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# The No Child Left Behind Act and the Individuals with Disabilities Education Act: A Progress Report



National Council on Disability  
January 28, 2008

National Council on Disability  
1331 F Street, NW, Suite 850  
Washington, DC 20004

**The No Child Left Behind Act and the Individuals with Disabilities Education Act:  
A Progress Report**

This report is also available in alternative formats and on the award-winning National Council on Disability (NCD) Web site ([www.ncd.gov](http://www.ncd.gov)).

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## National Council on Disability

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*An independent federal agency making recommendations to the President and Congress to enhance the quality of life for all Americans with disabilities and their families.*

### Letter of Transmittal

January 28, 2008

The President  
The White House  
Washington, DC 20500

Dear Mr. President:

The National Council on Disability (NCD) is most pleased to present you with a copy of a report entitled *The No Child Left Behind Act and the Individuals with Disabilities Education Act: A Progress Report*. Thanks to the No Child Left Behind (NCLB) Act, with its push for improved student outcomes, as well as the Individuals with Disabilities Education Act (IDEA), educators across the United States are reexamining their practices to find ways to close the achievement gaps between groups of students. Students with disabilities are a focus of this attention as schools and states work hard to improve their academic outcomes. Policymakers are studying the ongoing implementation of both NCLB and IDEA to determine the most effective means for serving students with disabilities.

NCD commissioned this study to assist policy leaders and stakeholders in assessing the impact of NCLB and IDEA on schools, including student outcomes produced. This report provides a detailed analysis of such key questions as (a) How has student achievement status changed since the laws were (re)authorized? (b) What impact have the laws had on assessment systems, accountability systems, and systems of personnel development? and (c) Which barriers are impeding the achievement of students with disabilities, and how can those barriers be overcome?

In our evaluation of NCLB and IDEA, students with disabilities appear to be doing better academically, and they also appear to be graduating with diplomas and certificates at higher rates than in prior years. Data suggest, however, that there is still certainly concern about the dropout levels of students in the states. Regardless of whether that concern is definitional or real, we ultimately need to better understand the manifestations of new rules and regulations on these students. According to our analyses, one of the most important results of NCLB and IDEA appears to be that students with disabilities are no longer ignored. To that end, NCLB and IDEA have had a significant, positive impact. Teachers, administrators, and the community are becoming aware of what students with disabilities are capable of achieving if they are held to the same high standards and expectations as their peers.

As our nation's policymakers continue their work on NCLB Act reauthorization, it is important to recognize the complex interplay among the federal law, state laws and regulations, and actual practice at the district and school levels. Some of the requirements in NCLB have had unintended consequences, and any proposed changes to the law should be carefully considered to ensure that additional unintended consequences are not created, especially for students with disabilities.

It is also important to provide flexibility with regard to student performance while holding on to the idea of meeting a high standard. High expectations with differentiated learning and instruction should be the twin foundations for the law.

Thanks to your Administration's leadership on NCLB, we are confident that the nation can continue to fight against low expectations for students with disabilities, and can continue to win.

On behalf of all students with disabilities in America, NCD stands ready to provide you and your Administration with whatever resources we have to further implement these two vital federal public education laws.

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Vaughn". The signature is stylized and cursive, with a long horizontal line extending to the right from the end of the name.

John R. Vaughn  
Chairperson

(The same letter of transmittal was sent to the President Pro Tempore of the U.S. Senate and the Speaker of the U.S. House of Representatives.)

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## **Acknowledgments**

NCD also wishes to express its sincere appreciation to Scott Swail of the Educational Policy Institute (EPI) and Betsy Brand of the American Youth Policy Forum (AYPF) for their incisive research in preparing this report.

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## EXECUTIVE SUMMARY

This report by the National Council on Disability (NCD) documents changes in student outcomes, professional practices, and policy around the country.

In 2004, NCD issued a report called *No Child Left Behind: Improving Educational Outcomes for Students with Disabilities*, which examined the impact of NCLB and the Individuals with Disabilities Education Act (IDEA) on improving educational outcomes for students with disabilities. The report drew its conclusions and recommendations from interviews with disability policy, education, and advocacy leaders and identified some changing attitudes and behavioral shifts in K–12 education as a result of the new legislation.

This report provides both a follow-up and a more detailed reporting of the trends and attitudes about NCLB and IDEA over the past several years. In this study we spoke to dozens of researchers, practitioners, and state administrators from across the country about NCLB and IDEA. In addition, we conducted a study of 10 of the largest states in the nation, representing approximately half the U.S. general population.

This report is divided into four sections. Part I provides a brief overview of trend data regarding students with disabilities. Part II describes conversations with state administrators and representatives about trends and issues related to NCLB and IDEA. Part III describes similar conversations with advocates, federal officials, and other stakeholders. Part IV provides recommendations based on our findings.

### ***PART I. Academic Outcomes for Students with Disabilities***

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Because of the relative lack of decent academic trend data since the passage of the No Child Left Behind (NCLB) Act, there is no credible way to connect academic trends and NCLB. Even the recent Center for Education Policy (CEP) report strongly suggested caution in using the data to suggest the impact of NCLB. Frederick Hess of the American Enterprise Institute warned, “These findings should be treated very

cautiously... especially trying to link this to something as amorphous as NCLB” (Hoff, June 5, 2007, <http://www.edweek.org/ew/articles/2007/06/06/39cep.h26.html?print=1>).

We relied on National Assessment of Educational Progress (NAEP) data for a discussion of trends in achievement. NAEP is commonly referred to as the “nation’s report card” and is a statistically significant test that is conducted in all states.

Our findings suggest that students with disabilities are doing better in terms of placement in various academic categories. By and large, fewer students are scoring in the “below-basic” proficiency level, and more students are scoring in the “proficient” or higher level in reading and mathematics at the fourth- and eighth-grade levels. However, positive change is greater at the fourth grade and dissipates by the eighth grade. Again, caution should be noted: these findings across the 10 states studied by NCD are volatile, and the trend line is exceedingly short by statistical standards.

Throughout the past several years, the number of students with disabilities who have dropped out of school has increased, and the number of students who are using special education services has decreased. Graduation and certificate rates, conversely, rose since the establishment of NCLB.

In summary, students with disabilities appear to be doing better academically, and they also appear to be graduating with diplomas and certificates at higher rates than in prior years. Data suggest, however, that there is still certainly concern about the dropout levels of students in the states. Regardless of whether that concern is definitional or real, we ultimately need to better understand the manifestations of new rules and regulations on these students.

## ***PART II. Perspectives of State Officials***

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NCD interviewed state-level staff members from sectors of education that were directly affected by NCLB and IDEA: assessment, data collection, curriculum and instruction, and professional development. During these interviews, staff discussed the changes

that had been made at the state level to comply with IDEA and NCLB regulations, the difficulties states had in making those changes, and whether or not a discernible improvement in the academic achievement of students with disabilities had occurred as a result of NCLB and IDEA. Over the span of six months, NCD spoke with more than 35 staff members from 10 states: California, Florida, Georgia, Illinois, Massachusetts, Michigan, New Jersey, New York, Ohio, and Pennsylvania.

From the interviews it was evident that state characteristics, such as the demographic make-up, geographical distribution of the school-age population, culture, and size and number of school districts, all had an impact on each education department's ability to respond to NCLB and IDEA mandates. Responsiveness was also affected by the sophistication of each state's existing assessments and data collection systems and by how much work needed to be done to comply with NCLB and IDEA reporting requirements.

Implementing NCLB and IDEA at the state level has been no easy task. However, despite the difficulties states have faced in complying with the two laws, it was clear from our interviews with staff members that some positive changes are taking place. The following is a brief summary of the common themes that emerged from these conversations.

## **Academic Achievement**

- Most respondents felt that, overall, the academic achievement of students with disabilities had increased since the implementation of NCLB and IDEA, but they cautioned that an increase in test scores was not necessarily attributable to NCLB or IDEA alone.

## **Assessment**

- NCLB appears to have been effective in promoting the increased inclusion of students with disabilities on state assessments. Though IDEA '97 required states to develop an alternate assessment for students with severe cognitive disabilities, the

real push for inclusion came with the NCLB rule that 95 percent of all students had to participate in state assessments.

- A positive outcome of alternate assessments has been the increase in the participation rates of students with severe cognitive disabilities on state assessments. According to state staff members, this increase is a direct result of NCLB.
- Including students with disabilities in general education classrooms and exposing them to the general education curriculum gives them the chance to perform better on assessments.
- Most state staff members we spoke with viewed the increased inclusion of students with disabilities on state assessments as a positive outcome of NCLB and IDEA.

## **Accountability**

- Every state (in our study) has taken steps to develop an accountability system that meets NCLB and IDEA requirements. Our interviews revealed how different each state was in its approach to developing and maintaining its accountability system.
- Though many improvements have been made since NCLB and IDEA began emphasizing accountability for all students, some staffers worried that some regulations could actually harm students with disabilities, such as the requirement to count as high school graduates only those students who received regular diplomas in the standard number of years.
- Respondents complained that the U.S. Department of Education's changes in policies have made it difficult to stay within the policy guidelines of NCLB. Specifically, staffers pointed out that it is unfair of the Education Department (ED) to make changes to the regulations and expect states to comply, but then fail to provide guidance on what these changes entail.

- Overall, state staff members believe accountability systems are a positive result of NCLB and IDEA. Schools and districts must now pay attention to the performance of all students, which means students with disabilities are getting attention they did not have before.

## **Data Collection and Quality**

- The quality and sophistication of data collection and management systems vary from state to state, and each state is at various stages of upgrading its data collection systems. It is not clear, however, whether those changes are the direct result of NCLB.
- Training is expensive, and states do not have the people or the capacity to supply one-on-one support to every district and school. Therefore, states do what they can with the resources they have.
- A number of data collection experts mentioned that the Office of Special Education Programs (OSEP) often did not give them sufficient time to implement changes to the system. Not only do states need time to make the appropriate changes to the data collection system to ensure they are collecting the proper data, but also districts need advance notification to train their employees on the new requirements.
- Data experts expressed frustration with the overlap of reporting requirements among NCLB, IDEA, and the state. They suggested that collaboration, particularly between NCLB and IDEA, was needed to develop clear definitions for data collection that would result in gathering information truly useful to ED and the states.

According to our discussions, the most important result of NCLB and IDEA appears to be that students with disabilities are no longer ignored. To that end, NCLB and IDEA have had a significant, positive impact. Teachers, administrators, and the community are becoming aware of what students with disabilities are capable of achieving if they are held to high standards and expectations.

### ***PART III. Perspectives of Key Stakeholders***

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Part III provides an assessment of how NCLB, after three more years of implementation, has impacted students with disabilities; the assessment is drawn from interviews with disability policy, education, and advocacy leaders, as well as with students with disabilities and their parents.

#### **Attitudes and Expectations**

- Since 2004 there has been a palpable and positive change in the overall attitude of educators toward educating students with disabilities. Educators expect students with disabilities to meet higher standards, and students with disabilities have increased access to highly qualified teachers and higher-level curricula.
- Most individuals interviewed for this report believe that the culture of high expectations for students with disabilities—and, for that matter, for all students—is taking root. They credit these attitudinal changes to NCLB and to IDEA as reauthorized in 1997 and 2004.
- When asked whether students with disabilities are considered as general education students in the current environment, individuals who were interviewed said there is much more acceptance of students with disabilities in general education, but dividing lines still exist between the two groups.
- Respondents indicated there has not been any serious backlash against students with disabilities within the accountability system.

#### **Academic Achievement of Students with Disabilities**

- There is general agreement that NCLB has helped improve the academic performance of students on standardized tests. But many people caution that it is too early to tell whether NCLB has had an impact on increasing academic achievement and skills of students with disabilities.

- Many interviewees did report that state performance reports indicate higher scores in math and English for elementary students with disabilities, but there is little improvement for students with disabilities at the high school level.
- Interviewees all agreed that NCLB has had an impact on programs for students with disabilities and that much more attention has been focused on improving the academic performance of students with disabilities. But most felt it has not translated into actual academic improvements yet because it takes time to prepare teachers and to change instruction.

### **Reporting Disaggregated Outcome Data**

- Widespread acceptance of the importance and need to report outcome data disaggregated by subgroups now exists. When NCLB was first being implemented, there was some resistance to this provision, but three years later, almost without exception, policymakers, educators, advocates, and parents sing the praises of the disaggregated reporting requirements of the law.

### **More Supports Needed for Students with Disabilities**

- Educators are increasingly aware of the need to provide lower-performing students with extra supports to allow them to attain higher standards.
- Since 2004 students with disabilities are, according to interviewees, gaining much more access to grade-level curricula. This move began with the reauthorization of IDEA in 1997, and NCLB has continued this press for students with disabilities. Students with disabilities are also increasingly expected to take high school exit exams in states where these exams are administered, which means these students must have access to the curricula.
- If students with disabilities are going to access higher-level curricula, they need to have well-trained teachers, with strong content knowledge and pedagogical strategies, to make those curricula learnable. But the issue of the capacity of the teaching force was raised over and over again during the interviews.

- Several interviewees also sounded a cautionary note about focusing too exclusively on grade-level standards to the point that the special education curriculum is ignored, which may prevent students with disabilities from learning necessary skills.

## **Schools Still Focusing on Compliance with NCLB**

- States, districts, and schools are still engaged to a large extent in compliance with the requirements of NCLB, which is preventing them from focusing their efforts on instructional change and teacher development.
- States are still in the process of designing assessment systems (particularly the alternate and modified assessments), working to meet the highly qualified teacher requirements and to provide timely notification of testing results to schools, teachers, and parents.
- Guidance from the U.S. Department of Education has often been inconsistent or slow in coming, which has slowed down the implementation at the state and district levels.

## **Culture and Belief Systems**

- Educators and policymakers increasingly believe that all students can learn to higher standards and that this perception is growing stronger all the time. However, when students with disabilities are considered, there is still some hesitation about the extent to which they can learn to grade-level proficiency standards.
- Some students with disabilities are given assessments that can be less rigorous than the regular assessments; this reinforces the idea with the public that students with disabilities cannot perform to grade-level proficiency.
- Because the issue of expectations drives so much instructional practice and classroom behavior, it is important to have clarity on what should be expected of students with disabilities.



## **Capacity Building**

- Without prompting, almost every interviewee raised the issue of highly qualified teachers (HQTs) as a key provision to help students with disabilities achieve to higher standards.
- Several interviewees raised the issue of the role of higher education and teacher licensing; that is, higher education needs to revamp to meet current teaching demands.
- Interviewees stressed the need for school principals to set the tone for the entire school, first to create the culture of high expectations for all students, especially students with disabilities, and then to serve as an instructional leader who can support differentiated learning strategies.
- Interviewees also mentioned the importance of training school counselors to work with students with disabilities, to help them with both course selection and transition planning.
- Capacity is desperately needed in the area of test development, especially in alternate and modified assessments. The federal government could provide development work in this area.
- Educators also need access to information about what instructional strategies help lower-performing students succeed.

## **Ensuring Access to High-Quality Instruction and Services**

- Students with disabilities can achieve to higher standards if they have access to high-quality curricula aligned to high school exit exams. However, it is clear this is not always happening. Many students with disabilities have been placed in lower-level classes that do not prepare them for high school exit exams.
- There is a concern about the quality of the high school diploma offered. In some states, only one diploma is available, and it applies to everyone. Other states offer various diplomas, but they are of lesser academic value, a clear signal that students are not being challenged.

- While students with an Individualized Education Plan (IEP) are provided with additional instructional supports, little attention has been paid to how students with disabilities are being involved in after-school or supplemental learning opportunities. Clearly, students with disabilities are not getting the complete access they deserve and to which they are entitled.

## **Measuring Performance**

- Almost without exception, interviewees felt that as a result of NCLB there has been too much testing, and it is having unintended and negative consequences on students and schools alike.
- It is clear that NCLB has put tremendous pressure on states and districts, and they are beginning to learn, through data, the full extent of how difficult it is to have every student learn to high standards.
- The closer one gets to the classroom, the more negative are the comments made about NCLB's testing requirements. At the administrative level, on the other hand, there is a sense of the value of outcome data (that is, tests) across schools.
- Interviewees shared numerous stories of states, districts, and schools that found ways to discount or hide students with disabilities in their accountability systems. It is hard to determine how widespread these practices are, but given the small number of educators interviewed for this project, these themes surfaced quite often. Interviewees told of other ways of gaming the system to ensure that students with disabilities were not counted or to prevent too many schools from being labeled as in need of improvement.
- A number of interviewees raised the issue of which students were being placed in the 1 percent and 2 percent categories for alternate assessments and whether these categories met the needs of students with disabilities.
- Interviewees also expressed three specific concerns about growth models: having clear definitions of growth models; ensuring consistency of growth models across

schools, districts, and states; and guaranteeing that state education officials have the necessary resources to evaluate how growth models are being used.

## **Meeting the 100 Percent Proficiency Target**

- Of all the issues raised by NCLB, perhaps the most significant is having all students meet grade-level proficiency by the school year 2013–2014. Yet, interestingly, many school-level educators and advocates did not raise it in their comments.
- Most interviewees felt that education policy needs to recognize that some students will require more time to meet grade-level proficiency standards and that we are too bound by the traditional structure of education and the requirement to complete high school in four years.

## **Data and Reporting**

- Most interviewees who worked with data felt that there were various ways IDEA and NCLB could work more effectively together, from using common definitions and Web sites and forms to using common reporting infrastructures and data systems.
- Another significant discrepancy between the two laws relates to how high school graduation is measured, which has an impact on whether schools do or do not meet the adequate yearly progress provisions in NCLB and on how students progress through high school. IDEA gives much more flexibility to students with disabilities in terms of the length of time it takes to complete high school or meet the goals of the particular IEP. This time-based approach runs headlong into the NCLB requirement for high school graduation within the traditional four-year time period.
- Some interviewees felt that IDEA collected a level of detailed student data that allows for much richer analysis of instructional strategies than what is required by NCLB.

## **Parental Access to Information**

- Overall, most interviewees, including advocates, felt that the amount of information available to parents—and the public in general—had vastly increased and improved

as a result both of NCLB and IDEA. Still, there was some concern about how useful some of this information is to parents.

## **Compatibility of NCLB and IDEA**

- The common opinion was that although the NCLB and IDEA complement and strengthen each other, they could be made more compatible. As suggested by one respondent, IDEA is a civil rights law and NCLB is a law to make people “mind.” Several interviewees felt that because IDEA is a civil rights law, it should prevail over NCLB and that the U.S. Congress should make this clear.

## ***PART IV. Recommendations***

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In looking at changes to NCLB, it is important to understand that there is a complex interplay among the federal law, state laws and regulations, and actual practice at the district and school levels. Some of the requirements in NCLB have had unintended consequences, and any new changes to the law should be carefully considered to ensure that additional unintended consequences are not created, especially for students with disabilities. It is also important to provide flexibility with regard to student performance while holding on to the idea of meeting a high standard. High expectations with differentiated learning and instruction should be the twin foundations for the law.

The following recommendations are based on the advice and comments of the interviewees:

- 1. Maintain high expectations for students with disabilities and continue to disaggregate outcome data by subgroups.** The most important recommendation gathered from the interviews is to maintain high academic expectations for students with disabilities and to continue to report student outcome data by subgroup.
- 2. Develop the capacity of teachers to provide differentiated instruction and more rigorous curricula.** In order for students to benefit from higher-level curricula, teachers must have the content knowledge and pedagogical skills to work with a diverse group of learners, particularly students with disabilities.

- 3. Create incentives to attract, recruit, and retain special education teachers.** As special education teachers retire, more attention needs to be paid to how to develop the profession and to maintain adequate numbers of teachers with the skills and knowledge to work with students with disabilities.
- 4. Align NCLB and IDEA data systems and definitions.** NCLB and IDEA require data collection and reporting on various student outcomes and program characteristics, but the laws use different definitions and reporting formats, which should be brought into closer alignment so that states, districts, and schools are not duplicating data collection efforts. NCLB should also be amended to require that post-school outcomes be reported because such outcomes are a critical indicator of success for all students.
- 5. Ensure that students with disabilities are measured on more than just academic skills attainment.** The definition of what is assessed for students with disabilities should be broadened to include occupational, employability, and life skills.
- 6. Increase funding for special education.** Helping students with disabilities access higher-level curricula requires more support services, potentially more learning time, better-trained teachers, collaborative teaching, and new instructional approaches. The current requirement to spend 15 percent of IDEA on early intervention services for non-special education students diverts funding from an already needy population.



## INTRODUCTION

When the No Child Left Behind (NCLB) Act was signed into law in January 2002, there was a sense of optimism that the legislation would finally lead to the closing of the education achievement gap for various groups of students. For students with disabilities, the assumption was made that they would benefit by being held to higher expectations and exposed to more rigorous curricula. NCLB has, indeed, had a significant impact on the education system and students in our schools, and it has been most successful, perhaps, in bringing to light various practices and behaviors that were preventing many students from achieving at high standards. However, there is evidence that the full promise of NCLB has not yet been achieved.

In 2004, the National Council on Disability (NCD) released the report *No Child Left Behind: Improving Educational Outcomes for Students with Disabilities* that examined the impact of NCLB and the Individuals with Disabilities Education Act (IDEA) on improving educational outcomes for students with disabilities. The report drew its conclusions and recommendations from interviews with disability policy, education, and advocacy leaders and identified some changing attitudes and behavioral shifts in K–12 education as a result of the new legislation.

While NCLB was still a relatively new law and in the process of being implemented, it was clear that the goal of the law to close the achievement gap and help all students meet academic proficiency resonated with policymakers, parents, the public, and advocacy groups. Less enthusiastic, in some respects, were teachers and school leaders as they faced the on-the-ground challenge of helping every student achieve grade-level standards. Still, there was an overall feeling that the focus on helping every student achieve was overdue and would result in improved outcomes.

Many, perhaps, viewed the most dramatic and important changes to be the section of the law requiring schools, school districts, and states to report on the academic performance of student subgroups. Disaggregating data based on student subgroups, while difficult, was becoming more widely accepted by educators and strongly

supported by politicians, advocates, and parents by 2004. The individuals interviewed for the 2004 report unanimously agreed that reporting student outcomes by subgroup was the most positive and important feature of NCLB and that exposing the true performance data was essential in order to bring about instructional changes. However, despite these positive attitudes toward reporting data, many interviewees felt that the technical challenges of creating student assessments and performance reports were a burden.

At the same time, educators were understandably fearful that they would be blamed for the poor performance of students—particularly students with disabilities and English language learners, or ELLs—under the new system. A large number also believed that it was not possible for these groups of students to meet high standards. Parents, advocates, and policymakers, on the other hand, thought that holding these and other low-performing students to high expectations was critical and that the law would help change cultural beliefs.

Another fear commonly expressed in 2004 was that NCLB would focus too much on testing and test preparation. Teachers and principals, in particular, began to feel increasingly pressured to improve performance on tests, limiting the time available for more creative types of learning. Special education teachers felt an additional concern, namely, that test preparation would crowd out the teaching of important life skills.

The 2004 report also previewed several major challenges that interviewees for this current study identified. First, the system lacks the capacity to meet the instructional and assessment demands placed on schools by NCLB. Second, school leaders and teachers who embrace the culture of high expectations are an underpinning for success. Third, schools need to be staffed with highly qualified teachers, especially in light of impending retirements and teacher shortages. Fourth, how can special education teachers be effectively trained to become content experts, and is that really necessary? Fifth, how can educators develop quality assessments in a timely fashion and create an effective feedback loop for teachers and parents? Last, schools, districts,



and states will find technical ways to avoid being held accountable by the adequate yearly progress provisions in NCLB.

How have things changed since the earlier report? States have been hard at work since 2004 meeting the requirements of NCLB, from ensuring that all teachers are highly qualified to developing data reporting systems. While tremendous progress has been made in important areas, states and districts are still in the early stages of certain aspects of NCLB implementation, especially with regard to differentiated instruction, ensuring access to rigorous curricula, and measuring performance through alternate or modified assessments.

## **This Report**

This report was prepared to document changes in student outcomes, professional practices, and policy around the country. Because of the sheer scope of this effort, we focused primarily on a subsection of 10 states: California, Florida, Georgia, Illinois, Massachusetts, Michigan, New Jersey, New York, Ohio, and Pennsylvania. These states were chosen for several reasons. First, the populations of these states represent about 137 million people, or roughly half of the overall U.S. population (based on 2000 U.S. Census Bureau data). Thus, in 10 states, we can take a snapshot of how a good portion of the country operates. Second, seeing how the largest states have done in their NCLB and IDEA efforts has value because they carry, for all intents and purposes, a larger burden than other states. And third, several of the states studied over the past year were highly recommended by experts in the field because of their use of innovative practices to comply with NCLB and IDEA and to change the way students with disabilities are educated. (Note: For those readers wondering why Texas, our second largest state, was not involved, it was simply because we could not gain access to the people necessary to participate in this study in a timely manner.)

The study consisted of four separate components. The first component involved the collection of data—NAEP data and other IDEA-based data collected and held by the U.S. Department of Education—from each of our participating states. These data are

discussed in brief in the Introduction and are provided by state in Appendix D. The second component is a review of policy and procedures. We reviewed state education department Web sites and other sources to document the policies and practices in each of our 10 states. These are described in detail in Appendix C. The third component involved multiple discussions with state officials to discuss policy and practice issues related to NCLB and IDEA. This component of the study is described in Part I. For the fourth component, staff of the American Youth Policy Forum conducted interviews of disability stakeholders at the national and regional levels to ascertain their thoughts on the progress of policy and practice. These discussions are synthesized in Part II. We conclude the report with a series of recommendations for NCD and the disability community at large.

## **PART I. ACADEMIC OUTCOMES FOR STUDENTS WITH DISABILITIES**

Calculating trends in academic achievement across states is a difficult task, not least because there are two ways to look at academic achievement. One method is to use assessment data from the states to compare the proficiency levels of students; the other method is to use data from NAEP. Although the former is the method used in the recent Center on Education Policy report, *Answering the Question That Matters Most*, it is extremely problematic because each state creates its own test and also determines what its level of “proficiency” is. Critics of such analysis suggest that test scores are inaccurate measures of academic proficiency and are skewed by instructional practices (Hoff, June 5, 2007, <http://www.edweek.org/ew/articles/2007/06/06/39cep.h26.html?print=1>).

There is concern that the states’ use of adequate yearly progress (AYP) data may be masking real—or the lack of—change in the public schools. The setting of modest achievement goals to enable schools and districts to meet AYP standards relatively easily early on could make the future attainment of AYP very difficult (Hoff, June 18, 2007 <http://www.npr.org/templates/story/story.php?storyId=11152922>).

Regardless of the statistical measures used to analyze students’ progress, what is known is that any specific trend in achievement is difficult to attribute to NCLB or to IDEA. The Center for Education Policy (CEP) reported that while test scores for students have gone up, linking this to NCLB is delicate at best: “You have to be very careful,” said Jack Jennings of CEP. “At the same time that NCLB was taking effect, a whole slew of things [was] happening.” More directly, Jennings said that we “cannot draw a direct line between this increase in achievement and NCLB.” Frederick Hess of the American Enterprise Institute similarly noted, “These findings should be treated very cautiously, especially trying to link this to something as amorphous as NCLB” (Hoff, June 5, 2007).

Another challenge of data analysis is the relative youth of NCLB and the IDEA reauthorization of 2004. The CEP study notes that less than half the states—22 to be

exact—have sufficient trend data for analysis. In our analysis of NAEP data for this report, we ran into similar challenges. Only in the last couple of years have states started to document the academic progress of all students, including those with disabilities, making trend lines extraordinarily brief. Regardless, the CEP study does provide us with data for discussion. Overall, the conclusion from the study suggests that states are improving and more students are becoming “proficient.”

For our own analysis, we relied on NAEP data to discuss trends in achievement. NAEP is commonly referred to as the “nation’s report card,” and it is a statistically significant test that is conducted in all states. Although NAEP was not designed to be used as a diagnostic instrument, it nevertheless does give us average measures of student achievement across the country. Although NAEP has limitations, we believe it is a more constant barometer of achievement in the states than AYP proficiency levels.

Exhibits 1 through 4 that follow provide NAEP data for review. Exhibits 1 and 2 focus on fourth-grade outcomes in mathematics and reading for students with disabilities. On average, the percentage of students with disabilities who scored below a basic proficiency level in mathematics declined by 6 percent in two years. Our 10-state sample ranged from a decrease of just 1 point (New York) to 17 points (Florida). However, the percentage of students with disabilities who scored below a basic level in reading increased by 5 percent at the national level. Our 10-state sample ranged from an increase of 8 percentage points (New Jersey) to a decrease of 26 points (Ohio).

On the other end of the spectrum, the percentage of students who scored at the proficient level on the NAEP mathematics and reading tests increased, although moderately at best. In mathematics, the national increase in students with disabilities scoring at the proficient level increased 3 percent (from 11 to 14 percent), with California posting a 0-point increase and Ohio a 10-point increase. In reading, the national score increased 1 percent, with New York posting a 2-point decrease and Ohio, again, posting a 10-point increase.

These numbers, especially those below the basic proficiency level, illustrate the volatility in data. For instance, is Ohio truly doing that much better than the other nine states? Or is the improvement the result of the method by which students with disabilities are tested? At this point, we cannot infer much from the data due to the short trend lines. However, over time, these data will begin to have more meaning as testing standards, even within NAEP, begin to stabilize.

*Exhibit 1. Percentage of Fourth-Grade Students with Disabilities Scoring at the Below-Basic and Proficient Levels of the NAEP Mathematics Test, 2003 and 2005*

	Below-Basic				Proficient		
	2003	2005	$\Delta$		2003	2005	$\Delta$
UNITED STATES	50	44	-6		11	14	3
CALIFORNIA	59	56	-3		5	5	0
FLORIDA	50	33	-17		12	19	7
GEORGIA	57	46	-11		10	14	4
ILLINOIS	49	43	-6		12	15	3
MASSACHUSETTS	35	26	-9		18	21	3
MICHIGAN	41	39	-2		12	19	7
NEW JERSEY	51	43	-8		16	19	3
NEW YORK	49	48	-1		11	10	-1
OHIO	49	38	-11		9	19	10
PENNSYLVANIA	58	48	-10		11	15	4

*Exhibit 2. Percentage of Fourth-Grade Students with Disabilities Scoring at the Below-Basic and Proficient Levels of the NAEP Reading Test, 2003 and 2005*

	Below-Basic				Proficient		
	2003	2005	Δ		2003	2005	Δ
UNITED STATES	71	76	5		8	9	1
CALIFORNIA	78	79	1		4	5	1
FLORIDA	72	62	-10		9	10	1
GEORGIA	72	63	-9		9	13	4
ILLINOIS	69	64	-5		10	12	2
MASSACHUSETTS	59	47	-12		11	15	4
MICHIGAN	70	61	-9		6	11	5
NEW JERSEY	62	70	8		6	7	1
NEW YORK	67	68	1		9	7	-2
OHIO	80	54	-26		4	14	10
PENNSYLVANIA	76	65	-11		7	11	4

Exhibits 3 and 4 focus on eighth-grade NAEP achievement in mathematics and reading. Our findings illustrate that, on average, the percentage of students with disabilities who scored at the below-basic level in mathematics and reading decreased by 2 and 1 percent, respectively. Again, we see volatility between the states. In mathematics, the percentage of students with disabilities who scored at the below-basic level ranged from a decrease of 13 percent (Florida) to an increase of 2 percent (California/New Jersey). In reading, the percentage ranged from a decrease of 11 percent (New Jersey) to an increase of 2 percent (Illinois).

The percentage of students with disabilities who scored at the proficient level was also very modest, with only a 1 percent increase at the eighth-grade level in both mathematics and reading. Similarly, the ranges in both areas were also much more modest than in our other analyses.

*Exhibit 3. Percentage of Eighth-Grade Students with Disabilities Scoring at the Below-Basic and Proficient Levels of the NAEP Mathematics Test, 2003 and 2005*

	Below-Basic				Proficient		
	2003	2005	Δ		2003	2005	Δ
UNITED STATES	71	69	-2		5	6	1
CALIFORNIA	80	82	2		5	5	0
FLORIDA	76	63	-13		5	10	5
GEORGIA	76	71	-5		5	5	0
ILLINOIS	72	69	-3		5	5	0
MASSACHUSETTS	59	49	-10		8	14	6
MICHIGAN	73	69	-4		5	4	-1
NEW JERSEY	66	68	2		6	4	-2
NEW YORK	68	63	-5		7	7	0
OHIO	67	62	-5		5	8	3
PENNSYLVANIA	73	68	-5		6	5	-1

*Exhibit 4. Percentage of Eighth-Grade Students with Disabilities Scoring at the Below-Basic and Proficient Levels of the NAEP Reading Test, 2003 and 2005*

	Below-Basic				Proficient		
	2003	2005	Δ		2003	2005	Δ
UNITED STATES	68	67	-1		5	6	1
CALIFORNIA	80	79	-1		3	3	0
FLORIDA	71	66	-5		4	8	4
GEORGIA	78	68	-10		2	5	3
ILLINOIS	60	62	2		5	7	2
MASSACHUSETTS	56	47	-9		11	13	2
MICHIGAN	63	62	-1		4	8	4
NEW JERSEY	63	52	-11		5	8	3
NEW YORK	67	64	-3		8	8	0
OHIO	68	62	-6		4	6	2
PENNSYLVANIA	69	65	-4		4	6	2

With some exceptions, why do we see such changes and volatility at the fourth-grade level and less dramatic changes and differences at the eighth-grade level? This could be for a number of reasons, including how the testing of students with disabilities is conducted in the states, and who actually gets tested. But, certainly, academics at the eighth-grade level are more complex than in the fourth grade, and making valid leaps of achievement is more difficult work.

What this brief analysis illustrates is that we need to look much deeper and along a longer trend line to have any real clue as to whether NCLB has had an impact. As with the CEP report, the data, while interesting, say little regarding the question of whether IDEA and NCLB are having an impact on student achievement. What the data do clearly show is that, taken together, IDEA and NCLB have had a large impact on “who” gets tested and “what” gets tested. However, we will need to bide our time for several more years of collecting data in order to form a significant trend line.

Exhibits 5 through 8 focus on outcomes of students with disabilities, including dropouts, those who received disability services, and graduates. Because IDEA has required this information for several years, we have longer trend data to review. For our purposes, we have reviewed data on a two-year basis, since the trends do not change dramatically by year.

Exhibit 5 focuses on the dropout percentages of students with disabilities. In the prior exhibits, we noted that achievement has generally risen, even if modestly, for these students. But clearly we can see that the number of dropouts has also increased, in some cases rather dramatically. For instance, California had the nation’s lowest dropout rate for students with disabilities, but that number has now risen to be more than half of all students with disabilities who drop out. But the dropout rates for students with disabilities in 2004–2005 were higher than in prior years for other states as well, with the exception of Pennsylvania. Were more students with disabilities dropping out because of new graduation policies? Were they forced out for the same reasons? Or is this a policy blip that will evolve over time? The answer could be yes to all three, but it is more likely that the policies (and practices) need to evolve to better suit students with disabilities.



*Exhibit 5. Percentage of 14–22+-Year-Old Students with Disabilities Who Dropped Out, 1998–1999 to 2004–2005*

<b>State</b>	<b>1998–1999</b>	<b>2000–2001</b>	<b>2002–2003</b>	<b>2004–2005</b>	<b>1998–1999 to 2004–2005</b>
California	4.5	6.7	4.9	58.3	53.9
Florida	19.1	15.7	12.3	29.8	10.7
Georgia	12.2	21.3	15.3	33.1	20.9
Illinois	17.3	15.2	15.2	26.0	8.6
Massachusetts	16.4	14.3	15.0	25.6	9.1
Michigan	21.9	31.5	26.3	27.4	5.5
New Jersey	15.1	15.5	13.1	25.6	10.5
New York	13.8	21.4	17.5	32.2	18.4
Ohio	11.4	12.4	9.9	17.6	6.1
Pennsylvania	10.4	12.1	10.6	10.2	–0.1

Exhibit 6 illustrates the percentage of 14–22+-year-olds with disabilities who no longer receive special education services. This chart also illustrates data inconsistencies of IDEA, as the 2004–2005 data are not available, or “NA,” more than two years after the fact. With exceptions, there is a definitive decline in services provided. Again, we do not clearly understand the reason for this, as it could pertain to (a) students who cannot find the services needed; (b) students who have become ineligible under new laws and regulations for services; (c) students who drop out may not be calculated in these data; or (d) the term “no longer uses services” has been redefined. We are unsure of the true reason, but the data tell us that fewer students are using services.

*Exhibit 6. Percentage of 14–22+-Year-Old Students with Disabilities Who No Longer Receive Special Education Services, 1998–1999 to 2004–2005*

<b>State</b>	<b>1998–1999</b>	<b>2000–2001</b>	<b>2002–2003</b>	<b>2004–2005</b>	<b>Δ</b>
California	16.1	13.6	11.6	NA	–4.5
Florida	13.7	8.7	6.9	NA	–6.7
Georgia	14.1	8.0	3.9	NA	–10.3
Illinois	11.0	8.6	9.2	NA	–1.7
Massachusetts	15.3	25.3	20.7	NA	5.4
Michigan	14.5	15.0	10.4	NA	–4.0
New Jersey	0.0	0.0	0.0	0.0	0.0
New York	9.6	8.3	7.8	NA	–1.7
Ohio	12.5	12.5	18.1	NA	5.6
Pennsylvania	8.7	12.8	6.8	NA	–1.9

Exhibit 7 focuses on graduation rates for students with disabilities. These data clearly illustrate that students with disabilities are graduating at much higher rates than they were before NCLB and the last reauthorization of IDEA. With the exception of Ohio, which posted nearly a 12-point decline, most states show a double-digit increase in graduations, with Michigan (47 percent) and Pennsylvania (48 percent) at the top of the group. These two states were also among those that exhibited only a small increase in dropout rates. Thus, these data clearly suggest that students with disabilities are graduating in much higher percentages than before NCLB/IDEA reauthorization. If these are data inconsistencies due to policy or definitions, all states are equally implicated.

*Exhibit 7. Percentage of 14–22+-Year-Old Students with Disabilities Who Graduated, 1998–1999 to 2004–2005*

<b>State</b>	<b>1998–1999</b>	<b>2000–2001</b>	<b>2002–2003</b>	<b>2004–2005</b>	<b>Δ</b>
California	16.1	23.8	27.8	34.9	18.8
Florida	16.5	17.3	20.2	40.8	24.3
Georgia	20.1	13.3	19.6	26.7	6.6
Illinois	30.5	35.7	40.1	71.1	40.6
Massachusetts	41.0	36.4	36.8	69.2	28.2
Michigan	22.4	23.1	24.1	69.4	47.0
New Jersey	45.6	51.3	51.8	72.4	26.8
New York	29.5	22.9	26.3	46.1	16.7
Ohio	46.7	43.6	46.5	35.0	-11.7
Pennsylvania	40.5	37.9	51.1	88.3	47.8

Exhibit 8 illustrates students who received a certificate rather than a standard diploma. Although 2 of the 10 states did not post data, the remaining states—with the exception of California—all posted some increase in the rate of certificate completion. Combined with data from Exhibit 7, this suggests that students with disabilities are completing at much higher levels, in most cases, than before NCLB/IDEA reauthorization.

*Exhibit 8. Percentage of 14–22+-Year-Old Students with Disabilities Who Received a Certificate, 1998–1999 to 2004–2005*

<b>State</b>	<b>1998–1999</b>	<b>2000–2001</b>	<b>2002–2003</b>	<b>2004–2005</b>	<b>Δ</b>
California	7.6	5.2	3.5	4.8	–2.8
Florida	13.2	16.4	15.8	28.9	15.7
Georgia	25.7	15.8	24.2	39.8	14.1
Illinois	0.7	1.0	0.9	1.1	0.4
Massachusetts	0.0	0.0	1.5	NA	NA
Michigan	2.2	2.6	4.4	2.5	0.3
New Jersey	0.0	0.0	NA	NA	NA
New York	10.3	10.6	10.9	19.7	9.4
Ohio	0.0	0.0	NA	41.0	41.0
Pennsylvania	0.0	0.1	0.1	0.2	0.2

In summary, we can echo some of the positive comments of the CEP report released in June 2007: Students with disabilities appear to be doing better academically (using NAEP rather than AYP data), and they also appear to be graduating with diplomas and certificates at higher rates than in prior years. Data suggest, however, that there is still certainly concern about the dropout levels of students in the states. Regardless of whether that concern is definitional or real, we ultimately need to better understand the manifestations of new rules and regulations on these students.

As with all policy change, more time is needed to collect and bring data into the trend analysis. The academic outcomes data are simply too short with regard to trend analysis to bear any real weight. We strongly advise caution in reading these and other data that suggest NCLB has or has not pushed academic advances in the relatively short period since its enactment in late 2001.

However, as we will see in the next two parts of this report, there are indications that stakeholders across the country believe that NCLB has pushed data collection and the generalization of services to students with disabilities far further than previously existed, which would support the theory of a rise in educational success for students with disabilities.



## **PART II. PERSPECTIVES OF STATE OFFICIALS**

For this study, NCD interviewed state staff members from sectors of education that were directly affected by NCLB and IDEA: assessment, data collection, curriculum and instruction, and professional development. During these interviews, staff discussed the changes that had been made at the state level to comply with IDEA and NCLB regulations, the difficulties states had in making those changes, and whether or not a discernible improvement in the academic achievement of students with disabilities had occurred as a result of NCLB and IDEA.

Over the span of six months, NCD spoke with more than 35 staff members from 10 states: California, Florida, Georgia, Illinois, Massachusetts, Michigan, New Jersey, New York, Ohio, and Pennsylvania. NCD contacted each state's department of education by email with a request for the contact information for staff responsible for data collection and management, assessment, curriculum and instruction, and professional development. If no response was received, NCD sent a letter to the head of each state's department of special education. NCD did eventually receive contact information for staff members from relevant areas from each of the 10 states.

The interviews were conducted by contractual researchers and followed a predetermined set of questions. The contractual researchers spoke with staff ranging from division administrators, data managers, and analysts to consultants, learning specialists, and bureau directors.

From the interviews it was evident that state characteristics, such as the demographic make-up, geographical distribution of the school-age population, culture, and size and number of school districts, all had an impact on each education department's ability to respond to NCLB and IDEA mandates. Responsiveness was also affected by the sophistication of each state's existing assessments and data collection systems and by how much work needed to be done to comply with NCLB and IDEA reporting requirements.

Implementing NCLB and IDEA at the state level has been no easy task. Despite the difficulties states have faced in complying with the two laws, however, it was clear from our interviews with staff members that some positive changes are taking place. The following is a brief summary of the common themes that emerged from these conversations.

## **Academic Achievement**

### ***Has there been progress, and, if so, is it related to NCLB and IDEA?***

Most staff members interviewed for this project felt that, overall, the academic achievement of students with disabilities had increased since the implementation of NCLB and IDEA. Staff members were careful to point out, however, that increases in test scores are not necessarily attributable to NCLB or IDEA alone. Because so many factors can influence a student's academic performance, it is difficult to isolate those that truly have an impact. As one interviewee warned:

*Determining the causal link between a law and student achievement would be a major undertaking. As we don't have a control group or any other elements of experimental design, most likely any attempt to link the two and show causality wouldn't pass a rigorous test of being "scientifically based." —Data Manager, Ohio Department of Education*

Despite the fact that changes in student achievement cannot be directly linked to the impact of the two laws, many staff members highlighted the positive changes that had taken place since the implementation of NCLB and IDEA. One of the most important results of NCLB and IDEA has been the increased access students with disabilities have to the general education curriculum. Since the two laws were enacted, a higher percentage of students with disabilities have been placed in general education classrooms or receive instruction based on the general education curriculum in special education classrooms. According to one educational professional from New York, whose observation was echoed by many others, with the implementation of NCLB and IDEA,

*Students with disabilities have access to the curriculum and are passing the assessments. Before, there was no accountability [for instruction] and you could teach students with disabilities whatever you wanted to.*  
—Staff member, New York State Department of Education

Staff members applauded NCLB for pushing states to include students with disabilities in general education classrooms and forcing administrators, teachers, and the general community to recognize the academic ability of these students. As one state staff member pointed out, students with disabilities have a much better chance of doing well on assessments when they are exposed to the general education curriculum.

As a result of the push for inclusion, there is much more interaction between general and special education at the state, district, and school levels. An interview with staff members from New Jersey revealed:

*In the '90s, each department for each content area was developing curriculum frameworks on their own with no collaboration with the special education department. The department of special education had a list or section in each one of the frameworks on what to do for students with disabilities. Since then, the state has greatly increased the level of collaboration between general and special education.*  
—Multiple staff members, New Jersey Department of Education

None of the staff members interviewed for this project thought NCLB or IDEA had a negative impact on student achievement. On the contrary, every person interviewed commended the two laws for holding states accountable for the academic performance of students with disabilities. A few staff members pointed out that although IDEA '97 came before NCLB, NCLB is the law that really began to push states into compliance with IDEA's regulations.

*There have been changes at the state level in the number of people who care about students with disabilities. IDEA had no teeth. People did not care about alternate assessments because there were no real repercussions. After NCLB, people started paying attention. Before NCLB, IDEA did not have as much prominence.*  
—Coordinator, Michigan Department of Education

Other staffers mentioned that NCLB has given education departments the extra push to make improvements they had already been contemplating. For example, Florida had always promoted the inclusionary model for students with disabilities. However, inclusion in the state's education system got an even bigger push with the NCLB requirement that 95 percent of all students take the general assessment.

Therefore, it seems to be the general opinion of state staff members that the academic achievement of students with disabilities has improved, even if only marginally. In a short period of time, states have made major changes to their approach to educating students with disabilities, and those changes have begun to make a difference. Many educators and administrators hold out hope for continued improvement.

## **Assessment**

### ***Are students with disabilities being included in state assessments, and what have the consequences been?***

NCLB appears to have been effective in promoting the increased inclusion of students with disabilities on state assessments. Though IDEA '97 required states to develop an alternate assessment for students with severe cognitive disabilities, the real push for inclusion came with the NCLB rule that 95 percent of all students had to participate in state assessments.

Students with disabilities have a number of options when it comes to taking the state assessment. They may take the general assessment, with or without accommodations, or take the alternate assessment. States are responsible for deciding which accommodations are acceptable for the general assessment. Some states have standard and nonstandard accommodations. If a student takes the general assessment with nonstandard accommodations, his or her score may not be counted toward the proficiency rating of the local education authority (LEA). It was evident from our interviews that policy regarding standard and nonstandard accommodations varies greatly from state to state. Furthermore, the level of guidance related to the use of accommodations ranged from a list of acceptable accommodations posted on the



state's department of education Web site to providing direct training to IEP team members and assessment administrators.

States also offer an alternate assessment for students with severe cognitive disabilities. States vary in the level of technical assistance they provide to IEP teams that decide which test a student should take. Some states, like Michigan, post their policies and list of acceptable accommodations online. Technical assistance varies from state to state for teachers and administrators in charge of administering and grading the general assessment with accommodations and the alternate assessment. Most states post a manual or training documents online. Some states send representatives to districts that provide training. Michigan has posted a podcast online to provide information to districts that administer the alternate assessment.

A positive outcome of alternate assessments has been the increase in participation rates in state assessments of students with severe cognitive disabilities. According to some state staff members, this increase is a direct result of NCLB.

*[The] alternate assessment for students with severe cognitive disability was required by IDEA prior to NCLB. It became a high priority when NCLB was implemented because of the 95 percent participation requirement. As far as participation goes, prior to NCLB, there was little or no push at the local level to have students with severe cognitive disability take the alternate assessment. So, that's a big difference between then and now. —Manager, California Department of Education*

As discussed in the previous section, because states are required to include students with disabilities in state assessments, they are gaining wider access to the general education curriculum. Their teachers are experiencing favorable results from the inclusion model as well. Special education teachers now have access to the general education curriculum and are frequently included in development and planning meetings with general education teachers.

*When I was developing the alternate assessment, I was in the special education department. When I would go out into the field and talk to special education teachers about the state curriculum framework, they*

*would draw a blank. They were not included in that area. Now, more people are familiar with the curriculum framework, and schools and districts are finally including the special education teachers in professional development activities. The same thing is happening with assessments. In the past, schools would pull general education teachers into a meeting to discuss the results of MAEP [Michigan's state assessment] but [would] exclude the special education teachers. Now, both general and special education teachers are included in those types of meetings. —Coordinator, Michigan Department of Education*

Including students with disabilities in general education classrooms and exposing them to the general education curriculum gives them the chance to perform better on assessments. As one Florida staff member pointed out,

*The laws have emphasized the need for students with disabilities to be included in general education. It's not just inclusion in general education classes but exposing these kids to the general education curriculum. They all have to take the assessment on grade level, so it can only help them to have exposure to the curriculum. It gives them the chance to do well on the assessment, whereas before, they may not have ever seen some of the material included on the test. —Section Administrator, Florida Department of Education*

Most state staff members we spoke with viewed the increased inclusion of students with disabilities on state assessments as a positive outcome of NCLB and IDEA. A few staffers mentioned concerns regarding over-testing students and the fear that focusing too much on assessments can limit creativity in the classroom. These concerns are not unique to the special education population; however, they have been brought up on the general education side as well.

## **Accountability**

### ***Are states complying with the laws, and where are they struggling with the laws' requirements?***

Every state we spoke with has taken steps to develop an accountability system that meets NCLB and IDEA requirements. Accountability is a key component of standards-based reform. According to NCLB and IDEA, states must establish standards for student achievement, communicate those standards to students and educators,

measure student progress in reference to the established standards, and apply consequences when schools and districts do not meet those standards.<sup>1</sup>

Our interviews with state staff members revealed how different each state was in its approach to developing and maintaining its accountability system. Some states, like Illinois, had developed accountability systems prior to the implementation of NCLB. In order to be in compliance with NCLB, Illinois had to make considerable changes to its assessment system. One Illinois staffer pointed out that although they made the necessary changes, those changes may not have been to the benefit of the students.

*Because we already had an assessment system, we were forced to go back and revise what we had, unlike some states that did not have accountability and assessment systems set up. That put more of our schools in jeopardy. We have more grades participating in the assessments. Previously, we had a writing assessment that was very integral to the testing process, but our legislators looked at it and said we couldn't afford to do it anymore. Teachers indicated that we were testing too many content areas. It's had some curricular impact.*  
—Division Administrator, Illinois State Board of Education

Many states must deal with specific issues, problem areas, or populations of students that require targeted attention in order to boost academic performance. For example, staff members in a few states discussed the issue of disproportionality, which refers to the disproportionate representation of minority students placed in special education. NCLB and IDEA require states to track data on the number of minority students identified as in need of special education. States must monitor districts and schools and pinpoint those that overidentify or under-identify certain populations for special education services. States like Georgia send education department representatives to train school teams to resolve their disproportionality issues. The trainings are ongoing and aim to teach schools how to assist students without labeling them disabled.

Though many improvements have been made since NCLB and IDEA began emphasizing accountability for all students, some staffers worried that some regulations could actually harm students with disabilities. Several staff members expressed concern

regarding rules for graduation requirements included in NCLB. According to the law, a state may count as high school graduates only those students who received regular diplomas in the standard number of years. Some state staffers felt this stipulation put students with disabilities at an unfair disadvantage, since many states had created modified graduation standards or allowed students to take longer than four years to complete their course requirements. Under the new definition, schools do not receive credit for students who graduate using modified standards or take longer than four years to graduate, so there is no motivation to maintain these alternate routes to graduation.

Florida is one state that had separate general and special education diplomas before NCLB. Each diploma had different requirements. Because NCLB prohibits the use of separate standards for general and special education students, Florida eliminated its special education diploma. In its place, the state developed a system that uses access points to focus on a student's ability to function. Access points exist at each grade level to show how students with disabilities can make contact with the general education curriculum and retain the implications of the material, but at a lower complexity level. Schools and districts that struggle with the graduation issue receive targeted interventions and technical assistance from the state. The state continues to provide remediation for students with disabilities who do not pass the state assessment on the first try. Additionally, a student's IEP team is allowed to determine whether or not the graduation requirements have been met even if the student failed the assessment required for graduation.

One complaint that came up several times during our interviews was the issue of timing in regard to when the Education Department makes changes to regulations and when the states receive the guiding documents necessary to implement those changes. As one staff member noted,

*There are a few examples of ED issuing guidance documents after or at the same time states are supposed to be implementing policies or changes. Although states are always aware that new regulations or changes to existing regulations are coming out, not having the guidance*

*documents can make things difficult. —Coordinator, Michigan Department of Education*

Staffers pointed out that it is unfair of ED to make changes to the regulations and expect states to comply, but then fail to provide guidance on what these changes entail. Without guiding documents and a short implementation time line, states are often left guessing what is expected of them.

Overall, state staff members believe that accountability systems are a positive result of NCLB and IDEA. Schools and districts must now pay attention to the performance of all students, which means students with disabilities now get attention they did not have before. This attention is not always positive, however. Some schools and community members worry that the performance of students with disabilities on assessments may negatively affect the school's ability to meet AYP goals. In general, however, holding schools accountable for students with disabilities has made people more aware of how talented these students are.

## **Data Collection and Quality**

Standards-based educational reform requires the collection of data to determine whether or not progress is being made. NCLB and IDEA therefore require states to collect a substantial amount of data, which can be a daunting and expensive task. In addition to the reporting requirements imposed by NCLB and IDEA, a state must also collect data for reports to the state legislature.

The quality and sophistication of data collection and management systems vary from state to state. Some states, like Georgia, maintain separate systems for general and special education data. Staff members explained that this separation was necessary due to the extra reporting requirements under IDEA and the different monitoring activities the state performs with that data.

A number of factors affect data quality. These include the skill level of local staff performing the actual collection; the interoperability among school, district, and state

data systems; and the data verification. As a conference call with New Jersey staff members revealed, states spend a significant amount of money and time training staff and verifying data.

*We offer training for districts on an annual basis for everyone at every level of data collection. We give definitions and examples and help them figure out how to code certain incidences. We walk them through the system. Through our new Title IV data grant, we're working on an instructional video to help in the training. We update the training materials and presentations every year and post the PowerPoint presentation on the Web. —Multiple staff members, New Jersey Department of Education*

But, as more than one state staff member mentioned, training is expensive, and states do not have people or the capacity to supply one-on-one support to every district and school. Therefore, states do what they can with the resources they have. Most try to cut costs by posting training and technical assistance materials online. Some sponsor a call center for districts and schools to contact for guidance.

Providing individualized training is a difficult and expensive task, especially when most districts choose their own data collection systems and come up with their own procedures for data entry. In addition, the expertise of data collection staff at the local level can vary from district to district. States also struggle to make sure that districts understand the connection between the data they collect and the results the states report to ED. Errors at the local level affect the accuracy of state-level data.

The interview with New Jersey also revealed the importance of collaboration among departments and divisions to guarantee data quality throughout the entire collection process.

*We work with the assessment officials and request information about how they code certain answers. We give information to the grants office when they do their consolidated applications so they can give districts information about data collection. Every county has a data collection specialist. —Multiple staff members, New Jersey Department of Education*

A number of data collection experts we interviewed for this study mentioned that OSEP often did not give them sufficient time to implement changes to the system. As one expert explained,

*In Florida we have a very sophisticated [data collection] system. We are confident in our data quality. When we add a data element, it takes about two or three years to implement the change. The Department of Education does not give us enough time. The turnaround time is never long enough. They want us to accomplish the changes in six months when we know it takes longer than that to do it right. We had a situation recently regarding the State Performance Plan [that] we submit for IDEA, where we have to calculate data on [the] progress students have made. ED changed the definitions and we'd already collected the data. In the end, they're going to end up with something that they can't disaggregate.*  
—Section Administrator, Florida Department of Education

Not only do states need time to make the appropriate changes to the data collection system to ensure that they are collecting the proper data, but also districts need advance notification to train their employees on the new requirements. In Massachusetts, a state with a fairly sophisticated data collection system, changes are made to the collection system on an annual basis. The state gives districts six months' advance notice when changes are coming and conducts training for the district each year to prepare them for modifications to the system.

In multiple interviews, data experts mentioned the need to streamline state and federal data collection requirements.

*A negative impact is the complexity, time, and energy that go into working out glitches in data and data that don't seem to mean anything. There is a need for greater alignment. We've continued in New York to look at requirements that we don't need. [ED] needs to do that as well. We want to put more time and money into getting achievement levels up, instead of collecting data twice.* —Multiple staff members, New York State Department of Education

It is evident from our interviews that all 10 states are at various stages of upgrading their data collection systems. It is not clear, however, whether those changes are the direct

result of NCLB. Some staff members were careful to note that their state was already in the process of updating their system when the law came out, while others thought NCLB gave their state the extra push to make much-needed changes. Ultimately, most states would like to track students from pre-K through college. Massachusetts is one state that is already able to link the secondary and college systems with a 95 percent match rate. As data collection and tracking systems become more sophisticated, the range of possible applications continues to expand. States may someday be able to link student, teacher, and course data.

State staff members pointed out that data are useful only if people know how to use them. States are aware of this fact and, consequently, provide training and professional development to districts and schools on how to use the data to identify areas where they can make improvements. For example, teachers can use performance data to tailor their instruction to the needs of individual students.

The data collection experts we spoke with often expressed their frustration with the overlap of reporting requirements from NCLB, IDEA, and the state. They suggested that collaboration, particularly between NCLB and IDEA, was needed to develop clear definitions for data collection that would result in gathering information truly useful to ED and the states. It was clear from speaking with these experts that even though states continue to struggle with data quality and reporting requirements, they have nonetheless made significant progress in past years. But, the data experts warned, only accurate data will show a real picture of what educational systems are accomplishing.

## **Best Practices**

### ***What are states doing to increase the achievement of students with disabilities and to ensure that they are in compliance with NCLB and IDEA?***

The end goal of NCLB and IDEA is to increase academic achievement. Our conversations with staff members at the state level highlighted some best practices that are being implemented in an attempt to achieve this goal.



## **Data Collection**

**Interoperability.** States are working toward comprehensive systems that (1) are linked across schools and other agencies; (2) are from the classroom level up to the federal level; and (3) are able to track students from preschool through college. By creating data systems with these linkages embedded in them, states can streamline test reporting, reduce errors, and help identify problem areas.

**Accuracy.** Changes are constantly being made to state data systems as state and federal indicators are added, taken away, or modified. Many states have established verification processes that allow them to test the accuracy of new elements added to the data collection system. The verification process can take at least two years to complete. States therefore need sufficient time from ED to make changes to the system in order to properly train their local staff on the changes and test the accuracy of the added element.

**Training.** States spend substantial amounts of time and money training data collection staff on proper methods in order to guarantee the accuracy of the data. States also spend a lot of time and money training administrators and teachers on how to use that data to identify problem areas and target interventions to correct those issues.

## **Collaboration**

Collaboration is a key component of increasing the academic achievement of students with disabilities. The difficulty lies in how to organize the departments, divisions, districts, schools, teachers, parents, and other stakeholders into a cohesive unit that ultimately leads to the creation of positive and effective educational experience for the student.

**State Level.** Collaboration at the state level can be difficult depending on how the state education department is organized and what duties and responsibilities are linked to specific departments or divisions. Since NCLB, some states have undergone a reorganization to promote collaboration between general and special education staff.

California, for example, made major changes to its standards and assessments division to comply with NCLB and IDEA.

*When the standards and assessment division realized they needed our assessment, they moved the special education division not only on the work chart, but also physically into the mainstream of curriculum and instruction. Before, the special education division was in a separate building. We were in a specialized programs branch and they weren't sure what to do with us. We were isolated on the work chart and physically. Now we actually see each other in the elevator. All of this change happened at the same time that NCLB came out. —Interagency Liaison, California Department of Education*

A specific example of how collaboration can be complicated at the state level came from an interview with one of Georgia's data collection experts. To track students from pre-K through 12th grade, the Office of Standards, Instruction, and Assessment, located within the Georgia Department of Education, had to work with the Department of Human Resources, a separate department in Georgia's government structure.

Despite these challenges, states continue to promote collaboration from all divisions. By working together, these divisions are able to create more effective educational programs for students.

**District and Regional Levels.** Collaboration between the general and special education sectors is also important at the district and regional levels. Oftentimes, states provide similar services for general and special education students through separate divisions or agencies. The challenge, therefore, is to ensure that the activities of one agency complement the work of others in the department. Some states sponsor special education resource centers that offer training, professional development, and technical assistance.

Ohio is one state that has used the regional resource center model to support special education since the 1960s. Ohio's 16 Special Education Regional Resource Centers (SERRCs) are a well-known network throughout the state. The mission of the resource centers has evolved since the 1960s to become much more prescriptive in determining

which activities receive funding. The centers have begun to direct their professional development toward principal-led teams to promote shared responsibility at the building level for the performance of all students.

One problem for SERRCs, as one state staff member warned, is that the name can be both a resource and a barrier in that some people think the centers serve only special education providers. The Ohio state legislature recently passed a bill to create the Educational Regional Service System (ERSS) to align existing resources like SERRCs into a coordinated regional service delivery system. The ERSS will unify professional development and technical assistance activities to target the individual needs of the state's districts.

Georgia is another state with a long history of providing training and assistance to special education teachers through resource centers. As in Ohio, the purpose of Georgia's Learning Resource Centers (GLRCs) has evolved over their 30-year existence to focus more on coaching and support-based activities for teachers and parents. The GLRCs mainly help schools and districts meet NCLB and IDEA requirements through the implementation of effective instructional strategies.

**Parents.** The parents of students with disabilities can be a valuable resource, and states are beginning to take advantage of this fact. Some states have started programs that train parents how to be advocates for their children and make them aware of the resources that are out there for them. Support for parents is available from various sources, from resource centers like GLRCs to local or state advocacy organizations.

Other states are involving parents in the accountability of LEAs and districts by letting them serve on accountability committees and in other ways. Where parents were an external part of the accountability process before NCLB and the 2004 reauthorization of IDEA, they are now deeply involved in many states.

## **Professional Development**

Ensuring that all students with disabilities receive instruction from a highly qualified teacher is a goal for each of the 10 states whose representatives we spoke with for this project.

**Preservice training.** Meeting that goal starts at the preservice level, where state departments and boards of education must work with local colleges and universities to create rigorous programs that adequately prepare general and special education teachers for the classroom. For example, Florida has created Professional Development Plans based at universities that provide preservice training. A major concern for educators and administrators is that new teachers enter their first year of teaching with all the tools they need to succeed. Florida allows students who majored in subject areas other than education to obtain their teaching certificate by taking a test once they have received their college degree. This is not an ideal situation, however, as one staff member pointed out.

*A worry is that the new generation of teachers are students who majored in business and passed a test at the end of their college career to certify that they are ready to teach special education classes. They do not have the training or experience that our older teachers have. Even if the new graduates are in a 35- or 65-hour program, they do not have the depth of learning. It's a huge issue over who is going to be left and what their knowledge level is. —Principal Investigator, Florida Department of Education*

Co-teaching models and mentoring programs have also been widely implemented across the nation. Veteran teachers are an important resource for schools to use in providing support for new teachers. One-on-one guidance from experienced teachers can help new teachers develop their skills and techniques.

**Highly Qualified Teacher Requirement.** A significant problem for districts and schools is NCLB's requirement that all students be taught by highly qualified teachers. The highly qualified teacher (HQT) requirement in NCLB comes at a time when most states

are struggling with massive teacher shortages, not just in the area of special education, but in general education as well.

In many cases, veteran special education teachers have the skills but not the certification. Therefore, many states have used alternative approaches to ensure that all their special education teachers are highly qualified. One popular approach for states was to use high, objective, unified state standards of evaluation (otherwise known as HOUSSE) to verify that experienced teachers had sufficient content area knowledge to be considered highly qualified. Through the HOUSSE procedure, teachers could use their years of experience and participation in training workshops to meet NCLB's highly qualified requirement. Critics of HOUSSE feared the process "watered down the standard,"<sup>2</sup> and in May 2006, ED requested states to submit plans for phasing out their HOUSSE options.

The HQT requirement becomes a particularly difficult issue at the high school level for special education teachers. A special education teacher may be certified in one content area but may also teach other subjects. This issue can be a challenge for schools to address for a number of reasons. For example, as one staff member in Michigan pointed out,

*The high school content is more challenging. One problem Michigan has run into with special education teachers at the secondary level is that their math skills are not high enough to effectively support students with disabilities taking algebra. —Consultant, Michigan Department of Education*

States have developed creative solutions to address the problem. One issue is that LEAs do not have the funds to provide professional development training for all their teachers. States, such as Florida, have therefore stepped in to help LEAs with the professional development piece.

The Florida Department of Education provides courses for special education teachers preparing for certification exams. One staff member mentioned that making the courses

available online means that general education teachers and administrators can access them as well.

**In-service training.** All states provide in-service training opportunities for special education teachers. Many staff members mentioned targeted professional development as a key component of the state efforts to improve academic achievement and to address problem areas.

States use a variety of methods to provide in-service professional development opportunities to teachers. Most states have resource centers, such as those mentioned above, to provide teachers with technical assistance and resources. Some states have set up online clearinghouses where teachers can easily access free materials. States also sponsor message boards or listservs where teachers can exchange ideas and discuss any difficulties they might be having.

States have been encouraging the use of schoolwide or team trainings to increase the effectiveness of professional development activities. Team trainings involve administrators, teachers, and other staff that play a role in the students' education. These trainings can take place during the summer and are often extended through the school year. Staffers mentioned the importance of continuing training throughout the year and requiring teachers and team members to assess their progress at scheduled intervals to see where improvements can still be made.

## **Conclusion**

Each state's experience with implementing NCLB and IDEA has been unique and was affected by a variety of factors, including physical characteristics, population, access to resources, and level of advance preparation.

The most important result of NCLB and IDEA appears to be that students with disabilities are no longer ignored or discounted. People must pay attention to them now and work to make sure they have the same opportunities as their nondisabled peers. To that end, NCLB and IDEA have had a significant, positive impact. Teachers,

administrators, and the community are becoming aware of what students with disabilities are capable of achieving if they are held to the same high standards and expectations as general education students. Students with disabilities have a wide range of talents, and it is up to the educational system to make sure they are challenged and encouraged to develop their skills.





## **PART III. PERSPECTIVES OF KEY STAKEHOLDERS**

This section of the report provides an assessment of how NCLB, after three more years of implementation, has impacted students with disabilities. This section draws on interviews with disability policy, education, and advocacy leaders, and with students with disabilities and their parents.

### **The Current Environment**

#### **Attitudes and Expectations**

*We are in the middle of a dramatic change process, and we haven't given it all the time it needs. Too many places are still in a resistance mode. The possibility for change is great, and I would hate to see it falter.*  
—Official

Since 2004 there has been a palpable and positive change in the overall attitude of educators toward educating students with disabilities. Educators expect students with disabilities to meet higher standards, and students with disabilities have increased access to highly qualified teachers and higher-level curricula. The full integration of students with disabilities into general education is not complete, but progress is very noticeable.

Most individuals interviewed for this report believe that the culture of high expectations for students with disabilities—and, for that matter, for all students—is taking root. They credit these attitudinal changes to NCLB and to IDEA as reauthorized in 1997 and 2004. Interviewees recognize that this is a momentous change and that the leadership from both the president and the Congress and other national leaders has been a key factor in making this social change. Even though outcome data from standardized tests shows that certain subgroups (such as students with disabilities and ELLs) do not always make AYP as required under NCLB, more and more educators and policymakers are holding firm to the promise of NCLB to ensure that every student is proficient at grade-level standards. As one advocate said, “People teach what is tested and who is tested—so now that students with disabilities are included in the accountability system, they are

being taught.” This message seems to have been internalized by educators over the past three years and has also been very strongly embraced by the public, policymakers, and advocates.

When asked whether students with disabilities are looked upon the same way as general education students in the current environment, individuals who were interviewed generally said there is much more acceptance of students with disabilities in general education, but they voiced some concerns nevertheless. A comment from one special educator represented the opinion of many when she said:

*Students with disabilities are still viewed as special education students, but we have pushed hard to have them in general education. But it takes some time for attitudes to change. Special education is not being left out of the conversation on accountability any longer, which is good. We are making progress in seeing students with disabilities as general education students, but they still have special conditions which require special services.*

*This tension between whether students with disabilities should be considered as general education students or remain in the special education system was expressed by several other interviewees.*

*There is a growing impression that students with disabilities are considered to be part of general education classrooms, but they are still considered separate and part of special education because of their Individualized Education Plans. That is what sets them apart.  
—Special education teacher*

One interviewee noted that differences in the type of disability can result in differing perceptions of students’ capabilities and, hence, whether or not they are considered as general or special education students.

*Most people don’t understand the differences between disability categories and have in mind that all students with disabilities are severely disabled. A lot of folks don’t know much about learning disabilities and therefore aren’t aware that most learning-disabled kids can be in general education and learn to high standards. —Administrator*

The seriousness of the disability also impacts how students with disabilities are viewed vis-à-vis general education.

*More students with disabilities are considered as general education students, and there is a greater awareness of providing differentiated curriculum for every student. But students with severe disabilities are not viewed as general education students so much. The attitude of the teacher is very important. Do they see the need for differentiated education for all students, or do they see students with disabilities as a separate group that has to be dealt with differently just because they have a disability? We have to create more awareness of disabilities, and we have to help teachers understand that by providing accommodations it doesn't show preferential treatment. —Administrator*

Several other interviewees noted that there is a shift in thinking away from seeing special education as a separate program and more as a support to learning.

*Students with disabilities are more often viewed as general education students. Special education is a support system to help them succeed in general education, rather than a special or separate program. —State official*

One advocate expressed an opinion about the unique circumstances of students with disabilities, however, that may prevent them from ever completely being viewed as general education students.

*Students with disabilities are not considered general education students. Because you have to report on subgroups of students with disabilities, they can't blend in, because the data are there on how they do. The belief system hasn't really changed, although behavior and actions are starting to change.*

And from another advocate:

*Students with disabilities are thought of as another group of students, not general education students. But that is okay; they should always be identified as special education students because they need special services.*

These comments demonstrate that there are still dividing lines between students with disabilities and the general education population, but those lines are becoming more blurred. However, by the nature of their disability, some students will always need extra supports to allow them access to the general education curriculum. Of course, students with disabilities are not the only ones who need extra supports to access the general education curriculum, and educators must recognize that schooling should be intentionally structured to provide the necessary supports for any student to succeed. Several interviewees acknowledged that special education is by nature based on differentiated instruction, which can help influence teaching strategies for all students.

Interviewees were asked how students with disabilities are viewed in the overall accountability system and whether they were singled out because the subgroup did not make AYP. Most indicated that there has not been any serious backlash against students with disabilities, at least in public. Comments from two administrators reflect this attitude:

*We really haven't seen much backlash. We work to educate all our parents about our situation, and our community is pretty supportive. We had two middle schools that did not make AYP, but that wasn't because of students with disabilities. There was a new math test that all students had to take, and all students, not just students with disabilities, did not do well on it.*

*We have had 30 years of inclusion, thanks to IDEA, and so inclusion is a value that educators and the public care about, and schools have dealt with it. Students with disabilities have a face and a name, and people are accepting of students with disabilities, so I don't think there has been a backlash against them.*

Others expressed an opposite view, however, as represented by the following comment:

*Yes, there is a backlash. When you show students with disabilities in a separate column, and it's very clear students with disabilities are the reason for not making AYP, it puts pressure on families and students and creates tension between students and teachers who are trying to improve their scores. —Advocate*

Another advocate viewed the potential for backlash against students with disabilities as an issue regarding the quality of the instruction and the ability of the teacher to teach diverse students.

*If the school is providing extra support for kids, and it helps them to make progress, people know they are trying. But if teachers aren't skilled to work with students with disabilities (or any student), they may resent having special education students in their class. I'm not sure kids get the backlash, unless you have very weak teachers who can't help any students. Those teachers should not be in the classroom or need to be given help so they can teach the kids. We have too many weak teachers. Poor kids of color with disabilities—they are not treated well at all. They are a subgroup that gets ignored, and they may suffer from some backlash because they get identified as a failing category.*

While there seems to be a perception among some that students with disabilities (as well as ELLs) are holding schools back from making AYP, the truth is quite different. A recent report from the Aspen Institute showed that fewer-than-expected schools fail to meet AYP because of test results for students with disabilities.

*One common complaint of No Child Left Behind is that schools are not making AYP solely because of children with disabilities or [limited English-proficient] students. The analysis done for this report raises questions about this claim due to the large numbers of schools in states that do not have to report for these subgroups. Furthermore, even when these subgroups do not meet their annual targets, they are very often not the sole reason a school is identified as not making AYP.<sup>3</sup>*

Further analysis by the Aspen Institute reveals that of the 410 schools in California that did not make AYP, only 28 failed solely because of students with disabilities. In Michigan, only 54 of 436 schools that did not make AYP failed solely because of students with disabilities. In Florida, only 23 of a total of 3,106 schools that did not make AYP failed solely because of students with disabilities.<sup>4</sup> As similar data become available, there seems to be a growing recognition that the failure of schools to meet AYP is not solely due to the presence of students with disabilities.

## Academic Achievement of Students with Disabilities

There is general agreement that NCLB has helped improve the academic performance of students on standardized tests. A recent report from the Center for Education Policy states:

*In most states with three or more years of comparable test data, student achievement in reading and math has gone up since 2002, the year NCLB was enacted. There is more evidence of achievement gaps between groups of students narrowing since 2002 than of gaps widening. Still the magnitude of the gaps is often substantial.<sup>5</sup>*

But many people caution that it is too early to tell whether or not NCLB has had an impact on increasing academic achievement and skills of students with disabilities. Because states are still developing and implementing assessments and data reporting systems, instructional frameworks, and curricula, as well as ensuring that all teachers are highly qualified, it is, according to many interviewees, too soon to judge the impact of all these changes on the academic performance of students with disabilities. As one individual pointed out, “We need to distinguish if students are getting smarter or getting smarter at taking tests.” Another interviewee carried that thought further.

*It’s way too soon to determine the impact of NCLB on academic performance of students with disabilities. The implementation of the law is so complex and is implemented across such a broad spectrum of schools and communities [that] there is no way to say if NCLB has had an impact. We need to ask a lot of questions about NCLB’s impact on students with disabilities—does it affect increased achievement or are students benefiting from participating in the assessments, for example? We don’t know. We are only implementing the testing and accountability structures of NCLB at this time. —Advocate*

According to the Center on Education Policy report,

*Data for students with disabilities and limited English-proficient students subgroups must be interpreted with caution because changes in federal regulations and guidance and in state accountability plans may have affected which students in these subgroups are tested for NCLB accountability purposes, how they are tested, and when their test scores*

*are counted as proficient under NCLB. We do not believe the data are reliable enough to be included in the national summary tables.<sup>6</sup>*

Many interviewees did report that state performance reports indicate higher scores in math and English for elementary students with disabilities but little improvement for students with disabilities at the high school level. One state official from a state that had a disaggregated accountability system in place before NCLB (and therefore a longer period of time to track results) said:

*Academic performance for students with disabilities has improved to some extent. There is an increase in students with disabilities who are scoring in the proficient range of tests more often.*

Interviewees all agreed that NCLB has had an impact on programs for students with disabilities and that there is much more attention focused on improving the academic performance of students with disabilities. But most felt it has not translated into actual academic improvements yet because it takes time to prepare teachers and to change instruction.

*NCLB has had an impact on programs for students with disabilities, but it's not clear if it's had an impact on improvement of academic outcomes. It's raised the profile of students with disabilities in terms of expectations. They are now expected to achieve mastery. This has probably had a positive affect on academic achievement, but the data are not very clear. Not a lot has changed about the level of teacher ability to deal with students with disabilities and to increase inclusion in general education.*  
—Advocate

## **Reporting Disaggregated Outcome Data**

*There is no question that the intent of NCLB is what it should be. By disaggregating data by subgroup, we can finally see what is happening to students, and . . . that has had an untold benefit for students with disabilities.* —Administrator

Since 2004 there has been widespread acceptance of the importance and need to report outcome data disaggregated by subgroups. When NCLB was first being implemented, there was some resistance to this provision, but three years later, almost

without exception policymakers, educators, advocates, and parents sing the praises of the disaggregated reporting requirements of the law. That does not necessarily mean that all the data are of high quality, are complete, or make sense to the general public. Nevertheless, educators can no longer cover up the poor performance of subgroups of students by reporting average test scores.

A common phrase used by many interviewees was “Accountability means there is no place to hide.” Schools now have to honestly account for the performance of every student. The following quote represents the attitude of many interviewees:

*The biggest impact is that every building administrator knows the scores of students with disabilities in their building, and they know they have to do something about it. It brings it into the daylight. Scores allow people to see what is happening, which is a good thing, but then they have to act upon it.*

### **More Supports Needed for Students with Disabilities**

Educators are increasingly aware of the need to provide lower-performing students with extra supports to allow them to learn to high standards. Many educators refer to this as providing differentiated instruction based on the needs of each student. This approach is very similar to the development of an IEP for special education students, as it spells out what type of instruction each particular student needs in order to develop proficiency. With subgroup reporting, educators are much more aware of the need to provide intensive instructional supports to certain categories of students, including students with disabilities, English language learners, and students reading below grade level.

One of the first steps to help students meet grade-level proficiency standards is to provide them with access to a higher-level curriculum or the grade-level curriculum, if they have not been taught at grade level. Since 2004, students with disabilities are, according to interviewees, gaining much more access to grade-level curriculum. This move began with the reauthorization of IDEA in 1997, and NCLB has continued this press for students with disabilities. Students with disabilities are also increasingly being



expected to take high school exit exams in states that administer them, which means those students must have access to the curriculum. As one advocate said,

*If kids have had access to high-level curriculum, they probably did okay on the high school exit exams, and if they didn't, it's a problem not just for students with disabilities, but all poor kids. This is not new—that kids were not passing the tests—it's just more visible. Malpractice in schools has been going on long before NCLB, and it's going on now.*

Another advocate provided a broader perspective on making a higher-level curriculum available to all students.

*NCLB has had a major affect on students with disabilities because schools were never held accountable for those students and now they are. People don't like being held accountable but now they are. The disability issue is really misunderstood by the general public and educators as well. For example, many learning-disabled students never learned to read. If they had been identified at an early age and given the appropriate help, they would never be in special education. What we need to do is focus on younger students and earlier identification of their educational needs and reduce the numbers in special education and get them the educational support so they can learn to read. I'm proud of the disability community for hanging in there with regard to supporting NCLB.*

If students with disabilities are going to access a higher-level curriculum, they need to have well-trained teachers—with strong content knowledge and pedagogical strategies—to make that curriculum learnable. One of the most common strategies for providing access to the general education and higher-level curricula for students with disabilities is to develop collaborative teaching relationships between special and general education teachers. Most interviewees said this collaborative approach is becoming much more common and that both sets of teachers are benefiting from this closer contact.

*There has been an impact on curriculum and instruction, both for special education and general education. General education is now much more aware of teaching students with disabilities and special education pedagogical strategies, and special education is now much more aware of standards and content. The two are working together to change the*

*face of education. Because students are assessed against the same standard, all students are getting access to the same curriculum.*  
—Official

*The special education teachers do not have the freedom any longer to ignore the general education curriculum, such as reading and math. Regular education teachers have taken an affirmative role in working with special education teachers to help them to better understand the requirements of the general education curriculum. Regular education teachers are directly involved in looking at the special education curriculum and making sure it provides the necessary academic skills.*  
—Administrator

But the issue of the capacity of the teaching force was raised over and over again during the interviews.

*We are moving more students with disabilities to general education and getting them access to curriculum and testing requirements, which means they have to get better teaching in order to pass the test. So we need better teachers and better teaching in order for this to really work.* —  
Advocate

One researcher indicated that several states had been working to develop the capacity of teachers and to provide guidance on teaching special education students.

*There have been some positive, organized efforts at the state level. Massachusetts created a resource guide both for general and special education teachers because all teachers need to learn how to work with special education students. Ohio developed materials for principals to help them become instructional leaders to deal with this issue. Ohio also identified schools of promise that do well under NCLB with all the subgroups, and they identified schools of distinction that do well with students with disabilities, so other schools could learn from them.*

Several interviewees also sounded a cautionary note about focusing too exclusively on grade-level standards to the point that the special education curriculum is ignored, which may prevent students with disabilities from learning necessary skills.

*There can be too much alignment of the special education curriculum with the general education curriculum for students with severe disabilities.*

*They still need an individualized approach, and we can't ignore that. — Administrator*

## **Schools Still Focusing on Compliance with NCLB**

States, districts, and schools are still engaged to a large extent in compliance with the requirements of NCLB, which is preventing them from focusing their efforts on instructional change and teacher development. States are still in the process of designing assessment systems (particularly the alternate and modified assessments); working to meet the highly qualified teacher requirements; and providing timely notification of testing results to schools, teachers, and parents. Additionally, guidance from the U.S. Department of Education<sup>7</sup> has often been inconsistent or slow in coming, which has slowed down the implementation at the state and district levels. Many of the interviewees noted that the real work of instructional reform and providing a high-level differentiated curriculum to every student is just now beginning.

*We have spent most of the last four years on compliance for NCLB. Educators have not gotten deeply into changing curriculum and instruction. There is more attention placed on curriculum, but not on revising the curriculum to really make a difference. We need more time and a sharper focus on changing curriculum. —Policymaker*

## **Challenges and Issues**

*There is a sea change in education, but there is still much work to do. —Official*

The following section of the report addresses various challenges and issues that were identified by interviewees and hinted at in the previous section.

## **Culture and Belief Systems**

We learned from the interviews that, increasingly, educators and policymakers believe all students can learn to higher standards and that this perception is growing stronger all the time. However, when students with disabilities are considered, there is still some hesitation about the extent to which they can learn to grade-level proficiency standards.

The interviewees, all very familiar with various types of disabilities, believe that every student with a disability can learn to higher standards than previously expected, but they were also quick to point out that the type of disability a student has can have a significant impact on the level of learning. They also believed that the general public has a monolithic perception of students with disabilities (generally focusing on more severe disabilities) and assumes that students with disabilities are incapable of learning to higher standards. Because the public (and some teachers) does not understand the various gradations of disability, they are often less willing to believe that students with an IEP are capable of mastering a high-level curriculum.

Several interviewees pointed out that it is critical to differentiate between various types of disability category in order to keep the pressure on to integrate special education students into general education. This is particularly important for learning-disabled students who most people agree can learn to grade-level standards if given more time and supports.

*There is so much lumping together of disabilities, and we need to really differentiate them. NCLB should have more varied testing and accountability standards for students with disabilities given the differences in disabilities. NCLB should be more sophisticated in its requirements for proficiency, not just one standard. —Researcher*

Because some districts allow students with disabilities to be given assessments that can be less rigorous than the regular assessments, it reinforces the idea with the public that students with disabilities cannot perform to grade-level proficiency. Guidance on which students with disabilities fall into the 1 percent and 2 percent categories for alternate and modified assessments has been slow in coming from the U.S. Department of Education, and therefore states are still in the process of finalizing not only the actual assessments but also their processes for determining which students fall into which category.

*What group of students should be held at alternate standards? We don't have a good evidentiary base of knowledge to make these decisions, and teachers and staff don't know how to make these decisions. We need*

*much more teacher preparation/professional development on this issue.  
—Advocate*

In addition to this confusion, there is the very real issue of accepting the fact that some students with severe disabilities will never be able to master grade-level or, in some cases, an academic curriculum. This reality begs the question: How can these vastly competing visions be reconciled?

*There is an assumption that students with disabilities should be expected to meet the standards, but many students with disabilities cannot. However, we shouldn't just place these students into the 1 percent category. The 1 percent doesn't make sense to me and is a completely arbitrary number—where did it come from? —Administrator*

*We set expectations for students with disabilities to meet NCLB standards, but some have real problems because of their disability, and we negate the importance of their IEP and individualized learning process because we are trying too hard to get them to pass the NCLB tests. Even their parents know they will never pass the grade-level test, and the parents just want them to learn some important life skills. —Administrator*

*The extreme alignment of special education instruction to the general education curriculum for every student with disabilities can have negative consequences. It's okay for the mild and moderately disabled student to participate in the general education curriculum, but for severely disabled students, having so much alignment with the general education curriculum means they may not be getting the special accommodations or instruction they really need. Some teachers are taking it to the extreme. For a typical learning-disabled student, it's good to look at the general education curriculum, but for severely disabled students, it may be much more important for them to learn life skills than math skills. We need to be cognizant of what the student needs and is able to do. —Administrator*

Because the issue of expectations drives so much instructional practice and classroom behavior, it is important to have clarity on what should be expected of students with disabilities. Research on academic achievement by students with various types of disabilities would be helpful for educators as they set goals for students with disabilities to learn to higher standards. This information would also help distinguish between the capabilities of learning-disabled students and those with more serious disabilities.

## Capacity Building

Much of the discussion of helping all students achieve to high standards comes down to the capacity of the system to deliver the appropriate instruction and needed supports. And the number one issue is, of course, the skill level of the classroom teachers that work not only with students with disabilities but also with all students—be they lower-performing, ELL, or gifted children. Without prompting, almost every interviewee raised the issue of highly qualified teachers as a key provision to help students with disabilities achieve to higher standards.

First, there were a number of questions about what highly qualified means for special education teachers and whether NCLB and IDEA defined it appropriately.

*What does highly qualified mean for a special education teacher? This is a really interesting issue that confounds me. Under NCLB we ask special education teachers to become expert in a content area so they can instruct students with disabilities in that content area. But the general education teacher, who already has the content expertise, has tried to teach the student with disabilities the content and it didn't work—which is why the student is in special education. We repeat the content preparation that wasn't successful with the child before. So why are we thinking that more content will make a difference with students with disabilities, if it's just the same thing as what the general education teachers did? [Highly qualified] for special education teachers should mean more intensive reading or math instructional skills, or knowing more about a certain disability or condition. Our state is requiring special education teachers to take the Praxis,<sup>8</sup> and we offer training sessions, free content preparation courses, and Web-based training. So we'll probably have more highly qualified special education teachers on paper, but will it really help teach students with disabilities what they need? Down the road, I don't think we will have many special education teachers that are career professionals. They will leave, and we are [already] seeing a revolving door for special education teachers. —Administrator*

The following comment also relates to clarifying the role of the content expert and the special education teacher:

*Special education teachers are still in the best position to provide access to students with disabilities to the curriculum. Special education teachers*

*are better prepared to know instructional strategies, and we should not necessarily require all special education teachers to be content experts. The content expert teacher should be the lead, and the special education teacher should help provide access and break down the content so students with disabilities can access it. Team teaching is very important. We also have some concerns that special education teachers will leave the profession in increasing numbers. —Administrator*

While it is clear that students with disabilities are getting increased access to highly qualified teachers, there remain many challenges to guarantee that teachers are actually having an impact on student learning. When general and special education teachers are team teaching, it appears to make the curriculum more accessible and learnable. However, we know that not every school has an equitable distribution of highly qualified teachers and students, and poorer schools and districts suffer from this imbalance of skilled teachers.<sup>9</sup>

*NCLB will make a difference in improving the quality of the program, but teacher preparation programs don't change overnight, and teachers don't know how to meet the needs of students with disabilities. Not a lot has changed about the level of teacher ability to deal with students with disabilities and to increase inclusion in general education. Teacher ability will ensure the success of students with disabilities in the general education curriculum, but teacher education hasn't changed enough yet, and teachers don't have those skills. —Advocate*

There was also concern about finding and retaining enough special education teachers, especially in light of the highly qualified teacher requirements under NCLB.

*There is a huge cohort of special education teachers near retirement age, and we are pushing them into retirement more quickly. Where are we going to find warm bodies to replace them? We are driving out good teachers, not just bad teachers. The mandates and processes of NCLB have made it impossible for many teachers. There was an attempt in IDEA to fix the issue of requiring teachers to have subject area competence, but we didn't go far enough to fix it. There has to be a happy medium in expecting highly qualified teachers in content and having them possess the pedagogy to teach students with disabilities. —Advocate*

Several interviewees raised the role of higher education and teacher licensing, but the conversations did not explore how these systems could more strongly support the development of highly qualified special education teachers. Rather, those conversations largely indicated that higher education needs to be revamped to meet current teaching demands. This is an area that should be reviewed more carefully.

*Higher education [teacher preparation programs] has not been quick to make changes and retool. General education teachers can get through four years of college and never have to take classes on differentiated teaching for students with disabilities, and special education teachers don't have to learn content. After this many years of NCLB, you would think we would be farther along. It's troubling that higher education is so slow to change and professional development is such a big issue. We need to tailor professional development to what teachers need [in order] to help students with disabilities get access to the general education curriculum and then figure out what works. —Advocate*

*We should use computers to provide individual assessments and instruction geared to each student's needs; have daily diagnostic assessments that lead to accountability assessments and changes in instruction. It's possible, but we haven't developed the infrastructure, such as the training of teachers to use diagnostic, ongoing assessment to influence instruction. But there is pressure on the system from NCLB for greater accountability, and that is pushing the higher education system to change. —Researcher*

*The strongest focus on capacity building was, for obvious reasons, on the teacher workforce, but interviewees also stressed the need for school principals to set the tone for the school by first creating the culture of high expectations for all students—especially students with disabilities—and then serving as an instructional leader who could support differentiated learning strategies. Interviewees also mentioned the role of school counselors and their importance in being trained to work with students with disabilities, both for course selection and with transition planning. Several of those interviewed raised the issue of textbooks and curricular materials. They hoped to move toward a universal design for curriculum so all students could have access to the material. As one administrator suggested:*

*We need products to help all teachers teach all students. We need products that include differentiated instruction, and variability in material. We need variance, not deviance. We need to have curriculum that uses embedded assessments, multiple*



*competencies, progress monitoring, response to intervention, and individualized strategies.*

Capacity is also desperately needed in the area of test development. Several interviewees indicated that it would be very timely and helpful to have access to alternate and modified assessments to learn how to best structure and design such tests. Having the federal government provide development work in this area would be helpful, as tests are expensive and time consuming to develop. And, given that most states have not yet developed alternate assessments based on modified academic achievement standards and alternate assessments based on alternative academic achievement standards, many students with disabilities are not even being assessed or counted.

Last, educators need access to information about which instructional strategies help lower-performing students succeed. This is not just an issue in teaching students with disabilities; it applies to teaching all lower-performing students.

*Title I directors are putting out more information on how to help these populations. We identified that teaching English language learners and students with disabilities would become a big issue under NCLB, and we needed to help them figure it out. But the U.S. Department of Education is not providing any information on how to serve these challenging populations. The civil servants at the Department are scared to admit there are problems in serving students under NCLB and therefore are not sharing information. —Administrator*

## **Ensuring Access to High-Quality Instruction and Services**

If one accepts that students with disabilities can achieve to higher standards, it follows that they must have access to high-quality education and services to meet those standards. Interviewees generally agreed that if students had access to a high-quality curriculum—aligned to high school exit exams, for example—then students should pass the tests. However, it is clear that this is not always happening, and more than just students with disabilities are affected.

*Opportunities need to be enhanced for students with disabilities to be prepared to participate in high school exit exams, just not at the expense of a well-rounded curriculum. This is true for all students. If students aren't passing high school exit exams, this should raise the question, why not? And then, it should lead to improving the quality of instruction.*  
—Policymaker

*Students with disabilities are not being prepared for high school exit exams. It's not just students with significant impairments; it's also learning-disabled kids with minor disabilities.* —Administrator

*Minority and poor students with disabilities are much less prepared than students from higher incomes or students with disabilities from wealthier families.* —Advocate

*For most students with disabilities, if they are getting a high-quality education, they can pass high school exit exams. I'm a fan of high school exit exams. It's not about the exams; it's about the quality of education that all students are getting.* —Advocate

It was quite clear that many students with disabilities have been placed in lower-level classes that do not prepare them for high school exit exams. The requirement of NCLB to test all students is having the desired impact of identifying groups of students who have been previously unchallenged. An interesting comment about placing students with disabilities into more demanding curriculum has resulted in focusing attention on what was happening to students with disabilities before NCLB.

*No one has been honest about why students with disabilities are suddenly being placed in classrooms with highly qualified teachers. Parents are asking, "Why is my child being moved?" The schools are afraid to admit that students with disabilities have been in classrooms with generically certified special education teachers, who don't know the content, and now they are required to have students taught by highly qualified teachers, so they move them to a classroom with a teacher with content knowledge. But what does that mean has been happening for the past several years? It means that students with disabilities have been in classrooms where they are not getting the content. It's hard to admit that.*  
—Advocate

Another concern stated by several interviewees related to the quality of the high school diploma offered. In some states, there is only one diploma for everyone, but other states offer various diplomas that are of lesser academic value, a clear signal that students are not being challenged.

*In our state, you can get a modified diploma that does not require you to take core classes, so a student can take more electives. And there aren't any end-of-course exams for most electives, so kids don't get tested. We need to make sure that more students with disabilities are placed in the core classes that have end-of-course exams, rather than put them in classes where they don't have to take those tests. We need to move more kids into the regular diploma track, not the modified diploma track.*  
—Administrator

While students with IEPs are provided with additional instructional supports, little attention has been paid to how students with disabilities are being involved in after-school or supplemental learning opportunities. NCLB requires schools that are in need of improvement to offer Supplemental Education Services (SEs) to students in those schools. SEs generally involve tutoring and remediation, but it is up to the student and parent to access these services. While the school is supposed to provide a list of SE providers, many parents—especially those of students with disabilities—are not informed about the availability of SEs. In addition, according to the Great Lakes Center for Education Research & Practice:

*Under current regulations, SE providers are not required to provide services to students with disabilities or those learning English. One study in a large urban school district reported that in fact, none of the district's top eight [SE] providers served ELL or special education students.<sup>10</sup>*

Clearly, students with disabilities are not getting the complete access they deserve and to which they are entitled.

Several interviewees felt that some schools are being selective in providing extra supports to students. For instance, if a school has limited resources (in terms of time and teachers) and can focus merely on a limited number of students to help them pass

tests, interviewees said that schools are deciding to work with the students who are only a few points away from passing the test, rather than working with students who have little chance of passing. While one can rationalize this type of behavior given the deadlines and pressures to meet AYP, it clearly goes against the fundamental purpose of NCLB and means that many students are being left out of the press to increase access to more rigorous instruction.

## **Measuring Performance**

A report on NCLB would not be complete without a discussion of testing. Almost without exception, interviewees felt that there was too much testing as a result of NCLB and that it is having unintended and negative consequences on both students and schools. There was also discussion of how a number of states have postponed or delayed implementation of certain testing requirements. It is clear that NCLB has put tremendous pressure on states and districts, and they are beginning to learn, through data, the full extent of how difficult it is to have every student learn to high standards.

*Measuring the performance of students with disabilities is one of the largest challenges for states, and states are dealing with the challenge in different ways. Alaska excluded students with disabilities from the high school exit exam system. California delayed the high school exit exam system to allow schools more time to prepare students. Other states have elaborate systems for accommodating students with disabilities. In states with established exam systems, you don't hear as many complaints, so they may have worked out systems and processes to help students with disabilities, after accommodation and alternative testing has been developed, to help students meet exit exams. States are working to develop alternative assessment methods, such as portfolios or creating alternate routes to diplomas. But you're not always sure what standards for alternative routes are being used and whether they are as high or rigorous as the state exit exams. —Researcher*

The closer you get to the classroom, the more negative are the comments made about NCLB's testing requirements. Teachers routinely say there is too much testing, too much teaching to the test, and not enough time to explore interesting and relevant curricula. Several reports have also noted a decrease in the number of electives being taught.<sup>11</sup>

*Everything revolves around testing and the punitive nature of the system. It pervades everything, and kids pick up on it. And then you have the stress of the IEP. Teachers don't feel like they can just try something creative or different to help meet the needs of students with disabilities. There is no time to be creative—teachers are always planning for tests. It is a constant struggle to try to figure out how to make it work for kids when the curriculum is very rigid and what kids need are flexibility and creativity and individualized approaches. —Advocate*

*On the positive side, teachers are preparing students for what they know will be on the test. The challenge is that teachers are so focused on preparing students for tests and not being creative in ways that will help students learn. It's "hurry up and teach to meet the test," and there's only one way. Alternate means of education are going away, and that scares me. I needed things taught to me in a different way, an alternative way, and I needed to demonstrate my knowledge in different ways, like classroom presentations or writing a response instead of taking a multiple choice test, which was hard for me. Why can't we have options like that? —Advocate*

Several comments were made about how the focus on making AYP has prevented teachers from providing a rich curriculum that meets the individual needs of each student.

*The emphasis on AYP takes away from what might make sense for kids and in providing a meaningful curriculum. Is getting a test score meaningful education or a meaningful measurement? I would say not. Should we focus on just a test score? No. This attitude affects all students but is more pronounced for students with disabilities. We are very concerned about the quality of the curriculum. NCLB is keeping us from providing the best curriculum we can. —Administrator*

*At the high school level, the focus is on getting kids ready for college, but we need to prepare kids for what they will do after high school, and we need better transition for students with disabilities and all kids. For example, how do you fit in life-skills training when there is so much focus on academic skills? The ability to address transition skills is getting squeezed out by the focus on academic issues. —Administrator*

As you advance up the education bureaucracy ladder, there begins to be a shift in feeling about tests. District- and state-level administrators see the value of outcome

data across schools because they can then drive resources into lower-performing schools. Federal-level policymakers and advocates are committed to measuring student performance through some type of testing structure. As Congress debates the reauthorization of the No Child Left Behind Act, there is an emerging position that NCLB's process of measuring adequate yearly progress could be improved, but the notion of testing students to see what they know is firmly embedded.

Despite the overall agreement that students need to be tested, interviewees mentioned a host of concerns about the impact of testing on students with disabilities and how the alternate and modified assessments fit within the overall accountability system. Comments were made regarding the stress placed on students with disabilities and how some of them, particularly learning-disabled students, would be brought to tears during testing time.

*I've heard innumerable stories from legislators that students with disabilities are being humiliated by having to take tests that they know they can't do. Special education teachers say, "We didn't become special education teachers to humiliate these students, to remind them they can't do the work." The testing makes students with disabilities feel like failures. —Advocate*

Given the pressures on educators to make AYP, interviewees shared numerous stories of states, districts, and schools that found ways to discount or hide students with disabilities in their accountability systems. It is hard to determine how widespread these practices are, but given the small number of educators interviewed for this project, these themes surfaced quite often.

*I've heard of the "enrolled grade game," where students are held back during testing years—this is more relevant to younger grades, but also affects high school students. For example, if the high school exit exam is in grade 10, the students are held back in grade 9 and then just show up later as an 11th-grade student that didn't take the test. One state has a policy against this, so, clearly, people have been thinking of this. There are loopholes and game playing. This is likely to affect the students who are the lowest performing, which include students with disabilities, but it's not just students with disabilities. —Researcher*

*In years when NCLB tests are given, students with disabilities might be held back prior to the testing year. This is evident in our research because class size in one state doubled from what it was the year before.*  
—Researcher

*I heard of an instance where a superintendent was not identifying the same numbers of students with disabilities as before because they are burying them in general education, and then they don't count as a subgroup. Some schools encourage students with disabilities to stay home during testing.* —Official

In addition to these comments, interviewees had plenty to say about the now-infamous “N-size” cohorts selected for subgroups. An N-size refers to the state-determined size of the student subgroup for which reporting of disaggregated data is required. For example, in California the N-size for student subgroups is 50, which means that if a school does not have 50 students in a particular subgroup (students with disabilities in grade 5, for instance), they would not have to report on the performance of that group on the standardized tests. Therefore, a higher N-size means fewer students are counted and fewer schools, presumably, are found to be in need of improvement. Since states all have different N-sizes, there is almost no way to compare states with regard to the number of schools that make AYP.

Many states have set higher N-sizes than were warranted, perhaps, in order to avoid reporting on the subgroups. One interviewee provided a very practical rationale for this behavior. If more schools are identified as in need of improvement because they did not meet AYP, then the state or district has to find the money to pay for needed services at many schools. By setting high N-size numbers, states will most likely reduce the number of schools identified as in need of improvement, therefore reducing the stress on the budget.

Interviewees generally felt that it would not be workable to have a federal standard for the N-size; to them, it would make sense to “have a range of N-sizes based on the size of the school.” Some of those interviewed, however, felt it was important to take into account such characteristics as the type of students, the location of schools (rural or

urban), the population of states, and the numbers of students with disabilities in the school.

*We can't set a federal standard. There is always going to be an inequity between urban and rural communities and schools because rural schools are so small and their N-size is of no consequence. —Official*

One official suggested that as all schools begin to drill down deeper to serve all students in their quest for 100 percent proficiency, the N-size issue will eventually fade away.

*The issue of N-size is perhaps an unnecessary discussion, because everyone is going to get caught up in reporting on subgroups at some point, regardless of what their N-size is. We are starting with urban schools because they are getting identified sooner by their N-sizes. The targets will catch up with everyone eventually as we keep drilling down. In our state we set an N-size of 30 for purposes of NCLB, but then for the state accreditation process, we required schools to use an N-size of 10.*

Interviewees told of other ways of gaming the system to ensure either that students with disabilities were not counted or to prevent too many schools from being labeled as in need of improvement.

*Our state created a special diploma for students with disabilities if they can't meet the state testing requirements to earn the standard diploma. These special diplomas don't get counted under NCBL. We're not pushing kids to take that diploma, because it has reduced expectations, but it exists. —Administrator*

*In our state, if the only thing that keeps a school or district from making AYP is the students with disabilities subgroup, then the school or district can add 14 points for reading and 17 points for math (a proxy) to their passing rate so they can usually make AYP. —Administrator*

*Our state has an odd system. We got permission from the U.S. Department of Education to grant waivers to schools that don't make AYP because of the performance of students with disabilities. If a school does not make AYP because of students with disabilities, the schools are allowed to offer a modified assessment to them, because if the test were*



*modified, the assumption is that they would pass. However, the reality is that the modified tests do not exist, so they are granting waivers even though students with disabilities aren't being tested. The state department of education is making this decision by looking at individual IEPs and how schools have helped the students meet the standard. But since there is no modified exam, it's just done by eyeball, and is very subjective. What does accountability mean when you allow schools to avoid measuring this way? What does it say to parents? —Advocate*

Another important question to ask is whether the system is actively finding ways to keep students with disabilities out of the accountability system, as was referenced in several comments stated earlier.

*Our state has already decided to delay the requirement for students with disabilities and English language learners to 2011. Students with disabilities are not being prepared and have not had adequate access to the curriculum to be able to pass end-of-course exams. —Advocate*

After considering the issue of too much testing and the unintended consequences of testing on students with disabilities, interviewees provided some thoughts about what an accountability system should measure. First, several interviewees felt it was more important to measure school performance than individual student performance. They recognized that individual student assessments are needed but that they should inform instruction, not be used as part of an accountability system. And there were various questions about what standardized tests can really tell you about a student's ability to succeed in the world. One individual asked, "What do standardized tests, high school graduation rates, or dropout rates really tell you in terms of how students with disabilities are prepared for life?"

*Our state requires all kids to pass geometry, but does every kid need to pass the test? There is no flexibility in the math requirement—everyone has to pass geometry. But what if you take three or four other high-level math courses—why do you have to take the geometry test? A student with a spatial disability will have a very difficult time passing this test, but could pass other high-level math. The rigidity of the tests and the curriculum is a problem. We don't want to dumb down the curriculum, but there should be more flexibility. —Advocate*

Most interviewees felt that the NCLB's academic focus on English language arts and math was correct, because academics are the underpinning for all other work. However, most individuals felt that students with disabilities are being shortchanged by not measuring other important outcomes. These professionals felt that accountability systems need to measure occupational and technical skills, employability skills, behavioral and attitudinal skills, and, particularly for students with disabilities, life skills. One interviewee also suggested that parental satisfaction should be measured as part of an accountability system.

*We would like to see employability and life skills in an accountability system. It's hard to meet the four-year graduation rate for some students with disabilities, but they can still improve their skills. The academic focus on NCLB has pushed out some career and technical education classes, which is what some students with disabilities really need. So it's hard for us in special education to provide students with disabilities with appropriate classes in occupational training. —Administrator*

But the challenges of incorporating these other domains in accountability and assessment systems are great. First, there are very few good assessment tools for testing noncognitive skills, and some skills are very difficult to measure. As we are seeing with the development of the alternate and modified assessments, it is a time-consuming process to develop effective, fair, and valid assessments for all groups of students. An administrator made the following excellent point about what we should expect a federal accountability system to measure for students with disabilities:

*In a federal accountability system, the focus should just be on academics, as long as they are measured appropriately. It would be hard to measure all the different things included in an IEP because there are too many IEP goals. We have transition measures, for example, as part of IEP, but we wouldn't want them included in a federal assessment system.*

The use of alternate and modified assessments for students with disabilities was frequently mentioned during interviews. Individuals at various levels stressed the difficulty in developing quality assessments, in determining which students should take

them, and in calibrating the alternate assessments to standardized tests in a way that makes sense to the public.

*Proficiency on an alternate assessment is not the equivalent of proficiency on a regular assessment, and we are fooling ourselves if we say [it is]. It undermines the credibility of the special education system/teachers with the general public because the general public thinks the two assessments are equivalent (because we're reporting them as equivalent), but they aren't. The general public doesn't understand how special education students could be proficient on standardized tests. Parents of students with disabilities understand that the alternate assessments are not equivalent because they know their kids, but the general public is confused by this reporting. —Advocate*

A number of interviewees raised the issue of which students were being placed in the 1 percent and 2 percent categories for alternate assessments and whether these categories met the needs of students with disabilities.

*My biggest concern is that there is a group of kids that are still falling through the cracks and that are struggling to meet the standards. They are not in the 1 percent. They are gray-area kids, gap kids. When the Department of Education came out with the 2 percent regulations, we were hoping that would help deal with these kids. We wanted to have the flexibility to change the test so that it did not have to be on grade level. But the department said for the 2 percent kids that the test could be made easier, but it still had to be on grade level. These kids will probably do better than they have ever done before, but they will never be proficient on our state test. They must be tested on the same content as other students in their grade, and while we can make the test easier, we don't think all kids will be able to master that. It won't help with these gray-area kids. —Administrator*

Several interviewees also raised the issue of the cost of alternate assessments, both in terms of development and the amount of time it takes away from classroom teaching.

*For the 1 percent kids, there will be an inevitable increase in the costs of testing—how much does it cost to develop tests based on modified standards and assessments? A lot. Teachers spend an inordinate amount of time with each student to administer these tests. Example: It takes 30 days to administer one test to a severely disabled student (one who has cerebral palsy and is in a wheelchair). What is the cost to the teacher, the*

*cost to develop the assessments, the cost to administer the test, and finally, does it really reflect student achievement at all? —Administrator*

*For the 1 percent kids, the alternate test will consume a lot of their day, and I'm not sure if it's good or bad. It's good that they are being tested on more rigorous material, but what does the test really tell you? We should be focused on post-school outcomes. Why require students to take an 11th-grade math test, for example, when they really need to learn skills for a job? We really need to focus on post-school outcomes and put much less emphasis on testing. —Advocate*

Developing growth models as a way to measure academic performance engendered some very thoughtful and interesting comments. While some education leaders in the Congress seem to be leaning toward adopting a growth model system, most of those interviewed for this project felt that the knowledge based on growth models was too limited to allow for wide-scale application and that they are much more complicated than the rhetoric implies. Most interviewees also felt that growth models, while extremely appropriate in many ways for students with disabilities, could return practice to pre-NCLB days, when students with disabilities were not held to a common standard. They felt this would be a negative step, as students with disabilities have greatly benefited by being held to higher expectations and being included in general accountability systems.

While there is a natural tension between the growth model assessment and measuring against a prescribed proficiency level, most interviewees felt it was important to maintain some absolute standard.

*Some combination of a growth model and absolute standard would be ideal. Growth models without a standard won't be sufficient. If we start changing the measurements, we'll muck it up. We should let states work it out. Don't jettison AYP and replace it with a growth model or we'll be having the same conversation in five years, just about a different kind of assessment. —Advocate*

*We need to have absolute standards because too many kids are getting by without learning essential skills and knowledge. Too many "fake A's." We have to have agreement on what counts because we are all in the same labor market.*

One advocate disagreed with holding students to an absolute standard; she argued instead for a time-based proficiency assessment.

*There should not be an absolute standard because then it's not a growth model, unless we had open-ended time to meet the growth standard. If you don't have the ability to set the starting point and if you can't extend the time for learning, growth models can't really be done. A hybrid growth model (growth model and absolute standards) is not the answer to solve the problem of AYP. If growth models were real and we had open-ended time frames and realistic expectations about what could be achieved, it might work.*

*Under a growth model system, you will have to determine how much progress is being made by students with disabilities. Some can make a year's worth of progress in a year and others can't due to their disability or because they have not had access to the curriculum or because their IEP is so poorly designed that it doesn't take into account the true educational needs of the student in order to meet higher expectations. Based on the disability, that's one thing. Students will progress, but if they progress at slower rates, is it because of the profound disability or it is because the education they are getting is so poor? That will be hard to sort out, and you definitely cannot leave this to the IEP team to figure out because they might be making bad placements or bad education decisions—mostly because they just don't know and haven't been expected to make sure students with disabilities have complete access and support to learn the general education curriculum. —Advocate*

Another approach that some interviewees suggested was to allow the IEP to serve as the standard for high school completion. One official even suggested that the standard for passing should be when a student with a disability fulfilled his or her IEP.

*Valid accommodations that allow students to take the test to demonstrate what they know should include extended time, such as five to six years in high school. Also, when a student with disabilities fulfills his/her IEP, then that should be the standard for passing high school. —Official*

Questions were also raised about how important it is to develop a body of knowledge and research on how students with various categories of disabilities perform and progress academically.

*Students with disabilities, especially the 1 percent and 2 percent groups, are a perfect place to start to build individual growth models because each student is so different. One assessment is not enough for all the 1 percent kids because they have such specific needs and they are so different. We need to establish a realistic and challenging trajectory of growth for each student. But this is easier said than done. But we are beginning to see some of the research and data about where students with disabilities are performing, what progress they can make, and where we need to expect students to be in a year. This kind of research can help inform the development of individual growth targets, just like an IEP, for each student with disabilities. However, all teachers need to be made aware of this information. We need to develop realistic expectations based on the potential of each child. There are confounding factors that make this difficult for each child, and they need to be taken into consideration, but we need to challenge them to do the work. Even with the 2 percent kids, which includes the severely learning-disabled, they will probably not be able to meet the standard in one year, but they can probably make it within a longer period of time, and we need to determine what they can do. An absolute standard for the majority of kids is on target, but for special education students, they don't fit, and time is the issue. —Official*

A researcher posed a difficult question about how to incorporate into a growth model scale those students with disabilities who are measured by alternate assessments.

*You can't have a growth model unless you also include students in alternate assessment structures. So you have to add them onto the regular growth model, but you don't want them to show up way at the bottom of the growth model. You need to add them on somehow without making them feel like they are off the chart because of their lower performance. —Researcher*

Interviewees also expressed concern about having clear definitions of growth models, of ensuring consistency of growth models across schools, districts, and states, and ensuring that state education officials have the necessary resources to evaluate how growth models are being used.

*I like the concept of growth models, but it's very easy to manipulate IEP goals so they become meaningless. I think the same thing could happen with growth models. How would you assure that the goals are age appropriate and important? There would be no way to measure comparability of growth models across districts, because the state office*

*does not have the staff to monitor, train, or evaluate. There is no one to check and make sure that the growth models would be working right.*  
—Advocate

*Growth models are a generic phrase that appeals to people because they like the idea of looking at an individual kid's performance year after year. But how do you measure progress from fourth grade to make sure you can reach an eighth-grade standard? How much does a student need to progress in order to meet that trajectory? How do you develop predictive models that are of high quality? We don't have any right now.* —Advocate

An official articulated the dilemma facing education policymakers as they try to reconcile the difficulty of measuring every student against one standard of proficiency while acknowledging that progress is nonetheless being made.

*Educators do want to get credit for making some growth and be recognized for their progress, and we should do that. Growth models are helpful for figuring out instructional needs and intervention strategies, as they give you a good idea of where the students are and how they are making progress. Growth models provide personal information on student development, how students learn, but they should not dumb down standards. Growth models, however, have different trajectories, which don't match with the goal of having all students be proficient by 2014, which is untouchable.*

In all this the important question is “How do students with disabilities fare under these performance measurement systems?” Generally, the response varies based on the degree of severity of the disability. For instance, students who are severely disabled and are counted as part of the 1 percent cohort will be allowed special accommodations and modified achievement standards, in recognition of their limitations. Higher-performing students with disabilities (those with either physical or cognitive impairments) are often completely capable of performing on grade level as long as they are given the appropriate accommodations and supports, such as more time and individualized classroom instruction.

*The 1 percent with severe cognitive disabilities—NCLB is clear that we have to try to serve those kids with various types of strategies and modified achievement standards, which will produce higher outcomes.*

*For the mild to moderate students with disabilities, NCLB gets them back in general education classes and focuses on grade-level content where they may not have had access before. The challenge is the 2 percent students—there is less common agreement on who these kids are and whether it makes sense to teach them grade-level content.*  
—Administrator

According to a researcher, one state has been proactive in helping schools and districts determine the best way to serve students in the 2 percent category.

*One state legislature recognized that they might need a test to deal with the 2 percent students, and the state dept of education did a study and found that the lowest 2 percent weren't always students with disabilities and [that] the students with disabilities weren't always getting the accommodations they needed to pass the test, so they changed their strategy and actions. The states are problem solving, not just reacting; that is the positive, and they are thinking of unintended [negative] consequences and trying to address them up front.*

Another impact of the testing requirements is that some schools that do well with students with disabilities do not make AYP and look bad, whereas other schools that do not do well with students with disabilities and have a small percentage of them (because the public knows they do not do well) have a better overall score on the assessments.

*In our state, if a school provides good accommodations for students with disabilities, more students with disabilities want to come to that school. Then, as a result, even though they provide good education, their scores may go down, simply because they have a higher percentage of students with disabilities. For the schools that don't do a good job serving students with disabilities, where the students decided to leave, their percentage of students with disabilities they serve goes down, and their scores can be higher and they can "look better" than the schools that are really serving students with disabilities better and in a more individualized manner.*  
—Administrator

## **Meeting the 100 Percent Proficiency Target**

*Some researchers have predicted that, by the 2013–2014 school year, nearly all schools and school districts will not meet AYP requirements, even many of America's highest-achieving schools in affluent areas.<sup>12</sup>*



Of all the issues raised by NCLB, perhaps the most significant is that of having all students meet grade-level proficiency by school year 2013–2014. Yet, interestingly, many school-level educators and advocates did not raise it in their comments. The reason may be that they are buried in the other complexities of NCLB, such as training highly qualified teachers, reporting on subgroups, meeting AYP, and providing alternate and modified assessments. As one interviewee said: “We are just thinking about next year. [The year] 2014 is too far away for most people to think about.” However, at the national level there is a growing awareness that changes will have to be made to the 100 percent proficiency target.

Professionals and advocates who work with individuals with disabilities know there are certain categories of young people who will never be able to meet grade-level proficiency, yet under current law, they are expected to do so. Therefore, a difficult political question is presented. Do lawmakers keep the pressure on regardless of the impact on certain students with disabilities who will be made to feel like failures? Or, do they recognize the academic limitations of the severely disabled and allow limited exceptions—acknowledging that it is unfair to ask such students, their teachers, their school, and their parents to do the impossible? The comments that follow represent interviewees’ various attitudes regarding this issue:

*As we get closer to 2014, there will have to be a federal policy shift that recognizes that there are indeed some students who will not meet proficiency. We cannot expect every student to meet proficiency. But without NCLB, we would not have had the impetus to raise expectations.*  
—Administrator

*Having an absolute standard is good, but 100 percent proficiency isn’t working—there are some students who are too severely disabled to ever meet proficiency standards. The expectation is for every student and school to meet proficiency, but they can’t—it’s just not reasonable. We need to acknowledge that there is a subset of students who will never be proficient.* —Administrator

*Absolute standards are not realistic for all students with disabilities because it depends on the disability. The 1 percent category probably will never meet the standard. Students with learning disabilities can usually*

*meet proficiency standards as long as they are given more time and a lot of additional instructional help. Time should be flexible in terms of reaching proficiency. There is so much lumping together of disabilities, and we need to really differentiate them. NCLB should have more varied testing and accountability standards for students given the differences in disabilities. NCLB should be more sophisticated in its requirements for proficiency, not [have] just one standard. —Researcher*

Most interviewees voiced these two concerns: first, education policy needs to recognize that some students will need more time to meet grade-level proficiency standards, and second, we are too bound by the traditional structure of education and the requirement to complete high school in four years.

The challenge for policymakers is to define what proficiency really means and who will be allowed to meet slightly lower levels of proficiency. This is a true policy dilemma, in that we have learned there is tremendous benefit in increasing standards and expectations for students. But we must also recognize that some students may never meet these high standards. Many individuals who were interviewed were unable or unwilling to take on that question. Given that 2014 is still a number of years away, we have time to engage in a thoughtful public conversation about the best approach to this dilemma.

## **Data and Reporting**

As with most issues discussed in this report, there are both positive and negative outcomes from NCLB's requirements on data collection and reporting, and the implementation of the law has raised a number of pertinent questions.

Most interviewees who worked with data felt that IDEA and NCLB could work more effectively together in various ways, from using common definitions and Web sites and forms to common reporting infrastructures and data systems. For example, IDEA uses the term "peer-reviewed research and related services personnel," while NCLB uses the term "scientifically based research and pupil services personnel" to mean basically the same thing.

Another expressed concern was that the two laws should report on similar outcomes. Whereas IDEA is concerned with a range of outcomes, including post-school outcomes, NCLB has no language regarding post-high school performance.

*Data are very duplicative, and there are different definitions for the same things. We have to report data for NCLB and then report it for IDEA in two different formats, but it's basically all the same information. It gets confusing for the public because there are two reports and they have such different definitions. Why can't we have just one report card? For instance, the graduation and dropout rate definitions are different. We have to work twice as hard, and people don't understand when the data are different. We spend so much time on reporting, it keeps us from being out in the field helping schools. —Administrator*

Another significant discrepancy between the two laws relates to how high school graduation is measured, which has an impact on whether schools do or do not meet AYP and on how students progress through high school. IDEA gives much more flexibility to students with disabilities in terms of the length of time it takes to complete high school or meet the goals of the IEP. This time-based approach runs headlong into the NCLB requirement for high school graduation in the traditional four-year time period.

*One area that could be improved relates to high school graduation and dropout rates. IDEA allows students with disabilities access to education until age 21, but the NCLB graduation rate is based on a 9th-through-12th-grade cohort. So, if students with disabilities stayed in school until age 19, 20, or 21 and completed, they are not counted as a completer. Rather, they are counted as a non-completer. Older students should be maintained in their original cohort. That is something that should be changed in NCLB that would help data collection under both laws. —Administrator*

At the same time, some interviewees felt that IDEA collected a level of detailed student data that allows for much richer analysis of instructional strategies than what is required by NCLB. One individual suggested that outcome data be disaggregated by the 13 definitions of disability in IDEA so the public can really understand who is meeting standards and who is not. In any case, several interviewees felt that having these data

is valuable to answer instructional outcomes in a way that does not exist with NCLB's focus on subgroups.

*There is a worry that if we lose some of the information from the Office of Special Education Programs [at the U.S. Department of Education] side that we'll lose some very important and fine detail on students with disabilities. The data that we are really interested in is the number of students with disabilities participating, what their performance really is, but you must start from IEP enrollment data to get that information. IDEA data are more specifically defined because they are based on IEPs. —Researcher*

*We think some data and indicators really matter to students with disabilities, and we should focus on certain important outcomes, not processes. For instance, the state performance indicator on post-school outcomes required by IDEA is probably the most important indicator. We should be held to reporting outcomes for that, rather than reporting on processes like do you have a good transition planning process. Hold us accountable to what the student actually did, then you could probably tell that if students do well after high school, you did have a good transition planning process in place. —Administrator*

According to several interviewees, a review of the two laws for consistency in terms of definitions, reporting requirements, outcomes, and data formats would save time and effort for districts and states.

## **Parental Access to Information**

Overall, most interviewees—including advocates—felt that the amount of information available to parents, and the public in general, had vastly increased and improved as a result both of NCLB and IDEA. Some of their positive comments include, among many others:

*The availability of real, disaggregated data is a positive development, and that's good for all of us. This information can help us make better decisions about all kids. —Administrator*

*I think our state education department has done a pretty good job of making information available. It's pretty accessible, and there is a lot of material for parents. —Advocate*

One advocate pointed out that being able to compare groups of students with those from other schools or districts would be extremely valuable for parents.

*Parents want to know how their kids are doing compared to similar kids in other schools/districts, so standards are helpful that way. Even with severely disabled kids, it's helpful to be able to compare them to other kids with similar disabilities, because it could demonstrate that one school is doing a really poor job with such kids. That is very important information for parents to have.*

While most felt that it is positive that more data and more disaggregated data are now available than ever before, concerns were expressed about how useful some of these data are to parents. While parents get information on the performance of the student subgroups and the school, this information does not really tell them how their child is doing. As one individual said, "NCLB doesn't measure what parents are interested in because it measures groups of students and schools."

Other comments were made about the limitations of data in terms of giving parents a more thorough understanding of the instructional needs and accomplishments of each child.

*There is a lot of info on the Web, but it's very superficial. Parents have to deal with the complicated issue of what kind of assessment their kid should take, but that is very hard to sort out. The top-level info is pretty good, but the next level down is limited and hard to tell. The U.S. Department of Education hasn't done a good job of providing resources to parents. Aside from subgroup scores, we don't get information about what's really going on with students with disabilities in terms of classroom, curriculum, and instruction. —Advocate*

*Parents are just as confused as the rest of us. The data that are made available to the public do not provide information on each child and how to change instruction, so those data are not really useful to parents.*

*The data provide information on how the school and groups of students are doing. —Policymaker*

While access to information about student performance by subgroup has vastly improved, much of the information is still unrelated to individual student needs, which is of prime interest to parents.

## **Compatibility of NCLB and IDEA**

Asking if NCLB and IDEA are compatible unleashed a torrent of comments, from “Absolutely not!” to “Absolutely!” The most common opinion, however, was that although the two laws complement and strengthen each other, they could be made more compatible.

The following comment is an example of the first response, namely, that the laws are not compatible:

*They are entirely different laws with entirely different perspectives and goals. IDEA is a civil rights law to protect and promote the rights of students with disabilities and to provide a good education, free and appropriate public education, and to monitor the procedures to ensure equity. The strength of IDEA is the focus on and protection of individual kids. NCLB is a law to make people “mind.” —Administrator*

An example of a comment about their compatibility follows:

*The two laws are very compatible. They have similar goals: the goal of IDEA is how you help a child be successful; the goal of NCLB is how you help schools and districts be successful. The words in the statute are not a problem—they track very closely. —Advocate*

Some specific advice about how to make the two laws more compatible focused on early intervention services.

*Early intervention services are a good idea, but we need money to fund that. This is really a general education issue, and general education should be required to do this, but to ask that the money come from Part B, IDEA, it's hard to pay for, given all the other needs we have in special education. Early intervention services should be put into NCLB, and funding should be included for it. Response to intervention is also a*

*general education intervention, and so it should be paid for with general education funds, and general education teachers are the ones that really need to be thinking about this. There should be a focus on general education, and then everyone has to think about early intervention services and response to intervention, not just special education teachers. Because this is really where students can be identified and determine what the appropriate educational intervention is—which in many cases is not special education. Same with transition: this should be something that everyone takes responsibility for, not just special education teachers. —Administrator*

Perhaps the structure of IDEA and NCLB can best be summarized with the following chart, which distinguishes major aspects of both laws:

	<b>IDEA</b>	<b>NCLB</b>
<b>Orientation</b>	Process oriented	Outcomes oriented
<b>Unit of Analysis</b>	Individual student	System or groups of students
<b>What Is Measured?</b>	Range of skills	Core academic skills
<b>Educational Approach</b>	Teach according to ability	Test according to grade
<b>Type of Law</b>	Civil rights	Compliance

Several interviewees felt that because IDEA is a civil rights law, it should prevail over NCLB and that Congress should make this clear. Interviewees also provided a number of suggestions on how to make IDEA and NCLB more compatible, which are discussed in the recommendations section.





## PART IV. RECOMMENDATIONS

In looking at changes to NCLB, it is important to understand the complex interplay among the federal law, state laws and regulations, and actual practice at the district and school levels. Some of the requirements in NCLB have had unintended consequences, and any new changes to the law should be carefully considered to make certain that additional unintended consequences are not created, especially for students with disabilities. It is also important to provide flexibility with regard to student performance while holding on to the idea of meeting a high standard. High expectations with differentiated learning and instruction should be the twin foundations for the law.

The following recommendations are based on the advice and comments of the interviewees:

- 1. Maintain high expectations for students with disabilities and continue to disaggregate outcome data by subgroups.** The most important recommendation gathered from the interviews is to maintain high academic expectations for students with disabilities and continue to report student outcome data by subgroup. Not a single interviewee suggested that we return to pre-NCLB days, when students with disabilities were not included in academic accountability systems. Interviewees acknowledged that not every student with a disability can achieve to high standards, but they recommended holding firm to high expectations, continuing to report disaggregated data, and keeping the pressure on the system to deliver higher-level instruction. School leaders must create the environment of high expectations for all students and create supports and incentives for teachers to help all students reach higher levels of achievement.
- 2. Develop the capacity of teachers to provide differentiated instruction and a more rigorous curriculum.** In order for students to benefit from a higher-level curriculum, teachers must have the content knowledge and pedagogical skills to work with a diverse group of learners, particularly students with disabilities. All teachers must have strong academic content if they are the lead teacher, or be

paired with a content expert if they bring strong pedagogical skills, as many special educators do. Teachers need to be trained in using benchmark assessments to influence how they provide instruction to each student.

All teachers, especially general education teachers, must be trained to work with students with disabilities and other diverse students. Teachers should be trained to identify students with disabilities and know about various instructional approaches and universally designed curriculum. States should be held accountable for ensuring that teachers are trained to work with different types of students.

- 3. Create incentives to attract, recruit, and retain special education teachers.** As special education teachers retire and leave the profession, more attention needs to be paid to how to develop the profession and maintain adequate numbers of teachers with the skills and knowledge to work with students with disabilities.

No Child Left Behind should be amended to include provisions such as early intervention services, response to intervention, individualized education plans for lower-performing students, and transition planning for needy students. These are key elements in IDEA, yet they affect all students, not just those with disabilities. All students would benefit from being provided early intervention and differentiated services, as well as a stronger focus on transition planning. Currently, 15 percent of IDEA funding can be used to support the early intervention activities for students who do not have IEPs. Because these students are not technically covered by IDEA, NCLB should cover the costs of these services.

- 4. Align NCLB and IDEA data systems and definitions.** NCLB and IDEA require data collection and reporting on various student outcomes and program characteristics, but the laws use different definitions and reporting formats, which should be brought into closer alignment so that states, districts, and schools are not duplicating data collection efforts. NCLB should also be amended to require that post-school outcomes be reported, as that is a critical indicator of success for all students.

Redefine the proficiency target to recognize that a certain percentage of students, such as students with severe disabilities, will not meet grade-level proficiency. Options could include changing the 100 percent target to a slightly lower number, allowing waivers for certain defined categories of students, allowing students with disabilities to be tested on out-of-grade-level material, extending the time to reach proficiency, or setting the goals of the IEP as the proficiency target for certain categories of students with disabilities.

Change the four-year graduation requirement to allow students with disabilities a longer period of time to achieve high school completion. Because IDEA allows students with disabilities to stay in high school until age 21, NCLB must be amended to be consistent with IDEA and prevent students with disabilities from appearing as non-completers if they do not graduate in four years.

Continue to require states to meet AYP, but balance it with credit for improved academic performance for lower-performing subgroups. States and schools should ensure that their students are making progress toward proficiency, but they should have more flexibility in determining AYP and should be recognized for improving academic performance and for closing achievement gaps.

- 5. Ensure that students with disabilities are measured on more than just academic skills attainment.** The definition of what is assessed for students with disabilities should be broadened to include occupational, employability, and life skills.
- 6. Increase funding for special education.** Helping students with disabilities access a higher-level curriculum requires more support services, potentially more learning time, better-trained teachers, collaborative teaching, and new instructional approaches. The current requirement to spend 15 percent of IDEA on early intervention services on non–special education students diverts funding from an already needy population.



## ACRONYMS

AMO	annual measurable objective
APA	Alternate Proficiency Assessment
API	Academic Performance Index
ASK	Assessment of Skills and Knowledge
ASPIRE	Alliance for School-Based Problem-Solving and Intervention Resources in Education
AYP	adequate yearly progress
AYPF	American Youth Policy Forum
BEESS	Bureau of Exceptional Education and Student Services
BSE	Bureau of Special Education
CAHSEE	California High School Exit Exam
CALPADS	California Longitudinal Pupil Achievement System
CalSTAT	California Services for Technical Assistance and Training
CAPA	California Alternate Performance Assessment
CASEMIS	California Special Education Management Information System
CCCS	Core Curriculum Content Standards
CDDRE	Center for Data-Driven Reform in Education
CDE	California Department of Education
CEP	Center for Education Policy
CIMS	Continuous Improvement and Monitoring System
CMCI	Compliance Monitoring for Continuous Improvement
CSIS	California School of Information Services
CSPD	Comprehensive System of Personnel Development
CST	California Standards Test
DES	Division for Exceptional Students
DRA	disability rights advocate
EC	Education Code
ED	U.S. Department of Education
EDEN	U.S. Department of Education's data system
E-GHSGT	Enhanced Georgia High School Graduation Test
ELA	English/language arts
ELL	English language learner
EPI	Educational Policy Institute
ERSS	Educational Regional Service System
ESPA	Elementary School Proficiency Assessment
EWT	Early Warning Test
FAAR	Florida Alternate Assessment Report
FCAT	Florida Comprehensive Assessment Test
FIN	Florida Inclusion Network
FLDOE	Florida Department of Education
GAA	Georgia's Alternate Assessment
GCIMP	Georgia Continuous Improvement Monitoring Process
GDOE	Georgia Department of Education

GEPA	Grade Eight Performance Assessment
GHSWT	Georgia High School Writing Test
GLRC	Georgia's Learning Resource Center
HOUSSE	high, objective, unified state standards of evaluation
HQT	highly qualified teacher
HSPA	High School Proficiency Assessment
HSPT	High School Proficiency Test
IAA	Illinois Alternate Assessment
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Education Plan
IS	intervention specialist
ISAT	Illinois Standards Achievement Test
ISBE	Illinois State Board of Education
IU	intermediate unit
KPI	key performance indicator
KPISC	Key Performance Indicator Stakeholder Committee
LEA	local education authority
LEP	limited English proficient
LRC	Learning Resource Center
LRE	least restrictive environment
MBS	Minimum Basic Skills
MCAS	Massachusetts Comprehensive Assessment System
MDOE	Massachusetts Department of Education
MEAP	Michigan Educational Assessment Program
MI-CIS	Michigan Compliance Information System
MI-DOE	Michigan Department of Education
NAEP	National Assessment of Educational Progress
NCD	National Council on Disability
NCLB Act	No Child Left Behind Act
NJDOE	New Jersey Department of Education
NJOSEP	New Jersey Office of Special Education Programs
NYSED	New York State Education Department
OAT	Ohio Achievement Test
ODE	Ohio Department of Education
OEC	Office for Exceptional Children
OGT	Ohio Graduation Test
OISM	Ohio Integrated Systems Model
OSA	Office of Student Achievement
OSE/EIS	Office of Special Education and Early Intervention Services
OSEP	Office of Special Education Programs
PASA	Pennsylvania Alternate System of Assessment
PaTTAN	Pennsylvania Training and Technical Assistance Network
PCSE	Partnership Committee on Special Education
PDE	Pennsylvania Department of Education
PEN	Parent Education Network
PI	program improvement

PQA	Program Quality Assurance
PSAE	Prairie State Achievement Examination
PSC	Professional Standards Commission
PSSA	Pennsylvania System of School Assessment
PVAAS	Pennsylvania Value-Added Assessment System
SAP	State Advisory Panel
SARC	State Accountability Report Card
SEDCAR	Strategic Evaluation Data Collection, Analysis, and Reporting
SELPA	special education local plan areas
SEQA	Special Education Quality Assurance
SERRC	Special Education Regional Resource Center
SES	Supplemental Education Service
SETRC	Special Education Training and Resource Center
SID	student identifier
SIG	state improvement grant
SIMS	Student Information Management Services
SIS	student information system
SOP	state-operated program
SPPDP	State Performance and Personnel Development Plan
SPSR	Service Provider Self-Review
SRA	Special Review Assessment
SRSD	Single Record Student Database
SSID	Statewide Student Identifier
STAR	Standardized Testing and Reporting
START	Statewide Technical Assistance Resource Team
TQ	Teacher Quality
UIC	unique identification code
USI	unique student identifier
VESID	Vocational and Educational Services for Individuals with Disabilities





# **APPENDIX**

## **Mission of the National Council on Disability**

### **Overview and purpose**

The National Council on Disability (NCD) is an independent federal agency with 15 members appointed by the President of the United States and confirmed by the U.S. Senate. The purpose of NCD is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities regardless of the nature or significance of the disability and to empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

### **Specific duties**

The current statutory mandate of NCD includes the following:

- Reviewing and evaluating, on a continuing basis, policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by federal departments and agencies, including programs established or assisted under the Rehabilitation Act of 1973, as amended, or under the Developmental Disabilities Assistance and Bill of Rights Act, as well as all statutes and regulations pertaining to federal programs that assist such individuals with disabilities, to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities.
- Reviewing and evaluating, on a continuing basis, new and emerging disability policy issues affecting individuals with disabilities in the Federal Government, at the state and local government levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that act as disincentives for individuals to seek and retain employment.

- Making recommendations to the President, Congress, the Secretary of Education, the director of the National Institute on Disability and Rehabilitation Research, and other officials of federal agencies about ways to better promote equal opportunity, economic self-sufficiency, independent living, and inclusion and integration into all aspects of society for Americans with disabilities.
- Providing Congress, on a continuing basis, with advice, recommendations, legislative proposals, and any additional information that NCD or Congress deems appropriate.
- Gathering information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. § 12101 et seq.).
- Advising the President, Congress, the commissioner of the Rehabilitation Services Administration, the assistant secretary for Special Education and Rehabilitative Services within the Department of Education, and the director of the National Institute on Disability and Rehabilitation Research on the development of the programs to be carried out under the Rehabilitation Act of 1973, as amended.
- Providing advice to the commissioner of the Rehabilitation Services Administration with respect to the policies and conduct of the administration.
- Making recommendations to the director of the National Institute on Disability and Rehabilitation Research on ways to improve research, service, administration, and the collection, dissemination, and implementation of research findings affecting people with disabilities.
- Providing advice regarding priorities for the activities of the Interagency Disability Coordinating Council and reviewing the recommendations of this council for legislative and administrative changes to ensure that such recommendations are consistent with NCD's purpose of promoting the full integration, independence, and productivity of individuals with disabilities.
- Preparing and submitting to the President and Congress an annual report titled *National Disability Policy: A Progress Report*.

## **International**

In 1995, NCD was designated by the Department of State to be the U.S. government's official contact point for disability issues. Specifically, NCD interacts with the special rapporteur of the United Nations Commission for Social Development on disability matters.

## **Consumers served and current activities**

Although many government agencies deal with issues and programs affecting people with disabilities, NCD is the only federal agency charged with addressing, analyzing, and making recommendations on issues of public policy that affect people with disabilities regardless of age, disability type, perceived employment potential, economic need, specific functional ability, veteran status, or other individual circumstance. NCD recognizes its unique opportunity to facilitate independent living, community integration, and employment opportunities for people with disabilities by ensuring an informed and coordinated approach to addressing the concerns of people with disabilities and eliminating barriers to their active participation in community and family life.

NCD plays a major role in developing disability policy in America. In fact, NCD originally proposed what eventually became ADA. NCD's present list of key issues includes improving personal assistance services, promoting health care reform, including students with disabilities in high-quality programs in typical neighborhood schools, promoting equal employment and community housing opportunities, monitoring the implementation of ADA, improving assistive technology, and ensuring that people with disabilities who are members of diverse cultures fully participate in society.

## **Statutory history**

NCD was established in 1978 as an advisory board within the Department of Education (P.L. 95-602). The Rehabilitation Act Amendments of 1984 (P.L. 98-221) transformed NCD into an independent agency.



## END NOTES

<sup>1</sup> C. Lehr and M. Thurlow, *Putting It All Together: Including Students with Disabilities in Assessment and Accountability Systems*, Policy Directions No. 16 (Minneapolis, MN: University of Minnesota, National Center on Educational Outcomes, 2003). Retrieved June 28, 2007, from <http://www.education.umn.edu/NCEO/OnlinePubs/Policy16.htm>.

<sup>2</sup> B. Keller, "Ed. Dept. Won't Force HOUSSE Closure Now," *Education Week*, 26, 28, 30. Retrieved June 15, 2007, from <http://www.edweek.org/ew/articles/2006/09/20/04hqt.h26.html?qs=HOUSSE>.

<sup>3</sup> Commission on No Child Left Behind, *Commission Staff Research Report, Children with Disabilities and LEP Students: Their Impact on the AYP Determinations of Schools* (Washington, DC: Aspen Institute, 2006).

<sup>4</sup> Ibid.

<sup>5</sup> Center for Education Policy, *Answering the Question That Matters Most: Has Student Achievement Increased Since No Child Left Behind?* (Washington, DC: Center for Education Policy, 2007).

<sup>6</sup> Ibid.

<sup>7</sup> By regulation, states are allowed to provide alternate assessments to certain categories of students with disabilities. Title I regulations permit a state to develop alternate academic achievement standards for students with the most significant cognitive disabilities and to include those students' proficient and advanced scores on alternate assessments based on alternative academic achievement standards in measuring AYP subject to a cap of 1 percent of all students assessed (about 10 percent of students with disabilities). Additional regulatory guidance from the U.S. Department of Education now permits states to provide assessments based on modified academic achievement standards that cover the same grade-level content as the general assessment. The expectations of content mastery are modified, not the grade-level contents themselves. Up to 2 percent of all students assessed in a grade (about 20 percent of students with disabilities) may be assessed with assessments based on modified academic achievement standards. U.S. Department of Education, *Modified Academic Achievement Standards: Non-Regulatory Guidance Draft* (Washington, DC: U.S. Department of Education, 2007).

<sup>8</sup> Praxis Series™ Assessments provide educational tests and other services that states use as part of their teaching licensing certification process. Retrieved June 14, 2007, from <http://www.ets.org/portal/site/ets/menuitem.fab2360b1645a1de9b3a0779f1751509/?vgnextoid=48c05ee3d74f4010VgnVCM10000022f95190RCRD>.

<sup>9</sup> H.G. Peske and K. Haycock, *Teaching Inequality: How Poor and Minority Students Are Shortchanged on Teacher Quality* (Washington, DC: Education Trust, 2006).

<sup>10</sup> P. Burch, *Supplemental Education Services under NCLB: Emerging Evidence and Policy Issues* (East Lansing, MI: Great Lakes Center for Education Research & Practice, University of Wisconsin-Madison, 2007).

<sup>11</sup> Center for Education Policy, *NCLB: Narrowing the Curriculum?* (Washington, DC: Center for Education Policy, 2005).

<sup>12</sup> P. Goldschmidt, *Practical Considerations for Choosing an Accountability Model*, paper presented at the April 2006 annual meeting of the American Educational Research Association, San Francisco, CA; and R.L. Linn, *Test-based Educational Accountability in the Era of No Child Left Behind* (CSE Report No. 651) (Los Angeles: University of California, Center for Research on Evaluation, Standards, and Student Testing, 2005).







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