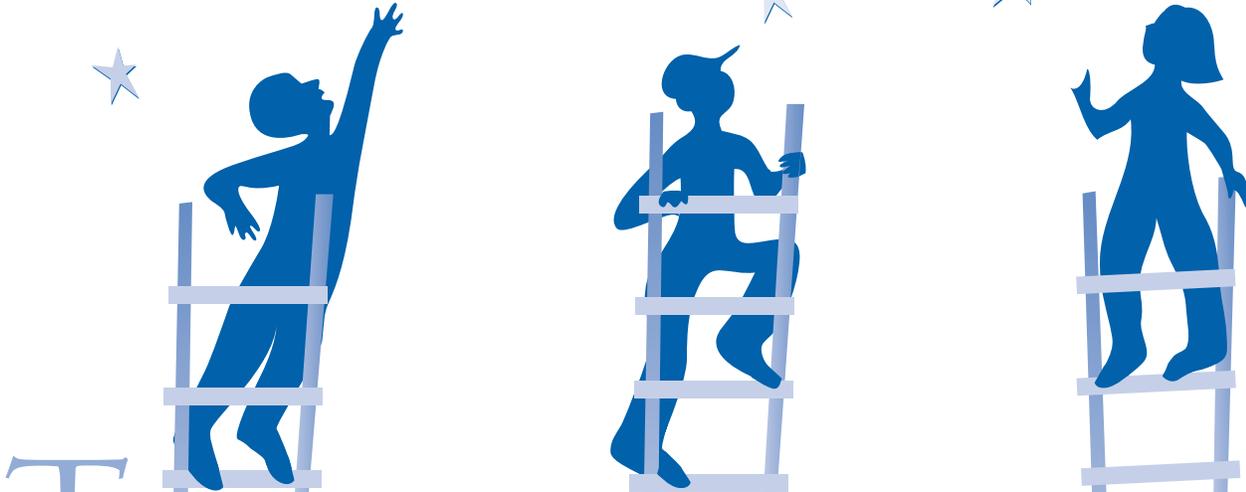


# NO CHILD LEFT BEHIND IN CALIFORNIA? THE IMPACT OF THE FEDERAL NCLB ACT SO FAR



Two years after President George W. Bush signed the act commonly referred to as No Child Left Behind—or NCLB—its comprehensive provisions are beginning to affect California public schools in ways large and small. And while the law is long and complicated, its central purpose is straightforward:

*“... to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state academic achievement standards and state academic assessments.”*

*Title I, Sec. 1001. Statement of purpose.*

Passed by Congress in December 2001 and signed by Bush in January 2002, NCLB reauthorized a law originally enacted in 1965. The Elementary and Secondary Education Act (ESEA) was created to support the education of the country’s poorest children, and that remains its overarching purpose. Congress must reauthorize it every six years, making the NCLB Act the equivalent of “ESEA: Version 7.”

Each reauthorization of ESEA has made some changes, but NCLB was the most dramatic revision of the act since its creation nearly 40 years ago. Its provisions represent a significant change in the federal government’s influence in public schools and districts throughout the United States.

NCLB was a bipartisan measure that had support from both liberals and conservatives, including prominent Democrats and Republicans in Congress as well as the president. It is based on the principle that each child has a right to an equally effective and rigorous education, and—if given that opportunity—that each has the potential to do well academically. NCLB arose out of continuing concerns about this country’s persistent achievement gap between minority and non-minority students, and between the disadvantaged and more advantaged. The act uses students’ academic performance as the key measure for accountability and applies strong consequences if the progress of schools, districts, and states does not meet a set of established expectations. A central assumption is that the key to achieving the desired level of performance for all students lies in chang-

ing state policies, and through those policies changing the behavior of school administrators, teachers, parents, and ultimately students.

NCLB strengthens the federal resolve that all states should implement standards-based education reforms, a direction that began with the Clinton Administration’s 1994 ESEA reauthorization. These reforms include specific learning goals (“academic standards”) that apply to all students; extra support to help students and schools meet those goals; increased flexibility for local schools in order for them to do so; and greater accountability for the results, particularly as measured by student performance on standardized tests. NCLB’s expansion of the 1994 ESEA provisions was due in part to what congressional leaders saw as a lack of progress on this standards-based agenda. The act goes well beyond “standards and accountability” issues per se to address policies on teacher quality, state assessment systems, and parental rights that were previously left up to each state’s discretion. It also adds new types of sanctions for schools and districts should they fall short of the federal government’s expectations.

These ambitious and far-reaching goals are consistent with much of the standards-based reform agenda California has been pursuing since the first adoption of academic content standards in 1997. Nevertheless, NCLB has prompted many significant changes in state policies and local school practices. Perhaps as a result, it has not been well received by many California educators and policymakers, including some who were instrumental in creating and promoting the state's own accountability systems. Certainly one problem has been the challenge of overlaying a new system onto one that already existed. (See the box on this page.) Further, while the intent of NCLB was to provide local flexibility, its provisions have been seen as too prescriptive, reaching

further into the local operations of schools than the federal government has previously ventured. Those who support NCLB credit it with putting increased pressure on schools to address achievement gaps and provide appropriate education to all students so they can meet the same high expectations.

This EdSource report covers the modifications that California has made in major education policy areas thus far to comply with NCLB and their impact on the state and its schools, with a focus on those provisions that have prompted the greatest upheavals. It also looks at some of the effects NCLB is expected to have on school and district operations going forward and the issues emerging as the policies play out in implementation.

### NCLB prompts changes in California's accountability system

NCLB's approach to school reform, like California's approach since 1999, leans heavily on the public reporting of stan-

dardized test results to hold schools accountable for their students' performance. However, the elements that California has had to integrate into its accountability system to maintain access to about \$2 billion in Title I funding take California's accountability system in new directions. For example, the newly integrated accountability system:

- 1) creates a different method for measuring progress;
- 2) places greater emphasis on the progress of subgroups of students by requiring the same performance of each student subgroup and adding two subgroups;
- 3) extends public accountability—and the consequences for not meeting performance targets—beyond school sites to school districts and the state; and
- 4) involves parents more directly and calls for direct, individualized services for low-income students when schools or districts do not meet expectations.

Furthermore, consequences for not meeting performance targets in the new

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## Implementing NCLB has been a great challenge for state officials as well as school districts

NCLB has required several changes in state law and thus action by the Legislature and governor. Working out the policy details, which requires blending the new federal rules with current state policy, has fallen on the California Department of Education and State Board of Education. Districts, in turn, face the challenge of understanding and implementing the new requirements.

The department and board have had to master the details of the 670-page No Child Left Behind Act, along with accompanying regulations and nonregulatory guidance. Some of these have been revised midstream, making it difficult to set state policy and clearly advise the Legislature on how to align California law with new federal requirements. The department and board have had to wrestle with technical issues like statistically valid performance measures of very small schools and with political issues like negotiating with the federal Department of Education, which at times disagreed with California's preferred policy direction. In most cases, this had to be done within very tight timelines.

Administrators and educators may feel at times that state officials have arbitrarily shifted direction and/or not allowed enough time for people "in the field" to satisfy policy requirements. However, many of the timelines were built into NCLB or were quite compressed given the challenge of designing fair, valid ways to implement a federal law that was far-reaching and often quite specific. State policymakers have tried to seamlessly integrate the existing state policies with new federal requirements.

## NCLB includes Title I and other federal programs

The 670-page No Child Left Behind Act is organized into 10 sections called “titles.” Each title establishes the requirements of a program or set of programs. For example, Title I, the most widely known section of the act, contains programs to help disadvantaged students, including general funding (“basic grants”) for schools in poor communities; funding for neglected and delinquent children; and other programs such as Reading First. NCLB creates the expectation that Title I funds—about \$2 billion in California in 2003–04—will be focused on improving student performance as measured on statewide tests aligned to standards. Districts get Title I basic grants based on the concentration of poverty in the communities they serve. The federal and state governments work together using census data to determine districts’ general eligibility for Title I. Eligible districts receive sizable basic grants: Los Angeles Unified School District had about 735,000 students and received about \$330 million in basic grants in 2003–04, while Oakland and Sacramento City had about 53,000 students and received almost \$30 million each.

Districts in turn allocate funds to schools. Those receiving Title I basic grants are designated “Title I schools” for various purposes. Priority for funding goes to schools that have 75% poverty rates, typically based on students’ eligibility for free and reduced-price meals.

Beyond that, districts have some choice in how they prioritize funding. Schools with poverty levels of 40% or more qualify for schoolwide Title I programs. This enables them to use the funds for all school programs but also means the entire school must comply with Title I requirements. Title I schools with lower poverty levels are known as “targeted assistance schools” (or “TAs”) because the funding does not apply schoolwide but is instead focused on serving low-achieving students within those schools.

As with Title I, funds from NCLB’s other programs are generally channeled through the California Department of Education to districts and schools. Congress has tried to re-orient these programs so they will work in concert with Title I and the overall intent of NCLB. A list of the act’s six major titles and the areas they cover follows:

**Title I: Extra support for students who live in poverty.** Along with basic grants, it also includes the Reading First, Early Reading First, Even Start, and Comprehensive School Reform (CSR) programs.

**Title II: Preparing, training, and recruiting high-quality teachers and principals.** This provides funds to school districts to improve training and development, hire new educators, and retain highly qualified ones. It also consolidates the federal Eisenhower professional development grants and class size reduction programs.

**Title III: Language instruction for limited English proficient (LEP) and immigrant students.** This state-administered grant program provides funding to districts based on the number of LEP and immigrant students they serve. The funding is on top of any Title I funding that schools may receive for those students. It includes specific assessment and parent notification requirements. Title III consolidated 13 competitive bilingual grants and the emergency immigrant education program.

**Title IV: 21st Century Schools.** This section provides grants for out-of-school programs aimed at keeping students safe and supporting academic achievement. Title IV includes the 21st Century Community Learning Centers and the Safe and Drug Free Schools and Communities programs.

**Title V: Promoting informed parental choice and innovative programs.** This provides federal grant support for Innovative Programs (Part A) and Public Charter Schools (Part B). (Both programs already existed.) It also adds a new incentive program to help charter schools meet their facility needs.

**Title VI: Flexibility and accountability.** Part A of this new program provides funds for states to improve the quality, validity, and reliability of their testing systems. It also allows districts to transfer federal funds among certain titles to most effectively meet student needs. Part B of this title provides extra grant funds and flexibility to school districts that are located in rural areas and serve fewer than 600 students.

**Note:** Additional elements of the ESEA continue largely unchanged, such as Title VII: Indian, Native Hawaiian, and Alaska Native Education; Title VIII: Economic Impact Aid; Title IX: General provisions (contains some additions and revisions); and Title X: Repeals, redesignations, and amendments to other statutes.

(A general overview of NCLB is available at: [www.ed.gov/nclb](http://www.ed.gov/nclb), and California-specific background is at: [www.cde.ca.gov/pr/nclb](http://www.cde.ca.gov/pr/nclb))

system apply only to Title I schools—about 65% of schools and 95% of districts statewide. Under the API system, intervention programs for schools that did not meet expectations have applied to Title I and non-Title I schools. State policy-

makers, however, are working on meshing the intervention programs associated with California’s API system with the intervention program that NCLB requires.

The changes California has made are important to schools and districts in part

because of their substance and in part because they come just when local educators and community members had become used to the methods prescribed in the state’s Public Schools Accountability Act (PSAA). Along with explaining the

## California's Academic Performance Index (API) system predates NCLB

Under the Academic Performance Index (API) system, the vast majority of California schools have received an API score for the school as a whole and for each “numerically significant” subgroup of pupils categorized by ethnicity and poverty. An API score is a one-number summary of various test scores.

Until recently, California did not assign API scores to every school every year. An insufficient number of students tested or a student body with a majority of at-risk students (typically found in continuation high schools, court schools, or other alternative schools) excluded a school from the API system and qualified it for the “Alternative Schools Accountability Model.” Further, if a school had irregularities in the test administration or experienced a significant demographic change from the previous year, it did not get an API score.

The API system is organized into two-year cycles, with a “Base” score for the first year and a “Growth” score for the second year. (The Base and Growth scores can be thought of as “before” and “after” snapshots.) In the early part of the calendar year, each school receives a Base score based on its students’ performance on tests given the prior spring. The school is also given growth targets for the school as a whole and its subgroups. The Growth score—based on test scores from the following spring—is released in the fall. A school’s Growth score indicates whether the school met its growth targets and is used to determine eligibility for awards or interventions—when the state can afford them. The calculation of Base API scores has changed as new elements have been added to the index. However, in each API cycle, the Growth API is calculated in the same way as the Base API, ensuring that the Base/Growth results are comparable.

Schools are ranked annually based on their Base API scores. Schools are ranked in two ways, but only with schools of the same type—elementary, middle, and high.\* First, schools are ranked against all others in the state. Second, they’re ranked against the 100 most similar schools, based largely on student demographics. Schools, for both types of rankings, are clustered into 10 groups of roughly equal size known as “deciles,” with the bottom 10% of each school type belonging to Decile 1, the second lowest 10% to Decile 2, and so on. A shorthand has developed around these rankings: a “7/5” school, for example, would be a school that received a state decile ranking of 7 and a “similar schools” decile ranking of 5.

The test scores used to create the index have evolved over time. For the first two years, the API was derived entirely from scores on a norm-referenced test that compared California students to a national sample and was not fully aligned to the state’s standards. Beginning with the 2002 Base APIs, the California Standards Tests—which assess students’ mastery of the state’s

academic content standards—have played a dominant role in the index. The California High School Exit Exam, which assesses mastery of standards in English language arts and math, has also been incorporated. Student performance on these tests is reported as meeting one of five performance levels: far below basic, below basic, basic, proficient, and advanced.

An API score is basically a summary of the distribution of scores among the five performance levels, with various subjects and tests receiving differing weights in that calculation. API scores can range from 200 to 1000. The state set 800 as the target score for all schools. If all students score in the top performance band on all subtests, the API score will be 1000.

To achieve growth in its API score, a school (or subgroup) needs to have a greater percentage of its pupils score in higher performance bands. The API formula rewards growth from the bottom of the performance distribution upward more heavily than growth from the middle upward. This creates an incentive for a school to work with its lowest-performing students.

For a school with a Base API score below 800, the annual growth target is 5% of the difference between 800 and its Base score. (The idea is that a school should be able to close the gap between its current score and the state goal by 5% in one year. The farther a school’s score is from the goal, the greater its growth target.) For example, a school with a Base score of 500 would have a growth target of 15 because that is 5% of the difference between 800 and 500. The growth target for schools with Base scores of 800 and above is to maintain their scores at 800 or above. Subgroup growth targets are generally 80% of the school’s target. So for a school with a Base score of 500, the subgroup targets would be 12 (80% of 15 = 12).

The API does not reflect individual students’ test-score growth. It summarizes a school’s performance in one year (Base) and compares it to the school’s performance in the following year (Growth), but the groups of students in each year are different. For example, in a K-5 elementary school, the Base API would include scores of fifth graders who would no longer attend the school during the Growth API year.

The incorporation of new elements into the index tends to yield scores that are different from scores in the previous cycle. (Including a difficult test in the index tends to result in lower API scores, for example.) Base scores are adjusted to compensate for the effect of the new elements in order to maintain continuity from one API cycle to the next. The California Department of Education likens this adjustment to that made to the Dow Jones Industrial Average when new stocks are included in the index.

\*Note: “Small” schools—those with fewer than 100 test-takers—technically are a part of the Alternative Accountability system. Their API scores come with an asterisk to indicate that the scores may not be as accurate an indicator of the schools’ “true” performance as it is for larger schools. Small schools do not affect the rankings but are given the ranking associated with their API scores.

figure 1 | Annual measurable objectives (AMOs) for schools and districts

Schools	The statewide AMOs in 2003–04 and 2004–05 (Percent proficient or above by subject)			
	English language arts		Math	
	2003–04	2004–05 (to 2006–07)	2003–04	2004–05 (to 2006–07)
Elementary and Middle Schools and Elementary Districts	13.6	24.4	16.0	26.5
High Schools and High School Districts (with no students in grades 2 through 8)	11.2	22.3	9.6	20.9
Unified School Districts and High School Districts with students below grade 9	12.0	23.0	12.8	23.7

The state has uniform goals for all students based on the type of school and subject matter. Districts' goals are generally the same as their schools. Unified districts' objectives are weighted averages of elementary/middle and high schools' objectives. The initial AMOs were set by ranking schools based on the percentage of students scoring proficient and then counting up from the bottom until 20% of the state's students were represented. The targets were then set based on the percent proficient in that school.

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new accountability system, this section compares it to what the education community had become used to and points out some of the implications of the changes.

### *NCLB affects California's measures of school progress: API versus AYP*

NCLB changes California's measures of school accountability to set uniform annual performance expectations for all schools and for all student subgroups. In 1999 California began using its Academic Performance Index (API) to publicly rank the performance of schools. The API is a single-number index given to each school based on a compilation of scores on the state's standardized tests. (See the box on page 4 for more details.) Every school was then given its own annual improvement goal ("growth target") based on how far its Base score was from a statewide target. This approach encourages ongoing improvement among students of all ability levels, and because of how the API is computed, a particular emphasis on the lowest-

performing students. Schools could meet their improvement goals even if they did not improve in all subject areas. The state gave awards for meeting growth targets and encouraged schools that did not improve to enter an intervention program.

NCLB calls for a significantly different calculation of school progress that sets the same target for all schools, regardless of their starting point. The federal law establishes the goal that all students reach proficiency in English language arts and mathematics by the end of the 2013–14 school year. Not only schools but also school districts and the state as a whole must make "Adequate Yearly Progress" (AYP) toward that goal. Further, NCLB specifies that each of the major subgroups of students at a school must achieve the school's outcome goals as well. (Under California's system, subgroups had to reach only 80% of the school's overall target.) Each group's progress must thus be tracked and reported. This includes students by ethnicity and family income, which Cali-

fornia law had already required, plus English learners and Special Education students, which it had not.

Under this new federal system, California determines whether schools make AYP based on measures of student performance and test participation. Those measures fall into three general categories: annual measurable objectives, participation in state testing, and additional indicators.

**Annual measurable objectives (AMOs).** Schools must meet a statewide interim target for the percent of students achieving proficiency on specified state tests. For elementary and middle schools, the tests are the California Standards Tests (CSTs) in English language arts and math. For high schools, the test is the California High School Exit Exam (CAHSEE), which covers English language arts and math. For the latter, the specific measure is the percent of 10th graders achieving proficiency, which is a substantially higher standard than the passing score set for the high school graduation requirement.

## NCLB continues the emphasis on standards-based testing and the need for better data

### California will focus on standards tests and scale back the STAR testing system

The new AYP system in California reinforces a recent trend of holding schools accountable for their students' mastery of state academic content standards as opposed to mastery of the basic skills tested on the norm-referenced tests, Stanford Achievement Test, Ninth Edition (SAT-9) and California Achievement Tests, Sixth Edition, Survey (CAT/6). The Academic Performance Index has put more and more weight on standards-based tests over time, and the AYP system's annual measurable objectives, which are based purely on standards-based tests, push California even further in that direction. This emphasis on the standards will only grow in time. Given the state's current fiscal crisis, and the fact that NCLB does not require states to use a norm-referenced test, California has opted to administer the norm-referenced test (currently the CAT/6) only in grades 3 and 8, beginning in 2005. However, the Legislature will likely revisit this recent retrenchment in the testing program in 2004 when it takes up the reauthorization of the Standardized Testing and Reporting (STAR) program.

### The state has to improve its data system in order to meet NCLB reporting requirements

California has been working for several years to improve its data system, and those efforts have been given additional impetus—and funding—courtesy of the federal government. The key improvement is the development of a system that will enable California to track the progress of individual students (as opposed to grades or schools) as they move through the school system. State leaders hope to have the system completed by 2006. California is one of 22 states working on this type of longitudinal data system.

### California High School Exit Exam

#### Passing score:

55% on math  
60% on English

#### "Proficiency" score:

69% on math  
77% on English

For the CSTs, schools are judged based on the percentage of students scoring at the top two levels of test performance—proficient and advanced. These represent high expectations that can reasonably be seen as placing a student on track to enter a four-year college upon high school graduation.

The state's proficiency targets vary by subject matter and grade level. (See the table on page 5.) California was required to follow federal guidelines in setting its initial targets but had discretion over how it defined proficiency. Similarly, while the federal law calls for AMOs to rise periodically until they reach 100% in 2013–14, the state exercised its option to set a somewhat gradual rate of increase. California officials decided to use a "stair step" path to 100%, rather than a straight line, so that initially schools and districts would not have to increase the percent proficient every year. For example, the objectives will rise in the 2004–05 school year and then remain stable until 2007–08, when they begin a steady climb to reach 100% in 2013–14.

**Test-participation rates.** The state, districts, schools as a whole, and all subgroups within schools and districts must achieve a 95% participation rate on the relevant test to make AYP. The rationale behind participation rates is that some minimum level must be set in order for school and subgroup scores to be valid indicators of performance. Officials also want to prevent schools from systematically excluding struggling students from testing in order to raise their overall score.

The AYP participation requirements differ somewhat from what California schools were used to under the API system. To receive a valid API score, elementary and middle schools have been required to test 95% of eligible students, and high schools have been required to test 90%. (The state set a lower bar for high schools, recognizing high school students' tendency toward lower participation rates.) In addition, schools did not have to count as "eligible" those students excused from testing by their parents or students whose Special Education Individualized Education Program (IEP) stated that the state's standardized tests were not appropriate for them. Students thus excused from testing did not lower a school's participation rate.

Further, insufficient participation did not carry a penalty, but just meant that the school did not receive an API score. For schools with 5% to 10% parental-excuse rates, the state would give the school an API score if, after statistical analysis, it was determined that the students tested represented the school as a whole.

By contrast, under the AYP system all students are considered eligible for testing, and schools with more than 5% of their students not taking the test for whatever reason do not make Adequate Yearly Progress. All student subgroups must meet the same participation standard, including Special Education students. High schools must meet the same 95% participation rate as elementary and middle schools.

**Additional indicators.** NCLB requires states to choose additional indicators of schools' progress. These indicators cannot be used to reduce the number of schools that would otherwise be subject to federal sanctions due to not making Adequately Yearly Progress. (Roughly speaking, the additional indicator cannot make it easier to make AYP.) The indicator is for the school as a whole but is broken down by student subgroups for purposes of "safe harbor." (See the box

explaining how to calculate “safe harbor” on page 10.)

For high schools, the graduation rate must be used and other indicators may be used. For elementary and middle schools, states have more leeway to select the indicator. Most states selected attendance as their additional indicator in the lower grades.

California chose to use the Academic Performance Index (API) as an additional indicator for all schools, including high schools. (Doing so allowed the state to maintain a semblance of continuity in its accountability system. This approach also allowed the state to hold schools accountable for performance in science and history/social science—albeit in a small way because those subjects play a small role in the API.) To make AYP, all schools must either meet a specified minimum score each year or improve by one point. For the 2003–04 school year, the required minimum score is 560 on a scale of 200–1000. This baseline API score was set in a fashion similar to that used to determine the baseline annual measurable objectives. (See Figure I on page 5.) About 88% of schools had a 2003 Growth API that exceeded this mark, and the expectation was that schools that made their AMO targets would easily achieve this minimum API goal as well.

High schools must also achieve a minimum graduation rate or show a specified level of improvement. The graduation rate, often the subject of debate in California in the past, will be calculated using the National Center for Education Statistics method. For a given year, the number of graduates is divided by the graduates plus dropouts from that year and the three previous years. (See the box on this page for an example.)

(Additional information about the AYP system in California and AYP reports for local schools and districts are available at: [www.cde.ca.gov/ayp](http://www.cde.ca.gov/ayp))

## Calculating the graduation rate: An example

Suppose 90 students graduated from a high school in June 2003, and three dropped out during 2002–03, one during 2001–02, two during 2000–01, and four during 1999–2000. The graduation rate for 2003 would be  $90/(90 + 3 + 1 + 2 + 4)$  or  $90/100$  or 90%.

This method of calculating a given year’s graduation rate is then used in one of three formulas for determining whether a school or district has met the graduation rate criterion.

### Three ways to meet the graduation rate requirement for 2003:

- 1) Achieve a rate of at least 82.8%;
- 2) Show an increase from 2002 of at least 0.1 percentage point (e.g., 74.1% to 74.2%);
- 3) Show an increase of at least 0.2 percentage points between the following:
  - a. the average rate from 2000 and 2001,
  - and
  - b. the average rate from 2002 and 2003.

*An example of satisfying method #3:*

Year	Graduation rate		
2000	68.2%	average	67.3%
2001	66.4%		
2002	68.2%	average	67.8%
2003	67.4%		

Increase of 0.5 percentage points

*New provisions require the state to add districts to the accountability system* NCLB extends accountability measures beyond school sites alone to school districts as a whole. It will eventually create a system of sanctions and interventions at the district level that will be new for California. The same sets of measures used to determine AYP for a school will also be used to hold school districts accountable. This represents a substantial change for California, which had previously focused its accountability measures and sanctions only on schools.

Beginning in 2003, school districts for the first time received their own API and Adequate Yearly Progress reports. The state calculates the results for a district as if it were one big school and does not use school-level results as the building blocks

for the calculation. The AYP targets for districts are generally the same as elementary, middle, and high school targets. (See Figure I on page 5.) Districts with high schools will have to meet graduation rate targets as well as participation and test-performance goals.

Almost all California districts (95%) receive Title I funds for one or more of their schools and must therefore make Adequate Yearly Progress or face consequences. However, state leaders had not yet decided the specific consequences when this publication was written. The California Department of Education is expected to present some options to the State Board of Education in January 2004 for placing districts in an intervention program, with implementation beginning in the 2004–05 school year.

## The Academic Performance Index (API) and Adequate Yearly Progress (AYP) take different approaches to reach the same goal

	API system	AYP system
Who receives scores	<ul style="list-style-type: none"> <li>• Schools (alternative schools now included due to NCLB)</li> <li>• Schools' student subgroups (seven ethnicities and socioeconomically disadvantaged)</li> <li>• Districts as a whole and student subgroups (prompted by NCLB for purposes of "safe harbor" designation)</li> </ul>	<ul style="list-style-type: none"> <li>• Schools</li> <li>• Districts</li> <li>• State</li> <li>• Student subgroups for schools, districts, and the state (eight subgroups tracked for the API plus two others—English learners and Special Education students)</li> </ul>
Subgroup size	30 students and 15% of student body, or 100 students	50 students and 15% of student body, or 100 students
Participation rate minimum	95% for elementary and middle schools and 90% for high schools for performance awards. Students excused from testing by their parents or Individualized Education Program (Special Education) do <i>not</i> count against a school's participation rate.	95% for all schools, districts, the state, and subgroups. Students excused by parents or Individualized Education Program (Special Education) <i>do</i> count against a school's participation rate. Falling short of the participation rate for a minimum of two years in a row could lead to sanctions.
What tests and measures count	<p>Elementary &amp; middle schools:</p> <ul style="list-style-type: none"> <li>• California Standards Tests (CSTs) in English language arts and math</li> <li>• Norm-referenced test (SAT-9, 1999 through 2002; CAT/6, 2003 on)</li> <li>• California Alternate Performance Assessment (CAPA), beginning with 2003 Base API</li> </ul> <p>High schools:</p> <ul style="list-style-type: none"> <li>• CSTs in English language arts, math, history/social science</li> <li>• Norm-referenced test (SAT-9, 1999 through 2002; CAT/6, 2003 on)</li> <li>• Exit exam, grades 10 to 12</li> <li>• California Alternate Performance Assessment (CAPA), beginning with 2003 Base API</li> </ul>	<p><b>For AMOs:</b></p> <p>Elementary &amp; middle schools:</p> <ul style="list-style-type: none"> <li>• CSTs in English language arts and math</li> <li>• California Alternate Performance Assessment (CAPA)</li> </ul> <p>High schools:</p> <ul style="list-style-type: none"> <li>• Exit exam, grade 10 only</li> <li>• CAPA</li> </ul> <p>Districts:</p> <ul style="list-style-type: none"> <li>• Based on type of schools in district</li> </ul> <p><b>For "additional indicators":</b></p> <p>Elementary &amp; middle schools:</p> <ul style="list-style-type: none"> <li>• API</li> </ul> <p>High schools:</p> <ul style="list-style-type: none"> <li>• API</li> <li>• Graduation rate</li> </ul> <p>Districts:</p> <ul style="list-style-type: none"> <li>• API</li> <li>• Graduation rate if district has high schools</li> </ul>
What constitutes success	<ul style="list-style-type: none"> <li>• High statewide and "similar schools" rankings</li> <li>• Meeting "growth targets"—showing improvement in schoolwide and subgroup API scores from the Base year to the Growth year. The schoolwide target is 5% of the difference between the Base score and the state goal of 800. The subgroup target is 80% of the schoolwide target.</li> </ul> <p>(Applicable to subgroups and schools but not to districts or the state)</p>	<ul style="list-style-type: none"> <li>• Every subgroup achieving the statewide target for Adequate Yearly Progress, including AMOs, participation rates, and additional indicators.</li> <li>• AMOs increase so that by the end of 2013–14, they reach 100% of students "proficient."</li> </ul> <p>(Applicable to subgroups, schools, districts, and the state)</p>

### *Interventions for schools “in need of improvement” must meet federal expectations*

Federal regulations have for several years required Title I schools to show Adequate Yearly Progress or face intervention (“Program Improvement”). From 1999 until 2002, California used its system of API growth targets as the measure for AYP for schools and subgroups. The intervention programs that California created for schools struggling with their API scores served schools without respect to their Title I status, which obscured the fact that some Title I schools were simultaneously subject to consequences under federal requirements.

The Immediate Intervention/Underperforming Schools Program (II/USP) was California’s principal intervention program. Beginning in 1999, it provided schools in deciles 1 to 5 (the bottom half of API rankings) that missed their growth targets with extra funding if they volunteered to hire an external consultant and create an improvement plan. Upon approval of that plan, the schools received funds for implementation over two to three years. If they failed to improve their API scores during the implementation years, they were assigned a school assistance team. California integrated federal Comprehensive School Reform program requirements and funding with II/USP because of the similarity of the federal program. In addition to these two programs, in 2001 the state created the High Priority Schools Grants Program to provide more resources to help schools in the bottom 10% of API rankings, some of which already participated in II/USP, the federal program, or both. The High Priority Schools Grants Program has its own set of requirements and expectations and also calls for school-assistance teams if participating schools do not improve. Although all of these programs are well-intentioned, together they have created a tangled web of school interventions, with some schools belonging to more than one,

if not all, programs. Honoring promises to these schools—and following through on sanctions—plus merging them with NCLB’s new system of consequences is a great challenge that the state has been grappling with for more than a year.

**NCLB created new consequences for struggling Title I schools that do not overlap with existing state intervention programs.** Under NCLB, the consequence becomes more severe with each year that a school does not make Adequate Yearly Progress, but schools have at least five years to raise student test scores before they face the most drastic sanctions. Schools in California that miss the same AYP indicator two years in a row are judged to be “in need of improvement.” Those schools will then enter “Program Improvement.” Schools in Program Improvement must promptly notify students’ parents of the school’s status and the reason for it. In addition, within three months of being identified, schools must develop a two-year improvement plan that includes:

- using research-based strategies to strengthen core academic subjects;
- spending at least 10% of Title I, Part A funds on high-quality professional development that incorporates teacher mentoring;
- developing strategies to promote parental involvement;
- allowing students to transfer to a public school within the district (or to another district if a reciprocal arrangement has been made with that district) that is not in Program Improvement. The original district must provide or pay for transportation as long as the school is in Program Improvement.

In the next year, even if a school makes AYP, it still operates under these sanctions. It must make AYP for two consecutive years to leave Program Improvement.

If a school does not make AYP in the succeeding year, it enters the next level of

sanctions or Year 2 of Program Improvement. In Year 2, schools must do all of the above and provide supplemental services—such as tutoring or other enrichment activities provided outside of the normal school day. The district can offer supplemental services as long as it is not in Program Improvement. The district must spend at least 20% of its Title I, Part A funding on choice-related transportation, supplemental educational services, or a combination of the two, with at least 5% of the funding going to each.

If schools still do not improve, Year 3 of Program Improvement brings “corrective action.” The district must inform the parents and public of the corrective action status and allow them to comment on it. In addition, it must do one or more of the following:

- replace appropriate school staff;
- implement new curriculum;
- decrease the management authority of the school principal or other site-level leadership;
- appoint an outside expert;
- extend the school day or year; or
- restructure the school.

If the corrective action does not work by Year 4, then the district and the local school must develop a plan for alternative school governance, notify parents and teachers of the plan, and allow them to comment on it. This plan must involve reopening the school as a charter, replacing staff as appropriate, contracting with an outside entity to manage the school, or arranging for the state to take over the school. Absent sufficient improvement, in Year 5 the district must implement the new governance plan.

### **Schools that show enough progress may escape Program Improvement**

NCLB provides an exemption from Program Improvement for schools that are improving but still fall short of achieving AYP because a specific subgroup does not meet the performance target. This is

known as “safe harbor.” The percentage of students scoring below “proficient” in that subgroup must have decreased by at least 10% compared to the year before, and the subgroup must have made progress on one or more of the other academic indicators.

#### A sample “safe harbor” calculation

In year one, the state’s math AMO is 20%, but only 10% of a school’s low-income students are proficient, leaving 90% not proficient.

The school can make “safe harbor” in year two if:

- the percent not proficient in math decreases by 10% (9 percentage points, in this case); and
- the low-income students meet the AMO in English.

#### California is focused on Title I schools

California has limited the consequences portion of the AYP system to those schools that receive federal Title I money. NCLB calls for each state to establish a single accountability system that contains sanctions and rewards to hold schools accountable for making Adequate Yearly Progress. However, only Title I schools that fail to make AYP two years in a row are required to be placed in Program Improvement. As a result of these federal requirements and the state’s limited resources, districts and schools receiving funds under Title I are the only ones—for the time being at least—that will face sanctions based on their inability to make AYP. Therefore, NCLB in California focuses pressure for improvement on the schools that serve many students who live in poverty (thus qualifying for Title I) and presumably where the largest portion of students are not performing up to expectations.

As Figure 2 illustrates, Title I designations are not evenly distributed among California’s 7,642 elementary, middle,

and high schools. In particular, the percentage of high schools in Title I is relatively low. As described on page 3, school districts do exercise some discretion in the way they identify low-income children and rank schools for Title I eligibility. It is unclear whether those district actions or some other factors contribute to the lower proportions of Title I middle and high schools compared to elementary schools.

#### California’s accountability choices have been shaped by the existing context

When it comes to accountability, every state had considerable flexibility under

## NCLB calls for scientifically based research as the basis for reforms

The No Child Left Behind Act contains more than 100 references to “scientifically based research,” calling on its use to improve reading, school improvement, teacher professional development, and other programs. The act defines such research as involving “the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs.”

Among other requirements, the research must employ rigorous data analysis and use experimental or quasi-experimental designs that control for several variables. By implication, a premium is placed on studies such as the one that produced the polio vaccine—ones in which a large number of subjects are randomly selected into a “treatment” and “control” group, with neither subjects nor experiment administrators knowing which subjects are in each group, and an independent evaluator observing the effects on the respective groups.

To bolster the federal government’s emphasis on research-grounded educational strategies, Congress replaced the Office of Education, Research and Improvement, a division of the U.S. Department of Education, with the Institute of Education Sciences, which is to be more independent and more focused on rigorous research than its predecessor. The new office has set up the What Works Clearinghouse, which is designed to provide educators, policymakers, and the public with a central, independent source to verify the validity of educational research. (See: <http://w-w-c.org/>)

A number of questions arise from this new emphasis on scientifically based research. For example, will educational research be funded at a level that allows it to become as large-scale and sophisticated as is envisioned? Will a preference for randomized designs crowd out research employing in-depth case studies even if the latter are designed according to scientific principles? Will research findings from large-scale experiments be applicable at the local level? Will the federal government create mechanisms to ensure that states only fund local programs that employ scientifically researched methods? Can the field of education be transformed from one that sometimes seems ruled by cycling fads to one truly grounded in scientific methods?

NCLB. In California’s case, however, state leaders made their choices about the proficiency standards, performance measures, district accountability reporting, and implementation of Program Improvement in the context of the system they had been developing since passage of the Public School Accountability Act in 1999. This blending of the new federal rules with existing state policy has created confusion and some issues of serious concern.

To begin with, overlaying the new federal program onto the state’s existing system has added complexity and confusion. Neither local school officials nor the

general public seem to have a clear sense yet of what the various AYP, AMO, and API numbers actually communicate about a school's effectiveness. State officials continue struggling to fully integrate the two systems so that the message will be clear and the measures easily understood. In the meantime, however, the current situation may be frustrating those the accountability system is meant to inform, including parents. If the process is not completed quickly and well, this could harm the credibility of both the state and federal accountability measures.

### The standards may be too high and the demands too great

How the state defined "proficient" for its academic goals under NCLB was a particularly important and contentious issue. California's academic content standards have been widely recognized for their rigor and the high expectations they set. In creating its targets for AYP purposes, the State Board of Education could have reasonably set the "basic" level of performance on the California Standards Tests as the goal. And it could have used the existing passing mark on the exit exam as the proficient level. In both cases, however, the board did not want to lower the standards California had already labeled as "proficient." They chose to stick with the state's definitions even though they are admittedly high bars for every child to reach, particularly at the K–8 level.

The board's decision ran counter to recommendations from several education and government organizations, which expressed concern that the goals were unrealistic. These critics felt the decision would set up almost every school in the state for failure in later years when the expectation will be that 100% of students reach the standard. However, the board's action garnered praise from others, including advocacy groups that promote high academic achievement for all students and call for

figure 2 | Proportion of schools that are Title I, by school type

Type of school	Percent of state's students enrolled in each type of school <sup>†</sup>	Percent of schools that are Title I	Number of Title I schools
Elementary	51%	71%	3,890
Middle	19%	60%	750
High	27%	40%	424
Other*	4%	21%	380

\*Continuation and other alternative, Special Education, and K-12 (all grades in one) schools.

<sup>†</sup>Does not total 100% due to rounding.

DATA: CALIFORNIA DEPARTMENT OF EDUCATION

EdSource 1/04

equal access to an education that prepares every student for college.

The sheer number of schools in Program Improvement today—and the specter that the number will increase steadily as the AYP expectations rise—also have state and district officials very worried. They may be hard pressed to handle more schools in Program Improvement, particularly given the state's budget problems and the relatively modest funding increases coming from the federal government. As of August 2004, there were 650 elementary schools, 320 middle schools, and 155 high schools included in Program Improvement. In 2004–05, when the AMOs increase, the number of schools may also rise dramatically. Adding more schools to Program Improvement may just exacerbate officials' ability to support schools as they try to make hoped-for improvements.

### District-level accountability is a new and unfamiliar requirement

California's own accountability system was sharply focused at the school-site level. To the extent that school districts were officially part of the system at all, it was in the role of reporting schools' performance and approving their improvement plans. NCLB calls for a level of school district accountability and performance accounting that is new in

California and may also be very challenging. The state's 986 school districts range in size from fewer than 20 students to more than 700,000. This is also one of only two states that have some districts that are K–8 or high school only.

So far, state officials and the media have paid very little attention to the district level API and AYP reports released in the fall of 2003. When this publication was written, details regarding the criteria for identification of districts in Program Improvement were not available. Californians have only begun to grapple with what interventions in Program Improvement districts might look like or where the resources would come from to support districts deemed to need improvement. This is likely to become a growing concern as the implications become clearer.

### Will NCLB lessen the pressure for high school improvement?

An interesting and probably unintended by-product of the way the state and federal accountability programs have meshed is that the resulting system may take some of the pressure for improvement off high schools. One reason is the use of the exit exam to measure AYP at the high school level, a decision necessitated by federal regulations. This actually sets a lower bar for high schools than for K–8,

given that the exam, though rigorous, is geared to 10th grade English and 7th grade math standards, plus some algebra. High schools will thus have an easier time meeting their annual measurable objectives than schools for younger grades. Add to that the fact that a smaller proportion of high schools participate in Title I and thus fewer are subject to the provisions of Program Improvement should they fail to meet those objectives. California's API system has indicated that high schools in particular have not demonstrated the same improvements in academic performance that state reforms have engendered at the elementary level. Will California's implementation of NCLB actually insulate high schools from the pressure for improvement that is being so keenly felt at other levels of the system? Or can the state find other ways to keep the heat on as it continues to adjust the system?

### **NCLB affects Special Education students and English learners**

NCLB emphasizes the importance of tracking the performance of subgroups of students. The concept is nothing new in California, where the Public Schools Accountability Act of 1999 required that progress be reported and targets met for significant student subgroups based on ethnicity and socioeconomic status. The federal law pushes this further, however, by requiring schools to also track the progress of students with disabilities who receive Special Education services and students who are learning English. The goal is to use the high visibility of the accountability system—and the threat of sanctions—to ensure schools provide the extra services necessary to educate these special needs students to the same high standards expected of other students. All states find these expectations very challenging, and they have voiced their concerns to the federal government, which has recently created less stringent administrative regulations.

### *Mainstreamed expectations cover Special Education students*

**NCLB puts a sharper focus on the progress of Special Education students and requires the vast majority of these students to meet the same academic standards as the rest of the student population.** While California has required that Special Education students take the state's standardized tests since 1997, it did not require them to achieve the same standards as the rest of the population. That changed with the AYP reports for 2003.

About 11% of California's 6 million school children receive Special Education services. About a third of Special Education students receive instruction outside of regular classrooms because of the nature of their disabilities, including in special day classes, nonpublic schools, and state-operated special schools. All of Special Education students must participate in state testing. For most that means taking the same tests as other students but with some accommodations as called for in the students' Individualized Education Program (IEP).

The performance of students with severe cognitive disabilities is measured by the California Alternate Performance Assessment (CAPA), in which teachers observe and record student performance on tasks that are the building blocks of California's academic content standards. The CAPA has five performance levels, just as the California Standards Tests do.

When measuring Adequate Yearly Progress for the state and districts, the students scoring "proficient" on the CAPA may count for only 1% of the total students. Individual schools are not subject to the 1% limit. The federal government instituted the cap to prevent states from taking the easy road to meeting AMOs by assessing mildly disabled students on a test that would not be challenging for them. The intent is for alternate assessments, such as the CAPA, to be given only to that very limited

portion of students with the most significant cognitive disabilities. However, the new regulations allow states and districts to apply for a higher limit if they can demonstrate that they have a larger population of students with severe disabilities. This flexibility prevents schools and districts with above-average proportions of severely disabled students from being unfairly held to the same standard as schools and districts with smaller proportions. It also prevents the creation of a disincentive to offer high-quality Special Education services that may attract severely disabled students.

### *The progress of English learners is now tracked separately*

**NCLB also calls for schools and districts to report on English learners as a significant subgroup, a requirement that California had difficulty responding to due to its approach in identifying English learners.** The federal law initially called for English learner (EL) students who were officially redesignated as fully English proficient (RFEP) to be excluded from the EL subgroup for accountability purposes. However, the state's testing system and performance standards were set up so that English learners performing at a "basic" level on the CST in English language arts qualified as RFEP students for the purpose of school programs and services. Thus, under the original federal guidelines, these students would have been taken out of the EL subgroup, making it virtually impossible for that subgroup at a given school or district to ever reach "proficiency" as defined for AYP purposes. California and federal officials met several times to resolve this issue. Ultimately, the federal government agreed to allow the state to call students English learners (even if they have been reclassified as fluent) until they have scored proficient on the CST in English language arts for three consecutive years. This is for AYP purposes only and will

allow English learners as a group to show academic growth.

*Title III of NCLB calls for a separate proficiency target for English learners*

The federal government provides substantial support for English learners and immigrant students. Title III of NCLB consolidated 13 separate education programs into two local-assistance funding streams, one for serving English learners and the other for serving immigrants. (This funding is on top of any Title I funding and state Economic Impact Aid money that districts may receive for these pupils because of their poverty status.) The programs support school districts' efforts to teach English to these students and help them reach grade-level academic standards. NCLB requires that California assess the progress of English learners in meeting both goals. Districts with Title III programs (as well as county offices of education and direct-funded charter schools) are held accountable both for the progress of English learners in attaining English proficiency under Title III and for the attainment of grade-level academic standards as required for Adequate Yearly Progress (AYP) under Title I.

**Title III requires states to establish benchmarks and annually measure the progress of students trying to attain English proficiency. California's implementation of Title III requires districts to monitor English learners' progress in learning and attaining English fluency.** NCLB called for the state to set performance goals for English acquisition and monitor districts' progress against those goals. In response, the State Board of Education recently adopted two sets of performance goals for English learners, with annual targets similar to the AYP system. One set of goals deals with students' making annual *progress toward* English language proficiency, and the other set deals with the *attainment of* English proficiency. These district-level

goals are referred to as annual measurable achievement objectives or AMAOs.

California uses the California English Language Development Test (CELDT) to measure each English learner's progress. The CELDT evaluates listening/speaking, reading, and writing skills, and students receive scores ("proficiency levels") on each section and for the test as a whole. The five proficiency levels are: beginning, early intermediate, intermediate, early advanced, and advanced. (To learn more about the definition of an "English learner" and the CELDT, see the box on this page.)

In July 2003 the State Board of Education adopted two sets of AMAOs. The first is the target for annual improvement in English proficiency as measured by the CELDT. Beginning in 2003–04, districts will be expected to have 51% of their English learners meet an annual growth target. Depending on their initial status, students can meet the target three ways:

- Students at the beginning, early intermediate, or intermediate levels are expected to gain one proficiency level per year;

## The California English Language Development Test (CELDT) measures English proficiency

In California, students are considered English learners if they come from a home in which the primary language spoken is not English and if they do not earn a specified score on the California English Language Development Test (CELDT).

The test measures English proficiency in listening/speaking for students in kindergarten through 12th grade, and in reading and writing for students in grades 2 through 12. An English learner takes the test within 30 days of initial enrollment in a school district and annually thereafter until reclassified as "fluent English proficient (FEP)." A student receives a score on each section and an overall score.

The State Board of Education recommends that English learners be considered for reclassification if they have overall CELDT scores of early advanced or advanced and all subskills at the intermediate level or above. Additional measures to be considered include teacher evaluation, parent opinion and consultation, and student performance on the California Standards Test (CST) in English. School districts are responsible for deciding when a student is reclassified.

For additional background on the CELDT test, go to: [www.cde.ca.gov/statetests/CELDT/CELDT.html](http://www.cde.ca.gov/statetests/CELDT/CELDT.html)

- A student at the early advanced level with some skill areas below intermediate is expected to bring all skill areas up to the intermediate level; and
- A student already at the English proficiency level is expected to maintain that level until they are reclassified as "fluent English proficient."

The expectations will increase over time, leading to an end goal in 2013–14 of having 64% of English learners meet the annual growth target. Only 25% of districts were at that level in 2001–02.

The second set of AMAOs pertains to the percentage of students attaining "English proficiency" each year. Proficiency is defined as scoring at least early advanced overall and at least intermediate on each section of the CELDT. Districts are held accountable only for students who are within reasonable reach of attaining proficiency—namely those who:

- have been in school in the United States for at least four years;
- have had an overall score of intermediate in the prior year; or

- have gained at least two levels over the prior year to attain proficiency.

In recommending adoption of the first criterion, the California Department of Education referred to research showing that it generally takes a student four to seven years to attain proficiency. The second criterion aligns with the expectation that a student gain one proficiency level each year, regardless of how long the student has been in the United States. The third allows districts to get credit for English learners who show above-average progress.

The initial target for the second AMAO requires that 30% of students in this eligible group reach the English proficiency level. This increases to 46% of students in this group achieving proficiency annually by the end of 2013–14. Only 25% of districts achieve the 46% figure today.

The federal law also includes some specific requirements districts must meet in order to secure Title III grants. A district must, for example, certify that all teachers in any language-instruction program funded with NCLB dollars are fluent in English and any other language used for instruction. A district must also follow comprehensive rules for communicating with parents, including notifying them within 30 days if their school fails to make progress on its AMAOs, and doing so in the parents' primary language if practical. (This latter requirement overlaps with state law requiring parent notices be written in appropriate languages whenever 15% or more of the pupils speak a primary language other than English.)

### *Must we accept that some children will not become proficient?*

Holding schools accountable for the performance of children with disabilities and children who need to learn English seems consistent as part of a law entitled “No Child Left Behind.” But practical realities interfere with that ideal.

Tracking both Special Education students and English learners as subgroups has caused consternation among school officials. Some of the concerns revolved around regulatory requirements that seemed to ignore certain California realities. One such concern was with the cap on the use of alternative assessments for measuring progress because it seemed to punish districts with high-quality Special Education programs that attracted large numbers of special-needs pupils. Another concern was with the requirement to track progress of English learners even after they had been reclassified because it made it almost impossible for that subgroup to make AYP. In recent months, discussions with federal officials have addressed both of those legitimate and troublesome complaints.

However, in practice, how appropriate and feasible is it to expect that virtually every Special Education and English learner student can achieve a level of proficiency that is demanding even for those who begin school without such disadvantages? These goals in NCLB stimulate a debate among educators that arises whenever they address the question of public education's ultimate goals. Is it best to set and strive for the goal that 100% of children achieve proficiency even though it may be impossible to fully attain? Or does setting an unattainable goal create cynicism about an improvement program and thus undermine its effectiveness? And does it set districts up for unnecessary difficulties when dealing with parents of the profoundly disabled?

(The January 2004 issue of *Quality Counts*, published by *Education Week*, explores the issue of Special Education and standards-based reform in depth. It is available at: [www.edweek.com](http://www.edweek.com))

### **NCLB addresses teacher and paraprofessional qualifications**

NCLB dramatically increases federal attention to teacher quality and leverages federal influence beyond schools with

large percentages of disadvantaged students to all schools. The act calls for teachers to be “highly qualified” but allows each state to define that term as long as they meet specific minimums and emphasize teachers' knowledge in the subject(s) they teach. The requirement applies to “core” subject areas: English, reading or language arts, math, science, foreign languages, civics and government, economics, arts, history, and geography. (NCLB defines “core” more expansively than California does.)

California's receipt of Title I basic grants is conditioned on ensuring that teachers of these subjects are highly qualified. For any teachers hired during the 2002–03 school year and working in a program supported by a Title I basic grant, this requirement was technically in place beginning with the 2002–03 school year. It will apply to all schools by the end of the 2005–06 school year. The criteria for determining a teacher's qualifications differ depending on whether a teacher had a credential before or after July 1, 2002. The box on page 15 lists credential categories previously in use in California that will not, on their own, garner the “highly qualified” label after the end of the 2005–06 school year.

California first responded to these new federal requirements by defining highly qualified teachers as any who held a credential other than an emergency permit or waiver, including the pre-intern designation. Federal officials took issue with this approach, which led to several months of negotiations. In November 2003 the State Board of Education finally adopted definitions and clear guidelines for districts to follow. (Those are reflected in the *2003 NCLB Teacher Requirement Resource Guide*, published by the California Department of Education and available at: [www.cde.ca.gov/pr/NCLB/teachqual/not03teacherguide.htm](http://www.cde.ca.gov/pr/NCLB/teachqual/not03teacherguide.htm)) Given that this occurred well into the school year, districts have been given some leeway in

fully reconciling their staff assignments in Title I schools with federal expectations. The goal is to have highly qualified teachers in all core subjects by the end of 2005–06.

### *California's credentialing standards largely met the NCLB definition*

NCLB establishes a definition of a “highly qualified teacher” that is largely aligned with credentialing requirements California recently put in place for all new teachers in the state. In adopting regulations to implement NCLB, the State Board of Education has worked extensively with the California Commission on Teacher Credentialing (CTC) and has tried to integrate the new federal requirements with California’s existing teacher preparation and credentialing process.

In all cases, a teacher must have a bachelor’s degree. Further, the individual must either hold a credential or be in an internship program that leads to completion of an organized teacher-preparation program. In the latter case, a person must have been enrolled in the internship program for less than three years, assuring that individuals cannot just continue as interns indefinitely. Finally, a person must demonstrate subject-matter competence, with the allowable methods of doing so varying by grade span taught and date of entry into teaching.

Those who have been issued a teaching credential or have enrolled in an internship program after July 1, 2002 must pass a subject-matter test approved by the CTC, most commonly the California Subject Examination for Teachers. The tests for elementary and secondary teachers differ. (See: [www.cset.nesinc.com/](http://www.cset.nesinc.com/)) At the middle and high school levels, teachers must also demonstrate mastery in every subject they are assigned to teach either by passing the appropriate subject-matter exam or through college coursework. The latter can be an undergraduate

major or equivalent, a graduate degree, or a university subject-matter program approved by the CTC.

Under California’s implementation of NCLB, a school district determines by school site or each grade at the school site, based on curriculum taught, whether a teacher is hired to teach elementary, middle, or high school. This policy affects middle schools in particular. Individuals with a multisubject elementary credential are considered fully credentialed to teach any course at the middle school level. (Unlike many other states, California does not have a middle school credential.) Under the new policy, those designated as middle school teachers who hold a multisubject elementary credential

must also demonstrate subject-matter competency by passing a subject-specific exam or passing the appropriate coursework requirement.

### *Districts must certify that all teachers are highly qualified*

In California, the NCLB requirement to have highly qualified teachers also applies to those with classroom experience. The law requires that school districts certify the subject-matter competency of every experienced teacher, providing several options for doing so. (Experienced teachers, or those who are “not new” to the profession, are those who were issued a teaching credential, or entered an internship program, before July 1, 2002.) To

## Teacher certification requirements will change

According to NCLB the following current certifications, on their own, will not enable a core-subject teacher to be “highly qualified” after June 2006:

- **Emergency permits.** The California Commission on Teacher Credentialing (CTC) issues these permits to individuals wishing to teach in school districts that have secured authorization from the CTC to hire people lacking full qualifications because the district has declared a shortage of fully qualified teachers. Emergency-permit holders have at least a bachelor’s degree and have passed the California Basic Educational Skills Test (CBEST), which assesses acceptable proficiency in reading, writing, and math. However, permit holders have not completed a yearlong, post-undergraduate credentialing program that helps candidates better understand pedagogy and instruction. A person working with an emergency permit could be an experienced teacher but new to a subject or grade span.
- **Supplementary authorization (unless it is based on the person’s having majored in the subject) or local authorization.** Certificated teachers can get a supplementary authorization to teach in additional subjects if they have, for example, completed a specified amount of college coursework in a field.
- **State or local waiver.** As with emergency permits, school districts may secure waivers to hire people who do not meet teacher-credential requirements. And as with emergency permits, a person working under a waiver is not necessarily totally inexperienced but lacks the certification to teach a particular subject in a particular grade span.
- **Pre-interns.** Pre-interns generally lack teaching experience and have not demonstrated subject-matter competence (whereas interns generally have demonstrated such competence). Pre-internship programs facilitate as quickly as possible a candidate’s entry into an internship or teacher-preparation program. Pre-interns receive training in the subject matter they’re teaching, introductory teaching strategies, and coaching from an experienced teacher.

meet this requirement, experienced teachers can take and pass the same state-approved subject-matter tests as new teachers, or at the secondary level certify completion of the same coursework. Experienced secondary teachers may also demonstrate their subject-matter competence by becoming certified by the National Board for Professional Teaching Standards.

Teachers at either level who do not wish to or cannot demonstrate their subject-matter competency through those methods may do so based on a new High Objective Uniform State Standard Evaluation (HOUSSE) process. These evaluations are based on a state-approved rubric that assigns points for various qualifications.

The first segment of the evaluation looks at an individual's years of experience teaching in the particular grade span and subject, relevant college coursework, professional development aligned to state standards, and any professional educational service (e.g., chairing a department) within the content area. Teaching experience can count for no more than half of the total needed. If a person cannot demonstrate competency based on this first set of criteria, a second check must be conducted. This second segment would include either a direct observation of instruction in the relevant grade span and subject or a portfolio review of the teacher's lesson plans and student work for one school year. The teacher's supervising administrator will oversee the evaluation and should consult with a subject-matter expert if necessary. For example, a principal who has never taught calculus should consult with someone well versed in the state's calculus standards. The teacher's instruction must align with state standards, display an ability to understand and organize subject matter for student learning, and establish and communicate learning goals for all students.

Should a teacher receive an unfavorable assessment, he or she can complete professional development, including but not limited to peer assistance and review. Presumably, schools will have to complete these reviews for relevant teachers by the end of the 2005–06 school year.

Under California law, the teacher evaluation process has to be agreed to as part of the collective bargaining agreement between each individual school district and their teachers' union. The HOUSSE process does not appear to fall under that description because it is uniform across the state. However, school districts and unions can incorporate the HOUSSE process into the teacher evaluation if they choose.

Teachers, whether new or not, will only have to demonstrate subject-matter competence for a grade span and/or subject area one time. Their certification will follow them if they are later hired by another district. Teachers cleared for NCLB compliance in another state will be cleared in California for the same subject and/or grade span.

Title II and earmarked dollars in Title I provide substantial funding that districts can use to help teachers meet these requirements. During each of the three years from 2003–04 through 2005–06, districts are expected to certify that they have reduced their shortage of "highly qualified" teachers by at least one-third. Parents in Title I schools are specifically entitled to information about teacher qualifications. At the start of each school year, schools must notify parents that they have the right to request information about the professional qualifications of their children's teachers. If a school has not made adequate progress toward certifying that all of its teachers are highly qualified, it must also inform parents of this fact. And if a child has, for more than four weeks, had a teacher—including a long-term substitute—who does not meet the NCLB requirements, his or her parent must be notified.

### *Instructional aides must also demonstrate knowledge and competency*

NCLB sets a standard for the knowledge and/or minimum education level for paraprofessionals who work as instructional aides in Title I schools. Previously California had required that instructional aides only had to demonstrate proficiency in basic reading, writing, and math up to or exceeding that required of high school seniors in the districts that hired them (or in the case of elementary districts, the proficiency required in the local high school district).

Under the new federal law, paraprofessionals hired on or after Jan. 8, 2002 who are supported by Title I funds and who assist in instruction must have a high school diploma and one of the following:

- two years of college (48 semester units);
- an A.A. degree or higher; or
- a passing score on a local or state test that assesses their knowledge of, and ability to assist in, instructing reading, writing, and mathematics. (The state is not planning to develop or administer a test, leaving districts to choose the assessment they will use.)

Those hired prior to Jan. 8, 2002 must meet the same requirement by January 2006. Paraprofessionals who act primarily as translators, or who do not assist in instruction, are exempt.

### *The implications of NCLB for California's personnel practices raise concerns*

Californians have had little time to assess the impact of NCLB's teacher policies due to the delays in the state's adoption of regulations. Perhaps that explains why the issues and concerns are extensive. They range from the question of emergency permits to collective bargaining rules and reflect many problems specific to this state.

California has for many years struggled with a shortage of qualified teachers, and some fear that NCLB will intensify the problem. Rural school leaders are

particularly concerned, given the small pool of people from which they draw their staffs and the multiple-subject areas many teachers must cover. When the Commission on Teacher Credentialing attempted to bring California's credentialing rules into compliance by eliminating emergency permits, local educators protested forcefully. They made it clear that, without those permits, they might be unable to put a teacher in every classroom. In response, the commission approved a plan to phase out emergency permits by the end of the 2005–06 school year. Assuming that current law will be amended to codify the plan, beginning July 1, 2005 districts will need to determine that emergency permit holders can become credentialed within a year. The commission will also develop a more restrictive alternative to the emergency permit that still addresses districts' unanticipated or unmet employment needs. The definition of an "emergency" will tighten, and districts will be required to show due diligence and adequate progress in recruiting fully credentialed teachers.

For the purposes of defining subject-matter competency, NCLB places the same expectations on high school and middle school teachers. Some are concerned that the focus on subject-matter expertise may cause middle schools to underemphasize teachers' ability to meet adolescents' broad set of developmental needs. This is a particular issue in California because the state does not have a middle school credential.

It is unclear precisely how NCLB will eventually interact with California's rules regarding due process rights and teacher dismissal. Even though the problem will not technically arise until 2005–06, local district officials are already raising concerns. For example, no policies currently spell out districts' options should a teacher be unsuccessful in demonstrating subject-matter compe-

tency. With virtually every subject except physical education covered under the bill, reassignment to a different classroom could become unavailable as an option. But if a teacher cannot meet the standard for being highly qualified under NCLB, is that sufficient cause for dismissal under California's due process laws for teachers? State officials state that having 100% of teachers in core subjects be highly qualified by the end of 2005–06 is a systemwide goal and will not translate to laying off an individual teacher. School districts may find themselves in the middle as inconsistencies and ambiguities in these policies play out over the next few years.

The standardized HOUSSE process for judging teachers' subject-matter competency could give district administrators and teacher leaders the leverage they need to ensure that every California classroom does indeed have a highly qualified teacher. Making sure HOUSSE is a meaningful process and that teachers who fall short have the chance to get the professional development they need are lofty, but perhaps attainable, goals.

One obstacle, however, may be the amount of funding available for professional development. The federal government has substantially increased funding for the effort but just at the time that California has cut back on its investment as a result of the state budget crisis. No estimate is available regarding the amount of money it would take to ensure that all California teachers are highly qualified because the state does not yet know how many teachers currently fall short, nor what level of professional development or coursework they might require.

### Parental rights and public information are key

A central tenet of NCLB is that public awareness of school performance can lead to school improvement, particularly when coupled with greater parental empower-

ment should local schools fail to meet expectations. As a result, the law includes a wide variety of requirements for public reporting about schools. It also instills school choice as a major component of the accountability system.

### Multiple requirements for public information have been added to California's approach

NCLB creates new federal requirements related to public information and parent communication, in some cases forcing modifications of existing efforts in California. A prime example is the School Accountability Report Card (SARC). NCLB specifies that certain data about schools, districts, and the state be published in "report cards" to the public. This is an extension of requirements that were part of ESEA in 1994 but at that time applied only to Title I schools.

A SARC for every school has been required in California since 1988, and it has grown over time. As a result, the SARC is now approximately 16 pages long, including student performance items required by NCLB along with such data as student demographics, some salary information, average class sizes, and teacher credentialing information. NCLB requires that similar reporting also be done regarding districts. California has chosen not to create separate district report cards but instead has incorporated district data into its existing SARCs. At the time this report went to press, the California Department of Education had not yet published the required state report on AYP.

The federal law also mandates that parents be given a wide variety of information about their children's schools, particularly those that receive Title I funding. This information ranges from their school's Program Improvement status, to parents' rights to request information about teacher qualifications, to invitations to required district meetings regarding parental involvement policies. Many of

these have been part of Title I requirements for many years.

(In early 2004, California parents should be able to see their school or district's AYP status by going to [www.ed-data.k12.ca.us](http://www.ed-data.k12.ca.us) and selecting the Accountability report.)

### *Parents have expanded rights in Title I schools that need improvement*

NCLB gives parents new rights to remove their children from schools that are in need of improvement or to get extra academic help for their children at the school's expense. These new requirements could have a direct and dramatic effect on schools and districts.

California has since the early 1990s required all school districts to offer some parental choice among their schools, but with no preference given to one student over another. The new NCLB requirements oblige districts to put parents in Program Improvement schools at the top of the list for school choice.

Considerations such as desegregation plans, school-site capacities at schools chosen by parents, and the impact on bus schedules could all present challenges to districts as they respond to this requirement. Although these considerations are not supposed to limit school choice, Congress recognized that reality may collide with the law and therefore gave the lowest-achieving students from low-income families first priority to change schools. If all of the schools in a district are in Program Improvement, the district should, to the extent practical, establish a cooperative agreement for a transfer with one or more other districts in the area. Districts are also obligated to take into account the parents' choice of receiving school, with the understanding that their choices cannot always be accommodated.

This parental option continues for as long as the school of origin is in Program Improvement or one of the subsequent, more serious intervention programs.

Regardless of how the original and receiving schools perform, the student may stay at the receiving school through the highest grade offered and must be treated the same as any other student. The district, however, will not have to pay for transportation once the home school is no longer in Program Improvement.

(A publication, "10 Tips for Parents Who Choose To Stay Put," on the Parent Leadership Associates' website, [www.plassociates.org/ten.html](http://www.plassociates.org/ten.html), discusses what parents can do if their child's school is in Program Improvement but they do not want to transfer their child. The website also has other information about NCLB.)

### *Low-income parents can demand supplemental services for their children in Program Improvement schools*

**NCLB gives parents the option to get supplemental educational services and the choice of state-approved providers.** If a school enters Year 2 of Program Improvement (see page 9), the school must offer its low-income students extra academic help outside of regular school hours, and at no charge. These services can be provided on or off campus, by the school or district itself, or by a nonschool organization or company. The state is to maintain an updated list of approved providers, including those that offer technology-based and distance-learning services. (See: [www.cde.ca.gov/iasa/titleone/pi/supservices.html](http://www.cde.ca.gov/iasa/titleone/pi/supservices.html)) School districts contract with the providers based on parental preferences. Public schools and districts can receive state approval to act as providers as long as they are not in any stage of Program Improvement themselves.

For the purpose of attaining these services, school districts act as parents' agents in a sense. They must let parents know how to obtain supplemental educational services for their child and help them choose a provider. They are also responsible for outlining to parents the

specific achievement goals for their student, how progress will be measured, and an anticipated timetable for improvement. Should those expectations not be met, the district is also responsible for terminating the agreement. A district may be exempted from the requirement to provide supplemental services if the state determines that no approved provider offers services in the district's area. The exemption must be renewed annually.

### *Parents can opt out of dangerous schools*

**NCLB requires a state system for reporting on school safety and gives parents the ability to remove their children from a school found to be persistently dangerous.** Under NCLB, California is required to establish a "uniform management and reporting system" to collect and report information on school safety and drug use among young people. In 2002–03 the state suspended its existing system for collecting and reporting school-crime data—the Safe Schools Assessment program—because it did not align with NCLB. However, the state has developed a system that does align and, at the time this publication was written, was poised to implement it. In addition, the state has met an NCLB funding condition by offering an "unsafe school choice option," allowing students attending a "persistently dangerous" school or who have been a victim of a violent crime on campus to transfer to a safe school within the district.

Under the new regulations, California defines a "persistently dangerous school" as one in which both of the following conditions exist for three consecutive years:

- A student had a gun or someone (including a nonstudent) committed a violent criminal offense on school property; and
- The school expelled more than 1% of its students—or more than three

students in schools with 300 or fewer students—for any of a number of violent or drug-related offenses. (See [www.cde.ca.gov/spbranch/safety/nclb/usco.pdf](http://www.cde.ca.gov/spbranch/safety/nclb/usco.pdf) for the list.)

As of July 2003, California had no schools that met the “persistently dangerous” definition. California was far from alone. A total of 43 states and the District of Columbia reported having no schools that met their respective definitions. Only 54 schools nationwide were found to be “persistently dangerous.” States differ widely in their definitions, however. For example, the city of Philadelphia has as many dangerous schools as the rest of the country combined.

### *Are public attention and parental choice effective levers for school improvement?*

The parental choice requirements in NCLB certainly got the attention of educators and necessitated the creation of new choice processes in many school districts. Less clear is the extent to which parents themselves will decide to take advantage of this option. For example, research on school choice indicates that a school’s location is often a more important factor than academic performance when parents choose the school their child attends. An October 2003 publication by the Center on Education Policy in Washington, D.C., raises additional doubts about the strategy’s impact. Based on 15 case studies of districts throughout the country, the center reports that the choice option, as well as the option of supplemental services, has been little used by parents to date.

Some criticize the choice provisions as going only halfway because they require choice within school districts but not across district boundaries. The financial impact on districts would be much greater if the latter had been required, but it is not clear that receiving districts would have welcomed students from another district’s lowest-performing schools.

Finally, parents’ ability to demand supplemental educational services for their children is a far-reaching change with implications that are just beginning to be understood. The extent to which the services provided actually meet federal and state hopes in regard to quality, effectiveness, and cost remains to be seen. It is also unclear what options will be available if a district enters Program Improvement and is no longer able to provide these services on its own. The next few years are likely to involve some trial and error as schools, districts, parents, and service providers see what works.

### **NCLB has overarching implications and unresolved issues**

In the world of education policy, NCLB is still a youngster. Its provisions are just beginning to reach local schools and districts in a meaningful way, and related regulations and guidance meant to clarify the act continue to change. This transition is uncomfortable for California, particularly given its timing. The state had already committed itself to a whole set of standards-based reforms that were just becoming familiar. And state budget cuts to K–12 education—including mid-year reductions two years in a row—have left

### ● **To Learn More**

- School leaders nationwide voice their opinions about NCLB, saying they support the spirit of the law but adjustments are needed, in *Rolling Up their Sleeves: Superintendents and Principals Talk About What’s Needed to Fix Public Schools*, published in 2003 by Public Agenda. Ordering and download information is available at [www.publicagenda.org](http://www.publicagenda.org) or by calling Public Agenda at 212/686-6610.
- The Center for Education Policy in Washington, D.C., is publishing a series of reports on the implementation of NCLB and also has interesting background materials. Look for a January 2003 report on states’ progress and an October 2003 publication that looks at the experiences of 15 case-study school districts. Both are available at [www.ctredpol.org](http://www.ctredpol.org) under publications.
- In the January 2004 edition of *Quality Counts*, EdWeek publishes a compendium of statistics about all 50 states and their progress in implementing standards-based reforms as required by NCLB. For ordering information and excerpts, go to: [www.edweek.com](http://www.edweek.com)
- For a discussion of adequacy of funding for the new push for higher standards and achievement, see the 2003 report, *High Expectations, Modest Means: The Challenge Facing California’s Public Schools*, published by the Public Policy Institute of California (PPIC) at [www.ppic.org](http://www.ppic.org) under publications.
- General resources related to NCLB can be located at [www.ed.gov](http://www.ed.gov) and [www.cde.ca.gov/pr/nclb](http://www.cde.ca.gov/pr/nclb). Look for CDE’s information guides on AYP and API.
- Answers to Frequently Asked Questions about Program Improvement and parental rights are located on the EdSource website at [www.edsource.org](http://www.edsource.org). And for a good overview of accountability under NCLB, see: [www.edsource.org/edu\\_esea.cfm](http://www.edsource.org/edu_esea.cfm)
- For an overview of AYP and API, you can also go to the Ed-Data Partnership website at [www.ed-data.k12.ca.us](http://www.ed-data.k12.ca.us) and click on Education Issues and Background.
- For the public’s opinion on NCLB, go to the Phi Delta Kappan/Gallup Poll at: [www.pdkintl.org/kappan/k0109gal.htm](http://www.pdkintl.org/kappan/k0109gal.htm)
- A December 2003 policy brief from Policy Analysis for California Education (PACE) details findings that California schools serving diverse students may be penalized by the new accountability rules. Download a copy at: [http://pace.berkeley.edu/pace\\_publications.html](http://pace.berkeley.edu/pace_publications.html)

schools struggling to simply continue business as usual. Implementing another set of sweeping reforms is inconvenient at best and in some cases very challenging.

However, the change process is just one reason why NCLB has found many critics in the education community. Concerns related to specific provisions of the law have ignited protests, as described earlier in this report, but some overarching questions also warrant discussion.

Many NCLB critics have charged that the program constitutes an unfunded mandate, citing the various new programs that must be developed and asking where the additional federal money is to pay for them. The preliminary commitment made by federal officials has not been met in subsequent budgets. A counterpoint to this perspective is that NCLB has put more money into schools—about \$700 million in Title I alone in California since 2001–02. Further, the changes in the law are largely about making better use of the federal funds schools already receive. For example, rather than putting a high percentage of Title I money into hiring instructional aides to work in classrooms, as some districts do, schools could use the same money to provide supplemental instruction to help low-income, low-performing students meet states' standards. This expenditure choice is consistent with research that questions the effectiveness of instructional aides.

The ultimate rejoinder to the “unfunded mandate” objection is often that the programs offered under NCLB

are voluntary. A state can choose not to take the money and thus escape the regulations. However, leaving more than \$2.5 billion on the table was not an option California officials ever debated.

Assuming that state participation is a given, NCLB then raises questions about whether this expansion of the federal government's role in public education is appropriate or desirable. Neither the public nor educators believe the federal government is as well suited to know what local schools need as those who live and work in the community. Local control is a concept that receives constant affirmation from policymakers in Washington, D.C., and in Sacramento. In fact, the language of NCLB talks about the intent to provide greater local flexibility. To date, its directives have been criticized as doing the opposite.

Whatever its intent, NCLB represents a reach by the federal government into areas of school operation in which it has not previously been involved. This may be necessary to make sure all children have a chance for success, a chance too many do not seem to get in the current system. Its wisdom should ultimately be judged by the impact NCLB has on California's schools and students. Will the educational needs of this state's young people, particularly those with disadvantages, be better met? Will schools operate more effectively and do a better job as a result of these policies? Questions such as these might help guide Californians and the federal government as the implementation of NCLB gets underway in earnest. 



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