

U.S. DEPARTMENT OF EDUCATION

Implementation of the No Child Left Behind Act

Witnesses appearing before the
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DEPARTMENT OF EDUCATION

Statement by

**Eugene W. Hickok
Under Secretary**

on

Implementation of the No Child Left Behind Act

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you this afternoon to discuss the Department's implementation of the No Child Left Behind Act, the recent reauthorization of the Elementary and Secondary Education Act of 1965. The enactment of No Child Left Behind was a watershed event in the history of Federal support for K-12 education. It gives me great pleasure to discuss its significance and the Department's efforts to ensure its successful implementation across this country.

Mr. Chairman, only three days after taking office, President Bush unveiled No Child Left Behind as a comprehensive strategy for restructuring Federal elementary and secondary education programs and leading the way toward national reform and renewal in education. Less than a year later, he signed into law this remarkable, bipartisan program for improving the performance of America's elementary and secondary schools while ensuring that no child is trapped in an unsafe or failing school.

I would like to commend the Members of this Committee for the bipartisan efforts on the legislation. And I would like to give special thanks to you, Mr. Chairman, and to

Senator Gregg for the leadership that made the bill possible—leadership and many hours spent in bicameral and bipartisan negotiations.

The new Act embodies the key principles and themes that the President emphasized upon taking office. These principles include:

(1) Increased accountability for results: The No Child Left Behind Act provides for real performance accountability in the Title I program by requiring statewide accountability systems covering all public schools and students. These systems must be based on challenging State standards in reading and mathematics (and later, science), annual testing for all students in grades 3-8, and annual statewide progress objectives for ensuring that all students reach proficiency in reading and math within 12 years. Schools and school districts that fail to meet these objectives, both for all students and for specific student groups, would be subject to improvement, corrective action, and restructuring aimed at getting them back on track.

(2) More choices for parents and students: The new Act significantly increases the choices available to students attending low-performing schools. Beginning in the coming school year, they must be given the opportunity to attend another public school that is making “adequate yearly progress” under Title I, and the district must provide transportation to that new school. Public school choice must also be provided for students in persistently dangerous schools. Students attending schools that fail to make adequate yearly progress for three years in a row will have the opportunity to receive supplemental academic services, such as after-school tutoring, from providers who can demonstrate success in raising student achievement. The Act also enhances the

Department's support for innovations in public school choice, by creating programs for the support of voluntary public school choice and the financing of charter school facilities.

(3) Greater flexibility for States, school districts, and schools: Through a number of mechanisms, the new Act greatly expands the flexibility of States, local educational agencies, and schools to use Federal funds in a manner that best reflects State and local needs and priorities. These mechanisms include the "State-Flex" and "Local-Flex" demonstration authorities, which will give up to 7 States and 150 districts the flexibility to consolidate Federal program funds and use them for any authorized purpose, in exchange for committing themselves to improving student achievement and narrowing achievement gaps. The "transferability" authority, another new innovation, will allow all States and most districts to transfer, across program categories, up to half of their formula allocations for certain major programs.

(4) A focus on what works: The new law consistently calls for States, school districts, and other grantees to use their ESEA funds to implement programs that reflect scientifically based research; that is, programs, activities, and strategies that high-quality research shows are truly effective in raising student achievement. The Congress clearly signaled a lack of patience with the faddishness that frequently substitutes for research-based approaches to educating our children. Particularly in the area of reading, where the Act created the new Reading First program, the Members said that we know what works, we have a solid research base; now it is time to ensure that all our children benefit.

Those are some of the major themes and messages in the No Child Left Behind Act. These key principles are also guiding our implementation of the Act; they will be reflected in our regulations, in non-regulatory guidance, and in the instructions we develop for formula and competitive grant applications. As we delve into the details of implementation, we cannot lose sight of the major principles that motivated enactment of the statute.

I will use the remainder of my time to give you a brief overview of the Department's progress in implementing the Act.

Regulations and Program Guidance

When a piece of legislation like No Child Left Behind is enacted, educators across the country eagerly await information from the Department on how the new and revised programs will operate. We provide that information either through regulations or non-regulatory program guidance. Through these documents, we interpret provisions that may be ambiguous in the statute, fill in a few of the blanks, and translate statutory text into plain English.

Our guiding principle in implementing No Child Left Behind is to regulate only when it is absolutely necessary, because non-regulatory guidance tends to provide States and local educational agencies with greater flexibility. Thus we have been working assiduously on developing guidance for major formula grant programs, such as the Teacher Quality, Educational Technology, and 21st Century Community Learning Centers State grant programs. In developing our guidance packages, we have worked closely with State educational agencies and others who administer the programs. The

work on the guidance documents is proceeding rapidly, and we expect to have most of them completed later this spring.

In some cases, we will have to issue formal regulations. In particular, the Act calls on the Department to develop, through a negotiated rulemaking process, regulations for the standards and assessment requirements under Title I. We carried out this negotiated rulemaking, or “reg-neg” as its called, during the second and third weeks of March. We assembled a panel of State and local officials, school principals, teachers, parents, and representatives of students and the business community. Our negotiators for the Department were Assistant Secretary Susan Neuman and Joseph Johnson, our Title I Director. In my opinion, this process was a great success. The negotiators reached consensus on such important issues as the requirement for inclusion of all students in State assessments, the use of “out-of-level” tests in assessing students with disabilities, and the assessments administered to private school children who participate in Title I.

We will now issue, as proposed regulations, the agreements negotiated through that process, along with companion regulations for certain other key Title I issues, such as “adequate yearly progress” and formula allocations to local educational agencies. We will convene five regional meetings during May for discussion of the proposed regulations with educators and members of the public. Once we have received public input, we will complete final regulations; we anticipate completing this process some time this summer.

Consolidated State Applications

For each State formula program in ESEA, the Act provides detailed instructions on the information States must provide to the Department in their State applications. However, the Act also permits States to submit a consolidated application in place of some or all of the individual program applications, and instructs the Secretary to require, in that consolidated application, only the information absolutely necessary for consideration by the Department.

Because submission of a consolidated application can reduce State burden enormously, and because most States are likely to take advantage of this option, we have spent a great deal of time developing instructions for the application. On March 6, we issued proposed instructions, on which we are now taking public comment, and we have convened focus groups of State and local officials to discuss the application. Our goal is to abide by the statutory charge to require the minimum amount of information necessary, while making sure that the Department receives the data and documentation essential for ensuring program integrity and accountability. In fact, we believe the consolidated application should include the baseline data that will undergird a new performance-based information system for elementary and secondary programs.

We intend to issue final criteria for the applications in mid-April so that we can obtain the applications in time to make formula grants on schedule at the beginning of July.

Performance-Based Data Management Initiative

The Department's new Performance-Based Data Management Initiative will facilitate smoother implementation of No Child Left Behind by reducing the current

collection and reporting burden. The initiative will replace many disconnected information systems currently in use by the Department to collect data from States and school districts. When fully implemented, the new system will promote efficient ways to share data across States and districts and provide more accurate and useful data at all levels of the education community. Thus, the new system will allow States and districts to devote more time to their core educational mission and increase the focus on outcomes and accountability for student performance rather than compliance.

New Flexibility Initiatives

The new Act holds States and school districts accountable for educating all their children to high standards. But more than ever before, it gives them room to use Federal funds to develop and implement their own strategies for improving education. States and local educational agencies will have new opportunities to combine Federal funds, rather than using them within narrow categories, in a manner that reflects local needs and priorities.

The new flexibility provisions include the State and local flexibility demonstrations, or “State-Flex” and “Local-Flex” as we call them. They allow selected States and districts to consolidate their Federal funds and use them for any authorized purpose, in exchange for a commitment to improving student achievement. In addition to those competitive authorities, all States and most districts will be able to take advantage of the “transferability” provisions, which allow the transfer of up to half the money they receive under certain formula programs across those programs or into Title I.

Ever since the legislation passed, we have been working to ensure a swift and successful implementation of these important new authorities. We want all States and school districts to know about these new opportunities to improve their use of Federal dollars. We want to receive as many high-quality applications as possible for the demonstration programs, and we are ready to provide technical assistance to applicants. We have published proposed rules for both State-Flex and Local-Flex and have taken steps to inform States and districts about the new provisions and to receive their comments on implementation. We anticipate announcing the first Local-Flex districts by the end of this summer, and the State-Flex winners by the end of November. We have already heard from several States that are interested in applying for the State-Flex authority.

New Programs

The No Child Left Behind Act consolidated a number of ESEA programs, but also created some new programs for us to administer. A major focus of our efforts in recent months has been on implementing these programs. For instance, Reading First embodies the President's commitment to ensuring that all children learn to read by the third grade. All States will be eligible to receive formula grants for implementation of programs of scientifically based reading instruction, particularly in schools where high percentages of students are not learning to read. Early Reading First is a companion program that focuses on preparing preschool-aged children to learn to read once they enter school. At this time, we are moving ahead, on schedule, with implementation of these and the other new programs.

Public Outreach

Implementing No Child Left Behind involves more than just issuing regulations, reviewing applications, and making the grants. It really means bringing the whole country together around the idea that, if we are to continue to flourish as a Nation, no child really can be left behind, that it is time to stop making excuses for educational failure, and time to use the framework provided by this legislation to get on with what we have to do. Toward that end, we have communicated continually with governors, chief State school officers, school superintendents, teachers, parents, and the general public on this Act and on the vision that it embodies. On the week of the signing, the Secretary convened an historic summit with State superintendents to discuss implementation of the new law. We have held three leadership academies with State officials and one with big-city districts to acquaint them with the Reading First program. We also have held other forums and have more planned for the future. Making No Child Left Behind succeed will require more than the Department's effort, it will require everyone's effort, and we intend to use every opportunity to bring the country along with us.

In conclusion, let me say that the Department really has been operating on all cylinders since the Congress passed the Act in December and the President signed it in January. The late enactment of the bill, and of the fiscal year 2002 appropriation, left us very little time to get all the pieces in place before the coming school year. At this point, I think we are on schedule. We have faced challenges in implementing this very important and complex legislation, and there will be further challenges ahead. But I think we can implement all components successfully and on time, and I welcome your support.

I would be happy to answer any questions you may have.