Implications for Special Education Policy and Practice

NCLB zeros in on school accountability and special education teacher certification.

BY DAVID EGNOR

The No Child Left Behind Act of 2001 (NCLB) goes far beyond any previous federal education mandate. Not only does NCLB prescribe education standards for all education personnel working in Title I programs and schools, but the law also applies the same high standards to almost all educators, schools, and students. This article summarizes the law and discusses its implications for school principals in terms of special education policy and practice, particularly in the areas of school accountability and professional standards.

Overview of the No Child Left Behind Act

Annual Testing

NCLB requires annually testing students in grades 3 through 8 in reading and math. States are allowed to design and select their own tests. Although some states already have developed such tests, the law gives states until the 2005-2006 school year to develop and implement the math and reading tests. Science must be assessed by the 2007-2008 school year. In addition, the new law requires a small biennial sample of fourth-through eighth-grade students in each state to take part in the National Assessment of Educational Progress (NAEP) test. This test will be used as an independent benchmark against which the rigor of state standards, tests, and accountability mechanisms can be measured. The federal government will cover the costs of state participation in the NAEP test, and no federal rewards or sanctions will be based on the NAEP test results. In addition, the law prohibits federally sponsored national testing and federally controlled curricula, as well as any mandatory national teacher test or certification.

Low-Performing Schools

NCLB requires schools to show adequate yearly progress (AYP) toward 100% proficiency in reading, math, and science for all students within 12 years. States set the achievement level that must be reached in intermediate years and are required to raise the interim goals gradually but in equal increments. That is, a state cannot propose, for example, to make minimal improvement in student performance in the early years in anticipation of later dramatic gains by the end of the 12-year time line. Instead, states and individual schools must demonstrate linear incremental improvement in student performance toward 100% proficiency in reading and math for all students by 2014.

Public School Choice

NCLB requires a school that fails to make AYP for two consecutive years to offer students' parents the option to transfer their child to another public school, although the requirement would not apply if state law prohibited public school choice. Under this provision, districts must pay the costs of transporting students to the other public school and must use up to 5% of their Title I funds for that purpose. In addition, the law permits school districts to use an additional 10% of their Title I funds for transportation or to pay for supplemental instructional services required after three years of failing to make AYP. The district is required under NCLB to provide technical assistance to the school to help it improve. The school is also eligible to receive federal funds for school improvement.

Supplemental Instructional Services

NCLB requires that if a school fails to meet AYP for three consecutive years, the school district must make available supplemental instructional services to disadvantaged and low-achieving students, with the students' parents choosing the provider. These supplemental services—such as tutoring, after-school classes, and summer classes—could be offered by a variety of providers, including faith-based organizations. The law also requires that districts use 5% of their Title I funds to pay for these supplemental services. As noted above, districts would also be able to use an additional 10% of their Title I funds for transporting students to other public schools to pay for supplemental instructional services.

Corrective Actions

NCLB requires that if a school fails to make AYP for four consecutive years, the district must implement corrective actions to improve the school, such as replacing certain staff members or implementing a new curriculum. The district must continue to offer public school choice and provide supplemental services. If a school fails to make AYP for five consecutive years, the district must make significant changes in how the school is run, such as a takeover by the state, hiring a private management contractor, converting to a charter school, or overseeing restructuring of the staff. The requirements to offer public school choice and to
provide supplemental instructional services would continue to apply.

Schools identified as needing improvement when NCLB was enacted must have offered public school choice during the 2001–2002 school year, while schools in the second year of school improvement or in corrective action must offer supplemental services no later than the 2002–2003 school year. Once a school makes AYP for two consecutive years, it is no longer required to undertake corrective actions or restructuring activities.

**Implications of NCLB for Special Education**

The enactment of NCLB has significant implications for school principals in terms of special education policy and practice, mainly in the areas of school accountability and personnel certification and licensure issues.

**Accountability**

One of the most significant implications of NCLB for principals in terms of special education policy and practice is AYP and the set of graduated accountability measures that flow from NCLB when students fail to meet AYP. As discussed above, the law requires schools to show AYP toward meeting 100% proficiency in reading and math for all students in grades 3 through 8 within 12 years. Student performance is disaggregated based on a host of identifying factors, including economic status, race, ethnicity, limited English proficiency, and disability status. If students with disabilities in grades 3 through 8 fail to make AYP by 2014, the school will potentially face a host of remedial actions.

Although it is not entirely clear how NCLB’s accountability measures will directly affect special education practice, it seems realistic to expect that principals will experience greater pressure from state policymakers to ensure that students with disabilities are exposed to the general education curriculum so they can achieve the statewide general curriculum content standards as required by NCLB. Along the same lines, it seems equally likely that NCLB’s accountability measures will create a greater impetus than does IDEA ‘97 to link more students’ individualized education program goals with the content standards of the general education curriculum. Thus, NCLB creates an imperative for principals to increase their involvement in special education and the IEP process to ensure that students with disabilities receive the services they need to help them make AYP.

Related to AYP and student proficiency levels is the participation of students with disabilities in statewide assessments. These assessments must be based on challenging state standards in reading and mathematics and annual statewide progress objectives ensuring that all groups of students reach proficiency within 12 years. IDEA ‘97 requires students with disabilities to participate in statewide and districtwide assessments with appropriate accommodations or to participate in appropriate alternate assessments.

NCLB requires a minimum 95% participation rate for each of the disaggregated groups of students in these assessments, including students with disabilities (e.g., 95% of students with disabilities must participate in the statewide assessment). A student is deemed to have participated in the general assessment only if his or her test score is counted in the statewide accountability system. That is, if testing accommodations provided to a student with a disability result in his or her test scores being deemed unreliable or invalid, the student will not be considered as having participated in the assessment.

Thus, it is crucial that performance criteria and assessment tools sufficiently allow for individualized accommodations for children with disabilities while ensuring continued reliability and validity of results. Principals must be cognizant of the extent to which state curriculum content standards and assessment tools are sufficiently inclusive to allow and account for individualized accommodations determined by each child’s IEP team without watering down the standards or jeopardizing the credibility of the results.

At the time of this writing, it is important to note that the final regulations will likely provide some flexibility in terms of the participation of students with disabilities in NCLB’s accountability system. Specifically, under the U.S. Department of Education’s currently proposed rule students with severe cognitive disabilities must also participate in the accountability system, but their progress may be measured against a set of alternate standards that are closely aligned to the state’s general curriculum content standards for all students.

Under the final regulations, a percentage of the total state and local school district student population (likely 1%) may participate in this particular subgroup using an alternate standard to measure progress provided that all students included in this group meet the criteria for a student with a severe cognitive disability. States and school districts may also apply for waivers to increase this percentage in a few cases.

**Personnel Certification**

NCLB requires states to develop a plan for ensuring that all teachers will be...
highly qualified by the end of the 2005–2006 school year. All newly hired teachers must have met state criteria for highly qualified beginning in the 2002–2003 school year. The requirement that teachers be highly qualified applies to all public elementary or secondary school teachers who teach a core academic subject.

Core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. Highly qualified means that the teacher:

1. Has obtained full state certification as a teacher or passed the state teacher licensing examination and holds a license to teach in the state, and does not have certification or licensure requirements waived on an emergency, temporary, or provisional basis
2. Holds a minimum of a bachelor’s degree
3. Has demonstrated subject area competence in each of the academic subjects in which he or she teaches, in a manner determined by the state.

Based on discussions with officials from the U.S. Department of Education, the Council for Exceptional Children (CEC) believes that NCLB’s regulations hold the same requirements for special education teachers. That is, all special education teachers teaching at least one of the core subject areas must hold dual certification in special education and the core subject areas they teach.

Because of the significance and complexity of this issue, CEC and NASSP have joined with a broad range of other leading national education associations seeking additional clarification on the new personnel certification requirements from the U.S. Department of Education. At the time of this writing, it seems likely that the U.S. Department of Education will soon provide additional guidance in this regard. CEC will continue to work with NASSP and other national education associations to help clarify the intent of the policy as well as secure the increased funds and technical assistance necessary to implement these new provisions of the law. PL

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