



THE COMMONWEALTH EDUCATIONAL POLICY INSTITUTE

CENTER FOR PUBLIC POLICY - L. DOUGLAS WILDER SCHOOL OF GOVERNMENT AND PUBLIC AFFAIRS

CEPI Education Law Newsletter

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SEPTEMBER 2003: Vol. 2-1

NO CHILD LEFT BEHIND: ISSUES AND POLICY IMPLICATIONS

Overview

The 2003-2004 school year is underway and school administrators, staff, and students have settled in to a busy routine. Every day of the week seems to fly past, dominated by a growing number of academic requirements and a full schedule of school activities. Suffice it to say, free time has become a rare experience in every schoolhouse across this nation.

This school year, in addition to solving budgetary issues, local boards of education face many daunting tasks, most of which are not new. At the top of this year's list are: (1) providing safe and secure school grounds, buildings, and activities for all students and staff; (2) maintaining high academic standards and expectations for student performance; (3) enhancing the quality of instruction and ensuring professional accountability for student performance and progress, and school accreditation; (4) implementing programs that address values and habits of good citizenship in students; (5) maintaining open lines of communication with parents and the school's community; and (6) encouraging and providing meaningful professional development for administrators and staff.

Federal Mandates. In 2003-2004, as local school systems here in Virginia and across the nation work hard to meet rigorous statewide academic requirements (including the formal implementation of high school "exit examinations"), so too will they be busy implementing mandates of federal statutes. Based upon past experience school officials know that meeting the mandates of the reauthorized *Individuals with Educational Disabilities Act (IDEA)* will continue to present challenges. However, the most time consuming federal law on this year's agenda is the very comprehensive and detailed (700 pages) *No Child Left Behind Act 2001 (NCLB)*.

No Child Left Behind. From its inception, experts in education law and policy unanimously agreed that *NCLB* had the potential to radically change public education across this country. Generally stated, and briefly summarized, the ten underlying purposes forming the foundation of *NCLB* are to:

- Promote high academic standards for all students (especially in English, reading/language arts, and mathematics);
- Provide every child (regardless of ethnicity, background, or family income) with a quality education;

- Improve the academic performance of all students (including homeless children) by requiring both standardized assessments of student academic achievement and yearly progress reports of student academic performance;
- Establish separate measurable annual objectives especially for improvement by economically disadvantaged students, students with disabilities, and students who are limited English language proficient;
- Disaggregate and analyze student data by gender, migrant status, race, ethnicity, economic disadvantage, English language proficiency, and disability.
- Reward schools for student achievement and not for the amount of money spent on students;
- Identify, define, target, and close the “achievement gap” existing between classes of students;
- Hold school officials, administrators, and staff professionally accountable for student academic progress;
- Ensure parental choice (especially where children are enrolled in public schools declared low performing or “persistently dangerous,” and a transfer to higher performing and safer school is requested); and
- Require that only “highly qualified” teachers (as well as trained paraprofessionals) teach students, using “effective and proven” teaching methods.

Emerging Issues

When President Bush signed the *No Child Left Behind Act of 2001*, experts in education law and policy agreed that the statute’s purposes and goals were praiseworthy. However, most of these same experts forecast that implementing NCLB’s specific requirements would cause problems for state and local educational policy-makers and practitioners. It did not take long for their forecast to become a reality. A recent story in the [Richmond Times-Dispatch](#) (Friday, September 12, 2003) offers a good example.

Incompatibility of Standards. In an article entitled “Schools Tripped by Federal Rule,” Jason Wermers reported that some public schools “that have consistently scored high marks on Virginia’s Standards of Learning tests have been labeled as failing schools by a new federal measure.” More specifically, he states, these schools failed “to meet the stringent adequate-yearly-progress standard” of *No Child Left Behind*. The article contains statistics showing that of 1,800 schools in Virginia only 997 (55 percent) were reported as meeting the adequate-yearly-progress (AYP) requirement of *NCLB*. Ironically, most of these same “failing schools” already had successfully passed muster under the rigorous requirements of the *Virginia Standards of Learning* program.

Possible Future Issues. In this writer’s opinion, while public school officials will witness the continuation of legal and policy issues caused by the basic incompatibility between *NCLB* and state mandates (as described above), other issues will spring to life, as school systems strive to meet specific *NCLB* requirements. A review of recent articles analyzing the implications of *NCLB* revealed several potential issue producers. As the 2003-2004 school year moves forward, experts in education law and policy are beginning to focus attention on the following areas of concern: the

- Long-range impact on school systems with growing populations of limited English proficient students, students with educational disabilities, and homeless students.
- Impact of *NCLB* testing requirements on student dropout rates at a time when states are trying to reduce dropout rates.

- Immediate and long-range impact on individual schools identified as “low achieving,” or “failing,” or “persistently dangerous” as parents exercise their option to transfer their children to more “successful” and “safe” schools (including the requirement that the school system furnish and pay for transportation).
- Reactions of parents who formally request a transfer of their child to another school but find that the new school (for whatever reason) refuses to enroll their child.
- Implications for public support of school system initiatives in communities where taxpayers consistently see reports of growing numbers of their schools being assigned a “failing school” label for not meeting *NCLB* standards.
- Potential for personnel problems in school systems where school boards reassign their more seasoned and qualified administrators, teachers, and other staff to help improve schools labeled as “failing” or “dangerous,” or dismiss principals and teachers because of their school’s substandard performance. This is especially relevant in states where collective bargaining agreements are in place.
- Impact on urban and rural school systems where, in a time of teacher shortage, it is already near impossible to recruit, hire, and retain “highly qualified” teachers (*i.e.*, teachers who are certified in the subjects they teach and who are fully licensed by their state). This is especially critical in the sciences and mathematics. The same question must be asked regarding properly trained paraprofessionals.
- Implications of increasingly popular “voucher plans” (both at the federal and state levels) on the availability of funds to support *NCLB* initiatives, especially in school systems with large populations of economically disadvantaged students.
- Growing interest among parents and disability advocate groups for using *NCLB* requirements in tandem with IDEA’s Free Appropriate Public Education (*FAPE*) requirement to creatively fashion new legal challenges.

Implications for Policy:

Suffice it to say, the demands placed on state and local policy-makers by the *No Child Left Behind Act of 2001* are many; and the legal and policy issues will continue to surface no matter what is done. What then to do about the situation? In this writer’s opinion, while no simple answer to this question is possible, the policy implications are nonetheless clear. As a matter of policy, state and local education officials must:

- Reiterate and clarify their intent to continue efforts aimed at carrying out the specific requirements of their state’s mandated program to raise academic standards and to assess the academic performance of all students.
- Give a priority to programs designed to improve the academic performance of students who are economically disadvantaged or who members of an ethnic minority.
- Demonstrate good faith efforts to align, where possible, state requirements with requirements of *NCLB*, without jeopardizing the integrity of state mandated programs.
- Strive to prepare all students to successfully participate in state assessment programs, and provide remediation programs (including supplemental educational services, *SES*) for students whose performance on state assessments has not been satisfactory.
- Develop new and innovative strategies to hold administrators and staff accountable for student academic progress, in compliance with both state and federal mandates.

One final comment is in order. It is this writer’s fear that state and local school officials, in their efforts to meet the requirements of *No Child Left Behind*, could unknowingly jeopardize the integrity of existing statewide programs. Here in Virginia, for example, the Standards of *Learning* program must not be in any way compromised. We cannot lose site of the fact that through the hard work and sustained efforts of principals,

classroom teachers, staff, and students major strides have been made toward meeting the goal of providing every child in the Commonwealth with a quality education.

Resources:

Title I Monitor: The Authoritative Report on Compensatory Education, vol. 8, no.6 (June 2003).

Your School and the Law: Helping Schools Face Legal Challenges, vol. 33, no. 11 (June 4, 2003), and vol. 33, no. 12 (June 18, 2003).

IEP Team Trainer: On-Site Training for IDEA Compliance, Special Edition (June 2003).

Jason Wermer, "Schools Tripped By Federal Rule," [Richmond Times-Dispatch](#) (Friday, September 12, 2003).

No Child Left Behind: Financial Compliance Insider (July 2003).

The School Superintendent's Insider (July 2003).

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Note: The views expressed in this commentary are those of the author.