

Foster Care & Education Q&A

THE NO CHILD LEFT BEHIND ACT (NCLB) AND STUDENTS IN OUT-OF-HOME CARE

Q: What is the No Child Left Behind Act?

A: The No Child Left Behind Act (NCLB) is a federal law that was passed in 2001 and is currently up for reauthorization. The purpose of the Act is to eliminate the achievement gap between high and low performing students in every public school, every school district, and every state. NCLB is designed to guarantee families and educators important information on how well students are learning, and offer students who have fallen behind important benefits that can increase their success.

Q: How can NCLB help identify students who need more help to master state academic standards?

A: Although NCLB includes many other provisions, the most commonly referred to provisions are the law's mandate that each year students take standardized tests in critical subjects; that the results of those tests (by state, school district, and school) be published; and that schools where students consistently perform poorly face sanctions or even reorganization. To avoid these consequences, schools where students (including each subgroup listed below) have not performed well must make adequate yearly progress (AYP) each year.

To make AYP, schools must increase the number of students who pass the standardized tests by at least 10% each year. (In fact, NCLB requires that *all* students have a passing score by the end of School Year 2113-2114.) All schools must also meet a 95% participation rate for students taking the standardized tests, the state standard for high school graduation rates, and one other

factor chosen by the state for elementary and middle schools (such as student attendance).

States have considerable latitude in deciding how NCLB is implemented. For example, each state can develop its own set of standardized tests and decide what score students must achieve to "pass" the exams. Thus, it is hard to compare results from state to state. But, the data can be helpful in determining *at a point in time* and *over time* how well students in certain schools and school districts are learning.

Q: Do states have to report separate achievement data on groups of "at-risk" students?

A: Yes. In addition to the overall information on how all students in the state, school district, or school are doing, the achievement data must be broken down (disaggregated) by gender, race, disability, migrant status, English proficiency, and students who are economically disadvantaged. Children in out-of-home care are not a "subgroup" and NCLB does not require that their academic performance be separately reported (although it does not prohibit a state from voluntarily doing so).

Q: When does NCLB permit students to transfer to another school?

A: If a student's public or public charter school has not made AYP for 2 years in a row, a family should get notice that the child can transfer to a school that has



made AYP. One problem is that there may not be vacancies in the high performing schools in the school district. If a student does find an appropriate school, she is entitled to transportation. However, the transportation may be discontinued if the school from which the student transferred makes AYP. (But, the student can still stay in the new school until she completes the highest grade offered at the school.)

A family must also receive notice that a child can transfer from a school the state has designated as “persistently dangerous” to another school in the school district that is not on the list. Necessary transportation should be provided. A student can also transfer to another district school if she has been a victim of a school-based serious violent crime that has been reported to school authorities and to the police.

Q: Beyond assessments and information on students’ performance, what does NCLB offer to help students improve their learning?

A: Teachers must use assessment results to identify children most in need of extra help and design a support plan for each child. Students who attend schools that do not make AYP can be entitled to extra help or tutoring called “supplemental education services.” Local school districts may set criteria for eligibility based on academic performance and family income.

Q: How does NCLB help improve classroom instruction?

A: One of NCLB’s most important requirements is that all public school teachers and paraprofessionals must be “highly qualified.” This means that they must meet higher standards for instructional skills and knowledge in the area they are teaching. Schools must send families a letter if the child’s teacher is not “highly qualified.”

Q: What is the parents’ role under NCLB and who is the “parent” for a child in out-of-home care?

A: Parents must be involved in making reform plans for local schools, visiting their children’s classrooms, and making decisions as to whether to transfer their children or sign up for supplemental

education services. NCLB requires school districts to provide parents with notice of important rights (for example, whether the child’s teacher is “highly qualified,” whether the child is entitled to transfer to another school, and whether the child is eligible for supplemental educational services). But who is the “parent” for a child in out-of-home care – the birth parent, the foster parent, a representative of the child welfare agency, or someone else? Perhaps many of these individuals can/should receive *notice* of the child’s rights under NCLB, but who has the *authority to enforce* these rights? For example, who makes the decision as to whether a child should transfer from a failing or persistently dangerous school? The current NCLB definition of “parent” is “a legal guardian or other person standing in *loco parentis* (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child’s welfare).” Unfortunately, this does not always clarify to whom notice should be sent or who has decisionmaking authority; states need to address this issue.

Q: What are the implications of the high mobility of children in care for getting them NCLB benefits?

A: NCLB requires that mandated notices be sent once each year. But children in care are often highly mobile and change schools and school districts frequently. What if the foster parent received notice, and the child moves to another foster family? What if the student has missed the deadline for the supplemental educational services when she arrives in a new school? In fact, low-income children in general experience more than average mobility. Current law does not address the issue of high mobility and its affect on the notice requirements; this may be an issue for Congress to consider when it reauthorizes NCLB.

For more information about NCLB please see: <http://www.ed.gov/nclb/landing.jhtml?src=pb>; for reauthorization ideas see http://www.abanet.org/abanet/child/education/open_file.cfm?id=180.

