

Identifying School Districts *for Improvement and* Corrective Action

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UNDER THE NO CHILD LEFT BEHIND ACT

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Much attention has been devoted to the effects of the No Child Left Behind Act (NCLB) on schools. Schools that have been identified as “in need of improvement” under the NCLB accountability provisions are at work implementing the actions required by the law, such as offering public school choice and tutoring and developing school improvement plans. However, now states are confronting the additional responsibility of identifying school *districts* for improvement.

While NCLB’s predecessor, the Improving America’s Schools Act (IASA), required states to determine whether districts were making adequate yearly progress (AYP) and were in need of improvement, IASA gave states considerable leeway in how they did so. The rules for determining district AYP and identifying them for improvement are much more prescriptive under NCLB, and the consequences of being identified are greater. Issues surrounding district identification are now being taken more seriously by many education leaders, as the effects of district accountability under NCLB are starting to be felt. This report by the Center on Education Policy (CEP) is intended to help clarify how districts are identified for improvement, and what happens when they are.

Main Findings

We reached three main findings about district improvement:

- **NCLB has major consequences for districts.** Districts identified for improvement must develop improvement plans, and non-regulatory guidance from the U.S. Department of Education (USED) prohibits these identified districts from directly providing supplemental education services (tutoring) to their students, which some districts are finding problematic. Districts that fail to exit improvement status are subject to corrective action, which may include allowing students to go to school in another district. Restructuring or abolishing school districts is also possible.
- **Even so, NCLB allows states more flexibility in dealing with districts than with schools.** States have more options for dealing with districts in improvement than with schools, as long as the actions chosen are consistent with state law. Moreover, public school choice and eventual restructuring are not mandatory for districts, as they are for schools.
- **States appear to be looking for ways to identify fewer districts for improvement.** Many states have opted for the “grade span” method of identifying districts, whereby a district divides its students into separate grade spans—elementary, middle, and high school—and is identified for improvement only when *all* grade spans do not make AYP in the same subject for two years in a row.

Timeline for District Improvement

Most states were slower in determining AYP for districts than for schools. This was because many states were already making AYP and improvement determinations for schools under the Improving America's Schools Act. While part of that prior law did call for states to determine district AYP and identify districts for improvement, states were given considerable leeway, and few districts were identified. The requirements of NCLB are much more prescriptive and allow for less variation across states. The timeline for a district that has not made AYP since the inception of NCLB is:

- 2002-03 – District did not make AYP
- 2003-04 – District did not make AYP for second consecutive year
- 2004-05 – District is in first year of improvement
- 2005-06 – District is in second year of improvement and by the end of the school year, the state must institute corrective action

If the district makes AYP for one year after being identified (2004-05 or 2005-06 in the sample timeline above), the state can suspend corrective action. If the district makes AYP for two consecutive years, it exits improvement or corrective action status.

Table 1 compares the sequence of actions taken for schools and districts that consistently do not make AYP. The processes are similar, but districts do not enter a mandatory restructuring phase.

TABLE 1 ■ COMPARISON OF NCLB REQUIREMENTS FOR IDENTIFIED SCHOOLS AND DISTRICTS

SCHOOL YEAR AFTER BEING IDENTIFIED (AFTER NOT MAKING AYP FOR TWO CONSECUTIVE YEARS)	SCHOOLS	DISTRICTS
1ST YEAR	<ul style="list-style-type: none"> • Identified as <i>in need of improvement</i> • Develop improvement plan that addresses reasons for not making AYP • Offer students public school choice until school exits improvement 	<ul style="list-style-type: none"> • Identified as <i>in need of improvement</i> • Develop improvement plan that addresses reasons for not making AYP • Can no longer be a direct provider of supplemental education services (tutoring) to its students
2ND YEAR	<ul style="list-style-type: none"> • Implement school improvement plan • Continue to offer public school choice • Offer students supplemental education services until school exits improvement • By end of school year, district must implement <i>corrective action</i>, which may include replacing school staff, instituting new curriculum, decreasing management authority at school level, extending the school year or day, bringing in outside experts 	<ul style="list-style-type: none"> • Implement district improvement plan • By end of school year, state must implement <i>corrective action</i>, which may include deferring program funds, instituting new curriculum, replacing district personnel, allowing students to attend school in another district, appointing new administrators, abolishing or restructuring the district
3RD YEAR	<ul style="list-style-type: none"> • Continue to offer choice and supplemental education services • Implement <i>corrective action</i> 	<ul style="list-style-type: none"> • Implement <i>corrective action</i>
4TH YEAR	<ul style="list-style-type: none"> • Enter <i>restructuring</i> • Continue to offer choice and supplemental education services • District must develop and implement a 2-year plan which can include reopening the school as a charter school, making significant staff changes, turning school over to state education agency or private firm 	<ul style="list-style-type: none"> • Implement <i>corrective action</i>
5TH YEAR	<ul style="list-style-type: none"> • Implement school restructuring • Public school choice and supplemental education services must continue to be provided 	<ul style="list-style-type: none"> • Implement <i>corrective action</i>

The next sections go through the sequence for determining AYP, district improvement, and corrective actions.

Variation Across States

According to a survey administered by the Center on Education Policy in the fall of 2004, 36 of the 48 states that responded indicated that at least one district in their state did not make AYP. Only one state responded that all of its districts made AYP. Another 11 states were in the process of determining district AYP, and one did not answer the question.

States vary in the number of districts that were identified for improvement as of the start of the 2004–05 school year. When asked how many districts were in improvement, 32 states provided specific numbers. Of those, almost half reported that 10% or less of their districts were identified, with the rest of the states showing a wide variety of results (see Table 2).

TABLE 2 ■ NUMBER OF STATES WITH VARIOUS PERCENTAGES OF DISTRICTS IN IMPROVEMENT

PERCENTAGE OF DISTRICTS IN IMPROVEMENT	NUMBER OF STATES
0-10%	15
11-25%	4
26-50%	7
51-75%	3
76-90%	2
91-100%	1

As with schools, USED allows states some flexibility in deciding how districts make AYP and how they are identified for improvement, so the process varies from state to state. Unfortunately, the methods that states have chosen to use to identify districts are not explicitly spelled out in most states’ accountability plans. CEP contacted a few state education agencies for explanations of their district identification processes.

How Do Districts Make Adequate Yearly Progress?

The process of determining whether districts make AYP is similar to the process for schools. State education agencies make the determination based on percentages of students scoring at proficient levels on the statewide test, test participation rates, and other academic indicators, matched against the targets outlined in the states' accountability plans. If all of the targets are met, the district has made AYP. All schools in the district are included, not just those that receive Title I funds. The most challenging requirement of the law is that schools and districts must make AYP in reading and math for each of a number of student subgroups, including low-income students, limited English proficient students, students with disabilities, and students in major racial and ethnic subgroups.

Most states aggregate district data as if the district were one big school—in other words, data from all grades are combined, and then the state determines if the district as a whole and all subgroups met test participation, proficiency, or “safe harbor” targets. (In a “safe harbor” situation, a school or district makes AYP if it misses its proficiency targets but still reduces the number of students who scored below the proficient level by 10% and also meets graduation and other academic indicators.) If students as a whole or any subgroups—even one subgroup—do not meet the targets, then the district does not make AYP.

One interesting twist is that it is possible for a district to fail to make AYP even if all its schools make AYP, because the district is held accountable for subgroups too small to be counted at the school level. NCLB calls for states to set a minimum size for a subgroup to be counted in AYP calculations because group averages tend to be particularly unstable from year to year when the group is small. Most states have set a minimum subgroup size of between 30 and 50 students. For example, in a state with a minimum subgroup size of 40, each of the schools in a certain district may have fewer than 40 low-income students combined across the grade levels tested. These schools would not be accountable for the low-income students' subgroup, and if they meet their targets would make AYP. However, when all the student scores are aggregated at the district level, it is more likely that the subgroup of low-income students will include at least 40 students and be counted for AYP purposes. If the subgroup did not meet its proficiency targets, then the district does not make AYP. In this way, subgroups that are too small to count at the school level can matter greatly at the district level.

How Are Districts Identified for Improvement?

In most states, a district is identified for improvement if it fails to make AYP for two consecutive years in the same subject area. Being identified for improvement means that concrete actions must be taken to address the reasons the school or district is not making AYP. As with schools, a district can fail to make AYP for several years in a row and still not be identified for improvement, because the subject area (math or reading) in which the district falls short changes from year to year. In other ways, identifying districts for improvement is more complicated than for schools. One factor is how to aggregate student performance data across schools and grade levels within a district.

AGGREGATING DATA ACROSS GRADES

Over the past year, USED allowed many states to amend their accountability plans to identify districts only if they fail to make AYP for two consecutive years *across grade spans*—elementary, middle, and high school. Most states are now using this approach. The district's students are divided into two or three groups, by grade. The district is only identified when *each* grade span fails to make AYP for two years in a row. This is in contrast to previous practice in many states, such as New York, in which districts were treated as one big school; in other words, all tested grades from every school in a district were combined into one large group, and AYP and improvement determinations were made accordingly. Another change that states made is to identify a district for improvement only if it did not make AYP in the same subject area, rather than either subject area, for two years in a row.

North Carolina, for example, requested and was allowed to use the new approach. Previously, a North Carolina district would be identified for improvement if it failed to meet targets in *either* reading or math and in *either* grade span (3–8 and high school) for two consecutive years. So, if a district did not meet its reading target one year in high school, and then did not make its math target in 3–8 the following year, it was identified for improvement. With this year's change, however, North Carolina districts will only be identified if *both* grade spans fail to meet targets in the *same* subject for two years in a row.

Delaware goes one step further. It aggregates its data at the district level in three grade spans—elementary, middle, and high school. It identifies districts for improvement only when they do not meet targets in the same subject area *at all three grade spans* for two consecutive years.

The grade-span change will likely make it easier for districts to stay out of improvement status. For example, a hypothetical district may meet its targets for elementary and middle schools but not for high schools. If the district is treated as “one big school,” the number of high school students who are not proficient might be large enough to result in the district being identified for improvement. However, if treated as three separate grade spans, the district would avoid being identified because its elementary and middle schools made AYP.

TITLE I ISSUE

For most states, districts that receive Title I funds count all their schools—even those schools within the district that do not receive those funds—for determining AYP and improvement status. Indiana, however, has interpreted the law in such a way as to count only Title I schools. The law says, “A state shall annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate yearly progress...” [Section 1116(c)(1)]. In 2004, Indiana made AYP determinations for districts by counting all schools in a district. At the same time, it made a second calculation, based only on Title I schools in the district. For the purposes of identifying schools for improvement, it used the Title I school-derived figures only. If the aggregated data from the Title I schools in a district showed a failure to make AYP for two years in a row in the same subject, then the district was identified for improvement. The rationale for doing so was that once a district is identified for improvement, it must use a portion of its Title I funds to address its shortcomings. Indiana chose to spend its Title I funds only for Title I schools rather than for the district as a whole.

USED recently came out against Indiana’s system of counting only Title I schools when identifying districts for improvement. In a policy letter dated October 6, 2004, the Department, while admitting some anomalous language in the law, stated that “it is clear that district AYP and identification for improvement must be based on all schools in a district, and not on just those schools in the district that receive Title I funds.... we believe NCLB requires a State to consider the progress of students in all schools in a district.” As of this writing the matter is unresolved.

Consequences for School Districts

District Improvement Plans

As with a school, a district that has been identified for improvement must create an improvement plan, where it essentially tries to address its shortcomings and make AYP on its own. The improvement plan must do the following:

- Incorporate scientifically based research strategies to strengthen the core academic program
- Identify actions appropriate to the reason the district did not make AYP
- Devote 10% of the district's Title I, Part A funds to professional development, but not at the expense of funds used for training teachers to become highly qualified
- Include specific measurable achievement goals and targets for each subgroup
- Include the possibility of extending the school day or year
- Try to involve parents in the improvement process
- Specify responsibilities of the state and district, including the technical assistance to be provided by the state

The improvement plan must be developed within three months after identification and implemented “expeditiously,” but by no later than the start of the next school year. States are expected to provide technical assistance to the districts in developing these plans.

Supplemental Education Services

Under NCLB, schools in the second year of improvement must offer students supplemental services (tutoring). Many districts provide these services to their constituent schools if they meet state requirements to be providers. However, USED has issued non-regulatory guidance stating that if a district is identified as in need of improvement, it can no longer be a provider of supplemental education services (SES). Instead, the services must be provided by organizations and individuals that have been approved by the state as SES providers. A district in school improvement may continue to offer tutoring services, but it may not use Title I funds to provide those services, and it must give parents who were using the district's tutoring services an opportunity to change providers.

Massachusetts and Illinois have asked USED for exceptions to allow the Boston and Chicago school systems to continue to be direct providers of SES. Those districts have found that using outside SES providers for tutoring costs more per pupil than conducting their own tutoring programs, which means that fewer students can be served.

Corrective Action

If a district that was identified for improvement does not make AYP after implementing its own improvement plan, the state comes in with “corrective action.” Parents of children in the district must be informed, and the corrective action instituted by the state must be consistent with state law and include at least one of the following:

- Deferring program funds or reducing administrative funds
- Instituting a new curriculum
- Replacing the district personnel who are relevant to the failure to make adequate yearly progress
- Removing particular schools from the jurisdiction of the district and establishing alternative arrangements for public governance and supervision of these schools
- Appointing or replacing a trustee to administer the district in place of the superintendent and school board
- Abolishing or restructuring the district
- Allowing students to attend a school in another district and providing for their transportation

The state can delay corrective action if the district makes AYP for one year or if the failure to make AYP is due to exceptional circumstances like a natural disaster or an unforeseen shortage of funds in the district. If the district makes AYP for two consecutive years after being identified for improvement, then it exits improvement status. It is apparently left to states to determine what happens when districts continue to remain in corrective action over an extended period; as mentioned above, the law does not specify that continued failure to make AYP will eventually lead to restructuring of districts, as is the case with schools.

Conclusion

District officials have already faced the challenges of dealing with schools identified for improvement, but now they face the possibility of being identified themselves. This means additional pressure to develop district-level improvement plans, losing their authority to provide SES, and possibly being subject to corrective action. NCLB also demands that districts pay very close attention to test scores and the performance of subgroups, just as schools are required to do, but districts are responsible for the performance of subgroups judged too small to provide reliable AYP results at the school level.

In other ways, however, NCLB is more lenient with districts than schools. As discussed above, the law gives considerable leeway to states when deciding appropriate corrective actions. While states can elect to have districts in corrective action offer students school choice or can require districts to undergo restructuring, those are not mandatory steps as they are for schools.

It is still too early to tell what the overall effect of the law will be on districts, since most states will begin to implement corrective action for districts during the 2005-06 school year. In addition, since some states have made changes that appear to make it less likely to identify districts for improvement, other states may hasten to adopt similar policies or other more lenient policies, with USED recognizing the challenges of implementing the law and allowing a certain degree of flexibility. This was the case with other changes allowed by USED earlier this year. (See *Rule Changes Could Help More Schools Meet Test Score Targets for the No Child Left Behind Act*, a paper released by the Center on Education Policy on October 22, 2004.)

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- NCLB has major consequences for school districts that fail to make adequate yearly progress, including prohibiting these districts from directly providing supplemental education services to students
- NCLB allows states more flexibility in dealing with school districts identified for improvement than it does for dealing with schools identified for improvement
- Many states have adopted policies that may result in fewer school districts being identified for improvement