

# **American Association of School Personnel Administrators Position Paper UPDATE Draft on “No Child Left Behind” 2006**

To provide an update and review of the current status of NCLB the Legislative and Governmental Committee felt the reader should start with the Executive Summary of the original AASPA Position Paper on NCLB which outlined four major points of concern as published in January 2005.

## **Executive Summary (January 2005)**

The education professionals that make up the American Association of School Personnel Administrators (AASPA) agree with and actively support the overall goal of the No Child Left Behind Law (NCLB) that ALL students achieve proficiency. Schools must place a greater emphasis on closing the achievement gap of minority and low-income students and testing plays a role in measuring student achievement. However, while schools and educators should be held accountable for student progress, the accountability system needs to be fair and equitable for educators and students alike.

The following position paper attempts to narrow the focus and address the strands in the No Child Left Behind Law that most impact school personnel professionals. AASPA has collected input from its membership at three NCLB Summits identifying the difficulties personnel professionals are having trying to implement the requirements of the law. It is AASPA's intent to update the conclusions and recommendations presented in this position paper through a continuing dialogue with its membership. It has been encouraging to see that adjustments have been made by the US Department of Education since the initial passage of the law in 2001.

AASPA is asking the US Department of Education and/or Congress to take action to correct the following structural or policy components in the law that school personnel professionals have identified as needing refinement as they have struggled with the law's implementation:

1. **Reconstruct the Accountability Model** of Adequate Yearly Progress (AYP)
2. **Develop Needed Flexibility in Determining Highly Qualified Staff** (Teachers and Paraprofessionals), Particularly in Small and Rural Schools
3. **Provide Adequate Federal Resources** to Implement High Expectations for All Students, Teachers and Paraprofessionals
4. **Raise the Debate Over the Appropriate Role of the Federal Government** in Providing Oversight of Public Education

## Introduction

Since the publication of the initial position paper in 2005, the Legislative and Governmental Committee has continued to monitor actions taken by the federal government and the US Department of Education concerning the implementation of the No Child Left Behind law. Debate within the committee has raised the issue as to the appropriate scope AASPA should take in making comment or recommendations as to changes to be made in the law. It is understood that AASPA's greatest influence and responsibility relates to the selection process of staff and the ability to sustain highly qualified staff in our schools. However, to focus solely on this issue would neglect the significant impact the law has made that indirectly affects the work of human resource professionals and was addressed in the other three strands of the initial position paper. It also should be noted that many members of AASPA wear multiple hats that include oversight of curriculum and instruction.

To this end the committee developed the following conclusions and recommendations to share as a POSITION PAPER UPDATE DRAFT on NCLB 2006 prior to AASPA's Annual Conference in Detroit, Michigan October 18 – 21, 2006 and will culminate a final update at the conclusion of the conference with input from the membership. It should also be noted that many of the conclusions and recommendations presented in this paper are shared by other education groups and associations and therefore the committee's recommendation (see 2005-06 Legislative and Governmental Committee Final Report to which this update is attached) to sign on as an Association in support of the Joint Organizational Statement on No Child Left Behind Act.

A special acknowledgement also needs to be given the National Conference of State Legislatures Task Force and their work reported in May 2006. Many of the conclusions and recommendations in this update parallel or are a direct reflection of the work done by this task force.

## I. RECONSTRUCT THE ACCOUNTABILITY MODEL (AYP)

### Conclusions:

1. The Annual Yearly Progress (AYP) assessment system established by this legislation remains a narrow and flawed measure of student performance where the proficiency of this year's 8<sup>th</sup> grade students in English (reading skills) is compared to last year's 8<sup>th</sup> grade students in English. As a result, the current AYP system does not account for significant academic improvement by students who miss the established benchmark of grade level proficiency (growth). It remains structured as a pass/fail system where schools have 40 ways to fail and only one way to pass. **Note: A "growth model" is being piloted by a few states and needs to be encouraged and implemented throughout all states.**

2. There are explicit contradictions between the newly authorized IDEA and NCLB: IDEA requires teaching to ability, NCLB requires testing to grade level. So, when contradictions present themselves, which law should prevail? IDEA is a statute but also has a basis in Civil Rights Law. Should IDEA always trump NCLB where an Individualized Education Program (IEP) determines the appropriate testing regimen?
3. There are also significant contradictions between NCLB's expectations for students with limited English proficiency (LEP) and what is commonly acknowledged by research (i.e. NCLB expects LEP students to perform at grade level within 2 years of entering the school system from another country).
4. With both IEP and LEP students, achievement of "proficiency" and movement out of the group means only those who by definition cannot meet the proficiency will populate the sub-group. **Note: The U.S. Department of Education has provided some flexibility to partially alleviate this problem.**

#### **Recommendations:**

1. Provide states greater flexibility in meeting the objectives of the AYP provisions by having the option of adding or substituting a "student growth" approach to testing and accountability, rather than the "successive group" approach currently prescribed by the law.
2. Allow states to utilize multiple measures (including formative assessments) rather than relying exclusively on standardized tests to evaluate a student's performance.
3. Allow states the flexibility to determine the order of interventions when a school is identified as being in need of improvement.
4. Give IDEA primacy over NCLB in cases of conflict.
5. Provide states flexibility in determining the percentage of special education students who can be tested according to their ability, not their grade level.
6. Allow states the flexibility to determine the appropriate time to use native-language tests and English-only tests when assessing LEP students.

## **II. DEVELOP NEEDED FLEXIBILITY IN DETERMINING HIGHLY QUALIFIED STAFF**

### **Conclusions:**

1. States remain in the best position to determine the qualifications of teachers in their states. The federal government may have a legitimate role in establishing standards for teachers; however, these expectations should be paid for adequately with federal funds.
2. The federal government focus should be on providing incentives to get highly qualified teachers into hard to staff classrooms, wherever they may be (i.e. rural or urban schools).
3. The flexibility given to “rural” districts uses the most restrictive of three federal definitions of ‘rural’.

### **Recommendations:**

1. Permit states to allow teachers who are teaching multiple subjects to be considered “highly qualified” based on a single means of evaluation.
2. Allow states to establish conditions under which exceptions could be granted to the “highly qualified” teacher or paraprofessional provisions of the law.
3. Amend the law so special education teachers who teach multiple subjects are able to meet the definition of a “highly qualified” teacher.
4. Incentives need to receive a higher priority to recruit the best staff available (i.e. signing bonuses, loan forgiveness, etc.)

## **III. PROVIDE ADEQUATE FEDERAL RESOURCES**

### **Conclusions:**

1. States account for 92% of public education funding; the federal government now provides 8%.
2. It is costing states an average of 1%-5% of their aggregate budgets to comply with the administrative requirements of NCLB (compliance costs-testing, data consequences of non-performance, state interventions, etc. Does not include cost of remediation, new programs, enrichment, summer interventions, etc.)

3. When compared to aggregate K-12 funding (@\$500 billion/year), the “historic” increases in federal funding brought about since NCLB’s enactment amount to:
  - a. Title 1 funding – an increase of 1% in K-12
  - b. NCLB programs – an increase of 1.1% in K-12
  - c. K-12 programs – an increase of 2% in aggregate K-12 funding

Therefore, under a conservative estimate of average costs to implement NCLB (2% increase in aggregate K-12 funding, which includes increases in Special Ed), the cost of complying with NCLB’s administrative requirements is nearly matched by federal appropriation increases.

4. What about costs to reach ‘proficiency ‘?
  - a. Remediation costs for reaching proficiency are best estimated by using “adequacy” as a proxy.
  - b. Adequacy estimates in the past have generally used 70% to 80% proficiency as the basis for estimates. NCLB requires 100% proficiency.
  - c. Meeting proficiency targets will require states to add 20% to 40% to existing K-12 budgets, an amount that could cost states hundreds of billions of dollars.
  - d. Impact of absolute and unattainable proficiency targets sets states up to be sued for adequacy.
  - e. Cost of not participating continues to be ratcheted up. Before NCLB, states stood to lose Title 1 money. After NCLB, new federal interpretation was the loss of all funds distributed by Title 1 formula.
  - f. Raising the stakes: Eligibility for Community Development Block Grant funds tied to communities that “meet NCLB AYP goals” in FY 2006 budget request.
5. What about Title 1 funding?
  - a. A little noticed provision in NCLB changes the Title 1 allocation formula, emphasizing concentrations of poverty.
  - b. Result? More than 50% of LEAs will get less Title 1 money in SY 2004-05.
  - c. 10 states will receive less Title 1 money: KS, ME, MA, MI, MN, MS, NH, NJ, ND, and PA at a time when NCLB begins to ratchet up demands to improve student performance.

### **Recommendations:**

1. Substantially increase federal funding for the law.

2. Conduct a Government Accountability Office (GAO) study of compliance and proficiency costs associated with NCLB.
3. Reevaluate the 100 percent proficiency goal established in the law.
4. Reexamine the financial consequences for states that would choose not to participate.

#### **IV. RAISE THE DEBATE OVER THE ROLE OF THE FEDERAL GOVERNMENT IN PUBLIC EDUCATION**

##### **Conclusions:**

1. NCLB greatly expands the reach of the federal government into the day to day operations of our schools.
2. NCLB conditions change monthly, if not more frequently, and federal interpretations of the consequences for not participating are ratcheted up.
3. The federal role in K-12 education should be commensurate with the federal contribution to K-12 education. Currently, the federal influence is disproportionate.
4. A “revitalized” state/federal partnership should respect the diversity of states and honor state systems that meet the spirit, not the letter of federal laws.
5. NCLB has helped a few states but stifled on-going innovation and improvement in many others.

##### **Recommendations:**

1. Congress should create a revitalized state/federal partnership that acknowledges diversity among states and shifts the focus from processes and requirements to outcomes and results.
2. Congress should remove ambiguity regarding the law’s grant conditions.
3. Conduct a study of whether the law is an unfunded mandate.
4. The US Department of Education should develop a transparent and uniform process for considering waiver applications.

## Final Thoughts

Throughout this update the concept of a revitalized state/federal partnership has been expressed which focuses on student outcomes and results. This partnership must also reach out to individual school districts and be felt as an effort to support educators at the local level, especially teachers in their classrooms.

To this end a philosophical shift needs to occur where the federal government and the US Department of Education uses the “carrot” instead of the “stick” as their primary motivational tool. There are numerous studies that support the conclusion that teachers, especially, are motivated to do their best not by extrinsic rewards or threats, but by intrinsic rewards of which student achievement is the greatest. The caveat to this research is that teacher’s economic benefits must be competitive. This philosophical shift also requires knowledgeable professionals in roles of leadership that understand what is meant by “best practices” to assure greater success when refinements to implementation of the law occur.

In closing it is important that AASPA maintain and assert its voice concerning the No Child Left Behind Law, particularly as Congress contemplates its reauthorization in 2006-07. However, there are issues that need to be kept on the table for discussion that impact the work of human resource professionals in education now and into the future. A recent commentary in *Education Week* (Vol.26, No. 4 September 20, 2006) by Thomas Sobol, professor, emeritus, at Teachers College, Columbia University (TCSuper@columbia.edu), and Executive Director of Pubic Schools for Tomorrow (Public Schools for Tomorrow is made up of current and retired superintendents), identified six of these issues. These issues are summarized from his commentary below.

**1. Equity and Adequacy...** Equity (meaning equal education opportunity) has always been at the foundation of achieving the American dream. The promise that one can work hard and get good grades in school which leads to a good job and the ability to raise a prosperous family regardless of one’s race, class or creed has always been a fundamental belief and principal of public education. Unfortunately, this promise has not always been kept. Student achievement continues to be closely tied to family background despite scattered gains as identified by NCLB measures of assessment. Taken as a whole, efforts to break that connection are not enough as the gap in student achievement persists with students of color, poor students, and second language learners with their white counterparts.

Adequacy litigation, undertaken in recent years in many states, provides an analytical picture where litigants identify the resources and conditions students need to meet the learning standards in their states, and seek judicial authority to compel the provision of those resources and conditions. Whether by this route or some other, government -- local, state, and federal -- must see that all children

have access to the means they need for educational success. One cannot achieve equity of outcome (student achievement) without adequacy of input (resources).

**2. Diversity...** From the time of its origins to the present day, the public school system has had as one of its chief tasks the integration of immigrant children into the mainstream of American economic and civic life. By and large this effort has been successful; however, today there is great pressure with the influx of “foreign” children largely from Asia and Central America. How these children are handled – soon to become the majority in large parts of the country – will determine what their lives will be as well as the rest of the country. The stakes are high and many questions need to be addressed. How one can best get these children to speak, read, and write English? Who goes to school, and with whom? How should schools communicate with non-English speaking parents? What kinds of tests should immigrant students be required to pass? How can the achievement gap be closed between immigrant children and those in the majority population? How can schools successfully assimilate immigrant children to become “Americans” in their own lifetime while respecting the cultural identity of their families?

Serious dialogue of these questions and others need to be discussed now or leave the outcomes to blind chance and happenstance. One way or another, the nation will be changed.

**3. Democracy...** Any student of American history knows that an educated citizenry is essential to maintain an effective democratic system of government. Public schools have a primary responsibility to prepare young people for effective participation in a democratic society. In recent years the preoccupation with the emphasis on basic skills of math and reading has limited attention to this larger purpose. Not to deemphasize the importance of basic math and reading skills, there are other basics as well where students should build a solid foundation in theory and practice of living and participating in a democratic system of government.

**4. Curriculum and Instruction...** What should be taught and how should one teach it? Do multiple-choice tests measure recall of factoids from the curriculum of the 1950s? There needs to be a vibrant discourse about what the new (perhaps competing) curricula should be. There also needs to be the debate of the issue of who should decide: the federal government? the states? local school districts? teachers? Curriculum standards and their frameworks have been established at the state level, but questions remain whether these standards have codified obsolete curriculum or established relevant outcomes to prepare students to compete in the global economy.

**5. Technology...** The coming of the iPod and its siblings and clones symbolizes the ability to place in each child’s hands the key to all existing knowledge – and to openings of worlds to come. Thus far, schools have merely

scratched the surface of new communications capacity. Technology has been used as a prop for existing curricula and operations, when its power lies in creating new curricula and fundamentally different ways of organizing for teaching and learning. Are current standards and testing programs getting in the way of “best practices” in technology utilization?

**6. Capacity...** There is a basic premise that if children are to learn better they need to be taught better. There is no more important variable in children’s schooling than the quality of their teachers. The No Child Left Behind law and similar approaches attempt to shame teachers into doing better. These approaches assume that teachers know what to do to be more effective, but for some perverse reason decline to do so. But, often teachers do not know what to do to be more effective. They need opportunities to learn from one another and from expert practitioners, and they need time to integrate new knowledge and methods into their own teaching practice.

Recruitment efforts need to target and attract able and effective people into the profession of teaching, to educate teachers well in both content and methods of their work, and to support practicing teachers with professional development linked to their daily work with standards and students. The piecemeal, underfunded initiatives that exist at present are inadequate to the need. A national, systemic, adequately funded program to develop the capacities of the teaching corps is needed.

Note: This document is being developed by AASPA with support from the Legislative and Governmental Committee and members at large to provide an UPDATED position for AASPA toward the “No Child Left Behind” Act of 2001 to submit and support recommendations for the law’s continued refinement and improvement.