

# LEARNING FIRST ALLIANCE

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## Major Changes to ESEA in the No Child Left Behind Act

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**Educating  
America's  
Children**



## **Major Changes to ESEA in the No Child Left Behind Act January 2002 (revised January 2003)**

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## Introduction

The No Child Left Behind Act builds on the foundation of the Elementary and Secondary Education Act while retaining the prior legislation's basic framework of standards, assessments, and accountability. However, the new Act does make some significant changes in the way schools will go about the business of educating the nation's young people, particularly in regard to increased accountability for states, districts, and schools. In addition, Congress has increased funding for the Elementary and Secondary Act programs by 18 percent for the 2002–03 school year, an increase from \$18.6 to \$22.1 billion.

The No Child Left Behind Act can be a lever to improve student learning, if used thoughtfully by states and districts as part of a comprehensive approach to improvement. To comply with the law, states and districts must now make implementation decisions that have enormous consequences for students. Therefore, it is critical that educators, policy makers, parents, and community members work together to compare these new requirements and opportunities with their current system and to decide how to implement the law to maximize student success.

For this reason, the Learning First Alliance is providing a straightforward summary of key provisions in the new law concerning assessments, accountability, educator quality, reading, and flexibility. We also highlight a few additional changes to the prior law and offer information about the funding provided for all ESEA programs for the 2002-03 school year. Finally, we provide a set of questions that address many of the key implementation opportunities and challenges. We suggest that policy makers, educators, parents, and community members consider these questions in their planning and decision making process.

This paper summarizes only some the most important changes in the law. Readers should consider this document simply as a first step to becoming acquainted with the new legislation. The complete law, regulations, policy papers and detailed summaries are available on the U. S. Department of Education's website, [www.ed.gov](http://www.ed.gov) and at <http://thomas.loc.gov/>. In addition, many Learning First Alliance member organizations have presented their own analyses of the law and regulations on their websites. Links to those websites can be found at [www.learningfirst.org](http://www.learningfirst.org).

## Effective Dates and Regulations

The No Child Left Behind Act was signed into law January 8, 2002 (Public Law 107-110), but complete implementation requires a few additional steps at the federal level.

The Act, which is in effect for six years, includes effective dates for each section:

1. For noncompetitive formula programs, such as Title I, the effective date is July 1, 2002. After that date, new funds must be used in conformity with the new legislation. States and districts may use funds received under the old law in conformity with that statute.
2. For competitive programs, where the Secretary of Education conducts the competitions, the Act will become effective with awards made from FY02 funds.
3. For Impact Aid, the Act becomes effective with the FY02 appropriation.

### **Regulations**

The U. S. Department of Education has issued regulations and guidance related to the Act. Final regulations for standards and assessment were issued on July 5, 2003 and for other issues related to Title I on November 26. The Department has also issued guidance for additional issues contained in Title I, such as the use of supplemental services, as well as on Title II related to Improving Educator Quality, the Comprehensive School Reform program, the Reading First program, and other matters. Some of this guidance is in the form of formal guidance documents and some in the form of letters to chief school officers from the Secretary of Education, the Undersecretary, and the Assistant Secretary for Elementary and Secondary Education. All documents can be found at the U. S. Department of Education websites (both the site specifically devoted to the No Child Left Behind Act and the general website for the Department) that can be accessed at <http://www.ed.gov>. Users of this document are strongly advised to refer to those regulations and guidance for additional information regarding the No Child Left Behind Act.

## **Assessment and Accountability in Title I**

Title I, Part A, Sections 1111 and 1116

Title I, the largest federal program to assist school districts, provides funds to improve the education of children in high poverty schools. Title I revisions in the No Child Left Behind Act build on the earlier law but add additional specificity and requirements, particularly in the areas of assessment and accountability. The new law requires states to develop annual assessments aligned to state standards and to use achievement on these assessments as the primary measure of district and school accountability. The law also requires states to have in place a statewide accountability system that applies to all public schools, including charter schools. This system is intended to ensure that all schools make adequate yearly progress toward having all students proficient in reading and mathematics by 2014. In addition, the law specifies specific rewards for all Title I districts and schools that succeed in making adequate progress as well as corrective actions for those that do not meet expectations.

### ***A. Standards***

As with the prior law, the new Act requires that states have challenging academic content and achievement standards for all students in at least reading/language arts and mathematics. The new law also requires states to have science standards in place beginning with school year 2005–06.

While standards for other subjects are not required, state plans submitted to the U. S. Department of Education must describe strategies for teaching children in Title I schools the same content in the other subjects as other children in the state receive.

### ***B. Assessments***

The new Act builds on prior Title I assessment provisions, adding additional requirements and specificity.

#### 1. General Requirements

First, unlike current law, the new Act requires that states administer assessments and that these assessments be administered to all students in all public schools in the state.

Second, beginning with school year 2005–06, states must assess reading/language arts and mathematics every year from 3<sup>rd</sup> through 8<sup>th</sup> grade, as well as one year in the 10<sup>th</sup>–12<sup>th</sup> grade span. States may obtain a one-year extension in implementing this provision. The law sets out minimum amounts that must be appropriated to help states meet these assessment requirements. For FY 2002, the minimum amount set is \$370 million and for FY 2003, the minimum rises to \$380; the actual appropriation for FY 2002 is \$387 million. If Congress fails to appropriate sufficient funds to assist states in assessment development, states may obtain additional extensions beyond the one year.

Until these new testing requirements go into effect, states must continue to have annual reading/language arts and mathematics assessments in at least one grade in each of the following grade spans: 3–5, 6–9, and 10–12

Beginning with the 2007–08 school year, states must administer a science assessment annually in at least one grade in each of the following grade spans: 3–5, 6–9, and 10–12.

To ensure that students' performance is measured against state standards, states must report scores in terms of proficiency levels rather than as percentile scores. In addition, the Act requires that at least 95 percent of the children enrolled in the state and at least 95 percent of each major subgroup described below participate in the assessments.

The assessments must involve multiple, up-to-date measures of student academic achievement, including measures to assess higher order thinking skills and understanding, and must be designed to report valid and reliable itemized score analyses. The assessments must produce individual student reports that allow parents and educators to

understand and address the student’s specific academic needs in an understandable format and, to the extent practicable, in a language the parent can understand.

## 2. National Assessment of Educational Progress

Beginning with school year 2002–03, every state must participate in the 4<sup>th</sup> and 8<sup>th</sup> grade reading and mathematics sections of the National Assessment of Educational Progress (NAEP) to obtain a national comparison of the rigor of state assessments, provided that the federal government pays the cost of participation. Unlike state assessments, NAEP is only given to a random sample of students in the state.

## 3. Students with Limited English Proficiency

Students with limited English proficiency must be included in the academic assessments administered to other students. Whenever practicable, assessments must be in the language and form most likely to yield accurate data on student achievement. When yearly academic assessments in the student’s native language are not available, the state must make every effort to develop them.

Generally, limited English proficient students who have attended school in the United States (except Puerto Rico) for three consecutive years must be assessed with tests written in English. Districts may, on a case by case basis, allow limited English proficient students an additional two years before they are assessed with tests written in English if the district determines that the student has not reached a level of English proficiency to yield valid information.

Beginning with school year 2002–03, the Act also requires an annual assessment of all limited English proficient children in their English oral language, reading, and writing skills.

### ***C. Accountability***

While the changes to standards and assessments are substantial, the changes in accountability are more far reaching. Some of these requirements apply to all districts and schools while others apply only to districts and schools receiving funds under Title I.

#### 1. State Accountability Requirements

##### *Adequate Yearly Progress*

First, each state must define what constitutes adequate yearly progress in increasing student achievement toward the goal of all students reaching proficient levels on the state assessments by 2014. The state must establish a starting bar or measuring point for the percentage of students who must be at the proficient level, which may be based upon the lowest achieving schools (schools that enroll the lowest scoring 20 percent of students in the state) or lowest achieving demographic subgroup in the state. States must select as their starting point the higher of these two measures. At their discretion, states may set

separate starting points for elementary, middle, and high school students. However, the same starting points will apply to the state as a whole, to each district and school in the state, and to each of the subgroups. Once the starting point(s) and target year are set, the state must “raise the bar” in gradual but equal increments to reach 100 percent of students performing at the proficient level by the target year which must be 2014. The first increase in the percentage of students at the proficient level must occur within two years and increase at least every three years thereafter.

To ensure that children from all groups are making progress, all subgroups, including children from economically disadvantaged families, children with disabilities, children with limited English proficiency, and children from each major racial or ethnic group must reach the starting point plus the incremental gain set each year. Incremental gains must be set so that students as whole and each group individually reaches proficiency within the 12-year period. Achieving those gains for all subgroups constitutes adequate yearly progress for the state. If even one subgroup fails to meet the adequate yearly progress objective, the state fails to meet its adequate yearly progress objective.

The measure of adequate yearly progress also applies to each district and school in the state. . Measurement will be based primarily on the state assessments, but must also include one additional indicator (see below). .

In addition to the assessments, states must also use at least one other academic indicator. For elementary schools, the states may select the indicator. For secondary schools, the indicator is graduation rates. States are free to add additional indicators. However, while these additional indicators may be used to identify more schools in need of improvement, they may not be used to reduce the number or change the schools identified for improvement based on the state assessment.

*Rewards and Sanctions: All Schools and Districts*

Each state must also develop its own system of rewards and sanctions to hold all public schools and districts accountable for making adequate yearly progress. This is because the Act’s specific accountability requirements for school improvement and corrective actions apply only to schools and districts receiving the Title I funds.

*School Improvement and Corrective Action for Schools and Districts receiving Title I Funds*

If a school district receiving Title I funds fails to make adequate yearly progress two years in a row, the state must identify it as a district in need of improvement, require the district to develop an improvement plan, and provide technical assistance.

The new plan must be implemented in the district in the school year immediately following its identification. If the district is still not making adequate yearly progress two years after identification as a district in need, the state must authorize students to transfer to a higher performing school in another district and provide transportation. It must also take at least one of the following actions below:

- Withhold funds;
- Institute new curricula;
- Replace district personnel relevant to the failure;
- Remove particular schools from the jurisdiction of the district and provide alternative governance arrangements;
- Appoint a trustee or receiver to run the district; or
- Abolish or restructure the district.

2. District and School Accountability Requirements

*Adequate Yearly Progress*

Local school districts are responsible for measuring the progress of schools and taking action when Title I schools fail to make adequate yearly progress as defined by the state. As with adequate yearly progress for the state and for districts as a whole, data must be disaggregated by subgroups and all subgroups must meet the adequate yearly progress measure.

However, the Act provides two circumstances in which scores of subgroups do not need to reflect adequate yearly progress. First, if the number of students in any subgroup is too small to yield statistically reliable information or use of results would reveal personally identifiable information, the scores of that subgroup would not need to be considered. States are to set what constitutes the minimum number that will meet this standard.

Second, the Act contains a “safe harbor” for schools in which students overall make adequate yearly progress, but where one or more subgroups fail to make adequate yearly progress. These schools will be deemed to meet the adequate yearly progress requirement if:

- The percentage of students in the subgroup(s) who failed to reach proficient level has declined by at least 10 percent;
- For secondary schools, the targeted increase in graduations was met;
- For elementary schools, progress on the state’s other academic indicator was met; and,
- Progress was also met on any additional indicators adopted by the state.

*Consequences for Failure To Make Progress*

If a school fails to make adequate progress for two consecutive years, it must develop a two-year plan for improvement. In addition, children in the school will be eligible to transfer to other public schools in the district and the district must use an amount equal to up to 5 percent of its Title I funds to pay transportation costs, unless a lesser amount is needed, and may use an amount equal to an additional 10 percent.

If the school does not make adequate progress for a third consecutive year, in the fourth year, in addition to offering a transfer and transportation, the district must make available to low achieving children, supplemental educational services from outside providers approved by the state and selected by the parents. The district must use an amount equal

to 5 percent of its Title I funds to pay for those supplemental services. The district must also use an additional amount equal to 10 percent of its Title I, Part A funds for supplemental services and/or transportation. The total maximum amount to be used for both purposes is capped at 20 percent of the Title I, Part A funds available.

Every state must develop criteria for determining eligible supplemental service providers and establish a statewide list of all eligible providers. Eligible providers must have demonstrated records of effectiveness in increasing student academic achievement, provide information on student progress in a clear and understandable manner for parents, provide services consistent with the schools' instructional programs and applicable academic standards, comply with Federal civil rights laws, and ensure that all instruction and content are secular, neutral, and non-ideological. Nonprofit entities, for-profit entities, and local school districts can be eligible providers. The district must then arrange for the provision of services by eligible providers chosen by parents from within the geographic area. The state must also monitor the effectiveness of the providers and develop procedures for withdrawing approval of providers who are ineffective.

If the school fails to make adequate progress for a fourth consecutive year, in year five the district must implement additional corrective actions, including at least one of the following:

- Replace the school staff who are relevant to the failure;
- Institute and implement a new curriculum, including professional development for staff, that offers substantial promise of improving the achievement of low achieving children;
- Significantly decrease management authority at the school level;
- Appoint an outside expert to advise the school;
- Extend the school year or school day; or
- Restructure the school.

After five years of failing to make progress, in year six the district must develop a plan for significant alternative governance actions, such as allowing state takeover, hiring a private management contractor, or converting to a charter school. The district must implement the plan in year seven.

The Act prohibits extensions of the required date for completion of the accountability and assessment requirements. The Act contains provisions relating to schools identified for school improvement or corrective action under the prior law.

Schools that were in the first year of school improvement during the 2001-02 school year shall be treated as schools that are in that category under No Child Left Behind. Students attending these schools must be offered an opportunity to transfer to other schools in the district, with the district providing necessary transportation.

Schools in school improvement for two or more years prior to enactment of the No Child Left Behind Act will be treated as schools that have failed to make adequate yearly

progress for three consecutive years. Students attending these schools must be offered the option to transfer described above and be offered supplemental services.

Whenever a school identified as in need of improvement makes adequate yearly progress for two consecutive years it will be removed from the category.

### 3. Report Cards

The Act requires that beginning in school year 2002–03, states and districts must issue annual report cards to the public. They may continue to use existing report cards, provided the report cards are modified as necessary to include required information.

#### *State Report Cards*

State report cards must contain at least the following information:

- Aggregate information on student achievement at each proficiency level, as well as data disaggregated by race, ethnicity, gender, disability status, English proficiency, and status as economically disadvantaged;
- A comparison between the actual achievement levels of subgroups of students and the state’s annual measurable objectives on each academic assessment;
- The percentage of students not tested, disaggregated by subgroups;
- The most recent two-year trend in student achievement for each grade and subject area;
- Aggregate information on other indicators the state uses to determine adequate yearly progress;
- Graduation rates for students, disaggregated by subgroup;
- Information on the performance of local districts in making yearly progress, including the number and names of each school identified for school improvement; and
- The professional qualifications of teachers, the percentage of teachers with emergency or provisional credentials, and the percentage of classes not taught by highly qualified teachers in the aggregate and for schools in the top and bottom quartile of poverty in the state.

#### *District Report Cards*

District report cards must include at least the following information:

- The information described above for the state report card as applied to the district and each school:
- The number and percentage of schools identified for school improvement and the length of time the schools have been in that category;
- How students in the district performed on the state academic assessment compared with the state as a whole;
- The schools that have been identified as in need of improvement; and

How students in each school performed on the state academic assessment and other indicators of adequate yearly progress compared with students in the district and the state as a whole.

#### **D. General Title I Provisions**

The Act prohibits extensions of the required date for completion of the accountability and assessment requirements.

If states fail to meet any of the new state plan requirements, the U. S. Department of Education may withhold state administration funds. Moreover, if states have failed to meet the deadlines for developing standards and a system for measuring and monitoring adequate yearly progress as set in the 1994 amendments to ESEA, or any waiver or compliance agreement agreed to by the Secretary, the Department must withhold 25 percent of their state administrative funds until compliance is achieved.

The Act’s accountability requirements and corrective actions do not alter the rights, remedies, and procedures afforded school or district employees under state law or collective bargaining agreements or other agreements between employees and their employers.

For school year 2002–03, Title I, Part A is funded at \$10.35 billion compared to \$8.76 billion in 2001–02. In addition, funding will be more targeted to high need districts than in the past because, for the first time, Congress has appropriated funds for Title I targeted grants and Title I education finance incentive grants. Approximately 20 percent of this fiscal year’s funds will be allocated under new more highly targeted grant formulas.

### **Educator Quality**

Title I, Part A, Section 1119 for accountability provisions and Title II, Part A, Subparts 1-4

The new law addresses educator quality primarily in two ways: through new accountability provisions for qualified teachers and paraprofessionals that are embedded in the Title I accountability provisions and through a revamped Title II grant program that aims to improve teacher quality and increase the number of highly qualified teachers, principals, and vice principals.

#### ***Accountability for Educator Quality***

Each state receiving Title I funds must develop a plan to ensure that all teachers teaching core academic subjects are highly qualified by the end of the 2005–06 school year. The complete definition of “highly qualified” is in Appendix A.

In addition, starting the first day of the 2002–03 school year, teachers hired and teaching in a program supported with Title I, Part A funds must be “highly qualified.” Districts

must use at least 5 percent of their Title I, Part A funds to help teachers become highly qualified.

Districts must also ensure that starting the first day of the 2002–03 school year all paraprofessionals hired and working in a program supported with Title I, Part A funds have completed at least two years of college or otherwise meet a rigorous state or local standard of quality and demonstrate knowledge of and ability to assist in the instruction of reading, writing, and mathematics through a formal state or local academic assessment. Existing paraprofessionals must meet this standard within four years. The Act also specifies the tasks that paraprofessionals may perform. The qualifications and duties of paraprofessionals are described in Appendix B.

As part of their responsibilities under Title II, states must provide technical assistance to districts in the development and implementation of their plans and to review annual reports from districts regarding their progress toward meeting plan goals. If, after three years, the state finds that a local district has failed to make progress toward meeting its goals and has also failed, for three consecutive years, to make adequate yearly progress under Title I, the district must enter into an agreement with the state on the use of the district’s Title II funds. Moreover, the district will be unable to hire additional paraprofessionals unless specified exceptions exist, such as the need to replace existing paraprofessionals.

Teachers in charter schools are exempt from some of these requirements.

### ***Title II: Improving Educator Quality***

Title II Preparing, Training, and Recruiting High Quality Teachers and Principals essentially combines the Eisenhower Professional Development and the Class Size Reduction Programs. The new program provides districts with more flexibility in the use of funds.

Title II provides funds to states to make sub-grants to local school districts and state agencies of higher education for local projects and for carrying out state level activities. Sixty-five percent of the funds will be allocated to states on a poverty-based formula; the remaining 35 percent will be distributed on the basis of student population. States must allocate 95 percent of their funds to local school districts and 2.5 percent to higher education partnerships. Grants for higher education partnerships are administered by the state higher education agency.

#### *1. State Level Activities*

To receive Title II funds, states must submit a plan that addresses a range of key issues, including how the state will use funds to improve the quality of its teachers and principals.

States may use funds for administration and for one or more of 18 specified activities related to teacher and principal quality. (The Act defines “principal” to include vice principal as well.) Permitted activities include:

- Supporting teacher and principal professional development;
- Reforming teacher and principal certification requirements;
- Developing alternative routes to state certification;
- Assisting local districts in recruiting and retaining highly qualified teachers and principals;
- Reforming tenure systems;
- Developing means to measure the effectiveness of professional development activities;
- Helping teachers meet certification and licensure requirements;
- Helping teachers use state standards and assessments to improve instruction and student achievement; and
- Training educators in integrating technology into instruction.

States may carry out these activities themselves or through grants or contracts with nonprofit or for-profit organizations.

States are also responsible for allocating funds to local school districts. Eighty percent of the funds will be allocated based on poverty and 20 percent based on student enrollment.

## *2. Local Level Activities*

To receive Title II funds from the state, districts must submit a plan that addresses a range of key issues, including a description of the professional development that will be made available to teachers and principals.

Districts may use funds for one or more of 10 permitted activities. Permitted activities include:

- Hiring highly qualified teachers;
- Providing professional development for teachers, principals, and paraprofessionals;
- Developing and implementing means to recruit and retain highly qualified teachers, principals, and pupil services personnel;
- Reforming tenure systems
- Providing merit pay
- Testing teachers in their subject areas;
- Establishing innovative professional development programs which may include partnerships with institutions of higher education;
- Providing professional development on improving classroom behavior and teaching children with different learning styles;

Developing teacher advancement plans to emphasize multiple career paths and pay differentiation; and  
Establishing programs for exemplary teachers.

Funds must be targeted on schools that have the lowest percentage of highly qualified teachers; have the highest average class size; or are identified for school improvement under Title I. Districts may carry out activities on their own or use grants or contracts with for profit or nonprofit organizations.

### *3. Partnership Activities*

State agencies of higher education will award the 2.5 percent of state Title II funds they administer on a competitive basis to partnerships that include a private or state institution of higher education, including its division that prepares teachers and principals, a school of arts and sciences, and a high need local school district. The partnership may also include a wide array of other partners. No single member of a partnership may use more than 50 percent of the grant.

Grants are intended to provide professional development in core academic areas and to develop and provide assistance to local school districts and school officials to bring about sustained, high quality professional development.

### *4. Mathematics and Science Partnerships* Title II, Part B

Title II of the Act also includes a program for mathematics and science partnerships. An eligible partnership is one that includes, at a minimum, an engineering, mathematics, or science department of an institution of higher education and a high need school district. When the appropriated amount is less than \$100 million, the program is administered by the U. S. Department of Education; when it exceeds that amount, funds are allocated to the states for administration.

Permitted activities include:

- Providing professional development for mathematics and science teachers;
- Promoting strong teaching skills for mathematics and science teachers;
- Providing mathematics and science summer workshops;
- Recruiting mathematics, engineering, and science majors into teaching;
- Developing or redesigning more rigorous mathematics and science curricula;
- Establishing distance learning programs for teachers;
- Developing programs to bring mathematics and science teachers into contact with working scientists, mathematicians, and engineers;
- Providing programs for exemplary mathematics and science teachers in K–8 classrooms; and

Establishing programs to encourage young women and underrepresented individuals to pursue mathematics and science careers.

The 2002–03 appropriation for math/science partnerships is \$12.5 million.

For school year 2002–03 Title II state grants for educator quality received \$2.850 billion compared to \$1.623 billion for the Class Size Reduction Act and \$485 million for the Eisenhower Professional Development State Grants in the 2001–02 school year.

## **Reading First**

Title I, Part B

Reading First provides funds to help states and districts implement comprehensive reading instruction grounded in scientifically based reading research for children in grades K–3. The law defines scientifically based reading research as research that applies rigorous, systemic, and objective procedures to obtain valid knowledge. Reading First replaces the existing Reading Excellence Act and is designed to help teachers identify children at risk of reading failure and provide those children with the most effective early instruction to lead to reading proficiency.

### *1. State Actions*

Funds are allocated on a poverty-based formula. Although states must apply to the U. S. Department of Education for funding, every state with a satisfactory application will receive a grant. States may retain up to 20 percent of their allocations to develop and implement professional development for teachers in grades K–3, provide technical assistance, administer the program, and fund eligible, alternative providers of reading instruction chosen by parents. States must use at least 80 percent of the funds to make five-year grants, on a competitive basis, to local school districts, with a priority to school districts with at least 15 percent or 6,500 children from families in poverty.

### *2. Local District Actions*

Funded districts may only serve schools that have a high number or percentage of children in grades K–3 below the poverty line or schools that have a high percentage of children reading below grade level and have been identified for school improvement. Funds may be used to provide a variety of reading-related services to K–3 teachers and children in those schools. Eligible services include identifying students who have difficulty with reading, providing research-based reading instruction, providing professional development for teachers, and expanding access to engaging reading material.

For school year 2002–03, Reading First is funded at \$900 million compared to \$286 million for the Reading Excellence Act in the 2001–02 school year.

*Early Reading First*

Unlike Reading First, funds for Early Reading First are not distributed to states. Rather, local school districts and public and private organizations that serve children ages 3–5 (such as Head Start and family literacy programs) will apply to the federal government for competitive grant funds. Funds may be used for early literacy programs, professional development, and research-based pre-reading language and literacy activities.

For school year 2002–03, Early Reading First is funded at \$75 million.

**21<sup>st</sup> Century Community Learning Centers**

Title IV, Part B

The 21<sup>st</sup> Century Community Learning Centers Program funds before school, after school, and summer school programs to provide academic enrichment and other activities for students, especially those who attend low performing schools. The program also offers families of those students, opportunities for literacy and educational development.

The 21<sup>st</sup> Century program was included in the 1994 amendments to ESEA. However, the program has grown dramatically in the past few years and is given increased attention and prominence in the No Child Left Behind Act.

Under prior law, local districts applied to the federal government for funds. Under the No Child Left Behind Act, however, the U. S. Department of Education will allocate funds to each state and districts will apply to their state for grants. The Act requires the Department to retain sufficient funds for continuations of existing multi-year awards before allocating funds to the states.

*State Activities*

States will receive funding allocations in proportion to the amount of funds they received under Part A of Title I. They may retain 2 percent for state administration and 3 percent for monitoring, evaluating, providing technical assistance and capacity building, and training for applicants and recipients of awards.

The remaining 95 percent of funds will be awarded to eligible applicants on a competitive basis. Grants will be for three to five years, must be at least \$50,000, and may require a match of funds by applicants.

*Local Activities*

The Act expands the categories of organizations eligible for funds. Under prior law only public schools were eligible. Now eligible organizations include local school districts, community based organizations, other public or private entities, or consortia of groups. However, the state must give priority to local districts receiving Title I funds applying in partnership with community based organizations or other private or public entities and to

applicants targeting services for schools identified as in need of improvement under Title I.

Learning Centers may carry out a range of activities designed to advance academic achievement, including remedial and tutoring services; mathematics and science activities; arts education; recreation; technology education; library services; parental involvement and parent literacy; programs for students who have been truant, suspended, or expelled; drug and violence prevention; counseling; and character education.

For school year 2002-03, \$1 billion is appropriated for the 21<sup>st</sup> CCLC Program to fund continuous grants to local grantees as well as new grants to the states.

## Consolidation and Flexibility

### A. Consolidation

The No Child Left Behind Act makes three major program consolidations:

Title II, Part A, dealing with teacher quality, consolidates the Eisenhower Professional Development Program with the Class Size Reduction Program.

Title II, Part D consolidates the existing Technology Literacy Challenge Fund and the National Challenge Grants for Technology programs into one state grant, the State and Local Technology Grant program.

Title III, Language Instruction for Limited English-Proficient and Immigrant Students, consolidates bilingual education and immigrant education into a new, formula-based, state grant program.

### B. Flexibility

Title VI, Part A

The Act contains two major provisions to increase flexibility in the use of funds for grant recipients.

#### 1. *General Flexibility (Transferability)*

States may transfer up to 50 percent of the funds received for state level activities for specified programs among these programs. They may also transfer the funds into Title I Programs included are: Preparing, Training, and Recruiting High Quality Teachers and Principals; Technology; Safe and Drug Free Schools; 21<sup>st</sup> Century Community Learning Centers; and Innovative Programs (formerly Title VI).

Districts may also transfer up to 50 percent of the funds received for local activities for specified programs among Preparing, Training, and Recruiting High Quality Teachers and Principals; Technology; Safe and Drug Free Schools; and Innovative Programs as well as into Title I. Whether and how much local funds are to be transferred is a local

decision. However, if a district is in school improvement, it may only transfer 30 percent of its funds and funds must be used for school improvement. If the district is in corrective action, it loses its ability to transfer funds.

## *2. State Flexibility Demonstration*

Up to seven states and between 4 and 10 local districts in those states can receive additional flexibility in the use of funds under a new state flexibility authority. From those that apply, the Department will select states to enter into performance agreements with the Department. Local districts will enter into similar agreements with the states. Selected states will be permitted to consolidate funds for state level activities and administration, Title I administration, Reading First, Teacher Quality, Technology, Safe and Drug Free Schools, 21<sup>st</sup> Century Community Learning Centers, and Innovative Programs. The trial period is five years. The participating LEAs may consolidate new funds.

Districts in states not participating in the demonstration may apply directly to the Department to participate in the demonstration program. The Department may select up to 3 districts from any state and up to 80 districts in all. The provisions for district participation for local flexibility demonstration are similar to those for participation in the state demonstration described above.

### **C. Other Flexibility Provisions**

Title I, Part A, Section 1114

The law reduces the poverty threshold for eligibility for schoolwide program status under Title I from 50 to 40 percent. Otherwise, the schoolwide project provisions remain essentially the same as prior law. Note that at school level, schoolwide status provides greater flexibility in the use of federal funds than either of the demonstrations described above.

The provisions in prior law to allow states and local districts to consolidate administration funds have been continued, as have the waiver provisions.

## Opportunities Presented by No Child Left Behind: Questions for Discussion

The No Child Left Behind Act presents significant opportunities and challenges for schools, districts, and states working to improve teaching and learning. Given the impact of these legislative changes and the many decisions to be made at every level of our education system about how to implement these new provisions, policy makers, educators, parents, and the community all have a stake and a decision-making role. We encourage members of the Learning First Alliance organizations and others in states and districts to engage in thoughtful, broad-based planning for implementation. As part of this process, we suggest organizations consider the following questions.

1. *Teacher Quality.* The law requires that all teachers meet the law’s definition of “highly qualified” by the end of the 2005–06 school year. In addition, all new teachers teaching in programs supported with Title I funds after the first day of the 2002–03 school year must be “highly qualified.”
  - a. Do districts and schools know which current teachers meet the definition of highly qualified?
  - b. What implications do these requirements have for:
    - i. Teacher recruitment, induction, and retention policies and practices;
    - ii. Teacher and administrator licensure, certification, and renewal requirements;
    - iii. Staff evaluation systems and/or professional growth plans;
    - iv. Criteria for approval of teacher and administrator preparation programs; and
    - v. Class size reduction initiatives.
  - c. How can states and districts develop programs to help teachers meet the new requirements?
  
2. *Assessments.* What can states do to ensure that as they implement new annual assessment requirements, they also work to ensure that their assessment system is an effective tool for both measuring progress toward standards and for improving instruction? In particular, what will states do to ensure that the state system of assessments:
  - a. Is aligned to state academic content standards, achievement standards, state or local curricula, and instructional materials (especially textbooks);
  - b. Does not duplicate local assessments;
  - c. Appropriately assesses students with limited English proficiency and students with disabilities;
  - d. Uses a variety of measurement techniques (including multiple item types) and measures student progress on all aspects of required academic standards, including higher order thinking skills and understanding;

- e. Provides timely and useful information for parents, teachers, policy makers and the public, including valid and reliable itemized score analyses; and
  - f. Minimizes burden on instruction and uses time and resources efficiently and effectively.
3. *Flexibility.* The law provides new flexibility and thus new choices for states and districts in the use of funds. For example, under Title II, Preparing, Training, and Recruiting High Quality Teachers and Educators, the law lists specific permitted activities but allows states and districts to carry out one, some, or all of the activities. Thus, with a few exceptions, a district could choose to use most or all funds for professional development, for class size reduction, or for any other permitted activity. Similarly, the general transfer of funds provision allows states and districts to transfer up to 50 percent of funds received for specified programs among those programs or into Title I. Given these new choices, what processes can states and districts put in place to:
- a. Analyze teaching and learning needs;
  - b. Determine how federal funds can best be used to complement and leverage existing state and local funds; and
  - c. Determine what additional state and local funds are needed to meet new requirements.
4. *Accountability and Assistance.* The law requires a system of rewards and sanctions to be in place for all schools in addition to a specified set of rewards and sanctions for Title I schools. Given these requirements, what will the state/district do to:
- a. Put in place a statewide system of rewards and sanctions for all schools; and
  - b. Assure that state and districts have the capacity to provide assistance to those schools identified as being in need of improvement because they had failed to meet their target goals.
5. *Corrective Action.* Each school year, states must analyze assessment data in order to identify schools in need of improvement and subject to corrective action in the following school year. Districts and schools, as well as the parents of students in those schools, should receive this information as early as possible to permit effective planning for the following school year. To implement these requirements, is the state able to:
- a. Obtain, analyze and communicate assessment results early enough to allow districts, schools and parents to effectively plan for and take advantage of corrective actions, including supplemental services and public school choice;
  - b. Develop criteria for public and private providers of supplemental services and inform districts and schools of approved providers so supplemental services can be provided.

Are districts prepared to:

- a. Fund transportation for eligible students;
  - b. Arrange the provision of supplemental services for eligible students; and
  - c. Implement other required corrective actions.
6. *Adequate Yearly Progress.* The Act requires that adequate yearly progress (AYP) be set for all subgroups so that, by the year 2014, all children in all groups will have attained proficiency. Note that the membership of each group is not discrete a limited English proficiency child may also be economically deprived and/or a child with disabilities, and will therefore be included in each subgroup.
  - a. How will the state ensure that data is collected in a manner that will allow for accurate measure of progress of the various subgroups?
  - b. How will the state and local districts provide technical assistance to schools and districts that fail to make adequate yearly progress for two consecutive years? The is especially crucial since it is expected that a large number of schools will be identified as in need of improvement.

## Appendix A- Definition of Highly Qualified Teacher

From the No Child Left Behind Act, Title IX, Part A, Section 23.

A. When this term is used with respect to any public elementary school or secondary school teacher teaching in a State, it means that:

- i. the teacher has obtained full State certification as a teacher (including certification obtained through alternative routes to certification) or passed the State teacher licensing examination, and holds a license to teach in such State, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law; and
- ii. the teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis.

B. When this term is used with respect to

1. an elementary school teacher who is new to the profession, it means that the teacher:

- i. holds at least a bachelor's degree; and
- ii. has demonstrated, by passing a rigorous State test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of basic elementary school curriculum (which may consist of passing a State-required certification or licensing test or tests in reading, writing, mathematics, and other areas of basic elementary school curriculum); or

2. a middle school or secondary teacher who is new to the profession, means that the teacher holds at least a bachelor's degree and has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by:

- i. Passing a rigorous State academic subject test in each of the academic subjects in which the teacher teaches (which may consist of a passing level of performance on a State-required certification or licensing test or tests in each of the academic subjects in which the teacher teaches); or
- ii. successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an academic major, or advanced certification of credentialing; and

C. When this term is used with respect to an elementary, middle, or secondary school teacher who is not new to the profession, it means that the teacher holds at least a bachelor's degree and:

- i. has met the applicable standard in clause (1) or (2) of subparagraph (B), which includes an option for at test; or
- ii. demonstrates competence in all the academic subjects in which the teacher teaches based on a high objective uniform State standard of evaluation that-
  - a. is set by the State for both grade appropriate academic subject matter knowledge and teaching skills;

- b. is aligned with challenging State academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;
- c. provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches;
- d. is applied uniformly to all teachers in the same academic subject and the same grade level throughout the State;
- e. takes into consideration, but not be based primarily on, the time the teacher has been teaching in the academic subject;
- f. is made available to the public upon request; and
- g. may involve multiple, objective measures of teacher competency.

## Appendix B – Qualifications and Duties of Paraprofessionals

### *Qualifications*

Paraprofessionals hired with Title I funds after the effective date of the Act shall have

Completed at least two years of study at an institution of higher education;  
Obtained an associate's or higher degree; or  
Met a rigorous standard of quality and can demonstrate through a formal state or local academic assessment the knowledge of and ability to assist in the instruction of reading, writing, and mathematics or the instruction in readiness for these subjects. Paraprofessionals qualifying under this criterion must have a high school diploma or equivalent as a prerequisite.

Existing paraprofessionals have four years to meet this standard. Exception is made for paraprofessionals who serve primarily as translators or who solely conduct parent involvement activities.

All paraprofessionals, regardless of hiring date, must have earned a secondary school diploma or its equivalent.

### *Duties*

Paraprofessionals may

Provide one on one tutoring;  
Assist with classroom management;  
Provide assistance in a computer laboratory;  
Provide support in a library or media center;  
Act as a translator; or  
Provide instructional services while working under the direct supervision of a teacher.

**Appendix C.**

**FY2002 Appropriations for ESEA Programs as ammended by No Child Left Behind\***

	2002 Appropriation
<b>Education for the Disadvantaged</b>	
1. Grants to local educational agencies (ESEA I-A):	
(a) Basic grants (section 1124).....	7,172,971
(b) Concentration grants (section 1124A).....	1,365,031
(c) Targeted grants (section 1125).....	1,018,499
(d) Education finance incentive grants (1125A).....	793,499
3. Even Start (ESEA I-B-3).....	250,000
4. Reading First	
(a) Reading First state grants (ESEA I-B-1).....	900,000
(b) Early Reading First (ESEA I-B-2).....	75,000
5. Literacy through school libraries (ESEA I-B-4).....	12,500
6. State agency programs:	
(a) Migrant (ESEA I-C).....	396,000
(b) Neglected and delinquent (ESEA I-D).....	48,000
7. Evaluation (ESEA sections 1501 and 1503).....	8,900
8. Comprehensive school reform (ESEA section 1502) <sup>1</sup> .....	235,000
9. Dropout prevention programs (ESEA I-H).....	10,000
10. Close up fellowships (ESEA section 1504).....	1,500
11. Advanced placement (ESEA I-G).....	22,000
12. Migrant education (HEA IV-A-5):	
(a) High school equivalency program.....	23,000
(b) College assistance migrant program.....	15,000
<b>Impact Aid (ESEA VIII)</b>	
1. Payments for federally connected children (section 8003):	
(a) Basic support payments (section 8003(b)).....	982,500
(b) Payments for children with disabilities (section 8003(d)).....	50,000
2. Facilities maintenance (section 8008).....	8,000
3. Construction (section 8007).....	48,000
4. Payments for Federal property (section 8002).....	55,000
<b>School Improvement Programs</b>	
1. Improving Teacher Quality	
(a) State grants for improving teacher quality (ESEA II-A).....	2,850,000
(b) National activities:	
(1)Principal recruitment (section 2151(b)).....	10,000
(2)National Board for Professional Teaching Standards (section 2151(e)(B)).....	10,000

(2) National Board for Professional Teaching Standards (section 2151(e)(B))	10,000
(3) Early childhood education professional development (section 2151(e))	15,000
(c) Troops-to-Teachers (ESEA II-C-1-A)	18,000
(d) Transition to teaching (ESEA II-C-1-B)	35,000
(e) Mathematics and science partnerships (ESEA II, Part B)	12,500
2 Safe and drug-free schools (ESEA IV-A):	
(a) State grants (Subpart 1)	472,017
(b) National programs (Subpart 2):	
(1) Project SERV	10,000
(2) National coordinator program (section 4125)	37,500
(3) Other national programs (section 4121)	134,733
3. Community service state grants (ESEA Subpart 2, section 4126)	50,000
4. Alcohol abuse reduction (ESEA Subpart 2, section 4129)	25,000
5. Mentoring programs (ESEA Subpart 2, section 4130)	17,500
6. 21st Century Community Learning Centers (ESEA IV-B)	1,000,000
7. Educational technology:	
(a) Educational technology State grants (ESEA II-D Subparts 1 and 2)	700,500
(b) Ready-to-learn television (ESEA II-D-3)	22,000
(c) Preparing tomorrow's teachers to use technology (HEA II-B)	62,500
8. Innovative education program strategies State grants (ESEA V-A):	385,000
9. Fund for the Improvement of Education (ESEA V-D):	
(a) Elementary and secondary school counseling (Subpart 2)	32,500
(b) Character education (Subpart 3)	25,000
(c) Smaller learning communities (Subpart 4)	142,189
(d) Inexpensive book distribution (Subpart 5)	24,000
(e) Javits gifted and talented education (Subpart 6)	11,250
(f) Star schools (Subpart 7)	27,520
(g) Ready to teach (Subpart 8)	12,000
(h) Foreign language assistance (Subpart 9)	14,000
(i) Physical education for progress (Subpart 10)	50,000
(j) Community technology centers (Subpart 11)	32,475
(k) Exchanges with historical whaling and trading partners (Subpart 12)	5,000
(l) Arts in education (Subpart 15)	30,000
(m) Parental assistance information centers (Subpart 16)	40,000
(n) Women's educational equity (Subpart 21)	3,000

(o) Other competitive and non-competitive projects.....	383,955
10. National writing project (ESEA II-C-2).....	14,000
11. Civic education (ESEA II-C-3):	
(1) We the People (section 2344).....	16,200
(2) Cooperative education exchange (section 2345).....	10,800
12. Improvement of education achievement:	
(a) State assessments (ESEA VI-A-1).....	387,000
13. Charter schools grants (ESEA V-B-1).....	200,000
14. Magnet schools assistance (ESEA V-C).....	110,000
15. Education for Native Hawaiians (ESEA VII-B).....	30,500
16. Alaska Native education equity (ESEA VII-C).....	24,000
17. Education for homeless children and youth (MVHEAIA Title VII-B).....	50,000
18. Training and advisory services (CRA IV).....	7,334
19. Rural education (ESEA VI-B).....	162,500
20. Voluntary public school choice (ESEA V-B-3).....	25,000
21. Teaching of traditional American history (ESEA II-C-4).....	100,000

**Indian Education (ESEA VII)**

1. Grants to local educational agencies (Part A-1).....	97,133
2. Special programs for Indian children (Part A-2).....	20,000
3. National activities (Part A-3).....	3,235

**Bilingual and Immigrant Education (ESEA III)**

Language acquisition State grants .....	665,000
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\* Programs for which there is an authorization but no appropriation are not included

<sup>1</sup> An additional \$75,000 was provided for comprehensive school activities in the Funds for Improvement of Education.

**Appendix D.**

**ESEA Implementation Timeline<sup>3/4</sup> Key Action Points**

<b>2002-2003 School Year</b>	
July	Noncompetitive grants, such as Title I, must be used in accordance with the new law.
Beginning of the school year	<ul style="list-style-type: none"> <li>* Corrective actions apply to any school already identified as in need of improvement.</li> <li>* Any teachers hired with Title I funds must meet requirements of a “highly qualified” teacher.</li> <li>* Any paraprofessionals hired with Title I funds must meet new standard of quality.</li> </ul>
January	U.S. Department of Education must issue final regulations.
During the school year	<ul style="list-style-type: none"> <li>* States must set annual yearly progress based on 2001–02 data.</li> <li>* LEP students must be assessed in their English proficiency.</li> <li>* All states must participate in the NAEP, if the Department of Education provides for the cost of participation.</li> <li>* SEAs and LEAs must begin reporting their progress toward ensuring all teachers are highly qualified within three years.</li> <li>* SEAs and LEAs must issue public report cards.</li> </ul>
<b>2005-2006 School Year</b>	
Beginning of the school year	States must have standards for science.
During the school year	Annual statewide assessments for reading and math in grades 3–8 must be in place.
By the end of the school year	All teachers and paraprofessionals in core academic subjects must meet requirements to be “highly qualified.”
<b>2007-2008 School Year</b>	
During the school year	Annual science assessments in at least one of each of the following grade spans must be in place: 3–5, 6–9, and 10–12.