



Rewards & Roadblocks:

*How Special Education Students are
Faring Under No Child Left Behind*



Foreword



The National Center for Learning Disabilities (NCLD) has a special interest in the reauthorization of No Child Left Behind (NCLB) as the law focuses on improving academic achievement for all children, including improving instructional practice for children who struggle with learning. NCLD has spearheaded activities in support of No Child Left Behind, including the publication of several documents that have been used to educate and inform policy makers, parents and other stakeholders about the positive and meaningful impact the law is having for students with learning disabilities (LD).

While the Individuals with Disabilities Education Act (IDEA) mandates the provision of a free appropriate public education (FAPE) for students with disabilities, it contains no provisions setting high expectations and holding schools accountable for their progress. In fact, in its latest reauthorization of IDEA, Congress once again reminded us that "the implementation of the Act has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning" (20 U.S.C. §1400(c)(4)). It is NCLB that has provided the long-needed requirement of school accountability and emphasis on doing what works to improve results for students with disabilities.

NCLD is publishing this report to inform the current discussion about gains that students with disabilities have made as a result of NCLB and where further progress must be made to ensure our students are on a pathway to receiving a regular diploma and achieving life success. We offer it with the conviction and hope for a bright and meaningful future for all students, who by definition can achieve and for whom our federal laws are intended to support.

Sincerely,

A handwritten signature in black ink that reads "James H. Wendorf". The signature is written in a cursive, flowing style.

James H. Wendorf
Executive Director



Rewards & Roadblocks:

How Special Education Students are Faring Under No Child Left Behind

The 2001 reauthorization of the Elementary and Secondary Education Act (ESEA), known as No Child Left Behind (NCLB), brought about a dramatic change in the level of attention paid to millions of public school students who historically perform poorly. Its mandate to “close the achievement gap” for specific groups of students – and achieve proficiency for all students in reading and math by 2013-2014 - has provided historic impetus for change.

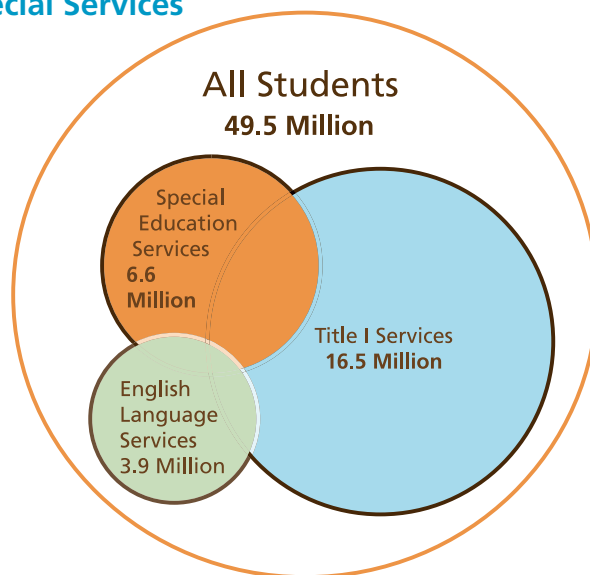
For one group of students – those who receive special education services – NCLB has provoked discussions that span a wide range of opinions and positions. While much of the impact of NCLB remains to be seen – after all, full implementation only began in the 2005-2006 school year - it’s time to take a look at what we know about the rewards and roadblocks for special education students. This report provides a look at several specific requirements of the No Child Left Behind Act (NCLB) and their impact on students receiving special education supports and services.

Who They Are

Almost fourteen percent – some 6.6 million – of this nation’s school-age children receive some level of additional support through special education. These children come from all race and ethnic groups and speak many different languages. Significant numbers are served by other school programs, such as Title I and English Language services, in addition to special education.

Many are indistinguishable from students who do not receive special education services. In fact, most spend the vast majority of their school day in general educa-

Total U.S. Public School Enrollment and Special Services

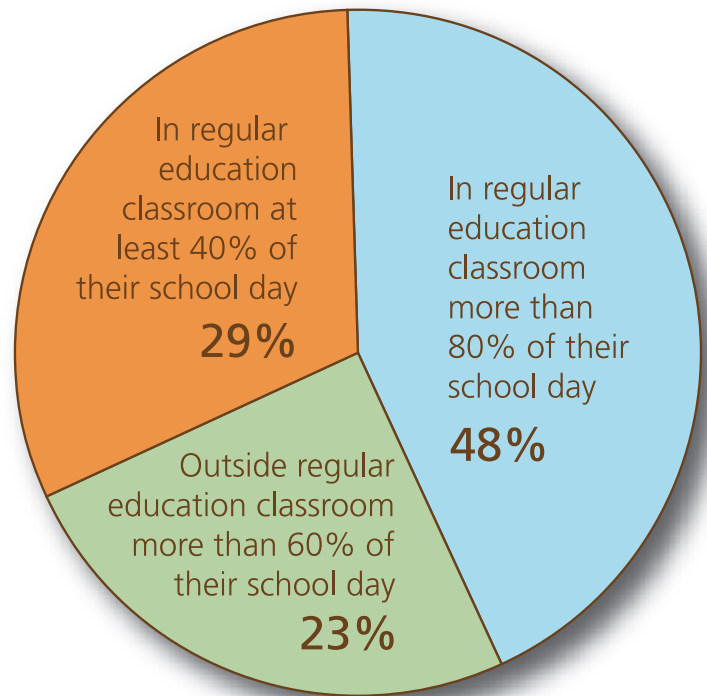


tion classrooms – taught by general education teachers – using the same instructional materials as all other students in the class (see chart). And their parents have the same aspirations for their success in life.

It should be noted that vast differences exist across states regarding the percent of students receiving special education services. In the 2003-2004 school year, state rates ranged from a low of 10.5 percent in California to a high of 20.2 percent in Rhode Island. Source: Digest of Education Statistics, 2005, Table 52 [see Appendix A for state-by-state information]

These students – often referred to as “*students with disabilities*” – are afforded a set of important legal protections under the Individuals with Disabilities Education Act (IDEA). Brought about because of a pervasive denial of equal access to public education, the IDEA provides eligible students with special education and related services that allow them to benefit from education just like all other students. IDEA makes locating, identifying and serving students in need of special education the responsibility of all public schools, and, not all students with disabilities are eligible for special education services. Only when the impact of a disability is such that the student requires additional services and supports to benefit from the educational program is special education available.

Where Special Education Students Spend Their School Day



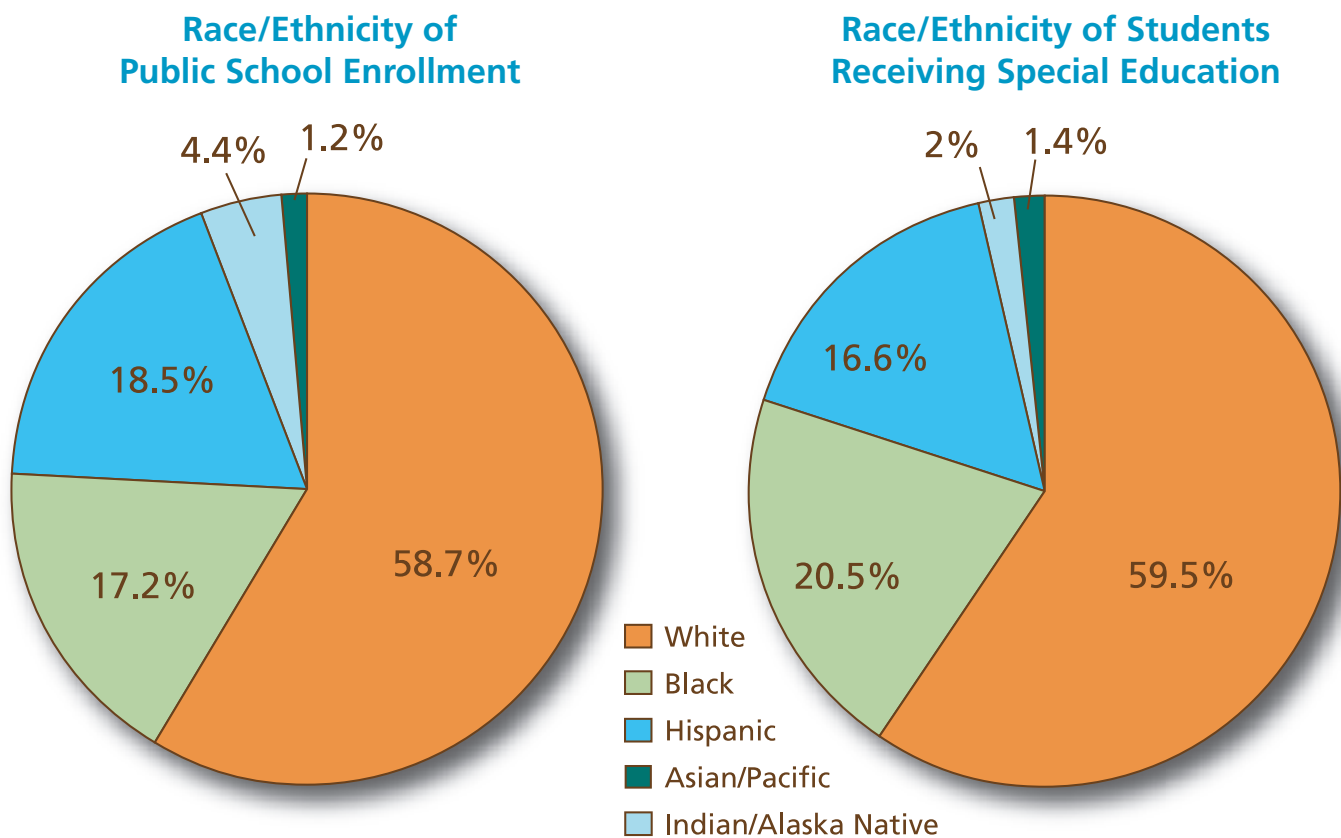
Source: 26th Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act 2004

Defining Special Education

Special education is defined as “*specially designed instruction*, at no cost to parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings ...” [20 U.S.C. §1401 (29)] In turn, *specially designed instruction* is defined as “adapting, as appropriate to the child’s needs, the content, methodology, or delivery of instruction to address the unique needs of the child that result from the child’s disability; to ensure access of the child to the general education curriculum, so that the child can meet the *educational standards* within the jurisdiction of the public agency that *apply to all children*.” [34 CFR §300.39 (b)(3)]

Special education students are expected to meet the same state educational standards as all other students. The additional assistance of their individualized, specially designed instruction (detailed in an annual commitment of resources known as the Individualized Education Program or IEP) provides the extra support needed to reach such a level of achievement.

Special education classification has too frequently been used to diminish the expectations for the students designated as eligible for such services and to minimize the responsibility of general education teachers and administrators for their progress. Also, data suggests that special education classification is used to segregate minority students, particularly Black boys. Black students represent more than 20 percent of those receiving special education yet make up only 17 percent of public school enrollment.



Special education designation also includes a disproportionate number of children in poverty. Data from the Special Education Elementary Longitudinal Study (SEELS) found that the rate of poverty among the households of students with school-identified disabilities is substantially higher than the rate found in the general population. (see box)

“At 24 percent, the rate of poverty among the households of students with disabilities is higher than the 16 percent found in the general population. Despite the fact that parents are about equally likely to be employed, households of students with disabilities are much more likely to have low and very low incomes. The higher rate of poverty among students with disabilities, and factors that can accompany poverty and put children at risk, are particularly evident among children of color, especially African-American children with disabilities. They are significantly more likely to be poor and less likely to be living with two parents than other students with disabilities; their rate of foster care placement is more than three times that of white or Hispanic students with disabilities. Their households average fewer adults and more children. Mothers of African-American children with disabilities are significantly more likely than those of white children to have given birth as teens, to have not completed high school, and to be unemployed.”

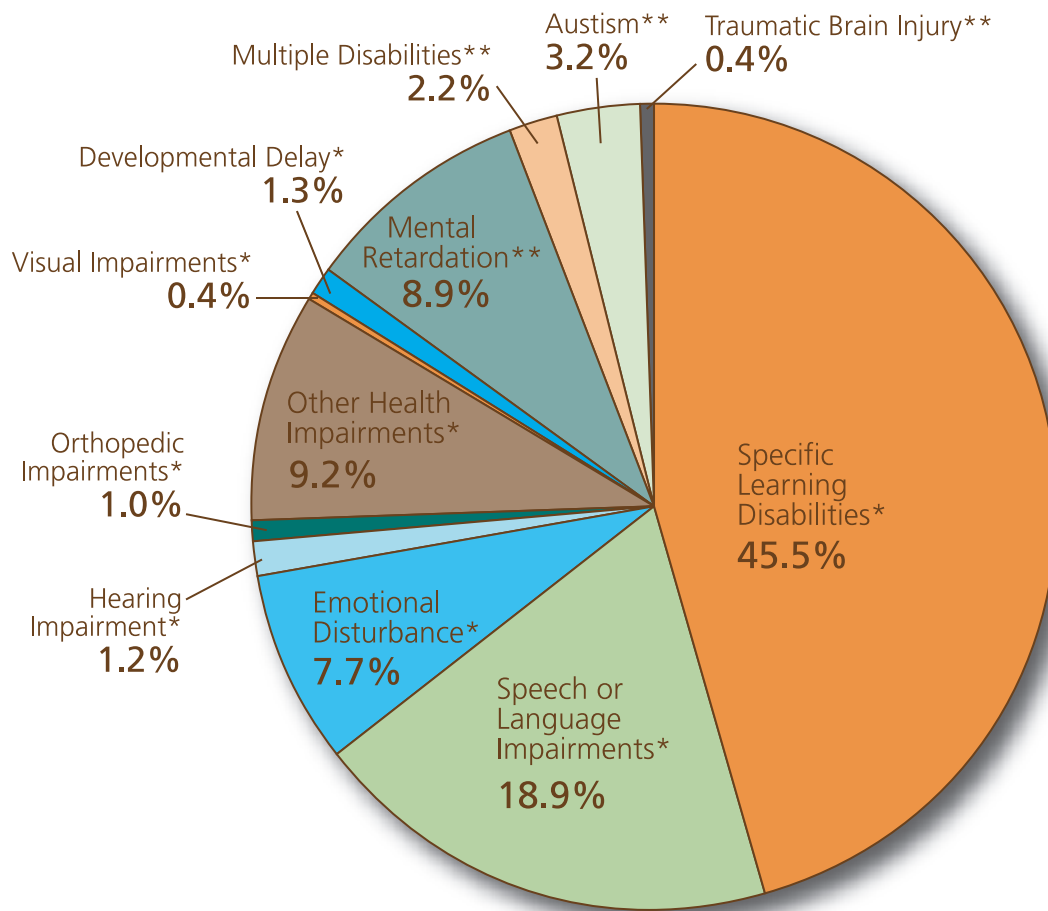
Source: Overview Of Findings From Wave 1 Of The Special Education Elementary Longitudinal Study (SEELS) June 2004

All in all, there is substantial overlap between students who receive special education and other students who comprise historically low achieving groups - particularly those who are low income and Black. To the extent that overlap exists, these students are those for whom the Elementary and Secondary Education Act was originally enacted and intended to assist.

One aspect of the marginalization of special education students has been the pervasive practice of failing to include these students in the state assessments required of all other students. Despite requirements in both the 1994 version of the ESEA – known as the Improving America’s Schools Act – and the 1997 version of the IDEA – that special education students participate in all state assessments and that the results of their participation be publicly reported, massive exclusion prevailed. Without participation, there is no accountability nor will attention be paid to needed improvements in the achievement of these students.

This systematic exclusion from accountability systems is particularly egregious when examined in the context of the characteristics of the disability categories that make up the population of students receiving special education. (see chart)

Students Receiving Special Education Services by Disability Category



Source: www.IDEAdata.org

Table 1-3: IDEA Part B Child Count (2005), Students ages 6 through 21 served under IDEA, Part B, by disability category and state: Fall 2005



In their often-cited 2001 paper, *Rethinking Learning Disabilities*, a group of prominent researchers posited that:

“We estimate that the number of children who are typically identified as poor readers and served through either special education or compensatory education programs could be reduced by up to 70 percent through early identification and prevention programs.” They went on to state that “From its inception as a category, LD has served as a sociological sponge that attempts to wipe up general education’s spills and cleanse its ills.”

Source: Rethinking Special Education for a New Century, Finn, Rotherham, Hokanson, Jr., 2001

In fact, the radical growth in the LD category during the 1980’s and early 1990’s, coupled with mounting skepticism about the method used for its identification, resulted in substantial changes to IDEA and its implementing federal regulations. These changes seek to broaden the role and responsibility of general education in addressing the needs of students who experience difficulty in general education classrooms prior to referring students for special education.

And, in updating the IDEA in 2004, Congress took the unprecedented step of allowing schools to use federal funding intended to assist with the excess cost of special education (IDEA Part B funds) to provide services to students who need additional academic and behavioral support to succeed in a general education classroom without giving them special education status. This new provision – known as “early intervening services” – is aimed at reducing the practice of designating students as in need of special education without substantial efforts on the part of general education to provide robust instruction and early intervention first.

Given evidence of the misuse of special education designation so compelling that even the U.S. Congress was moved to act, it seems particularly important that students receiving special education services not be further shortchanged in the context of school accountability.

Simply put, the vast majority of students receiving special education in our nation’s schools – some 85 percent - are found eligible under a disability category that in no way precludes them from - with appropriate services and supports - functioning at or above grade level or from achieving proficiency on a state’s academic content standards in reading and math.*

Our assumptions about the performance potential of students identified for special education is further complicated by positions put forward by leading researchers regarding the largest disability category – specific learning disabilities (LD). This category makes up 45 percent of all special education students – and, more importantly, 48 percent of the special education students in the grades assessed under NCLB.

**Note: Reading and math are the only academic areas at stake in NCLB testing requirements.*

Exiting “Program Improvement” by Growing the Proficiency of Students with Disabilities: Snowline Joint Unified School District

By Jim Canter, Assistant Superintendent, Curriculum



As Assistant Superintendent of Curriculum for Snowline Joint Unified School District in California, I was informed by the California Department of Education that the students with disabilities (SWD) subgroup fell short of the AYP English language arts proficiency rate in 2003 and 2004

and, under new regulations, qualified the district as Program Improvement (PI). The subgroup had increased three percent over the two-year period, but scored overall only ten percent proficient. Within two more years, however, I received gratifying news that Snowline District met all AYP criteria including the SWD proficiency rate and that the district exited PI. The SWD English language arts proficiency rate had tripled since 2003.

Our successful plan of action, developed with input from staff and parents, significantly improved student achievement by implementing a process structured around data and standards. After learning of the PI status, I first realized that I needed to understand the composition of the subgroup, and so I separated the subgroup by specific disability. I found that the subgroup consisted of at least five categories. The largest category, nearly 50% percent of the subgroup, was specific learning disability (SLD), and, of that category, approximately 85% was placed in the Resource Specialist Program. Most students of this category were diagnosed as mildly impaired, yet scored only about seven percent proficient in English language arts. Similarly, I discovered that about 30% of the subgroup was Speech/Language Impaired (SLI), the second largest category, yet these students scored less than 14% proficient. I

also found that 60% of SLI was placed for articulation, generally a non-cognitive impairment.

Based on the data, it was obvious that special education needed more involvement in the district’s standards-based program. One strategy I used involved special education teachers participating in the district’s collaborative process called Structured Teacher Planning Time (STPT). During STPT, district-wide, trained teachers examined state and local data by grade level and course, developed data statements, and made instructional decisions based on the data. Special education teachers were sometimes included in the process, but were now required to attend and encouraged to participate. In addition, I released special education teachers to hold separate STPT meetings by grade span after the regularly held STPT meetings, and the special education teachers soon collaborated about SWD data, teaching strategies, and related issues. To help facilitate STPT, I appointed special education instructors to serve as teacher leaders. Since initiating STPT, teachers have built trust and now readily share best teaching practices.

Another strategy I used helped include SWD in the district standards-based program. As part of our plan, I directed that any student who participated in state assessments take district formative assessments as well. The strategy profoundly effected district instructional practices. It directly influenced teachers to instruct to state standards, and it provided formative data about all students’ progress.

As I walk through classrooms, I now observe special education teachers instructing to state standards, and I find that SWD are receiving instruction in regular classes to a greater degree. I am proud that, through our efforts, Snowline District exited PI, but I realize and our administrators and teachers fully understand that we must continue to improve student achievement among SWD and students of other subgroups.

Making Them Matter: Participation

NCLB's requirement that schools, school districts and states test at least 95 percent of all students in the required grades and academic areas (see box) – and at least 95 percent of each required subgroup (see box) – has finally catapulted special education students into the realm of full accountability.

NCLB Testing Requirements

Beginning with the 2005-2006 school year, all students in grades 3 through 8 must be tested in both reading/language arts and math. In addition, high school students must be tested sometime during grades 10-12 in both reading/language arts and math. Beginning in 2008, all students must also be assessed in science once during grades 3-5, once during grades 6-9, and once during grades 10-12. Schools are not held accountable for student performance on science assessments.

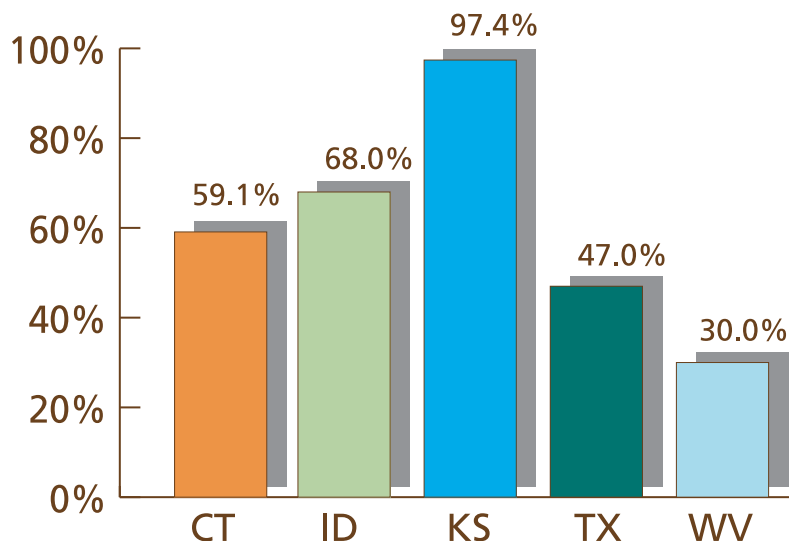
NCLB Subgroup Requirements

- Students from major racial/ethnic groups
- Economically disadvantaged students
- Students with limited English proficiency
- Students with disabilities (eligible for services under IDEA)

There is no doubt that this participation requirement – part of the trifecta known as “Adequate Yearly Progress” or, simply, “AYP” – has finally motivated states to begin to fully include all students in state assessments, including students receiving special education services.

The chart below shows the percentages of special education students who participated in the general assessments (with or without accommodations) of several states six years ago in the 2000-2001 school year. Only one state – Kansas – performed at or above the current requirement for at least 95 percent participation.

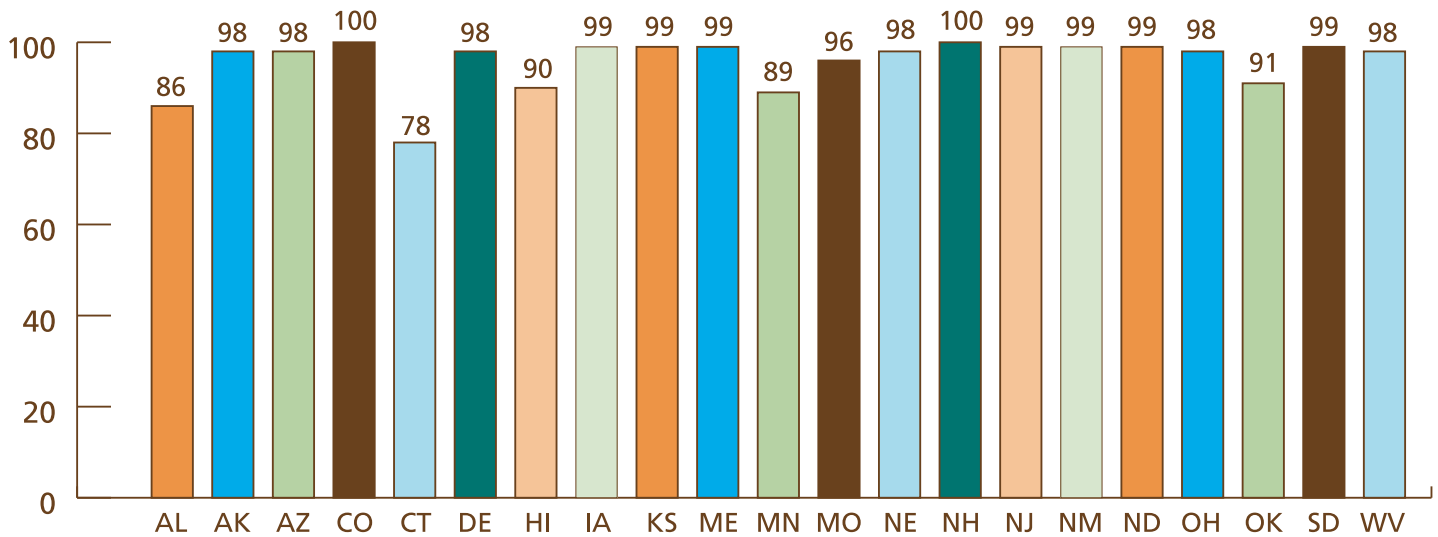
Participation of Special Education Students in General Assessments in Selected States, 2000-2001



Source: National Center on Educational Outcomes (NCEO)

By contrast, three years later, participation rates showed a marked improvement. The chart below shows the participation rate for 21 states in the 2003-2004 school year (post NCLB implementation) for students receiving special education.

Participation of Special Education Students in General Assessments in Selected States, 2003-2004



Source: National Center on Educational Outcomes (NCEO)

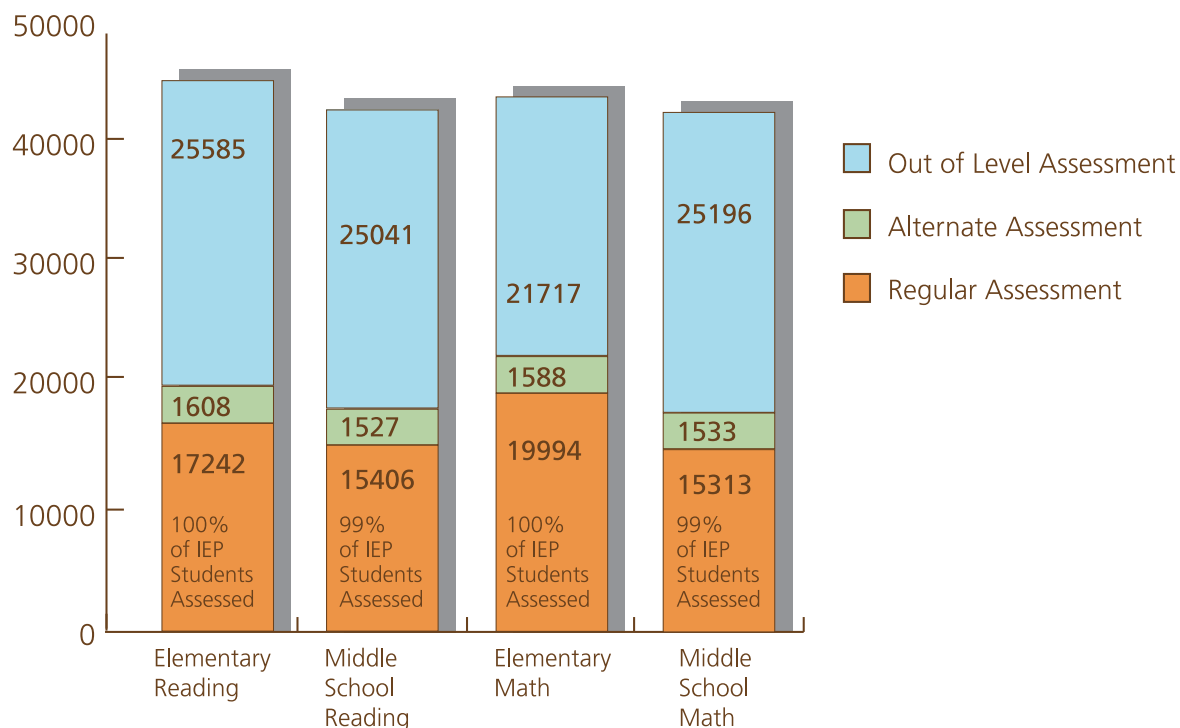
However, states' ability to fully include all students receiving special education in state assessments continues to be hampered. In its 2006 *National Assessment of Title I Interim Report*, the U.S. Department of Education noted:

“Most states have met the requirement to annually assess 95 percent or more of their students, including major racial/ethnic groups, students with disabilities, limited English proficient (LEP) students, and low-income students. However, 14 states did not meet the minimum test participation requirement for one or more student subgroups. Ten states assessed fewer than 95 percent of one or more minority student groups (black, Hispanic, and/or Native American), and nine states did not meet the test participation requirement for LEP students.

The lowest participation rates were for students with disabilities. While states missing the test participation requirement for other subgroups often missed by just one or two percentage points, states that failed to assess 95 percent of students with disabilities typically had lower participation rates for those students (as low as 77 percent in one state).”

While participation has seen a dramatic increase due to NCLB's participation requirements, the participation has not always been meaningful. For example, while the percentage of special education students participating in state assessments in Texas increased from 47 percent in 2000-2001 to 99 percent in 2003-2004, more than half of those tested were given an “out of level” test. [see chart]

Participation of Special Education Students in Texas, 2003-2004



Source: Thurlow, M., Moen, R. & Altman, J. Annual Performance Reports: 2003-2004 State Assessment Data. National Center on Educational Outcomes (NCEO).

Marginal Participation

Out-of-level testing (OOLT) means assessing students enrolled in a specific grade level with tests designed for students at lower grade levels. As such, an OOLT does not measure a student's mastery of grade-level content or achievement standards – a measurement that is key to the school accountability goal of NCLB.

Out-of-level testing is often associated with lower expectations for students receiving special education, tracking these students into lower-level curricula with limited opportunities. It may also limit a student's opportunities for advancing to the next grade or graduating with a regular high school diploma. It also assumes that a student being tested below grade level will automatically recall the content from a past grade. According to the National Center on Educational Outcomes, research does not support the use of out-of-level test scores from state assessments when measuring student proficiency or otherwise on standards for the grade level in which a student is enrolled.

Because an out-of-level assessment fails to measure a student's mastery of grade-level content, states that choose to administer such an assessment must consider it the same as an alternate assessment based on alternate achievement standards for AYP determinations according to NCLB regulations. As such, proficient and advanced scores fall under NCLB's limit of no more than one percent of the scores of all students assessed in the school district or state. This regulatory limitation has provided an important safeguard to what has been an over-used assessment practice by states unwilling to develop assessments that can allow students with disabilities to fully demonstrate their knowledge on grade level content.

The O'Hearn School: How Students Benefit from NCLB



**Excerpt from the testimony of William Henderson, Ed.D.
Principal, The O'Hearn School, Boston, MA
Hearing before the House Education and Labor Committee
Subcommittee on Children and Families
United States House of Representatives
March 29, 2007**

The O'Hearn is a small, urban elementary school serving 230 children from early childhood through grade five. Approximately 45 percent of our students are African American, 30 percent are

Caucasian, and 25 percent are relative new arrivals from many countries around the globe. A majority of our students qualify for free or reduced lunch. The O'Hearn is an inclusive school and 33 percent of our students have a disability. Students who are involved in regular education, students with a range of disabilities, and students considered talented and gifted learn together and from each other. Teachers and support staff collaborate and work as teams to instruct and support all children in fully integrated classrooms. The O'Hearn is a highly selected school under Boston's choice assignment plan. Overall, the performance of O'Hearn students has been strong. In fact, until this past school year, we made all of our AYP goals. However, in 2005-2006, the O'Hearn did not make AYP goals in English / Language Arts.

Our school benefits greatly from the accountability of No Child Left Behind because until its passage, our students receiving special education supports and services would not have been included in our district or state accountability system, nor would they have received full access to the general curriculum in many public schools.

At the O'Hearn, we strive each day to ensure 230 youngsters are provided the following:

- Support from a committed team that strives to collaborate on effective strategies to teach diverse learners and ensure all students learn and succeed.
- Access to universally designed curricula, textbooks and assessments as well as appropriate accommodations — for both instruction and assessment.
- Encouragement, along with their families, to strengthen their artistic, athletic and other talents through music, dance, physical fitness and modern day technology.

All three are critical to the success of my students now and in the future.

NCLB has made a significant difference in how we view the potential of students with disabilities at O'Hearn:

- We have set high expectations and expect proficiency from the majority of our students
- We have targeted our resources to maximize IDEA, Title I, Title II and other dollars to ensure early intervention, early identification and appropriate services are provided
- We have provided top quality teaching and services, by high qualified teachers and staff, including providing extra instructional time before or after school with ample opportunities to participate in the arts.

Our formula allows over 200 students – whose challenges and proficiency scores are spread across a continuum – to learn, blossom and demonstrate what they know.

NCLB could further benefit our school if the following improvements were made:

1. Require every state to undergo a federal review of assessment accommodations guidelines.

It should not be left up to districts and states to decide whether or not students with disabilities can have access to grade level content through universally designed textbooks and assessments as well as receive accommodations to demonstrate the knowledge gained in the classroom. The federal government should provide the safeguards necessary to ensure access to both content and accommodations.

2. Ensure that a requirement to annually assess student proficiency does not lead to a testing frenzy.

Too much testing can work at cross purposes for students and staff. We must strike a balance and continue to explore ways for students to demonstrate success and proficiency. One way that is showing potential to capture that growth is to allow the addition of a growth model to AYP requirements.

3. Promote family involvement in schools.

Students and parents both benefit when opportunities are provided to share the growth and achievements of students in academics, arts, sports, leadership and other activities.

Moving Them Forward: Performance

NCLB’s requirement for universal proficiency in reading and math by 2013-2014 has, in the opinion of most, brought about much needed attention to the instruction of students receiving special education. In early 2007, the Commission on No Child Left Behind, a bipartisan, independent commission formed to develop recommendations for the reauthorization of the No Child Left Behind Act, released its final report. In it, the Commission found that

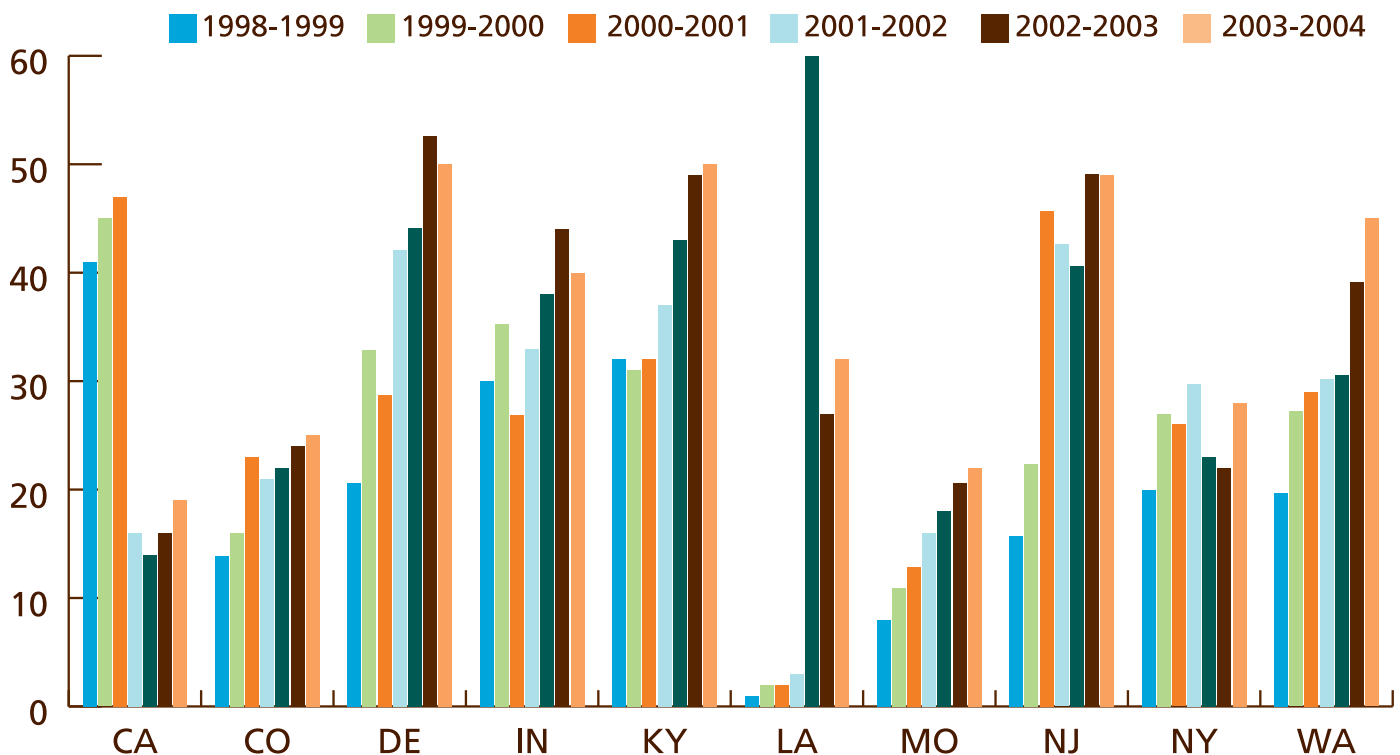
“Overall, we were left with the strong impression that NCLB has resulted in a much higher awareness of and focus on the achievement of students with disabilities.”

Source: Beyond NCLB: Fulfilling the Promise to Our Nation’s Children, 2007, pg 67

In fact, given the long-standing practice of excluding students who are receiving special education services from large-scale assessments – or testing them on content far below their age appropriate grade level – these students can be viewed as performing extraordinarily well.

An examination of seven-year trends of the percentage of elementary special education students who achieved proficiency on statewide reading exams across ten states (see table) shows consistent gains in most states.

Seven-Year Trends of the Percentage of Elementary Students with Disabilities who Achieved Proficiency on Statewide Reading Exams



Source: National Center on Educational Outcomes (NCEO).

Further evidence of performance improvement was provided by the U.S. Department of Education in its 2006 National Assessment of Title I Interim Report, which found that from 2000-2001 to 2002-2003, 14 of 20 states experienced an increase in the percentage of 4th-grade special education students performing at or above the state’s proficient level in reading and 16 of 20 states experienced an increase in math. This outpaced the improvements experienced for all other student groups.

Closing the Gap

Understanding who receives special education services – as well as how they become eligible by the public school that serves them – is critical to the expectations set for this group. Some would suggest that special education designation – in and of itself – precludes a student from achieving proficiency on state standards. Some recommendations, such as one from the state of Washington, have advocated a complete abandonment of students receiving special education services stating:

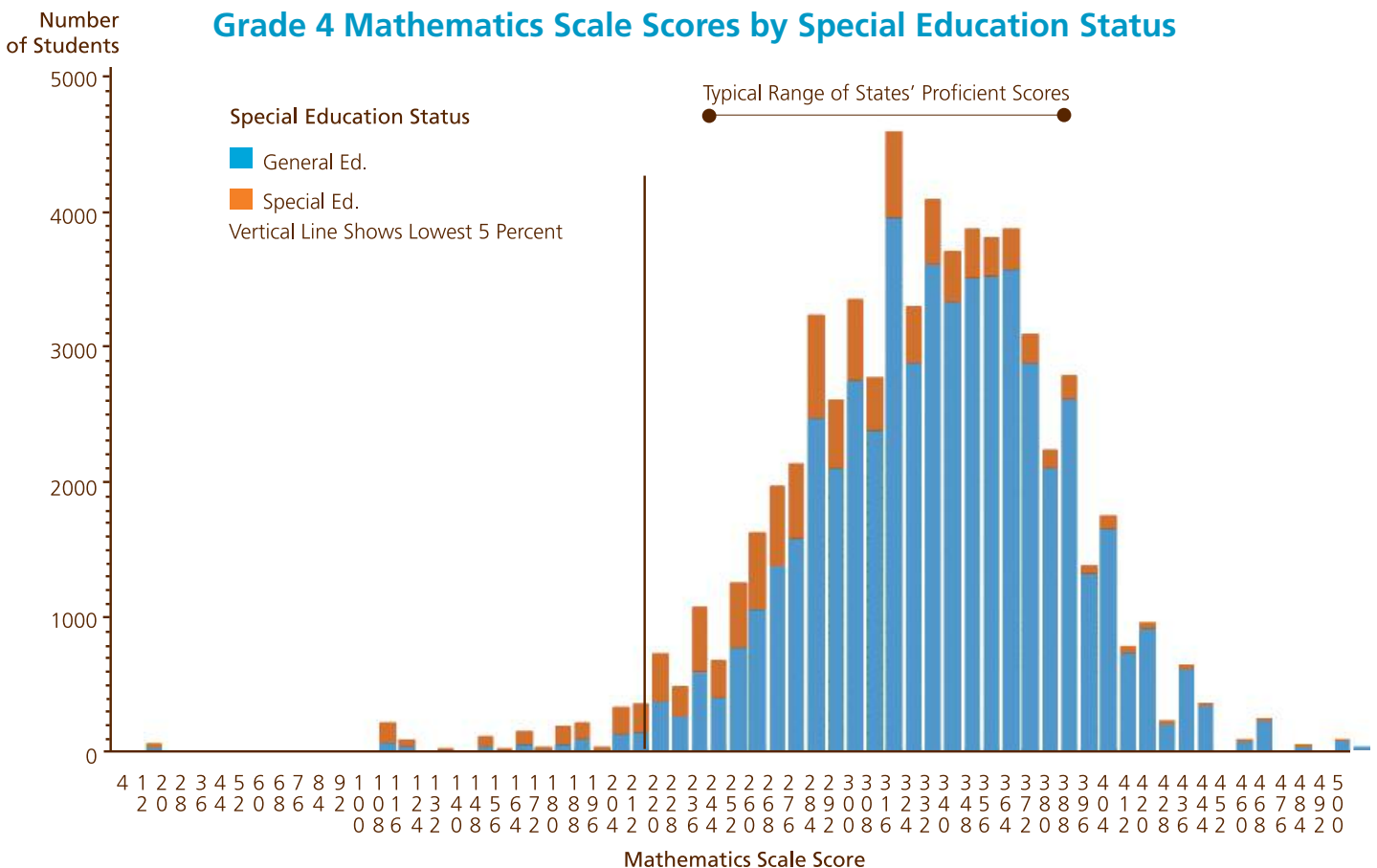
“Students who appropriately meet the eligibility criteria for receipt of special education and related services are, by definition, unable to reach 100% proficiency. If they were able to meet 100% proficiency they would be, by definition, ineligible for special education and related services.”

Source: Washington State Proposal To Ensure Successful Implementation of No Child Left Behind, Nov. 2003



If such an assertion is correct, there should be data to support it. Yet, a look at the distribution of one state’s 4th graders on its state mathematics test clearly showed

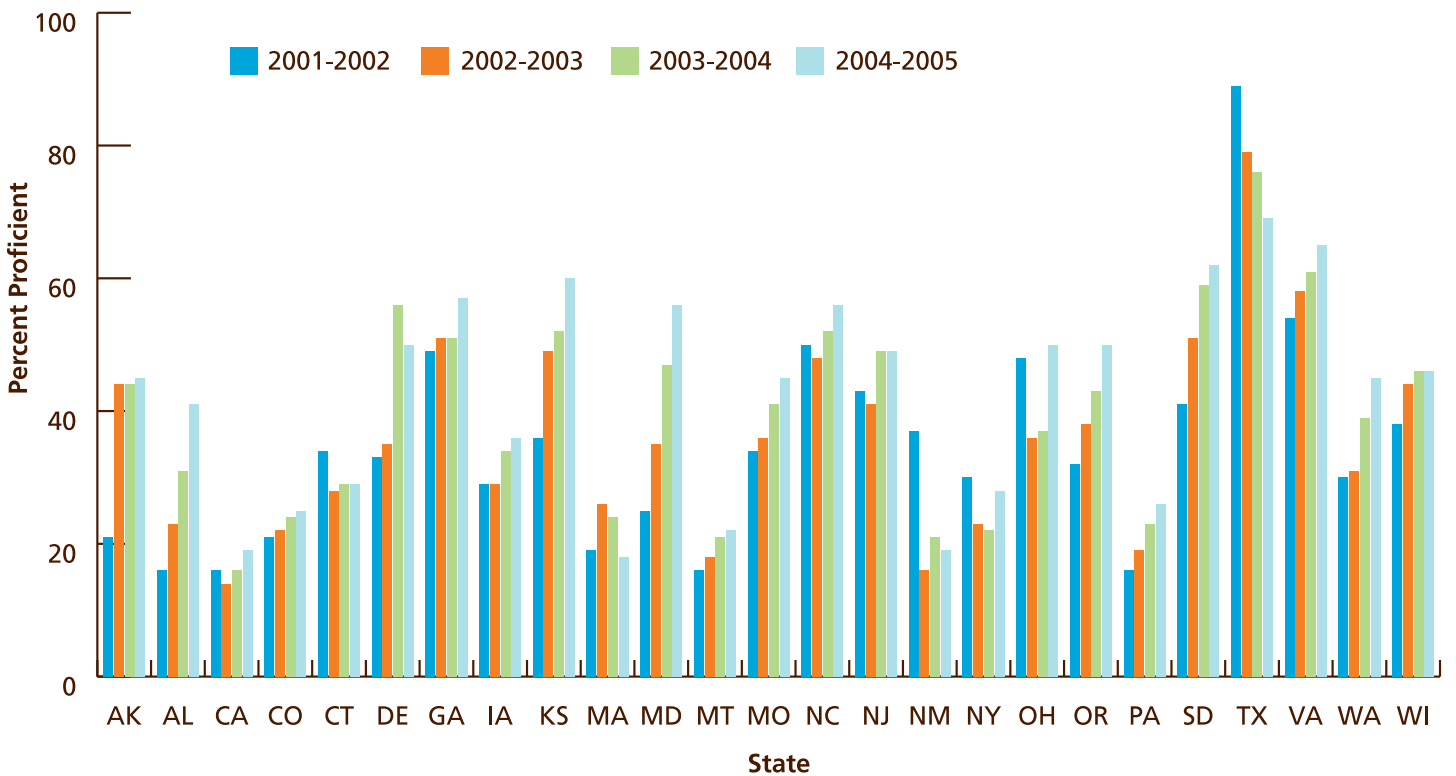
that the scores of students with special education status distributed across the performance range (see chart).



Source: Gong, B. & Simpson, M.A. (2005). “Kids in the Gap?”: Academic Performance and Disability Characteristics of Special Education Students. Dover, NH: Center for Assessment. www.nciea.org

Further evidence of improved achievement is provided by extensive analysis done by the National Center on Educational Outcomes (NCEO) – a federally funded center that monitors the participation of special education students in national and state assessments. NCEO analyzed the performance of special education students for 25 states on regular elementary reading assessments for the four years from 2001-2002 through 2004-2005 (see table). In 2001-2002, these states had an average proficiency rate of 34 percent. That proficiency rate improved to 43 percent in 2004-2005. Five states – Alaska, Alabama, Kansas, Maryland, and South Dakota, saw improvements of more than 20 percentage points in the number of special education students achieving proficiency on the state’s regular assessment – the same assessment taken by all students.

Four Year Performance Trends for Students with Disabilities on Elementary Reading Assessments (2001-2002 to 2004-2005)



Source: National Center on Educational Outcomes (NCEO)



Limiting Accountability: Minimum Subgroup Size

While the participation requirements of NCLB have clearly resulted in drastic improvements in the rate at which students receiving special education are included in state assessments, accountability for their proficiency on the assessments is another matter. In many states school accountability for the performance of these students has been greatly compromised by the adoption of a minimum subgroup size that excludes far too many schools from AYP responsibility for the required subgroups.

Minimum subgroup size, frequently called “minimum-n” or simply “N-size”, refers to the minimum number of students within each subgroup a school or district must contain across the grades assessed before the requirement to achieve AYP for the subgroup is required. In other words, if a school (or district) does not have the minimum number of students for a subgroup, that subgroup is treated as meeting AYP for the purposes of determining whether the school (or district) met AYP.

States submit a proposed “N-size” as part of their NCLB Accountability Plan to the U.S. Department of Education for approval. Guidelines for establishing the “N-size” are articulated in current NCLB as a number large enough to yield statistically reliable information and protect personally identifiable information about an individual student. Such requirements would suggest that an acceptable “N-size” would, in fact, be quite low. In turn, a low “N-size” would hold most schools in a state accountable for the performance of important subgroups of students.

However, several studies have shown that many states have received approval to use a “N-size” that results in large percentages of schools escaping accountability for student subgroups. Many states have requested increases to their subgroup size over the first years of NCLB implementation – 13 states in 2004, 10 states in 2005, and 4 states in 2006. Some states requested – and gained approval for – a subgroup size that is larger for special education students than for the other required subgroups.

“N-sizes” currently in use range from 5 to 100 and the average is 40. Yet a 2005 study of five geographically representative states conducted by the Center for Assessment determined that, once a state’s “N-size” reaches 20 or 30 students, significant percentages of special education students are not accounted for as a separate subgroup in AYP determinations.

Percent of special education students excluded from separate subgroup accountability by minimum cell sizes.

State	Minimum Cell Size					
	10	20	30	60	80	100
1	10.3%	38.5%	49.6%	86.2%	97.7%	97.7%
2	18.5%	54.1%	75.7%	98.6%	98.9%	100.0%
3	10.7%	41.2%	73.7%	99.1%	100.0%	100.0%
4	8.7%	20.7%	31.6%	72.4%	79.7%	87.0%
5	1.5%	6.9%	20.3%	67.5%	79.9%	87.5%

Source: Simpson, M.A., Gong, B., & Marion, S. (2006). Effect of minimum cell sizes and confidence interval sizes for special education subgroups on school-level AYP determinations (NCEO Synthesis Report 61)

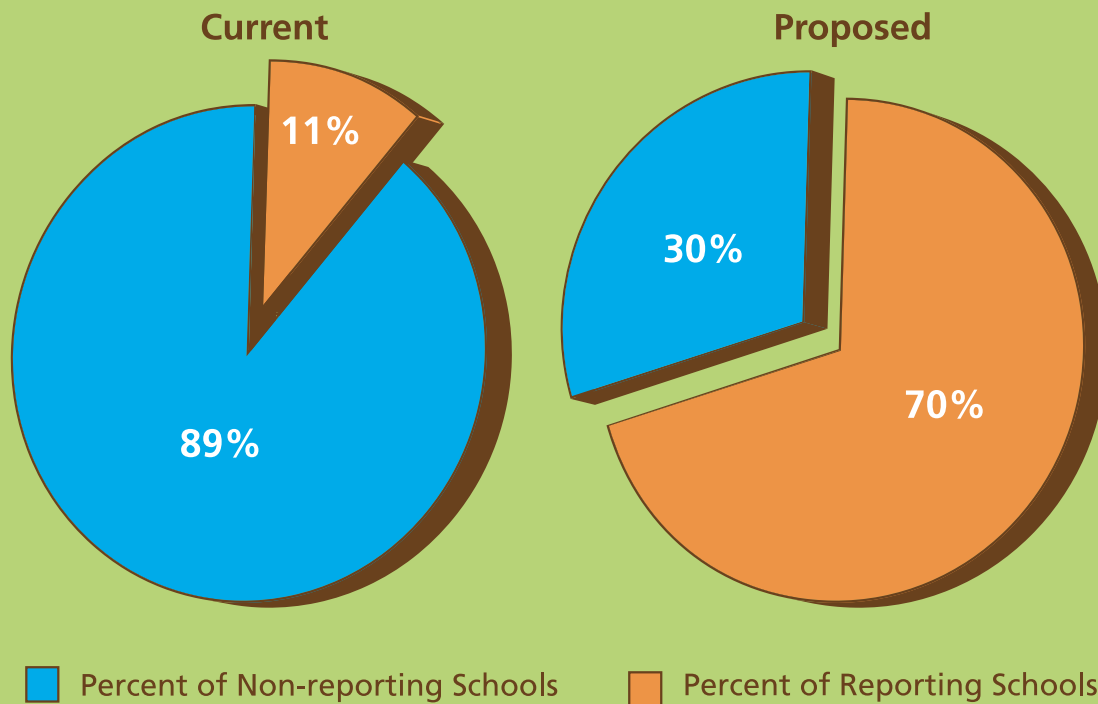
A Closer Look: California's "N-Size"

Further evidence of the use of large "N-sizes" to minimize school accountability was uncovered by the Commission on No Child Left Behind. In May 2006 the Commission issued a research report which indicated that only 11 percent of the schools in California - the state that educates a full 10 percent of all public school students in the U.S. - were required to achieve AYP for the subgroup of students with special education status in the 2004-2005 school year.

California has an "N-size" that combines percentages and minimum numbers. Specifically, the "N-size" is 100 students in the grades assessed in a school or 50 students in the grades assessed in a school if the subgroup population is at least 15 percent of the total school enrollment. At this level, it is unlikely that many schools would have enough special education students to be held accountable. In fact, a mere 11 percent of California schools need to achieve AYP for special education students.

In a subsequent report, the Commission calculated the impact of a change in California's "N-size" from its current formula to the Commission's recommended "N-size" of no more than 20 students. The report showed that 38,165 more special education students would be included in the accountability system and 5,574 more schools would be held accountable for the achievement of these students. This is a six-fold increase in the number of schools held accountable for special education students (see charts below).

Percent of California Schools Reporting Performance of Special Education Students - Current N-size vs. proposed N-size



A School District Perspective: North East Independent School District

By Judith Higgins Moening, Executive Director, Special Education



North East Independent School District in San Antonio, Texas is a large (63,000 students) urban/suburban district. We have traditionally been a high performing school district under the state accountability system. Along the path to achieving that high performance, the district placed more and

more students in special education and served many/most of those students outside of the general education setting. This path began to change five years ago when the district set out to move students with disabilities back into the general education setting and began to look closely at which students were assigned to special education. The impetus for some of these changes came from the state of Texas looking closely at data and beginning to rate districts on best practice indicators. Parents were a large impetus for change as they began requesting general education placement regardless of the nature or degree of disability of their child.

Our first challenge was addressing instructional placement. Over a two year period through professional development activities, through data reports sent to campus administrators and through hard conversations on campuses we were able to reduce the percentage of students with special needs who were served outside of general education. We changed from a high of 35 percent of students removed from general education — for at least half of the school day — to increasing our inclusion ratio to 78 percent of students served in general education for most of the day. This change occurred over a two year period and has continued for the next three years. Today, 89 percent of IDEA eligible students spend over 60 percent of their school day alongside general education peers. Along with a move toward more inclusive services, we have reduced the percentage of students identified as needing special education from a high of 18 percent of the population to the cur-

rent 11.5 percent. During this same time period, No Child Left Behind has become part of our accountability picture. The move toward general education instruction has supported our accountability efforts; however, we have struggled with the performance of special needs students. In the school year 2004-05 North East ISD was faced with four campuses which were academically unacceptable under the state accountability system as a result of the performance of students in special education. These four schools, along with six others, also failed to make AYP, again due to the performance of special education students. In 2005-06, we developed a process called “Data Coaching” in which the central office staff worked with each individual school campus to review state test results along with benchmark scores to ensure that students with disabilities, students who were English language learners and any other student at risk of failure received the intervention necessary to insure success. The results for 2005-06 indicated that the process had been successful.

The district was considered “*Recognized*” under the state accountability system and all school campuses made AYP — a rating that requires a minimum of 75 percent proficiency in all subjects tested. Data review for the year found that 98.5 percent of all students were tested on grade level in reading and 98 percent on grade level in math. Special education students posted strong gains on both the alternative tests and the general education tests.

The district is still reviewing data from the 2006-07 accountability report. However, initial review indicates that 99.6 percent of all students were tested on grade level in reading. Special education students again have performed well on both the alternative and general education tests. At this time we believe that all schools will make AYP.

Our district believes that the changes we have made over the past few years have improved services and outcomes for students with disabilities. We have seen school campuses grow both in their belief that students can achieve and in their skills at making that happen. No Child Left Behind has been a positive force for us. It has made a difference for this district.

Road Ahead

While 14 percent of U.S. elementary and secondary public school students are designated eligible for special education, these students are – first and foremost – general education students. As the President’s Commission on Excellence in Special Education found in its comprehensive 2002 report, *A NEW ERA: Revitalizing Special Education for Children and their Families*

“Children placed in special education are general education children first. Despite this basic fact, educators and policy-makers think about the two systems as separate and tally the cost of special education as a separate program, not as additional services with resultant add-on expense. In such a system, children with disabilities are often treated, not as children who are members of general education and whose special instructional needs can be met with scientifically based approaches, they are considered separately with unique costs—creating incentives for misidentification and academic isolation—preventing the pooling of all available resources to aid learning. General education and special education share responsibilities for children with disabilities. They are not separable at any level—cost, instruction, or even identification.”

As Congress works to update and refine NCLB, great care must be taken to maintain the accountability of special education students so that they may continue to experience rewards. Where roadblocks exist, equitable solutions can be forged. Separate systems serve no purpose, are open to abuse, and achieve less than acceptable results. Unifying and leveraging all available resources and raising expectations for all students can lead to significant improvement and close the achievement gap.



Recommendations to the U.S. Congress for the Reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA) as amended by No Child Left Behind

The National Center for Learning Disabilities urges Congress to consider the following recommendations in the reauthorization of ESEA:

1. Maintain requirements regarding Adequate Yearly Progress (AYP) for all students.
2. Infuse 'evidence-based intervention models' (commonly referred to as Response to Intervention) throughout ESEA to improve access to early intervention, early identification and improved behavior and academic outcomes for students most at risk.
3. Allow for the addition of a growth model factor to the existing AYP determination procedure for all students.
4. Require states to develop the capacity to build data systems and other infrastructure necessary to include student growth as a part of ESEA accountability.
5. Add a requirement that every state undergo a federal review of assessment accommodations guidelines.
6. Require all states to use an N-size of no greater than 20 for all categories of student groups in AYP determinations.
7. Require all states to use a confidence interval of 99 percent in calculating AYP for all categories of student groups in AYP determinations.
8. Include a provision that confidence intervals shall not be permitted in growth model factors.
9. Do not include any aspects of the ESEA regulations regarding alternate assessment options based on alternate or modified achievement standards.
10. Provide states with incentives to develop alternate assessments aligned to grade-level academic content and achievement standards. Such assessments should be available to all students.
11. Clarify that students to be reported in the student subgroup of "students with disabilities" must be students currently eligible for services under IDEA and have a current Individualized Education Program (IEP) in effect, as required by IDEA.
12. Codify current Title I regulations that require schools to use the student's results from the first administration of the state assessment to determine AYP to prevent repeated re-testing from occurring.
13. Require all states to adopt the National Governors Association (NGA) compact on graduation rate, disaggregate graduation rate and elementary school indicator data and use this disaggregated data for AYP determinations. Additionally, require all states to set goals for improving graduation rates and elementary school indicator by subgroup at the state, school district and school levels.
14. Replace current requirement for Title I schools "in need of improvement" status to provide opportunities for all students to transfer to another school within the district with robust requirements for the implementation of evidence-based school reform activities such as evidence-based intervention models that include positive behavior intervention supports.
15. Maintain requirements in Early Reading First to allow the use of screening assessments to effectively identify preschool age children who may be at risk for reading failure.

Appendix A

Special Education Students, Percent to Total Enrollment and Percent of Change by State

State	Number of Students Receiving Special Education Services (Ages 3-21) 2003-2004	Percent of Total Enrollment Receiving Special Education Services 2003-2004	Percent of Change in Number of Students Receiving Special Education Services 1990-91 to 2003-2004
United States	6,633,902	13.7	38.5
Alabama	93,056	12.7	-1.6
Alaska	17,959	13.4	24.8
Arizona	112,125	11.1	98.0
Arkansas	66,793	14.7	41.5
California	675,763	10.5	44.3
Colorado	82,447	10.9	46.3
Connecticut	73,952	12.8	15.8
Delaware	18,417	15.7	29.6
District of Columbia	13,242	17.0	110.5
Florida	397,758	15.4	69.6
Georgia	190,948	12.5	87.6
Hawaii	23,266	12.7	83.1
Idaho	29,092	11.5	34.0
Illinois	318,111	15.1	34.8
Indiana	171,896	17.0	52.2
Iowa	73,717	15.3	23.3
Kansas	65,139	13.8	45.4
Kentucky	103,783	15.6	31.6
Louisiana	101,933	14.0	40.0
Maine	37,784	18.7	35.0
Maryland	113,865	13.1	29.4
Massachusetts	159,042	16.2	6.2
Michigan	238,292	13.6	43.1
Minnesota	114,193	13.5	44.5
Mississippi	66,848	13.5	9.8
Missouri	143,593	15.9	41.9
Montana	19,435	13.1	14.6
Nebraska	44,561	15.6	37.9

Nevada	45,201	11.7	149.7
New Hampshire	31,311	15.1	64.4
New Jersey	241,272	17.5	34.9
New Mexico	51,814	16.0	43.9
New York	442,665	15.5	44.0
North Carolina	193,956	14.3	57.8
North Dakota	14,044	13.7	14.2
Ohio	253,878	13.8	23.6
Oklahoma	93,045	14.9	42.1
Oregon	76,083	13.8	39.8
Pennsylvania	273,259	15.0	27.5
Rhode Island	32,223	20.2	56.1
South Carolina	111,077	15.9	43.6
South Dakota	17,760	14.1	20.6
Tennessee	122,627	13.1	17.0
Texas	506,771	11.7	47.1
Utah	57,745	11.6	23.9
Vermont	13,670	13.8	12.4
Virginia	172,788	14.5	54.2
Washington	123,673	12.1	48.0
West Virginia	50,772	18.1	19.7
Wisconsin	127,828	14.5	49.2
Wyoming	13,430	15.4	23.8
Bureau of Indian Affairs	8,343	18.2	19.2
Other jurisdictions	83,948	12.7	115.3
American Samoa	1,135	7.1	212.7
Guam	2,460	7.8	40.6
Northern Marianas	669	5.9	62.8
Palau			
Puerto Rico	77,932	13.3	121.8
Virgin Islands	1,752	9.9	31.4

Source: Table 52, NCES Common Core of Data, National Center for Educational Statistics, April 2005.

Our Mission

The National Center for Learning Disabilities works to ensure that the nation's 15 million children, adolescents and adults with learning disabilities have every opportunity to succeed in school, work and life. NCLD provides essential information to parents, professionals and individuals with learning disabilities, promotes research and programs to foster effective learning and advocates for policies to protect and strengthen educational rights and opportunities.

For more information, please visit us on the Web at www.LD.org.

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