nearly as much political will as educational leadership. As such, with our gubernatorial race heating up, we provided an in-depth briefing for both the republican and democratic candidates for governor

and their staffs. We did it separately of course, but each party participated in well over two hours of discussion. The IBRT is committed to continue to provide both campaigns with additional information and resources related to implementing NCLB and the role the next governor of Illinois must play to significantly improve student learning.

And in terms of educating those that will influence the broader community, we provided a detailed briefing for the major newspapers and radio stations in Illinois. Our on-going effort to ensure that the media report the implementation of NCLB fairly will continue to be a priority of the IBRT's. While the media will, and should highlight some of the difficulties of implementing this Act, they should also report on the successes and opportunities this law will create for hundreds of thousands of students across this country.

The Illinois Business Roundtable's commitment will continue to be on:

- Partnering with educators to build capacity through such endeavors as enhancing the Illinois School Improvement website, expanding the Baldrige Website, maintaining our commitment to high quality teaching and engaging in the policy debate at the state and local level to begin to make the fundamental changes that will be necessary to get the results we want and NCLB requires;
- Demanding public education ensures all children reach rigorous and relevant learning standards and informing all comers that "business as usual" in our public schools cannot be the status quo; and
- Building the political clout and partnerships to ensure that when the implementation of NCLB becomes really difficult, no one walks away from the ultimate goal of NCLB—providing every child with a high quality education.

Let me now turn my attention to the broader implementation issues of NCLB as they play out in Illinois. Illinois' NCLB plan was approved by the USDE last week. The state, a big believer of local governments, has just under 900 school districts, slightly less than 4000 schools and just over 2 million students. Our smallest district serves less than 100 children, while our largest, Chicago Public Schools, serves nearly 450,000. We have roughly 130,000 teachers state-wide and our public schools spend over \$19 billion annually from local, state and federal sources.

Illinois also has many success stories. For example:

- Illinois has schools throughout the state that are succeeding with high concentrations of students from low-income families;
- Sixty-nine percent of Illinois school districts saw the number of students who met or exceeded the Illinois Learning Standards on the 2001 ISAT increase across all grades and subjects.
- For the second year in a row, Illinois students' Advanced Placement scores are the nation's highest.
- Ten thousand students, students for whom college was not necessarily in their future, scored well enough on the ACT as part of the state's 11<sup>th</sup> grade exam to be eligible for college.
- Illinois was one of only seven states to receive an A or A-minus on standards and accountability according to *Education Week's* "Quality Counts 2002" report; the AFT gave the Illinois Learning Standards a strong endorsement; and the recently released Princeton Review study gave Illinois one of only eleven "A"s for test quality.

Because of its demographics, its successes, its clear opportunities for improvement and where it is on its journey towards higher standards, Illinois can be viewed as a case study for a significant number of states. As such I want to focus the rest of my remarks on the opportunities and the hurdles created by NCLB for Illinois.

#### The Opportunities

1. **Greater Clarity of the System:** With the requirement of grade by grade standards and assessments in grades 3-8 and one grade in high school, state level education stakeholders and local educators are filling out the system that we have been in the process of building. NCLB requires Illinois to have a more refined state system of standards and assessments. This creates an opportunity for local districts to eliminate much of the repetition in the standardized testing system and refocus their efforts and resources on more in-depth diagnostic tests, and most importantly, begin to reallocate resources to meet the educational needs of their students facing the greatest educational barriers. This change gives Illinois the opportunity to strengthen the Illinois Learning Standards and ensure the standards are clear to educators and relevant to students and the broader community. This truly is an opportunity to finally place testing in its appropriate role in the learning process—as a feedback instrument to be used to correct and improve instruction and ensure that learning occurs.
2. **Increased Flexibility:** While Illinois became an Ed Flex state nearly five years ago, the state, districts and schools did not take advantage of the programmatic flexibility. Now that NCLB provides both programmatic and financial flexibility to the state and districts, Illinois has a responsibility to ensure that all dollars serve their intended purpose. And most importantly, the flexibility provided to parents, while it does not necessarily need to be utilized, will ensure that districts are more responsive to the educational needs of each and every student.
3. **Greater Focus on What Works:** Education is still viewed as an art form, with very little “known” science or applied research behind it, except in the area of reading. What NCLB will do is provide a platform and an incentive for educators at all levels of the system to become more knowledgeable of the research that does exist that supports their field. But to achieve this, the USDE and state education agencies will need assistance from the Regional Laboratories and universities to ensure more research on learning and turning around entire schools is undertaken and translated into practice. Building a balance in the field of education between art and science will be a legacy of NCLB if the necessary support is provided;
4. **Greater Alignment:** As Illinois tackles the challenges of implementing NCLB, the issue of alignment will come up over and over again. As we build out our grade by grade standards, we must ensure our assessments are aligned. As we meet the requirements of quality teachers and paraprofessionals of NCLB, we must align their preparation and professional development to ensure every educator has the knowledge and skills needed to ensure every child meets rigorous and relevant state standards. As districts reallocate dollars, they must constantly ask themselves if they are aligning their resources and labor contracts to best meet the educational needs of all of their students. And as Congress looks to reauthorize IDEA and the Higher Education Act in the next several years, it will be crucial to align these future actions to the intent of H.R.1.

5. **The Drivers for Change:** The business community can provide important transferable and adaptable knowledge on how to improve systems and building capacity. This view as a resource partner creates an opportunity for the business community to be a catalyst. As an “outsider” and “user” of public education’s results, the business community also has the opportunity and responsibility to be a strong voice outside the system to ensure educators and politicians stay on track and achieve the lofty goals identified by NCLB.
6. **Adequate Resources:** NCLB puts more federal dollars behind its principles than any other previous federal education law. As the research<sup>1</sup> my colleagues at the University of Chicago and I have shown, money does matter. But an equally significant finding in our research is that how the dollars are spent is nearly as important as how many dollars are spent. Truth be told, public education has not significantly changed the way it spends dollars, even in light of the increase in revenues over the last decade. Thus, while Congress and state legislatures can create incentives, the true measure of NCLB’s impact will be how school boards, administrations and union leadership begin to structure contracts differently, change the culture of schools and reallocate existing resources to meet the new challenges. State leaders have an opportunity and a responsibility to rethink the state’s current funding system hand in hand with local districts’ responsibility to allocate existing and new dollars in a more effective and efficient manner.

Finally, what is a conversation on NCLB without addressing the hurdles? Recognizing the hurdles not as barriers, but as opportunities will determine the fate of NCLB. Allow the hurdles to be our end focus and we will fixate on the reasons why not...focus on educating every child to high standards and we all fixate on how we succeed.

#### The Hurdles

1. **Communication:** We must eliminate the all or nothing mentality. If a school is doing well, but does not make “adequate yearly progress” for even a couple of its disaggregated populations, it should not be labeled as failing. Let me provide a medical analogy. If my doctor were to say that overall my health is good, but I need to lower my cholesterol and lose a few pounds, I would hope she does not consider me terminal. If I fail to address my high cholesterol over time and then develop greater complications with my heart, my doctor might tell me that my prognosis will be terminal unless I undergo more drastic interventions. Similarly, the majority of schools that do not make “adequate yearly progress” in just a few areas should not be viewed as failing, but should be held accountable for making progress for all their students. Does this mean that no schools are failing? To believe this would be a denial of reality. Until educators recognize that some schools are in fact failing, and more serious interventions must take place, the broader community will not stop white washing public education with a broad brush of failure.
2. **Timelines:** We have all heard the complaints that NCLB has imposed unrealistic timelines on the USDE, states, districts and schools. NCLB gives every school 12 years to have all their students meet high standards. And if we view NCLB as being consistent with the 1994 ESEA reauthorization, schools have already had six years to begin their work, not to mention that the intent of NCLB should be the core mission of every school from its inception. But I would offer an additional perspective. Put another way, for every child that continues to attend a school that is not creating high quality education opportunities, this law does not come soon enough, nor intervene fast enough. We also

have to remember that any school whose students are now eligible to access public school choice have been identified by its state not for one year, not for two years, not even for three years, but for four years as having not met standards. In effect, NCLB did not create a short timeline—it just did not restart the clock over for those schools identified under the 1994 reauthorization of ESEA as not having made “adequate yearly progress.”

3. **Knowledge, Capacity and Systems:** The undoing of NCLB, if it occurs, will be due to the lack of sufficient knowledge on how to “turn around” a school that is significantly below standards. Developing the research base and translating it into practical knowledge, tools and opportunities for local educators must be the highest priority of USDE, regional laboratories, state agencies, universities and other educational partners.
4. **The Impetus to Maintain the Status Quo:** How governor’s and other elected officials position themselves in relation to NCLB will determine the potential impact of this law on all children. We all must ensure that elected officials maintain the staying power that will be necessary to move an entrenched system.
5. **The Technical Realities:** In this category I must raise several issues that appear to be overwhelming to states. These include such topics as subject matter assessments in other languages; increasing standards and assessment literacy of all teachers and administrators; ensuring high quality educators throughout the system; and the statistical stumbling block of “AYP”. While I raise these issues as ones that have come up in our discussions on NCLB, they are not reasons to back away from the purposes of the bill. I recognize that the USDE is putting out information as quickly as possible, but the Department must do more, engage more entities in the system to clarify issues, share what works and bring together states to find common answers.

### Conclusion

Doing business “the same as we always have” will not get the children and taxpayers of Illinois the results they need and deserve. Changing the results significantly means changing how we approach the improvement of public education in this country. We must approach education improvement from the perspective of meeting the needs of the child and not of protecting the status quo or merely adding new bells and whistles to the current structure. We cannot afford to continue to look at reform from the perspective of what is politically feasible and therefore stay within the parameters of marginally changing the past and expecting significantly different results in the future. We need drastically different strategies, approaches and resource allocations if we want to give every child the knowledge, skills and opportunities to be successful. As a start:

- No longer can we fail to recognize that improving schools means improving the economic opportunities of our poorest communities. No factor is a stronger correlate to low achieving schools than poverty. Economic development must become an integral means to improving our schools just as school improvement must become an integral part of any economic development strategy;
- We must borrow from the Chicago political strategy of voting early and often and use it in terms of education. The research is very clear in terms of the importance of the early development of children. We must look at creating policies and initiatives with sufficient funding to ensure every child starts life on the right foot. We need to make sure parents have the support to be an effective first teacher for their child and the state must ensure children



receive high quality learning opportunities early and often. This not only makes sense from the perspective of good education policy, but also from the perspective of reducing future special education costs, reducing the number of dropouts, and increasing the number of students that succeed;

- We must recognize the research that clearly points to the quality of the teacher and his or her teaching as having the greatest impact in the school on the quality of a child's education. Doing so would force policy-makers, educators and contract negotiators to enact policies and contracts that better align our best teachers with the children that have the greatest educational hurdles to overcome. It would require educators to build schools, contracts and working conditions that attract, retain, and support the continued development of the best teachers possible. Also it would require us to learn from Jim Stigler's<sup>2</sup> work and look at how we build tools and systems to support ordinary teachers in creating extraordinary learning opportunities;
- We should stop allowing adults to hide behind the banner of "local control" and agree that along with local control comes local responsibility. That means each community must ensure that all of its children are provided excellent learning opportunities. The children of this state can no longer afford to allow the mantra of local control to outweigh the quality of a child's education in some parts of the state; and
- Finally, this state must come to grips with the notion that money truly does matter in the quality of a child's education. But equally important to the amount of money, is how the dollars are spent. Therefore, this state must tackle the inequities and inadequacies in dollars and in the quality of education that confront far too many children. On the flip side, educators at all levels of the system must examine current expenditures to improve the use of every tax dollar in the system. This should include reviewing:
  - the out-dated salary structure that pays teachers for years and units, rather than knowledge, skills and results;
  - the number of districts this state has, just under 900, and asking whether or not we maintain the large number of districts because of the desire of adults to hang on to the past or for the benefit of our children's educational future;
  - the length and structure of the school day and school year. We must assess the reality of how we can provide all children a 21<sup>st</sup> century quality education on a 19<sup>th</sup> century calendar; and
  - those practices that have stuck with our schools because "that is the way it has always been done" and not asking if it no longer adds value to a child's learning.

Achieving this aggressive agenda will require a very different approach to the politics of education. NCLB lays out a 12 year agenda and requirement for improvement that has never been accomplished. Many naysayers will conclude that this is proof that NCLB will not work. I would argue it is proof that doing more of the same over the next 12 years will not serve the children we have a responsibility to. Educators, the business community, and government leaders must come together to sustain the political will to ensure the public education system has the resources, knowledge, capacity and commitment to succeed.

Our choice is clear. Continue on with more of the same, or raise the ante and change the parameters and expectations on public education. If we maintain the status quo, we guarantee that the economic opportunities in the workplace of far too many children will be severely

limited. Take advantage of NCLB and we have an opportunity to not only change the debate, but to change the actions of adults and the results for all children. The answer is clear.

**Thank you. I would be more than happy to take questions**

**Attachment #1**

**Raising the Bar—Closing the Gap**

**Using No Child Left Behind to  
Improve Student Learning**

**Agenda  
July 16<sup>th</sup>, 2002**

**Illinois Business Roundtable and the Illinois State Board of Education**

10:00a.m. – Ed Rust (CEO, State Farm/Chairman, Illinois Business Roundtable):

- ◆ Welcome
- ◆ Defines Why Now, Why All of Us
- ◆ Establishes The Goals For The Day
  - ◆ Broaden and deepen all of our understanding of the intent and opportunities of the new federal No Child Left Behind (NCLB) law;
  - ◆ Obtain a clearer understanding of the strengths and opportunities for improvement that exist in Illinois in regards to using NCLB to improve student learning;
  - ◆ Develop recommendations, both at the state and local level on what WE ALL must do to take advantage of NCLB in light of where Illinois stands today to significantly improve student learning in every school in the state; and
  - ◆ Ensure people in this room take responsibility in sharing today's information with our colleagues as well as take responsibility for further refining and implementing the recommendations that come from our work.
- ◆ Introduces Mr. Sandy Kress

10:15 – 11:00 – Sandy Kress, (former Education Advisor to President Bush)  
Intent And Opportunities of NCLB (30 minute presentation/15 minutes of Q and A)

11:00 – 11:10 – Break

11:10 – 12:15 – Matt Gandal, Achieve Inc. and State Superintendent Res Vazquez  
How Illinois Stacks Up

- ◆ Matt will present the highlights of the Achieve Report, what is good and where there are opportunities for improvement;
- ◆ Res will give an update on Illinois' advancement since the April, 2000 Achieve Report.

IBRT/ISBE Meeting Agenda Cont'd

12:15 – 12:45 – Lunch

12:45 – 2:15 – Small Group Session

(Each group will start with a brief report from the ISBE staff person responsible for that area of the plan submitted to the US Department of Education. This will be followed by a facilitated discussion to develop recommendations on how Illinois can meet the requirements of NCLB in a way that is most beneficial to improving student learning.)

Break out Groups

- ◆ Standards and Assessment
- ◆ Accountability (system of support, sanctions, data disaggregation, data warehouse)
- ◆ Educator Quality (defining it, improving it)
- ◆ Reading

2:15 – 2:30 – Break

2:30 – 3:30pm – Report out, synthesis, assigning responsibilities for next steps and follow through

3:30pm -- Adjourn

**Standards and Assessment Report by ISBE for the  
July 16<sup>th</sup> IBRT/ISBE Meeting on NCLB**

**Status at Time of ACHIEVE Report**

- First test administration 1999 –(Revised assessment from IGAP in 1998)
- Participated with other states in an assessment/standards alignment
- Results presented by staff to Assessment Advisory Committees

**Where are we Presently? Recommendations from ACHIEVE Report**

*Leave Learning Standards in place – Develop performance standards for each grade*

- Performance Descriptors developed for every grade level
- Finalizing Student work for each of the Descriptors
- Employed hundreds of teachers to write and try out classroom assessments

**Preserve trend data from ISAT and Make selective improvements to assessments**

- Increased the coverage of the standards via new development
- Expand committees of educators and technical experts
- External Reviews
  - John Dossey – Mathematics
  - Donna Ogle – Reading
  - John Wick – Technical Review of ISAT
  - Ed Week's Quality Counts
  - Princeton Review
- Instituted the Prairie State Achievement Exam (PSAE) in 2001 – Alignment of higher education admissions requirements along with employers' entry-level hiring standards

**Revise the statutory limits on testing time and open-ended items**

Time not really changed except that PSAE is not counted in the 25 hours. Added extended response questions in both ISAT Reading and Mathematics

**Future Plans for Standards and Assessment**

- NCLB Plan approved by USDE, July 15<sup>th</sup>, 2002
- Waiver Completion for USDE by December 2002
- Continue to improve current tests, already in compliance with NCLB for Science
- Extend assessments to grades 4,6, and 7 for reading and mathematics – connect vertically
- Illinois Measure of Growth in English – Bridge for Bilingual students and English Language Proficiency
- Disaggregate for all subgroups – establish targets with baseline in 2002 for Adequate Yearly Progress – AYP
- Mobile students – capture enrollment data after October 1 –
- NAEP beginning in February 2003 (every other year in reading and mathematics) – NAEP coordinator on staff

**School Accountability in Illinois Report by ISBE for the  
July 16<sup>th</sup> IBRT/ISBE Meeting on NCLB**

**Status at Time of ACHIEVE Report**

- District and school recognition based on statutory and regulatory compliance.
- Illinois Learning Standards adopted by State Board of Education.
- Standards-based assessment system (performance standards)
- Academic Early Warning/Watch Lists
- School Report Card
- Requirement for school improvement plans and annual internal reviews to inform revisions to these plans.
- Onsite school-based Quality Assurance reviews (not tied to school recognition).
- School Designation System in developmental stage.

**Where Are We Presently?**

- District and school recognition still based on statutory and regulatory compliance.
- The Illinois Learning Standards adopted in 1997 are being implemented in schools.
- The ISAT, PSAE, IMAGE, and IAA are used annually to identify student achievement.
- Internal reviews and school improvement plans are still requirements for recognition.
- Quality Assurance reviews have been discontinued.
- The Academic Early Warning list was suspended for several years as the state transitioned from the IGAP to the ISAT state assessment systems. The Academic Early Warning List was activated again in FY02.
- School Report Cards are still published for all Illinois schools
- The State Board of Education approved six designations for the School Designation System. The Designation System is still under development.

**Where Are We Going?**

- A System of Support is being designed to assist districts with high priority schools in school improvement planning.
- Illinois will have to plan, develop and implement a single accountability system that harmonizes existing state requirements with those of the federal NCLB. NCLB accountability requirements include:
  - Academic standards and assessments that take into account the achievement of all public school students;
  - The same accountability system for all public schools;
  - Adequate Yearly Progress (AYP) and target increases to ensure that all students meet state standards within 12 years;
  - A starting point, An AYP timeline;
  - Annual measurable objectives;
  - Intermediate goals for AYP;
  - Annual improvement for schools;
  - Uniform averaging procedure

**Educator Quality Report by ISBE for the  
July 16<sup>th</sup> IBRT/ISBE Meeting on NCLB**

Status at Time of ACHIEVE Report

- Teacher preparation and professional development based on standards.
- Three-tiered approach to certification and content-area focus.

Where are we Presently? Recommendations from ACHIEVE Report

*Fund district-based induction programs that are focused on helping beginning teachers develop skills and knowledge required for Standard Teaching Certificate.*

- FY 03 appropriation -- \$8.1 million for costs associated with mentoring and induction (and recruitment) programs. (Public Act 92-538)
- Passage of HB 1436 which sets out methods to attain Standard Teaching Certificate, including completion of induction and mentoring program. In addition to requiring a formative assessment, the program must include observation of classroom practice, review and analysis of written documentation, and demonstration of expertise by reflection on practice in relation to the Illinois Professional Teaching Standards.

Focus on subject matter-based professional development.

- Currently offering "Standards Aligned Classroom" training in all regions, for all grade levels and subjects to align teachers' instructional practices with the Illinois Learning Standards.
- Still need to add high quality professional development in specific content areas.

Focus on helping current and prospective principals become more effective leaders in instructional improvement.

- FY 03 appropriation of \$450,000 for mentoring and induction initiative for school administrators. (Public Act 92-538)
- Passage of HB 1436 which sets out new requirements for administrative certificate renewal. Administrators' goals must be tied to improving teaching performance and assessing levels of student performance in schools. Increases required participation in Administrators' Academy courses and professional development hours.

Other Recent Developments

- Passage of SB 1953 which requires teacher candidates to pass the basic skills test before entry into a teacher preparation program and, beginning in the 2005-2006 school year, requires teacher candidates to pass the content area exam before student teaching.
- Amendment to 23 IAC 25.630 which permits teacher candidates who have certificates to be paid for student teaching, unless the only certificate held is a substitute certificate and the teacher is employed outside of Chicago.
- Passage of legislation that changes \$3,000 stipend paid to teachers with National Board certification from one time to annual payment.
- Requirement of Assessment of Professional Teaching beginning October 2003.

Future Plans for Improving Educator Quality

- Work toward meeting requirements of NCLB for improving teacher quality.

- Setting annual measurable goals for increasing percentage of highly qualified teachers teaching in core academic subjects.
- Coordinate professional development activities that focus on academic content standards and provide guidance on requirements for professional development activities in NCLB.

#### ILLINOIS READING FIRST

<b>Goal:</b>	By 2014 all Illinois children will read at grade level by the time they complete third grade.
<b>Program:</b>	Teachers of reading in kindergarten through grades 3 are to provide direct instruction in the five essential outcomes of reading (i.e., phonemic awareness, phonics, vocabulary development, reading fluency, and reading comprehension strategies). Instructional decisions are to be guided by a system of valid and reliable screening, diagnostics and classroom-based instructional assessments. The purpose of these assessments is to identify students at risk of reading failure as early as possible and provide them with appropriate interventions to get them on track for success.
<b>Eligible LEAs:</b>	54 Local Education Agencies (school districts) are eligible (i.e., they have the greatest percentage of third grade students not meeting reading standards and have the greatest percentage of students eligible for allocations under Title I, Part A. See attachment A for a list of eligible LEAs).
<b>Funding:</b>	The estimated state Reading First allocation for Illinois is \$32.8 million, 20% of which is for the state education agency to provide technical assistance and professional development activities to support Reading First schools. 80% is for subgrants for eligible local school districts. Each participating school will receive on average \$150,000 for year 1, \$100,000 for year 2, and \$50,000 a year for years 3 – 6.
<b>State Activities:</b>	The Illinois State Board of Education is to provide extensive technical assistance to Reading First schools in terms of implementing their programs according to the requirements of the federal Reading First program. Complementing the technical assistance program will be an intensive program of ongoing professional development for all teachers of reading, including Reading First teachers. The main focus of professional development will be to help teachers become knowledgeable and skillful in reading assessment and instructional strategies that are scientifically based in reading research.
<b>Evaluation:</b>	The Illinois Reading First program includes a comprehensive evaluation of the implementation of the program to ensure that it is being implemented in accordance with scientifically based reading research. The evaluation involves on-site visits, interviews, and collection of



various kinds of assessment data. Outcome data include end of the year student performance data on the five essential outcomes of reading for each school year (i.e., kindergarten through grade 3).

## Biography

**Richard D. Laine**  
Director of Education Policy and Initiatives  
**Illinois Business Roundtable**

Richard heads the Illinois Business Roundtable's (IBRT) education efforts. The IBRT's education strategy has focused on building coordinated action by a unified business community around an aggressive agenda to accelerate the rate of education improvement. Richard has focused the IBRT's efforts around defining the agenda and supporting key initiatives that impact entire school improvement, such as teacher quality, benchmarking of performance and system change using the Baldrige continuous improvement model. Richard is co-project manager for the Illinois School Improvement Website (<http://ilsis.isbe.net>) and is managing the development of a Baldrige Implementation website ([www.baldrigeineducation.org](http://www.baldrigeineducation.org)). The Illinois Business Roundtable was recognized by the National Alliance of Business for distinguished performance as the "2001 Coalition of the Year".

Richard is also currently the Executive Director of the Illinois Business Education Coalition (IBEC). IBEC is a coalition of the major business associations in the state that have come together to represent a unified business community in its effort to help create world class learning for every student in Illinois. Richard was the primary author of the "One Vision—One Voice" Report on the Business Leaders' Education Summit held in March, 1999 which the IBRT coordinated and co-hosted with IBEC.

Prior to coming to the IBRT, Richard spent over four years with the Illinois State Board of Education as the Associate Superintendent for Policy, Planning and Resource Management. He had leadership responsibility for: facilitating the development of the Board's strategic agenda and vision for improving learning (he co-authored the 1994 Quality Schools Initiative); the building of the state's \$6 billion education budget with strong linkages to the agency's strategic agenda; the development of the Illinois Learning Standards; school finance reforms; the development of the agency's research and policy agenda; and managing over \$600 million in grant programs.

Previous to his position at the State Board, Richard was the Executive Director of the Coalition for Educational Rights. The Coalition supported the development of a more adequate, equitable, and predictable education funding system. Richard was also the Executive Secretary of the Committee for Educational Rights, an organization composed of 75 school districts (which represented more than 600,000 children in Illinois). The Committee brought a legal challenge to the constitutionality of Illinois' public education funding system.

Prior to coming to Illinois, Richard worked on Capital Hill as the Associate Director of the California Democratic Congressional Delegation. He moved to Illinois to undertake graduate education at the University of Chicago. He received a MBA degree from the Graduate School of Business, a MPP degree from the Graduate School of Public Policy Studies and a Certificate of Advance Studies in Education Policy, all from the University of Chicago.

Richard has published several articles and chapters with colleagues at the University of Chicago on the question "Does Money Matter?" He and his colleagues refuted the work of those who have argued that money does not matter in education. Richard and his colleagues' research has been instrumental in shifting the debate from does money matter to how best does money improve student learning.

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<sup>1</sup> *Money Does Matter: A Research Synthesis of a New Universe of Education Production Function Studies*, Richard D. Laine, Rob Greenwald, and Larry V. Hedges; Where does the Money GO?, Ed. Larry Picus, Corwin Press, Inc., 1995.

*The Effect of School Resources on Student Achievement*, Rob Greenwald, Larry V. Hedges, and Richard D. Laine, Review of Educational Research, Fall 1996, Vol. 66, No. 3, pp. 361-396

<sup>2</sup> *The Teaching Gap*, James W. Stigler and James Hiebert, The Free Press, 1999.



***APPENDIX F – WRITTEN STATEMENT OF WILLIAM WINDLER,  
ASSISTANT COMMISSIONER, COLORADO DEPARTMENT OF  
EDUCATION, DENVER, COLORADO.***



STATEMENT OF WILLIAM E. WINDLER  
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COMMITTEE ON EDUCATION  
UNITED STATES HOUSE OF REPRESENTATIVES  
HEARING ON THE NO CHILD LEFT BEHIND ACT  
July 24, 2002 at 10:30 a.m.  
Rayburn House Office Building

### COLORADO'S IMPLEMENTATION OF THE NO CHILD LEFT BEHIND ACT

The Colorado Department of Education (CDE) is well positioned to begin full implementation of the *No Child Left Behind Act* (NCLB). Staff at CDE recognizes the fact that NCLB has created significant challenges in many states across the country. Many of these challenges may currently exist because major components of the 1994 reauthorization of IASA were not implemented. Because of Colorado's full implementation of the 1994 legislation, the vast majority of the NCLB requirements are already in place and many are already operational. Colorado's Consolidated Federal Programs Application recently submitted for approval to the United States Department of Education build's on the state's rich history of educational reform. To date, these reforms have resulted, for example, in the adoption of:

- A state assessment system approved by the United States Department of Education that is in full compliance with the 1994 Reauthorization of IASA;
- A comprehensive set of academic content standards that exceed federal requirements;
- A system of accreditation that serves as the state's single accountability system for assessing school and school district performance;
- A state legislative mandate that requires all students to be tested in English after three years;
- A system of grant administration for competitive and formula grants that are results based and designed to support CDE's Organizational Commitment to high standards, tough assessments, and rigorous accountability measures through the leveraging of state, local and federal funds;
- A system of charter schools subject to high accountability measures;
- A longstanding system of intra- and inter-district choice;
- A list of supplementary service providers from which parents and students in Title I corrective action schools can choose;
- A CDE grant process that incorporates the eleven components of comprehensive school reform; and
- A statewide initiative to close the achievement gap, to name a few.

These reform initiatives began in 1993 with a legislative mandate for the creation of Colorado's academic content standards followed by the development of a state assessment system linked directly to the academic content standards, the 1993 Colorado Charter Schools Act, the 1998 Colorado Accreditation Act, the 1999 Teacher Performance-Based Education Program, followed by the ongoing development of a data-driven decision-making model requiring the separation of student academic data for all major student sub-groups. This data-driven decision making model is based upon the value-added concept and the tracking of individual students longitudinally.

In addition, Colorado enjoys the benefits of having met the federal requirements to become an Ed-Flex state. Colorado's Ed-Flex application to the United States Department of Education also included a definition of Adequate Yearly Progress (AYP) for Title I schools. The definition of AYP was tied directly to Colorado's final assessment system.

Colorado's Consolidated State Application for funding under the *No Child Left Behind Act* outlines Colorado's efforts to implement a statewide accountability system covering all public schools and students in the state. The application currently pending at the United States Department of Education includes Colorado's definition of Adequate Yearly Progress, a subset of the state



accreditation process that serves as the single accountability system. The definition includes the steps Colorado proposes to implement so that all children will be proficient in reading and mathematics within twelve years so that no child is left behind in any one year. Colorado takes seriously the notion that no child should be left behind. Therefore, Colorado's accreditation system has been designed to follow the progress of individual students so no child will be left behind. To help support this effort, the Colorado Department of Education plans on participating in the "Follow the Leaders Project" sponsored by the Education Leaders Council.

Colorado's proposal for Adequate Yearly Progress is based upon a value-added, longitudinal process that is incorporated into state accreditation, Colorado's single accountability system. This system is designed to ensure accountability for all student sub-groups. Schools and districts are required to document that all students have made at least a year's growth in a year's time. Schools and districts are expected to work with students currently below proficient so that they can make more than a year's growth in a year's time so that the achievement gap will be closed within the twelve-year period required in the *No Child Left Behind Act*. Colorado's proposal sets very specific, annual, measurable objectives for all students to obtain in reading and math. Colorado's definition of AYP reflects the degree to which schools and districts are adding value to each individual student as measured by the Colorado Student Assessment System at certain points in time on an annual basis.

The annual targets for each student sub-group must be met for a school to be deemed as having made Adequate Yearly Progress. This will document the degree to which the school as an institution is adding value to the education of students in reading and math for each required sub-group. Colorado's proposal for AYP supports and supplements its single accountability system based upon a value-added, longitudinal model that will track individual students over time. State accreditation asks districts and schools to document annually the number of students who have made a year's growth in a year's time in multiple content areas with an overarching goal to close the achievement gap. This system of accountability also provides principals and teachers with the individual student data that they need as professionals to alter their educational programs and teaching strategies so that all children will meet the standards over time.

In addition, the state plan shows clearly that all ESEA goals and indicators have been adopted; that Colorado has an effective single accountability system; that Colorado is highly advanced relative to our state's system of standards, assessment, accountability, and parental choice; that Colorado has provided added flexibility to schools and districts through its Ed-Flex authority; and that the definition of Adequate Yearly Progress included in this plan not only meets, but exceeds the federal requirements ensuring that no child will be left behind in Colorado.

We believe that the processes and procedures that have been developed regarding English language acquisition and proficiency are exemplary. The infrastructure to successfully deliver high quality, research-based technical assistance to schools and districts, especially those that are on Title I improvement or corrective action, is currently in place. Technical assistance is routinely delivered through the Colorado Department of Education's regional strategy consisting of eight areas around the state with similar needs. Colorado's *Reading First* application has already been approved for funding as well as its *21<sup>st</sup> Century Learning Community* grant application. Colorado's goal is high quality in all that we do. The rapid approval of these two grants is a prime example of the quality that CDE is seeking to achieve.

Additionally, significant reform regarding teacher preparation has already been accomplished and continues to evolve. The reforms to Colorado's teacher education programs will help to ensure that fully qualified teachers will staff every classroom. Work is already underway to provide opportunities for all paraprofessionals to become highly qualified as well.

Colorado is very fortunate in that the reform initiatives that began in 1993 regarding the development of standards, assessments, accreditation, and choice are all totally congruent with and aligned to the major themes of the *No Child Left Behind Act*. The Colorado Department of Education staff will be working with key stakeholders over the course of the next year to enhance the state plan and to develop the required annual measurable objectives upon which success will be measured.

CDE recognizes that the programs and processes currently in place, and those proposed in our state plan, will evolve over time and improve. Colorado's education reforms have a long history of supporting strong accountability measures, parent and student choice, and flexibility in exchange for results.

Attachments:

1. Colorado's Historical Educational Reform Movement
2. Program Web Links
3. Alignment of Colorado's Reform Initiatives with NCLB
4. Part II of Colorado's State Consolidated Application (Standards, Assessments, AYP, and Competitive Grants)

## Colorado's Historical Educational Reform Movement

### LEGISLATURE

- H.B. 93-1313 Content Standards: Anchor for educational reform
- H.B. 96-1139 The Colorado Basic Literacy Act
- 1997 Colorado Student Assessment Program – 4<sup>th</sup> grade reading and writing
- H.B. 98-1267 Colorado Accreditation Act – accredit school districts by contract
- S.B. 99-154 Performance-Based Teacher Education Programs
- Senate & House 00-024 Resolution Concerning Character Education
- S.B. 00-133 School Safety Issues
- S.B. 01-80 Bullying Policies required for schools
- S.B. 01-129 Data Collection/Grant \$ for preschool-summer school-unsatisfactory schools
- BOCES increased from 17 to 22, the number that will receive state monies
- Revisions to S.B. 00-186 included Value-Added Longitudinal Growth
- 01-1014 House Joint Resolution-Closing the Learning Gap
- 01-Amendment 23 (S.B. 204 & S.B. implement) (H.B. 1262 - \$ textbooks - \$ categorical programs - \$ at risk)
- H.B. 01-1303 School Improvement Grant Program
- H.B. 01-1232 Additional 1% to decrease class size (districts over 6,000 students)
- S.B. 01-222 Capitol Construction
- H.B. 01-1272 Textbooks \$ per pupil increase
- H.B. 01-1292 Encouraged Character Education
- H.B. 01-1348 CSAP-A (Severe Special Needs)
- H.B. 01-1365 Science & Technology Ed. Center Grant Program

**Federal Legislation-ESEA**  
"No Child Left Behind Act"  
Bipartisan Majorities 2001



### COLORADO STATE BOARD OF EDUCATION (Most Recent Actions)

- 1999 Adopted Accreditation Rules based on H.B. 98-1267 – Accredit School Districts
- 99-154 Adopted Performance-Based Licensure Standards for Colorado Teachers beginning 7-1-01 requires the Commission on Higher Education, in conjunction with the State Board of Education, to review each teacher preparation program and ensure that it meets the statutory requirements.
- 2000-SBE Resolution Concerning Character Education
- 6-01 Adopted Revised Accreditation Rules aligned with S.B. 00-186
- 2001-Amendment 23 SBE supports position for – Closing the Learning Gap – the Central Element of Educational Accountability in Colorado – Categorical Funding, etc.



### COLORADO DEPARTMENT OF EDUCATION

Office of Educational Services and Regional Service Teams implement rules and regulations adopted by the Colorado State Board of Education. The department also provides technical assistance and general services to assist school districts and schools to be successful in advancing academic achievement for all students.



### SCHOOL DISTRICTS

- July 2001 – Accreditation Contract (Educational Plan to improve student achievement)
- Colorado Accreditation Program Indicators – Districts accredit schools and focus on learning and results.
- Schools must show reasonable progress over reasonable time (Value-Added Longitudinal Growth) – (Show one year's growth in a year's time)



## Program Web Links

Program	Web Link
Accreditation	<a href="http://www.cde.state.co.us/index_accredit.htm">http://www.cde.state.co.us/index_accredit.htm</a>
Adult Education and Family Literacy	<a href="http://www.cde.state.co.us/index_adult.htm">http://www.cde.state.co.us/index_adult.htm</a>
Center for At Risk Education	<a href="http://www.cde.state.co.us/cdecare/index.htm">http://www.cde.state.co.us/cdecare/index.htm</a>
Charter Schools	<a href="http://www.cde.state.co.us/index_charter.htm">http://www.cde.state.co.us/index_charter.htm</a>
Closing the Achievement Gap	<a href="http://www.cde.state.co.us/cdecare/clg_home.htm">http://www.cde.state.co.us/cdecare/clg_home.htm</a>
Colorado Assessment Program	<a href="http://www.cde.state.co.us/index_assess.htm">http://www.cde.state.co.us/index_assess.htm</a>
Colorado Model Content Standards	<a href="http://www.cde.state.co.us/index_std.htm">http://www.cde.state.co.us/index_std.htm</a>
Colorado Title I School Improvement / Choice Grant Program	<a href="http://www.cde.state.co.us/cdeunified/ti_choice.htm">http://www.cde.state.co.us/cdeunified/ti_choice.htm</a>
Competitive Grants	<a href="http://www.cde.state.co.us/index_cga.htm">http://www.cde.state.co.us/index_cga.htm</a>
Comprehensive School Reform	<a href="http://www.cde.state.co.us/cdecomp/CSR/index.htm">http://www.cde.state.co.us/cdecomp/CSR/index.htm</a>
Education Regions	<a href="http://www.cde.state.co.us/index_region.htm">http://www.cde.state.co.us/index_region.htm</a>
Enhancing Education through Technology	<a href="http://www.cde.state.co.us/cdetech/et_e2tw.htm">http://www.cde.state.co.us/cdetech/et_e2tw.htm</a>
Educator Licensing	<a href="http://www.cde.state.co.us/index_license.htm">http://www.cde.state.co.us/index_license.htm</a>
English Language Acquisition Unit	<a href="http://www.cde.state.co.us/index_english.htm">http://www.cde.state.co.us/index_english.htm</a>
Even Start Family Literacy Program	<a href="http://www.cde.state.co.us/cdecare/evenstart.htm">http://www.cde.state.co.us/cdecare/evenstart.htm</a>
Safe and Drug Free Schools	<a href="http://www.cde.state.co.us/cdeprevention/pi_safedrugfree.htm">http://www.cde.state.co.us/cdeprevention/pi_safedrugfree.htm</a>
Special Education Services	<a href="http://www.cde.state.co.us/cdesped/index.htm">http://www.cde.state.co.us/cdesped/index.htm</a>
State and Federal Grants	<a href="http://www.cde.state.co.us/index_funding.htm">http://www.cde.state.co.us/index_funding.htm</a>
State Library	<a href="http://www.cde.state.co.us/index_library.htm">http://www.cde.state.co.us/index_library.htm</a>

### Alignment of Colorado's Initiatives with Federal Program Requirements of NCLB

Purpose of Colorado's Initiatives	Title I		Title II		Title III		Title IV		Title V	
	Part A (Basic Programs)	Part B (3) Even Start	Part C Migrant	Part D Non-D	Part F (CSR)	Part A Teacher and Principal Quality	Part D Educational Technology	Part B English Language Acquisition	Part D Drug-Free Schools and Communities	Part B Innovation Programs
Raise academic achievement	X	X	X	X	X	X	X	X	X	X
Use data to Promote accountability	X	X		X	X	X	X	X	X	X
Raise standards of teacher quality	X			X	X	X	X	X		X
Identify best practices and promote a positive school climate	X	X	X		X	X	X	X	X	X
Support parent, family, and community involvement	X	X	X	X	X		X	X	X	X

If specific cells under each Title program are not checked, it indicates that there was no statutory language addressing that particular purpose as outlined in column #1.

## Part II

### State Activities To Implement ESEA Programs

States will conduct a number of activities to ensure effective implementation of the ESEA programs included in the consolidated application. Many of these State-level activities serve multiple programs. For example, a State may develop a comprehensive approach to monitoring and technical assistance that would be used for several (or all) programs. Part II encourages a comprehensive approach to program planning and implementation and suggests that information submitted for Part II of the application be done so across programs wherever possible.

### Standards Assessment and Accountability

1. Describe the State's system of standards, assessments, and accountability and provide evidence that it meets the requirements of the ESEA. In doing so--

- a. In the June 2002 submission, provide a timeline of major milestones for either adopting challenging content standards in reading/language arts and mathematics at each grade level for grades 3 through 8, consistent with section 11-11(b)(1), or disseminating grade-level expectations for reading/language arts and mathematics for grades 3 through 8 to LEAs and schools if the State's academic content standards cover more than one grade level.

The Colorado State Board of Education has established content standards for mathematics, reading and writing. These standards are published on the website: [http://www.cde.state.co.us/index\\_stdn.htm](http://www.cde.state.co.us/index_stdn.htm)

- b. In the June 2002 submission, provide a timeline of major milestones for adopting challenging academic content standards in science that meet the requirements of section 11-11(b)(1).

See discussion on the following pages regarding standards and assessments.

<sup>1</sup> Consistent with final regulations, expected to be released in August 2002.

The Colorado State Board of Education has established content standards for science. These standards are published on the website at:  
[http://www.cde.state.co.us/index\\_stdn.htm](http://www.cde.state.co.us/index_stdn.htm)

*c. In the June 2002 submission, provide a timeline of major milestones for the development and implementation, in consultation with LEAs, of assessments that meet the requirements of section 11-11(b)(3) in the required subjects and grade levels.*

*By May 1, 2003, provide a detailed timeline for the above.*

*No later than indicated in the following schedule, but as soon as available, provide evidence that the State has developed and implemented, in consultation with LEAs, assessments that meet the requirements of section 11-11(b)(3) in the required subjects and grade levels.*

Assessments			
Subject	Grades	Implement By	Submit Evidence By
Math	3-8	2005-2006	December 2006
Reading/LA	3-8	2005-2006	December 2006
Science	Element (3-5), Middle (6-9), & High School (10-12)	2007-2008	December 2008

*If the State has already implemented some or all of these assessments, so state in the June 2002 submission and provide evidence when it is requested, which will be in the fall of 2002, after the Department issues final regulations and guidance.*

#### Assessments

Subject: Mathematics:

Grades: 3-8:

Implement by: 2005-06:

Submit evidence by: December 2006:

Colorado has already implemented mathematics assessments for grades 5-8. Information regarding these assessments is published on the website at [http://www.cde.state.co.us/index\\_assess.htm](http://www.cde.state.co.us/index_assess.htm). Current legislation, Colorado House Bill (H.B. 02-1306 which can be found at the following web address: [http://www.leg.state.co.us/2002a/inetcbill.nsf/fsbillcont/C731057D04EC44DF87256B26004ECCDF?Open&file=1306\\_enr.pdf](http://www.leg.state.co.us/2002a/inetcbill.nsf/fsbillcont/C731057D04EC44DF87256B26004ECCDF?Open&file=1306_enr.pdf)) requires the CSAP to include mathematics assessments for grades 3 and 4 by the spring of 2006.

Subject: Reading/Language Arts:

Grades: 3-8:

Implement by: 2005-06:

Submit evidence by: December 2006:

Colorado has already implemented reading and writing assessments for grades 3-10. Information regarding these assessments is published on the website at: [http://www.cde.state.co.us/index\\_assess.htm](http://www.cde.state.co.us/index_assess.htm).

Subject: Science

Grades: Elementary (3-5); Middle (6-9); High School (10-12)

Implement by: 2007-2008

Submit evidence by: December 2008

Colorado has already implemented science assessments for grade 8. Information regarding this assessment is published on the website at: [http://www.cde.state.co.us/index\\_assess.htm](http://www.cde.state.co.us/index_assess.htm). Current legislation, includes Colorado House Bill (H.B. 02-1306) requires the CSAP to include science assessments at grades 5 and 10 by the spring of 2006.

*d. In the June 2002 submission, provide a timeline of major milestones for setting, in consultation with LEAs, academic achievement standards in mathematics, reading/language arts, and science that meet the requirements of section 111.1(e)(6) and (7).*

N/A, see comments above.

By May 1, 2003, provide a detailed timeline for this.

No later than indicated in the following schedule, but as soon as available, provide evidence that the State, in consultation with LEAs, has set academic achievement standards in mathematics, reading/language arts, and science that meet the requirements of section 111.1(b)(1).

Academic Achievement Standards			
Subject	Grades	Implement by	Submit evidence by
Math	3-8	2005-2006	December 2006
Reading/LA	3-8	2005-2006	December 2006
Science	Elementary (3-5); Middle (6-9); & High School (10-12)	2007-2008	December 2008

*If the State has already set some or all of these academic achievement standards, so state in the June 2002 submission and provide evidence when it is requested, which will be in the fall of 2002, after the Department issues final regulations and guidance.*

Academic Achievement Standards

Subject: Mathematics

Grades: 3-8

Implement by: 2005-06

Submit evidence by: December 2006



The Colorado State Board of Education has established achievement standards (i.e., performance levels) for mathematics in grades 5, 8 and 10. In 2002, the State Board of Education will expand this to include all grades from 5 through 10. These performance levels are published on the website at:

[http://www.cde.state.co.us/cdeassess/asprof\\_toc.htm](http://www.cde.state.co.us/cdeassess/asprof_toc.htm).

Subject: Reading/Language Arts

Grades: 3-8

Implement by: 2005-06

Submit evidence by: December 2006

The Colorado State Board has established achievement standards (i.e., performance levels) in reading for grades 3 through 10 and in writing for grades 4, 7 and 10. In 2002, the State Board will expand the performance levels to include writing in all grades from 3 through 10. These standards are published on the website at:

[http://www.cde.state.co.us/cdeassess/asprof\\_toc.htm](http://www.cde.state.co.us/cdeassess/asprof_toc.htm).

Subject: Science

Grades: Elementary (3-5), Middle (6-9), High School (10-12)

Implement by: 2007-2008

Submit evidence by: December 2008

The Colorado State Board has established achievement standards (i.e., performance levels) for science in grade 8. These standards are published on the website at:

[http://www.cde.state.co.us/cdeassess/asprof\\_toc.htm](http://www.cde.state.co.us/cdeassess/asprof_toc.htm)

e. By January 31, 2003, describe how the State calculated its "starting point" as required for adequate yearly progress consistent with section 1111(b)(2)(E), including data elements and procedures for calculations.

#### **TITLE I ADEQUATE YEARLY PROGRESS AND SCHOOL IMPROVEMENT**

The 1994 reauthorization of Title I of the Elementary and Secondary Education Act required states to establish challenging content and performance standards and, by school year 2000-01, design a comprehensive accountability system to annually assess the progress of Title I schools and districts toward meeting standards in reading and math. Section 1111 (b)(2) of Title I in the Improving America's Schools Act required states to establish, based on the state's assessment system, a definition of "Adequate Yearly Progress" (AYP) to be used to measure the progress of Title I schools and LEAs that would result in continuous and substantial annual improvement in academic achievement. CDE's Title I accountability system was approved by the U.S. Department of Education as part of its application for Ed-Flex authority under the Educational Flexibility Partnership Act.



The No Child Left Behind Act of 2001 (NCLB) requires states to establish a definition of AYP sufficient to achieve the goal of 100% of children meeting the state's proficient or advanced levels of performance in reading and math by school year 2013-14.

As part of Colorado's single accountability system of state accreditation, Adequate Yearly Progress will be assessed separately in reading and math for schools, school districts, and the state against baselines established during the school year 2001-02. The following table demonstrates that Colorado's proposed definition of AYP meets the requirements of Adequate Yearly Progress as delineated in the NCLB legislation.

No Child Left Behind Requirements	Colorado's Proposed AYP
Applies the same high standards to public elementary and secondary students	Yes
Is statistically valid and reliable	Yes
Results in continuous and substantial academic improvement for all students	Yes
Measures progress based primarily on the state's assessment system	Yes
Includes separate annual measurable objectives for required subgroups	Yes
Separate objectives shall not be required for subgroups for which numbers are insufficient to yield statistically reliable information	Yes
Includes at least one other indicator for elementary and secondary schools	Yes
Assesses AYP separately in reading and math	Yes
Ninety-five of students in subgroups must be tested	Yes
Establishes starting points based on 2002 data, uses starting points to set annual objectives for subgroups and schools	Yes
The proficiency bar is raised in equal increments, provides for the first increase in performance in not more than two years, and the following increase in not more than three years	Yes
Timeline ensures that not later than 2013-2014, all students will be proficient in reading and math	Yes
Definition is the same for all schools and LEAs in the state	Yes
Annual objectives identify an annual minimum percentage of students in each subgroup who are required to meet or exceed the proficient level in reading and math	Yes

### Determining Adequate Yearly Progress for Schools

Local Educational Agencies (LEAs) are required to annually assess the progress that schools are making toward the goal of 100% proficiency in reading and math by school year 2013-14.

(See sample AYP reporting documents on Part II - Page 12.)

Because Colorado has four levels of student performance on CSAP (unsatisfactory, partially proficient, proficient, and advanced) and NCLB requires three levels (basic, proficient, and advanced), the two sets of levels had to be aligned for determination of AYP and the fulfillment of federal annual reporting requirements. CDE reviewed several alignment options from both a state and school perspective, considering the long-term and short-term implications of each. After careful consideration, the two sets of performance levels will be aligned as follows:

- Unsatisfactory = Basic;
- Partially Proficient\ Proficient = Proficient;
- Advanced = Advanced.

Since the state's assessment system begins in the third grade, separate definitions of AYP were developed for schools that include the third grade and higher and those schools that include only grades K-1 or K-2. CDE will measure Adequate Yearly Progress for schools as described on the following page.

Adequate Yearly Progress (AYP)	
<p><b>Reading</b></p> <p><b>Schools that include grade 3 and higher</b></p>	<p><b>Definition:</b> Adequate Yearly Progress is the annual increase in the proportion of a school's students who are proficient in reading expected of a school for 100% of students to become proficient by the end of school year 2013-14.</p> <p><b>Formula:</b> The total number of "12+" month students scoring proficient or advanced on CSAP reading assessments administered at a school divided by the total number of "12+" month students taking CSAP reading assessments at the school.</p> <p>In schools in which 30 or fewer students are tested, AYP will be calculated using data from the current year combined with data from the two previous years to compute a three-year rolling average and set annual performance targets.</p> <p><b>Baselines and Tracking:</b></p> <ul style="list-style-type: none"> <li>• Baselines will be established using school year 2001-02 CSAP reading results.</li> <li>• Baselines will be established, and progress will be tracked <b>for the school as a whole</b> as well as by 10 student subgroups:  <b>Economically disadvantaged</b>  <b>Race/ethnicity</b> (White, Black, Hispanic, Asian/Pacific Islander, Native American)  <b>Students with disabilities</b>  <b>Students with limited English proficiency</b>            (Non-English proficient, Limited English-proficient, and Fluent English proficient)</li> <li>• Separate annual objectives will be required for each school's subgroups of 30 or more students.</li> <li>• Each school and all of its subgroups of 30 or more students must meet annual performance targets or the school will have failed to make AYP.</li> <li>• At least 95% of all students in each subgroup of 30 or more must be tested.</li> </ul> <p><b>Annual Performance Targets:</b> Annual performance targets in reading will be established for each school and all of its subgroups of 30 or more students. Annual performance targets will be set by taking the 2001-02 (baseline) proportion of proficient students in each school and the baseline proportion for each subgroup of 30 or more in a school, subtracting that proportion from 100 and dividing by 12. Example: Forty percent of Hispanic students at Jefferson School were proficient in reading on the 2001-02 state assessments. That means that Jefferson School must increase the proportion of proficient students by 60% over the next twelve years. That necessitates an annual increase in the proportion of proficient students of 5%. Jefferson's performance target for the 2002-03 school year for Hispanic students will be 45%. The performance target for Hispanics at Jefferson will be 50% for 2003-04, and so on until the year 2013-14 when the performance target will be 100%.</p> <p><b>Data Sources and Exclusions:</b> The scores of all students taking CSAP reading assessments administered at a school will be used in calculating AYP with the exception of those students who have not been in attendance at the school from one CSAP administration to the next (non 12+ month students).</p>

	<p><b>Other Indicators:</b> <i>Student attendance</i> may be considered by local education agencies in identifying elementary and middle schools for School Improvement. <i>Graduation rates</i> may be considered by local education agencies in identifying high schools for School Improvement. Baselines for these indicators must be established using 2001-02 data. If these indicators are to be used, performance targets must be set prior to the beginning of each school year. However, these indicators may not be used to reduce the number of schools who would otherwise be placed on School Improvement using CSAP results.</p> <p><b>Considerations:</b> If a school, or any of its subgroups of 30 or more students, fails to meet its annual performance objective, the school still may be considered to have made AYP if the percentage of students in one or more subgroups scoring in the non-proficient ranges decreases by 10% or more from the previous year's percentage of students scoring in the non-proficient ranges.</p> <p>A school may be considered to have made AYP in reading if 80% of students in the school and 80% of students in each subgroup of 30 or more students are proficient in reading.</p> <p>In cases where school grade reconfigurations, school openings, charter conversions, or school closings significantly alter the school's population or governance, new baselines will be established and performance targets will be identified to yield 100% proficiency within 12 years.</p>
<b>Adequate Yearly Progress (AYP)</b>	
<p><b>Math</b></p> <p><b>Schools that include grade 3 and higher</b></p>	<p><b>Definition:</b> Adequate Yearly Progress is the annual increase in the proportion of a school's students who are proficient in math expected for 100% of students to become proficient by the end of the 2013-14 school year.</p> <p><b>Formula:</b> The total number of "12+" month students scoring proficient, or advanced on all CSAP math assessments administered at a school divided by the total number of "12+" month students taking all CSAP reading assessments at the school.</p> <p>In schools in which 30 or fewer students are tested, AYP will be calculated using data from the current year combined with data from the two previous years to compute a three-year rolling average and set annual performance targets.</p> <p><b>Baselines and Tracking:</b></p> <ul style="list-style-type: none"> <li>• Baselines will be established using school year 2001-02 CSAP math results.</li> <li>• Baselines will be established, and progress will be tracked <b>for the school as a whole</b> as well as by 10 student subgroups: <ul style="list-style-type: none"> <li><b>Economically disadvantaged</b></li> <li><b>Race/ethnicity</b> (White, Black, Hispanic, Asian/Pacific Islander, Native American)</li> <li><b>Students with disabilities</b></li> <li><b>Students with limited English proficiency</b> (Non-English proficient, Limited English-proficient, and Fluent English proficient)</li> </ul> </li> </ul>

- Separate annual objectives will be required for each school's subgroup of 30 or more students.
- Each school and all of its subgroups of 30 or more students must meet annual performance targets or the school will have failed to make AYP.
- At least 95% of all students in each subgroup of 30 or more must be tested.

**Annual Performance Targets:** Annual performance targets in math will be established for each school and all of its subgroups of 30 or more students. Annual performance targets will be set by taking the 2001-02 (baseline) proportion of proficient students in each school and the baseline proportion for each subgroup of 30 or more in a school, subtracting that proportion from 100 and dividing by 12. *Example: Forty percent of Hispanic students at Jefferson School were proficient in math on the 2001-02 state assessments. That means that Jefferson School must increase the proportion of proficient students by 60% over the next twelve years. That necessitates an annual increase in the proportion of proficient students of 5%. Jefferson's performance target for the 2002-03 school year for Hispanic students will be 45%. The performance target for Hispanics at Jefferson will be 50% for 2003-04, and so on until the year 2013-14 when the performance target will be 100%.*

**Data Sources and Exclusions:** The scores of all students taking CSAP math assessments administered at a school will be used in calculating AYP with the exception of those students who have not been in attendance at the school from one CSAP administration to the next (non 12+ month students).

**Other Indicators:** *Student attendance* may be considered by local education agencies in identifying elementary and middle schools for School Improvement. *Graduation rates* may be considered by local education agencies in identifying high schools for School Improvement. Baselines for these indicators must be established using 2001-02 data. If these indicators are to be used, performance targets must be set prior to the beginning of each school year. However, these indicators may not be used to reduce the number of schools who would otherwise be placed on School Improvement using CSAP results.

**Considerations:** If a school, or any of its subgroups of 30 or more students, fails to meet its annual performance objective, the school still may be considered to have made AYP if the percentage of students in one or more subgroups scoring in the non-proficient ranges decreases by 10% or more from the previous year's percentage.

A school may be considered to have made AYP in reading if 80% of students in the school and 80% of students in each subgroup of 30 or more students are proficient in math.

In cases where school grade reconfigurations, school openings, charter conversions, or school closings significantly alter the school's population or governance, new baselines will be established and performance targets will be identified to yield 100% proficiency within 12 years.

Adequate Yearly Progress (AYP)	
<p><b>Reading and Math</b></p> <p><b>For K-1 and K-2 schools</b></p>	<p><b>Definition:</b> Adequate Yearly Progress is the annual increase in the proportion of a school's 2<sup>nd</sup> grade students who are performing at grade level in reading and math expected for 100% of 2<sup>nd</sup> grade students to be performing at grade level in reading and math by the end of the 2013-14 school year.</p> <p><b>Formula for Reading:</b> The total number of "12+" month, 2<sup>nd</sup> grade students performing at grade level on reading assessments administered at a school divided by the total number of "12+" month, 2<sup>nd</sup> grade students taking the assessments at the school.</p> <p><b>Formula for Math:</b> The total number of "12+" month, 2<sup>nd</sup> grade students performing at grade level on math assessments administered by the school divided by the total number of "12+" month, 2<sup>nd</sup> grade students taking the math assessments at the school.</p> <p><b>Baselines and Tracking:</b></p> <ul style="list-style-type: none"> <li>• Baselines will be established using school year 2001-02 reading and math assessment results.</li> <li>• Baselines will be established, and progress will be tracked <b>for the school as a whole</b> as well as by 10 student subgroups: <ul style="list-style-type: none"> <li>Economically disadvantaged</li> <li>Race/ethnicity (White, Black, Hispanic, Asian/Pacific Islander, Native American)</li> <li>Students with disabilities</li> <li>Students with limited English proficiency (Non-English proficient, Limited English-proficient, and Fluent English proficient)</li> </ul> </li> <li>• Separate annual objectives will be required for each school's subgroup of 30 or more students.</li> <li>• Each school and all of its subgroups of 30 or more students must meet annual performance targets or the school will have failed to make AYP.</li> <li>• At least 95% of all students in each subgroup of 30 or more must be tested.</li> </ul> <p><b>Annual Performance Targets:</b> Annual performance targets in reading and math will be established for each school and all of its subgroups of 30 or more students. Annual performance targets will be set by taking the 2001-02 (baseline) proportion of students performing at grade level in each school and the baseline proportion for each subgroup of 30 or more in a school, subtracting that proportion from 100 and dividing by 12. <i>Example: Forty percent of Asian 2<sup>nd</sup> grade students at Washington School were performing at grade level in reading during the 2001-02 assessments. That means that Washington School must increase the proportion of Asian 2<sup>nd</sup> grade students performing at grade level by 60% over the next twelve years. That necessitates an annual increase in the proportion of Asian 2<sup>nd</sup> grade students performing at grade level of 5%. Washington's performance target for the 2002-03 school year for Asian 2<sup>nd</sup> grade students will be 45%. The performance target for 2<sup>nd</sup> grade Asian students at Washington will be 50% for 2003-04, and so on, until the year 2013-14 when the performance target will be 100% proficiency.</i></p>



<p><b>Data Sources and Exclusions:</b> The results of 2<sup>nd</sup> grade spring reading assessments and the results of 2<sup>nd</sup> grade spring math assessments. Results for students not enrolled in the school from one spring administration to the next spring administration may be excluded.</p> <p>Reading assessments must be State Board-approved for use under the Colorado Basic Literacy Act.</p> <p>Math assessments must be among those recommended for use by the Colorado Council of Teachers of Mathematics.</p> <p><b>Considerations:</b> If a school, or any of its subgroups of 30 or more students, fails to meet its annual performance objective, the school still may be considered to have made AYP if the percentage of students in one or more subgroups performing below grade level in reading or math decreases by 10% or more from the previous year's percentage of students performing below grade level.</p> <p>A school may be considered to have made AYP in reading if 80% of students in the school and 80% of students in each subgroup of 30 or more students are performing at grade level in reading and math.</p> <p>In cases where school grade reconfigurations, school openings, charter conversions, or school closings significantly alter the school's population or governance, new baselines will be established and performance targets will be identified to yield 100% grade level performance within 12 years.</p>
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School: **Green Elementary School** Grades: **K-5**  
Current Status: **Not on School Improvement for Reading**

**ADEQUATE YEARLY PROGRESS: READING\*\***  
**Percent Proficient and Advanced**

YEAR	SCHOOL	WHITE	HISPANIC	AFR-AMER	NAT-AMER	ASIAN	LOW-INCOME	DISABLED	LEP	LEP	LEP	LEP
BASELINE	53,000	59,000	48,000	46,000	45,000	57,000	40,000	35,000	42,000	40,000	48,000	48,000
2002	3,917	3,417	4,333	4,500	4,583	3,583	5,000	5,417	4,833	5,000	4,933	4,933
ANNUAL GROWTH TARGET												
2003 Target	56,917	62,417	52,333	50,500	48,583	60,583	45,000	40,417	46,833	45,000	52,533	52,533
2003 Actual												
Made AYP?												
10% Target												
10% Actual												
2004 Target	60,834	65,834	56,666	55,000	54,166	64,166	50,000	45,534	51,666	50,000	58,666	58,666
2004 Actual												
Made AYP?												
10% Target												
10% Actual												
2005 Target	64,751	69,251	60,898	59,500	58,749	67,749	55,000	51,251	58,499	55,000	63,959	63,959
2005 Actual												
Made AYP?												
10% Target												
10% Actual												
2006 Target	68,668	72,668	65,332	64,000	63,332	71,332	60,000	56,668	61,332	60,000	65,332	65,332
2006 Actual												
Made AYP?												
10% Target												
10% Actual												
2007 Target	72,585	76,085	68,065	66,500	67,915	74,915	65,000	62,085	66,165	65,000	68,665	68,665
2007 Actual												
Made AYP?												
10% Target												
10% Actual												
2008 Target	76,502	79,502	73,998	75,000	72,448	76,448	70,000	67,502	70,998	70,000	73,998	73,998
2008 Actual												
Made AYP?												
10% Target												
10% Actual												



2009 Target	80,419	82,919	78,334	77,500	77,081	82,081	75,000	72,913	75,837	75,000	79,331
2009 Actual											
Made AYP?											
10% Target											
10% Actual											
2010 Target	84,336	86,336	82,664	82,000	81,664	85,664	80,000	78,336	80,564	80,000	82,664
2010 Actual											
Made AYP?											
10% Target											
10% Actual											
2011 Target	88,253	89,753	86,497	85,500	86,247	89,247	85,000	83,753	85,497	85,000	86,497
2011 Actual											
Made AYP?											
10% Target											
10% Actual											
2012 Target	92,170	93,470	91,330	91,000	90,830	92,830	90,000	89,170	90,330	90,000	91,330
2012 Actual											
Made AYP?											
10% Target											
10% Actual											
2013 Target	96,087	96,587	95,663	95,500	95,413	96,413	95,000	94,587	95,163	95,000	95,663
2013 Actual											
Made AYP?											
10% Target											
10% Actual											
2014 Target	100	100	100	100	100	100	100	100	100	100	100
2014 Actual											
Made AYP?											
10% Target											
10% Actual											

\*\*Formula: Number Partially Proficient, Proficient or Advanced – CSAP reading - 3<sup>rd</sup> grade, 4<sup>th</sup> grade, 5<sup>th</sup> grade  
Number Tested – CSAP reading - 3<sup>rd</sup> grade, 4<sup>th</sup> grade, 5<sup>th</sup> grade



School: **Green Elementary School** Grades: **K-5**  
Current Status: **Not on School Improvement for Math**

**ADEQUATE YEARLY PROGRESS: Math\*\***  
Percent Proficient and Advanced

YEAR	SCHOOL	WHITE	HISPANIC	AFR-AMER	NAT-AMER	ASIAN	LOW-INCOME	DISABLED	LEP	LEP	LEP
BASELINE	53,000	59,000	48,000	46,000	45,000	57,000	40,000	35,000	42,000	40,000	48,000
2002	3,317	3,417	4,393	4,500	4,583	3,583	5,000	5,417	4,833	5,000	4,333
ANNUAL GROWTH TARGET											
2003 Target	56,917	62,417	52,833	50,500	49,583	60,583	45,000	40,417	46,633	48,000	52,333
2003 Actual											
Made AYP?											
10% Target											
10% Actual											
2004 Target	60,834	65,834	56,666	55,000	54,166	64,166	50,000	48,834	51,666	50,000	55,666
2004 Actual											
Made AYP?											
10% Target											
10% Actual											
2005 Target	64,751	66,251	60,996	59,500	58,749	67,749	55,000	51,251	56,749	55,000	60,996
2005 Actual											
Made AYP?											
10% Target											
10% Actual											
2006 Target	68,668	72,668	65,332	64,000	63,332	71,332	60,000	56,668	61,332	60,000	65,332
2006 Actual											
Made AYP?											
10% Target											
10% Actual											
2007 Target	72,585	76,085	69,666	68,500	67,915	74,915	65,000	62,085	66,166	65,000	69,666
2007 Actual											
Made AYP?											
10% Target											
10% Actual											
2008 Target	76,512	79,502	73,668	73,000	72,468	79,468	70,000	67,502	70,168	70,000	73,668
2008 Actual											
Made AYP?											
10% Target											



10% Actual	80,419	82,819	78,334	77,500	82,081	72,919	76,831	75,000	76,331
2009 Target									
2009 Actual									
Made AYP?									
10% Target									
10% Actual									
2010 Target	84,336	86,336	82,664	82,000	85,864	78,336	80,664	80,000	82,664
2010 Actual									
Made AYP?									
10% Target									
10% Actual									
2011 Target	88,253	88,753	86,997	86,500	89,247	83,752	85,497	85,000	86,997
2011 Actual									
Made AYP?									
10% Target									
10% Actual									
2012 Target	92,170	93,170	91,330	91,000	90,830	88,170	90,330	90,000	91,330
2012 Actual									
Made AYP?									
10% Target									
10% Actual									
2013 Target	96,087	96,587	95,653	95,500	95,413	94,587	95,163	95,000	95,653
2013 Actual									
Made AYP?									
10% Target									
10% Actual									
2014 Target	100	100	100	100	100	100	100	100	100
2014 Actual									
Made AYP?									
10% Target									
10% Actual									

\*\*Formula: Number Partially Proficient or Advanced – CSAP math - 5<sup>th</sup> grade  
Number Tested – CSAP math - 5<sup>th</sup> grade



### Adequate Yearly Progress for Private Schools and Institutions

When students attending private schools or receiving educational services at an institution participate in Title I, the effectiveness of the Title I services must be assessed. LEAs are not assessing the quality of the school or institution. Rather, the LEA and the private school or institution must consult about the best way to assess the effectiveness of the Title I services. This may or may not include the administration of the CSAP.

Private schools and institutions do not have to make Adequate Yearly Progress. Therefore, private schools and institutions are not subject to School Improvement. This is consistent with the notion that Title I funds are not intended to support the private school or institution. Title I funds are only intended to serve eligible children who happen to be attending a private school or receiving educational services at an institution. LEAs should evaluate the quality of services provided under Title I; however, it is inappropriate to evaluate the quality of the private school or institution.

### Adequate Yearly Progress for Local Education Agencies (LEAs)

CDE is required to annually assess the progress LEAs are making toward the goal of 100% proficiency in reading and math by the end of school year 2013-14. Adequate yearly progress for LEAs will be **assessed separately in reading and math** as follows:

<b>Adequate Yearly Progress (AYP)</b>	
<b>Reading and Math</b>  <b>For Local Education Agencies (LEAs)</b>	<p><b>Definition:</b> Adequate Yearly Progress is the annual increase in the proportion of a LEA's students who are proficient in reading and math expected for 100% of students to become proficient in reading and math by the end of the 2013-14 school year.</p> <p><b>Formula:</b> The total number of LEA students scoring proficient or advanced on CSAP assessments administered in the LEA divided by the total number of LEA students taking CSAP assessments in the LEA. AYP will be assessed separately in reading and math.</p> <p>In LEAs in which 30 or fewer students are tested, AYP will be calculated using data from the current year combined with data from the two previous years to compute a three-year rolling average and set annual performance targets.</p> <p><b>Baselines and Tracking:</b></p> <ul style="list-style-type: none"> <li>• Baselines will be established using school year 2001-02 CSAP reading and math results.</li> <li>• Baselines will be established, and progress will be tracked for the LEA as a whole as well as by 10 student subgroups:</li> </ul> <p><b>Economically disadvantaged</b>  <b>Race/ethnicity</b> (White, Black, Hispanic, Asian/Pacific Islander, Native American)  <b>Students with disabilities</b>  <b>Students with limited English proficiency</b>            (Non-English proficient, Limited English-proficient, and Fluent English proficient)</p>

- Separate annual objectives will be required for each LEA subgroup of 30 or more students.
- The LEA and all of its subgroups of 30 or more students must meet annual performance targets or the LEA will have failed to make AYP.
- At least 95% of all students in each subgroup of 30 or more must be tested.

**Annual Performance Targets:** Annual performance targets will be established for the LEA and all of its subgroups of 30 or more students. Annual performance targets will be set by taking the 2001-02 (baseline) proportion of proficient students in the LEA and the baseline proportion for each subgroup of 30 or more in a school, subtracting that proportion from 100 and dividing by 12.  
*Example: Forty percent of White students at Jefferson School were proficient in reading on the 2001-02 state assessments. That means that Jefferson School must increase the proportion of proficient White students by 60% over the next twelve years. That necessitates an annual increase in the proportion of proficient White students of 5%. Jefferson's performance target for the 2002-03 school year for White students will be 45%. The performance target for White students at Jefferson will be 50% for 2003-04, and so on, until the year 2013-14 when the performance target will be 100%.*

**Data Sources and Exclusions:** The scores of all students taking CSAP reading assessments administered in the LEA will be used in calculating AYP with the exception of those students who have not attended an LEA school from one CSAP administration to the next.

**Other Indicators:** *Student attendance and graduation rates* may be considered by CDE in identifying LEAs for Program Improvement. Baselines for these indicators must be established using 2001-02 data. If these indicators are to be used, performance targets must be set prior to the beginning of each school year. However, these indicators will not be used to reduce the number of LEAs who would otherwise be placed on Program Improvement using CSAP results.

**Considerations:** If an LEA, or any of its subgroups of 30 or more, fails to meet its annual performance objective, the LEA still may be considered to have made AYP if the percentage of students in one or more subgroups scoring in the non-proficient ranges decreases by 10% or more in reading and math.

An LEA may be considered to have made AYP in reading and math if 80% of students in the LEA and 80% of students in each subgroup of 30 or more students are proficient in reading and math.

In cases where new school districts significantly alter a district's student population, new baselines will be established for the affected districts and performance targets will be identified to yield 100% proficiency within 12 years.



### Adequate Yearly Progress for the State of Colorado

CDE is required to annually assess the progress of the State toward the goal of 100% proficiency in reading and math by the end of school year 2013-14. Adequate Yearly Progress for the State will be defined as follows:

<b>Adequate Yearly Progress (AYP)</b>	
<p><b>Reading and Math</b> <b>State of Colorado</b></p>	<p><b>Definition:</b> Adequate Yearly Progress is the annual increase in the proportion of the State's students who are proficient in reading and expected of the State for 100% of the State's students to become proficient by the end of the 2013-14 school year.</p> <p><b>Formula:</b> The total number of students scoring proficient, or advanced on all CSAP reading and math assessments administered in the State divided by the total number of the State's students taking all CSAP reading and math assessments at the school.</p> <p><b>Baselines and Tracking:</b></p> <ul style="list-style-type: none"> <li>• Baselines will be established using school year 2001-02 CSAP reading and math results.</li> <li>• Baselines will be established, and progress will be tracked for the State as a whole as well as by 10 student subgroups:               <ul style="list-style-type: none"> <li><b>Economically disadvantaged</b></li> <li><b>Race/ethnicity</b> (White, Black, Hispanic, Asian/Pacific Islander, Native American)</li> <li><b>Students with disabilities</b></li> <li><b>Students with limited English proficiency</b> (Non-English proficient, Limited English-proficient, and Fluent English proficient)</li> </ul> </li> <li>• Separate annual objectives will be required for each subgroup.</li> <li>• Each subgroup of students must meet annual performance targets or the State will have failed to make AYP.</li> <li>• At least 95% of all students in each subgroup must be tested.</li> </ul> <p><b>Annual Performance Targets:</b> Annual performance targets will be established for each subgroup of students. Annual performance targets will be set by taking the 2001-02 (baseline) proportion of proficient students in each subgroup, subtracting that proportion from 100, and dividing by 12. <i>Example: Forty percent of Native American students in the State were proficient in reading on the 2001-02 state assessments. That means that the State must increase the proportion of proficient Native American students by 60% over the next twelve years. That necessitates an annual increase in the proportion of proficient Native American students of 5%. The State's performance target for the 2002-03 school year for Native American students will be 45%. The performance target for Native American students in the State will be 50% for 2003-04, and so on until the year 2013-14 when the performance target for Native American students in the State will be 100%.</i></p>

**Data Sources:** The scores of all of the State's students taking CSAP reading and math assessments administered in the State will be used in calculating AYP for the State.

**Considerations:** If the State, or any of its subgroups fails to meet its annual performance objective, the State may still be considered to have made AYP if the percentage of students in one or more subgroups scoring in the non-proficient ranges decreases by 10% or more from the previous year's percentage of students scoring in the non-proficient ranges.

The State may be considered to have made AYP in reading and math if 80% of students in the State and 80% of students in each subgroup of students are proficient in reading and math.

### **Identification of Title I Schools for Improvement and Corrective Action**

LEAs are to identify schools for - and place schools on - School Improvement and Corrective Action based on the State's criteria and reporting procedures. It is CDE's responsibility to define AYP, develop the reporting materials and procedures, and ensure that the LEA complies with its requirement to place schools failing to make AYP for two consecutive years on School Improvement. Before placing a school on School Improvement or Corrective Action the LEA must provide the school the opportunity to review the data used to identify the school and offer supporting evidence if the principal or the majority of parents feel the identification is unwarranted for statistical or other substantive reasons.

Information regarding the status of schools currently on School Improvement or Corrective Action and identification of schools in subsequent years is as follows:

- A school in its 1<sup>st</sup> year of School Improvement during school year 2001-02 will be in its 1<sup>st</sup> year of School Improvement during school year 2002-03.
- A school in its 2<sup>nd</sup> year of School Improvement during school year 2001-02 will be in its 2<sup>nd</sup> year of School Improvement during school year 2002-03.
- A school in Corrective Action during school year 2001-02 will be in its 1<sup>st</sup> year of Corrective Action for school year 2002-03.
- Any school that fails to make AYP for two consecutive years is to be identified for School Improvement.
- A school must make AYP for two consecutive years to exit School Improvement.
- After the 2<sup>nd</sup> year of failing to make AYP while on School Improvement, the school is to be placed on Corrective Action not later than the beginning of the next school year.
- If, after one full year on Corrective Action, a school fails to make AYP then the LEA and school must make plans for alternative governance to be implemented not later than the beginning of the next school year.

The following table provides a general overview of the School Improvement and Corrective Action requirements of schools and LEAs:





	1 <sup>st</sup> Year – School Improvement	2 <sup>nd</sup> Year – School Improvement	1 <sup>st</sup> Year – Corrective Action	2 <sup>nd</sup> Year – Corrective Action
<b>Actions Required</b>	<p><b>Schools must:</b></p> <ol style="list-style-type: none"> <li>1. Notify parents of school's identification for School Improvement, the reasons for identification, what the school is doing to address the problem, and the implications for the school.</li> <li>2. Offer all students in the school the option to transfer to another school that is not a School Improvement school. Priority must be given to low achieving, low-income students.</li> <li>3. Spend not less than 10% of the school's allocation on professional development opportunities for the principal and teachers.</li> <li>4. Develop/revise a comprehensive, 2-year improvement plan in consultation with parents, school faculty and staff, LEA, and outside experts. The plan must meet the requirements as set out in Sec. 1116 (3) (A).</li> <li>5. Implement the plan not later than the beginning of the school year following identification.</li> </ol>	<p><b>Schools must:</b></p> <ol style="list-style-type: none"> <li>1. Continue to implement required actions 1 through 5 listed under the 1<sup>st</sup> year of School Improvement.</li> <li>2. Provide in the improvement plan for the provision of supplemental services to eligible children from a provider with a demonstrated record of effectiveness.</li> </ol>	<p><b>Schools must:</b></p> <ol style="list-style-type: none"> <li>1. Continue to implement required actions 1 and 2 listed under 2<sup>nd</sup> Year - School Improvement.</li> <li>2. Work with LEA to identify appropriate corrective actions.</li> </ol>	<p><b>Schools must:</b></p> <ol style="list-style-type: none"> <li>1. Continue to implement required actions 1 and 2 listed under 1<sup>st</sup> Year – Corrective Action.</li> <li>2. Work with LEA to identify appropriate alternative governance arrangements.</li> </ol>



	1 <sup>st</sup> Year – School Improvement	2 <sup>nd</sup> Year – School Improvement	1 <sup>st</sup> Year – Corrective Action	2 <sup>nd</sup> Year – Corrective Action
<b>Actions Required</b>	<p><b>The district must:</b></p> <ol style="list-style-type: none"> <li>Unless a lesser amount is needed, set aside an amount equal to 5% of its allocation to cover the cost of transportation and an additional 10% of its allocation to cover any additional transportation costs.</li> <li>Establish a peer review process to assist with the approval of improvement plans. Review the plan, consult with the school, and help with necessary revisions. Approve school improvement plans within 45 days of receipt.</li> <li>For each school identified, ensure the provision of technical assistance as described under Sec. 1116 (4) (B) as the school develops and implements its improvement plan - and for the plan's duration.</li> </ol>	<p><b>The district must:</b></p> <ol style="list-style-type: none"> <li>Continue to implement required actions 1 through 3 listed under 1<sup>st</sup> Year School Improvement.</li> <li>Unless a lesser amount is needed, set aside an amount equal to 5% of the districts allocation to cover transportation costs, and amount equal to 5% of the district's allocation to cover the cost of supplemental educational services, and an amount equal to 10% of the district's allocation for additional transportation and/or supplemental educational service costs.</li> <li>Determine local availability of providers among list of providers developed by CDE.</li> <li>Notify parents of the availability of supplemental education services, the identity and qualifications of providers, and a description of the kind of services to be provided. Upon request, assist with the selection of providers and apply fair and equitable procedures for serving students if demand exceeds availability.</li> <li>Enter into agreements with providers selected by parents.</li> </ol>	<p><b>The district must:</b></p> <ol style="list-style-type: none"> <li>Continue to implement required actions 1 through 5 listed under 2<sup>nd</sup> Year School Improvement.</li> <li>Identify the school for Corrective Action and take at least one of the following corrective actions:                             <ol style="list-style-type: none"> <li>Replace the school staff that are relevant to the failure of the school to make AYP.</li> <li>Institute and fully implement a new curriculum.</li> <li>Significantly decrease managerial authority at the school level.</li> <li>Appoint an outside expert to advise the school on its progress in implementing its plan and making AYP.</li> <li>Extend the school day or school year.</li> <li>Restructure the internal organizational structure of the school.</li> </ol> </li> <li>Notify the public and parents of children enrolled in the school of any corrective actions taken at the school.</li> </ol>	<p><b>The district must:</b></p> <ol style="list-style-type: none"> <li>Continue to implement required actions 1-3 listed under 1<sup>st</sup> Year – Corrective Action.</li> <li>Prepare a plan for alternative governance of the school that includes one of the following:                             <ol style="list-style-type: none"> <li>Reopening the school as a public charter school.</li> <li>Replacing all or most of the school staff relevant to its failure to make AYP.</li> <li>Entering into a contract with a private management company with a demonstrated record of effectiveness to operate the public school.</li> <li>Turning the operation of the school over to the State, if permitted by State law and agreed to by the State.</li> <li>Any other major restructuring of the school's governance.</li> </ol> </li> </ol>

**Exceptions and Extenuating Circumstances**

Under certain conditions, schools on School Improvement may be given an additional year to make AYP prior to implementing the requirements of the 2<sup>nd</sup> year of School Improvement, being placed on Corrective Action, or implementing a plan for alternative governance. The conditions include:

- Natural disasters such as fire or tornado damage resulting in long-term disruption to the school's educational program;
- A significant and unforeseen drop in the financial resources of the school or LEA;
- A "High Impact" of Limited English Proficient students. (Low Impact = 10% or lower LEP student enrollment; Moderate Impact = 11% to 19% LEP student enrollment; High Impact = 20% or higher LEP student enrollment).

**Identification of LEAs for Program Improvement**

CDE will identify any LEA failing to make AYP for two consecutive years for Program Improvement. Before placing an LEA on Program Improvement, CDE will provide the LEA with an opportunity to submit supporting evidence if the LEA believes the identification is unwarranted for statistical or other substantive reasons. CDE will make its final determination no later than 30 days following the receipt of the supporting evidence.

LEAs identified for Program Improvement will be required to develop an improvement plan to be implemented not later than the beginning of the school year following identification that:

- Includes the 11 elements of Comprehensive School Reform;
- Includes documentation that all available funding (federal, state, local) are being leveraged for efficiency;
- Incorporates scientifically based research strategies that strengthen the core academic program of schools served by the LEA;
- Identifies actions that have the greatest likelihood of increasing student achievement;
- Addresses the professional development needs of instructional staff;
- Includes specific, measurable achievement goals and targets for student subgroups;
- Addresses fundamental teaching and learning needs of schools in that agency;

- Incorporates, as appropriate, activities before school, after school, during the summer, and during an extension of the school year;
- Specifies the responsibilities of the SEA and LEA under the plan and;
- Includes strategies to promote effective parental involvement in LEA schools.

CDE shall develop a system of corrective action that:

- Substantially and directly responds to the consistent academic failure that caused the State to identify the LEA for corrective action and to respond any underlying curricular, staffing, or other problems and;
- Is designed to meet the goal of all students achieving at the proficient or advanced levels in reading and math.

LEAs failing to make Adequate Yearly Progress for two years while on Program Improvement will be identified for Corrective Action. In that case, CDE must take at least one of the following corrective actions:

- Defer programmatic funds;
- Authorize students to transfer from a school operated by the LEA to a higher performing school operated by another LEA and the LEA will provide transportation to those students.

#### **Academic Achievement Awards Program and Identification of Distinguished Schools**

CDE will establish an Academic Achievement Awards Program to recognize schools that have made significant gains in academic growth or significantly closed the learning gap among student subgroups. To be eligible for such an award, a school must have exceeded its Adequate Yearly Progress targets for two consecutive years or reduced the number of non-proficient students in a student subgroup by 10 percent or more.

From those schools meeting the criteria for Academic Achievement Awards, CDE will designate those schools that have made the greatest gains in academic achievement or closing the achievement gap as Distinguished Schools.

*f. By January 31, 2003, provide the State's definition of adequate yearly progress. The definition must include:*

*For the percentage of students meeting or exceeding the State's proficient level provide for reading/language arts and for mathematics –*

- *The starting point value;*
- *The intermediate goals;*
- *The timeline; and*
- *Annual objectives.*

SEE INFORMATION OUTLINED IN SECTION e PREVIOUSLY.

*ii. The definition of graduation rate (consistent with section 1111(b)(2)(c)(vi) and final regulations);*

SEE INFORMATION OUTLINED IN SECTION e PREVIOUSLY.

*iii. One academic indicator for elementary schools and for middle schools;*

SEE INFORMATION OUTLINED IN SECTION e PREVIOUSLY.

*iv. Any other (optional) academic indicators;*

SEE INFORMATION OUTLINED IN SECTION e PREVIOUSLY.

*g. By January 31, 2003, identify the minimum number of students that the State has determined, based on sound statistical methodology, to be sufficient to yield statistically reliable information for each purpose for which disaggregated data are used and justify this determination.<sup>2</sup>*

*h. In the June 2002 submission, provide a plan for how the State will implement a single accountability system that uses the same criteria, based primarily on assessments consistent with section 1111(b), for determining whether a school has made adequate yearly progress, regardless of whether the school receives Title I, Part A, or other federal funds.*

#### Background:

The Colorado Accreditation program is the State's single accountability system. As such, it is the driving force in creating a new vision for Colorado School Reform. Standards-based accreditation closes the circle of standards-based curriculum, standards-based instruction, standards-based assessments, and standards-based accountability.

The Colorado Accreditation – Accountability System Indicators include all required student population groups required in H.R.-1 "No Child Left Behind", and all students

<sup>2</sup> Consistent with final regulations, expected to be released in August 2002.

regardless of gender; socio-economic level; at-risk status; racial, ethnic, or cultural background; exceptional ability; disability; or limited English proficiency.

The Colorado Department of Education's Regional Managers, with their Colorado Department of Education teams, prepare a single accountability annual written assessment report of school district accomplishments, including accountability information, H.R.-1 requirements, progress of the district's educational improvement plan, district achievement in reading, writing, math, and other state content areas.

Districts are required to demonstrate not less than one year's increase in student achievement for each year in school. Those students scoring below proficient on CSAP are expected to make more than a year's growth in a year's time. Further areas of review include the districts' achievement data showing reductions in learning gaps in reading, writing and math as measured by disaggregated CSAP data. Districts also show evidence of compliance with State Board of Education rules and Colorado Revised Statutes. CDE's Accreditation Rules can be found on the web at: <http://www.cde.state.co.us/cdeboard/bdcurrent.htm> and the Accreditation Guidelines can be found on the web at <http://www.cde.state.co.us/cdeedserv/download/pdf/AccredGuidelines.pdf>.

**Underlying Assumptions Regarding the Use of the Accreditation System as the Single Accountability System:**

- The State Board Rules on Accreditation require assurance that schools will participate in state assessments. The state assessments form the basis of the accreditation system.
- All districts have developed accreditation contracts that meet all accreditation standards.
- Currently, all school districts are fully accredited. CDE only accredits districts, not schools.
- Districts accredit their schools based upon processes and procedures outlined in the district's accreditation contract with CDE.
- School level accreditation focuses on closing the achievement gap.
- Numerous CDE program data, state and federal, will flow as information inputs into the accreditation system by region. (AYP, compliance with applicable state and federal statutes – special education, fulfilling assurance agreements, H.R. 1, etc.)
- All public schools, including charter schools, are subject to the state's definition of Adequate Yearly Progress.
- All public schools must have annual and incrementally measurable goals for each major student sub-population group.
- 2001-02 school year data will form the baseline from which goals are set.

- 100% proficiency is expected within a period of 12 years for all students in all public schools, Title I and non-Title I, as measured by the state's definition of AYP.
- AYP must be achieved for each student sub-group in the school to be deemed as making Adequate Yearly Progress with the exceptions outlined in NCLB. This is to document that schools/districts/states are closing the achievement gap. This information is also considered in how CDE accredits school districts.
- In order to further the implementation of a single accountability system, the state would need to reconcile its definition of a year's growth in a year's time required for accreditation, with the approved federal definition of AYP.

CDE's Title I office must also calculate Title I AYP for districts as a whole.

**Specific implementation strategies:**

- CDE, in collaboration with districts, will create a profile for every public school in the state based upon 2001-02 CSAP data. In some cases, 2001-02 data may be averaged with the prior two years of CSAP data to form the base from which annual, measurable goals will be developed for reading and math for each grade and for each required student sub-population group, e.g. ELL, racial/ethnic, socio-economic status, etc.
- CDE, in collaboration with districts, will calculate the required growth needed in each category to attain 100 % proficiency in 12 years. In turn, this data will determine AYP of each school in the state.
- CDE's Title I Unit will work specifically with those Title I schools and districts not making Adequate Yearly Progress and fulfill all Title I and H.R. 1 mandates. These mandates include required technical assistance and monitoring by CDE and increased annual reporting that CDE provide to USDE.
- AYP data for all schools, Title I and non-Title I, will be forwarded to the Regional Teams to be used in determining the accreditation status of each district. The Regional teams provide the ongoing technical assistance to ensure that districts are successful in complying with all of the accreditation requirements.
- Note: H.R. 1 requires AYP to be determined for all schools so equitable comparisons can be made across the districts and the state.
- CDE will assure that each district produces an annual report card (annual year-end accountability report) with all of the requirements of H.R. 1, e.g., a listing of all schools making AYP, those that did not, how long they have been on improvement or corrective action, comparisons with statewide data, etc.

- From the AYP data generated, CDE will be able to report to USDE the degree to which Colorado made AYP as a whole. USDE will use this data to focus technical assistance and to report to Congress a listing of states making or not making AYP on an annual basis.
- Finally, it is anticipated that by May 2003, the single accountability system will be more fully implemented.

*In the June 2002 submission, identify the languages present in the student population to be assessed, the languages in which the State administers assessments, and the languages in which the State will need to administer assessments. Use the most recent data available and identify when the data were collected.*

Colorado students in grades 3 through 10 speak predominantly English, but there is a sizable number of Spanish-speakers in the population as well. As documented in the October 1, 2001 data collection, there are between 2400 and 5900 Spanish-speakers per grade level. In comparison, the next largest language group speaks Vietnamese, with between 98 and 134 students per grade level. (Please see the chart on the following page for more details.)

At the present time the State administers Spanish versions of the CSAP assessment in reading in third grade, and reading and writing in fourth grade. The Colorado legislature in discussion with practitioners, has determined to add the writing component for the third grade SY 2002-03. Senate Bill 98 restricted the use of other versions based on the minimal numbers of students reported in other language categories.





Languages of Colorado Students

Colorado State Totals (by grade and language) FY 2001-02

Code	Language	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8	Grade 9	Grade 10
00	Not Reported	26	32	50	35	53	52	49	57
02	English	49,891	51,908	52,890	53,540	53,482	52,940	58,703	52,455
10	Spanish	5,897	5,400	4,825	4,126	3,658	3,376	3,894	2,405
11	French	17	30	24	28	20	20	22	15
12	German	27	32	28	11	27	21	14	12
19	Other European Language	100	91	105	77	102	83	108	135
20	Russian	96	98	94	112	96	101	123	112
29	Other Languages of Former Soviet Union	20	30	26	26	23	35	19	18
30	Arabic	36	34	27	40	25	21	30	32
39	Other Middle Eastern Language	28	21	37	42	32	16	30	38
40	Chinese	92	102	72	59	63	62	57	68
41	Hmong	93	96	96	98	81	79	78	80
42	Korean	114	116	105	87	76	86	84	94
43	Vietnamese	123	132	127	134	121	98	115	124
49	Other Asian Language	153	143	127	119	116	122	117	119
59	Oceanic Language	8	6	5	5	4	5	13	7
69	Native American or Western	85	81	82	69	67	52	58	42
79	African	47	53	44	40	45	34	64	48
		<b>56,853</b>	<b>58,405</b>	<b>58,764</b>	<b>58,648</b>	<b>58,091</b>	<b>57,203</b>	<b>63,578</b>	<b>55,861</b>

*In the June 2002 submission, provide evidence that, beginning not later than the school year 2002-03, LEAs will provide for an annual assessment of English proficiency that meets the requirements of section 11-11(b)(7) and 31-16(d)(4), including assessment of English proficiency in speaking, listening, reading, writing, and comprehension. Identify the assessment(s) the State will designate for this purpose.*

At the present time the State has identified and sanctioned three instruments (Woodcock Munoz, IPT and LAS) to be used by LEAs to measure and report English language proficiency. These instruments guide placement and are one data point used to guide reclassification of LEP students.

The Colorado Assessment (CSAP) is a standards based instrument. At the present time districts use the language proficiency assessments listed above as a screening tool. In order to meet the mandates of H.R 1 and Senate Bill 109, the Assessment and the ELA Units will delineate a process for the development of an objective, standards-based assessment instrument that adequately measures student English language proficiency and English content acquisition.

**Timeline:**

Implementation of new process 2002-03

*In the June 2002 submission, describe the status of the State's effort to establish standards and annual measurable achievement objectives under section 31-22(a) of the ESEA that relate to the development and attainment of English proficiency by limited English proficient children. These standards and objectives must relate to the development and attainment of English proficiency in speaking, listening, reading, writing, and comprehension, and be aligned with the State academic content and student academic achievement standards as required by section 11-11(b)(1) of the ESEA. If they are not yet established, describe the State's plan and timeline for completing the development of these standards and achievement objectives.*

The English Language Acquisition Unit has commissioned a committee of practitioners to develop English Language Development Standards aligned to State Language Content Standards and to design a Framework of Key Learnings to guide instruction. A draft of these standards can be viewed on the web at: [http://www.cde.state.co.us/cde\\_english/PubComStuStds.htm](http://www.cde.state.co.us/cde_english/PubComStuStds.htm). In addition, steps will be taken to purchase or develop a standards-based, criterion referenced assessment instrument that reliably measures the acquisition of English language skills annually.

**Timeline:**

- English Language Development Standards made available on the CDE website, June of 2002.
- Standards ready for dissemination for the 2002-03 school year.
- Key Learnings / Scope and Sequence ready for dissemination for the 2002-03 school year.

## Awarding Competitive Subgrants or Contracts

2. In the June 2002 submission, describe the process for awarding competitive subgrants for the programs listed below.

**Context:**

All activities of the Department are focused clearly on the expectations for **standards, assessments, and accountability** listed below:

**Organizational Commitment**

The Colorado Department of Education dedicates itself to increasing achievement levels for all students through comprehensive programs of education reform involving three interlocking elements: A) High Standards for what students must know and be able to do; B) Tough Assessments that honestly measure whether or not students meet standards and tell citizens the truth about how well our schools serve children; C) Rigorous Accountability Measures that tie the accreditation of school districts to high student achievement.

In 1999, the Unified Grants office began the work of assuring that each grant program administered by the Department, including those listed above, meet or will meet the focus on student achievement through a system of high standards, tough assessments, and rigorous accountability. All grant requests for proposals (RFPs), review procedures, scoring rubrics, and technical assistance are required to meet a consistent set of expectations described below. Any new programs must demonstrate that they adhere to these requirements before they are implemented.

**Selection Criteria:**

Selection criteria for each grant must:

- (1) *Demonstrate* a clear relationship to the CDE Organizational Commitment;
- (2) *Link* to performance on CSAP/accreditation indicators and AYP as appropriate for the specific program and;
- (3) *Demonstrate* direct support for excellence in student academic performance for all children with a focus on closing the achievement gap.

All competitive and formula grants use explicit evaluation rubrics that describe the criteria for funding. These expectations are published with sufficient availability and notice to assure usage by any applicant preparing a proposal. The rubric criteria are also used in training review panels, and form the basis of all evaluation and feedback.

**RFP Content and Format:**

Review of RFP content and format includes:

- SMART goals expectations (specific, measurable, attainable, research-based, time-phased);
- Clear delineation of allowable activities as appropriate for individual programs;
- Focus on research-based strategies within proposed action plans;
- Consistent budget forms and expectations through the ongoing support of the grants fiscal management team;
- Consistent set of assurances and disclaimers in addition to minimal specific expectations per each grant application;
- Emphasis on data-based needs assessment that drives focus of applications;
- Disaggregation of student performance indicators;
- Use of results-based professional development guidelines;
- Emphasis on sustainability;
- Focus on leveraging of funds within action plans and budget narratives and;
- Integration of the eleven components of the comprehensive school reform.

Documentation of the above referenced RFP content and format can be found at:  
<http://www.cde.state.co.us/funding.htm>.

**Key Procedures:**

**Prior to grant submission**, several technical assistance options are made available to applicants as needed.

- Technical assistance workshops (held within the eight regions of the state or through teleconference options) to orient applicants to grant requirements; train them regarding new information, programs, and strategies; assist them in understanding evaluation rubric expectations and applying them to scoring; clarify the review process that will occur; and answer questions.
- Guides to writing successful proposals and exemplars of components rated as meeting the grant applications are made available at trainings and on the website.
- Ongoing availability of assistance (online, teleconference, fax, phone, face-to-face) through program staff or outside consultants contracted to provide "just in time" assistance with planning and proposal development.

**After grant submission**, the review process for grants usually includes training for peer reviewers from across the state using the same tools and scoring practice provided for applicants; individual peer/expert written scoring using rubric criteria; review of all applications in teams; preparation of team results for feedback to each applicant; review of scoring for inter-rater reliability. Timely and substantive feedback is provided to each applicant based upon the scoring rubric and summary comments from readers. Applicants are apprised of standard mechanism for appealing results of grant review. Results of the review are published on the Department website and sent to all applicants. Clear standards for determining the impact of grant funds are established within the RFP. Results regarding use of funds are reported per the requirements of the funding sources.

**Priorities:**

Four priorities drive the distribution of competitive grant funds:

- Quality;
- Fairness;
- Sufficient funding to make a difference and;
- Attention to regional distribution.

Programs for which these competitive procedures presently apply:

- Even Start Family Literacy (Title I, Part B);
- Comprehensive School Reform (Title I, Part F);
- Safe and Drug-Free Schools and Communities--reservation for the Governor (Title IV, Part A, section 4112);
- Community Service Grants (Title IV, Part A, section 4126) Refer to #11 of the "Key Program Requirements" (Part III) for specific details about the administration of this grant;
- Consolidated Enhanced Education Through Technology (Title II, Part D) – portion designated to support three areas (eLearning, professional development on the integration of technology into teachers standards-based curricula and instruction, and data-based decision making) for high need schools and;
- McKinney-Vento Education for Homeless Children (Title 10, Part C) – not in listing of competitive grants to be addressed above.

**Programs yet to be developed that will comply with the competitive procedures described above:**

- Teacher and Principal Training and Recruiting Fund--subgrants to eligible partnerships (Title II, Part A, Subpart 3) – if administered by the state agency;
- 21st Century Community Learning Centers (Title IV, Part B) and;
- Reading First (Title I, Part B, Subpart 1) – not in listing of competitive grants to be addressed above.



***APPENDIX G – ADDITIONAL INFORMATION SUBMITTED FOR THE  
RECORD BY WILLIAM WINDLER, ASSISTANT COMMISSIONER,  
COLORADO DEPARTMENT OF EDUCATION, DENVER, COLORADO.***








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**COLORADO DEPARTMENT OF EDUCATION**


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 Denver, Colorado 80203-1704 • www.cde.state.co.us

**William J. Moloney**  
 Commissioner of Education

**Roscoe Davidson**  
 Deputy Commissioner

September 6, 2002

Congressman Robert C. Scott  
 United States House of Representatives  
 2464 Rayburn House Office Building  
 Washington, D.C. 20515

*Re: Cost of Colorado Student Assessment Program*

Dear Congressman Scott:

Attached please find a spreadsheet of the costs associated with the development of the Colorado Student Assessment Program (CSAP). During the July 24, 2002 meeting of the Committee on Education and the Workforce, you requested that I provide this information to you.

If you have any further questions, please feel free to contact me.

Sincerely,

William E. Windler  
 Assistant Commissioner  
 Office of Special Services  
 Phone: 303-866-6631  
 E-mail: windler\_w@cde.state.co.us

cc.: William Moloney, Commissioner of Education  
 Karen Stroup, Chief of Staff  
 Carolyn Hang, Director of Assessment

Development of the CSAP program

	1997 - 1998	1998 - 1999	1999 - 2000	2000 - 2001	2001 - 2002
<b>Tasks</b>					
Development	\$ 1,030,171.00	\$ 1,039,194.00	\$ 1,024,065.00	\$ 2,259,722.00	\$ 1,515,854.00
Manufacturing	\$ 289,973.00	\$ 846,320.00	\$ 688,128.00	\$ 2,319,157.00	\$ 2,792,892.00
Scoring/Reporting	\$ 634,846.00	\$ 1,944,130.00	\$ 2,379,921.00	\$ 5,985,976.00	\$ 9,401,386.00
Management	\$ 162,702.00	\$ 377,552.00	\$ 341,692.00	\$ 514,157.00	\$ 729,766.00
<b>Total</b>	<b>\$ 2,297,790.00</b>	<b>\$ 3,647,206.00</b>	<b>\$ 4,634,816.00</b>	<b>\$ 10,779,022.00</b>	<b>\$ 14,446,690.00</b>
<b>Assessments</b>	Grade 3 Reading Grade 4 Reading/Writing	Refreshed: Grade 3 Reading Grade 4 Reading/Writing Grade 7 Reading/Writing New: Grade 7 Reading/Writing Grade 5 Mathematics	Refreshed: Grade 3 Reading Grade 4 Reading/Writing Grade 7 Reading/Writing New: Grade 8 Science Grade 8 Mathematics	Refreshed: Grade 3 Reading Grade 4 Reading/Writing Grade 5 Mathematics Grade 7 Reading/Writing Grade 8 Mathematics New: Grade 5 Reading Grade 6 Reading Grade 8 Reading Grade 9 Reading Grade 10 Reading/Writing Grade 10 Mathematics	Refreshed: Grade 3 Reading Grade 4 Reading/Writing Grade 5 Reading Grade 6 Mathematics Grade 6 Reading Grade 7 Reading/Writing Grade 8 Reading Grade 8 Mathematics Grade 8 Science Grade 9 Reading Grade 10 Reading/Writing Grade 10 Mathematics New: Grade 3 Writing Grade 5 Writing Grade 6 Writing Grade 8 Writing Grade 9 Writing Grade 6 Mathematics Grade 7 Mathematics Grade 9 Mathematics
56,000 students per subtest	Per student: \$13.66 per subtest (3)	Per student: \$11.75 per subtest (5)	Per student: \$11.62 per subtest (7)	Per student: \$12.65 per subtest (15)	Per student: \$11.22 per subtest (23)

Note: Grade 5 Math was developed for Fall 2000 then moved to Spring 2001.

New: In all instances, TerraNova was used as the basis of the test in the initial year so that development costs were minimized.

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