



## FACT SHEET



# **NO CHILD LEFT BEHIND PROVISION GIVES SCHOOLS NEW FLEXIBILITY AND ENSURES ACCOUNTABILITY FOR STUDENTS WITH DISABILITIES**

A regulation by the U.S. Department of Education gives local school districts valuable flexibility in meeting the requirements of the bipartisan *No Child Left Behind* (NCLB) education reform law. The provision ensures that schools receive credit for the progress of all children—including children with the most significant cognitive disabilities. Schools around the country will not be identified by states' education authorities as “needing improvement” if their students with the most significant cognitive disabilities are unable to achieve at the same level as their peers.

At the same time, this new provision protects children with disabilities from being excluded from accountability systems that provide valuable information to parents and educators. All students—including students with disabilities—deserve teachers who believe in their potential and who will encourage them to make progress, just as all parents and teachers ought to have the assessment information they need to target their efforts and provide all students a high-quality education.

Under the regulations, when measuring Adequate Yearly Progress (AYP), states, school districts, and schools have the flexibility to count the “proficient” scores of students with the most significant cognitive disabilities who take assessments based on alternate achievement standards.

The number of those proficient scores may not exceed one percent of all students in the grades tested (about nine percent of students with disabilities). Without this flexibility, those scores would have to be measured against grade level standards and considered “not proficient.”

This new provision protects the rights of students, parents and teachers while providing flexibility to states, districts and schools.

### **HIGH EXPECTATIONS AND ACCOUNTABILITY FOR EVERY CHILD**

- The NCLB law, enacted in January 2002, provides funding for states to design and implement annual tests for all children—regardless of race, income, or disability—to let parents know the quality of the education their children are receiving. The information provided by these tests under the law is a valuable resource for parents and educators who are assessing where a student is excelling and where he/she may need more help.
- The law prohibits schools from excluding students with disabilities from the accountability system, a practice some have used to mask the fact that certain groups of children are not learning. Excluding students with disabilities from testing is also a violation of the Individuals with Disabilities Education Act (IDEA).

- As parents of children with disabilities note, such exclusion not only makes it difficult for parents to know whether their children are getting a quality education, but also wrongly stigmatizes children with disabilities among their classmates as unable to achieve to high standards.
- Under *No Child Left Behind*, students with disabilities cannot be excluded from educational accountability. Most students with disabilities should participate in the same tests taken by their peers. Some of these students should receive accommodations such as increased time or the use of assistive technology to ensure that their unique needs are taken into account as they participate with their peers in the assessment process.

### **FLEXIBILITY FOR STATES AND DISTRICTS**

- The provision takes into account the fact that a very small number of students with disabilities are not able to be assessed meaningfully against the same standards as their classmates. For these students, “proficient” looks a lot different than it does for other students.
- This regulation ensures that schools, districts and states are rewarded for the progress that students with the most significant cognitive disabilities make during the school year. It ensures that even if a child takes an assessment based on alternate achievement standards, his/her success will count and be recognized in calculating school and district performance under AYP.
- The new regulation also allows states and school districts to apply for a higher limit if they can demonstrate that they have a larger population of students with the most significant cognitive disabilities and have effectively designed and implemented assessment practices for students with disabilities. Individual schools are not subject to the 1 percent limit.
- The provision does not limit how many students can be assessed against alternate achievement standards. However, proficiency for all other students with disabilities must be measured against grade level achievement standards.
- This new provision was originally proposed by the Department in March 2003 and its final version reflects the input from the comments that were solicited by the Department from local school officials, parents, and others.

### **ALL PARENTS DESERVE TO KNOW THEIR CHILDREN ARE LEARNING**

- The *No Child Left Behind Act*, building on IDEA, intentionally prohibits states and schools from excluding students with disabilities from accountability systems because ALL parents have a right to know whether their children are getting the quality education they deserve and schools should be accountable for all children.
- The new regulation guarantees that students with the most significant cognitive disabilities participate in tests that accurately gauge their progress, giving their parents the ability to know how their children are doing.
- All children deserve the benefit of the benefit of accurate measurement of their educational progress. "No child left behind" means no child left behind—not "no child except children with disabilities" left behind.