Order Code RL33731

CRS Report for Congress

Education for the Disadvantaged: Reauthorization Issues for ESEA Title I-A Under the No Child Left Behind Act

Updated August 6, 2007

Wayne C. Riddle
Specialist in Education Policy
Domestic Social Policy Division

Congressional Research Service

Prepared for Members and Committees of Congress

Education for the Disadvantaged: Reauthorization Issues for ESEA Title I-A Under the No Child Left Behind Act

Summary

Title I, Part A of the Elementary and Secondary Education Act (ESEA) authorizes aid to local educational agencies (LEAs) for the education of disadvantaged children. Title I-A grants are used to provide supplementary educational and related services to low-achieving and other pupils attending schools with relatively high concentrations of pupils from low-income families. Title I-A has detailed provisions regarding pupil assessment, program improvement, allocation of funds, school selection, fiscal accountability, and parental involvement, but includes few constraints on such matters as the specific resources for which funds are used.

The No Child Left Behind Act of 2001 (NCLB), P.L. 107-110, substantially expanded Title I-A provisions requiring participating states to adopt content and pupil performance standards, and assessments linked to these; and to identify, and take specified actions with respect to, low-performing schools and LEAs. NCLB also attempted to increase targeting of funds on high-poverty LEAs and schools, and in some respects to increase flexibility in the use of Title I-A funds.

The authorization of appropriations for Title I-A and most other NCLB programs will expire during the 110th Congress. Major Title I-A reauthorization issues are likely to include the following: (1) What has been the impact of the assessment requirements adopted in 2001, and should these be extended to include additional subject areas or more assessments of high school students? (2) Are adequate yearly progress (AYP) requirements appropriately focused on improving education for disadvantaged pupil groups and identifying low-performing schools; are they burdensome, complex, inflexible, or variable; or do they have major "loopholes"? (3) Do AYP requirements embody appropriately challenging, or unrealistic, expectations that all pupils will perform at a proficient or higher level by 2014? Should "national standards" of pupil performance be incorporated into AYP determinations, as a way of addressing substantial differences in state performance standards? (4) Have assessment, AYP, and other accountability requirements been implemented by ED in a consistent and transparent manner? (5) Are requirements that public school choice options be offered to pupils at Title I-A public schools that fail to meet AYP for two consecutive years or more, and requirements that supplemental services must be offered to pupils from low-income families if a Title I-A school fails to meet AYP for an additional year, being effectively implemented, and should states or LEAs be allowed to reverse their order of application? (6) Are "corrective actions" and "restructuring" being effectively applied to Title I-A schools that continue to fail to meet AYP requirements for additional years after being identified as needing improvement? (7) What has been the impact of the increased targeting of Title I-A funds on relatively high-poverty LEAs? (8) Should Title I-A grants be funded at the maximum authorized level, at what level should authorizations be set for years beyond FY2008, and should LEAs be required to meet increasing Title I-A requirements while experiencing flat or declining grant levels? This report will be updated regularly to reflect legislative and implementation developments.

Contents

List of Tables

Education for the Disadvantaged: Reauthorization Issues for ESEA Title I-A Under the No Child Left Behind Act

Introduction

Title I, Part A, of the Elementary and Secondary Education Act (ESEA) authorizes federal aid to local educational agencies (LEAs) for the education of disadvantaged children. Title I-A grants provide supplementary educational and related services to low-achieving and other pupils attending pre-kindergarten through grade 12 schools with relatively high concentrations of pupils from low-income families. Title I-A is the largest federal elementary and secondary education assistance program, with services provided to (1) more than 90% of all LEAs; (2) approximately 52,000 (54% of all) public schools; and (3) approximately 16.5 million (34% of all) pupils, including approximately 188,000 pupils attending private schools. Three-fourths of all pupils served are in pre-kindergarten through grade 6, while only 8% of pupils served are in grades 10-12.

The ESEA was initially adopted in 1965, and was most recently reauthorized and amended by the No Child Left Behind Act of 2001 (NCLB), P.L. 107-110. NCLB authorized Title I-A through FY2007. If Congress does not act in the meantime, a one-year automatic extension, through FY2008, is provided under the General Education Provisions Act (Title IV of P.L. 90-247, as amended). Thus, it is likely that NCLB will be considered for reauthorization by the 110th Congress (2007-08).

On January 24, 2007, the Bush Administration released "Building on Results: A Blueprint for Strengthening the No Child Left Behind Act,"[1] which outlines its recommendations for ESEA reauthorization. Key recommendations in the document, which is referred to in this report as the "Bush Administration's Reauthorization Blueprint," are mentioned in relevant places in this report.

NCLB substantially expanded Title I-A provisions requiring participating states[2] to adopt content and pupil performance standards, and assessments linked to these; and to identify, and take specified actions with respect to, low-performing schools and LEAs. The ESEA Title I-A requirements discussed in this report apply only to states that receive funds under this program. If a state chose to terminate its

---

[1] The document is available at [http://www.ed.gov/policy/elsec/leg/nclb/buildingonresults.pdf].

[2] Throughout this report, unless noted otherwise, this term includes the District of Columbia and the Commonwealth of Puerto Rico, in addition to the 50 states.

participation in Title I-A, none of the requirements discussed in this report would apply to that state. Of course, such a state would lose a significant amount of funding, since Title I-A is the largest federal K-12 education program. In addition, such a state might also lose some or all of its funds under several other ESEA programs, under which grants are allocated to states using formulas that are linked to the Title I-A formulas.[3] Currently, all states participate in the Title I-A program.

As with states, individual LEAs might choose to terminate their participation in Title I-A, in order to attempt to avoid implementing the requirements discussed in this report. However, even if it received no Title I-A grants, most of the requirements discussed in this report would continue to apply to an LEA if its state continues to participate in Title I-A. This includes the assessment, adequate yearly progress (AYP), and report card requirements, which apply to *all* public schools and LEAs in states receiving Title I-A grants. An LEA that refuses Title I-A funds might be released only from the program improvement, corrective action, and restructuring requirements discussed in this report.[4] In addition, as with states, such an LEA would presumably lose funds under not only Title I-A but also several other ESEA programs under which allocations are based on those under Title I-A.

This report provides an overview of aspects of ESEA Title I-A that are likely to be the focus of substantial debate as the 110th Congress considers NCLB reauthorization legislation. Other current and forthcoming reports will provide more detailed discussions and analyses of selected major aspects of the program, including pupil assessments,[5] accountability,[6] and qualifications for teachers and paraprofessionals.[7] This report will be updated regularly, to reflect significant actions regarding the consideration of reauthorization proposals, as well as continuing activities regarding funding and implementation of NCLB provisions. Also, see CRS Report RL33371, *K-12 Education: Implementation Status of the No Child Left Behind Act of 2001 (P.L. 107-110)*, coordinated by Gail McCallion, for a concise review and analysis of major requirements initiated under *all* NCLB programs.

---

[3] These include, for example, the Even Start, Improving Teacher Quality State Grant, Educational Technology State Grant, Safe and Drug Free Schools and Communities, and 21st Century Community Learning Center programs.

[4] Under NCLB, states are encouraged to apply program improvement, corrective action, and restructuring requirements to all LEAs and public schools, but are required to apply them only to LEAs and schools that participate in Title I-A. Actual state policies vary in this respect.

[5] See CRS Report RL31407, *Educational Testing: Implementation of ESEA Title I-A Requirements Under the No Child Left Behind Act*, by Wayne C. Riddle.

[6] See CRS Report RL32495, *Adequate Yearly Progress (AYP): Implementation of the No Child Left Behind Act*, by Wayne C. Riddle; CRS Report RL33032, *Adequate Yearly Progress (AYP): Growth Models Under the No Child Left Behind Act*, by Wayne C. Riddle; and CRS Report RL31329, *Supplemental Educational Services for Children from Low-Income Families Under ESEA Title I-A*, by David P. Smole.

[7] See CRS Report RL33333, *A Highly Qualified Teacher in Every Classroom: Implementation of the No Child Left Behind Act*, and CRS Report RS22545, *Paraprofessional Quality and the No Child Left Behind Act of 2001*, both by Jeffrey J. Kuenzi.

In summary, major Title I-A reauthorization issues are likely to include the following. Most of these and related issues are discussed in this report; in some cases, the reader is directed to other CRS reports for a more thorough discussion and analysis of specific issues.

- What has been the impact of the assessment requirements adopted in 2001, and should these be extended further to include additional subject areas or more assessments of high school students?

- Are AYP requirements appropriately focused on improving education for disadvantaged pupils and identifying low-performing schools? Are they unnecessarily burdensome, complex, inflexible, and variable? Do the AYP provisions have major "loopholes" resulting in the achievement of too many pupils, especially the disadvantaged, not being directly or specifically taken into consideration?

- Do AYP requirements embody appropriately challenging, or unrealistic, expectations that all pupils will perform at a proficient or higher level by 2014? Should "national standards" of pupil performance be incorporated in some fashion into AYP determinations, as a way of addressing apparently substantial differences in state performance standards?

- Have assessment, AYP, and other accountability requirements been implemented by ED in a consistent and transparent manner?

- Are requirements that (a) public school choice options be offered to pupils at Title I-A public schools that fail to meet AYP for two consecutive years or more, and (b) supplemental services must be offered to pupils from low-income families if a Title I-A school fails to meet AYP for an additional year (three or more cumulative years), being effectively implemented, and should states or LEAs be allowed to reverse their order of application?

- Are "corrective actions" and "restructuring" being effectively applied to Title I-A schools that continue to fail to meet AYP requirements for additional years after being identified as needing improvement?

- What has been the impact of the increased targeting of Title I-A funds on relatively high-poverty LEAs; and of lowering the eligibility threshold for schoolwide programs to 40% or more of pupils from low-income families?

- Should Title I-A grants be funded at the maximum authorized level; at what level should authorizations be set for years beyond FY2008; and should a substantial proportion of LEAs be required to meet increasing Title I-A requirements while experiencing flat or declining grant levels?

Outcome Accountability Requirements

Pupil Assessment[8]

The current generation of pupil assessment requirements under ESEA Title I-A began with the Improving America's Schools Act (IASA) of 1994 (P.L. 103-382), that required participating states to develop or adopt curriculum content standards, pupil performance standards, and assessments linked to these, at least in the subjects of mathematics and reading/English language arts,[9] and for *at least one grade in each of three grade ranges* (grades 3-5, 6-9, and 10-12). In general, these standards and assessments were to be applicable to Title I-A participants, as well as all other pupils in the state. These requirements were adopted in part to raise expectations that Title I-A participants would be required to meet challenging academic standards, and to link the program to standards-based reforms taking place in most states.[10]

Under the IASA, the deadline for adopting content and performance standards was the 1997-1998 program year, and for assessments was the 2000-2001 program year. States were given several years to meet these requirements because many of them were at an early stage of standards-based reform in 1994. The U.S. Department of Education (ED) reviewed "evidence" that state standards and assessments met the requirements of the Title I-A statute (e.g., that assessments are linked to state content and pupil performance standards, or that disabled and limited English proficient (LEP) pupils are assessed with appropriate accommodations or adaptations), but did not consider the substance of state standards and assessments. As of the date of this report, 46 states have been approved by ED as meeting all of these "1994 requirements." For 3 of the remaining states, "timeline waivers" have been granted, giving those states additional time to complete the process of developing and implementing necessary assessments. "Compliance agreements" have been negotiated between ED and the other 3 remaining states.[11]

P.L. 107-110 substantially expanded these previous Title I-A assessment provisions. In addition to the requirement for assessments at three grade levels in reading and mathematics, all participating states were required to implement assessments, linked to state content and academic achievement standards, for all public school pupils in *each of grades 3-8* in *reading and mathematics* by the end of the 2005-2006 school year. Participating states are also required to develop and

---

[8] For a more detailed discussion of, and analysis of issues related to, the Title I-A assessment requirements, see CRS Report RL31407, *Educational Testing: Implementation of ESEA Title I-A Requirements Under the No Child Left Behind Act*, by Wayne C. Riddle.

[9] In general, reading/English language arts assessments will be referred to simply as reading assessments in this report.

[10] Typically, standards-based reform involves the establishment of explicit and "challenging" goals for state school systems, and alignment of curricula, assessment methods, pupil performance standards, teacher professional development, instructional materials, and other major school system policies in support of the goals.

[11] Participating states must continue to meet these "1994 requirements," in addition to additional assessment requirements under NCLB.

implement assessments at *three grade levels in science* by the 2007-2008 school year.[12] P.L. 107-110 requires assessments to be of "adequate technical quality for each purpose required under [this] Act."[13] Assessment results must be provided to LEAs, schools, and teachers before the beginning of the subsequent school year, so that they might be available in a timely manner to make adequate yearly progress determinations for schools and LEAs.

The primary rationale for requiring annual administration of standards-based tests in each of grades 3-8 is that the provision of timely information on the performance of pupils, schools, and LEAs throughout most of the elementary and middle school grades is of value for both diagnostic and accountability purposes. Arguably, such assessment results will improve the quality of the AYP determinations that are based primarily on the assessments, and help determine whether Title I-A is meeting its primary goals, such as reducing achievement gaps between disadvantaged and other pupils. At the same time, the expanded Title I-A assessment requirements might lead to a variety of educational "costs," or unintended consequences. One such "cost" would be expanded federal influence on state and local education policies — for example, assessment requirements attached to an aid program focused on disadvantaged pupils are broadly influencing policies regarding standards, assessments, and accountability affecting all pupils in participating states. In the majority of states that did not previously administer standards-based assessments in each of grades 3-8, their decision not to administer annual assessments may have resulted primarily from cost or time constraints, or the states may have determined that annual testing of this sort is not educationally appropriate, or at least that its benefits are not equal to the relevant costs. These costs may include an increased risk of "over-emphasis" on preparation for the tests, especially if the tests do not adequately assess the full range of knowledge and skills that schools are expected to impart.

To the extent practicable, limited English proficient (LEP) pupils are to be assessed in the language and form most likely to yield accurate and reliable information on what they know and can do in academic content areas (in subjects other than English itself). However, pupils who have attended schools in the United States (excluding Puerto Rico) for three or more consecutive school years are to be

---

[12] States were required to develop content and academic achievement standards at 3 grade levels in science by the end of the 2005-2006 school year.

[13] Under regulations published in the *Federal Register* on July 5, 2002 (pp. 45038-45047), state assessments meeting the ESEA Title I-A requirements may include either criterion-referenced tests (CRTs) — tests that measure the extent to which pupils have mastered specified content (content standard) to a predetermined degree (achievement standard) — or norm-referenced tests (NRTs) — tests in which pupil performance is measured against that of other pupils, rather than against some fixed standard of performance — although any NRTs used must be augmented to incorporate the state's content standards and have results expressed in terms of the state's achievement standards. For further discussion of this and related issues, see CRS Report RL31407, *Educational Testing: Implementation of ESEA Title I-A Requirements Under the No Child Left Behind Act*, by Wayne C. Riddle.

assessed in English.[14] In addition, states are to provide that their LEAs will annually assess the English language proficiency of their LEP pupils — including pupils' oral, reading, and writing skills — beginning in the 2002-2003 school year. In administering all required assessments, "reasonable" adaptations and accommodations are to be provided for students with disabilities, consistent with the provisions of the Individuals with Disabilities Education Act (IDEA).[15]

Achievement standards associated with the required assessments must establish *at least* three performance levels for all pupils — advanced, proficient, and partially proficient (usually referred to as basic). If no agency or entity in a state has authority to establish statewide standards or assessments (as is the case for Iowa and possibly Nebraska), then the state may adopt either: (a) statewide standards and assessments applicable only to Title I-A pupils and programs, or (b) a policy providing that each LEA receiving Title I-A grants will adopt standards and assessments that meet the requirements of Title I-A and are applicable to all pupils served by each such LEA.

State educational agencies (SEAs) must provide evidence from a test publisher or other relevant source that their assessments are of adequate technical quality for the purposes required under Title I-A.[16] Ongoing peer reviews of state assessment programs are being conducted to determine if they meet NCLB requirements to test pupils in each of grades 3-8 in reading and mathematics, and to adopt content and achievement standards in science. A letter sent to chief state school officers in April 2006 by the Assistant Secretary for Elementary and Secondary Education[17] describes the current categories of results from the state reviews. These categories, and the number of states in each category as of the publication date of this report, include the following:

---

[14] LEAs may continue to administer assessments to pupils in non-English languages for up to five years if, on a case-by-case basis, they determine that this would likely yield more accurate information on what the students know and can do.

[15] For further information on this and related topics, see CRS Report RL32913, *The Individuals with Disabilities Education Act (IDEA): Interactions with Selected Provisions of the No Child Left Behind Act (NCLBA)*, by Richard N. Apling and Nancy Lee Jones.

[16] Several statutory constraints have been placed on the authority of the U.S. Secretary of Education to enforce these standard and assessment requirements. First, the ESEA states that nothing in Title I shall be construed to authorize any federal official or agency to "mandate, direct, or control a State, local educational agency, or school's specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction" (Sections 1905, 9526, and 9527). Second, states may not be required to submit their standards to the Secretary (Section 1111(b)(1)(A)) or to have their content or achievement standards approved or certified by the federal government (Section 9527(c)) in order to receive funds under the ESEA, other than the (limited) review necessary in order to determine whether the state meets the Title I-A technical requirements. Finally, no state plan may be disapproved by ED on the basis of specific content or achievement standards or assessment items or instruments (Section 1111(e)(1)(F)).

[17] See [http://www.ed.gov/admins/lead/account/saapr3.pdf], visited on October 16, 2006.

- *Full Approval.* Meets all statutory and regulatory requirements (15 states: Alaska, Arkansas, Arizona, Delaware, Florida, Idaho, Kansas, Maryland, Massachusetts, Michigan, Ohio, Oklahoma, South Carolina, Tennessee, and West Virginia).

- *Full Approval with Recommendations.* Meets all statutory and regulatory requirements, but ED makes selected recommendations for improvement (three states: Indiana, North Carolina, and Utah).

- *Approval Expected.* "Evidence to date" suggests that the state's assessment system is fully compliant with the statutory and regulatory requirements, but some elements of the system were not complete as of July 1, 2006. The state must provide evidence of compliance with remaining requirements before administering its assessments for the 2006-2007 school year (nine states: Alabama, Connecticut, Missouri, Montana, New Mexico, North Dakota, Pennsylvania, Rhode Island, and Virginia).

- *Approval Pending.* A limited number (generally one to three) of fundamental components of the state assessment system fail to meet the statutory or regulatory requirements (24 states: all of those not listed in another category).

Finally, one state — Mississippi — has been granted a one-year waiver to meet the assessment requirements, in recognition of delays arising from the 2005 Gulf Coast hurricanes.

States in the last two categories above (Approval Pending and Not Approved) face the possibility of the loss of Title I-A administrative funds (25% in the case of the two "not approved" states, 10% or 15% in the case of "approval pending" states), plus the additional sanctions of limitations on approval of flexibility requests, and heightened oversight by ED. According to ED, funds withheld (from the SEA) would be distributed to LEAs in the state. Thus far, FY2006 Title I-A state administrative funds have been reduced by 10% for two states — Hawaii and Maine — for failure to comply with the 2005-2006 assessment requirements. In addition, states that persistently and thoroughly fail to meet the standard and assessment requirements over an extended period of time potentially may be subject to elimination of their Title I-A grants altogether, since they would be out of compliance with a basic program requirement.[18]

State Participation in the National Assessment of Educational Progress (NAEP). NCLB provides that all states participating in Title I-A are required to participate in state NAEP tests in 4th and 8th grade reading and mathematics, which are to be administered every two years. NAEP is administered

---

[18] In recent years, the sanction of withholding 25% of state administration funds for failure to meet the 1994 assessment requirements has been applied at least twice, to Georgia in 2003 and the District of Columbia in 2005, for failure to administer assessments linked to state content standards.

by the National Center for Education Statistics (NCES), with oversight and several aspects of policy established by the National Assessment Governing Board (NAGB). The primary NAEP assessment reports pupil scores in relation to performance levels based on determinations by NAGB of what pupils should know and be able to do at basic, proficient, and advanced levels with respect to challenging subject matter.

All NAEP tests are administered to only a representative sample of pupils enrolled in public and private K-12 schools, and the tests are designed so that no pupil takes an entire NAEP test. Since no individual pupil takes an entire NAEP test, it is impossible for NAEP, as currently designed, to report individual pupil scores. In addition, while individual pupils may *not* be required to take NAEP tests, there are conflicting statutory and regulatory provisions regarding the voluntary nature of participation in NAEP tests by LEAs and schools.[19]

While NAEP cannot currently provide assessment results for individual pupils, the levels at which scores could be provided depend on the size and specificity of the sample group of pupils tested. NAEP has always provided scores for the nation as a whole and four multistate regions. Beginning in 1990, NAEP has conducted state-level assessments in 4th and 8th grade mathematics, reading and, beginning in 1996, science. Under state NAEP, the sample of pupils tested is increased in order to provide reliable estimates of achievement scores for pupils in each participating state. Before enactment of NCLB, participation in NAEP was voluntary for states; the additional cost associated with state NAEP administration was borne by the states; and, after participating in any state NAEP test, states could separately decide whether to allow the release of NAEP results for their state.

The costs of testing expanded pupil samples in the states under NAEP are paid by the federal government. An implicit purpose of this requirement is to "confirm" trends in pupil achievement, as measured by state-selected assessments,[20] although such "confirmation" is highly limited and indirect, usually limited to comparisons (by non-ED analysts) of the percentage of pupils at various achievement levels on NAEP and state tests. Agents of the federal government are prohibited from using NAEP assessments to influence state or LEA instructional programs or assessments. Results of the initial rounds of these tests were released in the fall of 2003 and 2005.

---

[19] NCLB explicitly provides that participation in NAEP tests is voluntary for all *pupils*, but it contains conflicting provisions regarding voluntary participation by *LEAs and schools*. The NAEP authorization statute (redesignated as Section 303 of the Education Sciences Reform Act by P.L. 107-279) states that participation is voluntary for LEAs and schools, as well as pupils. However, ESEA Title I-A provides that the plans of LEAs receiving aid under that program must include an assurance that they will participate in state NAEP tests if selected (Section 1112(b)(1)(F)). Further, regulations (*Federal Register*, December 2, 2002) explicitly require LEAs that receive Title I-A grants to participate in NAEP if selected (34 C.F.R. § 200.11(b)), and ED comments accompanying these regulations state that "an LEA cannot meet the NAEP participation requirement unless it requires all schools selected to participate" (*Federal Register*, December 2, 2002, p. 71740).

[20] See *Using the National Assessment of Educational Progress to Confirm State Test Results*, prepared by an Ad Hoc Committee on Confirming Test Results, National Assessment Governing Board, at [http://www.nagb.org], visited on October 13, 2006.

Reporting Assessment Results to Parents and the Public. States and LEAs participating in Title I-A must report assessment results and certain other data to parents and the public through "report cards." States are to publish report cards for the state overall, and LEAs are to publish report cards for the LEA overall and for individual schools. The report cards must generally include information on pupils' academic performance disaggregated by race, ethnicity, and gender, as well as disability, migrant, English proficiency, and economic disadvantage status. The report cards must also include information on pupil progress toward meeting any other educational indicators included in the state's AYP standards, plus secondary school student graduation rates, the number and identity of any schools failing to meet AYP standards, and aggregate information on the qualifications of teachers. The report cards *may* include additional information, such as average class size or the incidence of school violence. LEA and school report cards are to be disseminated to parents of public school pupils and to the public at large; there are no specific provisions regarding dissemination of the state report cards.

Assessment Development Grants. The ESEA authorizes (in Title VI-A-1) annual grants to the states to help pay the costs of meeting the Title I-A standard and assessment requirements. These grants may be used by states for development of standards and assessments or, if these have been developed, for assessment administration and such related activities as developing or improving assessments of the English language proficiency of LEP pupils. Implementation of the state assessment requirements that were newly adopted under NCLB has been contingent upon the appropriation of minimum annual ("trigger") amounts for these state assessment grants; for each of FY2002-FY2007, at least the minimum amount has been appropriated for these grants. (For FY2007, the minimum is $400 million, and the appropriation is $407.6 million.)

NCLB also authorizes competitive grants to states for the development of enhanced assessment instruments. Aided activities may include efforts to improve the quality, validity, and reliability of assessments beyond the levels required by Title I-A, to track student progress over time, or to develop performance or technology-based assessments. Funds appropriated each year for state assessment grants that are in excess of the "trigger" amounts described above for assessment development grants are to be used for enhanced assessment grants. For FY2007, $7.6 million is available for assessment development grants.

Bush Administration Reauthorization Proposals. The Bush Administration's Reauthorization Blueprint contains two proposals regarding the ESEA Title I-A assessment provisions. First, participating states would be required to develop content and performance standards in English and math covering two additional years of high school by 2010-11, and assessments linked to these standards by 2012-13. The assessments would include a pair of 11th grade assessments of college readiness in reading and math. However, states would be required only to report the results of these assessments, not to use them for adequate yearly progress determinations. In addition, states receiving Title I-A grants would be required to include NAEP results, along with results on state assessments, on state report cards, to facilitate cross-state comparisons of achievement levels.

Possible Reauthorization Issues Regarding Assessments. Issues regarding the expanded ESEA Title I-A pupil assessment requirements include:

- *Should requirements for standards-based assessments in states participating in ESEA Title I-A be expanded for senior high school students?* As discussed above, the current assessment requirements are focused primarily, although not solely, on the elementary and middle school grades. In the Administration's High School Initiative and elsewhere, proposals have been offered to expand required assessments for pupils in grades 10-12, in part to strengthen the process of determining adequate yearly progress for senior high schools. This would include required state participation in a 12th grade NAEP assessment. However, the substantial variation in senior high school instructional programs raises many issues, including the following: Might the required assessments include high school exit or graduation tests? Given the relatively high degree of curriculum differentiation at the senior high school level (e.g., career and technical education programs, advanced placement courses, and so forth) might states be allowed to meet these requirements by adopting different types of tests for pupils in different types of academic programs? Might Advanced Placement or International Baccalaureate tests be used to meet the new assessment requirements for pupils participating in those programs?

- *Has the emphasis on standards-based assessments of reading and mathematics achievement in the Title I-A assessment and adequate yearly progress requirements (see below) begun to "crowd out" the level of time and attention devoted to other subject areas, such as writing, science, history, civics, or foreign languages, and/or skills in any subject area that are not typically covered by state assessments?* Concern has been expressed by some, and there is evidence,[21] that the emphasis placed on reading and mathematics through the Title I-A assessment and adequate yearly progress requirements has reduced time and energy devoted to other subject

[21] Center on Education Policy, "Choices, Changes, and Challenges: Curriculum and Instruction in the NCLB Era," July 2007.

areas for many students. Others have argued that emphasis on the skills and knowledge typically covered by standards-based state mathematics and reading assessments has resulted in more narrowly prescriptive instruction overall, reducing instructional time devoted to the development of higher level analytical skills, pupil creativity, or research projects. These concerns may lead to proposals to either de-emphasize the current requirements, or to expand the assessment requirements to include more subjects in more grades and/or a wider range of pupil skills.

- *What is the financial cost of developing and implementing the required assessments, and to what extent have federal grants been available to pay for them?* The addition of requirements to conduct annual assessments of mathematics and reading achievement in at least four more grades than required previously, and to include standards and assessments at three grade levels in science, has caused most states to significantly increase their expenditures for standard and test development and administration. It is very difficult, if not impossible, to specify all of these costs with precision. NCLB conference report directed the Government Accountability Office (GAO) to conduct a study of the costs to each state of developing and administering the assessments required under Title I-A; it found that the funding provided under NCLB assessment development grants would cover all estimated state costs only if states used only multiple choice questions that can be machine scored. Otherwise, if states used a mix of multiple choice and open-ended questions, GAO estimated that the assessment development grants would cover 51-69% of state test development costs, excluding possible costs of developing alternate assessments for pupils with disabilities or English proficiency tests for LEP pupils.[22] Studies by non-government organizations of the costs of meeting NCLB assessment requirements, and of whether those costs exceed the aggregate level of assessment development funds provided under NCLB, have reached contradictory results.

[22] Government Accountability Office. *Characteristics of Tests Will Influence Expenses; Information Sharing May Help States Realize Efficiencies*. GAO-03-389. May 2003.

Adequate Yearly Progress (AYP) Requirements[23]

Since the 1988 reauthorization of the ESEA (P.L. 100-297), the accountability provisions of Title I-A have been increasingly focused on achievement and other outcomes for participating pupils and schools. Since the subsequent ESEA reauthorization in 1994 (IASA, P.L. 103-382), and especially under NCLB (P.L. 107-110), a key concept embodied in these outcome accountability requirements is that of AYP for schools, LEAs, and (with much less emphasis) states overall. The primary purpose of AYP requirements is to serve as the basis for identifying schools and LEAs where performance is inadequate, so that these inadequacies may be addressed, first through provision of increased support and opportunities for families to exercise choice to transfer to another school or obtain supplemental services from a third-party provider, and ultimately through a series of more substantial consequences (described in later sections of this report). These actions are to be taken with respect to schools or LEAs that fail to meet AYP for *two consecutive years or more*; no action need be taken with respect to a school or LEA that fails to meet AYP standards for only one year.

Through NCLB, the Title I-A requirements for state-developed standards of AYP became both more broad in scope and substantially more detailed. NCLB provisions regarding AYP were adopted largely in reaction to perceived weaknesses with the AYP requirements of the 1994 IASA. The latter were frequently criticized as being vague, lacking a required specific focus on disadvantaged pupil groups, failing to require continuous improvement toward an ultimate goal, and being applicable only to schools and LEAs participating in Title I-A, not to states overall or to all public schools. Before the enactment of NCLB, there was tremendous variation among the states in the impact of their AYP standards — namely, the number and percentage of Title I-A schools and LEAs identified as failing to meet AYP standards. Somewhat ironically, as is discussed later in this report, there continues to be a great deal of variation among states in this respect, in spite of the extensive NCLB-based efforts to make AYP policies more consistent.

Through the interaction of ED regulations and other forms of policy guidance, as well as innovation in the states, NCLB's policies on AYP have evolved over the years, in several respects becoming more flexible as well as more complex and varied. The discussion below will refer to *current AYP policies* as established through a combination of the authorizing statute, regulations, and ED policy guidance. For a discussion of how current policies evolved over time, see CRS Report RL32495, *Adequate Yearly Progress (AYP): Implementation of the No Child Left Behind Act*, by Wayne C. Riddle.

---

[23] For a more detailed discussion of, and analysis of issues related to, the Title I-A AYP requirements, see CRS Report RL32495, *Adequate Yearly Progress (AYP): Implementation of the No Child Left Behind Act*, by Wayne C. Riddle, and CRS Report RL33032, *Adequate Yearly Progress (AYP): Growth Models Under the No Child Left Behind Act*, by Wayne C. Riddle.

Under NCLB, AYP is defined primarily on the basis of multiple aggregations of pupil scores on required state assessments of academic achievement in mathematics and reading, generally with a specific focus on the percentage of pupils scoring at a proficient or higher level of achievement, based on state-determined standards of proficiency.[24] State AYP standards must also include at least one additional academic indicator. In the case of high schools, this additional indicator must be the graduation rate; for elementary and middle schools, the attendance rate is often selected by states to be the additional indicator. The additional indicators may not be employed in a way that would reduce the number of schools or LEAs identified as failing to meet AYP standards.

Disaggregation. AYP calculations based on assessment scores[25] must be disaggregated — that is, they must be determined separately and specifically for not only all pupils but also for several demographic groups of pupils within each school, LEA, and state. The specified demographic groups (often referred to as subgroups), in addition to the "all pupils" group, are

- economically disadvantaged pupils,
- LEP pupils,
- pupils with disabilities, and
- pupils in major racial and ethnic groups.[26]

However, there are three major constraints on the consideration of these pupil groups in AYP calculations. First, pupil groups need not be considered in cases where their number is so relatively small that achievement results would not be statistically significant or the identity of individual pupils might be divulged. The selection of the minimum number ("n") of pupils in a group for the group to be considered in AYP determinations[27] has been left largely to state discretion, and state policies regarding "n" have varied widely. The minimum size for pupil groups to be separately considered (beyond the "all pupils" group) in AYP determinations for schools or LEAs may be as low as 5 pupils or, in some circumstances, as many as

---

[24] As noted earlier, NCLB requires states participating in Title I-A to administer standards-based assessments in science at 3 grade levels by the end of the 2007-08 school year. While statutory provisions are somewhat ambiguous on this point, it does not appear that states will be required, under current ED policy, to incorporate results from these science assessments into their AYP determinations.

[25] The graduation rate or other additional academic indicators need not be disaggregated.

[26] In a September 29, 2005, letter to all CSSOs (see [http://www.ed.gov/policy/elsec/guid/secletter/050929.html], visited on October 13, 2006), the Secretary of Education stated that LEAs and schools affected by the 2005 Gulf Coast hurricanes could establish a separate subgroup for displaced students in AYP determinations based on assessments administered during the 2005-2006 school year. Pupils would appear only in the evacuee subgroup, not in other demographic subgroups (e.g., economically disadvantaged or LEP). Waivers could be requested in 2006 to allow schools or LEAs to meet AYP requirements if only the test scores of the evacuee subgroup would prevent them from making AYP. In any case, all such students must still be assessed and the assessment results reported to the public.

[27] States frequently establish lower minimum group size thresholds for reporting purposes (as opposed to AYP determinations).

200.[28] In addition, the minimum group size policies of several states take into account not only the number of pupils in each group but also their size as a percentage of all pupils. Since minimum group size policies are applied to schools and to LEAs overall, groups that are too small to be separately considered for individual schools are often considered at the LEA level.

Further, some states have established different (higher) minimum group sizes for LEP pupils and/or pupils with disabilities than for other pupil groups. However, under regulations published on April 9, 2007, states would no longer be allowed to use varying minimum group sizes for different demographic groups of pupils. This will prohibit the setting of higher "n" sizes for pupils with disabilities or LEP pupils than for other pupil groups in the future.

Second, it has been left to the states to define the "major racial and ethnic groups" on the basis of which AYP must be calculated.[29] Some states have identified relatively few different "major ethnic and racial groups" (e.g., Black, White, and Hispanic pupils) while others have identified several more separate groups (e.g., Native American, Filipino, Pacific Islander, Other Asian pupils). In many cases, there is an interaction between the number of ethnic and racial groups separately identified and minimum group size policies — the larger the number of separate groups, the less likely that minimum group size thresholds will be met.

And third, pupils who have not attended the same school for a full year[30] need not be considered in determining AYP at the school level, although they are still to be included in LEA and state AYP determinations, if they attended schools in the same LEA or state for the full academic year.

A number of special rules, which have evolved over time, apply to two of the disaggregated pupil groups: LEP pupils and pupils with disabilities. LEP pupils who have attended schools in the United States (other than Puerto Rico) for less than 12 months must participate in English language proficiency and mathematics tests (plus science assessments beginning in 2007-2008), but the participation of such pupils in reading tests (in English), as well as the inclusion of any of these pupils' test scores (in reading or mathematics) in AYP calculations, is optional. Further, in AYP determinations, schools and LEAs may continue to include pupils in the LEP demographic category for up to two years after they have attained proficiency in English. However, these formerly LEP pupils need not be included when

---

[28] A small number of states have no specific minimum group size policy, rather they rely solely on "confidence intervals," as discussed later in this report, to address statistical and privacy concerns.

[29] On August 7, 2006, ED published in the Federal Register (pages 44866-44871) "Proposed Guidance on Maintaining, Collecting and Reporting Data on Race and Ethnicity to the U.S. Department of Education." While this guidance would standardize racial and ethnic categories for a variety of purposes related to ED programs and activities, it provides that "States will continue to have discretion in determining which racial and ethnic groups will be used for accountability and reporting purposes under the ESEA." (p. 44867)

[30] This is defined in state accountability plans, and is typically from some point in October until the administration of state assessments.

determining whether a school or LEA's count of LEP pupils meets the state's minimum size threshold for separate inclusion of the group in AYP calculations, and scores of formerly LEP pupils may not be included (as part of the LEP pupil group) in state, LEA, or school report cards.

An especially high degree of attention has been devoted to assessment and AYP policies regarding pupils with disabilities. While a few general provisions apply to all pupils with disabilities — primarily that accommodations be provided where appropriate in the administration of assessments to these pupils — a series of special provisions apply specifically to two particular groups of pupils with disabilities.

The first set of special provisions applies to pupils "with the most significant cognitive disabilities." For a limited number of such pupils (a maximum of 1.0% of all tested pupils, or approximately 9% of all pupils with disabilities, at the state and LEA level[31]), states and LEAs may adopt alternate assessments based on alternate achievement standards. A separate ED policy is focused on pupils with "persistent academic disabilities," whose ability to perform academically is assumed to be greater than that of the pupils with "the most significant cognitive disabilities," but below that of other pupils with disabilities. In ED's terminology, these pupils may be assessed using alternate assessments based on modified achievement standards. Under a short-term policy, applicable to states that are still developing modified academic achievement standards and alternate assessments based on these, schools and LEAs that would otherwise fail to meet AYP standards due solely to their pupils with disabilities group may add to their proficient pupil count a number of pupils with disabilities equal to 2.0% of all pupils assessed. Alternatively, in eligible states that have adopted modified achievement standards, schools and LEAs may include in their AYP calculations the proficient scores for pupils with disabilities on these assessments, subject to a 2.0% (of all assessed pupils) cap at the LEA and state levels.[32] As with the 1.0% cap for pupils with the most significant cognitive disabilities, this 2.0% cap does not apply to individual schools.

Ultimate Goal. State AYP standards must incorporate concrete movement toward meeting an ultimate goal of all pupils reaching a proficient or higher (advanced) level of achievement within 12 years, which is by the end of the 2013-2014 school year. The steps or required levels of achievement toward meeting this goal (annual measurable objectives, or AMOs) must increase in "equal increments" over time. The first increase in the thresholds must occur after no more than two

---

[31] There is no limit for individual schools. SEAs may request from the U.S. Secretary of Education an exception allowing them to exceed the 1.0% cap statewide, and SEAs may grant such exceptions to LEAs within their state. In the absence of a waiver, the number of pupils scoring at the proficient level or higher on alternate assessments, based on alternate achievement standards, in excess of the 1.0% limit is to be added to those scoring below proficient in LEA or state level AYP determinations.

[32] On April 9, 2007, ED published final regulations embodying the longer-term policy for this group of pupils with disabilities. Also under these regulations, as with LEP pupils, states and LEAs could include the test scores of former pupils with disabilities in the disability subgroup for up to two years after such pupils have exited special education. In such cases, the former pupils with disabilities would not have to be counted in determining whether the minimum group size was met for the disability subgroup.

years, and remaining increases at least once every three years. Several states have accommodated this requirement in ways that require much more rapid progress in the later years of the period leading up to 2013-2014 than in the earlier period (i.e., the increments are equal, but occur annually at the end of this period but only once every two or three years at the beginning).

Participation Rate. NCLB AYP provisions include an assessment *participation rate* requirement. In order for a school to meet AYP standards, at least 95% of all pupils, as well as at least 95% of each of the demographic groups of pupils considered for AYP determinations for the school or LEA, must participate in each of the assessments that serve as the primary basis for AYP determinations. Participation rates may be averaged over a two or three year period, and pupils who fail to participate in assessments due to a "significant medical emergency" may be excluded from the participation rate calculations. States may allow pupils who miss a primary assessment date to take make-up tests. Under regulations published in the *Federal Register* on April 9, 2007, when pupils take state assessments multiple times, it is no longer required that only the first test administration be used in AYP determinations; states and LEAs could use the highest score for pupils who take tests more than once. The participation rate requirements were adopted in part to emphasize the intent that the assessment systems and AYP determinations should involve all pupils, and to minimize opportunities for schools or LEAs to raise their test scores by discouraging pupils from participating in the tests.

Models of AYP. The basic structure of most AYP models falls into one of three general categories. The three basic structural forms for AYP of schools or LEAs are the *group status*, *successive group improvement*, and *individual/cohort growth* models. In the context of these terms, "group" (or "subgroup," in the case of detailed demographic categories) refers to a collection of pupils that is identified by their grade level and usually other demographic characteristics (e.g., race, ethnicity, or economic disadvantage) as of a point in time. The actual pupils in a "group" may change substantially, or even completely, from one year to the next. In contrast, a "cohort" refers to a collection of pupils in which the *same* pupils are followed from year-to-year.

The key characteristic of the *group status* model is a required threshold level of achievement that is *the same* for all pupil groups, schools, and LEAs statewide in a given subject and grade level. Under this model, performance at a point in time is compared to a benchmark at that time, with no direct consideration of changes over a previous period. "Status" models emphasize the importance of meeting certain minimum levels of achievement for all pupil groups, schools, and LEAs, and arguably apply consistent expectations to all.

The key characteristic of the *successive group improvement* model is a focus on the *rate of change* in achievement in a subject area from one year to the next among *groups* of pupils in a grade level at a school or LEA (e.g., the percentage of this year's 5^{th} grade pupils in a school who are at a proficient or higher level in mathematics compared to the percentage of last year's 5th grade pupils who were at a proficient or higher level of achievement).

Finally, the key characteristic of the *individual/cohort growth* model is a focus on the *rate of change* over time in the level of achievement among *cohorts* of the *same* pupils. Growth models are *longitudinal*, based upon the tracking of the same pupils as they progress through their K-12 education careers. While the progress of pupils is tracked individually, results are typically aggregated when used for accountability purposes. In general, growth models would give credit for meeting steps along the way to proficiency in ways that a status model typically does not.[33]

The *primary* basic structure for AYP under NCLB is specified in the authorizing statute as a *group status* model.[34] A "uniform bar" approach is employed: states are to set a threshold percentage of pupils at proficient or advanced levels each year that is applicable to all pupil subgroups of sufficient size to be considered in AYP determinations. The threshold levels of achievement are to be set separately for reading and math, and may be set separately for each level or grade span of K-12 education (elementary, middle, and high schools). The minimum *starting point* for the "uniform bar" in the initial period (2002-2003 and, in most states, 2003-2004) was to be the *greater* of the percentage of pupils at the proficient or advanced level of achievement for (a) the lowest-achieving pupil group in the base year (2001-02), *or* (b) the school at the 20th percentile (from the bottom) in the state.

In determining whether scores for a group of pupils are at the required level, the averaging of scores over two or three years is allowed. In addition, NCLB statute includes a *safe harbor* provision, under which a school that does not meet the standard AYP requirements may still be deemed to meet AYP if it experiences a 10% reduction in the gap between 100% and the preceding year for the specific pupil groups that fail to meet the "uniform bar,"[35] and those pupil groups also make progress on at least one other academic indicator included in the state's AYP standards. This alternative provision adds *successive group improvement* as a secondary AYP model under NCLB.

The third basic type of AYP model, the *individual/cohort growth* model, is not explicitly mentioned in NCLB statute. However, in November 2005, after officials in several states requested authority to use such a model to meet the AYP requirements of NCLB, the U.S. Secretary of Education announced a *pilot program* under which up to 10 states would be allowed to use growth models to make AYP determinations for the 2005-2006 and succeeding school years. In addition to a

---

[33] There is a variant of the group status model, sometimes called an "index model," under which partial credit would be attributed to performance improvements below the proficient level — e.g., from below basic to basic.

[34] For a discussion of the models of AYP, see CRS Report RL33032, *Adequate Yearly Progress (AYP): Growth Models Under the No Child Left Behind Act*, by Wayne Riddle.

[35] For example, assume the percentage of a school's pupils in a designated subgroup (meeting minimum group size criteria) scoring at a proficient or higher level on state mathematics assessments is 40% in one year, and 47% in the following year, while the AMO for the second year is 49%. This group would not meet the standard AYP threshold for year two (47% is below 49%), but would meet the safe harbor criterion (10% of the previous year gap between the group's performance and 100% is 6 percentage points, so a score of 46% or above would satisfy the safe harbor provision).

variety of criteria applicable to all state AYP policies, under the proposed models: "achievement gaps" among pupil groups must decline in order for schools or LEAs to meet AYP standards; annual achievement goals for pupils must not be set on the basis of pupil background or school characteristics; annual achievement goals must be based on performance standards, not past or "typical" performance growth rates; the assessment system must produce comparable results from grade to grade and year to year; and the progress of individual students must be tracked within a state data system. In addition, applicant states must have their annual assessments for each of grades 3-8 approved by ED, and these assessments must have been in place for at least one year previous to the first year of implementation of the growth model.

According to ED, 20 states have submitted applications to be allowed to use growth models to make AYP determinations beginning with either the 2005-2006 or 2006-2007 school years.[36] Two states, North Carolina and Tennessee, were approved to use proposed growth models in making AYP determinations based on assessments administered in the 2005-2006 school year. Seven additional states — Arkansas, Delaware, Florida, Iowa, Ohio, Alaska, and Arizona — have been approved to participate in the pilot program subsequently, contingent in the case of Ohio on adoption of minimum group sizes for all pupil groups.

- The *North Carolina* policy adds a projection component to the current group status model. If the achievement level of a non-proficient pupil is on a trajectory toward proficiency within four years, then the pupil is added to the proficient group. The trajectory calculations will be made for pupils in the 3rd through 8th grades.

- Under the *Tennessee* policy, schools and LEAs will have two options for meeting AYP: meeting either the AYP standards under the group status or successive group improvement models of current law, or meeting AYP standards according to a "projection model." Under the projection model, pupils are deemed to be at a proficient or higher level of achievement if their test scores are projected to be at a proficient or higher level three years into the future, based on past achievement levels for individual pupils. Tennessee's projection model will not be applied to high schools.

- Under the *Delaware* growth model, AYP will be calculated each year based on both the statutory provisions and using the state's growth model, and a school will meet AYP standards if it qualifies using either method. Individual pupil performance will be tracked from one year to the next. Specified numbers of points will be awarded based on changes (if any) in pupils' performance level; points will be awarded for partial movement toward proficiency, but

---

[36] One other state, Massachusetts, incorporates a partial growth element into its safe harbor provision. In that state, a school or LEA that fails to meet the standard AYP requirements still makes AYP if the number of pupils in relevant groups and subjects scoring below the proficient level declines by 10% or more from the previous year *or* declines sufficiently to put them on track toward proficiency by the end of the 2013-2014 school year.

not for movement beyond proficiency. The average growth scores for schools and LEAs to meet AYP standards increase steadily until 2013-2014, by which time all pupils would be expected to achieve at a proficient or higher level.[37]

- Under the *Arkansas* policy, AYP will be calculated each year based on both statutory provisions and using the state's growth model, and a school will meet AYP standards if it qualifies using either method. Under the growth model, pupils in grades 4-8 will be deemed to be proficient if they are on a growth path toward proficiency by the end of 8th grade. Pupils already proficient must be on a path to continue to be proficient through grade 8 (i.e., growth path criteria will be applied to all pupils, proficient and non-proficient).

- Under the *Florida* model, AYP will be determined separately for each pupil subgroup in each school or LEA (i.e., not for schools or LEAs as a whole) using the statutory models plus a growth model, and the school or LEA will meet AYP standards if each pupil subgroup makes AYP using any of the three models. Florida's growth model will be essentially the same as the current status model except that proficient pupils will include both those currently scoring at a proficient or higher level and those who are on an individual path toward proficiency within three years. The model will be applied to AYP determinations for grades 3-10 (with some modifications for pupils in grade 3).

- Under the *Iowa* model, pupil tests score ranges below proficient have been divided into 3 categories: Hi Marginal, Lo Marginal, and Weak. A student who rises from one of these levels to a higher level, and has not previously attained the higher level, will be deemed to have met "Adequate Yearly Growth" (AYG). For schools and LEAs that have not met AYP though application of the standard status and safe harbor models, students making AYG will be added to those scoring proficient or above, and this combined total will be used in determining whether the school or LEA makes AYP for the year. Students beginning at the "Weak" level must reach proficiency within three years, those beginning at Lo Marginal must become proficient within two years, and those beginning at Hi Marginal must reach proficiency within one year. By 2014, the growth model would no longer be used, and all pupils will be expected to achieve at a proficient or higher level.

- *Ohio* has adopted a variation of the "projection" or "on track to proficiency" approach that is common to the North Carolina, Tennessee, Arkansas, and Florida models. After application of the

---

[37] Delaware's proposal included use of confidence intervals at an unspecified level in implementing the growth model; however, ED approved use of the model without confidence intervals.

standard status and safe harbor models, if any pupil group fails to meet AYP, then a determination will be made if a sufficient proportion of pupils in the group is on track toward meeting the required proficiency threshold as of a "target grade." In the case of elementary and middle schools, the target grade will be either the grade level following the highest grade offered by the school (i.e., for a K-5 school, the 6th grade), or four grades beyond the pupil's current grade, whichever comes first. In the case of a high school, pupils would have to be on track toward proficiency by the 11th grade. Pupils currently scoring at a proficient level but who are projected to be below the proficient level by the target grade will not be considered to be proficient.

- Under *Alaska's* growth model, pupils will be included in the proficient group if their achievement level trajectory is on a growth path toward proficiency within 3 additional years for pupils in grades 4-9, or within 2 additional years for pupils in grade 10. (Alaska currently has no standards-based assessments for grades beyond 10.) Pupils in the third grade (the earliest grade at which state assessments are administered) will be measured based on status only, not growth. The growth model will not apply to pupils with disabilities who take alternate assessments.

- Finally, in *Arizona*, the growth model will be applicable to pupils in grades 4-8 only. Pupils will be included in the proficient group if their achievement level trajectory is on a growth path toward proficiency within 3 years or by 8th grade, whichever comes first. Pupils in the third grade (the earliest grade at which state assessments are administered) will be measured based on status only, not growth. Unlike some other states participating in the growth model pilot, pupils with disabilities who take the state's alternate assessment will be included in the Arizona growth model.

Thus, most of the growth models approved under ED's pilot programs are based upon supplementing the number of pupils scoring at a proficient or higher level with those who are projected to be at a proficient level within a limited number of years. Seven of the nine approved models follow this general approach. Among these states, a distinction may be made between five states (North Carolina, Arkansas, Florida, Alaska, and Arizona) that combine currently proficient pupils with those not proficient who are "on track" toward proficiency, and two states (Tennessee and Ohio) that consider only projected proficiency levels for all pupils (i.e., currently proficient pupils who are not on track to remain proficient are counted as not proficient). In contrast, the models used by the other two states — Delaware and Iowa — focus on awarding credit for movement of pupils among achievement categories up to proficiency.

Confidence Intervals. Many states have used the statistical technique of confidence intervals in an attempt to improve the validity and reliability of AYP determinations. Use of this technique also tends to have an effect, whether intentional or not, of substantially reducing the number of schools or LEAs identified

as failing to meet AYP standards. Use of this statistical technique is not explicitly authorized by NCLB, but its inclusion in the accountability plans of several states has been approved by ED.

This concept is based on the assumption that any test administration represents a "sample survey" of pupils' educational achievement level. As with all sample surveys, there is a degree of uncertainty regarding how well the sample results — average test scores for the pupil group — reflect pupils' actual level of achievement. In practice, "confidence intervals" may be seen as "windows" surrounding a threshold test score level (i.e., the percentage of pupils at the proficient or higher level required under the state's AYP standards).[38] The size of the window varies with respect to the number of pupils in the relevant group who are tested, and with the desired degree of probability that the group's average score represents their true level of achievement. This is analogous to the "margin of error" commonly reported along with public opinion polls. Unlike opinion poll results, test results are not based on a small sample of the relevant population, as the tests are to be administered to the full "universe" of pupils. However, the results from any particular test administration are considered to be only estimates of pupils' true level of achievement, and thus the "margin of error" or "confidence interval" concepts are deemed relevant to all test scores. The probability, or level of confidence, that a pupil group's actual level of performance is within the designated range of scores is typically set at 95%, but in some cases may be as low at 90% or as high as 99%. If all other relevant factors are equal, the higher the desired degree of probability, the larger is the window surrounding the threshold percentage, especially if the size of the pupil group in question is small. A school would fail to make AYP with respect to a pupil group only if the average score for the group is below the lowest score in the "window."[39]

The use of confidence intervals to determine whether group test scores fall below required thresholds to a statistically significant degree improves the validity of AYP determinations, and addresses the fact that test scores for any group of pupils will vary from one test administration to another, and these variations may be especially large for a relatively small group of pupils. At the same time, the use of confidence intervals reduces the likelihood that schools or (to a lesser extent) LEAs will be identified as failing to make AYP. Also, for relatively small pupil groups and high levels of desired accuracy (especially a 99% probability), the size of confidence intervals may be quite large.

---

[38] Alternatively, the confidence interval "window" may be applied to average test scores for each relevant pupil group, that would be compared to a fixed threshold score level to determine whether AYP has been met.

[39] The text above describes the way in which confidence intervals have been used by states for AYP determinations. The concept could be applied in a different way, requiring scores to be at or above the *highest* score in the "window" in order to demonstrate that a pupil group had meet AYP standards to a statistically significant degree. This would reflect confidence (at the designated level of probability) that a school or LEA *had* met AYP standards, whereas the current usage reflects confidence that the school or LEA *had failed* to meet AYP standards.

Other AYP Provisions. AYP standards under NCLB must be applied to *all* public schools, LEAs, and to states overall, if a state chooses to receive Title I-A grants. However, *consequences* for failing to meet AYP standards (as discussed later in this report) need only be applied to schools and LEAs participating in Title I-A,[40] and there are no sanctions for states overall beyond identification and the provision of technical assistance.

Schools or LEAs meet AYP standards only if they meet the required threshold levels of performance on assessments, other academic indicators, and test participation with respect to *all* of the designated pupil groups that meet the minimum group size criterion. Schools and LEAs face a series of consequences — namely, they are identified as being in need of improvement — if they fail to meet AYP standards for two consecutive years or more. States may limit identification for improvement to schools that fail to meet AYP in the same subject area for two consecutive years or more, but not to schools that fail to meet AYP for the same pupil group *and* subject area. Finally, states may limit identification of *LEAs* for improvement to those that failed to meet AYP in the same subject area and across all three grade spans (elementary, middle and high) for two consecutive years or more.

Data on Schools Identified as Failing to Meet AYP. A substantial amount of data has become available on the number of schools and LEAs that failed to meet the AYP standards of NCLB based on assessments administered during the 2002-2003 through 2004-2005 school years, plus incomplete data based on assessments administered in 2005-2006. A basic problem with almost all such reported data is that they have frequently been incomplete and subject to change. The currently available compilation of state AYP data are discussed below in two categories: reports focusing on the number and percentage of schools failing to meet AYP standards for *one or more years* versus reports on the number and percentage of public schools identified for school improvement — that is, they had failed to meet AYP standards for *two consecutive years (and any additional years, without subsequently making AYP for two consecutive years).*

Schools Failing to Meet AYP Standards for One Year. Compilations of AYP results for a majority of states for the 2002-2003 through 2004-2005 school years were published in December 2004 and 2005 by *Education Week*.[41] While national aggregate comparisons are not possible, due to the number of states for which data were missing for one or more years, these data continue to reflect a pattern of wide variation among states in the percentage of public schools failing to meet AYP standards. Among states providing results, the percentage of public schools failing to meet AYP standards based on assessment results in the 2004-2005 school year ranged from 2% (Wisconsin) to 66% (Hawaii). *For 48 states and the District of Columbia, the average share of schools failing to meet AYP standards based on Spring 2005 testing was 26%.* For the 46 states where such a comparison is possible, based on these data, the percentage of public schools failing to make

---

[40] States are encouraged to apply these consequences to all public schools, but are not required to do so. State practices vary on this point.

[41] See "Taking Root," *Education Week*, December 8, 2004, p. 1; and "Room to Maneuver," *Education Week*, December 14, 2005, p. S1.

AYP increased between 2003-2004 and 2004-2005 in 24 states, remained the same in two states, and declined in the remaining 20 states. This is largely a reversal of the pattern of change between 2002-2003 and 2003-2004, when among the 36 states where a comparison is possible, the percentage of public schools failing to make AYP increased in only five states, remained the same in one state, and declined in 30 states.

In February 2006, data on the number of schools failing to meet AYP standards based on assessment results for the 2004-2005 school year were published in *Education Daily*.[42] Based on data collected from all states except Arkansas, it was reported that 22,868 schools, constituting 26% of all public schools, failed to meet AYP standards for 2004-2005, a finding consistent with that of the *Education Week* report discussed above. Other reported results were also similar to those described in the preceding paragraph.

More recently, preliminary AYP results based on spring 2006 testing, published by *Education Week*,[43] indicate that for 34 states plus the District of Columbia, the percentage of public schools failing to meet AYP standards rose somewhat, from 25% based on spring 2005 testing to 29% based on spring 2006 results.

Schools Failing to Meet AYP Standards for Two Consecutive Years (and Any Additional Years). The most recent complete published data on schools identified for improvement appears in the February 2006 *Education Daily* article discussed above. According to this survey, *11,524 schools, or 13% of all public schools, were identified as needing improvement* based on assessment results for the 2004-2005 and preceding school years. In several states, this group included at least some non-Title I schools. With respect to the various stages of school improvement, a total of 3,757 schools had failed to meet AYP standards for two consecutive years (only), 3,696 for a third year, 1,254 for a fourth year, and 1,847 for a fifth year or beyond. More recently, preliminary AYP results based on spring 2006 testing, published by *Education Week*,[44] indicate that for 34 states plus the District of Columbia, the percentage of public schools identified for improvement rose somewhat, from 13% based on spring 2005 testing to 17% based on Spring 2006 results.

ED, in its "National Assessment of Title I: Interim Report," published in February 2006, reported that 13% of all public schools were identified for improvement based on assessment results through the 2003-2004 school year. This included 9,028 Title I-A schools, or 18% of all Title I-A schools. Schools most likely to be identified were those in large, urban LEAs, schools with high pupil poverty rates, and middle schools.

---

[42] "Data analysis finds more schools subject to sanctions," *Education Daily*, February 16, 2006, pp. 1-2.

[43] See"Preliminary NCLB Results Show Slippage in 2006," *Education Week*, September 20, 2006, p. 20.

[44] See"Preliminary NCLB Results Show Slippage in 2006," *Education Week*, September 20, 2006, p. 20.

All of the surveys discussed above agree that the aggregate percentage of public schools failing to meet AYP standards for one or more years, or identified as needing improvement because they failed to meet AYP standards for two consecutive years or more, remained relatively constant based on test results for the 2003-2004 and 2004-2005 school years. This has occurred in spite of the fact that threshold levels of performance increased for 2004-2005 in most states for the first time since initial implementation of NCLB. Overall, it seems likely that, in the aggregate, the effects of higher thresholds for assessment results were offset by increasing flexibility allowed by ED in state AYP policies (e.g., special provisions for LEP pupils and pupils with disabilities, increased use of confidence intervals, and similar matters discussed earlier in this report).

As noted above, another theme in these results is a high degree of state variation in the percentage of schools identified as failing to meet AYP standards or as needing improvement. These variations appear to be based, at least in part, not only on underlying differences in achievement levels but also on differences in the degree of rigor or challenge in state pupil performance standards, and on variations in state-determined standards for the minimum size of pupil demographic groups in order for them to be considered in AYP determinations of schools or LEAs. (In general, larger minimum sizes for pupil demographic groups reduce the likelihood that many disadvantaged groups, such as LEP pupils or pupils with disabilities, will be considered in determining whether a school or LEA meets AYP.)

Such large state variations are somewhat ironic, given that one of the purposes of including more detailed and specific statutory provisions for AYP in NCLB was to establish greater consistency among states in the number of schools identified. As a result of such variations, and particularly the relatively large percentage of schools identified in several states, some have expressed concern that large percentages of all public schools are being identified as "failing" and subjected to a variety of corrective actions (described below), with consequent strain on financial and other resources necessary to provide technical assistance, public school choice and supplemental services options, and other corrective actions. In addition, some have expressed concern that schools might be more likely to fail to meet AYP simply because they have diverse enrollments and therefore more groups of pupils to be separately considered in determining whether the school meets AYP standards.[45] In response to these concerns, ED officials have emphasized the importance of taking action to identify and move to improve underperforming schools, no matter how numerous. They have also emphasized the possibilities for flexibility and variation in taking corrective actions (see below) with respect to schools that fail to meet AYP, depending on the extent to which they fail to meet those standards.

LEAs Failing to Meet AYP Standards. While most attention, in both the statute and implementation activities, thus far has been focused on application of the AYP concept to schools, a limited amount of information is becoming available about LEAs that fail to meet AYP requirements, and the consequences for them.

---

[45] See Thomas J. Kane and Douglas O. Staiger, *Racial Subgroup Rules in School Accountability Systems*, September 2002, available at [http://www.sppsr.ucla.edu/faculty/kane/kanestaigerracialsubgroupsrevision.pdf], visited on October 13, 2006.

According to the *Education Daily* survey referred to above, 3,281 LEAs, or 23.7% of all LEAs, failed to meet AYP standards on the basis of assessment results for the 2004-2005 school year. Of these, 1,712 LEAs (12.4% of all LEAs), were identified for improvement as a result of failing to meet AYP standards for two consecutive years or more.

More recently, the Year 4 report of the Center on Education Policy (CEP) on No Child Left Behind implementation[46] found that an estimated 20% of all LEAs failed to meet AYP standards based on assessment results for the 2004-2005 and immediately preceding school years.[47] According to this report, the odds of failing to meet AYP standards were much greater for urban LEAs (50%) than for rural (11%) or suburban (26%) LEAs.

Bush Administration Reauthorization Proposals. The Bush Administration's Reauthorization Blueprint contains three proposals regarding the ESEA Title I-A AYP provisions. First, all participating states would be allowed to use growth models to make AYP determinations, subject to conditions comparable to those applicable to the current pilot program. In addition, by the end of the 2011-12 school year, graduation rates used as the additional academic indicator in AYP determinations for high schools would have to be disaggregated according to the same demographic groups as achievement levels. Further, states would be required to use a standard measure in calculating graduation rates, known as the averaged freshman graduation rate (AFGR). Finally, the Administration proposes that science test results be included in AYP determinations beginning in 2008-09, although with a delayed goal for proficiency (2019-20), in contrast to the 2013-2014 goal for reading and math.

Possible Reauthorization Issues Regarding AYP. It is likely that a number of reauthorization issues will be debated with respect to AYP. These issues may be divided into two general categories, based on whether the current requirements are viewed as being "too stringent" or "too lenient."

Are the Current AYP Requirements "Too Stringent"?

- *Is the ultimate goal embodied in NCLB's AYP provisions — all pupils at a proficient or higher level of achievement within 12 years of enactment — both desirable and achievable without a substantial weakening by states of pupil achievement standards?* The required incorporation of this ultimate goal is one of the most significant differences between the AYP provisions of NCLB and those under the previous IASA. Without an ultimate goal of having all pupils reach the proficient or advanced level of achievement by a specific date, states might simply establish relative goals that provide little

---

[46] Center on Education Policy, "From the Capital to the Classroom: Year 4 of the No Child Left Behind Act," March 2006, pp. 56, 62.

[47] While there were AYP requirements for LEAs under the IASA, the application of these requirements by states was apparently quite uneven, and the provisions for consequences for LEAs that failed to meet AYP standards for multiple years were minimal.

or no real movement toward, or incentives for, significant improvement, especially among disadvantaged pupil groups. Proponents of such a demanding ultimate goal argue that schools and LEAs frequently meet the goals established for them, even rather challenging goals, if the goals are very clearly identified, defined, and established, and are attainable. A demanding goal might maximize efforts toward improvement by state public school systems, *even if* the goal is not met. Nevertheless, a goal of having all pupils at a proficient or higher level of achievement, within any specified period of time, may be criticized as being "unrealistic," if one assumes that "proficiency" has been established at a challenging level, as at least some states appear to have done. It is likely that many states, schools, and LEAs will not meet NCLB's ultimate AYP goal, unless state standards of proficient performance are significantly lowered and/or states are allowed by ED to aggressively pursue the use of statistical techniques such as setting high minimum group sizes and confidence intervals to substantially reduce the range of pupil groups actually considered in AYP determinations and effectively lower required achievement level thresholds.

- *Does the requirement for disaggregation of pupil groups in AYP determinations make it too difficult for schools or LEAs with diverse pupil populations to meet AYP standards?* All other relevant factors (especially minimum group size) being equal, the more diverse its pupil population, the more thresholds a school or LEA must meet in order to make AYP. While this was an intended result of legislation designed to focus on specific disadvantaged pupil groups, the impact of making it more difficult for schools and LEAs serving diverse populations to meet AYP standards may also be seen as an unintended consequence of NCLB. A number of studies have concluded that, when comparing public schools with similar aggregate pupil achievement levels or aggregate percentages of pupils from low-income families, schools with a wider variety of NCLB-relevant demographic groups are substantially less likely to meet AYP standards. However, without specific requirements for achievement gains by each of the major pupil groups, it is possible that insufficient attention would be paid to the performance of the disadvantaged pupil groups among whom improvements are most needed, and for whose benefit the Title I-A program was established. This is because many schools and LEAs could demonstrate improvements in achievement by their pupils overall while the achievement of their disadvantaged pupils does not improve significantly.

- *Is the 95% assessment participation requirement too high?* According to the recent ED report, "National Assessment of Title I: Interim Report," 6% of the schools that failed to meet AYP requirements for the 2003-2004 school year did so on the basis of participation rates in addition to other factors. While few argue against having any participation rate requirement, it may be

questioned whether it needs to be as high as 95%. The average percentage of enrolled pupils in attendance at public K-12 schools in recent years (93.5%) is below this level, and such attendance rates are generally assumed to be substantially lower than this national average in schools with high proportions of disadvantaged pupils. Even though schools are explicitly allowed to administer assessments on make-up days following the primary date of test administration, and it is probable that more schools and LEAs will meet this requirement as they become more fully aware of its significance, it is likely to continue to be very difficult for some schools and LEAs to meet a 95% test participation requirement.

- *Are "too many" schools and LEAs failing to meet AYP standards?* As is discussed above, relatively large percentages of public schools and LEAs overall have failed to meet state AYP standards. Future increases in performance thresholds, as the ultimate goal of having all pupils at the proficient or higher level of achievement is approached, as well as the implementation of tests in additional grades in many states, may result in higher percentages of schools failing to make AYP. ED officials have emphasized the importance of taking action to identify and improve underperforming schools, no matter how numerous. They have also emphasized the possibilities for flexibility in taking corrective actions with respect to schools that fail to meet AYP, depending on the extent to which they fail to meet those standards. Further, some analysts argue that a set of AYP standards that a relatively high percentage of public schools fails to meet may accurately reflect pervasive weaknesses in public school systems, especially with respect to disadvantaged pupil groups. Others have consistently expressed concern about the accuracy, efficacy, and complexity of an accountability system under which such a relatively high percentage of schools is identified as failing to make adequate progress, with consequent strain on financial and other resources necessary to provide technical assistance, public school choice and supplemental services options, as well as other corrective actions.

- *Should states be allowed greater flexibility in the models of AYP they implement to meet the NCLB requirements?* In particular, should all states be allowed to adopt models that are largely or primarily based on pupil achievement growth, as discussed above with respect to the current pilot program? The conditions for participation in the pilot are somewhat restrictive, and four of the five "growth models" approved thus far are relatively limited, essentially adding a projected achievement level option to the standard AYP model of NCLB.

- *Should AYP determinations retain their current "pass-fail" structure, or should states be allowed to use a more varied, graduated rating scale?* Under current law and policy, schools, LEAs, and states simply do or do not meet AYP standards, and there

is generally no distinction between those that fail to meet only one or two required performance or participation thresholds to a marginal degree versus those that fail to meet numerous thresholds to a substantial extent. Several analysts have suggested that a more nuanced grading scale be allowed (e.g., grades ranging from A to F), as is used in several state accountability systems. A major complication is determining at what point on such a scale the current "automatic" consequences (e.g., school choice or supplemental services, discussed below) are invoked.

Are the Current AYP Requirements "Too Lenient"?

- *Are such statistical techniques as confidence intervals and data-averaging being appropriately applied in state AYP policies?* The averaging of test score results for various pupil groups over two- or three-year periods is explicitly authorized under NCLB; the use of confidence intervals is not explicitly authorized by the statute, but has been approved by ED and widely adopted by states. The use of confidence intervals to determine whether group test scores fall below required thresholds to a statistically significant degree addresses the fact that test scores for any group of pupils will vary from one test administration to another, and these variations may be especially large for a relatively small group of pupils. At the same time, the use of confidence intervals reduces the likelihood that schools or LEAs will be identified as failing to make AYP, and effectively lowers required thresholds of achievement. Ultimately, the use of this technique may mean that the average achievement levels of pupil groups in many schools will be below 100% proficiency by 2013-2014, yet the schools would still meet AYP standards because the groups' scores are within relevant confidence intervals.

- *Are some states setting minimum group size levels so high that a large proportion of some disadvantaged pupil groups is not being considered in school-level AYP determinations?* Another important technical factor in state AYP standards is the establishment of the minimum size ("n") for pupil groups to be considered in AYP calculations. NCLB recognizes that in the disaggregation of pupil data for schools and LEAs, there might be pupil groups that are so small that average test scores would not be statistically reliable, or the dissemination of average scores for the group might risk violation of pupils' privacy rights. The selection of this minimum number has been left to state discretion, and the range of selected values for "n" is rather large. The higher the minimum group size, the less likely that many pupil groups will be separately considered in AYP determinations, especially at the school level. This gives schools and LEAs fewer thresholds to meet, and reduces the likelihood that they will be found to have failed to meet AYP standards. As a result, relatively high levels for "n" weaken NCLB's specific focus on a variety of pupil groups, many of them

disadvantaged. At the same time, pupils of all groups are considered as part of the "all student" group in every public school and LEA, and the ultimate goal of 100% proficiency by 2013-2014 implies that every pupil group, no matter how small, must be evaluated with respect to this goal by that time, if not immediately.

- *Are NCLB's AYP provisions being undermined by wide variations in state standards for pupil achievement, and should there be a more explicit role for "national standards," through NAEP assessments or otherwise, in NCLB outcome accountability process?* The percentage of public schools and LEAs failing to meet AYP standards varies widely among the states. While the basic structure of AYP definitions is now substantially more consistent across states than before enactment of NCLB, significant variations remain with respect to technical factors such as minimum group size and confidence intervals, and substantial differences in the degree of challenge embodied in state standards and assessments remain. Curriculum content and pupil performance standards are determined at the discretion of the states. An implicit purpose of the state NAEP participation requirement is to "confirm" trends in pupil achievement, as measured by state-selected assessments by comparing them with trends in NAEP results, based on nationally consistent content and performance standards. Nevertheless, the connection between NAEP results and state test score trends is currently ambiguous and indirect, and NCLB prohibits the use of NAEP assessments by agents of the federal government to influence state or LEA instructional programs or assessments. Some have called for a more explicit role for "national standards," either as embodied in NAEP or in some other fashion, in NCLB outcome accountability process, to more directly address national concerns about educational quality, and establish greater consistency in outcome accountability policies across the Nation.[48] Others believe that in our federal government system, where state and local governments pay a large majority of educational costs and have more explicit constitutional authority to set educational standards, such basic matters of education policy should continue to be left to state discretion.

Other Possible Reauthorization Issues Regarding AYP. Two other potential AYP-related reauthorization issues do not fall into either of the general categories above.

---

[48] For example, see "To Dream the Impossible Dream: Four Approaches to National Standards and Tests for America's Schools," by Chester E. Finn, Jr., *et al*., Thomas B. Fordham Foundation, 2006, available at [http://www.edexcellence.net/doc/National%20Standards%20Final%20PDF.pdf], visited on October 13, 2006.

- *Have ED's reviews of state AYP policies been appropriately rigorous, transparent, flexible, and consistent?* As ED staff and designated peer reviewers have examined initial and revised state AYP policies, several observers have expressed concerns about: a lack of transparency in the review procedures and criteria; inconsistencies (especially over time) in the types of changes that ED officials have approved; whether the net effect of the changes is to make the accountability requirements more reasonable or to undesirably weaken them; whether the changes may make an already complicated accountability system even more complex; and whether decisions on proposed changes are being made in a timely manner by ED.

- *Should results from required science assessments be included in AYP determinations when these assessments are implemented?* As noted above, states participating in Title I-A are required to administer assessments in science at three grade levels by the end of the 2007-2008 school year. Current statutory provisions are ambiguous and somewhat contradictory regarding whether results of these science assessments must be incorporated into AYP determinations when the assessments are implemented, although current regulations and policy guidance from ED indicate that incorporation of science assessment results will not be required. At the least, it would be helpful for reauthorization legislation to clarify congressional intent on this question.

Program Improvement, Corrective Actions, and Restructuring[49]

NCLB requires states to identify LEAs, and LEAs to identify schools, that fail to meet state AYP standards for two consecutive years for program improvement, and to take a variety of actions with respect to schools or LEAs that fail to meet AYP standards for additional years after being identified for improvement.[50] While states are encouraged to establish unitary accountability systems affecting all public schools, *the Title I-A statute requires them only to take corrective actions regarding schools and LEAs that receive Title I-A funds, not all schools and LEAs*. Thus, the actions described below need be taken with respect to a large majority of LEAs and approximately 58% of all public schools.

---

[49] For more information on this topic, see Section 4: Outcome Accountability Under ESEA Title I-A, by David P. Smole, of CRS Report RL33371, *K-12 Education: Implementation Status of the No Child Left Behind Act of 2001 (P.L. 107-110)*, coordinated by Gail McCallion.

[50] An analogous, separate series of provisions applies to schools operated by the Bureau of Indian Affairs (BIA).

School Improvement and Corrective Actions. Title I-A *schools* that fail to meet AYP standards for two consecutive years must be identified for program improvement. Once so identified, a school remains in "needs improvement" status until it meets AYP standards for two consecutive years.[51] At this and every subsequent stage of the program improvement and corrective action process, the LEA and/or SEA are to arrange for technical assistance, "based on scientifically based research" (Section 1116(b)(4)(c)), to be provided to the school. Funding for this purpose is provided in part through a state reservation of 4% of total Title I-A grants,[52] as well as a separate authorization for additional funds,[53] for school improvement activities. Parents of pupils in these schools are to be notified of the school's identification as needing improvement. Any school identified as needing improvement must spend at least 10% of its Title I-A grant for staff professional development activities.

In addition, pupils attending schools that have failed to meet AYP standards for two consecutive years or more must be provided with options to attend other public schools that have not been designated as needing improvement or as being unsafe.[54] Public school choice must be offered to such pupils by the next school year (unless prohibited by state law). LEAs are generally required only to offer public school choice options within the same LEA; however, if all public schools in the LEA to which a child might transfer have been identified as needing improvement, then LEAs "shall, to the extent practicable," establish cooperative agreements with other LEAs to offer expanded public school choice options.[55]

Transportation must be provided to pupils utilizing public school choice options. Children who transfer to other public schools under this authority are to be allowed to remain in the school to which they transfer until they complete the highest grade in that school; however, the LEA is no longer required to provide transportation services if the originating school meets AYP standards for two consecutive years.

If a Title I-A school fails to meet AYP standards for *a third year*, pupils from low-income families in the school must be offered the opportunity to receive

---

[51] If a school that has been identified for improvement meets AYP standards for one year (only), then implementation of later stages of corrective action or restructuring (described below) may be delayed for one year.

[52] No LEA is to receive less than its previous year Title I-A grant as a result of implementing this reservation. Due to this requirement, it is likely that some states have been unable to reserve the full 4% in some recent years, due to flat or declining Title I-A grants statewide. In its budget request for FY2007, the Administration requested that the limitation on LEA reductions when reserving improvement funds be waived.

[53] No funds were appropriated under this authority for FY2002-FY2006. For FY2007, $125 million was appropriated for School Improvement Grants.

[54] On this and other school choice provisions and issues, see also CRS Report RL33506, *School Choice Under the ESEA: Programs and Requirements*, by David P. Smole.

[55] If an LEA is unable to offer public school choice options to eligible pupils, it may offer supplemental services options, as described below.

instruction from a supplemental services provider of their choice,[56] in addition to continuing to be offered public school choice options.[57] States are to identify and provide lists of approved providers of such supplemental instructional services — which might include public or private schools, LEAs, commercial firms, or other organizations — and monitor the quality of the services they provide. The amount spent per child for supplemental services is to be the lesser of the actual cost of the services or the LEA's Title I-A grant per child (from a poor family) included in the national allocation formula (approximately $1,400 on average for FY2006, although this amount will vary substantially in different states and LEAs).

LEAs are to use funds equal to as much as 20%[58] of their Title I-A grants for transportation of pupils exercising public school choice options plus supplemental services costs (combined), although the grant to any particular school identified for improvement, corrective action, or restructuring may not be reduced by more than 15% in order to provide these funds. *LEAs* are also authorized to use any funds that might be available under the Innovative Programs block grant (ESEA Title V-A) to pay additional supplemental services costs; *states* are authorized to use funds they reserve for program improvement or administration under Title I-A, or funds available to them under Title V-A,[59] to pay additional supplemental services costs. If insufficient funds are available to pay the costs of supplemental services for all eligible pupils whose families wish to exercise this option, LEAs may limit services to the lowest-achieving eligible pupils. The requirement to provide supplemental services may be waived if none of the approved providers in the state offers such services in or near an LEA, and the LEA itself is unable to provide such services.

One or more of a specified series of additional "corrective actions" must be taken with respect to Title I-A schools that fail to meet AYP for *a fourth year*. These "corrective actions" include replacing relevant school staff; implementing a new curriculum; decreasing management authority at the school level; appointing an outside expert to advise the school; extending the school day or year; or changing the internal organizational structure of the school. Which of these specific actions is to be taken is left to state and/or LEA discretion.

---

[56] For a more thorough discussion and analysis of this provision and related issues, see CRS Report RL31329, *Supplemental Educational Services for Children From Low-Income Families*, by David P. Smole.

[57] A limited number of states and LEAs have been allowed by ED to reverse the order for introducing public school choice and supplemental services, that is, to offer supplemental services after two years of failing to meet AYP standards, and school choice after three years.

[58] More specifically, LEAs are to use an amount equal to 5% of their Title I-A grant (unless less is needed) for public school choice transportation costs, 5% (unless less is needed) for supplemental services, and up to an additional 10% for either, to the extent needed. These funds may be taken from the LEA's Title I-A grant, or from other federal, state, or local sources. Under program regulations, costs of administering school choice and supplemental services programs are not to be counted in the application of these amounts.

[59] These funds may be rather limited; the FY2007 appropriation for all of ESEA Title V-A was $99 million.

Title I-A schools that fail to meet AYP standards for *a fifth year* must begin to plan for "restructuring," and those that fail to meet AYP requirements for a sixth year must implement their restructuring plan. Such restructuring must consist of one or more of the following "alternative governance" actions: reopening as a charter school; replacing all or most school staff; state takeover of school operations (if permitted under state law); or other "major restructuring" of school governance. In September 2005, the Education Commission of the States (ECS) published a report on actions taken in the 13 states where one or more schools reached the final stage of school improvement (year five) in 2004-2005.[60] In general, the authors of the ECS study concluded that (1) SEAs vary widely in their involvement in the restructuring process; (2) in most cases, the restructuring options applied to affected schools have been relatively mild to "moderate" (e.g., changing curriculum, implementing a school reform strategy, or altering the school's management structure) rather than "strong" (e.g., reconstituting or closing the school, or converting it to a charter school); and (3) political difficulties have arisen in cases where stronger forms of restructuring have been applied. In several states, some restructuring options could not be implemented because they are not authorized under state law (e.g., charter schools).

According to the report, "Title I Accountability and School Improvement From 2001 to 2004," published by ED in 2006, approximately 1% of pupils eligible for public school choice, and 19% of those eligible for supplemental services, in the 2003-2004 school year actually participated in these activities. It is unclear whether such low participation rates in most states, if continuing into the present, result from delayed implementation of these provisions by states and LEAs, low levels of parental interest, inadequate dissemination of information about the options to parents, limited availability of alternative public schools or tutorial services, or other factors.

LEA Improvement and Corrective Actions. Procedures analogous to those for schools are to apply to *LEAs* that receive Title I-A grants and fail to meet AYP requirements. While states are encouraged to implement unitary accountability systems applicable to all pupils and schools, states may choose to base decisions regarding LEA status and corrective actions only on the Title I-A schools in each LEA (and, in the case of targeted assistance schools, only on the individual pupils served by Title I-A). Further, as noted earlier, identification as needing improvement and corrective actions need be taken only with respect to LEAs that receive Title I-A grants.

LEAs that fail to meet state AYP standards for *two consecutive years* are to be identified as *needing improvement*. Technical assistance, "based on scientifically based research" (Section 1116(c)(9)(B)), is to be provided to the LEA by the SEA; and parents of pupils served by the LEA are to be notified that it has been identified as needing improvement.

SEAs are to take *corrective action* with respect to LEAs that fail to meet state AYP standards for a *fourth year* (i.e., two years of failing to meet AYP standards after having been identified for improvement). Such corrective action is to include

---

[60] See [http://www.ecs.org/clearinghouse/64/28/6428.pdf], visited on October 13, 2006.

at least one of the following (at SEA discretion): reducing administrative funds or deferring program funds; implementing a new curriculum; replacing relevant LEA staff; removing specific schools from the jurisdiction of the LEA; appointing a receiver or trustee to administer the LEA; abolishing or restructuring the LEA; or authorizing pupils to transfer to higher-performing schools in another LEA (and providing transportation) in conjunction with at least one of these actions.

Finally, ED is required to establish a peer review process to evaluate whether *states overall* have met their statewide AYP goals, beginning after the third year of implementation of NCLB. States that fail to meet their goals are to be listed in an annual report to Congress, and technical assistance is to be provided to states that fail to meet their goals for two consecutive years or more.

Bush Administration Reauthorization Proposals. The Bush Administration's Reauthorization Blueprint contains numerous proposals regarding the ESEA Title I-A program improvement, corrective action, and restructuring provisions. These include the following:

- More flexibility would be authorized for states and LEAs to target school improvement and corrective actions (but not restructuring) on specific pupil groups failing to meet proficiency thresholds, as long as the "all pupil" group in a school or LEA meets proficiency targets.

- Schools identified for improvement would be required to offer supplemental educational services (SES) to pupils from low-income families immediately, not just after a third year of failing to meet AYP standards. Funding levels for SES would be increased for LEP pupils, pupils with disabilities, and pupils living in rural areas. In addition, funding for SES would be increased for pupils in schools identified for restructuring (Promise Scholarships — see below).

- LEAs would be required to spend all of their 20% reservation for choice and SES or risk forfeiting the remainder.

- The proposal attempts to strengthen school restructuring by making it more substantial in most cases, and including an option of turning governance authority for schools over to an elected official (such as a mayor) where authorized.

- Promise Scholarships would be authorized for pupils in schools undergoing restructuring for attendance at another public school, a private school, or for intensive SES. Title I-A funds plus an additional $2,500 would follow the child to a new school (for an estimated total of $4,000 if attending another public or private school, or $3,000 in the case of intensive SES). Pupils choosing a private school option would take state assessments.

- Opportunity Scholarship grants would be authorized for LEAs with large numbers of schools in improvement status (similar to the federally funded Washington, D.C., private school scholarship program). Scholarships would be provided to pupils from low-income families attending schools identified for improvement, corrective action, or restructuring.

- Schools identified for restructuring would be authorized to avoid limitations on teacher transfers in collective bargaining agreements.

Possible Reauthorization Issues. For a discussion and analysis of reauthorization issues related to program improvement, corrective actions, and restructuring, see Section 4 of CRS Report RL33371, *K-12 Education: Implementation Status of the No Child Left Behind Act of 2001 (P.L. 107-110)*, coordinated by Gail McCallion, under the subheading "Supplemental Educational Services" (pages 34-36 in the PDF version of the report).

Staff Qualifications

NCLB established new requirements regarding teacher qualifications for all public schools in states participating in Title I-A. The ESEA also contains qualification requirements for teacher aides or paraprofessionals, although these provisions are limited to certain paraprofessionals paid with Title I-A funds. An additional provision of NCLB regarding instructional staff is the requirement that LEAs are to use at least 5% of their Title I-A grants for professional development activities. Separately, as noted earlier, individual schools identified as having failed to meet AYP standards for two consecutive years or more must use at least 10% of their Title I-A grants for professional development.

Teacher Qualifications

First, NCLB requires LEAs participating in ESEA Title I-A to ensure that, beginning with the 2002-2003 school year, teachers newly hired with Title I-A funds were to be "highly qualified." Second, participating states must establish plans providing that *all* public school teachers statewide *in core academic subjects*[61] meet NCLB's definition of "highly qualified" by the end of the *2005-2006* school year. For information on, and an analysis of, the ESEA Title I-A teacher qualification requirements, see CRS Report RL33333, *A Highly Qualified Teacher in Every Classroom: Implementation of the No Child Left Behind Act*, by Jeff Kuenzi; plus Section 6: Teacher Quality, by Jeff Kuenzi, of CRS Report RL33371, *K-12 Education: Implementation Status of the No Child Left Behind Act of 2001 (P.L. 107-110)*, coordinated by Gail McCallion.

---

[61] This term is defined in Sec. 9101(11) of the ESEA as including English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

Qualification Requirements for Paraprofessionals

Paraprofessionals, also known as teacher aides, constitute approximately one-half of the staff hired with Title I-A grants, and their salaries constitute an estimated 15% of Title I-A funds. Use of Title I-A funds for paraprofessionals appears to be especially prevalent in many high-poverty LEAs and schools. Paraprofessionals whose salaries are paid with Title I-A funds provide a variety of instructional and non-instructional services in both schoolwide and targeted assistance programs. Some have criticized the performance of instructional duties by paraprofessionals who may lack postsecondary educational credentials and may receive little supervision from classroom teachers. Others have questioned the appropriateness of using Title I-A funds to pay paraprofessionals who perform duties that are *not* directly related to instruction. The IASA in 1994 required paraprofessionals paid through Title I-A to be directly supervised by teachers, and in general to have a high school diploma or equivalent within two years of employment.

NCLB expanded the requirements for paraprofessionals paid with Title I-A funds.[62] These requirements applied initially to paraprofessionals newly hired with Title I-A funds after the date of enactment of NCLB, and they apply to all such staff paid with Title I-A funds (i.e., all paraprofessionals employed in schools operating schoolwide programs plus those directly paid with Title I-A funds in targeted assistance schools) as of the end of the 2005-2006 school year.

The affected paraprofessionals must have either: (a) completed at least two years of higher education; *or* (b) earned an associate's (or higher) degree; *or* (c) met a "rigorous standard of quality," established by their LEA, *and* "can demonstrate, through a formal State or local assessment ... knowledge of, and the ability to assist in instructing, reading, writing, and mathematics."[63] Under the authorizing statute, these requirements apply to all paraprofessionals paid with Title I-A funds *except* those engaged in translation or parental involvement activities; regulations (*Federal Register*, December 2, 2002) also exempt any other paraprofessionals whose duties do not include providing instructional support services. All paraprofessionals in Title I-A programs, regardless of duties, must have at least a high school diploma or equivalent; this requirement was effective upon enactment of NCLB.

Decisions regarding whether to allow paraprofessionals to meet these requirements via an assessment (or only by completing two years of higher education or earning an associate's degree) have been left largely to state and LEA discretion, and a wide variety of approaches are being adopted.[64] The Education Commission

---

[62] In addition to regulations published in the *Federal Register* on December 2, 2002, draft non-regulatory guidance on the Title I-A paraprofessional requirements was published by ED on November 15, 2002 (see [http://www.ed.gov/policy/elsec/guid/paraguidance.pdf], visited on October 13, 2006).

[63] Or demonstrate knowledge of, and the ability to assist in, reading readiness, writing readiness, or mathematics readiness, where appropriate (e.g., for paraprofessionals serving preschool or early elementary pupils).

[64] These decisions include which assessment(s) would qualify, what constitutes a "passing"

(continued...)

of the States (ECS) has compiled a database (covering 48 states) on state policies to meet NCLB paraprofessional qualification requirements.[65] According to ECS, 12 states have established paraprofessional qualification requirements that exceed those under NCLB, and five states are applying their requirements to all paraprofessionals, not just those providing instructional services in Title I-A programs. Ten states have established *certification* requirements for paraprofessionals (which is not specifically required by NCLB). Thirty-six states are using the ParaPro test published by the Educational Testing Service (ETS) to assess paraprofessional qualifications, while 17 are using the WorkKeys test published by the American College Testing Program (ACT), and 21 are allowing LEAs to use tests of their choice (several states are following multiple approaches).[66]

According to the authorizing statute and ED policy guidance, there are several potential sources of funds to help pay the costs of any education that may be necessary for affected paraprofessionals to meet the Title I-A requirements. These sources include funds received under: Title I-A, especially those reserved for professional development (as described above); ESEA Title II-A, Teacher and Principal Training and Recruiting Fund; ESEA Title III-A, the English Language Acquisition, Language Enhancement, and Academic Achievement Act; ESEA Title V-A Innovative Programs grants; and for applicable schools, Indian Education grants under ESEA Title VII-A. Paraprofessionals from relatively low-income families would also be eligible for federal grants and subsidized loans, provided under Title IV of the Higher Education Act, to help pay costs of taking courses at institutions of higher education.

State data on paraprofessional qualifications during the 2003-2004 school year were published by *Education Week*.[67] These data, covering 42 states and the District of Columbia, were reported to ED and obtained by *Education Week* through a Freedom of Information Act (FOIA) request. Among these 43 jurisdictions, the percentage of paraprofessionals in Title I programs that met NCLB qualification requirements in the 2003-2004 school year ranged from 27% in Massachusetts to 99% in Iowa.

In addition, the types of responsibilities to which all paraprofessionals paid with Title I-A funds may be assigned are outlined in NCLB. These include tutoring of eligible pupils, assistance with classroom management, parental involvement activities, translation, assistance in computer laboratories or library/media centers, and instruction under the direct supervision of a teacher.

---

[64] (...continued)
score, and whether these decisions should be made by LEAs or states.

[65] The database may be accessed at [http://www.ecs.org/html/educationissues/teachingQuality/parapro/NCLB_parapro_DB_intro.asp], visited on October 13, 2006.

[66] See [http://www.ecs.org/clearinghouse/63/52/6352.pdf], visited on October 13, 2006.

[67] See [http://www.edweek.org/media/27admin.pdf], visited on October 13, 2006.

Bush Administration Reauthorization Proposal. The Bush Administration's Reauthorization Blueprint contains a proposal on teachers that is potentially relevant to ESEA Title I-A, although it does not deal with the teacher and paraprofessional qualification requirements. A Teacher Incentive Fund would authorize grants to develop compensation systems that reward teachers and principals who are successful in raising pupil achievement levels, as well as those who serve in high-need schools.

Possible Reauthorization Issues Regarding Title I-A Paraprofessional Qualification Requirements. Possible reauthorization issues regarding the Title I-A paraprofessional qualification requirements include the following:

- *Have the paraprofessional qualification requirements significantly affected the extent to which Title I-A funds are used to hire these staff?* In particular, have a significant number of paraprofessionals lost their jobs, or been assigned to non-Title I-A positions, after the end of the 2005-2006 school year because they were unable to meet the paraprofessional qualification requirements?

- *Should the paraprofessional qualification requirements be expanded further?* For example, should these requirements, like those for teachers, be applied to all paraprofessionals with instructional responsibilities, not just those paid with Title I-A funds? Should states be given incentives to adopt paraprofessional certification requirements, as have been adopted in some states?

- *Should the roles of states versus LEAs in setting policies and implementing these requirements be clarified?* Particularly in comparison to the teacher quality requirements of NCLB, there has been relatively little guidance from ED, or clarity in the statute, on state versus LEA roles in the area of paraprofessional qualification requirements. Has the result been a constructive form of flexibility, or dysfunctional ambiguity?

Services to Private School Pupils, Staff, and Parents

Since the original enactment of the ESEA in 1965, states and LEAs participating in Title I-A have been required to provide for the equitable participation of eligible pupils who attend private schools. The share of an LEA's Title I-A grant that is used to serve private school pupils is to be equal to the proportion of pupils from low-income families living in Title I-A public school attendance areas who attend private schools. Both before and after enactment of NCLB, the percentage of pupils served under Title I-A who attend private schools has been significantly below the percentage of all K-12 pupils who are enrolled in private schools. According to the latest available data (for the 2002-2003 school year), only 1.1% of all pupils served under Title I-A attend private schools, while approximately 11.6% of all K-12 pupils

attended private schools in fall 2005. Potential explanations for the low rate of private school pupil participation range from program structure,[68] to possibly lower rates of economic and educational disadvantage among private school pupils, to possible reluctance of public school officials to use Title I-A funds to serve private school pupils or reluctance of some private school officials to get involved in federal education programs.

NCLB made a number of relatively modest changes to the Title I-A provisions for services to pupils attending private schools. First, it provided that such services should be provided not only to eligible pupils but also to their families and school staff as well (consistent with the general Title I-A provisions for parental involvement and professional development activities). Second, it required that services be provided to private school pupils "in a timely manner." Third, requirements for consultation between public and private school officials were expanded to include such topics as the data to be used to determine the share of pupils from low-income families who attend private schools (see next paragraph), and who would provide the services, including consideration of the possibility of providing services via a third-party contractor.

Title I-A includes specific provisions regarding authorized methods for LEAs to determine the share of pupils from low-income families who live in a Title I-A (public) school attendance area, and who attend private schools. This is the basis for determining the share of Title I-A grants that is to be devoted to serving eligible private school pupils. LEAs may: (1) use the same measure of low income and source of data as used to count such children attending public schools; (2) conduct a survey, which may be based on a representative sample of pupils, using the same measure of low income as used to count children attending public schools; (3) apply the percentage of children from low-income families determined for *public* school pupils to private school pupils residing in the same school attendance area; or (4) use a different measure of low income than used for counting children attending public schools, adjusting these data by an appropriate proportion so that the measures may be equated.[69] These provisions are similar to those of policy guidance disseminated by ED under the previous authorizing statute (the IASA of 1994).

Possible Reauthorization Issues Regarding Title I-A Private School Participation Requirements. Possible reauthorization issues regarding the Title

---

[68] Most public school Title I-A programs are schoolwide programs (where all enrolled pupils are considered to be served), whereas private school pupils are served only in targeted assistance programs (where only the individual pupils directly served are counted).

[69] For example, assume that data are available on the number of public school pupils in an LEA who receive free school lunches and Medicaid, but are only available for private school pupils who receive Medicaid; that the LEA uses the number of pupils who receive free school lunches to allocate Title I-A funds among eligible schools; and that the ratio among public school pupils in the LEA of free school lunch recipients to Medicaid recipients is 2 to 1. The LEA could then multiply the number of relevant private school pupils receiving Medicaid by two to obtain an equivalent estimate of the number of such pupils who would be eligible to receive free school lunches.

I-A requirements for equitable participation by private school pupils and staff include the following:

- *How should private school pupils be served under Title I-A?* The targeted assistance mode of serving private school pupils is used in a steadily declining share of public school programs. It may be questioned whether other modes of serving eligible private school pupils, such as the supplementary educational services model, might be more consistent with trends in Title I-A public school programs. Might alternative modes of serving private school pupils increase participation by reducing administrative burdens?

- *Is the share of participating pupils who attend private schools "too low"?* As noted above, the proportion of pupils served by Title I-A who attend private schools has always been low. This may simply reflect relatively low rates of eligibility (namely, low rates of economic or educational disadvantage), or it might be a result of barriers to fully equitable participation. Should ED pay greater attention to enforcement of the private school participation requirements in its oversight and monitoring activities?

Fiscal Accountability, Particularly Comparability

While the program's focus has shifted to outcome accountability in recent decades, Title I-A has always included a series of fiscal accountability requirements. These are intended to provide that Title I-A grants represent a net increase in the level of financial resources available to serve educationally disadvantaged pupils, and that they do not ultimately replace funds that states or LEAs would provide in the absence of federal aid.

There are three Title I-A fiscal accountability requirements; the first two of these are common to federal assistance programs, while the third is unique to Title I-A. To meet first requirement, *maintenance of effort*, recipient LEAs must provide, from state and local sources, a level of funding (either aggregate or per pupil) in the preceding year that is at least 90% as high as in the second preceding year. A second fiscal accountability requirement provides that Title I-A funds must be used so as to *supplement, and not supplant*, state and local funds that would otherwise be available for the education of disadvantaged pupils in Title I-A participating schools.

The third, distinctive, fiscal requirement under Title I-A is *comparability* — services provided with state and local funds in schools participating in Title I-A must be comparable to those in non-Title I-A schools of the same LEA.[70] An LEA may meet the requirement by providing a written assurance that it has implemented an LEA-wide staff salary schedule, and policies to assure equivalence among schools in teachers and other staff plus curriculum materials and supplies. In calculating staff

---

[70] If all of an LEA's schools participate in Title I-A, then services funded from state and local revenues must be "substantially comparable" in each school of the LEA.

salaries, differentials associated with seniority (years of employment) need *not* be considered, unpredictable changes in enrollment or personnel assignments may be excluded, and expenditures for programs for LEP pupils or pupils with disabilities, or state programs similar to Title I-A, need not be taken into account.

Concerns have been raised about the effectiveness of the current Title I-A comparability requirement, and whether many LEAs are, in effect, using Title I-A funds to subsidize their general operations in addition to increasing the level of services and resources available to disadvantaged pupils.[71] A specific argument begins with the near-universal practice of allowing the most experienced and qualified teachers to choose the schools in which they will teach, and a tendency for such teachers to prefer teaching in schools with comparatively low percentages of pupils from low-income families. This is combined with the exclusion of seniority-based staff salary differentials in the current comparability requirement, as well as in the budgeting systems for state and local funds in many LEAs, and the fact that LEAs generally comply with this requirement without compiling or reporting detailed school-level financial data (i.e., they typically provide assurances of policies as described above). The result is that the major portion of state and local funds represented by teacher salaries are often not distributed equitably among high versus low poverty schools. Even the Title I-A funds may often be distributed in a way that favors participating schools with relatively lower percentages of pupils in low-income families, if the LEA follows the frequent practice of using LEA average, rather than actual, teacher salaries to account for their use of Title I-A funds.[72]

An underlying difficulty is the lack of comprehensive school-level budgeting and accounting systems in much of the Nation. Until such systems are common, it will remain difficult to assure that the Title I-A comparability requirement can be meaningfully implemented.

Possible Reauthorization Issues Regarding Fiscal Accountability. Possible reauthorization issues regarding fiscal accountability, particularly the Title I-A comparability requirement, include the following:

- *Should LEAs no longer be allowed to meet the comparability requirement by simply providing assurances of equitable policies, but rather be required to compile and report school-level budgeting data and meet a quantitative equity standard?* This would be a comprehensive and direct approach to assuring comparability; it

---

[71] See, for example, "Strengthening Title I to Help High-Poverty Schools," by Marguerite Roza, *et al.*, published on August 18, 2005, by the Center on Reinventing Public Education, University of Washington, available at [http://www.crpe.org/workingpapers/pdf/TitleI_reportWeb.pdf], visited on October 20, 2006.

[72] If, for example, teachers with lower-than-average seniority and salaries tend to be assigned to Title I-A schools, especially those with the highest concentrations of pupils from low-income families, but the LEA accounts for those teachers using LEA-wide salary averages, then a "surplus" (difference between the actual and LEA average teacher salaries) would arise that might implicitly subsidize the LEA's general budget, rather than be targeted on schools eligible to be served under Title I-A.

might be combined with the provision of financial support for development of school-based budget systems in the many states and LEAs that currently lack them. At the same time, it would substantially expand administrative burdens for many LEAs and states. A more modest approach would be to require the collection and reporting of school-level financial data only with respect to teacher salaries, the largest and potentially most varied expenditures by LEAs.

- *Should the current exclusion of seniority-based salary differentials be deleted?* This would eliminate a major source of variation in school level funding within LEAs. At the same time, it might be seen as conflicting with common LEA personnel practices, and with teacher union contracts in many LEAs.

- *Should the practice of using LEA averages in accounting for the salaries of teachers paid with Title I-A funds be prohibited?* While this would conflict with current practices in many LEAs, it would be less burdensome administratively than the other options discussed above, and would directly address a potentially significant, Title I-A-specific concern.

Title I-A Allocation Formulas

ESEA Title I-A has four separate formulas — the Basic, Concentration, Targeted, and Education Finance Incentive Grant (EFIG) formulas — for the allocation of funds to states and LEAs. However, once these funds reach LEAs, they are no longer treated separately — they are combined and used without distinction for the same program purposes. A primary rationale for using four different formulas to allocate a share of the funds for a single program is that the formulas have distinct allocation patterns — providing varying shares of allocated funds to different types of localities. In addition, some of the formulas contain elements that are deemed to have important incentive effects or to be significant symbolically — such as the equity and effort factors in the EFIG formula — in addition to their impact on allocation patterns. There is also a historical explanation: the Targeted and EFIG formulas, in particular, were initially proposed as replacements for the Basic plus Concentration Grant formulas; that is, each of the Targeted and EFIG formulas was originally intended to be *the* Title I-A formula. But in subsequent deliberations, these formulas were ultimately established to supplement, but not replace, the Basic and Concentration Grant formulas, and to complement each other.

In the discussion below, we describe the characteristics of the Title I-A allocation formulas, as these have been amended by NCLB. These characteristics are summarized in **Table 1**.

Table 1. Brief Summary of ESEA Title I-A Allocation Formula Characteristics

Formula Characteristic	Basic Grants	Concentration Grants	Targeted Grants	Education Finance
Population factor	Children aged 5-17: (a) in poor families; (b) in institutions for neglected or delinquent children or in foster homes; and (c) in families receiving Temporary Assistance for Needy Families (TANF) payments above the poverty income level for a family of four	Same as Basic Grants	Same as Basic Grants	Same as Basic Grants
Population factor eligibility threshold for LEAs	10 or more formula children *and* a school-age child poverty rate of 2% or more	6,500 or more formula children *or* a 15% or higher school-age child poverty rate	10 or more formula children *and* a school-age child poverty rate of 5% or more	10 or more formula children *and* a school-age child poverty rate of 5% or more
Weighting of population factor	None	None	At *all* stages of the allocation process, poor and other children counted in the formula are assigned weights based on each LEA's school-age child poverty rate *and* number of poor school-age children	For allocation of funds *within* states only, poor and other children counted in the formula are assigned weights based on each LEA's school-age child poverty rate and number of poor school-age children
Expenditure factor	State average expenditures per pupil for public K-12 education, subject to a minimum of 80% and maximum is 120% of the national average, further multiplied by .40	Same as Basic Grants	Same as Basic Grants	Same as Basic Grants, except that the minimum is 85% and the maximum is 115% of the national average

Formula Characteristic	Basic Grants	Concentration Grants	Targeted Grants	Education Finance
Minimum state grant	Up to 0.25% of total state grants, subject to a series of caps	Same as Basic Grants	Up to 0.35% of total state grants, subject to a series of caps	Same as Targeted Grants
LEA hold harmless	85%-95% of the previous year grant, depending on the LEA's school-age child poverty rate, applicable only to LEAs meeting the formula's eligibility thresholds	Same as Basic Grants except that LEAs are eligible for the hold harmless for up to four years after they no longer meet the eligibility threshold	Same as Basic Grants	Same as Basic Grants
Stages in the grant calculation process	Grants are calculated at the LEA level, subject to state minimum provisions	Same as Basic Grants	Same as Basic Grants	Grants are first calculated for states overall, then state total grants are allocated to LEAs in a separate process
Additional formula factors	None	None	None	State effort and equity factors are applied in the calculation of state total grants

General Characteristics of the Title I-A Allocation Formulas

There are several common elements of the four Title I-A allocation formulas:

(1) Each of them has a *population factor*, which is the same in each of the four formulas. This factor comprises children aged 5-17:

(a) in poor families, according to the latest available data from the Census Bureau that are satisfactory to the Secretary of Education, and based on the Census Bureau's standard poverty income thresholds (these constitute approximately 96.1% of all formula children for FY2006);[73]

(b) in certain institutions for neglected or delinquent children and youth or in certain foster homes (these constitute approximately 3.9% of all formula children for FY2006); and

(c) in families receiving Temporary Assistance for Needy Families (TANF) payments above the poverty income level for a family of four (these constitute less than 0.1% of all formula children for FY2006).[74]

(2) Under each of these formulas, this population factor is multiplied by an *expenditure factor*, which is based on state average expenditures per pupil (AEPP) for public K-12 education, subject to minimum and maximum levels.[75] Special expenditure factor provisions have been applied in calculating grants to Puerto Rico, but these are scheduled to expire beginning in FY2007.[76] Due to the expenditure

---

[73] These data are from the Census Bureau's Small Area Income and Population Estimates (SAIPE), which provides estimates of poor and total children aged 5-17 for LEAs, counties, and states. These estimates are updated every year. As of this writing, the latest SAIPE data are for income year 2003; these estimates were initially published in November 2005, were revised in October 2006, and were used to calculate FY2006 Title I-A allocations.

[74] Given its very small size, this factor is essentially of symbolic significance. It is the remainder of a long-term policy of including in the Title I-A formulas the estimated number of school-age children from poor families plus the number of children in families with income above the poverty level due to receipt of "welfare" payments (initially, payments under Aid to Families with Dependent Children, or AFDC, and more recently TANF). Currently, there are very few families with income from TANF above the poverty level for a family of four. Based on FY2006 program data, TANF children constitute more than 1% of all formula children in approximately 200 LEAs, most of them relatively small, in the states of Alaska, New York, and Ohio.

[75] For all except the EFIG formula, the minimum is 80% and the maximum is 120% of the national average. For the EFIG formula, the minimum and maximum are 85% and 115%. These amounts are further multiplied by a "federal share" of 40% to determine maximum authorized grants, subject to state minimum, LEA hold harmless, and other provisions.

[76] Before enactment of NCLB, for Puerto Rico only, the minimum expenditure factor for

(continued...)

factor, LEAs in high-spending states receive up to 50% more per child counted in the Title I-A formulas than LEAs in low-spending states. The rationale for this factor is that it reflects differences in the cost of providing public education, and provides an incentive to increase state and local spending. However, it is a spending index that reflects ability and willingness to spend on public education as well as cost differences; it is not precisely targeted (affecting all LEAs in a state equally); and the incentive it provides to increase state and local spending for public education is relatively small.

(3) Each of the formulas has a hold-harmless provision — a minimum annual grant level for LEAs that is calculated as a percentage of the previous year's grant under each formula.[77]

(4) The four Title I-A formulas include a state minimum grant level as well: in general, no state is to receive less than approximately 0.25% of allocated funds up to the FY2001 appropriation level, and approximately 0.35% of funds above that level.[78]

---

[76] (...continued)
each of the four allocation formulas was further multiplied by the ratio of the Puerto Rico average expenditure per pupil divided by the lowest average for any state. For FY2001, the last pre-NCLB year, this ratio was approximately 75.0%; as a result, the FY2001 grant to Puerto Rico was approximately one-third less than the amount it would have received if it were treated fully in the same manner as the 50 states and the District of Columbia. NCLB placed a floor on this ratio, which rises in steps from 77.5% for FY2002 to 100.0% (that is, the same minimum expenditure factor as for a state) for FY2007 and beyond. The scheduled increases in the Puerto Rico expenditure factor are not to be implemented if doing so would result in a decrease in the grant to any state. Through FY2006, the scheduled increases have taken place each year (although the scheduled increase for FY2006 took effect only after revised poverty estimates were incorporated in the grant calculations in October 2006).

[77] The hold-harmless rate under each formula is now 85%-95% of the previous year grant, depending on the LEA's school-age child poverty rate (children counted for Title I-A grants as a percentage of total school-age population). If the LEA poverty rate is 30% or above, the hold-harmless rate is 95%; if the poverty rate is 15%-30%, the hold-harmless rate is 90%; and if the poverty rate is less than 15%, the hold-harmless rate is 85%. With a partial exception for certain LEAs under the Concentration Grant formula, hold-harmless rates are applicable only to LEAs meeting the eligibility thresholds for each formula. For FY2006, under P.L. 109-148, a special hold harmless rate of 100% was applied to LEAs affected by the 2005 Gulf Coast hurricanes.

[78] More specifically, the minimum is *up to* 0.25% for Basic and Concentration Grants at funding levels up to the FY2001 appropriation for those formulas, and *up to* 0.35% for Basic and Concentration Grants above the FY2001 level plus all funds allocated under the Targeted and EFIG formulas. In addition, these state minimums are capped in all cases; under the Basic, Targeted, and EFIG formulas, a state may not, as a result of the state minimum provision, receive more than the *average* of (1) 0.25% of the total FY2001 amount for state grants plus 0.35% of the amount above this, and (2) 150% of the national average grant per formula child, multiplied by the number of formula children in the state. Under the Concentration Grant formula, a state may not, as a result of the state minimum provision, receive more than the *average* of (1) 0.25% of the total FY2001 amount for state grants plus 0.35% of the amount above this, and (2) the greater of (i) 150% of the national
(continued...)

(5) Finally, each formula has *a minimum eligibility threshold* for LEAs, which is a minimum number of poor and other formula children, and/or a minimum school-age child poverty rate,[79] in order to be eligible for grants (even hold-harmless amounts) in most cases. The LEA minimum eligibility threshold varies by formula: it is 10 formula children *and* a school-age child poverty rate of 2% for Basic Grants or a 5% school-age child poverty rate for the Targeted and EFIG formulas. For Concentration Grants, the LEA eligibility threshold is 6,500 formula children *or* a 15% school-age child poverty rate. With the partial exception of Concentration Grants,[80] if an LEA does not meet the eligibility threshold, the hold-harmless provision does not apply. As a result, a number of LEAs have experienced complete elimination of their grants under some of these formulas from one year to the next, as their school-age child poverty rate declines from marginally above to marginally below 5.0%.

In addition to these common elements, two of the Title I-A formulas have unique features:

(1) For the Targeted Grant formula, as well as the intra-state allocation of funds under the EFIG formula, the poor and other children counted in the formula are assigned weights based on each LEA's school-age child poverty rate *and* number of poor school-age children. As a result, an LEA would receive higher grants *per child counted in the formula*, the higher its poverty rate or number. Under the Targeted Grant formula, the weighting factors are applied in the same manner nationwide; poor and other formula children in LEAs with the highest poverty rates have a weight of up to four, and those in LEAs with the highest numbers of such children have a weight of up to three, compared to a weight of one for formula children in LEAs with the lowest poverty rate and number of such children. In contrast, under the EFIG formula, the degree of targeting (in terms of the ratio of the highest to the lowest weight) varies depending on the value of each state's equity factor (described below). Under both formulas, the higher of its two weighted child counts (based on numbers and percentages) is used in calculating grants for each LEA. For Puerto Rico (only), a cap of 1.82 is placed on the net aggregate weight applied to the population factor under the Targeted Grant formula.[81]

---

[78] (...continued)
average grant per formula child, multiplied by the number of formula children in the state, or (ii) $340,000.

[79] Throughout this report, this term refers to the number of poor and other children counted in the Title I-A allocation formulas, expressed as a percentage of the total school-age population for the LEA.

[80] For Concentration Grants only, an LEA continues to be eligible for a (steadily declining) hold harmless amount for up to four years after it no longer meets the formula's eligibility criteria.

[81] This cap was intended to provide that the share of Targeted Grants allocated to Puerto Rico would be approximately equal to its share of grants under the Basic and Concentration Grant formulas for FY2001. This cap reduces grants below the level that would obtain if there were no cap at all (i.e., if Puerto Rico were treated in the same manner as the 50 states and the District of Columbia), since Puerto Rico's high number and percentage of poor school-age children would translate into a significantly higher weighting factor if not (continued...)

(2) The EFIG formula has two unique factors — an *equity factor* and an *effort factor* — in addition to the population and expenditure factors.

The equity factor is based upon a measure of the average disparity in expenditures per pupil among the LEAs of a state called the *coefficient of variation* (CV), which is expressed as a percentage of the state average expenditure per pupil.[82] In calculating grants, the equity factor is subtracted from 1.30. As a result, the lower a state's expenditure disparities among its LEAs, the lower is its CV and equity factor, and the higher is its multiplier. Conversely, the greater a state's expenditure disparities among its LEAs, the higher is its CV and equity factor, and the lower is its multiplier.

The effort factor is based on a comparison of state expenditures per pupil for public elementary and secondary education with state personal income per capita. This ratio for each state is further compared to the national average ratio, resulting in an index number that is greater than 1.0 for states where the ratio of expenditures per pupil for public elementary and secondary education to personal income per capita is greater than average for the nation as a whole, and below 1.0 for states where the ratio is less than average for the nation as a whole. Narrow bounds of 0.95 and 1.05 are placed on the resulting multiplier, so that its effect on state grants is limited.

Under the Basic, Concentration, and Targeted Grant formulas, maximum grants are calculated by multiplying the population factor by the expenditure factor for all LEAs meeting the minimum eligibility thresholds. Under all four formulas, maximum amounts are reduced proportionally to the aggregate level of available funds, subject to LEA hold-harmless and state minimum grant provisions.

The EFIG formula differs from the others both in terms of its use of unique formula factors and in being a two-stage formula. First, state total grants are calculated by multiplying the state total population factor by the expenditure factor, by 1.3 minus the equity factor, and by the effort factor. Then, these state total grants are allocated to LEAs on the basis of a variation of the Targeted Grant formula, with the degree of targeting (the ratio of the weight applied to formula children in the highest poverty ranges compared to the weight for such children in the lowest poverty ranges) varying in three stages. The stage, or degree of targeting, used for substate allocation varies depending on each state's equity factor: the higher the equity factor (and therefore the greater the disparities in expenditures per pupil among a state's

---

[81] (...continued)
capped.

[82] In the CV calculations for this formula, an extra weight (1.4 vs. 1.0) is applied to estimated counts of children from poor families. Limited purpose LEAs, such as those providing only vocational education, are excluded from the calculations, as are small LEAs with enrollment below 200 pupils. There are special provisions for states meeting the expenditure disparity standard established in regulations for the Impact Aid program (ESEA Title VIII), as well as the single-LEA areas of Hawaii, Puerto Rico, and the District of Columbia.

LEAs), the greater will be the degree of targeting on high-poverty LEAs in the intrastate allocation of EFIG funds.

Targeting on High-Poverty LEAs Under the Four Title I-A Formulas

For the last several years, a primary issue regarding the Title I-A allocation formulas has been the extent to which funds are targeted on high-poverty LEAs. Over 90% of the Nation's LEAs receive grants under ESEA Title I-A, largely because the eligibility thresholds for three of the four allocation formulas, as described above, are relatively low. In general, all LEAs receive Title I-A grants except those that have extraordinarily low school-age poverty rates and/or have extremely few pupils.[83] A few LEAs (including certain charter schools that are treated as separate LEAs under state law) are eligible for relatively small Title I-A grants, but do not choose to participate in the program, at least in part because the administrative responsibilities accompanying participation are perceived to exceed the value of the prospective grants.

Table 2, below, presents the distribution of Title I-A grants among LEAs grouped by poverty rate quintile.[84] Each quintile contains LEAs with one-fifth of the Nation's total estimated number of school-age children in poor families, based on the Census Bureau population estimates used in calculating FY2006 grants (those for income year 2003). Table 2 lists the percentage share (of the national total) of Title I-A grants that are allocated to LEAs in each poverty quintile. These data are provided separately for each of the four Title I-A allocation formulas, as well as for total grants for FY2006.[85]

As illustrated in Table 2 and **Figure 1**, below, the share of Title I-A funds allocated to LEAs in various poverty rate ranges varies significantly among the four allocation formulas. For Basic Grants, the share is similar for each quintile of LEAs, varying only within the narrow range of 19.1%-21.2%. For Concentration Grants, the share of funds allocated to LEAs in each poverty rate range is again similar, with the exception of the lowest-poverty quintile, which receives a much lower share (5.9% of total grants vs. 21.6%-24.9% for the other four quintiles). This reflects the eligibility threshold for Concentration Grants (formula child rate of at least 15% or 6,500 formula children). Overall, the primary pattern for both Basic and Concentration Grants is relatively constant shares of funds for all quintiles of LEAs meeting minimum eligibility thresholds. In other words, grants per poor and other

---

[83] According to program data for FY2006, approximately 60% of the LEAs receiving no Title I-A grants have an estimated total number of school-age children of fewer than 100.

[84] For the LEA-level analyses in this report, "poverty rates" are based on total children counted in the Title I-A allocation formulas divided by total school-age population.

[85] It should be noted that this analysis is based on LEA grants as calculated by the U.S. Department of Education. It does not take into consideration the adjustments that SEAs may make to these grants (reservations for state administration and program improvement, reallocation of funds among small LEAs in selected states, and adjustments for charter schools and LEA boundary changes). In the aggregate, the impact of this limitation should be quite small.

child counted in the Title I-A allocation formulas are approximately the same for all LEAs meeting the initial eligibility criteria for Basic and Concentration Grants, whether those LEAs have high, average, or somewhat below average school-age child poverty rates.

The pattern of distribution of grants under the Targeted and EFIG formulas is somewhat different. Under each of these formulas, the share of total grants increases steadily from the lowest to the second-highest poverty rate quintile, then declines somewhat between the 4th and 5th quintile. While this partly reflects the slightly higher eligibility threshold for these formulas in comparison to Basic Grants (5% vs. 2% formula child rate), it primarily results from the structure of these formulas. Under both the Targeted and EFIG (within-state) formulas, the grant per formula child continuously increases as either the LEA's school-age child poverty rate, or its total number of children counted in the Title I-A formulas, increases. The share of funds going to LEAs in the 4th quintile under each of these formulas is slightly higher than the share going to LEAs with the highest poverty rates (5th quintile) primarily because of the strong influence of high numbers of formula children on the allocation of funds,[86] the influence of the expenditure factor,[87] and the cap placed on Targeted Grant formula population weights for Puerto Rico.[88]

---

[86] With the exception of Puerto Rico, LEAs with the largest numbers of school-age children in poor families tend to have high, but not among the highest, school-age child poverty rates.

[87] LEAs with the highest school-age child poverty rates are frequently located in states with relatively low expenditure factors.

[88] As mentioned in a previous footnote, a cap is placed on the aggregate formula child weighting factor for Puerto Rico, reducing the share of Targeted Grant funds allocated to this LEA with a very high poverty rate (the highest poverty quintile).

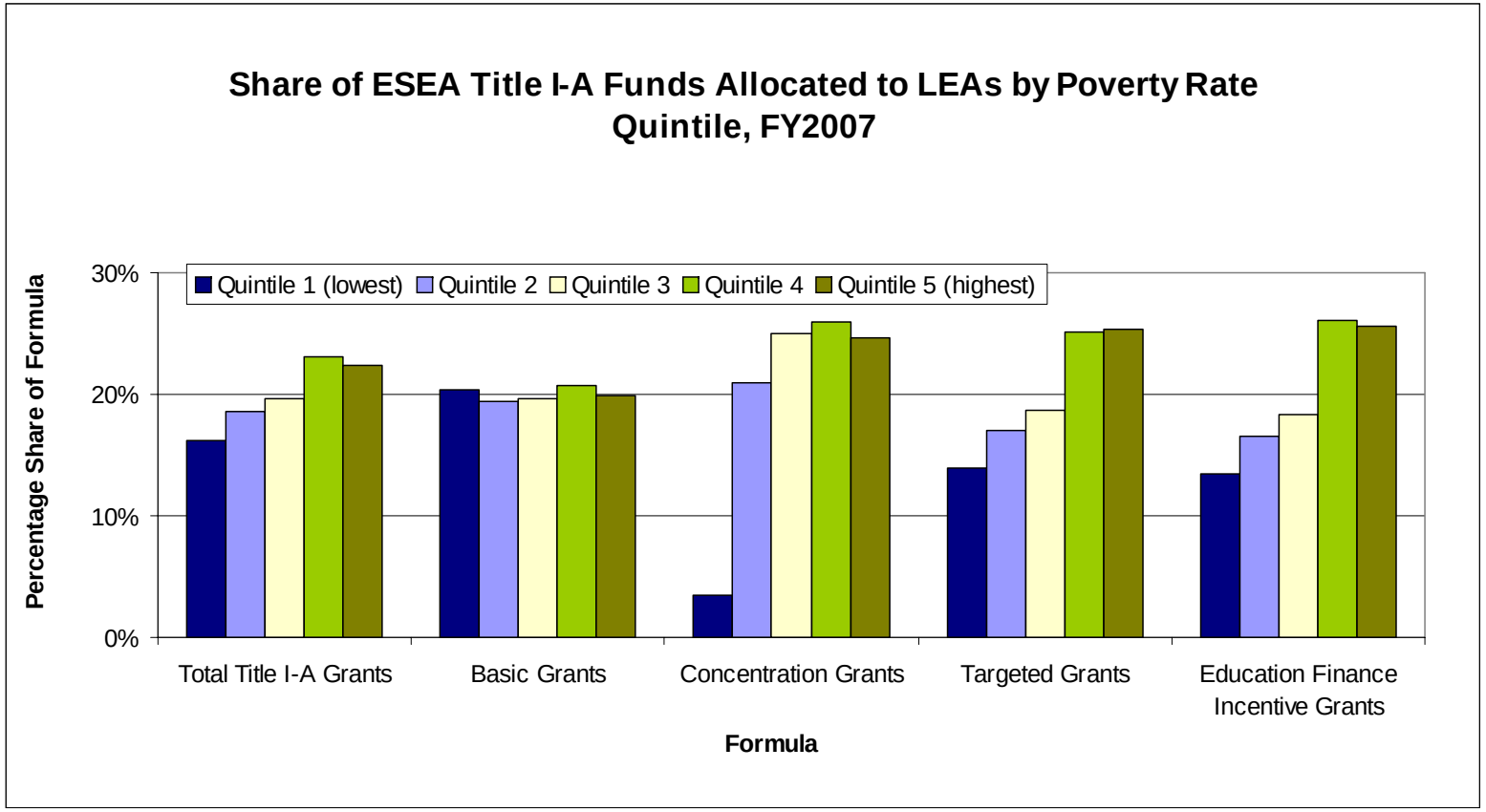
Share of ESEA Title I-A Funds Allocated to LEAs by Poverty Rate Quintile, FY2007
Quintile 1 (lowest)
Quintile 2
Quintile 3
Quintile 4
Quintile 5 (highest)
30%
20%
10%
0%
Percentage Share of Formula
Total Title I-A Grants
Basic Grants
Concentration Grants
Targeted Grants
Education Finance Incentive Grants
Formula

Table 2. Share of ESEA Title I-A Funds Allocated to LEAs, by LEA Poverty Rate Quintile, FY2007

	Poverty rate quintile					
Title I-A Formula	1 (Poverty rates of 0 - 12.65%)	2 (Poverty rates of 12.65 - 18.15%)	3 (Poverty rates of 18.15 - 24.58%)	4 (Poverty rates of 24.58 - 31.91%)	5 (Poverty rates Above 31.91%)	All LEAs
Percentage share of total grants						
Total Title I-A Grants, FY2007	16.2%	18.6%	19.7%	23.1%	22.4%	100.0%
Basic Grants (53% of FY2007 appropriations)	20.4%	19.4%	19.6%	20.7%	19.9%	100.0%
Concentration Grants (11% of FY2007 appropriations)	3.4%	20.9%	25.0%	26.0%	24.7%	100.0%
Targeted Grants (18% of FY2007 appropriations)	13.9%	17.0%	18.7%	25.1%	25.3%	100.0%
Education Finance Incentive Grants (18% of FY2007 appropriations)	13.5%	16.5%	18.3%	26.1%	25.6%	100.0%

Source: Table prepared by CRS.

Note: Table reads (for example): The quintile of LEAs with the highest school-age child poverty rates received 22.4% of total FY2007 ESEA Title I-A grants, 19.9% of all funds allocated as Basic Grants for FY2007, 24.7% of Concentration Grants, 25.3% of Targeted Grants, and 25.6% of Education Finance Incentive Grants.

FY2006-FY2008 Funding for Title I-A

FY2006. The Administration's FY2006 budget requested $13,342,309,000 for Title I-A, the same as the FY2005 request, and $602,738,000 (4.7%) above the FY2005 appropriation. Under the Administration's FY2006 request, the amounts for Basic, Concentration, and EFIG Grants would have remained unchanged from FY2005, with all of the increase devoted to Targeted Grants.

Under the conference version of the FY2006 appropriations legislation (H.R. 3010, P.L. 109-149), the appropriation for ESEA Title I-A would have been $12,839,571,000, an increase of $100 million, or 0.8%, over the FY2005 level. The entire increase over FY2005 would have been devoted to Targeted and EFIG Grants, with each of these rising by $50 million. However, separate appropriations legislation (P.L. 109-148, Department of Defense Appropriations, 2006) provided for a 1% reduction in most FY2006 discretionary appropriations in all federal agencies, resulting in a FY2006 total for Title I-A of $12,713,125,290, an amount slightly ($26.4 million) below the FY2005 level. As with similar "across-the-board" reductions of the recent past, all of this reduction was applied to Basic Grants. Separately, P.L. 109-148 provided for a one-year, 100% hold harmless for FY2006 Title I-A grants to LEAs directly affected by the 2005 Gulf Coast hurricanes.

FY2007. For FY2007, the Administration requested a funding level of $12,913,125,000 for Title I-A. Under this request, the same amount as for FY2006 would have been provided for all aspects of Title I-A, except that an additional $200 million would have been provided for school improvement grants, under the statute's separate authorization for such grants (to supplement the 4% of state grants that is generally to be reserved for this purpose). In the final FY2007 appropriations legislation (H.J.Res. 20, P.L. 110-5), the appropriation for Title I-A LEA grants is $12,838,125,000, an increase of $125 million (1.0%) over FY2006. An additional $125 million is provided for school improvement grants.

FY2008. Finally, the Administration budget for FY2008 requests $13,909,900,000 for Title I-A LEA grants, an increase of $1,071,775,000 (8.3%) over the FY2007 appropriation, plus $500 million for school improvement grants, a fourfold increase over FY2006. All of the increase in LEA grants would be devoted to Targeted Grants (along with a $62.5 million reduction in EFIG grants). The funding levels for FY2008 under S. 1710, as reported by the Senate Committee on Appropriations, would be the same as requested by the Administration, except that funding for the Targeted and EFIG formulas would be equal ($2,868,231,000 for each). Under H.R. 3043, as passed by the House, the FY2008 appropriation for Title I-A LEA grants would be somewhat higher than under the Administration request or the Senate bill ($14,362,824,000 versus $13,909,900,000), with virtually equal amounts for Targeted and EFIG grants. In addition, each of the three proposals for FY2008 would provide $500 million for school improvement grants. Title I-A funding levels for FY2006-FY2008 may be found in **Table 3** and **Figure 2**, below.

Appropriations Authorization Levels. Prior to NCLB, ESEA legislation generally contained specific authorization amounts for ESEA Title I-A only for the first year of each authorization period, authorizing only "such sums as may be

necessary" for the succeeding years. In contrast to this pattern, NCLB authorizes specific amounts for each year, beginning at $13.5 billion for FY2002 and increasing to $25 billion for FY2007 and FY2008.[89]

FY2007 Allocation Patterns. FY2007 (school year 2007-2008) grants are the latest available actual allocations under Title I-A.[90] Overall, the FY2007 funding level for Title I-A slightly less than 1% above the FY2006 level. As a result, aggregate funding for Title I-A LEA grants has been essentially constant over the period of FY2005-FY2007. At the same time, the Census Bureau and ED initiated *annual* updates of the poverty estimates used to calculate Title I-A grants beginning with the FY2004 allocations.[91] Further, the share of funds that SEAs are generally required to deduct from state total allocations for program improvement activities increased from 2% to 4% beginning in FY2004. As a result of these factors, several states, and a large percentage of all LEAs, received smaller Title I-A grants for each of FY2005-2007 than they had received for the previous year. This has generated complaints from some state and local officials that large numbers of LEAs and states are facing reductions in Title I-A grants at the same time they are required to meet increasing varieties of requirements (regarding assessments, teacher qualifications, and related matters).

More specifically, 21 states plus the District of Columbia received lower total grants for FY2007 than they received for FY2006; the remaining 29 states plus Puerto Rico received higher grants for FY2007. At the LEA level, approximately 60.0% of all LEAs nationwide that received Title I-A grants for both FY2006 and FY2007 received smaller grants for FY2007, and 40.0% received higher grants for FY2007. In most cases, states and LEAs receiving lower Title I-A grants for FY2007 than in FY2006 have been experiencing reductions in their estimated number of school-age children in poor families; these include LEAs of all sizes and degrees of poverty concentration, in contrast to the FY2002-FY2006 period when a large majority of large and/or high-poverty LEAs experienced grant increases, even while a majority of LEAs were losing funds.

---

[89] This specification of authorization amounts for each year has not fully resolved a long-term debate over what constitutes the "full funding" level for Title I-A. Whether or not specific amounts have been specified in the authorizing statute for any year, many program advocates have argued that the "full funding" concept for Title I-A has always been based on maximum payment calculations under the Basic Grant allocation formula (only). As was described above, the Part A Basic Grant formula establishes a maximum payment based on poor and other "formula children" multiplied by a state expenditure factor. The total of these maximum payments is understood by a number of analysts to represent the "full funding" level for Part A. For FY2006, this amount would be approximately $29.1 billion.

[90] FY2006 grants were initially announced in June 2006, and were revised in October 2006 to account for adjustments to Census poverty estimates.

[91] In the immediately preceding periods, these data had been updated every two years. For additional information, see the Congressional Distribution memorandum, "Poverty Estimates Used to Calculate Grants Under Title I-A of the Elementary and Secondary Education Act," May 24, 2007, by Wayne C. Riddle, available from the author.

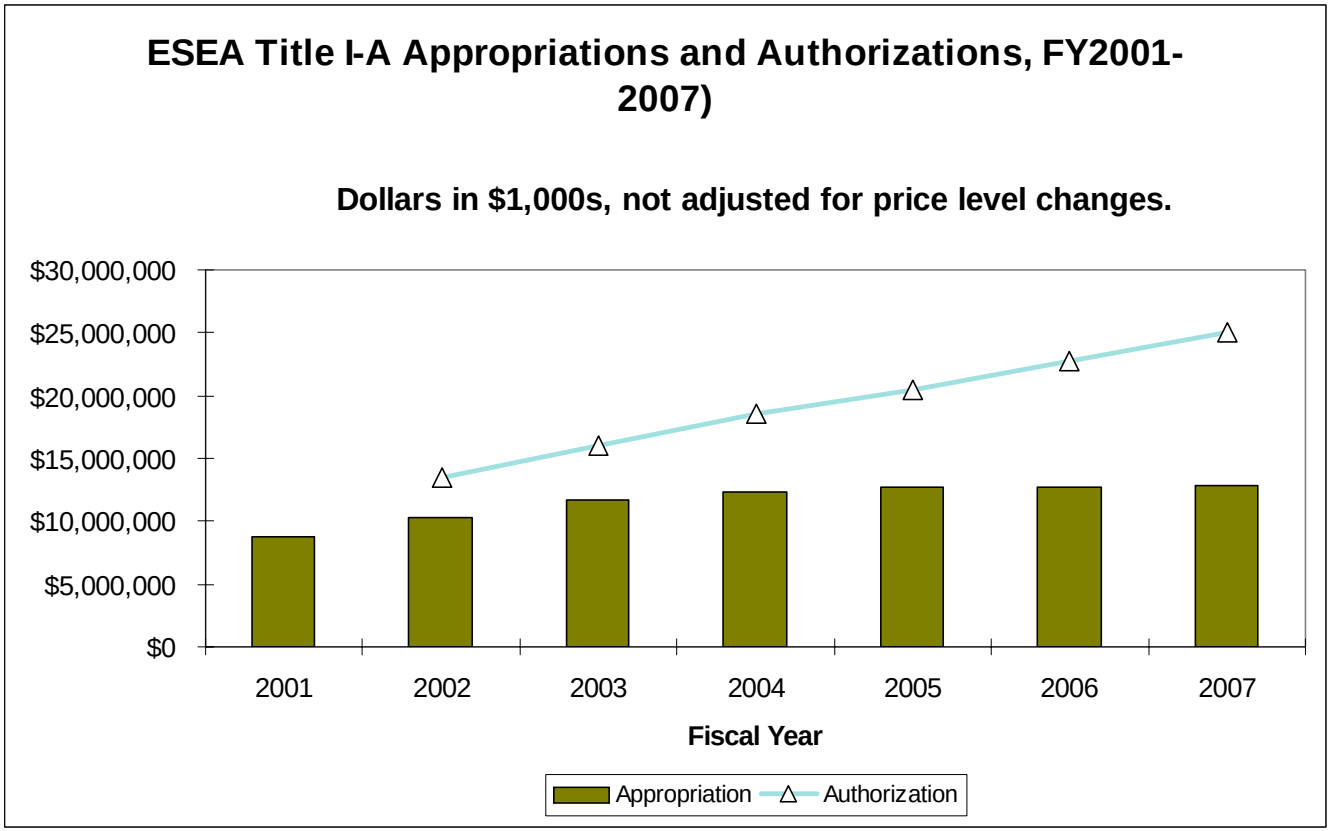
ESEA Title I-A Appropriations and Authorizations, FY2001-2007)
Dollars in $1,000s, not adjusted for price level changes.
$30,000,000
$25,000,000
$20,000,000
$15,000,000
$10,000,000
$5,000,000
$0
2001
2002
2003
2004
2005
2006
2007
Fiscal Year
Appropriation
Authorization

Table 3. FY2006-FY2008 Appropriations for ESEA Title I, Part A

Formula	FY2006 Appropriation	FY2007 Appropriation	FY2008 Administration Budget Request	FY2008 Under H.R. 3043, As Passed by the House	FY2008 Under S. 1710, as Reported in the Senate
Basic Grants[a]	6,808,408,290	6,808,408,000	6,808,408,000	6,808,971,000	6,808,407,000
Concentration Grants	1,365,031,000	1,365,031,000	1,365,031,000	1,365,031,000	1,365,031,000
Targeted Grants	2,269,843,000	2,332,343,000	3,466,618,000	3,094,562,000	2,868,231,000
Education Finance Incentive Grants	2,269,843,000	2,332,343,000	2,269,843,000	3,094,260,000	2,868,231,000
Total ESEA Title I-A Grants to LEAs	12,713,125,290	12,838,125,000	13,909,900,000	14,362,824,000	13,909,900,000
Authorization level for Grants to LEAs[b]	22,750,000,000	25,000,000,000	25,000,000,000	25,000,000,000	25,000,000,000
School Improvement Grants (separate authorization[b])	0	125,000,000	500,000,000	500,000,000	500,000,000

Source: Table prepared by CRS.

a. The amounts shown above for Basic Grants include approximately $3.5 million each year for census updates.
b. School Improvement Grants are authorized at $500 million for FY2002 and "such sums as may be necessary" for FY2003-FY2007.

Bush Administration Reauthorization Proposal. The Bush Administration's Reauthorization Blueprint contains a proposal on intra-LEA allocation of funds under ESEA Title I-A. According to the Bush Administration's Reauthorization Blueprint, Title I-A funding for high schools would be increased, although details on how this would occur are not yet available.

Possible Reauthorization Issues Regarding Title I-A Allocation Formulas. Possible reauthorization issues regarding the Title I-A allocation formulas include the following:

- *Should there be some consolidation of the four different allocation formulas?* While there are differences among the four Title I-A allocation formulas, and each of them has a somewhat distinctive distributional pattern, it may be questioned whether each formula serves a sufficiently distinct role and purpose as to justify its continued use. In particular, should there be three different formulas that attempt to target greater funds on high-poverty LEAs? Should Basic Grants, with their lack of targeting on high poverty areas, be continued? Are the distinctive features of the EFIG formula likely to provide sufficient incentive or reward effects to influence state policy on K-12 education spending? Should Targeted and EFIG grants be combined into a single formula; for example, by application of the effort and equity factors to the Targeted Grant formula?

- *Now that formula population estimates are updated annually, should there be some effort, in addition to current hold harmless provisions, to mitigate the impact of annual population shifts on grants, especially for LEAs that are near eligibility thresholds?* In recent years, as funds have been increasingly allocated through the Targeted and EFIG formulas, some LEAs have experienced dramatic shifts in funding from one year to the next as their school-age child poverty rate varies by small amounts around the eligibility threshold of 5.0%. Large swings in funding make it exceptionally difficult to use Title I-A funds efficiently. The four-year phaseout of hold-harmless provisions, now applied only to Concentration Grants, might be extended to Targeted and EFIG grants. More broadly, the stability of grant levels, as well as the reliability of LEA population estimates, could be increased by averaging formula population data for the most recent 2-3 years, rather than simply using the latest data as is done currently.

- *Should the expenditure factors continue to play a major role in the Title I-A formulas?* The state expenditure factors, while little noticed, have a major impact on the distribution of Title I-A grants. As discussed above, they are the same statewide, with no consideration of local variations; they likely provide little incentive to increase state spending on K-12 education; and they reflect differences in ability to raise revenues at least as much as differences in costs. Perhaps the best argument for continuing them is that they

partially, roughly, and indirectly compensate for the lack of a geographical cost adjustment for the poverty population factor income thresholds.[92]

- *Should the effort factor in the EFIG formula be modified?* As noted above, the EFIG formula's effort factor is constrained within the very narrow bounds of 0.95-1.05. As a result, it serves largely a symbolic purpose. The bounds applied to this formula might be expanded. Consideration might also be given to the calculation of this factor on the basis of *aggregate* K-12 education expenditures and personal income in each state, rather than individual figures.[93]

- *Should the equity factor in the EFIG formula be modified?* The measure of school finance equity used in the EFIG formula is one of several commonly-used measures of variation among LEAs in a state.[94] While there is a degree of consistency in the ratings of states on different equity measures, several states will appear to be more equalized on the basis of some measures than others. The 110th Congress might consider not only alternative equity measures, but also technical changes such as the addition of special weights for LEP pupils or pupils with disabilities, in addition to the current added weight for children in poor families. Finally, consideration might be given to combining or otherwise simplifying the three different degrees of population weighting used for the intrastate allocation of EFIG formula funds.

- *Should the population weighting factors of the Targeted and EFIG formulas be modified to provide more funds to small-to-medium size LEAs with very high school-age child poverty rates?* Currently, in spite of a superficial appearance to the contrary (i.e., higher maximum weights on the poverty rates than numbers), the weighting schemes used in these formulas tend to favor the Nation's largest (in formula population) LEAs. The weighting scales might be adjusted to increase grants to smaller LEAs with very high school-age child poverty rates.

---

[92] The income thresholds used to determine whether a family is poor vary by family size, but not by state or locality.

[93] Currently, this factor is based on the average expenditure *per pupil* in the state divided by personal income *per capita* in the state, relative to national averages. This formulation tends to favor states where the school age population is comparatively small. Alternatively, the effort factor could be based on *total* expenditures for public K-12 education divided by *total* personal income in the state relative to national averages. This would favor states with relatively high levels of aggregate K-12 education spending resulting from high levels of expenditures per pupil, relatively large school-age populations, or both.

[94] See, for example, "The Measurement of Equity in School Finance: Conceptual, Methodological, and Empirical Dimensions," by Robert Berne and Leanna Stiefel, Johns Hopkins University Press, 1984.

- *Should the prohibition against reducing LEA grants (compared to the previous year) in order to apply the 4% reservation of funds for program improvement be eliminated?* This would allow SEAs to reserve the full 4%, and avoid reserving more than 4% from some LEAs in order to reach the 4% level statewide. At the same time, it would reduce grants for many LEAs to a level below what they would otherwise receive.

- *Should the last remaining special constraint on grants to Puerto Rico, the cap on aggregate population weights in the Targeted Grant formula, be removed?* As with the phaseout (scheduled to be completed in FY2007) of the expenditure factor limitation for Puerto Rico, consideration might be given to eliminating the cap on Targeted Grant formula child weights. However, if aggregate Title I-A funding levels continue to be constrained, this would likely reduce grants remaining for the 50 states plus the District of Columbia.

- *Should the TANF formula factor be eliminated?* As noted earlier, the TANF population factor is now extremely small (0.1% of all formula children). Its significance is essentially historic and symbolic. If it were eliminated, the impact on grant levels would be very limited overall.

- *Should the authorization level for Title I-A continue to be specified after FY2008, and if so, at what levels?* In NCLB, Title I-A appropriations authorization levels were specified for each of FY2002-FY2007. Under the automatic extension provisions of the General Education Provisions Act, the FY2007 authorization applies to FY2008 as well. The FY2007 amount was set at a level approximately equal to the level of maximum Basic Grants — a traditional concept of "full funding" for Title I-A — as of FY2001 (the year preceding enactment of NCLB). In practice, over the FY2002-FY2007 period, the appropriation for Title I-A has been below the authorized amount each year, with the gap between authorization and appropriation increasing each year. For FY2007, the appropriation is just over one-half (51%) of the authorized amount. Thus, the impact of specifying authorization amounts for each year may be questioned. At the same time, specified authorizations do provide a goal for those seeking increased funding, and express the judgement of those involved in the authorizing process of an appropriate level of funding. Finally, if authorization issues are to be specified for years beyond FY2008, there may be proposals to link implementation of certain Title I-A requirements to the provision of authorized (or some other specified) levels of appropriations, or even to appropriate the authorized amounts in reauthorization legislation.