



## A Side-by-Side Comparison of Selected Provisions in Current NCLB Law, NSBA's Recommendations and the House Education & Labor Committee's Discussion Draft – October 2007

Issues		Current Law	NSBA Recommendations*	Discussion Draft
<b>School/District Improvement</b>	<i>Same subgroup identification</i>	Does not address same subgroup identification for school improvement. However, ED interpreted that schools are identified for improvement based on different subgroups missing AYP for 2 consecutive years.	Identify schools for improvement only if the same subgroup missed AYP in the same subject for 2 consecutive years.	Supports NSBA's recommendation.
	<i>School improvement timeline</i>	<p>Identify schools for improvement after missing AYP for 2 years.</p> <p>Schools must offer school choice in the first year of improvement and school choice and supplemental educational services (SES) in the second year.</p> <p>Schools face restructuring (possibly closing, state takeover, charter conversion, staff replacement) after missing AYP for 5 consecutive years.</p>	<p>Support proposed flexibility in criteria for designation and differentiated consequences.</p> <p>Do not mandate "Priority" and "High Priority" labels, allow states to determine the specific label for schools identified.</p>	<p>Identify schools as "Priority School" or "High Priority School" after missing AYP for 2 years based on % of students not proficient.</p> <p>Only "High Priority Schools" must offer choice and SES.</p> <p>Schools face "Redesign" after missing AYP for 6 years; only "High Priority Redesign" schools face possible closing, staff replacement, charter conversion.</p> <p>Districts limit "High Priority Redesign" schools to 10% or 50 schools.</p>

\*NSBA's recommendations comprise our legislative recommendations and comments on the discussion draft.

<b>Issues</b>		<b>Current Law</b>	<b>NSBA Recommendations*</b>	<b>Discussion Draft</b>
<b>School/District Improvement</b>	<i>District improvement</i>	Identify as needing improvement if missing AYP for 2 consecutive years. ED allows districts to be identified based on grade spans.	Retain grade span approach.	Identify for improvement if missing AYP for 2 consecutive years for the same subgroup.
<b>Measuring AYP</b>	<i>N-size</i>	N-size used to ensure validity of test results, no specific restriction on N-size.	Allow school districts to have a larger N-size; allow schools' N-size to increase based on enrollment.	Limit N-size to 30 (N-40 with ED approval) for all states. No difference between school and district N-size.
	<i>Safe harbor</i>	10%	5%	10%
	<i>Participation</i>	95%	90%-95%	95%
	<i>Growth model</i>	Growth measure not allowed for AYP.	Allow measure of student growth from year-to-year for AYP.	Allow measure of student growth for AYP, students must be at proficiency or on a 3-year trajectory to proficiency by 2014.
	<i>Multiple indicators</i>	AYP calculations are primarily determined by test scores on reading and math assessments; allow one other academic indicator (e.g. graduation or writing/attendance).	Support allowable use of multiple indicators for student achievement when determining AYP.  Concerned that local data system and staff capacity does not exist to effectively work with the complexity of the proposed system.	Allow use of multiple indicators of student achievement in addition to state reading and math assessments for AYP.  States can use one or more of these indicators: growth on state science, history, civics and government tests, or writing; increased % of students move from lower proficiency level to higher level; increased % of high school graduates enrolling in degree granting higher ed institutions.

\*NSBA's recommendations comprise our legislative recommendations and comments on the discussion draft.

<b>Issues</b>		<b>Current Law</b>	<b>NSBA Recommendations*</b>	<b>Discussion Draft</b>
<b>Students with Disabilities (SWD)</b>	<i>Testing</i>	Regulations allow 1% of all test takers tested on alternate achievement standards for AYP (must fit “students with the most significant cognitive disabilities”); 2% of all test takers tested on modified achievement standards for AYP (must fit “students with persistent academic disabilities).	IEP team determines what testing is the most appropriate for students with disabilities based on their IEPs, without having to fit into the 1% or 2% definition (cap at 3% of all test takers for AYP purposes).	Codify 1% and 2% rules.  Allow school districts to apply to state to exceed the 2% by another 1%; must show evidence of student population and be approved by ED (1% increase not available after 2009-2010).
	<i>Former SWD</i>	Former SWD are not counted in the subgroup for AYP.	Count former SWD toward the subgroup’s AYP for up to 3 years after they exit special education program.	Support NSBA’s Recommendation.
<b>Students with Limited English Proficiency (LEP)</b>	<i>Testing</i>	Regulations exempt first-year LEP students from AYP determination. After the first year, LEP students must be tested on regular assessments for AYP or on native language assessment or other ED-approved alternate assessments for AYP for up to 3 years.	NSBA is concerned that the draft creates the false expectations that all LEP students will score at proficient level after their second year in U.S. schools. NSBA recommends allowing school officials a 3-year window on a case-by-case basis to set individual (not formula driven) growth targets for counting LEP students in AYP.	Allow states to use English language proficiency test for 2 years while developing valid and reliable assessments such as native language assessment, portfolio or simplified English tests.  Allow LEP students to be tested on native language assessment for AYP for 5 years and an additional 2 years on a case-by-case basis.  Require states with more than 10% of LEP students who share the same language within the state to develop native language assessment for that language group.

\*NSBA’s recommendations comprise our legislative recommendations and comments on the discussion draft.

<b>Issues</b>		<b>Current Law</b>	<b>NSBA Recommendations*</b>	<b>Discussion Draft</b>
<b>Students with Limited English Proficiency (LEP)</b>	<i>Former LEP</i>	Regulations allow former LEP students to be counted in the subgroup's AYP for up to 2 years after exiting program.	Allow former LEP students to be counted in the subgroup's AYP for up to 3 years after exiting program.	Support NSBA's recommendation.
<b>Sanctions</b>	<i>School choice</i>	All students attending schools in need of improvement can transfer; priority goes to lowest achieving students.	Only students who did not reach proficiency and belong to a subgroup that missed AYP should be eligible for transfer.  NSBA recommends schools need only to offer one choice school, not 2 or 3 for transfer.	All students attending schools identified as "High Priority" can transfer; priority goes to lowest achieving students.
	<i>Supplemental educational services (SES)</i>	All low-income students attending schools in need of improvement are eligible for SES.	Only students who did not reach proficiency and belong to a subgroup that missed AYP should be eligible for SES.	All low-income students attending schools identified as "High Priority" are eligible for SES.
	<i>Choice/SES set-aside</i>	Districts must set aside 20% of Title I allocations to provide choice (transportation) and SES.  No provisions regarding when unneeded set-asides can be released for other Title I activities.	States should be authorized to establish a date, not later than December 15, to permit school districts to spend portions of their set-asides from Title I not needed for choice and SES with appropriate parent notification.	Districts must set aside 20% of Title I allocations or 20% of each identified school's allocation for choice and SES.  No provisions regarding when unneeded set-asides can be released.
<b>Funding</b>	<i>Title I funds</i>	Does not contain any funding trigger that provides relief for states and school districts in the event that NCLB is not fully funded.	States can delay implementation of restructuring of schools or school districts in years when Title I funds are not increased by at least \$2.5 billion over previous year's level until fully funded; and when IDEA funds are not increased by \$2 billion over previous year's level.	Does not contain any funding trigger that provides relief for states and school districts in the event that NCLB is not fully funded.

\*NSBA's recommendations comprise our legislative recommendations and comments on the discussion draft.

<b>Issues</b>	<b>Current Law</b>	<b>NSBA Recommendations*</b>	<b>Discussion Draft</b>	
<b>Teacher Quality</b>	<i>Highly qualified teacher (HQT) definition</i>	A teacher is considered highly qualified when she/he holds a bachelor's degree; demonstrates competency in the subject taught (either by holding a major in the subject or by passing a subject content test; and is fully certified.	Allow teachers who can demonstrate effectiveness through value-added measures agreed to locally to be considered highly qualified even though she/he has not met the current definition.	Retain HQT definition in current law.
	<i>Special education teacher (HQT)</i>	Does not offer additional flexibility for special ed teachers to meet HQT requirements.	Allow special ed teachers of multiple core subjects to be considered highly qualified if they have a bachelor's degree and full state special education certification; or via HOUSSE set forth in the IDEA regulations.	Does not offer additional flexibility for special education teachers to meet HQT requirements.
	<i>Social studies teachers (HQT)</i>	Social studies teachers must meet HQT requirements in each of the subjects they teach (civics and government, economics, history, geography).	Streamline the HQT requirement for social studies teachers so that teachers receiving a "broad field" state certification in social studies are considered highly qualified without needing an academic major or passing content tests in each of the subjects.	Does not offer additional flexibility for social studies teachers.
	<i>SES providers (HQT)</i>	Does not stipulate that SES instructors must meet the HQT requirement.	Require SES instructors to meet the same HQT requirement comparable as teachers.	Does not stipulate that SES instructors must meet the HQT requirement.
	<i>Incentive pay</i>	Allow states to use Title II funds to help school districts in developing merit-based performance systems and strategies that provide differential and bonus pay for teachers in high-need academic subjects and in high-poverty schools and districts.	Support federal incentives that can assist states and school districts in recruiting and retaining teachers including through performance and differential pay; recommend maximum flexibility for local districts in developing such a system to qualify for these grants.	Give grants to school districts to provide annual bonuses to "exemplary" teachers and principals who work in high-need schools with an added bonus for teachers who teach a high-need subject.

\*NSBA's recommendations comprise our legislative recommendations and comments on the discussion draft.

<b>Issues</b>	<b>Current Law</b>	<b>NSBA Recommendations*</b>	<b>Discussion Draft</b>	
<b>Teacher Quality</b>	<i>HOUSSE (High Objective Uniform State System of Evaluation)</i>	Does not have any provision that would phase out the use of HOUSSE for veteran teachers to meet the HQT requirement.	Retain the use of HOUSSE for rural school teachers of multiple core subjects, special education teachers of multiple core subjects, teachers who come to the United States from other countries to teach on a temporary basis, and teachers who are hired after moving from another state and those who are rehired by school districts after temporarily leaving the profession or retirement.	Eliminate use of HOUSSE.
	<i>Comparability (the comparability provision is to ensure that Title I schools and non-Title I schools receive equal levels of state and local funding)</i>	Allow school districts to average teachers' salaries across district when determining comparability calculations.	NSBA believes the most reasonable approach to ensure high-poverty schools receive comparable resources as non poverty schools is through federal incentives. A mandate of equalization in expenditures for teacher salaries will prove unworkable, particularly since the discussion draft also prohibits forced or involuntary transfers of teachers and other personnel in order to comply with the proposed requirement.	Must include actual teacher salaries when determining comparability calculations.

\*NSBA's recommendations comprise our legislative recommendations and comments on the discussion draft.

<b>Issues</b>		<b>Current Law</b>	<b>NSBA Recommendations*</b>	<b>Discussion Draft</b>
<b>Graduation Rate</b>	<i>Use of graduation rate for AYP</i>	States can choose to set graduation goals for AYP purposes, does not require disaggregated graduation rate by subgroups for AYP purposes.	Allow states and school districts flexibility regarding growth in graduation rates for each of the subgroups. NSBA is concerned that requiring all subgroups to make the same amount of progress annually ignores each group's unique needs and challenges, particularly for the student group that started out with a very low graduation rate but made significant progress from year to year.	Allow the use of 4- and 5-year graduation rates for AYP.  Require states to disaggregate graduation rates by subgroups when determining AYP.  Require specific progress in graduation rate in each of the subgroups annually to meet AYP.
<b>Local Assessments</b>	<i>Local assessments pilot program</i>	No provision.	Support high quality locally developed assessments; recommend allowing more states to be engaged in developing such assessments.	Allow up to 15 states to establish locally developed assessments with school districts that can be used for AYP purposes in addition to state assessments. Local assessments would be subject to peer review and must be aligned with state standards.
<b>Safe and Drug Free Schools</b>	<i>"Challenge school"</i>	Schools that are labeled "persistently dangerous" must allow students to transfer to another school that is not.  States can define what constitutes a persistently dangerous school.	Oppose extending reporting requirements to include offenses that occur off school grounds.  States should consider school-related crime data based only on incidents that take place on school grounds and result in the school taking disciplinary action against a student.	Eliminate the label of persistently dangerous school and replace it with challenge school.  Expand the type of data and information to be considered by states in determining whether a school should be identified as a challenge school.

\*NSBA's recommendations comprise our legislative recommendations and comments on the discussion draft.

## Proposed School Improvement Timeline in Discussion Draft

<b>Number of Years Missing AYP</b>	<b>Designation</b>
1	None
2	Improvement and Assistance
3	Improvement and Assistance
4	Improvement and Assistance
5	Improvement and Assistance
6	Redesign Planning
7	Redesign Implementation
8	Redesign Implementation

*For additional information, please contact Reginald Felton, director of federal relations at the National School Boards Association at 703-838-6782, or by e-mail at [rfelton@nsba.org](mailto:rfelton@nsba.org).*



### Office of Advocacy

**National School Boards Association** ■ 1680 Duke Street ■ Alexandria, Virginia 22314-3493 ■ (703) 838-6722 ■ Fax: (703) 548-5613  
<http://www.nsba.org/advocacy>