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HOW NCLB AFFECTS STUDENTS WITH DISABILITIES

HEARING

BEFORE THE

SUBCOMMITTEE ON EARLY CHILDHOOD, ELEMENTARY AND SECONDARY EDUCATION

COMMITTEE ON EDUCATION AND LABOR

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HOW NCLB AFFECTS STUDENTS WITH DISABILITIES

Thursday, March 29, 2007
U.S. House of Representatives
Subcommittee on Early Childhood, Elementary and Secondary Education
Committee on Education and Labor
Washington, DC

The subcommittee met, pursuant to call, at 10:30 a.m., in Room 2175, Rayburn House Office Building, Hon. Dale Kildee [chairman of the subcommittee] presiding.

Present: Representatives Kildee, Davis of California, Payne, Holt, Sarbanes, Sestak, Loebsack, Hare, Woolsey, Castle, Fortuno, Platts, and Boustany.

Staff present: Aaron Albright, Press Secretary; Tylease Alli, Hearing Clerk; Alice Cain, Senior Education Policy Advisor (K-12); Alejandra Ceja, Senior Budget/Appropriations Analyst; Adrienne Dunbar, Legislative Fellow, Education; Amy Elverum, Legislative Fellow, Education; Denise Forte, Director of Education Policy; Lloyd Horwich, Policy Advisor for Subcommittee on Early Childhood, Elementary and Secondary Education; Lamont Ivey, Staff Assistant, Education; Ann-Frances Lambert, Administrative Assistant to Director of Education Policy; Jill Morningstar, Education Policy Advisor; Alex Nock, Deputy Staff Director; Joe Novotny, Chief Clerk; Lisette Partelow, Staff Assistant, Education; Rachel Racusen, Deputy Communications Director; Theda Zawaiza, Senior Disability Policy Advisor; James Bergeron, Minority Deputy Director of Education and Human Resources Policy; Robert Borden, Minority General Counsel; Steve Forde, Minority Communications Director; Jessica Gross, Minority Deputy Press Secretary; Taylor Hansen, Minority Legislative Assistant; Susan Ross, Minority Director of Education and Human Resources Policy; and Linda Stevens, Minority Chief Clerk/Assistant to the General Counsel.

Chairman KILDEE [presiding]. A quorum being present, the hearing of the subcommittee will come to order.

And Mr. Castle, my ranking minority member, understands why I am doing this, and I do it with his full concurrence. He will be here shortly—not only my ranking Republican member, but a very dear friend.

Pursuant to committee rule 12(a), any member may submit an opening statement in writing which will be made part of the permanent record.

I now recognize myself, to be followed by Ranking Member Castle, for an opening statement.

I am pleased to welcome my fellow subcommittee members, Mr. Hare, who is here this morning, the public and particularly our witnesses on how the No Child Left Behind affects children with disabilities.

The bottom line as we go through these hearings is: Does No Child Left Behind help, hurt or keep about the same what we have done for children with disabilities? And if you can help us on that, that will be extremely helpful to us.

Dr. Boustany, good to see you. And I will call upon you in just a minute, and you can make the opening statement.

Dr. BOUSTANY. Thank you.

Chairman KILDEE. Providing for the education of children with disabilities has been a top priority for me for many years. During my 12 years in the Michigan legislature, I authored the state's special education law even before Congress passed education for all handicapped children in 1975. And Michigan was ahead of that.

The Education for all Handicapped Children Act, today we call it the Individuals with Disabilities Act, or IDEA, was a watershed for children with disabilities and their families. Before IDEA, more than 1 million children with disabilities were excluded entirely from our education system. And most of those who were not excluded had only very limited access.

IDEA supporters—and it passed the House by a vote of 404 to 7 back in those days—recognized that that situation was unconscionable and resolved that children with disabilities, like all children, deserve the dignity of an education. The government's role is to promote, protect, defend and enhance human dignity. And IDEA certainly is part of that.

Today's hearing is about the No Child Left Behind Act, not IDEA itself, but they certainly overlap one another. The same principle, dignity, underlies the inclusion of children with disabilities in No Child Left Behind.

Children with disabilities must overcome unique hurdles to get their education. But No Child Left Behind recognizes that in the vast majority of cases that doesn't mean that these children can't achieve what their non-disabled peers achieve, only that they may need special help to achieve it.

Our witnesses today will give specific examples of how they have provided that help and what it has meant for children with disabilities. Unfortunately the President's proposal to cut special education funding by $200 million is not the kind of help we need at this time, nor is the continued under-funding of No Child Left Behind. Cumulatively No Child Left Behind has been under-funded by over $70 billion.

As we will hear from our witnesses, to improve special education programs, we must strengthen general education programs because that is where so many special education students are and where they belong.

For the same reason, we will hear about the need to prepare all teachers to work with all students, not just general education or special education students. And we will hear many suggestions about how to improve No Child Left Behind to ensure that it ac-

counts for the complexities that states, school districts, and schools must address in educating and assessing students with disabilities.

I hope that today's hearing will help us understand these issues better, which are some of the most difficult and important ones in the law. And I look forward to working together with my ranking member, Mr. Castle, Chairman Miller and Ranking Member McKeon and with all the members of the committee on a bipartisan reauthorization of No Child Left Behind.

I now yield to my good friend, Congressman Boustany.

Dr. BOUSTANY. Thank you, Mr. Chairman.

Ranking Member Castle was detained at this time. And I am hoping he will make it, but I will fill in in his absence.

I would like to say good morning to all of you.

I would like to thank my colleagues for joining me here today for the latest in our series of hearings on No Child Left Behind.

I would also like to thank Chairman Kildee for his continued dedication to hearing from education leaders around the country, and all of you for being here today to testify.

Today's hearing will focus on how students with disabilities are excelling in public school. Additionally, I hope that we will examine how these students are evaluated, how effective those evaluation measures are, and whether or not there is enough flexibility granted to states and school districts by the Department of Education with regard to this student sub-group.

First, let us not lose sight of the fact that No Child Left Behind was crafted under the guiding principle that all students can learn. Students with special needs are certainly no exception.

Because of that, under No Child Left Behind, schools are held to higher standards and held accountable for the academic achievement of all the children, including special education. Indeed, the evaluation of this student sub-group is an essential component of our discussions on No Child Left Behind and a window into the effectiveness of our current systems of evaluation and accountability.

With regard to students with disabilities, No Child Left Behind affirms our belief that a child should not be discounted simply because he or she doesn't learn at the same rate or in the same manner as other students.

Moreover, the Individuals with Disabilities Education Act, which Congress renewed in 2004, also requires that all students with disabilities be appropriately assessed on state assessments and within the context of a student's individualized education program and allowing for enhanced flexibility and personalization within the student's learning experiences.

I look forward to today's testimony on accountability standards at the local and state level. But more importantly, I look forward to hearing about what is being done to meet the goals that we have set. I am certain that this hearing will build upon previous hearings in this series.

And I am eager to hear the unique perspectives of our witnesses. And I extend a warm welcome to them.

And with that, Mr. Chairman, I yield back.

Chairman KILDEE. Thank you very much, Dr. Boustany. And I certainly appreciate personally your deep and abiding interest in this area of special education.

Without objection, all members will have 7 calendar days to submit additional materials or questions for the hearing record.

I would like now to introduce the very distinguished panel of witnesses here with us this morning.

Dr. Jane Rhyne is the assistant superintendent for programs for exceptional children in the Charlotte-Mecklenburg Schools, a district with 129,000 students in North Carolina. Dr. Rhyne works with her general education colleagues to ensure that the district's special education program is woven into every aspect of the school system.

Dr. Rebecca Cort is a deputy commissioner of the New York State Education Department's office of vocational and educational services for individuals with disabilities. Dr. Cort oversees special education services for more than 400,000 students.

Rachel Quenemoen is a senior research fellow at the National Center on Educational Outcomes at the University of Minnesota. For the past 10 years, she has worked at the national and state levels on educational reform efforts concerning standards-based reforms and students with disabilities.

Dr. Michael Hardman is chair of the University of Utah's department of special education and recently was appointed dean of the university's college of education. He also was past president for the Higher Education Consortium for Special Education and a member of the board of directors for the Council for Exceptional Children.

Dr. William Henderson has been the principal of the Patrick O'Hearn Elementary School in Dorchester, Massachusetts since 1989. He has received numerous awards during his career, including the U.S. Department of Health and Human Services Outstanding Americans Award and the city of Boston's Henry L. Shattuck Public Service Award.

And I welcome all our witnesses.

For those who may have not testified before this subcommittee, I would explain our lighting system. We have a 5-minute rule here. Everyone, including members, is limited to 5 minutes of presentation or questioning. The green light will be illuminated when you begin to speak. And when you see the yellow light, it means that you have 1 minute remaining. When you see the red light, it means that your time is expired; you need to conclude your testimony. There is no ejection seat, however, so we will let you finish your thought or your paragraph. [Laughter.]

And, Dr. Henderson, if you wish, I will gently note when you have 1 minute left and when your time is expired.

Please be certain as you testify to turn on and speak into the microphone in front of you and turn it off when you are finished.

We will now hear from our first witness, Dr. Rhyne.

STATEMENT OF JANE RHYNE, PH.D., ASSISTANT SUPERINTENDENT, PROGRAMS FOR EXCEPTIONAL CHILDREN, CHARLOTTE–MECKLENBURG SCHOOLS

Ms. RHYNE. Good morning, Chairman Kildee, Ranking Member Castle and members of the subcommittee. I am Jane Rhyne, assistant superintendent for programs for exceptional children in the Charlotte-Mecklenburg Schools, Charlotte, North Carolina. I am

pleased to be here today to testify on behalf of our superintendent, Peter C. Gorman, and our board of education.

CMS has about 129,000 students, and we are growing. Minority students are the majority. Almost half live in poverty. About a tenth speak English as a second language. And over a tenth are students with disabilities.

CMS has been recognized in numerous ways as one of the highest achieving urban districts in America. For example, in the National Assessment of Educational Progress, CMS outperformed the nation and the state in three of four reading and math tests. And there is additional information about accolades about Charlotte in my written testimony.

During the first year of NCLB, I had the privilege of appearing before this committee. I testified then that the instructional attention to students with disabilities had clearly increased with the new federal disaggregated accountability requirements. This is still true. Standards-based curriculum and instruction have been provided to a broader range of students with disabilities. Teachers are demonstrating that this group of children can make significant progress in the general curriculum if given the opportunity and effective teaching.

The number of students with disabilities achieving in general education in CMS has definitely increased. So I support the basic concepts of NCLB and its attention to the performance of students with disabilities. However, I do have some concerns.

States are allowed to ignore the academic performance of significant numbers of children through unnecessarily high sub-group minimums. This invites the manipulation of NCLB accountability and allows some districts to escape portions of sub-group accountability, particularly for students with disabilities.

As an urban special educator, I believe equity for our students is extremely important. So is a level playing field for urban districts. In CMS, our students with disabilities continue to make progress in state assessments, as our written testimony shows. However, based on projections of current performance, I do not expect 100 percent of them to be proficient by 2014.

For those students who have not attained proficiency, their progress within performance levels continues to be important and carefully monitored. There is almost universal agreement among educators that adding a growth model to NCLB will improve the act. North Carolina has been selected as a pilot to demonstrate this.

I am concerned that significant progress below proficiency may not be recognized. I believe that acknowledging such progress would mute criticism of NCLB regarding the performance of students with disabilities as well as the questionable claims that this sub-group is responsible for the labeling of large percentages of schools as failing.

In 2004, the Department of Education provided flexibility by allowing districts to deem as proficient up to 1 percent of students with significant cognizant disabilities using alternate standards and assessments. Recently additional flexibility was provided by allowing districts to deem as proficient up to 2 percent of other students with disabilities using regular standards and alternate as-

sessments. I think a better way to measure this success is through a growth or a progress model.

NCLB emphasizes that quality teaching is key to student academic performance. A particular challenge, however, is the requirement that special education teachers be highly qualified.

Sometimes this requires multiple certifications, which creates two problems. First, there is a national shortage of special education teachers. Second, special educators who teach content subjects must be certified in these areas. Finding special ed teachers with one certification has been difficult. Finding teachers with two or more has been almost impossible. There needs to be flexibility in these standards for them.

At CMS we have addressed these certification issues partially through the use of inclusive practices where we team highly qualified general and special ed teachers in the classroom. Our data has shown that all students benefit, both students with disabilities and general ed students. I still believe that NCLB is focused on the right children.

Further refinements to acknowledge student progress in the accountability and assessment system, to enhance focus and resources on effective instructional practices, and to allow flexibility with highly qualified provisions would help overcome many of the operational problems that attract so much attention at the local level.

Thank you.

[The statement of Mr. Rhyne follows:]

Prepared Statement of Jane Rhyne, Ph.D., Assistant Superintendent, Programs for Exceptional Children of the Charlotte-Mecklenburg Schools

Good morning, Chairman Kildee, Ranking Member Castle and members of the subcommittee.

I am Jane Rhyne, Assistant Superintendent for Exceptional Children in the Charlotte-Mecklenburg Schools (CMS) in North Carolina. I am pleased to testify today on behalf of Superintendent Peter C. Gorman and the Charlotte-Mecklenburg Board of Education. I will discuss how children with disabilities have been affected by the No Child Left Behind (NCLB) Act.

I am responsible for the education of and support services for more than 14,000 students with disabilities in Charlotte and Mecklenburg County. I oversee program planning, implementation and monitoring, curriculum and instruction, instructional interventions and student progress.

Let me quickly describe our district for you. CMS has about 133,000 students pre-kindergarten through twelfth grade. We're adding about 5,000 students each year. For this school year, the district has 42.4 percent African-American students, 36.2 percent white, 13.6 percent Hispanic, 14.3 percent Asian and 3.5 percent multiracial or Native American students. Almost half—45.5 percent—of our students qualify for free or reduced-price lunch. Nearly 15,000 of our students come from homes where English is not the native language. And we have 14,502 students with disabilities.

CMS has been recognized in numerous ways as one of the highest-achieving urban districts in America. Our student academic performance compares favorably with that of many urban districts: 86 percent of our fourth-graders are at or above grade level in reading in comparison to 85 percent of all fourth-graders statewide. For mathematics, 69 percent of all fifth-graders are at or above grade level compared with 64 percent across the state. We participate in the trial urban initiative of the National Assessment of Educational Progress—called the Nation's Report Card -and have seen strong results there, too. Charlotte-Mecklenburg Schools outperformed the nation and North Carolina in three of four reading and math tests at grades four and eight and scored within two points in the other area. Nine percent of CMS students achieved at the advanced level on the NAEP test in grade four reading and math and grade eight math—more than the nation, more than North Carolina, and more than most states.

More than half of our graduating students last year had taken one or more advanced courses in high school and Newsweek magazine in 2006 put three of our high schools on its list of the Top 100 high schools in America. And we were the first large county-wide school district to be accredited as a high quality district by the Southern Association of Colleges and Schools. Fifty-seven percent of 2006 graduates completed at least one AP or IB course. The number of African-American students enrolling in AP courses increased from 341 students in l995-96 to 2,764 in 2005-06. The average score for our students who ranked in the top 10 percent of scores on the SAT was 1207, higher than North Carolina (1179) and the nation (1184).

In March of 2004, during the first full year of NCLB implementation, I had the privilege of appearing before this Committee. I testified then that I had seen firsthand in my school district and in visits to other districts that the instructional attention to students with disabilities had clearly increased with the new federal disaggregated accountability requirements.

This is still true. Standards-based curriculum and instruction has been provided to a broader range of students with disabilities. Teachers and principals are demonstrating that this group of children can make significant progress in the general curriculum if given the opportunity and effective teaching. The number of students with disabilities being taught in general education classes in CMS has increased by 10.25 percent since the 2004-2005 school year. Participation in regular pre-kindergarten programs for students age three to five has increased 21.5 percent since the 2004-2005 school year. When we pair general and special education teachers in a classroom, the performance of all students rises. We have seen significant increases in performance on state reading and math tests for not only students with disabilities but for general education students as well.

So I support the basic concepts of NCLB and its attention to the performance of students with disabilities. However, I also have some concerns. States are allowed to ignore the academic performance of significant numbers of children through unnecessarily high subgroup minimums or N-sizes. This state flexibility invites the manipulation of the NCLB accountability system and operationally allows some schools and some school districts to escape portions of subgroup accountability, particularly for students with disabilities. As an urban educator and a special educator, I believe equity for our students is extremely important. So is a level playing field for urban districts.

In school year 2002-03, 34.6 percent of our students with disabilities in grades 3 through 8 achieved proficiency on our state assessments, compared to 42.2% of students in grades 3 through 8 in the 2004-05 school year. On state high school tests, 24.3 percent of students passed in 2002-03 compared to 35 percent in 2005-2006. So we are making progress. However, based on the current North Carolina academic standards and projections of current performance, I do not expect 100% of our students with disabilities to be proficient by 2014. For those students who have not attained proficiency, their progress within performance levels continues to be important and carefully monitored.

There is almost universal agreement among educators that adding a growth or progress model to NCLB would improve the act. North Carolina is one of the pilot projects selected by the Department of Education to demonstrate such a growth model. But this pilot growth model, as I understand it, is tied to a student's trajectory for attaining proficiency—and I am concerned that even significant progress below proficiency may not be recognized. I also believe that recognizing such progress would mute criticism of NCLB regarding the performance of students with disabilities, as well as the questionable claims that this subgroup is responsible for the labeling of large percentages of schools as failing. We should give schools proper credit for the academic progress of students with disabilities and other students.

In March of 2004, then-Education Secretary Rod Paige had just announced the flexibility to assess one percent of students with significant cognitive disabilities against alternate standards and using alternate assessment. At that point, I estimated that there were at least 1.5 percent of students whose disabilities would prevent them from doing the same level of academic work as their age-mates. In recent years the Department of Education has proposed additional flexibility for another two percent of students to be assessed with modified tests. North Carolina has implemented this by allowing up to another two percent of students with disabilities to demonstrate proficiency with a modified assessment. In Charlotte-Mecklenburg Schools, only 14.3% of these students have done so on the North Carolina modified assessment. The one and two percent involve most of our students with mental retardation, multiple disabilities, autism and a few with other disabilities.

Some students with disabilities will not make one year's worth of academic growth by the end of the school year. These students will achieve, but they need

more time and properly designed instruction. A better way to measure their success is through a growth or progress model.

No Child Left Behind emphasizes that quality teaching is key to student academic progress. A particular challenge, however, is the NCLB requirement that special education teachers be highly qualified. In some instances, this requires multiple certifications. This situation creates two problems. First, there is a national shortage of special education teachers. Teachers who provide special education must now meet rigorous state certification standards to show that they are highly qualified to do so. Second, special education teachers who provide content instruction at the secondary level, such as math, must also be certified in the content area that they are teaching. Finding special education teachers with one certification has been difficult; finding teachers with dual certification has been almost impossible. This problem becomes even more complex with special education teachers who teach in self-contained classrooms. These teachers are required to have certification not only in special education but also in all the subjects taught in the classroom—math, English, science, social studies. There needs to be flexibility in the standards for these teachers.

At CMS, we have addressed these certification issues partially through the use of inclusive practices. Highly qualified special and general education teachers team together to co-teach in general education classrooms that include both students with disabilities and their general education peers. The general education teacher has certification in the content area and the special education teacher has certification in special education. This teaching team provides the expertise of the special educator, a master at differentiated instruction, and the general educator, an expert in curriculum content. All students benefit.

For example, in our district, students with disabilities who were co-taught performed at higher levels and made more progress in reading at grades three and four and in math at grades six, seven and eight, as measured by state tests. We have found that including students with disabilities in the classroom does not hinder the performance of non-disabled peers. For example, on the average, scores were higher and demonstrated improvement for non-disabled students in co-taught classrooms in reading for grades three, four, six and eight and in math for grades 3 through 8, as well as Algebra I and Geometry—as measured by state tests.

I still believe that the No Child Left Behind Act is focused on the right children—those in greatest need of instructional attention and additional resources. Further refinements and revisions in the act to acknowledge student progress in the accountability and assessment system, to enhance the level of focus and resources devoted to effective instructional practices, and to allow sufficient flexibility to align our teacher qualifications to the instructional needs of our students would help overcome many of the operational problems that attract so much attention at the local level.

Thank you.

Chairman KILDEE. Thank you very much.

Dr. Cort?

STATEMENT OF REBECCA CORT, PH.D., DEPUTY COMMISSIONER, NEW YORK STATE EDUCATION DEPARTMENT, OFFICE FOR VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH DISABILITIES

Ms. CORT. Good morning, Chairman Kildee and subcommittee members. And thank you for this valuable opportunity. I am Rebecca Cort. I serve as the State director for special education and adult vocational rehabilitation in New York State.

I want to begin by affirming that the New York Board of Regents and the New York State Education Department are strong supporters of the high expectations for students and the accountability for schools and districts as set by NCLB.

The board of regents remains committed to preparing all students to be educated and productive citizens in the 21st century. And we believe that NCLB can play an important role in achieving that goal for the children of New York State. We have seen steady

progress in the outcomes for students with disabilities since the regents' reform efforts began and NCLB was passed. But their performance continues to be unacceptably low.

To improve these outcomes and to ensure that we rely on accurate data, there are several issues that require your attention. Most significantly, NCLB needs to acknowledge and accommodate the individual student differences that are at the core of the Individuals with Disabilities Education Act. We agree a large majority of students with disabilities should be receiving instruction on the general education learning standards and should be able to master these standards, given appropriate research-based instruction.

However, students with disabilities represent a very broad continuum of cognitive functioning from profoundly developmentally delayed to gifted. I want to address today the 2 percent, or gap students, whose disabilities prevent them from mastering the general education learning standards at the same level or rate as their non-disabled peers, even when they receive appropriate instruction. We believe that this group includes two separate subsets of students that require different options under NCLB.

The first subset consists of students who will be able to earn a regular diploma and learn the general education standards but who do it at slower and often inconsistent rates. These students don't require modified standards or modified assessments. But they do require the time to learn and an opportunity to demonstrate that learning.

We ask that NCLB clearly authorize the students whose individualized education program, IEP, recommends instruction at a 4th-grade level in math and 3rd-grade level in English language arts to be able to participate in assessments that correspond to these different levels.

Currently in New York, if such a student is actually 5th grade chronological age, many of them are being required to take 5th-grade tests on content that they have never received instruction on. The IEP should indicate the appropriate instructional levels and assessments for each student with a disability. And that recommendation should be recognized and accepted under NCLB's accountability system.

The second subset of students within this 2 percent group are those whose disabilities are so severe that they cannot earn a regular New York state diploma but who are functioning higher than the 1 percent group appropriate for alternate assessments. For these students, states must be permitted to develop truly modified standards and modified assessments that will reflect substantively different content from the general education standards.

The draft regulations issued by USED indicated that modified standards and modified assessments could reduce the depth and breadth of a state's learning standards but they could not represent a reduction in the grade level or base content of the standards and they must provide access to a regular high school diploma.

We believe that teaching a student half of algebra will not produce proficiency in algebra or prepare the student to move on to the subsequent grade's course work. The modified standards instead need to be designed to maximize the functioning level of stu-

dents who need to leave school prepared for employment and independence.

Currently, districts and schools do not receive any recognition under NCLB for a student's mastery of a career and vocational education program that is relevant, meaningful, and results in a pathway to competitive employment unless that student also receives a high school diploma.

NCLB also anticipates the students will meet all of their graduation requirements within 4 years of entering grade 9. In New York many students with disabilities graduate after 5 or even 6 years. Schools that hold on to these students should be given credit, not penalized for their efforts and their success. For students with disabilities, again, it is the IEP that should indicate the anticipated time required to meet graduation requirements. And schools should be held accountable for that standard.

Even if these changes are instituted, it is likely that we will still see a number of schools identified for not meeting AYP with this sub-group. Currently, regardless of the reason for identification, the consequences are uniform for all schools, even though required options such as school choice and supplemental services are often unavailable to students with disabilities. If only students with disabilities fail to meet AYP targets, we believe that funding should be targeted to this sub-group and allowed to be spent on interventions that will meet the unique needs of students with disabilities.

Finally, we recommend that NCLB incorporate language from the IDEA regarding the use of response to intervention systems. RTI is not a method for helping a district identify students with disabilities as its primary purpose. Rather, it is a method for teaching and monitoring the progress of all students that must be driven first and foremost by general education teachers in a general education classroom with the support of strong building leadership and professional development.

NCLB's greatest potential benefit to students with disabilities may depend on its ability to ensure strong general education programs that eliminate inappropriate referrals and increase the opportunities for meaningful integration of students with disabilities into general ed environments. Incorporating RTI into NCLB would help accomplish that goal.

Thank you. And I welcome your questions.

[The statement of Ms. Cort follows:]

Prepared Statement of Dr. Rebecca H. Cort, Deputy Commissioner, Office of Vocational and Educational Services for Individuals with Disabilities (VESID), New York State Education Department

I would like to thank the Chairman and members of the Subcommittee for this valuable opportunity to testify on How NCLB Affects Students with Disabilities. I am Rebecca Cort, Deputy Commissioner of the Office of Vocational and Education Services for Students with Disabilities (VESID) within the New York State Education Department. As such, I am in the unique position of being the state director for both preschool to Grade 12 special education services as well as for adult vocational rehabilitation.

I am submitting with my testimony a number of detailed briefings that discuss New York State's position regarding areas in NCLB where we believe there are significant opportunities for revision and improvement during the reauthorization process. However, I will focus here on several issues that have had the greatest impact on students with disabilities.

The New York Board of Regents and the New York State Education Department have been strong supporters of the high expectations set by NCLB. This focus closely parallels initiatives undertaken in New York prior to the enactment of NCLB. The Regents recognized that, within many schools and districts, the expectations for students with disabilities were far too low and that they were not being provided with the same access to rigorous course work as their non-disabled peers. Even before NCLB, the New York State Board of Regents established requirements that all students must be prepared to meet the same high level learning standards and to participate in rigorous state assessments as a condition for graduating from high school with a regular high school diploma. New York's Board of Regents remain committed to preparing all students to be educated and productive citizens in the 21st century and we believe that NCLB can play an important role in achieving that goal for the children of New York State.

However, there are a number of areas where NCLB has reduced the likelihood of meeting that goal and where it is having a disproportionately negative impact on students with disabilities. The first, and most significant, area concerns the lack of recognition of the extremely broad range of characteristics and developmental levels of students with disabilities. NCLB has not integrated into the law the elements needed to ensure consideration of those individual student differences that are at the core of the Individuals with Disabilities Education Act (IDEA). This has led to the identification of districts as needing improvement as a result of the assessment outcomes for students with disabilities when, in fact, the current system does not allow an accurate measurement of districts' and schools' cumulative impact on their performance. In many instances, students with disabilities now must be tested on what they have never been taught instead of being allowed to demonstrate what they have learned.

Assessments for the 2% "Gap" Students

Students with disabilities represent a broad continuum of cognitive functioning from profoundly developmentally delayed to gifted. Those with severe to profound mental retardation have been accommodated under NCLB through the allowance for 1% of students who can be counted as proficient based on an alternate assessment aligned to alternate achievement standards. In New York, our guidance to districts indicates that students participating in the alternate assessment must have a severe cognitive disability and significant deficits in communication/language and in adaptive behavior. Most of the students who meet the criteria for the alternate assessment do not achieve higher than a first grade level. New York agrees that, in general, these students should not exceed 1% of the school district population.

However, the lack of options available for other students with disabilities is a significant problem. We welcomed the US Department of Education's (USED) promise of increased flexibility for an additional 2% of students whose disabilities prevent them from mastering the general education learning standards at the same level and rate as their non-disabled peers. However, we believe that the proposed regulations that would guide the development of "modified standards" and "modified assessments" for this group of students were not sufficiently flexible. Further, they interpreted the law as requiring modified assessments to be aligned with the general education learning standards at the grade level of non-disabled chronological peers. While the regulations indicated that modified standards could represent reduced "depth and breadth" of a state's learning standards, they could not represent a reduction in the grade level of the content of the standards for any subject area to be measured.

We agree that the large majority of students with disabilities should be receiving instruction based on the general education learning standards and should able to master these standards given appropriate research-based instruction. But there exists a band of students (the 2% or "gap" students) who are not able to master grade-level standards at the rate and/or level of their non-disabled chronological peers even with appropriate instruction. We believe that this band includes two separate subsets of students with disabilities that require different options under NCLB.

The first subset consists of students with disabilities who, while able to make progress toward a regular diploma, learn at a slower and often inconsistent rate. Many students with disabilities require and receive one level of instruction in reading and language arts and another in mathematics or other content areas as a result of the individualized education program (IEP) recommendations that drive special education service delivery. Students who do not have the language and vocabulary or critical thinking skills necessary to benefit from instruction at the level of their non-disabled peers should participate in curriculum appropriate to their developmental levels that they can master and that can provide them with the precursor skills necessary to move to the next level.

Reducing the "depth and breadth" of 9th grade geometry or biology may appear to provide a meaningful option for some students but it will not result in the level of mastery needed to meet New York's standards for course completion, nor the readiness to move on to the subsequent grade's course work, nor the ability to successfully complete high stakes exit examinations. USED's current interpretation is that any modified set of learning standards and participation in any modified assessment that measures this reduced level of instruction must still permit the awarding of a regular high school diploma. For states such as New York, that are not willing to compromise the rigorous standards that have been set to earn a high school diploma, there are no real options.

We ask that NCLB clearly indicate that this subset of students be allowed to proceed at a slower but equally rigorous pace as their non-disabled peers. These students require neither modified standards nor modified assessments but they do require the time to learn and an opportunity to demonstrate that learning. NCLB must permit a student whose IEP recommends instruction in the general education curriculum at a fourth grade level in mathematics and third grade level in English language arts to participate in assessments that correspond to these different levels. A school will then be held accountable for that student's learning on subject matter they have been taught rather than for the different subject matter that has been taught to the student's chronological peers in the classroom down the hall. The IEP team should determine and clearly indicate on the IEP the appropriate instructional levels and assessments for each student with a disability.

Any reauthorization of NCLB also must provide specific options for a second subset of students with disabilities within this 2% group. These students are those whose severe disabilities preclude them from meeting the high level of learning required to earn a regular New York State diploma but whose cognitive ability and developmental levels exceed the first grade level maximum designated for the 1% of students appropriate for the alternate learning standards and alternate assessment. They include those who exhibit mild to moderate mental retardation or some identified with autism spectrum disorders or severe traumatic brain injuries.

States must be permitted to develop both these modified standards and the modified assessments that will measure proficiency on these standards. These modified standards will be substantively different from the general education standards but have a range that exceeds the current alternate standards. They need to be designed to maximize the functioning level of students who need an instructional program that will allow them to leave school prepared for employment and independence, even if they cannot earn a regular high school diploma. Many students with disabilities who now leave school without either a diploma or adequate work readiness skills are more likely to remain if they were to be offered a career and technical program that was relevant and meaningful and resulted in a pathway to competitive employment. Districts and schools now have little incentive to develop innovative programs based on modified standards as they are unable to receive any recognition under NCLB for a student's mastery of such a modified curriculum, even if it reflects the annual goals and transition plans recommended on a student's IEP.

While I have not discussed the issue of growth models and value added assessments here, I have attached more detailed recommendations on this issue. We believe that all states should have the option of using these models as new assessments, including those based on modified standards, are developed. The capacity to capture the rate of growth will be especially useful in evaluating outcomes for students with disabilities who have very variable starting points.

Four Year Graduation Standard

While these comments reflect the changes required to address the needs of what should be a very limited percentage of students, an additional change is needed for what could be a larger number of students with disabilities. The current requirements under NCLB anticipate that students will meet all high school requirements and then receive a high school diploma within four years of entering 9th grade. This is not a realistic expectation for many students with disabilities and prevents recognition of the laudable efforts of districts and schools that encourage students to remain in school for a fifth and sixth year as they move toward the completion of all course work and required assessments. In New York, many more students with disabilities graduate after five years than after four years.

States with rigorous graduation standards require an option that allows students extra time to receive the special education instruction and support services they need even though this may prohibit a full course load every semester. This option must acknowledge and award credit to districts and schools that are able to achieve success and meet NCLB's goals after a student completes five or six years in high school. For students with disabilities, the IEP should indicate the anticipated time

required to meet graduation requirements and schools should be held accountable for meeting that standard, based on individual student needs.

Differential Consequences for Different Subgroups Identified

Even with the addition of these critical elements to a reauthorized NCLB, there are schools and districts who will continue to struggle to adequately address the needs of the population of students with disabilities. We hope that the access to appropriate assessments will present a fairer measurement of schools' performance and reduce inappropriate identification of those schools and districts that are being successful. However, we know that a very substantial number of schools are being identified as in need of improvement as a result of the failure of the subgroup of students with disabilities to make AYP. (Last year in New York, 31% of schools identified failed to make AYP only for the subgroup of students with disabilities on the grades 3-8 English Language Arts exams.)

Yet the consequences of this identification are systemic and almost identical for all schools, regardless of the number or composition of the subgroups that are not achieving AYP. In fact, as currently implemented, many of the required options and reforms have the least impact on students with disabilities even if they are the only group triggering these actions. Options such as school choice are often unavailable to students with disabilities who are enrolled in unique programs that are not duplicated within other schools in the district. In addition, many supplemental educational services (SES) providers do not offer services that meet the needs of students with disabilities.

States should not be required to impose uniform NCLB mandated sanctions such as school choice and supplemental educational services on schools or districts because of the failure of one or several subgroups of students to meet AYP targets. Schools should be able to target remediation or interventions based on the nature and extent of their failure to make AYP. If only students with disabilities fail to meet AYP targets, resources and remediation should be focused on those students. In these instances, funding should be allowed to be spent on creative, targeted alternatives to school choice and SES that will address the unique needs of students with disabilities.

Alignment with IDEA

Finally, an examination of whole group and subgroup performance data reveal a strong correlation between poor performance for students with disabilities and poor performance for students in general education. While the IDEA's reauthorization included efforts to align it with NCLB, we now urge Congress to make a similar effort to align NCLB with IDEA. A number of critical elements within IDEA are more appropriately targeted to all students and should be incorporated into NCLB in order to ensure that struggling learners' needs are met in general education settings and to reduce the inappropriate referral and over-identification of minority students.

We especially recommend that NCLB incorporate language regarding the use of Response to Intervention (RtI) systems to ensure that struggling schools understand the importance and benefit of implementing high-quality instruction and interventions to meet the needs of all students. Its inclusion in IDEA is causing RtI to be viewed as having a primary purpose of helping a district identify students with disabilities. This is not true. Rather, RtI is a method for teaching and monitoring the progress of all students that must be driven first and foremost by general education teachers in the general education classroom with the support of school building leadership and strong professional development.

NCLB's greatest potential benefit to students with disabilities may depend on its ability to ensure strong general education programs that eliminate inappropriate referrals and increase the opportunities for meaningful integration of students with disabilities into productive general education environments staffed with highly qualified teachers who have the tools to meet the needs of all students.

Attachments

NCLB Issue Briefs:

- Assessing Students with Disabilities
- Growth Models for State Accountability
- Highly Qualified Teachers
- Single Accountability Designation for Adequate Yearly Progress
- Targeted Interventions and Differentiated Consequences for Schools and Districts Identified as In Need of Improvement

March 2007.

NCLB ISSUE BRIEF

Assessing Students With Disabilities

CURRENT LAW

Title I, Part A, Section 1111(b)(3)—Academic Assessments

• States are required to implement academic assessments in mathematics, reading or language arts and a third state selected indicator (in New York, science) to be used as the primary means of determining Adequate Yearly Progress (AYP) (students' continuous academic improvement toward 100 percent proficiency in 2014).

• Alternate assessments may be used for students with the most significant cognitive disabilities, which 34 C.F.R. §200.13(c)(1)(ii) presently limits to 1 percent of all students in the grades assessed.

RECOMMENDATIONS

Revise assessment systems and accountability practices for students with disabilities:

• Allow states to develop modified assessments that measure the performance of a student with a disability toward modified state standards at the student's appropriate instructional level, as designated by the Individualized Education Program (IEP) team. These assessments should be designed to show what students know and to measure their growth over time.

• Allow certain students with disabilities to participate in general education assessments based on general education learning standards that align with their instructional levels rather than their chronological age. The assessment levels should be determined by the IEP team and may be different levels for different content areas.

• Establish a lower expected threshold for improvement for students with disabilities or authorize states to establish their own realistic and appropriate benchmark targets for incremental performance improvement to be applied uniformly at the state, district and school levels.

• Authorize states to establish a threshold for the percent of students with disabilities that should be scoring at the proficient and advanced levels on alternate and modified standard assessments as well as instructional-level assessments that are not aligned with students' current grade level or with their chronological age. States should justify their decisions to the U.S. Department of Education (USED) when a threshold exceeds three percent of the total population tested.

• Continue to allow states to include the proficient scores of students with the most significant cognitive disabilities based on alternate assessments in its calculations of AYP, provided that such scores do not exceed one percent of all students tested in the grades assessed in reading/language arts and in mathematics.

• Direct USED to conduct research to identify the characteristics of the modified assessment population of students (e.g., the 2-3 percent) to ensure consistency of criteria across IEP teams, school districts and states.

• Permit states to include as a third indicator of meeting AYP targets assessments that measure modified learning standards at the high school level reflecting postsecondary goals of competitive employment and independence when a regular high school diploma is not an appropriate outcome given the nature and severity of a student's specific disability.

RATIONALE

NCLB does not ensure appropriate assessment options for the range of instructional levels and abilities of students with disabilities. Subjecting students at specific chronological ages to grade-level assessments that are measuring skills well beyond their capabilities and that do not reflect content that they have actually been exposed to is not true participation and does not provide meaningful data to measure progress toward the standards.

Holding schools and school districts accountable for inappropriate achievement standards does not recognize the true value of a student's educational program and does not serve to challenge schools to improve results for students with disabilities. As a result, students with disabilities are tested on what they have never been taught instead of being able to demonstrate what they have learned.

The U.S. Department of Education's (USED) proposed regulatory language regarding a modified standards and assessment option for an additional 2 percent of students (above the 1 percent of the most cognitively disabled) is not responsive to

this issue, as it requires an assessment based on grade-level content standards with reduced depth and breadth that leads toward a regular diploma.

Students in special education have a wide range of instructional levels, including those who learn at variable rates but can achieve a regular diploma, and those whose developmental disabilities result in a cognitive range that exceeds the alternate assessment levels—the 1 percent of the most cognitively disabled—but does not equal their nondisabled peers. This latter group constitutes students who require modified standards that may focus on career and technical programs leading to competitive employment rather than modified grade-level content that leads to a regular diploma.

If, as USED has indicated, modified learning standards and assessments must both simplify the required general education content and lead to a regular diploma, it is, in essence, requiring a reduction in states' graduation criteria for a portion of the population. This exceeds the federal authority to dictate a state's graduation standard.

FACTS

• In the 2005-06 school year in New York, 7,205 students with significant cognitive disabilities participated in the alternate assessment at the elementary, middle and high school levels. This is 0.9 percent of all enrolled students tested on elementary level examinations and 0.8 percent of all students tested on middle level examinations.

• New York assessment data shows that even in low and average need school districts where there is a higher level of expenditure per pupil, between 2 and 3 percent of the total population tested are students with disabilities with intellectual and cognitive disabilities that do not permit them to master the state's general education learning standards even with appropriate instruction. The results in these high resource districts show a lack of performance at the proficient level and failure to graduate with a regular diploma at a rate that generally exceeds 3 percent of the population.

RESEARCH

• On December 15, 2005, USED published in the Federal Register (Volume 70, Number 240) proposed rules to amend regulations under NCLB Title I regarding school accountability for students with disabilities beyond those students with significant cognitive disabilities (1 percent of the total population) identified for participation in the alternate assessment. The notice stated "* * * recent research indicates that there are other students, who, because of their disability, have significant difficulty achieving grade-level proficiency, even with the best instruction." The proposed regulations would permit States to develop modified achievement standards and assessments to address the needs of this segment of students with disabilities.

The federal notice further stated, "the best available research and data indicates that 2 percent, or approximately 20 percent of students with disabilities, is a reasonable cap."

March 2007.

NCLB ISSUE BRIEF

Growth Models for State Accountability

CURRENT LAW

NCLB requires schools to show increases in the percentage of students reaching proficiency in reading and math toward the goal of having all students performing at their appropriate grade level by 2014. This is called making Adequate Yearly Progress (AYP).

States must use a "status model" to measure students' academic progress. A status model measures progress by tracking improvement in the same grade over time. For example, a status model might compare the performance of students in fourth grade in a school in 2006-07 against the performance of a different group of students in fourth grade in 2005-06. In contrast, a "growth model" measures the scores of the same students over time. So, a growth model might measure the percentage of fourth grade students in a school in 2006-07 who are proficient compared to the percentage of those same students who were proficient when they were third graders in 2005-06. A growth model would allow schools to determine which individual students need remediation help and target assistance to those students.

Recognizing the potential of growth models for state accountability plans under NCLB, the U.S. Department of Education (USED) instituted a growth model pilot project in November 2005 under which it would approve up to 10 proposals. To date, Arkansas, Delaware, Florida, North Carolina and Tennessee have approved projects.

RECOMMENDATIONS

• States should have the option of using a growth model, a status model, or a combination of both as they develop assessment and reporting systems that can support those options.

• Use of a growth model should be permitted as an alternate to or an addition beyond the Safe Harbor provision of NCLB as a means to demonstrate Adequate Yearly Progress. Safe harbor allows a student subgroup to be considered as making AYP if it demonstrates at least a 10% reduction in the gap between having all students proficient and their performance in the prior year. Safe harbor saves schools from being designated as in need of improvement.

• Growth models should be based on students demonstrating progress toward proficiency in English language arts (ELA) and mathematics for graduation.

RATIONALE

• The status model, used currently, does not account for significant progress made by schools and districts with historically low levels of achievement.

• The goals of a growth model are to:

ensure that states, districts, and schools can measure the degree to which students are making progress at a sustained rate so that students will achieve academic proficiency by the time of graduation from high school;

provide states, districts and schools with information so they can better target resources to the districts, schools, and groups of students within schools that are not on track towards proficiency within an acceptable timeframe and have the most need for remediation assistance;

ensure that schools and districts in which students may be underperforming but are making appropriate progress towards proficiency are not categorized as poorly performing.

By using both a status model and a growth model, states can better determine which districts and schools need targeted interventions and which can serve as models for moving the most challenged student groups towards proficiency.

• Measuring the same group of students from one year to the next indicates how each individual student is performing and progressing academically.

• USED should explore conducting a pilot project on "value-added" models for state accountability. A value-added model is a type of growth model that uses a student's detailed background information and achievement data to predict growth and isolate the primary reason for a student's academic progress or lack of progress.

• Governor Eliot Spitzer has proposed that New York use a growth model by the 2008-09 school year, subject to U.S. Department of Education approval.

RESEARCH

There is no conclusive research at this time on this issue. Current practice appears to support these recommendations. Some of the research cited here discusses "value- added" models.

Educational Measurement: Issues and Practice. Winter 2005

Educational Measurement is the journal of the National Council on Measurement in Education.

This special issue is devoted to empirical research on current accountability systems, i.e. their structure, their relationship to policy, and their impact on school reform movements. As the U.S. Department of Education did not approve growth accountability systems at the initial implementation of NCLB, this is the first cut of research on the impact of states' status models and testing policies. It is important work as it highlights both strengths and weaknesses of the first set of accountability systems and informs thinking as policy-makers weigh movement to growth systems.

Value Added Models in Education: Theory and Applications. Edited by Robert Lissitz (2005).

This work contains 10 chapters authored by measurement professionals exploring the impact and structure of value-added modeling. The work is highly technical and all articles contain research as well as statistical models that value-added research may employ. Of particular note are articles on the design and implementation of differing value-added models for the Dallas School District and Tennessee's experience.

Longitudinal and Value Added Modeling of Student Performance. Edited by Robert Lissitz (2005).

This work contains 14 chapters that research and discuss the statistical methodologies that can be employed in value-added modeling for accountability systems. The book presents a variety of chapters regarding the theory and application of longitudinal (growth) modeling and value-added determinations of student achievement. The researchers who contributed to this work are recognized measurement experts from universities and testing houses.

Standards for Educational Accountability Systems. National Center for Research on Evaluation, Standards, and Student Testing. Robert Linn et. al. Policy Brief 5. Winter 2002

This policy brief highlights the components necessary for a fair accountability system as defined by measurement experts.

Policymakers' Guide to Growth Models for School Accountability: How Do Accountability Model Differ. Council of Chief State School Officers. October 2005

This policy guide clearly articulates the differences between status and growth models and explains the conditions necessary to evolve systems towards growth.

March 2007.

NCLB ISSUE BRIEF

Highly Qualified Teachers

CURRENT LAW

NCLB, Title I, Part A, Section 1119—Qualifications for Teachers and Paraprofessionals

• Local education agencies (LEAs), i.e. school districts, must hire only highly qualified teachers to teach core academic subjects in schools receiving Title I (Improving the Academic Achievement of the Disadvantaged) funds starting in the fall of 2002.

• LEAs and state education agencies (SEAs) must have plans in place to ensure that:

• 100 percent of teachers of core academic subjects are highly qualified by the end of 2005-2006, although the U.S. Department of Education (USED) extended the deadline to the end of 2006-2007, and

• Teachers receive high quality professional development to enable them to be highly qualified and successful classroom teachers, with professional development defined in section 9101(34).

NCLB Title I, Part A, Section 1111—State Plans

• SEAs must ensure that, through transfers, providing professional development, recruitment programs, or other effective strategies, low-income students and minority students are not taught by unqualified, out-of-field, or inexperienced teachers at higher rates than other students.

Core Subjects. Core academic subjects include English, reading or language arts, mathematics, science, history, civics and government, geography, economics, the arts and foreign language. Teachers of students with disabilities and students who are English language learners (ELLs) must be highly qualified if they teach core academic subjects.

Definition of Highly Qualified Teacher. Section 9101(23) requires highly qualified teachers to: (1) have a bachelor's or higher degree; (2) be fully state certified, as defined by the state; and (3) demonstrate that they know the subject(s) they are teaching using one of the ways prescribed in section 9101(23). Teachers can demonstrate subject knowledge with college courses, state examinations or, in some cases, a "high objective uniform state standard of evaluation" (HOUSSE). Each state can create its own HOUSSE based on coherent and objective information about a teacher's teaching experience, college courses, professional development and evidence of subject knowledge. The HOUSSE is an option only for veteran teachers, new special education teachers and new teachers in rural LEAs.

Accountability. Section 2141 of the NCLB establishes an accountability system for teacher qualifications that requires states to set predetermined targets, or Annual Measurable Objectives (AMOs) for LEAs and to intervene when an LEA fails to meet its AMOs and fails to meet Adequate Yearly Progress (AYP) for student

achievement. States must impose sanctions on LEAs that do not meet AMOs and AYP, including collaborative planning and, at worst, restrictions on an LEA's use of federal funds.

RECOMMENDATIONS

• Feasible Targets. Set feasible targets for all teachers of core academic subjects to be highly qualified. Clarify that an SEA or an LEA will not face financial penalties or restrictions on its use of federal funds if it has 95 percent of core classes taught by highly qualified teachers and all teachers who are not highly qualified are on track to become highly qualified within three years.

• HOUSSE. Clarify that SEAs and LEAs may continue to use HOUSSE for determining whether veteran teachers, new special education and new rural teachers are highly qualified.

• Equitable Distribution of Teachers. Retain flexibility for states to define inequities in the distribution of highly qualified teachers as it applies to their state's circumstances.

• Teacher Effectiveness. Provide financial incentives for states to pilot different definitions of teacher effectiveness and to implement comprehensive approaches in high-need schools that include innovative teacher preparation and recruitment, better working conditions, professional time for planning and collaboration and instructional career ladders.

• Innovation. Provide more funds for NCLB Title II, Part C programs for innovative teacher recruitment, such as Troops to Teachers and Transition to Teaching. Provide financial incentives to states to pilot definitions and accountability systems for effective school and district leaders.

• Accountability. Preserve the flexibility that enables SEAs to work with LEAs that do not meet AMOs (Annual Measurable Objectives) and AYP (Adequate Yearly Progress) to develop credible plans for improvement in the context of each LEA's needs and circumstances. Provide SEAs with more funds for interventions with LEAs and to develop comprehensive, longitudinal (growth model) data systems that track individual student academic performance over time.

• Professional Development. When scientifically-based or evidence-based research, as defined by the U.S. Department of Education's (USED) Institute for Education Sciences (IES), is not available for a specific professional development need, permit the highest level of available research to be used as the basis for the professional development. Provide additional funding to renew or develop online courses, with priorities for courses in high-need content areas (such as inclusive classrooms with general education and special education students and English language learners) and courses for paraprofessionals. Permit federal professional development funds to be used for Public Broadcasting System's TeacherLine and Ready to Teach products

• Funding Levels and Allocation Formulas. Fully fund Title I and Title II. Change the Title II, Part A allocation formula to enable SEAs to target funds to LEAs that are the farthest from meeting teacher quality goals. Retain factors for population and poverty, eliminate the "hold harmless" provision for funding, add a "rural" factor to target funds to sparsely populated areas that have difficulty recruiting and retaining teachers, and give SEAs flexibility to adjust the weights for each factor in the formula.

• Evaluation. Revise the Higher Education Act Title II reporting requirements, which require states to report on teachers with "waivers" (those who are not certified) by subject area, so they match the NCLB reporting requirements, which require states to report on the number of core classes not taught by highly qualified teachers.

RATIONALE

NCLB will be more effective at attaining its important student achievement and teacher quality goals if it sets feasible goals and provides more resources and flexibility for reaching them while continuing to hold states and school districts accountable.

FACTS

Teacher Shortages. New York may not have enough qualified teachers in all subject areas and geographic regions to reach NCLB's teacher quality goal by the end of school year 2006-2007.

• In 2005-2006, teachers who did not meet the definition of highly qualified taught 5.5 percent of classes in core academic subjects in New York, compared to 7.9 percent in the prior year. However, in 2005-2006, teachers who were not highly qualified taught 8.1 percent of core classes in high poverty elementary schools and

17.4 percent of core classes in high poverty middle and secondary schools. Teachers in high poverty schools were less likely than other teachers to be highly qualified because they were less likely to be appropriately certified for what they were teaching, and, in New York City, were less likely to have had prior teaching experience.

• In 2005-2006, there were shortages of certified teachers in many subjects, with the most prevalent core subjects being the arts, languages other than English, and mathematics. There were also severe shortages of teachers for students with disabilities in middle and secondary grades. New York City and two of the other large cities (Syracuse and Rochester) had the largest gaps, but there were some shortages in nearly every region. In some subjects, New York did not certify enough new teachers to fill vacancies for them. In addition, not every certified teacher is available to teach wherever there is a vacancy.

• In 2005-2006, 43 percent of teachers in New York were age 45 or more, with 17 percent of them over age 54. Demand for new teachers will persist as these baby boomers age out of the workforce and as new policies expand early childhood education, reduce class size and provide tutoring and other support to help every student succeed.

Importance of Innovation. P-16 partnerships are effective in addressing teacher shortages. For example, a federally funded partnership of the State Education Department, the New York City Department of Education and independent colleges and universities in the New York City area yielded hundreds of new teachers in shortage areas for New York City. It is not known yet whether this model can be extended to other regions without needing funds to do it.

New Approaches to Accountability. New York has comprehensive policies that promote teacher quality from preparation through certification, first year mentoring, professional development and annual professional performance reviews. In addition, Governor Eliot Spitzer has called for new approaches, such as Contracts for Excellence, new tenure standards and a review of the effectiveness of teacher preparation programs. Resources are needed to test and refine new approaches.

RESEARCH

Why teacher quality resources should be targeted to schools and districts where they are needed most

Nationwide, low-income and minority students are more likely than other students to be in high-need schools with fewer qualified, in-field and experienced teachers. (Peske and Haycock, 2006). Teachers continue to leave these schools at higher rates than teachers at any other type of school (Marvel 2006). In New York, three large cities with high percentages of low-income and minority students are more likely than other schools to have out-of-field teachers and, in the case of New York City, inexperienced teachers (New York State Education Department, forthcoming). NCLB must permit states to target teacher quality funds to the districts and schools where they are needed most.

Why states need funds to develop comprehensive, longitudinal data systems

The Data Quality Campaign is an organization supported and endorsed by dozens of educational and other national organizations. Its 2006 survey found that only one state, Florida, had an educational data system that met its national standards. Standards and survey results are at *http://www.dataqualitycampaign.org/survey—results/*.

Why funds are needed to promote innovative approaches to teacher preparation and recruitment

NCLB's Transition-to-Teaching program has provided seed money in many states for dozens of projects that enable high-need districts recruit and retain highly qualified teachers through alternative teacher preparation and certification. Performance reports are at *http://www.ed.gov/programs/transitionteach/performance.html.* As alternative teacher preparation models gain the credibility and recognition they deserve, interest in them is increasing. For example, Governor Spitzer seeks to increase opportunities in them in New York. Seed money enables programs to start with enough strength so they can continue when external funding ends.

REFERENCES

Marvel, J., Lyter, D.M., Peltola, P., Strizeh, G. A., and Morton, B.A. (2006). Teacher Attrition and Mobility: Results from the 2004-2005 Teacher Follow-Up Survey (NCES 2007-307). U.S. Department of Education, National Center for Education Statistics. Washington, DC: U.S. Government Printing Office. Table 2, page 9. *http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2007307*

New York State Education Department. Second Annual Report: Teacher Supply and Demand in 2005-2006. University of the State of New York: Albany, NY. Available upon request to NCLBNYS@mail.nysed.gov

Peske, Heather and Haycock, Kati (2006). Teaching Inequality: How Poor and Minority Students Are Shortchanged on Teacher Quality. The Education Trust. *http://www2.edtrust.org/EdTrust/Product+Catalog/subject+search* (select Teacher Quality)

March 2007.

NCLB ISSUE BRIEF

Single Accountability Designation for Adequate Yearly Progress

CURRENT LAW

NCLB makes states responsible for continuous student academic improvement, known as "adequate yearly progress" (AYP). State education departments must (1) design and secure U.S. Department of Education approval for school and school district accountability plans based on academic standards that states develop; (2) ensure that schools, in turn, are held responsible for their students' academic performance; and (3) publicly report test results and test data analyses.

Schools are required to designate student subgroups and measure and report their academic progress. New York has designated these subgroups of students: all students; students with disabilities; economically disadvantaged; limited English proficient; white; American Indian/Alaskan; Asian; black; and Hispanic. A student may be classified as and their academic performance reported as part of more than one subgroup. Schools that fail to make AYP for poor academic performance for any one or more subgroups in any one subject (English language arts, mathematics, and a third, state designated subject) are treated under NCLB as if the entire school failed AYP achievement benchmarks.

States are required to conduct and report publicly on several different measurements of accountability under NCLB and other federal programs. Currently, state education agencies (SEAs) are required to measure and designate:

• Schools and districts In Need of Improvement for failing to make Adequate Yearly Progress (AYP) under Title I. (Adequate Yearly Progress is continuous improvement toward all students being academically proficient, i.e. performing at grade-level, by 2014. Title I mandates improving the academic achievement of disadvantaged students.)

• Schools and districts that do not meet requirements for highly qualified teachers (HQT) under Title I and Title II(a). (NCLB requires 100% of teachers of core academic subjects—English, mathematics, science, history, civics, geography, economics, the arts, and foreign language—to be highly qualified by the end of 2006-2007. To be highly qualified a teacher must have at least a bachelor's degree, full state certification, and demonstrate knowledge of the subject they teach.)

• Districts that do not meet the state's Annual Measurable Achievement Objective (AMAO) under Title III. (Title III mandates language instruction for limited English proficient (LEP) and immigrant students (English language learners, or ELL). AMAO is the level of performance that LEP and ELL students must demonstrate for a district to be deemed to have achieved AYP.

• Districts in Need of Assistance or Intervention under IDEA (Individuals with Disabilities Education Act, which governs special education). These determinations are made based on graduation rates, drop out rates and scores on 4th and 8th grade mathematics and English Language Arts (ELA) assessments.

Often, schools and districts end up on more than one list and are sanctioned for poor performance in different ways, depending on which list they are on. Under NCLB the sanctions apply to the entire school or district, even though only one student subgroup may be underperforming academically in only one subject.

RECOMMENDATIONS

• Use only Title I criteria to determine when a school or district is in need of improvement, not the other subgroup measurements under Title III (LEP and ELL students) or IDEA (students with disabilities).

If a school district achieves Adequate Yearly Progress using Title I criteria for all its subgroups in all subjects—mathematics, English language arts and a third, state selected academic indicator (e.g. science or student attendance rate)—and meets the high school graduation rate, the district should not be

sanctioned for its performance on any other measure under any other NCLB title or IDEA.

Accountability measures under NCLB Title III and IDEA should be used only to determine how to meet the additional needs of ELL and LEP students and special education students

Permit schools to report test scores to the public as letter grades that represent bands or ranges of scores rather than as precise numerical scores (e.g. scores ranging from 90.0-100.0 would equal an "A"). Numerical scores would continue to be reported to the SEAs and the U.S. Department of Education.

RATIONALE

• Using a single set of measures to determine students' academic performance would promote comprehensive planning, allow for more targeted remediation (intervention), and encourage more coordinated use of school and district resources. Using one accountability measure of academic proficiency for students in English language arts and mathematics would make the system easier for the public to understand and avoid the "list fatigue" that occurs when multiple designations are released over the course of the school year.

• Labeling an entire school in need of improvement and thus triggering schoolwide interventions when only one subgroup may be in need of additional assistance is a waste of staff and fiscal resources at the state, district and school levels.

• Parents with school age children make decisions about where to live based on the academic performance of students in particular school districts. This, in turn, affects property values and the desirability of certain communities. Reporting scores to the public as letter grades would create a more equitable opportunity for communities to be selected as desirable places to live.

FACTS

It is not clear that multiple measurements add additional value. School districts do not have the resources to devote to unnecessary remediation. In New York there is a large overlap in schools and districts placed on the various lists:

• Of the school districts that failed to make AYP under NCLB Title I, 40% also failed to meet requirements for highly qualified teachers, 60% also failed to meet the adequate measurable achievement objective for LEP students and 54% also failed to meet IDEA goals.

• Of the 828 schools that failed to make AYP in the 2005-2006 school year, 51% were designated in need of improvement due to the performance of only one subgroup, students with disabilities.

RESEARCH

There is no conclusive research on this issue. However, the results of compliance with current law appear to support our recommendations. This is a sample of current research:

Educational Measurement: Issues and Practice. Winter 2005

Educational Measurement is the journal of the National Council on Measurement in Education. This special issue is devoted to empirical research on current accountability systems, i.e. their structure, their relationship to policy, and their impact on school reform movements.

Standards for Educational Accountability Systems. National Center for Research on Evaluation, Standards, and Student Testing. Robert Linn, et. al. Policy Brief 5. Winter 2002.

This policy brief highlights the components necessary for a fair accountability system as defined by measurement experts.

March 2007.

NCLB ISSUE BRIEF

Targeted Interventions and Differentiated Consequences for Schools and Districts Identified as in Need of Improvement

CURRENT LAW

Under NCLB, states must use a school's failure to make Adequate Yearly Progress (students' continuous academic improvement) for two consecutive years as

a determinant that the school is not on track to achieve universal proficiency by the 2014 school year, and thus should be labeled "in need of improvement". Schools may be designated in need of improvement if one or more subgroups of students (e.g. Hispanic, students with disabilities, limited English proficient) do not meet targets for improved academic performance or if less than 95 percent of students in a subgroup take an assessment (this is called the participation rate). The participation rate requirement keeps schools from selectively eliminating students (e.g. students with disabilities or limited English proficient) from taking an assessment.

States publicly identify schools in need of improvement. The schools are required to develop and submit a plan outlining a series of reforms designed to lead to improved academic performance. As the years pass, provisions of NCLB are triggered that initiate a series of mandated school choice options and school district interventions. During the first year of identification as in need of improvement (after a school's second consecutive year of missing an AYP target), NCLB requires the district to offer students the option of transferring to another public school not identified as in need of improvement (this is called school choice). After the second year of a school's being labeled in need of improvement (three consecutive years of failing to meet AYP), low income students must be offered free supplemental educational services (SES), such as tutoring, in addition to school choice.

NCLB assumes all students in a school designated as in need of improvement need remedial help even though only one subgroup of students may have fallen short of the AYP target. School districts are required to set aside up to 20 percent of their Title I program funding to implement school choice and SES for low-income students. They do not have to offer SES or school choice beyond what can be supported by that 20 percent and funds that are set-aside, but not used, can be returned to the general education program.

RECOMMENDATIONS

• States should not be required to impose NCLB mandated sanctions (school choice and supplemental educational services) on schools or districts because of the failure of one or several subgroups of students to meet Adequate Yearly Progress targets.

• Schools should be able to target remediation, or interventions, based on the nature and extent of their failure to make Adequate Yearly Progress.

• Schools and districts should have the flexibility to decide when and in which order to offer school choice and supplemental educational services. Schools should be allowed to work with parents to determine which option best meets family and student needs and when to implement it.

• Additional, targeted funding should be provided to school districts for implementation of school choice and SES.

RATIONALE

• Not all schools that fail to make AYP have systemic problems requiring schoolwide interventions. Interventions such as school choice and supplemental educational services should be given first to the students who are underperforming academically. For example, if students with disabilities fail to meet AYP targets, resources and remediation should be focused on those students.

• Some school districts, particularly those in inner cities, which must offer school choice have only a few schools or no schools that are not also in need of improvement to which to send students. For example, most of New York's smaller districts may have only one high school; if it is identified as in need of improvement there is no other place to send the students. Or a small city may have two middle schools; if one is identified, often the other is too. In New York City, there are too many students eligible for school choice and too few schools that are making Adequate Yearly Progress to accommodate them. It would be more efficient and effective to allow school districts to determine whether and how to implement school choice and SES, depending on their circumstances.

• There is a distinction between a school district's failing to make AYP for an inadequate participation rate and failing for students' academic performance. If a district is cited for an inadequate participation rate, there is no way to determine from this how students are performing academically. Yet, NCLB requires that states impose school-wide interventions for failure to meet the 95 percent participation rate mandate.

FACTS

• In New York, preliminary data show that for the 2005-06 school year, 37 percent of the schools identified as in need of improvement were so designated because

of the underperformance of one subgroup: students with disabilities, and 51 percent were designated because a single subgroup, mostly, students with disabilities, underperformed on the grades 3-8 English Language Arts exams.

RESEARCH

There is no conclusive research available on this issue.

• In November 2003 the U.S. Department of Education awarded over $600,000 to the Center for School Change at the University of Minnesota's Hubert Humphrey Institute and the National Governors Association Center for Best Practices for a three-year project to help states develop the most effective and efficient ways to create and administer school choice systems that will produce improved student achievement.

• In 2005 the U.S. Department of Education instituted a pilot program that allowed the Boston public schools and the Chicago public schools to become supplemental educational services providers. (NCLB does not allow schools in need of improvement to use its staff to provide SES.)

• Also in 2005, USED allowed four school districts in Virginia to reverse the required order of offering school choice first, then SES by offering SES first.

• USED invited all states to apply for the school choice/SES pilot program on behalf of their school districts for the 2006-07 school year.

• USED has not yet published the results of these pilots.

Chairman KILDEE. Thank you very much.

Ms. Quenemoen?

STATEMENT OF RACHEL QUENEMOEN, SENIOR RESEARCH FELLOW, NATIONAL CENTER ON EDUCATION OUTCOMES, UNIVERSITY OF MINNESOTA

Ms. QUENEMOEN. Thank you, Chairman Kildee and Ranking Member Castle and all the members of the subcommittee, for inviting me here to testify today.

I work on several federally funded projects housed at the University of Minnesota. However, in my testimony this morning I am representing myself and not the multiple projects on which I work.

Although you wouldn't know it from the newspaper lately, the news is good on the increasing achievement of students with disabilities. Data from schools, states, and the National Assessment of Educational Progress show improved test scores, a closing of the gap. Not all schools are being successful. So researchers and policymakers are studying what makes a difference in successful schools.

What they are finding is that successful schools ensure that all students are taught the challenging standards-based curriculum at grade level through effective instructional strategies, and all students are expected to learn it. That seems straightforward, but clearly, not all schools have figured that out.

To understand the importance of high expectations, it is important to have a clear idea of who students with disabilities are. Most students with disabilities, 75 percent, have learning disabilities, speech language impairments or emotional behavioral disabilities. Add another 4 to 5 percent with physical, visual, hearing, and other health impairments, and you have 80 percent of students with disabilities who do not have intellectual impairments who with high quality curriculum and instruction can achieve proficiency on the grade level content by going around the effects of their disabilities.

In addition, research suggests that many of the small percent of students with disabilities who do have intellectual impairments, less than 2 percent of the total population of all students, or 20

percent of students with disabilities, can also achieve proficiency when they receive high quality instruction in the grade level content. In schools where all these children are expected to learn and given the services, supports and specialized instruction to do so, we are seeing data that shows students with disabilities can learn to very high levels.

Why don't all educators accept these high expectations? Some of it results from a misunderstanding of what standards-based testing is meant to measure. The tests that most of us experienced growing up were built on the measurement models of the 20th century, norm referenced tests, designed to sort us into bell-shaped curves in some kind of ability distribution. Garrison Keillor makes use of these misconceptions in his sign-off from Lake Wobegon, not far from my home, "where all the children are above average."

If students of idyllic Lake Wobegon are taking the norm referenced tests where half the students are above and half below average, that is very probably true for very complex reasons. However, if instead they are taking a high quality criterion reference test based on challenging content and achievement standards, then there is not an average to describe, only relative distance from the standard. If there is a widely accepted but erroneous assumption that there will always be students who do poorly on tests, then it is pretty tempting to predict which students will end up on the bottom.

In contrast, on a good standards-based test, all students who are taught well should perform well. My written testimony describes what is being done to use the best research in teaching learning and assessment to help states design assessment systems that can promote student learning. It also describes the regular assessments, accommodations, and varied alternate assessment options available to ensure all students are tested well. And I welcome your questions about these options.

The results of these assessments are used, of course, in accountability systems. There has been much attention in the press about how states have designed these systems. The technical difficulties of accountability systems are real, and states have an obligation to avoid both false positives and false negatives in identifying schools.

In other words, although gaming of the system does exist, thoughtful, committed people are struggling with ensuring fairness all the way around. And sometimes it is hard to discern good intentions from bad.

Growth models are seen as a logical solution by many. Pilots of the model are underway, which is good. And serious attention has been given to ensuring that all student groups are included, which is better. The states working on this thus far are in pilot phases and are required to carefully analyze the effects of these models. They are also required to build these models based on an absolute standard of proficiency for all students, which is extremely important.

However, many special educators and the general public have seen the term growth as more generic, that any progress is acceptable and would relieve the pressure of proficiency as an absolute standard. There have been proposals that student IEPs could replace the regular accountability system, effectively excluding stu-

dents from the benefits of standards-based reform. Others suggest that special education students should be held to separate standards that focus growth only on basic skills or suggest exemption from accountability completely.

This would be disastrous and cause us to lose the tremendous progress we have made the past 6 years. It is important to step back to celebrate where we have come from and to clarify where we cannot go. Because of NCLB we now have a powerful level for reducing and eliminating the achievement gap of students with disabilities.

Any adjustments to accountability systems should be made for all students, not just one sub-group, with consideration and careful monitoring of intended consequences and unintended consequences for students overall and for sub-groups.

Thank you very much.

[The statement of Ms. Quenemoen follows:]

Rachel Quenemoen
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Committee on Education and Labor
Subcommittee on Early Childhood, Elementary and Secondary Education Hearing
"How NCLB Affects Students with Disabilities"
March 29, 2007, 10:30 a.m, Room 2175 Rayburn House Office Building

Thank you Chairman Kildee, Ranking Member Castle, and all the Members of the Subcommittee for inviting me to testify this morning.

I am the Principal Investigator of an Office of Elementary and Secondary Education (OESE) funded Enhanced Assessment Grant (EAG) contract with the state of Georgia, and Co-Principal Investigator of another OESE EAG contract with the state of New Hampshire, both of which are housed at the National Center on Educational Outcomes at the University of Minnesota. These projects are focused on so-called "gap assessment issues" and on alternate assessments. I also am the Co-Principal Investigator and technical assistance team leader for a National Technical Assistance Center on Assessment for Children with Disabilities, funded by the Office of Special Education Programs (OSEP), also housed at the National Center on Educational Outcomes (NCEO). In that role I provide technical assistance to all the states and territories on inclusive assessment and accountability systems. Finally, I participate in research on technical issues of alternate assessment through a subcontract with the National Alternate Assessment Center (NAAC), a research center funded by OSEP, and housed at the University of Kentucky. However, in my testimony this morning, I am representing myself, and not the University of Minnesota or the multiple projects on which I work.

The Federal role in public education is a frequent topic of news articles and blogs these days, but the idea of a strong public commitment to ensure that all the children of all of the people are educated to be effective members of our democracy is not new. Our noble experiment in government by the people and for the people has everything to do with our discussion today. The civil rights era during the mid 20th century opened the doors to the same public education system for all students. It was at that time that the system was opened for many of the children who still are on the wrong side of the achievement gap. Many of these students, including most students with disabilities, had access to the school room by the 1970s, but did not have access to the same rich curriculum and effective instruction as their peers. Our discussion today is on one level simply a continuation of three decades of work. That we are still seeing persistent gaps is the bad news – but the good news is that in the last 6 years, since the passage of the No Child Left Behind Act, we have learned a lot about why all children have not been achieving at high levels, and we have seen examples around the country of what can happen when we change our practices.

I will focus my remarks on the standards, assessment, and accountability components of the No Child Left Behind Act, and how they have affected students with disabilities. I hope to share examples in three areas:

First, I will share data from schools where they have changed practice, making use of assessment data and the pressure of adequate yearly progress as an opportunity for reform

so that all students can achieve the challenging standards set for all students. These examples demonstrate that the long-term goal of full proficiency is not an illusion, and at a minimum, we can not at this point accept the argument that we should accept far less.

Second, I will share what we have learned about assessing the academic performance of ALL students during the past decade, including those students who may not take a "typical" or "on average" path through the content. Think of students who are deaf or students who have barriers to specific processing skills – we have learned, and are learning, so much about HOW students learn the full range of challenging content because of the push from NCLB to understand how well they HAVE learned. This push has resulted in improved understanding and design of standards-based assessments.

And that, in turn, leads to better understanding and design of accountability systems based on these assessments, which is my third point. It is in this area that we have the most to learn still, but improving the quality of the assessments will take us part of the way to that outcome.

After waiting for three decades for substantive progress in educating ALL children, I am here to say that NCLB has resulted in public clarification of and support for high expectations for all students, improvement of assessment design and use, and the spotlighting of effective and ineffective practices in public schools, for all students. That makes it the most powerful lever we have found in the past three decades to move students with disabilities, along with other students who have been affected by the achievement gap, from mere ACCESS to public schools to ACHIEVEMENT. I will elaborate by focusing on the three topics.

CHALLENGING STANDARDS FOR ALL STUDENTS: First, let me address what is sometimes called the "existence" proof of student achievement. Anecdotal stories have been building for several years, and many states have instituted formal procedures to use assessment and accountability data to identify schools where reforms are yielding very high achievement for students with disabilities. We have also had a few formal studies of what is occurring in schools where test scores are higher for students with disabilities. The informal and formal studies have consistently found that schools where students with disabilities are achieving at high levels share these characteristics, as summarized in one study: (1) a pervasive emphasis on the curriculum and alignment with the standards, (2) effective systems to support curriculum alignment, (3) emphasis on inclusion and access to the curriculum, (4) culture and practices that support high standards and student achievement, (5) well-disciplined academic and social environment, (6) use of student data to inform decision making, (7) unified practice supported by targeted professional development, (8) access to resources to support key initiatives, (9) effective staff recruitment, retention, and deployment, (10) flexible leaders and staff that work effectively in a dynamic environment, and (11) effective leadership (Donahue Institute, 2004).

The February 2007 edition of *Educational Leadership* (the professional journal of the Association for Supervision and Curriculum Development - ASCD) features a

longitudinal study in Rhode Island. The study, completed through the local affiliate of ASCD, looked at "closing of the gap" and found that 100 of Rhode Island's 320 public schools had shown dramatic closing of the gap for the students with disabilities subgroup over the 2001-2004 testing period. They followed up with a survey of these schools, and include summaries of the specific reform strategies that these schools incorporated. The author notes that:

> The diverse populations of schools that have successfully reduced the achievement gap suggest that strategies are applicable and effective in a variety of settings. For example, Richmond Elementary is a rural school that enrolls 500 students, with a minority population of approximately 2 percent. Duternple, on the other hand, has a minority population of more than 28 percent and is defined as "urban ring." (Hawkins, 2007, p. 63).

The leaders of these schools ensured that all teachers had the support, skills, tools, and strategies they needed to effectively teach the same challenging content to all children. These and the other common practices identified in these 100 successful schools mirror the findings of the Donahue Institute, and the author concludes:

> The Rhode Island ASCD affiliate study proved that students with special needs can achieve high standards when schools address learning needs. Successful schools had strong leadership and incorporated effective practices that promoted a responsive learning environment. Most important, they were committed to ensuring the success of each student. (Hawkins, 2007, p. 63).

If we have existence proofs of dramatic acceleration of student achievement following best practice interventions, it raises the question of why the letters to the editor pages are so full of teachers, and even parents, decrying the expectation that all children learn to high levels. Why have educational professionals so resisted actually teaching students with disabilities the challenging content, and expecting them to learn it? Part of the answer to this rests in centuries of fear and bias, or pity and caretaking toward people with disabilities, or for that matter, any people who are different from the typical.

HIGH QUALITY STANDARDS-BASED ASSESSMENTS: Now I will turn to the second point – once all students have been taught well the challenging curriculum, how do we ensure that we can show what they know appropriately on assessments? If our academic assessments are not sensitive to capture what students actually have learned, our system will harm rather than help our efforts to ensure all children succeed. This second topic does not have the same public appeal as telling the student and school success stories, but is essential for understanding how NCLB has and can continue to increase our understanding of how all children can achieve proficiency. Let me start with what the data from fully inclusive assessments have told us thus far, but then let me step back to a discussion of what a "good" assessment is, based on work from the National Research Council's Committee on Assessment.

NCEO surveys of States over the past decade have recorded state staff perceptions of changes occurring in their districts and schools. They speak of the improvements in the performance of their students, attributing the improvements to clear assessment

participation policies, alignment of IEPs with standards, improved professional development, development and provision of accommodation guidelines and training, increased access to standards-based instruction, and improved data collection (Thompson, Johnstone, Thurlow, & Altman, 2005). Analyses of publicly reported assessment data since 2000-2001 show improvements in the transparency of data for students with disabilities, both for participation and for performance (Thurlow, Quenemoen, Altman, & Cuthbert, in press). For example, NCEO's identification of states with clear participation reporting to the public for students with disabilities showed only 5 states in 2000-2001, but 20 states in 2004-2005. These data also showed large increases in participation percentages across time for most states. Data on performance showed similar changes – more states with clear transparent reporting, and increases in performance across years (see example from Massachusetts in Appendix A). Data from the National Assessment of Educational Progress (NAEP) support these data – overall there has been an increase in the performance of students with disabilities (see Appendix B).

Assessment literacy basics – norms vs. standards: So the news is generally good. We have had dramatic success in some schools, but dramatic resistance to change in schools often just down the highway in the same state or even district. Some of the resistance comes from misunderstanding of what standards-based testing is meant to measure. Most educators, and for that matter, members of Congress, have taken large-scale achievement tests throughout their schooling years. These tests typically were built on the measurement models of the 20th century– norm referenced tests, or NRTs, designed to sort us into bell-shaped curves on some kind of ability distribution. These tests have not given us precise information at the individual level that will tell us who has deep and enduring understanding of important knowledge and skills in math or in reading. They have been well suited to give us a general sense of how a group of students is performing, as well as serving to sort out huge populations for purposes like army personnel assignments or admission to elite colleges. We have a century of development on measurement models that work well for these purposes.

These norm-referenced tests are designed for a very different purpose and use than tests that would tell us what groups of students know compared to a well-defined standard, or a criterion (or standards-based) referenced test (CRT). Not all states are using tests that do this well, but the testing industry is making progress toward better test design for the purpose of comparison to well-defined content and achievement standards and not to normal curves. Still, over a century of norm-referencing testing designed to distribute students along a normal curve has affected the perceptions of teachers, parents, and the public – and has resulted in a popular belief that on any skill taught, we can expect and should see on tests that half of the students are "below average."

Garrison Keillor has made use of these misconceptions in his signoff from Lake Wobegon, not far from my home, "where all the children are above average." If the middle class, Lutheran students of Lake Wobegon are taking a norm-referenced test, that is very probably true, for a variety of complex reasons. If they are taking a high quality criterion referenced test based on challenging content and achievement standards, then

there is not an "average" to describe, only relative distance from the standard. Then, we would hope, students who have been taught well will demonstrate proficiency on the standards. This fundamental understanding of testing is missed by much of the public (and many educators) in discussions of No Child Left Behind. (For more information on distinctions between NRT and CRT testing purposes and uses, see CCSSO Handbook for Professional Development in Assessment, Sheinker & Redfield, 2000).

So if there is a widely accepted (but erroneous) assumption that there will ALWAYS be students who do poorly on tests (i.e., below average), then it is pretty tempting to predict which students will end up on the bottom. Have you ever heard educators or members of the public say, "Well of COURSE they don't do well on the tests, they have disabilities!" Once those expectations are entrenched, they play out in insidious ways. The literature on the effects of teacher expectations on student achievement is deep and strong – and alarming given so many educators seem to believe that students with disabilities cannot learn well.

On the other hand, if you understand that you teach all the children the same content, tailoring services, supports, and specialized instruction for some children to be sure they master the content, and then you test to ensure that they have indeed learned it, then your views of testing are very, very different. And it leads to a very important point, and one that has been advanced by NCLB requirements. In order to measure standards-based learning for all students, including those who do not "fit" the measurement models we have developed the past century, we have to rethink some of the assumptions we have made about testing.

How do we know what ALL students know? Fortunately, we are addressing these issues after the National Research Council's Committee on Assessments worked on the problems of educational assessment, resulting in the book, *Knowing What Students Know*: *The Science and Design of Educational Assessment* (NRC-Pellegrino, Chudowsky, & Glaser, 2001). We have made much progress. The Winter 2006 (just published) journal of the National Council on Measurement in Education (NCME), *Education Measurement: Issues and Practice,* devoted an entire issue to what we are learning. The editor of the special topic journal states in the opening: "These papers reflect the current state of the art; even the *Standards for Educational and Psychological Testing* do not address assessment of these subgroups [LEP and some SWD] fully…A psychology of educational achievement testing would have to address special considerations for these student subgroups." (Ferrara, 2006, p. 3).

In our work with the New Hampshire Enhanced Assessment Grant the past two years, we have been able to partner with multiple state leaders, and with measurement, curriculum, and special education experts to understand how the current state of the art reflected in the Committee's work applies to students with disabilities. A few basic principles from the NRC work help illustrate the key findings, and why they are important to ensuring we truly know what students know.

The NRC work builds from a simple triangle that represents the process of reasoning from evidence.

> The corners of the triangle represent three key elements underlying any assessment: [1] A model of student cognition and learning in the domain, [2] a set of beliefs about the kinds of observations that will provide evidence of students' competencies, and [3] an interpretation process for making sense of the evidence" (Pellegrino et al., 2001, p. 44).

In applying this to students with disabilities, we have asked similar questions: Who are the students – what are their characteristics – and how do they build competence in the domain? What observations of their learning will illustrate how well they have learned? What inferences can we make about their learning?

Who the students are, and their learning characteristics, varies greatly among students with disabilities. See Appendix C for a summary chart of categorical distribution of students with disabilities. Based on a recent summary by NCEO's Director, Martha Thurlow:

> *Most* students with disabilities (75% altogether) have learning disabilities, speech/language impairments, and emotional/behavioral disabilities. These students, along with those who have physical, visual, hearing, and other health impairments (another 4-5%), are all students *without intellectual* impairments. When given appropriate accommodations, services, supports, and specialized instruction, these students (totaling about 80% of students with disabilities) can learn the grade-level content in the general education curriculum by going around the effects of their disabilities, and thus achieve proficiency on the grade-level content standards. In addition, research suggests that many of the *small* percent of students with disabilities *who have intellectual impairments* (less than 2% of the total population of all students, which is *less than 20% of all students with disabilities*), can *also* achieve proficiency when they receive high quality instruction in the grade-level content, appropriate services and supports, and appropriate accommodations.

The key to this description is to think about how these students build competence in the academic domains. If we have "existence proofs" that these students can learn the same challenging content as their peers, would you guess that they may vary in their "paths to proficiency?" There are some assessments that assume that all students take the same path to proficiency. What we realized is that there are reasons to doubt that assumption for this highly varied group of students with disabilities. We have limited good data to understand how they vary. In the early days of implementation after P.L.94-142, special education was built on a deficit model – with the goal of overcoming the identified problem in children, or caring for those for whom the deficits were severe – and was not based on a curriculum model. Thus, special education trained people generally have a very limited understanding of content domains. This is compounded by the history in special education of seeing the "general curriculum" as a tightly ordered list of tasks, from low to high, K-12, and every skill in sequence is necessary for subsequent ones.

Although all subspecialties or philosophical positions in education do not agree to what degree this task-analyzed view of curriculum is or is not true, there IS agreement among

curriculum professional organizations – as illustrated by mathematics and English teachers' professional organizations' own standards – that building competence in the domain is not a lock-step, task-analyzed march to proficiency in a narrow range of basic skills. Not all lower level skills or knowledge are necessary in order to master more challenging content, bigger ideas, or problem-solving– the engaging and motivating content beyond basic skills. We are just beginning to understand how concepts develop, with the NRC Committee work suggesting, "Not all children learn in the same way and follow the same paths to competence" (Pellegrino et al., p. 103), and they are referring to all children. How this applies to students with disabilities is even less well understood.

What we have learned about what we know – and do not know – is striking. Tests – and the statistical models that we have trusted in the past – are only as good as our understanding of who the students are and how they build competence in each domain – not just in the aggregate across tens of thousands, but the groups who by and large may take an atypical path to competence. And they are only as good as the curricular philosophy and quality of design that is represented by the items on the test. Are assessments up to the task? What are the underlying assumptions of the statistical models? Are those assumptions met for all subgroups? As pointed out in the NCME journal cited above, we are forced to rethink validity frameworks now that we have included ALL students.

Do current assessments work for students with disabilities? All assessments are not equal in their capacity to show well what all students know. Still, state assessment offices have in many cases pushed the testing industry and the measurement field to examine long-established practices that may, in fact, obscure what some students know and are able to do. This is especially true in states where assessment, curriculum, and special education offices have collaborated on conceptualizing the assessment system to ensure all students can show what they know. These states typically begin with a deep understanding of the full range of the academic domains to be assessed, then carefully consider who the students are who are deemed "difficult to assess," and how these students show real growth in knowledge and skills of the domain. These deliberations, often done in the absence of a research base, depend on carefully looking at actual student work that has resulted from effective teaching of the content. Only then can a state decide how to design the assessment, and what can be learned from results on the assessment. In many states, we have found that the National Research Council assessment triangle is especially important to consider in the design, administration, and use of assessments where "atypical learning paths" are to be measured. What we realize however, is that these assessments carefully designed to capture how students learn and show what they know give us far better information on learning for all students, not just those with special needs.

Regular assessment, with or without accommodations. The vast majority of students with disabilities take the regular assessment, with or without accommodations. These tests are increasingly developed with universal design elements in mind, resulting in more accessible tests for all students. For example, students with disabilities are considered from the beginning in the development of test design, so that item features are not

included that assess disabilities rather than the construct; test item developers have been trained, and bias and sensitivity reviews consider disability issues in connection with content and construct targets. These design features result in more accurate scores that reflect actual student knowledge and skills, and not extraneous factors. Universal design does not mean that accommodations are no longer necessary.

Our knowledge base on the effects of accommodations on the content being measured is growing, but the complexities of the research are considerable for the most challenging content and student combinations. Most accommodations are widely accepted as not changing what is being measured, but there are accommodations that are controversial, or that are considered modifications. Modifications are changes in administration that do indeed change what is measured, and change the meaning of the test results. For a very few students, these modifications are the only way they can interact with portions of the test, so states are working hard to develop strategies to capture what the student can do while ensuring that standards are not lowered. States are struggling with policies that retain high expectations for all students as well as integrity in measurement and meaning of the test. A few states have made and defended sometimes controversial decisions on these issues, but they also require close monitoring and accountability for schools where these accommodations are selected for students. It is a delicate balance between access and inadvertently lowering expectations, and standards. (see NCEO teleconference materials from accommodations series, 2005-2006:
http://education.umn.edu/nceo/Teleconferences/tele11/default.html
http://education.umn.edu/nceo/Teleconferences/tele12/default.html
http://education.umn.edu/nceo/Teleconferences/tele13/default.html

All the attention on accommodations policies for testing has had a powerful consequence. It has drawn much needed attention to what has been limited understanding and quality of use of accommodations for instruction or assessment (Lazarus, Thompson, & Thurlow, 2006, http://www.eprri.org/PDFs/IB7.pdf). The CCSSO sponsored ASES SCASS collaborative of about 20 states developed a training module, now included in the OSEP toolkit, to ensure states had high quality training materials for accommodations use (Thompson, Morse, Sharpe, & Hall, 2005).
http://www.osepideasthatwork.org/toolkit/accommodations_manual.asp
The training module, which is designed to be adapted by states to encompass their own policies, provides training to build teacher and IEP team capacity on these five steps:

- Expect students with disabilities to achieve grade-level academic content standards.
- Learn about accommodations for instruction and assessment.
- Select accommodations for instruction and assessment for individual students.
- Administer accommodations during instruction and assessment.
- Evaluate and improve accommodation use

The first bullet is essential. Accommodations decisions must be made individually, based on the how the student builds competence in specific knowledge and skills of the academic domain. As pointed out in the opening of this written testimony, special educators often do not have strong content knowledge – and the accommodations

decision process breaks down when there is limited understanding or misunderstanding of the content to be taught and assessed. The key questions that are difficult to make decisions about without content knowledge are: Does the academic content being learned or assessed change because of the proposed accommodation? Will the use of this accommodation prevent the student from mastering the content fully, and thus possibly limit future understanding of related content? Strengthening the link between accommodations decisions and deep understanding of the content domains remains a barrier to effective use of accommodations in instruction and in assessment. Special educators who do not have content expertise must form strong partnerships with content experts. Those with content expertise must be reminded that the purpose of accommodations is to maintain the validity of the grade-level construct that is being measured. Fortunately, many special and general educators are working in tandem to design effective instruction that has been shown to be highly effective.

The bottom line of NCLB accommodation testing requirements is that students who need accommodations are more likely today than before NCLB to be receiving needed accommodations – during testing and during instruction. Prior to NCLB, high estimates indicated that the use of testing accommodations was about 53% for elementary schools and 44% for middle and high schools (Thompson & Thurlow, 1999). Today those percentages are 65% for elementary schools, 64% for middle schools, and 62% for high schools (Thurlow, Moen, & Altman, 2006). According to the authors, "We do not know, as yet, what the percentages *should* be, but having them closer to the same across school levels is a good sign."

There are students with disabilities who participate in the regular assessment, with or without use of accommodations, whose scores are very low. Low scores are NOT a sign that the test doesn't work – the test results tell us how well students are doing so something can be done about it. Many states have carefully analyzed who the "persistently low-performing" students are on their general assessment (e.g., see NCEO teleconference, specifically the NCIEA and Colorado studies, http://education.umn.edu/nceo/Teleconferences/tele11/default.html and also studies from the New England Compact Enhanced Assessment Grant, 2007). In all cases, they have found that persistently low performing students are NOT all students with disabilities, and generally include other subgroups such as minority or disadvantaged students. In addition, in all cases where they have investigated what instructional opportunities these low performing students had, they found that they were not being taught the content on the test. In the Colorado study, they found that students were not being given accommodations that would help them learn the content and then show what they know.

Alternate assessments.
There is a small group of students who cannot show what they know on the regular assessment, even with use of accommodations, and alternate assessments have been developed for many of these students. There are two options for alternate assessment allowed in NCLB law and regulation. One is the alternate assessment based on grade-level achievement standards and the other is the alternate assessment based on alternate achievement standards.

These alternate assessment options are meant to measure how well students know and can do their enrolled grade content standards, but the options DIFFER as to HOW WELL and even HOW MUCH the student knows and can do on that grade level content. They also differ in who the students are for whom the assessments are intended. With the rapid evolution of our understanding of how students build competence, especially students who need alternate assessments, there are many misconceptions and erroneous assumptions related to these alternate assessments. It is important to build a common understanding of the distinctions so the goals of reform are not derailed by these misunderstandings. These alternate assessments provide a critical role in ensuring that we can truly obtain accurate measures of the knowledge and skills of all students with disabilities. It is important to take a bit of time to summarize these approaches to assessment and what we know about them.

Alternate assessments based on grade-level achievement standards are meant to assess the SAME content with the SAME definition of "how well and how much" of the content as is measured by the regular assessment. There are very few, if any, such alternate assessments in place in states now, in part because of the very difficult measurement challenge of showing comparability to the regular assessment. This is an area we hope can develop over time.

Alternate assessments based on alternate achievement standards are meant to assess the SAME content with a DIFFERENT definition of "how well and how much" of the content as is measured by the regular assessment. These assessments are for students with significant cognitive disabilities. Many of the projects and states I work with are gradually developing better understanding of these definitions as we see more and more evidence of student work to guide us. The bottom line for these assessments is that in emerging consequential validity studies in multiple states, we are finding that students with significant cognitive disabilities have dramatically increased in their access to the general curriculum because of the NCLB requirements for these assessments. There have been reports of dramatic increases in other valued outcomes for students with significant cognitive disabilities concurrent with their participation in accountability, specifically, increased use of assistive technology, which in turn increases level of independence, increased implementation of inclusive settings, and increased interaction with typical peers (Horvath, Kampher-Bohach, Kearns, 2005; Kampfer, Horvath, Kleinert, & Kearns, 2001; Kearns, Kleinert, Kennedy, 1999; Turner, Baldwin, Kleinert, & Kearns, 2000).

The achievement of these students on the content is very different from their inclusive classroom peers, but the evidence of their work is compelling: these students are able to learn academic content with reduced complexity, breadth, and depth clearly linked to the same grade level content as their peers. Researchers and practitioners are working side by side to capture the nature of the linkages to the grade-level content, but the evidence of their learning is startling, given that we have not given them access to this content in the past.

Despite the very dramatic and positive outcomes that have been achieved in many locations for students with significant cognitive disabilities, the changes have been challenging and painful for some teachers and other professionals who built their careers on the power of a functional curriculum. These educators know how far we have come since the relatively recent days of automatic institutionalization of these students. Some of you may recall seeing film or photos of the hellish conditions of our public institutions in the mid 20th century, and many of you realize that these dreadful conditions were in part what spurred passage of P.L. 94-142. The field of severe disabilities can be very proud of what it has achieved in transforming thinking and actions so that all children are seen as public school students rather than as patients in institutions. Nevertheless, standards-based education has opened the pathway for another huge step for students with significant cognitive disabilities. It is a time of change that is difficult. The field has to carefully examine the evidence to ensure that artificial barriers are not sustained – these barriers include resisting the students' access to rich and engaging content that has proven to be powerful for their more typical peers. Post school outcomes for students with significant cognitive disabilities based on the functional curriculum as historically defined have been abysmal. It is not a great risk to assume their potential competence in academic content. Indeed there is much to gain.

In many of the states I work with, the current "on loan" teachers who are leading training efforts statewide for the alternate assessments based on alternate achievement standards, but linked to grade-level content, have come from schools – and their own classrooms – where they have taught a functional curriculum for decades. A common story is that these lead trainers once were fiercely opposed to shifts in the curriculum for their students, but were so shocked by what their students could do once they actually gave them the opportunity, that they now help other teachers (and parents) through the initial changes. The student work we are seeing is compelling, and the dialogue of "what is functional" for these students has become extremely convincing. The "least dangerous assumption" appears to be to follow the students' own evidences of learning, just as many of these gifted teacher trainers have done, and monitor the effects closely over time.

Proposed alternate assessment option. There is a third alternate assessment option to be released in final regulation – alternate assessment based on modified achievement standards, or what some call the "2%" option. I have not been involved in thinking about the development of this option, and cannot at this time speculate what the Rule will say, or how that option will play out in practice. However, going back to the National Research Council Committee on Assessment, it will be critical to understand who the students are for whom the option is designed and how they build competence in the academic domain tests. Comparing this to the established assessments based on alternate achievement standards, we have a pretty good sense of who the "1%" of students with significant cognitive disabilities are, and there is agreement that small group of students can benefit from an alternate achievement standard. The field is still struggling with defining how students with significant cognitive disabilities build competence, or even what the nature of linkage to grade level content can and should be, but the disagreements are honest discussion in pursuit of higher expectations and improved outcomes.

The data from the studies referenced above indicate that the students who are the lowest 2% performing students on regular assessments are a blend of students who may or may not have disabilities, and who predominantly represent student groups who have historically been on the low side of the achievement gap. The data, combined with evidence that many of these students have not been taught the challenging curriculum expected for all students, suggest a need for thoughtful and data-based processes to understand what a modified achievement standard represents. Over the next years, we expect that we will be asked to work with states to mine their data – to understand who the students are and how they build competence – and to support their work in developing tests and defining achievement standards that raise the bar and close the achievement gaps these students represent.

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TECHNICALLY SOUND ACCOUNTABILITY SYSTEMS: States should have been developing challenging content and achievement standards and standards-based assessments that include all students as part of Title I requirements since the 1994 IASA legislation. They were required to provide access to the general curriculum for students with disabilities since the 1997 IDEA amendments. Although these laws required public reporting of student achievement for school reform purposes, there really were not public system accountability requirements in either law. Given the track record of progress in most states on raising achievement during this time period, this lack of progress suggests that many public school and state leaders had not read the 1994 and 1997 "memos" from Congress requiring a shift to high expectations and high standards for all students. The NCLB focus on public accountability did catch their attention, fortunately.

Despite the pressure of interesting conversations with constituents that members of Congress must be having, they reflect the awareness of that shift to high expectations and high standards for all students, and yes, for some, a continued disbelief that it is possible. Those of us with a belief that we CAN and MUST do all we can to close the achievement gap, and with data showing that we are moving in that direction, are depending on you to make it possible to continue and finish what has been started. We need to do this by emphasizing good evidence-based practices. We need to do this by reducing tendencies to game the accountability system.

We have all heard the stories of some states and districts that have finessed their accountability plans in the face of bad news from schools. Most states do not have the capacity to "fix" all the schools that could be identified as not doing well with all their students. This may contribute to seeing what some have characterized as a misuse of accountability options, such as setting a very high number for the minimum number of students before results of those students are made public or are included in accountability calculations.

We cannot jump to conclusions about what approaches are "gaming" the system. States have struggled to understand how to avoid over or under-identifying schools for improvement. The technical difficulties of this task are real, and states have an obligation to avoid both false positives and false negatives. We rely on our colleagues with more

technical skills to advise states, and we believe there are good faith efforts in many states to get this right. I have been in conversations in some states where they are designing monitoring checks on schools where the minimum n or confidence interval calculations mean that the school was not publicly identified as missing its targets, but the numbers suggest some problems may exist. This is in contrast with other state conversations where the motive appears to be to protect schools at the expense of students. None of us can accurately impute motive to others, but the issue here is that thoughtful, committed people are struggling with ensuring fairness all the way around, and sometimes the rhetoric around accountability means it has been hard to discern who the good guys are from the not so good.

We know we are at a point where there is tension and there is talk about the need for some adjustments in NCLB. Growth models are seen as a logical solution by many, even though like all technical approaches, there are assumptions that should be examined as the models are developed and implemented. Pilots of the models are underway, which is good, and serious attention now has been given to ensuring that all student groups are included, which is better. The states working on this thus far are in pilot phases, and are required to carefully analyze the effects of these models. They also are required to build these models based on an absolute standard of proficiency for all students.

However, many special educators and the general public have seen the term "growth" as more generic – that any progress is acceptable, and would relieve the pressure of "proficiency" as an absolute standard. Some have recommended looking at alternative ways of holding schools accountable for students with disabilities. One example comes from those who assume students on IEPs are already getting high quality instruction on the challenging content, or in some cases, on what they believe should be a separate curriculum. They propose that individualized growth set by an IEP is an example of an accountability system, and could replace the "regular" accountability system for other students. That would have unintended negative consequences for the disability subgroup (and others as well). Students with disabilities for years have shown growth against IEP goals, and we have ample data to show us that has not worked well to raise the bar of achievement (or of expectations) for these students. Others suggest that special education students should be held to separate standards that focus only on basic skills, or should be exempted from accountability completely. This would be a return to where things were before NCLB and before IDEA 1997.

It is important to step back to celebrate where we have come from and to clarify where we cannot go. Because of NCLB and the public clarification and support it has given to high expectations for all students, we now have a powerful lever – perhaps the most powerful one in the past three decades – for reducing and eliminating the achievement gap of students with disabilities. This can happen only if we take advantage of the challenging standards that have been set, and if we apply what we are learning about teaching to them.

We need to focus attention on these learners, along with all other low performing students, not try to hide their performance or get them out of the system. We need to

carefully examine the quality of our current assessments for use in growth models, and carefully examine effects of current growth model pilots on all subgroups. In addition, ANY adjustments to accountability systems should be made for all students, not just one subgroup, with consideration of intended and unintended consequences for students overall and for student subgroups.

The pervasive low expectations for the achievement of students with disabilities in the past and the present must be confronted and addressed. We have ample evidence that students with disabilities can learn the full range of the challenging and interesting curriculum for all children, overcoming years of poor instruction and access to the curriculum. As I said in the opening, the examples we are seeing in formal research and informal identification of successful schools within states demonstrate that the long-term goal of full proficiency is not an illusion. At this point, we can not accept the argument that we should accept far less. The caveat is, of course, that full proficiency IS an illusion if educators continue doing things just as they have been doing them the past 30 years.

Rachel Quenemoen
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Appendix A:

Performance Data Showing Increases for Special Education Subgroup

Figure 1. Percent of Students who Earned a Competency Determination - Class of 2003

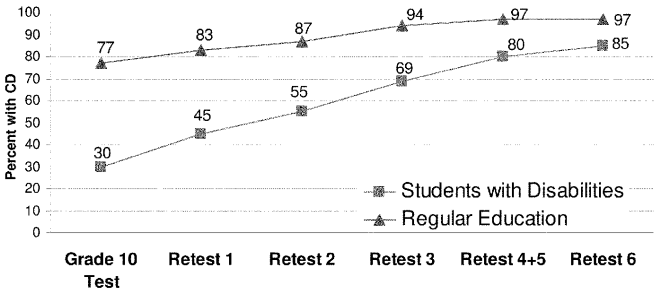
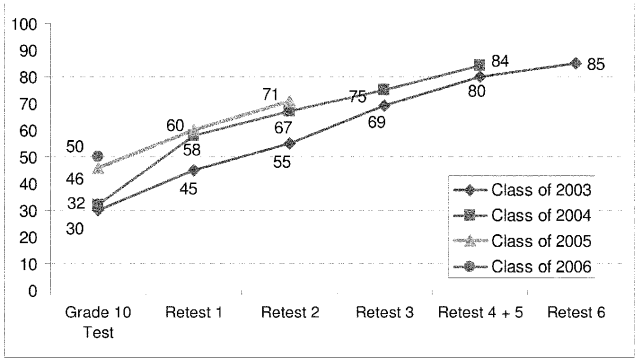
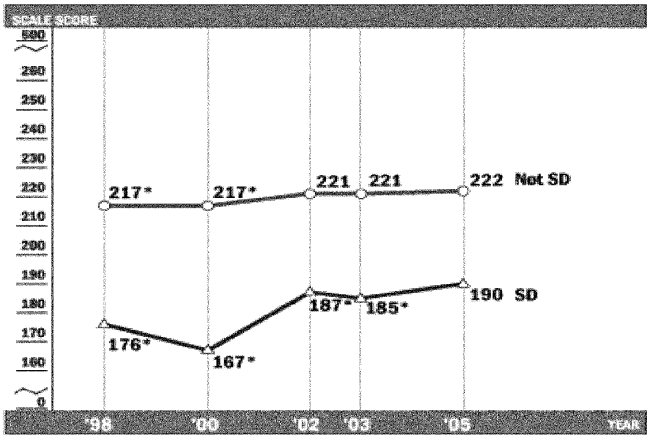


Figure 2. Percent of Massachusetts Special Education Students Attaining the Competency Determination (through the May 2004 MCAS)



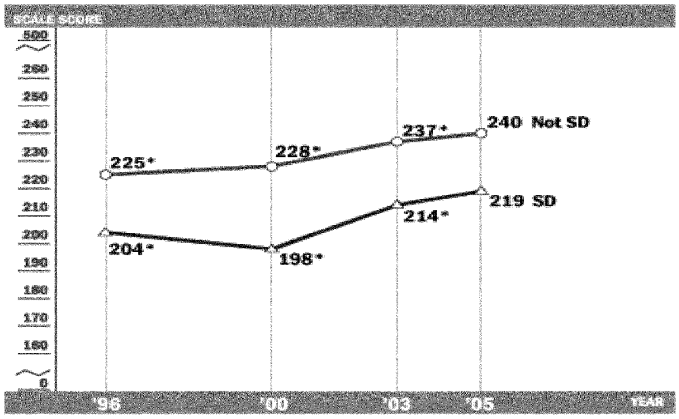
Appendix B:

Figure 3. NAEP Average Scale Scores in Reading, by Students with and Without Disabilities, Grade 4: Various Years, 1998-2005



* Significantly different from 2005. NOTE: SD = students with disabilities.
From: http://nces.ed.gov/nationsreportcard/nrc/reading_math_2005/s0014.asp?printver=

Figure 4. NAEP Average Scale Scores in Mathematics, by Students with and Without Disabilities, Grade 4: Various Years, 1996-2005

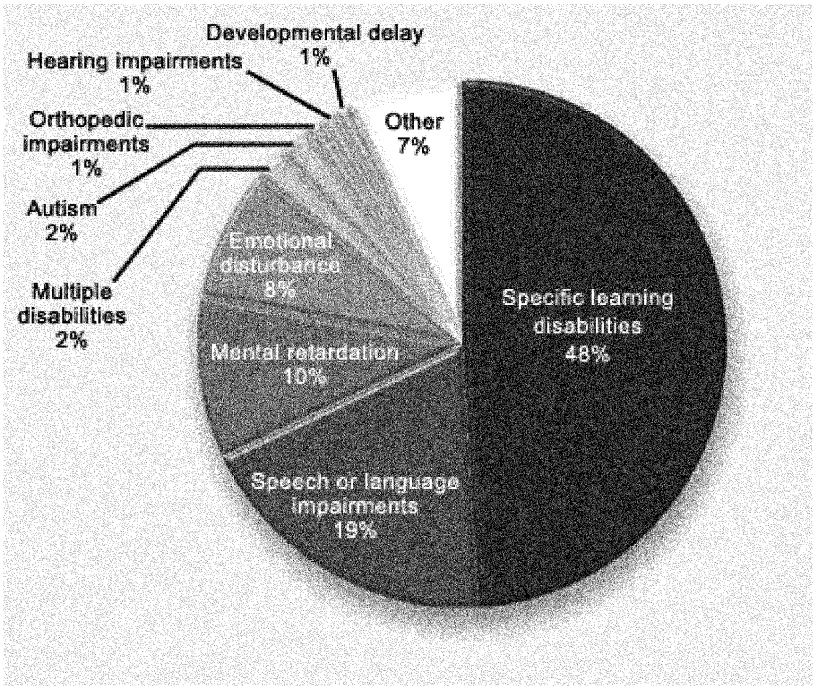


* Significantly different from 2005. NOTE: SD = students with disabilities.
From: http://nces.ed.gov/nationsreportcard/nrc/reading_math_2005/s0029.asp?printver=

Appendix C:

Disability Category Population Representation from Education Week Article

In the 2002-03 school year, almost 6 million students ages 6-21 received services under the Individuals with Disabilities Education Act—a number that has increased steadily over the past decade. Those students are classified into 13 different categories under federal law, and the specific needs of each group are very different.



Reproduced from Education Week *Quality Counts 2004, Count Me In: Special Education In An Era of Standards*, p. 10. Information is from an Education Week analysis of data form the U.S. Department of Education, Office of Special Education Programs, Data Analysis System, 2002-03.

References

Colorado State Department of Education, (2005). *Assessing "Students in the Gap" in Colorado*. Report of the HB 05-1246 Study Committee. Denver, CO. http://education.umn.edu/nceo/Teleconferences/tele11/ColoradoStudy.pdf

Donahue Institute. (2004, Oct). *A study of MCAS achievement and promising practices in urban special education: Report of field research findings (Case studies and cross-case analysis of promising practices in selected urban public school districts in Massachusetts).* Hadley, MA: University of Massachusetts, Donahue Institute, Research and Evaluation Group. Available at: http://www.donahue.umassp.edu/docs/?item_id=12699

Ferrara, S. (2006). Introduction to the Special Issue Toward a Psychology of Large-Scale Educational Achievement Testing: Some Features and Capabilities. *Educational Measurement: Issues and Practice*, *25*(4), pp. 2-5.

Hawkins, V. J. (2007). Narrowing gaps for special-needs students. *Educational Leadership*, *64* (5), 61-63.

Horvath, L., Kampher-Bohach, S., Kearns, J.F. (2005). The use of accommodations among students with deafblindness in large-scale assessments systems. Implications for practice and teacher preparation. *Journal of Disability Policy Studies.*

Kampfer, S., Horvath, L., Kleinert, H., & Kearns, J. (2001). Teachers' perceptions of one state's alternate assessment portfolio program: Implications for practice and teacher preparation. *Exceptional Children, 67*(3), 361-374.

Kearns, J.F., Kleinert, H. L., Kennedy, S. (1999). Assessment and Accountability Systems: We need not exclude anyone. *Educational Leadership, 56*(6) p. 33-38.

Lazarus, S.S, Thompson, S.J, & Thurlow, M.L. (2006). *How students access accommodations in assessment and instruction: Results of a survey of special education teachers* (EPRRI Issue Brief Eight). College Park, MD: University of Maryland, Educational Policy Reform Research Institute. Available at www.eprri.org/products

National Center on Educational outcomes teleconference presentations:
http://education.umn.edu/nceo/Teleconferences/tele11/default.html
http://education.umn.edu/nceo/Teleconferences/tele12/default.html
http://education.umn.edu/nceo/Teleconferences/tele13/default.html

New England Compact. (2007). *Reaching students in the gaps: A study of assessment gaps, students, and alternatives*. (Grant CFDA #84.368 of the U.S. Department of Education, Office of Elementary and Secondary Education, awarded to the Rhode Island Department of Education). Newton, MA: education Development Center, Inc.

Pellegrino, J. W., Chudowsky, N., & Glaser, R. (2001). *Knowing what students know: The science and design of educational assessment.* Washington, DC: National Academy Press.

Sheinker, J., & Redfield, D. (2001). *CCSSO Handbook for professional development in assessment literacy*. Washington, DC: Council of Chief State School Officers, CAS SCASS.

Thompson, S. J., Johnstone, C. J., Thurlow, M. L., & Altman, J. R. (2005). *2005 State special education outcomes: Steps forward in a decade of change*. Minneapolis, MN: University of Minnesota, National Center on Educational Outcomes.

Thompson, S.J., Morse, A.B., Sharpe, M., & Hall, S. (2005). *Accommodations manual: How to select, administer, and evaluate use of accommodations for instruction and assessment of students with disabilities.* Washington, DC: Council of Chief State School Officers, ASES SCASS. Also available from OSEP toolkit at – http://www.osepideasthatwork.org/toolkit/accommodations_manual.asp.

Thompson, S.J., & Thurlow, M.L. (1999). *1999 State special education outcomes: A report on state activities at the end of the century*. Minneapolis, MN: University of Minnesota, National Center on Educational Outcomes.

Thurlow, M.L., Moen, R., & Altman, J. (2006). *Annual performance reports: 2003-2004 state assessment data (Available on the NCEO Web site at http://www.education.umn.edu/nceo/OnlinePubs/APRsummary2006.pdf).* Minneapolis, MN: University of Minnesota, National Center on Educational Outcomes.

Thurlow, M.L., Quenemoen, R.F., Altman, J., & Cuthbert, M. (in press) *Trends in the participation and performance of students with disabilities.* Minneapolis, MN: University of Minnesota, National Center on Educational Outcomes.

Turner, M., Baldwin, L., Kleinert, H.L., & Kearns, J.F. (2000). Consequential Validity of Kentucky's Alternate Portfolio Assessment. *Journal of Special Education. 34*(2), 69-76

Chairman KILDEE. Thank you.
Dr. Hardman?

STATEMENT OF MICHAEL L. HARDMAN, PH.D., DEAN–DESIGNATE, COLLEGE OF EDUCATION, UNIVERSITY OF UTAH

Mr. HARDMAN. Chairman Kildee, Ranking Member Castle, members of the subcommittee, good morning. And thank you for the opportunity to testify on the reauthorization of the No Child Left Behind Act and its impact on teacher education in this country.

As mentioned, I am Michael Hardman, the incoming dean of education at the University of Utah. And I am here in my role and capacity as a faculty member and an administrator at this university.

In its report on the status of teachers in the United States, the National Commission on Teaching and America's Future stated that what teachers know and can do really makes the crucial dif-

ference in what children learn. Good teaching has never been more important than it is today.

The obvious corollary to this statement is that good teacher preparation has never been more important. However, while we are much more knowledgeable about what constitutes good teacher preparation, many programs continue to prepare new teachers in a way that is completely inconsistent with today's schools.

These needs include the skills to teach a more diverse student population, an emphasis on standards and access to the general curriculum, and the call for both general and special education teachers to work together and be accountable to the improved performance of all students.

In many parts of this nation, general and special education teachers are still being prepared in total isolation of one another. These isolated teacher education programs continue although more than 96 percent of students with disabilities spend at least a portion of their school day side by side with peers who are not disabled. Four of 10 students with disabilities spend more than 80 percent of their day in an inclusive class. And nine of 10 general education teachers have an average of nearly four students with disabilities in their classrooms.

The reality is that neither general nor special education alone has the capacity to respond to the complex educational needs of America's children. Collaboration then becomes the key to raising expectations and increasing the performance of all students as mandated in NCLB and IDEA.

At the University of Utah, we are undertaking a first-time major university-wide redesign of all teacher education programs from early childhood to secondary education. The entire new program is based on the concept of universal design for learning and requires a common core of knowledge and skills for every teacher candidate, whether they be general or special education.

Universal design for learning focuses on preparing teachers with the tools to make data based decisions that will meet the individualized needs of every student in the classroom. It provides our teacher candidates the skills to create instructional programs that work for all students. And it makes curriculum and instruction accessible to every student regardless of their abilities or their learning styles. Student monitoring is then used to guide instruction and to increase parent involvement.

Second, all teacher candidates at the University of Utah are taught together in courses and field experiences that are located in inclusive and diverse classrooms. A professional education core at the University of Utah develops a common understanding among general and special education teachers of the goals and purposes of schooling, the skills to meet the educational needs of every student, and how to work together in a school-wide support system, not in isolation.

Our core includes instruction in areas such as safe schools, character education, professional ethics, effective instruction for students with disabilities and English language learners, meeting the needs of students with challenging behaviors, teaching reading, writing, and math, and effective use of technology in instruction.

Implicit in the call by federal policy-makers to reform education and improve student achievement is the critical need for us to reexamine the preparation of our nation's teachers. In doing so, to guide this effort, I have posed the following recommendations for the reauthorization of NCLB and the preparation of both general and special education teachers.

First, federal policy under No Child Left Behind should ensure that every teacher who is deemed highly qualified has demonstrated the research-based teaching skills that are necessary to instruct students with disabilities and English language learners in inclusive settings.

Teacher preparation must be based on an analysis of the skills that are needed for new teachers to improve student performance. These programs must be driven by content standards that define the specific skills that are expected of new teachers as well as performance standards describing how these new teachers will demonstrate mastery.

Teacher education programs should require a common core of skills for every new teacher so they can demonstrate how to continuously assess student performance, adjust the learning environment as needed, modify instructional methods, use effective behavioral supports, and implement appropriate accommodations to meet the individual needs of their students. There is a critical need for Title II of No Child Left Behind to provide funding that will support universities in partnerships with schools to teach this set of core skills to both general and special education teachers.

Teacher education must also include a balance of course work and field experiences consistent with teacher roles. I also recommend that teachers not be considered highly qualified until they have successfully completed their initial preparation program. Current federal regulations allow states to immediately deem teachers as highly qualified when they have enrolled in an alternative preparation program for 3 years but they have not completed all state requirements.

Only teachers who have successfully completed these requirements and are fully certified by the state should be considered highly qualified. Teacher education programs, both university and alternative programs, must be held accountable for their graduates.

And finally, NCLB must provide the resources needed to address the critical shortage of highly qualified teachers and the university faculty who prepare them. Title II funds must be targeted to addressing the critical shortage areas, including special education. The shortage of special education teachers has been pervasive and persistent for more than two decades. Approximately half of special education teachers are leaving this field within the first 3 to 5 years of their preparation.

Chairman KILDEE. Dr. Hardman, there is a vote taking place now in the House. So if you could wrap up, we will——

Mr. HARDMAN. This concludes my testimony. And I thank you very much for the opportunity.

[The statement of Mr. Hardman follows:]

Prepared Statement of Dr. Michael L. Hardman, Dean-Designate, College of Education, University of Utah

Collaboration within a School-Wide System of Support

Chairman Kildee and Members of the Subcommittee, good morning and thank you for the opportunity to testify on the No Child Left Behind Act and its impact on teacher education in this country. I am Michael Hardman, incoming Dean of the College of Education and currently Chair of the Department of Teaching and Learning and the Department of Special Education at the University of Utah. I am also a member of the Board of Directors for the Council for Exceptional Children (CEC) and a past-president of the Higher Education Consortium for Special Education (HECSE). Since the enactment of the No Child Left Behind Act and the Individuals with Disabilities Education Improvement Act, CEC and HECSE have worked closely together to ensure that the promise of every student succeeding in our nation's schools becomes a reality. Although my testimony includes excerpts from the CEC Teacher Education Division and HECSE recommendations on the reauthorization of the No Child Left Behind Act, my role today is in the capacity of a faculty member and administrator representing the College of Education at the University of Utah.

Background

In its report on the status of teachers in the United States, the National Commission on Teaching and America's Future stated that: "What teachers know and can do makes the crucial difference in what children learn * * * New courses, tests and curriculum reforms can be important starting points, but they are meaningless if teachers cannot use them well * * * Student learning in this country will improve only when we focus our efforts on improving teaching. Good teaching has never been more important than it is today."

The obvious corollary to this statement is that good teacher preparation has never been more important as well. However, while we are more knowledgeable about what constitutes good teacher education, many programs continue to prepare new teachers in a paradigm that is inconsistent with the needs of today's schools. These needs include knowledge and skills to teach a more diverse student population; an increasing emphasis on standards and access to the general curriculum; and the call for both special and general educators to work together and be accountable for improved performance of all students. In many parts of this country, general and special education teachers are still being prepared in total isolation of one another. Consequently, many new teachers lack the necessary skills to work together. These isolated teacher preparation programs continue although more than 96% of all students with disabilities spend at least a portion of their school day side-by-side with their peers who are not disabled in an inclusive classroom setting. Four of ten students with disabilities spend more than 80% of their day in a general education class (U.S. Department of Education). According to the Study of Personnel Needs in Special Education (SPeNSE), nine of ten general education teachers currently have an average of 3.5 students with disabilities in their classroom. The reality is that neither general nor special education alone has the capacity to respond to the complex educational needs of America's children. As suggested by Marlene Pugach from the University of Wisconsin-Milwaukee, "the need to prepare all teachers to create classrooms that embrace students with disabilities and teach them is no longer contested." Collaboration is the key to raising expectations and increasing the performance of all students as mandated in NCLB and IDEA.

One University's Vision for the Redesign of Teacher Education

The University of Utah is presently undertaking a university-wide redesign of teacher education at every level from early childhood to secondary education. Several factors have led the faculty to rethink the University's traditional approach to teacher education, including the increasing number of students in public education with unique educational needs who come from diverse cultural, linguistic, and socioeconomic backgrounds and are now learning together in inclusive classrooms. The critical shortages continue in the supply of teachers and the university faculty needed to prepare them, particularly in the areas of special education, math, and science. These shortages are fueled by inadequate salaries and high attrition rates in the first five years of employment. Finally, universities and colleges must find new and innovative ways to meet the challenge of preparing highly qualified teachers under the mandates of NCLB and IDEA 2004.

The design of our new teacher education programs reflects the vision of the University of Utah to attract and retain a diverse faculty of the highest quality who have the desire and responsibility to provide both general and special education teachers with the mentoring, coursework, and field experiences that are rigorous

and relevant for successful careers in today's schools. Our program design is based on three critical elements:

• Universal design for learning within the framework of a three-tier model for evidence-based instruction that provides teachers with the tools for data-based decisions.

• An extensive professional education core of knowledge and skills that is required for every general and special education teacher candidate attending the university.

• University courses directly linked to continuous field experiences in inclusive classrooms and schools.

Universal Design for Learning (UDL). Teacher candidates at the University of Utah develop the skills to create instructional programs and environments that work for all students, to the greatest extent possible, without the need for adaptation or specialized design. UDL, adapted from architecture where buildings are created from the beginning with diverse users in mind, is intended to make curriculum and instruction accessible and to every student, regardless of their abilities or learning styles. A range of options are available to each student that supports access to, and engagement with learning materials. (Rose & Meyer).

In the teacher education program at the University of Utah, UDL is incorporated into a three-tier model of instruction and teacher candidates are provided with the progress monitoring tools that are needed for data-based decisions in terms of selecting, using, and adapting instruction. Data are used to guide instruction, appropriate intervention and practice, parent involvement, and other research-based practices. (Utah State Office of Education; Vaughn, Bos, & Schumm). Tier I focuses on core classroom instruction that is provided to all students using evidence-based practices to teach the critical elements within a core curriculum. The general education teacher and special education teacher in conjunction with a school-wide support team (such as speech language professional, paraeducators, and school psychologists) provide instruction to students who are at various levels of development in critical skills. Most students will demonstrate proficiency with effective Tier I instruction. These students are able to acquire skills through the core (standard) instruction provided by the teacher, whereas others require more intensive instruction in specific skill areas. Using universal design for learning, differentiated instruction, multi-level learning and targeting specific skills classroom teachers in conjunction with the school-wide support team are able to meet the needs of most students.

Tier II provides supplemental targeted instruction in addition to evidence-based practices taught at the Tier I level. For some students, core classroom instruction in the general classroom is not enough for them to demonstrate proficiency. These students require targeted supplemental instruction in addition to the skills taught through core instruction. Tier II meets the needs of these students by giving them additional time for intensive small-group instruction daily. The goal is to support and reinforce skills being taught by the general and special education teachers as well as the school-wide support team at the Tier I level. At this level of intervention, data-based monitoring is used to ensure adequate progress is being made on target skills. The frequency, intensity, and duration of this instruction vary for each student depending on the assessment and progress monitoring data.

A small number of students who receive targeted supplemental instruction (Tier II) continue to have difficulty becoming proficient in necessary content skills. Tier III provides intensive targeted instruction to the most at-risk learners who have not adequately responded to evidence-based practices. These students require instruction that is more explicit, more intensive, and specifically designed to meet their individual needs. Additional sessions of specialized one-to-one or small-group instruction are provided with progress monitoring of specific skills.

The key components of the three-tier model are (1) the use of evidence-based instruction designed to meet the needs of students at each level, and (2) assessment and progress monitoring procedures that measure current skills and growth over time and that are used to provide new instruction to individual students. The three-tier model provides a system that is responsive to students' changing needs.

A professional education core required for general and special education teacher candidates. Traditional teacher education programs reinforce student differences by separating teacher candidates into isolated preparation programs, each with their own unique perspective and curricula. Such a structure makes little sense in today's schools where there is a need for a collaborative approach to teaching and every educator must have a core skill set of knowledge and skills to improve the performance of every student. The professional education core at the University of Utah is intended to develop a common understanding of the goals and purposes of schooling, knowledge and skills to meet the educational needs of all students, collaboration across educators in a school-wide support system, and the use of evidence-based in-

struction leading to advanced skills. Interstate New Teacher Assessment and Support Consortium (INTASC) calls for a cross-disciplinary core in which every teacher candidate develops understanding of content and content-specific pedagogy. Using the INTASC framework and its principles for student-centered learning, the program at the University of Utah prepares every new teacher with knowledge and skills the following content areas:

- Child, Adolescent, and Human Development
- Safe Schools, Character Education, and Professional Ethics
- Ethnic Studies, Multicultural/Multilingual Education, and Effective Instructional Approaches for English Language Learners
- Foundations of Exceptionality and Effective Instruction for Students with Disabilities in Inclusive Classrooms
- Research and Inquiry in Education
- Principles of Assessment and Data-Based Decision-Making
- Positive Behavior Support
- Communication and Language Development
- Reading and Writing Foundations and Methods
- Math Foundations and Methods
- Integrated Curriculum Methods (Across Fine Arts, Health, and Physical Education)
- Effectively Using Technology in Diverse Classrooms
- Education Law and Policy for Classroom Teachers (NCLB and IDEA)
- International Education

Linking university coursework to continuous field experiences. Teacher candidates must continuously demonstrate the knowledge and skills learned in coursework in actual classroom and school settings. Field experiences are viewed as an extension of university courses in which students translate research and theory into practice. Faculty and school district/agency cooperating teachers regularly observe, evaluate, and provide feedback to teacher candidates regarding their classroom performance. Each candidate's performance is evaluated in regard to (a) measurable gains in applying knowledge and skills from coursework, and (b) whether students with whom the candidate is working learn the content.

Recommendations

Implicit in the call by federal policymakers to reform education and improve student achievement is the critical need for effective and qualified general and special education teachers, as well as a re-examination of their preparation. To guide this effort in the future, recommendations are proposed for the preparation of general and special education teachers.

Recommendation 1. Federal policy should ensure that any teacher who is deemed highly qualified has demonstrated evidence-based pedagogical skills necessary to teach students with disabilities and English language learners in inclusive classrooms.

Effective teacher preparation is based on a careful analysis of the competencies needed for new teachers to improve student performance. The curriculum should include approaches, methods, and techniques that have been validated through research; are effective across students with diverse needs; and can be implemented successfully in a general education classroom and school setting. Teacher preparation programs must set content standards that describe the specific skill set expected of new teachers as well as performance standards describing how they will demonstrate mastery. Course work and field experiences are then structured to these content and performance standards. Fortunately, there is a robust research base on effective strategies to support student learning. Effective preparation programs must anchor their curriculum to these evidence-based practices and teacher candidates must be able to demonstrate that they can implement them successfully.

Recommendation 2. Teacher education programs should require a professional education core for all their teacher candidates in order to ensure these individuals have demonstrated knowledge and skills to continuously assess student performance, adjust the learning environment as needed, modify instructional methods, adapt curricula, use positive behavior supports and interventions, and select and implement appropriate accommodations to meet the individual needs of students. Title II of No Child Left Behind can provide support to universities in partnership with public schools to develop this core.

Through coursework and field experiences, teacher candidates acquire a common core of knowledge and skills designed to ensure educational programs and services are accessible and applicable to every student, regardless of ability, cultural background, or learning style. The core is grounded in the three-tier model of instruc-

tion, universal design for learning and evidence-based practice as a foundation for further preparation in a teaching specialization.

Recommendation 3. Teacher education must include a balance of coursework and field experiences that are consistent with teacher roles in inclusive general education schools and classrooms.

Effective teacher education programs use field experiences as a tool to push teacher candidates to translate theory into practice and advance their learning to a higher level. In order to accomplish this task, teacher preparation programs must work with local schools to identify evidence-based instructional techniques. Schools must also be willing to collaborate with teacher preparation programs to create opportunities for candidates to receive the practice necessary to cumulatively develop essential instructional and classroom management skills across time. This is critical for new teachers who have to apply increasingly complex formats in order effectively teach students who require frequent and intense instruction.

Recommendation 4 Teachers should not be considered highly qualified until they have successfully completed their initial preparation program. Following initial preparation, every teacher must have the opportunity to continuously participate in professional development and improvement.

Current federal regulations allow states to immediately deem teachers as "highly qualified" when they have enrolled in an alternative preparation program for up to three years but have not completed all program requirements. Only teachers who have successfully completed approved preparation programs and are fully certificated by state agencies should be considered "highly-qualified" special education teachers.

Additionally, our understanding of effective instruction has expanded dramatically in the last three decades. In order for new teachers to be successful, they must be able to keep pace with research-based developments in curriculum design, instruction, behavior support, and program management. They need to be taught how to be critical consumers of research and use it to inform their practice. Put simply, new teachers and the schools they teach in must have a commitment to career professional development. Teacher education programs and schools must nurture and reinforce this commitment as a critical component of their overall mission.

Partnerships are fostered among teacher preparation programs and schools to support the professional development of newly prepared and career teachers of students with disabilities. Effective teacher preparation programs develop close partnerships with schools that are structured to improve the quality and effectiveness of their graduates. At the heart of these partnerships is the development of shared views about the design of educational services for students with disabilities and the importance of career teacher professional development. Teacher preparation programs and schools must work together to establish initiatives that focus on real challenges facing today's schools, including innovative and efficient ways to prepare, mentor, and retain qualified teachers. Concurrently, schools must take advantage of teacher preparation program faculty expertise to promote research-based practices in the education of all students.

Recommendation 5. Teacher education, including university and alternative preparation programs, must be held accountable for the performance of their graduates.

Effective teacher preparation programs routinely evaluate the quality and impact of their graduates beyond measuring whether they demonstrate mastery of professional competencies at the time of program exit. Teacher preparation programs must be involved with the schools in a joint preparation, mentoring and evaluation process that begins at the time teacher candidates begin their initial preparation, continue during an induction period of no less than three years, and is maintained throughout their career. It is important to measure how effectively programs graduates successfully fill entry level roles and responsibilities through valid and reliable performance assessments. Preparation programs must also be accountable for how effectively they work with schools to mentor and support new teachers, as well as their efforts to systematically follow-up and evaluate their graduates' performance over time.

Recommendation 6. NCLB Title II funds need to address the critical shortage areas of highly qualified teachers and the university faculty who prepare them.

Title II funds should be directly targeted to address critical shortage areas, including special education. The shortage has been persistent and pervasive for decades and the attrition of new special education teachers is of great concern. Approximately half of all new special education teachers leave the field within three years. Title II funds should support higher education partnerships with local school districts designed to address chronic shortages and support the preparation, induction, mentoring, and retention of highly qualified special education teachers. Additionally, while the national focus is on the critical shortages in special education teachers

and related services personnel (and rightfully so), little attention has been paid to the shortage of special education faculty in higher education (Smith, Pion, Tyler, Sindelar, & Rosenberg) In the last two decades, special education doctoral degrees have decreased by 30%. In addition, one third of all vacancies for special education faculty remain unfilled every year. This exacerbates the special education teacher shortage, which has now become as critical as the shortages of math and science teachers (American Association for Employment in Education).

REFERENCES

American Association for Employment in Education, (2000). Teacher supply and demand in the United States. Columbus, OH: American Association for Employment in Education.

Interstate New Teacher Assessment and Support Consortium (INTASC) (2001, May). Model standards for licensing general and special education teachers of students with disabilities: A resource for state dialogue. Washington, D.C.: Council of Chief State School Officers.

Pugach, M.C. (2005). Research on preparing general education teachers to work with students with disabilities. In M. Cochran-Smith & K.M. Zeichner, Studying teacher education: The report of the AERA panel on research and teacher education (pp. 549-590). Mahwah, NJ: Erlbaum.

Smith, D.D., Pion, G., Tyler, N.C., Sindelar, P., & Rosenberg, M. (2001a). The shortage of special education faculty. Why it is happening, why it matters, and what we can do about it. Washington, D.C.: U.S. Department of Education, Office of Special Education Programs.

Study of Personnel Needs in Special Education (SPeNSE, 2000). General education teachers' role in special education (fact sheet). Retrieved 30 May, 2006, from *http://ferdig.coe.ufl.edu/spense/*

The National Commission on Teaching and America's Future. (1996). What matters most: Teaching for America's future: Summary report. New York: Author.

U.S. Department of Education, Office of Special Education Programs. (2004). Twenty-Sixth Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act. Washington, DC: Author.

Utah State Office of Education (2006). Three Tier Model of Reading Instruction. Salt Lake City, Utah: Author

Vaughn, S., Bos, C.S., & Schumm, J.S. (2007). Teaching exceptional, diverse, and at-risk students: IDEA 2004 update edition. Boston: Allyn and Bacon.

1Portions of this testimony were excerpted from Hardman, M., & McDonnell, J.M. (in press). Teachers, pedagogy, and curriculum. In L. Florian & M. McLaughlin (Eds.). Perspectives and Purposes of Disability Classification Systems in Research and Clinical Practice. London: Sage Publications and The Higher Education Consortium for Special Education and the Teacher Education Division of the Council for Exceptional Children. (2006). Recommendations to the NCLB Commission for the Reauthorization of No Child Left Behind. Washington, D.C: Author.

Chairman KILDEE. Thank you. Good. Right on time.

We will take 5 minutes, though, to hear Dr. Henderson. And we will still be able to make it in time to vote and come back here.

Dr. Henderson, you may proceed.

Thank you, Dr. Hardman.

STATEMENT OF WILLIAM HENDERSON, ED.D., PRINCIPAL, THE O'HEARN ELEMENTARY SCHOOL

Mr. HENDERSON. Chairman Kildee, Ranking Member Castle and members of the committee, it is a privilege to be here. I am principal of the O'Hearn School, which is in Boston, Massachusetts.

Our students reflect the diversity of our community, approximately 45 percent African-American, 30 percent Caucasian. The remaining 25 percent come from countries all over the world. The majority of our students qualify for free and reduced lunch.

The O'Hearn is an inclusive school. Thirty-three percent of our students have a disability. At the O'Hearn, students involved in

general education, students with mild, moderate and very significant disabilities, and students considered talented and gifted learn together and from each other.

We are a very popular school under the choice program in Boston. Overall, our students' performance has been successful. For the first time, though, last year we did not make AYP. We need to do better, and we will.

I would like to briefly highlight the situations of four students and then suggest some ways that NCLB has benefited and some ways that it could be more helpful to these children. I have changed their names and the details, but these situations are real.

William came to the O'Hearn when he was 3 years old. He has autism. His pediatrician wanted him to attend a school with just autistic children. But the parents insisted that he be with his peers, although he certainly exhibited some social quirks and communication issues. And we worked with a behavioralist and a speech pathologist. He excelled academically. We have involved him in drama, both during and after school. And he is an outstanding student academically.

Kaylo is a boy born to a mom who had some drug addiction, has some cognitive delays, emotional disorders, entered our school in kindergarten. We gave him some speech and O.T. services. He was behind academically, although up there physically, we retained him in kindergarten, did some early intervention, language-based programs and we also gave him universal design and access to books and cassettes.

But as he got older, the skill level of the material became increasingly frustrating to him. And we had more behavior problems in class due to his frustration. Just last year his IEP team decided to modify his skill level. And he is now performing much better. He is also a great athlete and involved in the school store.

Maria is a girl who was born blind. She started out in a substantially separate school for kids who are blind. Her mother wanted her to make more academic rigor, and transferred her to the O'Hearn. Like her principal, she is learning to use Braille mobility. She reads using a Kurzweil. She sings. And she is a very popular student at our school.

And Carla is a student who came to us in kindergarten, very active physically, having some problems with letter recognition. We did a lot of phonetic awareness programs with her. For some kids, this makes a real impact and difference. For her, she is still struggling. We switched her to Kurzweil and assistive technology. She has been thriving, and is also a very great visual artist.

How has NCLB helped these students?

First, all of these children have access to highly qualified teachers, support staff who collaborate extensively and have very deep conversations now about what we can do and what strategy we can use to help them perform at higher levels.

All of these children have access to universally designed curriculum with extensive accommodations to help them access text books and books, instruction, and current assessments. And all these children also have participated in additional instructional time and not sacrificed in the arts, which is so important to all

children, particularly for kids—and physical education—for kids with disabilities.

My recommendations for improving NCLB would be the following.

First, considering asking states to conduct a federal review of the accommodations standards. We have to safeguard accommodations for our children with disabilities. I am very concerned that two of the children I mentioned and perhaps their principal could not get a high school diploma in some states, yet we could do fine and get degrees in colleges.

Secondly, we want to make sure we don't get involved in a testing frenzy. Nine days of testing is too much for our 5th-graders, value added.

And finally, I wanted to say that parent involvement is critical, not just being involved in IEPs, but seeing what strategy is used to help children be successful, offering suggestions what parents can do, and reinforce these strategies at home.

Thank you very much.

Chairman KILDEE. Thank you very much, Dr. Henderson.

And we apologize. We will repair to the chambers to vote. I ask all members to vote at the door and run right back here.

So you can take a break. But thank you very much. This is a day we are passing the budget, and ordinarily we don't have hearings. But this hearing was so important we decided to go ahead with it even though we are passing the budget.

So if you pray, pray that we pass a good budget over there.

[Recess.]

Chairman KILDEE. We have finished the vote on—I think we have four different budgets we are voting on today, at least four. So we have started one. We will probably have some time now for a while again.

I have been here 30 years, but Dr. Boustany and I ran together back over here. Some of the other younger members are still making their way over here.

I really appreciate the testimony. It has been excellent.

I would like to ask a few questions.

Dr. Rhyne, you testified about different states having different N-sizes. And that has kind of puzzled us a bit, too. I think Maryland has an N-size, except for these students, of five. It varies in Texas. It can go as high as 200. And I think California has 100.

What should we do, and how does that wide disparity affect what is happening out there?

Ms. RHYNE. With that wide disparity, a lot of students with disabilities are being left out of the accountability system. Over half of the states have N-sizes that are over 40. And if you look, for example, an elementary school, an average elementary school might be somewhere between 450 and 500 students. You are leaving out those children.

We do have five states in the nation that have differentiated N-sizes. So the N-size for one sub-group of children is different from another sub-group of children. So I believe the Council of Great City Schools recommends that we have N-sizes of about 20 and, with a waiver, maybe 30. And then we would be catching and put-

ting in all of the students with disabilities and being accountable for them.

Chairman KILDEE. Do you think it would be prudent and wise for this committee to standardize that N-size, perhaps along the lines of the Great City Schools you mentioned?

Ms. RHYNE. Absolutely, I do, absolutely.

Chairman KILDEE. All right. Very good.

Dr. Cort, with reference to the subset of the so-called 2 percent students who are able to progress toward their regular diploma, you testified that they ought to be allowed to proceed at a slower but equally rigorous pace.

Since these students are generally starting at below grade level to begin with, how does this translate to progress toward that regular diploma?

Ms. CORT. Well, I think the entire process is likely to take longer. And that is why under IDEA the ability to stay in school until you are 21 years old is of great benefit. I don't think that all of these students will be able to master high school within the 4 years expected or that they will graduate at the same time as their non-disabled peers. And I think if we do move to some growth models, I think we will be able to see how fast we can have students make progress.

With really intensive special education services, the hope would be that some students can actually gain more than a year in a year's period of time. But those are the kinds of things we need to evaluate.

Chairman KILDEE. Okay. Thank you very much.

You know, when I wrote the law back in Michigan, I put the years 0 to 26 as the ages to be covered. And I remember the superintendents called me in in August just before the bill was to take effect begging me, first of all, to give them 1 more year, secondly, to change 0 to 5 and 26 to 18. But we retained the 0 through 26.

The 0 was very important because certain disabilities require—I used to think more simply in those days—just deafness would require that you break that communication barrier. But we know now that the very physical development of the brain requires that early stimulation. We have learned so much since the days that we first passed special education.

But thank you for your input here.

Dr. Henderson, in your written testimony you testified that in some states your blindness would prevent you from receiving a high school diploma. Could you elaborate on that?

Mr. HENDERSON. Sure. Even in Massachusetts when the MCAS test was first administered for the English language arts section of the test one had to read it with their eyes and answer with a pencil and paper. Am I an illiterate principal because I can't read the information the same way that most of the people here can?

I think not only for blind children but also for children with significant learning disabilities we ought to have the opportunity to access information in multiple formats, whether it be with our eyes, our ears or our fingers, and to demonstrate our understanding and knowledge of that information, those rights and protections that were provided to me as a teacher who became blind

and an administrator under section 504 and the ADA national safeguards.

We need to look at national safeguards for accommodations for children who need access to the curriculum and to assessments.

Chairman KILDEE. Certainly, we know that the nature of God gave us at least five senses. Right? I know we are able to use all those senses. And I appreciate your response.

Dr. Boustany?

Dr. BOUSTANY. Thank you, Mr. Chairman.

Dr. Rhyne, you state that you support the growth models but that tying them to proficiency will not recognize growth that is achieved below that level. My concern is that we will recognize growth below proficiency without ever being accountable for ensuring that the child can perform commensurate with his or her grade ability or level.

Do you have a recommendation for how a growth model could be established and would encourage growth toward a proficiency target and recognize growth below that level?

Ms. RHYNE. Yes, I do. I think there are several ways that this could be addressed. For example, children who we could measure the growth in their scale score and compare that scale score to the scale score of the state, for example. We could look at movement from below proficient to the proficiency range. So that is one way to do that.

Dr. BOUSTANY. I thank you.

Dr. Cort, within the subset of the 2 percent population that you feel does not need modified standards but freedom to progress at a slower pace what kind of guidelines would need to be put into place to help IEP teams determine what level of instruction and assessment would be appropriate for each student?

Ms. CORT. Well, there is a great deal of work that is done as you develop your annual review and the triennial evaluations are conducted under IDEA to determine the current and functioning levels of students with disabilities.

I think this is an area, though, that really requires a good deal of intensive research identifying which is a true student who is learning at a slower pace because of their disability versus a student who looks similar in performance but it is because they haven't gotten appropriate instruction that they are not making that progress is a tough distinction to make.

And I think that we do have to help IEP teams understand different evaluation techniques to determine some of those things and also to be looking better at a record. I think if we move to some growth models and if we look at something like response to intervention, which is talking about good instruction and constant progress monitoring, then you can tell are students responding to instruction, should they be able to move more quickly or is it truly a result of their disability.

So I do believe that we don't have sufficient research or enough information here and that NCLB and IDEA could help contribute to that process by putting some dollars into that kind of research.

Dr. BOUSTANY. I thank you.

Ms. Quenemoen, you discussed the impact that high quality instruction can have on a student achievement for this sub-group.

What is being done to share this information? And are states and school districts receptive to this approach?

Ms. QUENEMOEN. Well, that is an interesting question, whether they are receptive or not. We are certainly seeing spotty patterns of where full states, in some cases, but certainly even within states where the leadership is systematically developing staff development rollouts, if you would, of these best practices.

I think some of the concern is a centuries-old bias and assumption about what students with disabilities or what people with disabilities can and should be doing. So in some cases there is resistance that even administrators aren't aware of. And that is very difficult. Attitudes are very, very difficult to change.

However, I think Dr. Hardman's testimony about an institution of higher education really rethinking the whole way they prepare teachers is probably our longest-term opportunity for really ensuring what we understand about effective instruction and high expectations is embedded in our teaching force.

So I credit many states for systematic and long-term commitment to higher expectations and support through professional development. Ultimately I think our institutions of higher education bear a huge burden in order to get that fully institutionalized.

Dr. BOUSTANY. Thank you.

One last question, Mr. Chairman, if I might, for Dr. Hardman.

You criticize the flexibility that the department has allowed for teachers going through alternative certification programs. States and school districts are telling us that alternative certification programs are an absolutely critical tool for meeting the demand for teachers in the classroom.

Are you concerned that eliminating this flexibility would only exacerbate shortages that we are already seeing with teachers?

Mr. HARDMAN. The concern about alternative preparation programs—first let me say that the range of quality alternative preparation programs varies considerably from state to state and from area to area, as does the range, by the way, of university programs.

I think that the issue is that when you are preparing teachers, every teacher, every institution, every program should be held to the same high quality standards so that we have a consistent understanding that schools have a good, consistent knowledge that the teachers that they are receiving from wherever they are coming from, alternative or traditional university programs, meet those standards.

When you allow teachers to move into classrooms who have not completed those standards and have up to 3 years to complete them, you have a different teaching force moving into the schools.

And I also think that there are some concerns about higher attrition and documented evidence that indicates that you have a much greater chance of losing teachers who are not well-prepared, whether they be in a university or an alternative preparation program.

Dr. BOUSTANY. Certainly. Thank you.

Thank you, Mr. Chairman.

Chairman KILDEE. Thank you, Dr. Boustany.

Mr. Hare?

Mr. HARE. Thank you, Mr. Chairman, for holding this hearing today.

And I have found that we seldom address or fully fund programs to support the population of people with disabilities.

Over the February recess, I toured Roosevelt Junior High School in Monmouth, Illinois, which is in my congressional district, to see the successes the school has had with its positive behavior intervention and support programs, also known as PBIS.

Through positive behavioral practices in which students were taught leadership, teamwork, and were rewarded for good decisions and good behavior, Roosevelt Junior High has seen a drastic decrease in disciplinary measures and increases in academic, social, and emotional function among its students.

More amazing is the fact that the schools in Illinois that have implemented the PBIS have seen lower rates of special education testing and placement of students.

And I ask for unanimous consent to submit the Illinois case study example into the record.

Chairman KILDEE. Without objection.

[The information follows:]

Illinois P·B·I·S Network
The Positive Behavior Interventions & Supports component of the IL Statewide TA Center (IS-TAC)

Case Study Example of PBIS Implementation

January, 2006
www.pbisillinois.org

In eight years of PBIS implementation, Illinois has demonstrated the development of a state-level implementation of evidence-based discipline practices. Evaluation results indicate (a) schools were not using school-wide PBIS practices prior to receiving technical assistance; (b) a structured training process delivered by Illinois trainers has been linked to high-fidelity implementation of PBIS; (c) when schools implement to criterion, they are likely to sustain use of PBIS practices and systems; and (c) schools implementing PBIS to criterion have reductions in problem behaviors. In addition, results from a formal research study employing a randomized control trial design indicated that implementation of school-wide PBIS was causally linked to improved (a) perception of school safety, and (b) proportion of third graders meeting state reading standards.

Evaluation results indicate that schools implementing PBIS in Illinois experience increases in the frequency of specialized interventions for at-risk students. These descriptive data suggest that

- Schools can develop and sustain their capacity for systematic implementation of PBIS, including the use of research-based interventions for students with higher level needs.
- Schools that accurately implement school-wide PBIS can have fewer students exhibiting behavior problems, and can implement specialized interventions for small groups and individual students at a higher rate. These results suggest that students with mental health needs are more likely to get effective interventions in a timely manner if the school is implementing school-wide PBIS with measured fidelity.
- Schools implementing universal and secondary intervention PBIS systems can have lower rates of special education testing/placement of students and can implement more behavioral and academic interventions sooner.
- Students with IEP's in PBIS schools often spend more time in general education settings, and can experience increases in overall academic gains
- Students with comprehensive social/emotional needs can experience success when the schools have implemented a System of Care wraparound approach within a PBIS framework. Results over the past four years for more than 50 students indicate that many students experience
  - Decreases in placement risk at home, school, and community
  - Decreases in suspensions and office discipline referrals
  - Increases in academic and behavioral functioning as reported by teachers
  - Increases in social/emotional functioning as reported by families and teachers

Selected References

Adelman, H. S., & Taylor, L. (1998). Reframing mental health in schools and expanding school reform. Educational Psychologist, 33, 135-152.

American Psychological Association (1994). Violence and youth: Psychology's response. Washington, D. C.: Author.

Anderson, C. M., & Freeman, K. A. (2000). Positive behavior support: Expanding the application of applied behavior analysis. Behavior Analyst, 23(1), 85-94.

Anderson, C. M., & Kincaid, D. (2005). Applying behavior analysis to school violence and discipline problems: Schoolwide positive behavior support. Behavior Analyst, 28, 49-63.

Biglan, A. (1995). Translating what we know about the context of antisocial behavior in to a lower prevalence of such behavior. Journal of Applied Behavior Analysis, 28, 479-492.

Carnine, D. (1997). Bridging the research-to-practice gap. Exceptional Children, 63, 513-521.

Carnine, D. (1995). Trustworthiness, useability, and accessibility of educational research. Journal of Behavioral Education, 5, 251-258.

Carr, E. G., Dunlap, G., Horner, R. H., Koegel, R. L., Turnbull, A. P., & Sailor, W. (2002). Positive behavior support: Evolution of an applied science. Journal of Positive Behavior Interventions, 4, 4-16.

Carr, E. G., Horner, R. H., Turnbull, A. P., Marquis, J. G., Magito-McLaughlin, D., McAtee, M. L., et al. (1999). Positive behavior support for people with developmental disabilities: A research synthesis. American Association on Mental Retardation Monograph Series. Washington, D. C.: American Association on Mental Retardation.

Colvin, G., Kameenui, E. J., & Sugai, G. (1993). School-wide and classroom management: Reconceptualizing the integration and management of students with behavior problems in general education. Education and Treatment of Children, 16, 361-381.

Colvin, G., Sugai, G., Good, R., & Lee, Y. (1997). Effect of active supervision and precorrection on transition behaviors of elementary students. School Psychology Quarterly,12, 344-363.

Epstein, M. H., Kutash, K., & Duchnowski, A. (Eds.) (1998). Outcomes for children and youth with emotional and behavioral disorders and their families: Programs and evaluation best practices. Austin, TX: Pro-Ed.

Fairbanks, S., Sugai, G., Guardino, D., & Lathrop, M. (2007). Response to intervention: Examining classroom behavior support in second grade. Exceptional Children, 73, 288-310.

Fleming, C. B., Haggerty, K. P., Catalano, R. F., Harachi, T. W. Mazza, J. J., & Gruman, D. H. (2005). Do social and behavioral characteristics targeted by preventive interventions predict standardized test scores and grades? Journal of School Health, 75, 342-350.

Gottfredson, D.C., Gottfredson, G.D., & Hybl, L.G, (1993). Managing adolescent behavior: A multiyear, multischool study. American Educational Research Journal, 30, 179-215.

Gottfredson, D.C., Gottfredson, G.D., & Skroban, S. (1996). A multimodel school based prevention demonstration. Journal of Adolescent Research, 11, 97-115.

Greenberg, M. T., Weissberg, R. P., O'Brien, Zins, J. E., Fredericks, L., Resnik, H., Elias, M. J. (2003). Enhancing school-based prevention and youth development through coordinated social, emotional, and academic learning. American Psychologist, 58, 466-474.

Greenwood, C. R., Delquadri, J., & Bulgren, J. (1993). Current challenges to behavioral technology in the reform of schooling: Large-scale, high-quality implementation and sustained use of effective educational practices. Education and Treatment of Children, 16(4), 401-404.

Gresham, F. M., Van, M. B., & Cook, C. R. (2006). Social skills training for teaching replacement behaviors: Remediating acquisition deficits in at-risk students. Behavioral Disorders, 31, 363-377.

Heck, A., Collins, J., & Peterson, L. (2001). Decreasing children's risk taking on the playground. Journal of Applied Behavior Analysis, 34, 349-352.

Horner, R.H., Sugai, G., Todd, A. W., & Lewis-Palmer, T. (2005). School-wide positive behavior support. In L. Bambara & L. Kern (Eds.), Individualized supports for students with problem behaviors: Designing positive behavior support plans (pp. 359-390). New York: Guilford Press.

Horner, R. H., & Sugai, G. (2000). School-wide behavior support: An emerging initiative (special issue). Journal of Positive Behavioral Interventions, 2, 231-233.

Ingram, K., Lewis-Palmer, T., & Sugai, G. (2005). Function-based intervention planning: Comparing the effectiveness of FBA indicated and contra-indicated intervention plans. Journal of Positive Behavior Interventions, 7, 224-236.

Kartub, D., Taylor-Greene, S., March, R.E., & Horner, R.H. (2000). Reducing hallway noise: A systems approach. Journal of Positive Behavior Interventions, 2(3), 179-182.
Kauffman, J. (2005). Characteristics of emotional and behavior disorders of children and youth (7th ed.). Columbus, OH: Merrill.
Kellam, S.G., Mayer, L. S., Rebok, G.W., & Hawkins, W. E., (1998). Effects of improving achievement on aggressive behavior and of improving aggressive behavior on achievement through two preventive interventions: An investigation of causal paths. In B.P. Dohrenwend (Eds.), Adversity, stress, and psychopathology (p. 486-505). London: Oxford University Press.
Kutash, K., Duchnowski, A. J., & Lynn, N. (2006). School-based mental health: An empirical guide for decision-makers. Tampa, FL: University of South Florida. The Louis de la Parte Florida mental Health Institute. Department of Child and Family Studies. Research and Training Center for Mental Health.
Leedy, A., Bates, P., & Safran, S. P. (2004). Bridging the research-to-practice gap: Improving hallway behavior using positive behavior supports. Behavioral Disorders, 19, 130-139.
Lewis, T. J., Colvin, G., & Sugai, G. (2000). The effects of pre-correction and active supervision on the recess behavior of elementary school students. Education and Treatment of Children, 23, 109-121.
Lewis, T. J., & Sugai, G. (1999). Effective behavior support: A systems approach to proactive school-wide management. Focus on Exceptional Children, 31(6), 1-24.
Lewis, T. J., Sugai, G., & Colvin, G. (1998). Reducing problem behavior through a school-wide system of effective behavioral support: Investigation of a school-wide scoal skills training program and contextual interventions. School Psychology Review, 27, 446-459.
Lewis, T. J., Sugai, G., & Colvin, G. (1998). Reducing problem behavior through a school-wide system of effective behavioral support: Investigation of a school-wide social skills training program and contextual interventions. School Psychology Review, 27, 446-459.
Lipsey, M. W., & Wilson, D. B. (1993). The efficacy of psychological, educational, and behavioral treatment: Confirmation from meta-analysis. American Psychologist, 48, 1181-1209.
Mayer, G. (1995). Preventing antisocial behavior in the schools. Journal of Applied Behavior Analysis, 28, 467-478.
Mayer, G. R., Butterworth, T., Nafpaktitis, M., & Suzer-Azaroff, B. (1983). Preventing school vandalism and improving discipline: A three year study. Journal of Applied Behavior Analysis, 16, 355-369.
McEvoy, A., & Welker, R. (2000). Antisocial behavior, academic failure, and school climate: A critical review. Journal of Emotional and Behavioral Disorders, 8(3), 130-141.
McIntosh, K., Chard, D. J., Boland, J. B., & Horner, R. H. (2006). Demonstration of combined efforts in school-wide academic and behavioral systems and incidence of reading and behavior challenges in early elementary grades. Journal of Positive Behavioral Interventions, 8, 146-154.
Metzler, C. W., Biglan, A., Rusby, J. C., & Sprague, J. R. (2001). Evaluation of a comprehensive behavior management program to improve school-wide positive behavior support. Education and Treatment of Children, 24, 448-479.
Morrison, G. M., Furlong, M. J., & Morrison, R. L. (1997). The safe school: Moving beyond crime prevention to school empowerment. In A. Goldstein & J. Cooley (Eds.), The handbook of violence prevention. New York: Guilford.
Nelson, J. R., Benner, G. J., Neill, S., & Stage, S. A. (2006). Interrelationships among language skills, externalizing behavior, and academic fluency and their impact on the academic skills of students with EBD. Journal of Emotional and Behavioral Disorders, 14, 209-216.
Nelson, J. R., Colvin, G., & Smith, D. J. (1996). The effects of setting clear standards on students' social behavior in common areas of the school. The Journal of At-Risk Issues, Summer/Fall, 10-17.
Nelson, J. R., Johnson, A., & Marchand-Martella, N. (1996). Effects of direct instruction, cooperative learning, and independent learning practices on the classroom behavior of students with behavioral disorders: A comparative analysis. Journal of Emotional and Behavioral Disorders, 4, 53-62.
Nelson, J. R., Martella, R., & Galand, B. (1998). The effects of teaching school expectations and establishing a consistent consequence on formal office disciplinary actions. Journal of Emotional and Behavioral Disorders, 6, 153-161.
Patterson, G. R., Reid, J. B., & Dishion, T. J. (1992). Antisocial boys. Eugene, OR: Castalia Press.
Putnam, R. F., Handler, M. W., Ramirez-Platt, C. M., & Luiselli, J. K. (2003). Improving student bus-riding behavior through a whole-school intervention. Journal of Applied Behavior Analysis, 36, 583-589.
Safran, S. P. & Oswald, K. (2003). Positive behavior supports: Can schools reshape disciplinary practices? Exceptional Children, 69, 361-373.

Skiba, R. J., & Peterson, R. L. (1999). The dark side of zero tolerance: Can punishment lead to safe schools? Phi Delta Kappan, 80, 372-382.
Skiba, R. J., & Peterson, R. L. (2000). School discipline at a crossroads: From zero tolerance to early response. Exceptional Children, 66, 335-347.
Sugai, G., & Horner, R. H. (2002). The evolution of discipline practices: School-wide positive behavior supports. Child and Family Behavior Therapy, 24, 23-50.
Sugai, G., Horner, R. H., Dunlap, G. Hieneman, M., Lewis, T. J., Nelson, C. M., Scott, T., Liaupsin, C., Sailor, W., Turnbull, A. P., Turnbull, H. R., III, Wickham, D., Wilcox, B., & Ruef, M. (2000). Applying positive behavioral support and functional behavioral assessment in schools. Journal of Positive Behavior Interventions, 2, 131-143.
Taylor-Greene, S. J., & Kartub, D. T. (2000). Durable implementation of school-wide behavior support: The high five program. Journal of Positive Behavior Interventions, 2, 233-245.
Todd, A., Haugen, L., Anderson, K., & Spriggs, M. (2002). Teaching recess: Low-cost efforts producing effective results. Journal of Positive Behavior Interventions, 4(1), 46-52.
Todd, A., Horner, R., & Sugai, G. (1999). Effects of self-monitoring and self-recruited praise on problem behavior, academic engagement and work completion in a typical classroom. Journal of Positive Behavior Interventions, 1, 66-76.
Tolan, P., & Guerra, N. (1994). What works in reducing adolescent violence: An empirical review of the field. Center for the Study and Prevention of Violence. University of Colorado, Boulder.
Utley, C. A., & Sailor, W. (2002). Positive behavior support and urban school improvement: A special section of the Journal of Positive Behavioral Interventions. Journal of Positive Behavior Interventions, 4, 195.
Walker, H. M., Horner, R. H., Sugai, G., Bullis, M., Sprague, J. R., Bricker, D., & Kaufman, M. J. (1996). Integrated approaches to preventing antisocial behavior patterns among school-age children and youth. Journal of Emotional and Behavioral Disorders, 4, 194-209.
Walker, H. M., Ramsey, E., Gresham, R. M. (2005). Antisocial behavior in school: Evidence-based practices (2nd Ed.). Belmont, CA: Wadsworth/Thomson Learning.
Wentzel, K. R. (1993). Does being good make the grade? Social behavior and academic competence in middle school. Journal of Educational Psychology, 85(2), 357-364.

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Mr. HARE. And then, according to a statement by the American Occupational Therapy Association, which I also ask for unanimous consent to submit, early intervening services under IDEA provide school-wide targeted and individual interventions for children who are struggling academically and behaviorally. The implementation of school-wide support programs such as PBIS improves academic and behavioral outcomes for students with disabilities in both general and special education.

Chairman KILDEE. Without objection to your second request.

[The information follows:]

Prepared Statement of the American Occupational Therapy Association (AOTA)

The American Occupational Therapy Association (AOTA) submits this statement for the record of the March 29, 2007 hearing. We appreciate the opportunity to provide this information regarding the relationship of occupational therapy services to improving results for children with disabilities under the No Child Left Behind Act (NCLB).

Occupational Therapy Services under IDEA and NCLB

Occupational therapy is concerned with an individual's ability to do everyday activities, or occupations, so that they can participate fully in school, at home, and in the community. Occupational therapy practitioners use purposeful activities as therapy to help children bridge the gap between their capacity to learn and full, successful participation in education, work, and play.

Occupational therapy services in schools are intended to help children succeed academically and behaviorally. Intervention strategies focus on information-processing, academic skill development, social interactions and the ability to function in the school environment. For adolescents, occupational therapy focuses on preparation for work, life choices, improvement of social and work skills, and learning how to create or alter the environment to maximize productivity.

The advent of early intervening services under IDEA 2004 provide for the funding of school-wide, targeted and individual interventions for children who are struggling academically and behaviorally. Implementation of models of school-wide support such as Response to Intervention (RtI) and Positive Behavioral Supports (PBS) are general education initiatives that have demonstrated the ability to improve academic and behavioral outcomes for students with disabilities in both general and special education. AOTA believes that early intervening funds support student achievement in a very similar way to how Title I funds support improvements of academic achievement for the disadvantaged and that Congress should designate a portion of Title I funds to expand early intervening services to provide additional tiered supports to struggling students at risk of failure or special education identification.

How Occupational Therapy Helps Students with Disabilities

Occupational therapy intervention for children and youth is planned in consultation with parents and families, teachers, and other professionals, and is directed toward achieving successful educational outcomes. Depending on the student's age, the presence of learning difficulties or behavioral issues may have debilitating effects on his or her sense of accomplishment or social competence. Occupational therapy intervention for these students can address these stresses by identifying psychosocial problems and appropriate strength based coping strategies.

Occupational therapy can have a significant supportive role in assessment of students with disabilities under NCLB. The occupational therapists' expertise can help teachers and IEP Teams to identify appropriate accommodations needed to support the student's skill level. This includes identification of and training in the use of assistive technology or other aids that will help the student to more successfully participate in state and district assessments. Occupational therapy expertise in function and performance can also contribute to the identification of children who need modified assessments in order to more effectively demonstrate their academic progress.

AOTA believes that occupational therapy is an underutilized service that can meet and address children's learning, social and behavioral needs. This limited access affects both IDEA-eligible students as well as students in general education. Often, this limitation is due to a lack of understanding about how occupational therapy can help or because of perceptions that therapists only address "motor" issues. Occupational therapy can be invaluable in helping parents and school staff to understand the relationship between the physical and psychosocial aspects of development and performance, and developing strategies to improve academic and behavioral outcomes for children with disabilities

Again, we thank you for the opportunity to comment on the important issue raised by this hearing and look forward to continue working with the Committee to improve outcomes for all students

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Mr. HARE. Thank you, Mr. Chairman.

So, Dr. Hardman, if I could ask, you testified about the need to target Title II funds to address the shortage of special education

teachers and special ed faculty shortages. However, secondary intervention systems have shown to lower the rates of special education testing and placement of students.

So could programs like this PBIS solve the problems or help to solve the problems of teacher shortages by decreasing the population of students identified by IDEA?

Mr. HARDMAN. I think, the first part of your question, the answer is yes, but for all the right reasons. And that is that these students are receiving appropriate education, whether they meet a general or special education program. And that is the issue. And the answer is yes.

Our model universal design for learning and response to intervention all fit into that same model of prevention and allowing us to provide the kinds of services that will allow students to move forward and not need necessarily over time the intensity of instruction that has been associated with special education.

Historically we are a field, special education, that waits for children to fail. We are now a field that is thinking much more about prevention. So the answer is absolutely yes.

Mr. HARE. Thank you very much.

Dr. Rhyne, you testified in support of the growth program and model for students with disabilities. Can you describe what that model might look like?

Ms. RHYNE. Yes. Rather than students meeting absolute standards, we have many, many students with disabilities who teachers, principals, schools—they are getting no credit for the tremendous growth that individual students are showing. And there needs to be some way that schools and teachers can receive credit for that growth rather than meeting an absolute standard.

And as I indicated before, something like growth and scale scores, for example, as compared to the growth at the state, some way to acknowledge that students are making progress. But as Dr. Cort has recommended and has testified, it is going to take longer for some students.

Mr. HARE. Another question I have, Dr. Rhyne, is, do you have specific recommendations on how we can improve the recruitment and retention of special ed teachers?

Ms. RHYNE. Yes, I do.

Mr. HARE. I thought you might. [Laughter.]

Ms. RHYNE. Yes, I do.

You had mentioned PBIS in a question, your former question to Dr. Hardman. And the Charlotte-Mecklenburg Schools has embarked on a multi-year project of putting PBIS in our schools.

And like the example that you gave, we have seen dramatic results in our schools. For example, when we looked at all elementary schools that were implementing PBIS during the 2005, 2006 school year, I believe we had a 40 percent reduction in referrals to the office.

We have done PBIS. We have got everybody in a school working on PBIS, from cafeteria workers to bus drivers to custodians. And a key to its success is that everybody is implementing it the same way and that the adults get together, agree and then are consistent.

So that is a roundabout answer to one of the reasons that people leave the field, that have been indicated to our school district is over the area of discipline and behavior of all students in a school.

And so, with a process like PBIS where teachers could be assured that there is a very systematic way of teaching children about behavior—when a child can't read, what do we do? We teach him to read. When a child is going to learn to drive, we teach them to drive. But when a child can't behave, we traditionally punish them. And so, PBIS is a teaching method.

So I think programs like PBIS would be incredibly important for a school district to implement. I think anything that we can do where we provide comprehensive intervention, for example, comprehensive intervention in reading, so that we have more children performing on grade level.

And I think for children with disabilities and for general ed children as well, what we have found in Charlotte-Mecklenburg to be extremely important and extremely successful is pairing general ed and special ed teachers to co-teach in a classroom. And we are influencing the success of not only the children with disabilities in that classroom, but also general ed children as well.

So it is multiple things.

Chairman KILDEE. The gentleman's time is expired.

The gentleman from Puerto Rico, Mr. Fortuno?

Mr. FORTUNO. Thank you, Mr. Chairman. And again, I thank you for today's hearing. I believe we are examining today a very important issue to the children of America, including those living in Puerto Rico.

First today, I would like to share with you all some concerns that I do have with the Department of Education in Puerto Rico, which I believe is falling short in its oversight responsibilities by neglecting its students with disabilities.

To illustrate this, I am sharing a letter to the committee addressed to Chairman Miller and Ranking Member McKeon from Mr. Alpidio Rolón, who is the president of the Puerto Rico chapter of the National Federation of the Blind. In his letter he outlines important issues that deeply affect those with disabilities and details the shortcomings of the Puerto Rico Department of Education.

Mr. Chairman, I am asking unanimous consent to include this letter as part of our record.

Chairman KILDEE. Without objection.

[The information follows:]

SAN JUAN, PUERTO RICO,
(Sent via email), March 28, 2007.

Hon. GEORGE MILLER, *Chairman,*
Hon. HOWARD P. "BUCK" MCKEON, *Ranking Member,*
House Committee on Education and Labor, Rayburn House Office Building, Washington, DC.

CHAIRMAN MILLER AND RANKING MEMBER MCKEON: "No Child Left Behind." Would that it were true for children in Puerto Rico. Especially for blind children.

According to the Puerto Rico Department of Education's 2005 "Child Count" data, 673 students were classified as blind or visually impaired. Of these 35 received Braille books. The Department of Education states that 29 blind students ot of 439 receive Braille books during 2006-2007.

NCLB emphasizes that good reading and writing skills ensure the advancement in life. For blind children, learning to read and write Braille is the gateway to success. Dr. Ruby Ryles, Louisiana Tech University professor, has stated in her study

"The Impact of Braille Reading Skills on Employment, Income, Education, and Reading Habits", that there is a direct correlation between good reading and writing Braille skills and good gainful employment. In Puerto Rico, the Department of Education pays little or no importance to Braille.

Two weeks ago, a teacher of blind children came to one of the Braille classes that NFB teaches at the Puerto Rico Regional Library for the Blind and Physically Handicapped. I say came to one class, because she never came back. The teacher who shall remain nameless, read Braille with her eyes and not her fingers as a blind person does. I should add that most sighted Braille teachers in Puerto Rico read Braille with their eyes. Obviously, they cannot transmit to blind students what NCLB states about establishing a relation between the grapheme and phoneme. Any child, whether blind or sighted, must learn to connect in his or her mind, the relation between form and sound. Most blind students in Puerto Rico are not getting that. Mind you, under section 614 (d) (3) (B) (iii) of IDEA, Braille is the fundamental system for teaching blind children how to read and write. On the other hand, Puerto Rico's 2002 Public Law 240—Braille Literacy Act—states that Braille is the fundamental reading and writing method for blind children. It also establishes that Braille teachers should be certified by the National Library Service for the Blind and Physically Handicapped. Regretably, Article 9 of the law states that the law will enter into effect when the Department of Educacion requests funds for its implementation. It still has not seen fit to do so.

Two weeks ago, a local bank announced the installation of speaking automatic teller machines for the blind. Present at the inauguration, were a group of blind children from the Instituto Loaíza Cordero, a school for blind children. One can only say they were there for show because their main contribution was to sing. According to people present at the inauguration, none of the children carried a cane. An indispensable instrument if a blind person hopes to be successful in life. Children at Loaíza Cordero—a deplorable excuse for a public school—are not given a real chance to succeed. They are not taught to use a cane from early childhood. Students with residual vision although legally blind are not taught Braille. Orientation and mobility as Braille, is one of the basic skills that all blind persons should learn if they wish to succeed. It is also established as a must have skill in IDEA. Blind children, if taught O and M, should be able to move from place to place independently. Too many times we see—even in regular schools—how blind children are moved from classroom to classroom by teachers or assistant.

In 1980, MS Rosa Lydia Vélez—mother of a disabled child—sued the Department of Education because it was not providing her daughter the necessary special education services. By 2003, the suit had become a class suit, and the Department of Education finally decided to enter into stipulations on how to remedy the abominable special education situation. Four years later, and millions of dollars paid in fines, the Department of Education has yet to settle the case. Obviously, the thousands of children for whom the Department of Education has not provided adequate services since 1980 have been left behind.

Lastly, it seems to us that if NCLB's basic principles—accountability for results, emphasizes on doing what works based on scientific research, expanded parental involvement and options, and expanded control and flexibility—are to work, there should be more stringent Federal regulations and supervision. As the old United Negro College Fund ad says: "A mind is a terrible thing to waste."

Hoping that my comments have in some way contributed to the reauthorization of NCLB process, I am,

Respectfully,

ALPIDIO ROLÓN,
President.

Mr. FORTUNO. Thank you.

Actually, in his letter he states, for example, that, according to the Puerto Rico Department of Education 2005 child count data, 673 students were classified as blind or visually impaired. Of this, only 35 received Braille books. The Department of Education states that 29 blind students out of the 439 received Braille books during 2006 and 2007. More details are included in that letter.

Actually, I should point out that in 1980 Ms. Rosa Lilavelez, the mother of a disabled child with whom I have met several times, sued the Puerto Rico Department of Education because it was not

providing her daughter the necessary special education services. Ever since the 1980s on, what we have had is a bunch of lawyers becoming rich just handling what became a class action suit that to this day is not resolved.

Another letter I would like to include for the record, if I may, Mr. Chairman—and for that I also ask unanimous consent—is a letter from Ms. Maria Miranda, who is the director of the technical assistance program at the University of Puerto Rico.

Chairman KILDEE. Without objection.

[The information follows:]

PRATP
Programa de Asistencia Tecnológica de la Universidad de Puerto Rico

March 28, 2007

Sent via email

Hon. George Miller
Chairman
House Committee on Education and labor
2181 Rayburn House Office Building
Washington, D. C. 20515

Hon. Howard P. "Buck" McKeon
Ranking Member
House Committee on Education and Labor
2101 Rayburn House Office Building
Washington, D. C 20515

Chairman Miller and Ranking Member McKeon:

In Puerto Rico, the No Child Left Behind Act (NCLB) shows discrimination against students with disabilities, specially those with cognitive disabilities. Many schools do not want to admit those special students because of the creation and implementation of a standard-based system that cause a discrepancy with the competitiveness requirements established by Law. This situation causes an indirect reaction in our social, moral and legal[1] levels: we compete against each other, we reject those different to us, and we impose disproportionate values in which the priority is students with the abilities established by the society. It also prevents that some individuals show and contribute with their talents; causes the violation of civil, human, constitutional, and legal rights; and above all, delay the historic development achieved by individuals with disabilities.

NCLB understands is not about imposing standard regulations to the student's performance but to the requirements to practice as teacher in Puerto Rico. We should admit only the most qualified and competitive professionals if we really want to improve the competitiveness of our Nation. We are certain those teachers will help to flourish each individual in contact with them. To conclude this matter, we cited an article about the visit of Dr. Par Stenback, ex Minister of Education in Finland, published today in one of our most widely read newspapers, El Nuevo Día.

[1] Rehabilitation Act of 1973, Section 504, Americans with Disabilities Act

Dr. Stenback mentioned the requirements to become a teacher in Finland. He indicated that in Finland the requirements are so rigorous that only 10%-15% of the solicitudes are accepted, which gave us and idea of the quality in their education.

On the other hand, it is imperative to have the infrastructure to be able to implement NCLB under the concepts considered by the Law. For example, Puerto Rico has not been able to achieve the requirement of reduce the quantity of students per group. Obviously, this factor increases the reject of students with disabilities. Also, we can mention other elements that we need to add about the educational system of Puerto Rico such as: lack of support to our teachers; lack of collaboration and team work between teachers in general courses and special education teachers; lack of assistive technology equipment; lack of technology in the schools; necessity of training related to the needs and characteristics of students with disabilities; division of services related; lack of reasonable accommodation; failure to execute the requirements of NIMA under the Individuals with Disabilities Education Act (IDEA); among other elements. Each one of the above mentioned elements and not mentioned but identified requires the implementation of a plan of action in the Department of Education. It implies administrative, curriculum and structural changes in the system. For example, when we talk about assistive technology (AT), we find the need of train the teacher in the use and inclusion of AT in the curriculum. There is also a need to reduce the time it takes to acquire a device or other imperatives necessities to our students. Right now, it takes almost a year or more.

In Puerto Rico, we need to make our scholar community aware of the meaning of NCLB and especially of the alternate achievement assessment. Regretfully, there is an evaluation system that does not respond to the parameters of the Law but informs that is carrying it out. This situation has a negative impact in the one the Law pretends to help: those students who their disabilities affect their potential to participate in the regular standards of competition. People interprets the Law as following, students with severe mental retardation should be force "to fit" in the regular standards to carry out the requirements of the Law that pretend to offer an unreal education, not very functional and practical to this sector.

We are grateful for the opportunity to react and present some recommendations about NCLB and its implementation in Puerto Rico. We are available to talk in depth about the topics mentioned.

Respectfully,

María I. Miranda
Director

c Hon. Luis Fortuño
Hon. Margaret Spelling, Secretary of Education

Mr. FORTUNO. Thank you, Mr. Chairman.

In her letter, Ms. Miranda points to serious problems such as a lack of teacher training in the use of technology in the schools. Some of the funds diverted from these same programs in the last 2 years would have actually addressed these issues.

As I previously stated, it is a great disservice to those who need to benefit from the education the most, the children from my district—in this case, Puerto Rico—especially those with disabilities.

I will ask the panel, if I may, if they know of any similar situations anywhere else in the country. And I have heard, actually, the passion which you all discussed different models and how you are handling these different challenging situations in your own districts. I would like for any insights that you may have regarding a very unique situation, as I see it, in my district.

So I open it up. And maybe, Dr. Rhyne, you may want to start.

Ms. RHYNE. Yes, sir. I think in order to improve special education in a school district it is imperative that the importance of educating all students be communicated from the school board through the superintendent and down all levels of the organization. And I don't believe you can make significant progress unless you have that.

Additionally, I think it is incredibly important that general education, general educators receive more training and professional development on teaching students with disabilities. And I think our special education teachers need to become more adept at standard content.

Our special ed teachers have traditionally been great at modifying and making adaptations in curriculum and instruction. And our general ed teachers have been masters at the specific content area. And so, if we can educate both groups and improve their skills or if we can do that through a co-teaching model, then all children benefit.

Mr. FORTUNO. Thank you.

Ms. CORT. I think that the importance of partnerships comes in here very strongly. And when we have schools that are under-performing or that don't have the knowledge base that they need to provide the services, we have to look at the university system, the linkages with the mental health systems and other systems in the community and, of course, the communication with parents.

I don't think most teachers leave their institution of higher ed even with certification with all the skills or knowledge that they need to be good teachers. That happens as they are teachers and as they receive professional development and assistance from the leaders within those schools. So those are important pieces.

And one of your first issues relative to Braille and services for students with severe physical disabilities, the technology now and the availability of adaptive equipment is just skyrocketing, given the systems that are going on technologically. But a lot of schools and families don't know that these things exist. There are new requirements in IDEA, like now publishers have to begin submitting their texts in a format that can be converted.

And I think we are going to see a great advancement in the availability of universal design for learning and of materials that are appropriate to the needs of students with disabilities. But everyone needs to be educated on what is available. Some of it is more easily accessed than others. And some of it is expensive. And so, the dollars and the training need to go into this.

Chairman KILDEE. The gentleman from New Jersey, Mr. Payne?

Mr. PAYNE. Thank you very much.

In regard to the growth model, I know, Dr. Henderson, you testified in support of a growth model. And I was wondering and listening to Dr. Rhyne if you could describe what the model you would have in mind, what it would like. Are you for the growth model?

Thank you.

Mr. HENDERSON. Yes, particularly one example. In Boston this year on the front page of the Boston Globe, they highlighted two high schools, particularly where you see a lot of stratification of students. One of the high schools was an exam school and only stu-

dents get in who score high on exams. And the other high school was one that serves students with significant behavior problems and many involved with the law.

To compare these two schools' performance on the same test is not fair. And for that school that has the students that have had difficulty throughout elementary and middle school years who are going to an alternative school—we are trying to keep them in school—dealing with a range of issues for the hope and sake of the hard working teachers and staff and children and families there, we have to be able to show some kind of growth, also in schools that are dealing with children with mild cognitive delays.

We have got a little bit of a problem here. If children are truly cognitively delayed, are they truly ever going to become proficient? Now, there are many children who are classified as being cognitive delayed who are not. And it is important that we provide opportunities for rigorous standards and instruction so we can achieve as much as the potential as we can. But for those children with cognitive delays, it is important, again, for those children, their parents, their teachers, and schools that we can demonstrate the hard work and growth and strides that are taking place.

Mr. PAYNE. Thank you very much.

While your microphone is on—or you can put it back on—you talk also about the importance of parental involvement. And I just wonder if you can describe your school's effort in this area and any specific efforts targeted at parents of students with disabilities.

Mr. HENDERSON. Yes, we are striving to show parents of kids with disabilities, who also need to be helped with high expectations, seeing their children successful in academics and the arts. So we have publishing parties where we invite parents and do outreach, and they see and hear their children reading their stories or using communication devices to share their stories.

We have math family nights—and the new math instruction is hard for many families to understand—where we have math games. We are not just lecturing, but they experience, and they see their children in action. And we do performances, African-American history. There is a biography day going on in our 3rd-grade classroom today.

Parents yearn to see their children successful. And they want to learn about strategies that they can use in their homes to enforce them.

But we are also struggling, in addition to some of the techniques we use, to provide the resources. There is a digital divide. And some of the children at our school don't have access to the computers at home. And even though we have the great federal law, we also have to have technology that can work. And we now have partnered with CVS and Easter Seals.

And they are sending parents into the homes of children that do not have some of the same technology and same educational background. We are showing them what they can do to help their children with Braille instruction, with reading, with math problems. It takes a lot of energy, and we need all the partnerships we can to do a better job.

Mr. PAYNE. Thank you very much.

Dr. Cort, you testified that many supplemental educational service providers do not provide services to students with disabilities. How difficult is it for students with disabilities to find these services? And why do so many providers not work with these students?

Ms. CORT. Well, there currently isn't any requirement that they work with these students. And I think that the needs of students with disabilities are more intensive, and some providers don't believe that they have the capacity to do it and may not want to do it. Certainly, the amount of funding that is available for supplemental education services isn't extensive. And even for those serving students who aren't disabled there isn't a requirement for teacher certification.

Many of these programs use college students or tutors who are trained minimally. So I think that that is part of the reason why it is so difficult. There is a shortage of special education teachers even within the regular day in the classroom. And supplemental providers often don't have access to the equipment, to the materials, don't understand the needs of students with disabilities.

And that is why, I think, we believe that having some alternative to how those dollars could be spent and focused and targeted on students with disabilities in some cases, during the school day and in other cases, by the school district before or after school, weekends, that that would be a more productive way to deal with an issue when it is the subset of students with disabilities who are not making AYP.

Chairman KILDEE. The gentlelady from California, Ms. Davis?

Mrs. DAVIS OF CALIFORNIA. Thank you, Mr. Chairman.

And thank you to all of you for being here. I know we are all grappling with how we do this better. And I appreciate the fact that you have certainly been looking at this seriously.

I wanted to turn to one of the issues about the accommodations that are considered acceptable under NCLB. We had a situation in one of the schools in San Diego where students whose IEP called for their opportunity to use calculators that was actually considered out of compliance as a result of that.

And I wondered if you could discuss a little bit more—I think it was Dr.—who mentioned just the number of accommodations that you have looked at.

Could you talk about these a little bit and how the Department of Education is assisting states in developing these accommodations, again, these allowable accommodations under IEPs and whether you think there has been a real inconsistency in the way states have dealt with it?

Ms. QUENEMOEN. Determining the appropriateness of the use of accommodations on a particular assessment or portion of an assessment is a fairly complex technical challenge. The use of some change in administration in order to either take in or give back the content on the test can change what, in fact, is being tested. So states have an obligation to think very carefully what kind of content do we really want to hold as essential for all of our children and then on those tests represent that content well.

If students take a test that, in fact, changes the content, then you have lowered the standard of accountability. On the other hand, if a student does not have access to any portion of the test,

then you have a question of whether or not the student has really been able to show you what they do, in fact, know.

Mrs. DAVIS OF CALIFORNIA. Could you just—calculators, for example.

Ms. QUENEMOEN. Calculators are a pretty common discussion these days. The use of a calculator on problem solving items, for example, may, in fact, be a very appropriate way for a student to demonstrate that they have, in fact, developed high order problem solving and thinking skills using mathematical concepts, even though they may not have mastered automatically adding, subtraction, multiplication, and division.

There are students with math challenges based on their disabilities who do not do math timing tests well but, in fact, go around the affects of those disabilities to very complex mathematical content. So in many states, they have a portion of the mathematics test, especially at the lower grade levels, where they are measuring whether or not a student can do computation with automaticity, they call it, quickly and respond easily.

And these children are not allowed to use calculators on those items. And no one is surprised when they don't do well on those items.

But if they are allowed to use calculators on the portions of the test that help them show the very complex and abstract problem solving that they have been taught, then very often in states that have designed their tests thoughtfully, those students can compensate for the inability to do the computation items. That is true in instruction as well.

And the bad news is that we have found through surveys that many teachers don't understand the difference between use of accommodations for instructing that interesting material that, in fact, prevents the student from learning other content as well.

Mrs. DAVIS OF CALIFORNIA. As we think about a growth model, improvement model, I think one of the other things is that actually the number of districts that have been considered not qualifying under AYP is actually relatively small when it comes to some of these issues with the use of accommodations.

But I am also wondering, as we move to a growth model, do you think that would change?

Ms. QUENEMOEN. It is really important, using any kind of growth model, to make sure that the affects, positive and negative for all sub-groups of students, are carefully analyzed. Growth models are only as good as the underlying assessment on which they are based. Not all assessments may be up for the purpose of really showing what a variety of learners who take different paths.

The example I used of a student who doesn't do the computation pieces but has learned to do the abstract math—many growth models don't pick that up. So we are very happy that the states in the growth model pilots are very carefully analyzing the affects of their growth models. We are also very interested in continued research on what growth really means in the academic domain and how a variety of students yield it.

If growth is built on what historically a sub-group has done, students with disabilities and many of the other students that are on the bad side of the achievement gap could be held to a lower stand-

ard because we don't really know, as Dr. Cort said, it is very difficult to discern between a student who is getting high quality instruction and moving very slowly versus a student who has not been getting instruction in the challenging content. So growth models are tricky.

Chairman KILDEE. The gentleman from Maryland, Mr. Sarbanes?

Mr. SARBANES. Thank you, Mr. Chairman.

I wanted to follow up on the discussion relating to teacher preparation. And I spent 8 years working with the Baltimore city school system. And there were severe shortages there of special education teachers, as well as in the other subjects that you have mentioned.

But I am trying to get my head around what I think I hear being described as a kind of new kind of teacher. And, I mean, 50 years from now, 25 years from now or 5 years from now are we talking about a teacher who, as part of their basic preparation in education, become so skilled—I mean, is this the desire—become so skilled in the delivery of differentiated instruction that their ability to handle all challenges within a classroom is such that the number of "special education" teachers that we need in the education system is going to go down or they are going to become reserved for just special circumstances?

I mean, if you could just speak to that issue a little bit more. Because we may be standing sort of on the verge of a whole new concept of what the typical teacher is in our system. And if that is really what we are getting at, I think to say that explicitly is useful and to think about the implications of it. So if you could speak to that.

Mr. HARDMAN. Well, I think that is an excellent question.

First let me say that looking at teachers, whether they be general or special education, in isolation of a school-wide support system and their role within that system is what is really important. It is not going to be a decline in the number or the need for special education teachers.

It is going to be role differentiation and how you work with children based upon their individual need. That is why RTI becomes so important.

We are building our program off of the base that every teacher needs a core of knowledge. Every teacher, in order to work together, has to have a basic understanding, particularly now under No Child Left Behind in reading, math, and science, they need to understand. Historically special education, to be quite honest with you, was very good at collaborating with teachers but was often not meeting what general education teachers said they really needed, which was content.

They need to understand how to work with children, both content and pedagogy, that is how to work with children who have reading difficulties in an inclusive classroom in which there are a variety of different learners that not only include students with disabilities, but include students from differing cultural and linguistic backgrounds, different socio-economic backgrounds. The classroom of today looks very, very, very different than it did even 10, 20 years ago.

And it is a very diverse range of learners which requires a support system in place, not a single teacher, but a system of support.

And a big part of that support is provided by a special education teacher who had knowledge, pedagogical knowledge about how to adapt instruction, modify, support, positive behavior supports, how to work with students with challenging behaviors, how to work with children who require intense instruction.

As a matter of fact, the hallmark of special education is individualization, intensive instruction, and explicit teaching of basic skills. That is what they bring into that school-wide support system. And that is how they help general education teachers who still are facing classrooms of 30, 40 in Utah, at least that many, children in the classroom in which there are diverse learners, in which the teacher really needs a support system.

There won't be a decline in special education teachers. There will be a role that they will definitely play as a part of that team. And that is what we are really trying to focus on, is that you cannot look at teachers in isolation of a school-wide support structure.

Mr. SARBANES. Thank you.

Thank you, Mr. Chairman.

Chairman KILDEE. The gentleman from Iowa, Mr. Loebsack?

Mr. LOEBSACK. Thank you, Mr. Chairman.

Actually, I don't really have any questions as such. I apologize for being late. As a new member, I am finding out what all the veterans know, and that is that you have to be in four places at one time. So I was at another hearing.

But I just want to briefly state that for the record and also to all of you on the panel I have been married for some time to a school teacher, elementary school teacher, who just retired after over 30 years of teaching at the elementary level.

So I have heard a lot of stories, as you might imagine, about No Child Left Behind and its affects and the concerns. She expressed a lot of concerns and has over the years about students with disabilities being included in the classroom and not having enough resources to deal with it and not having been trained herself.

Long ago, obviously to deal with these kinds of situations—and I have looked over some of your testimony. I really appreciate what all of you have had to say.

And it is that I really don't have a question, but I just want to state for the record to the chair and others here that we have got to do all we can, certainly on the funding front, for IDEA, No Child Left Behind. Whatever we end up doing, whether we adopt a growth model, for example, as well for AYP, we have got to devote more resources to this.

Resources won't solve the problem. But the problem won't be solved without the resources. That is for sure, however we go about doing this.

So, again, I don't really have a question as such. But I do have some time left. I want to leave it up to any of you. If you have anything you haven't been able to say yet up to this point, I want to yield my time to any of you on the panel if you want to respond to any questions that you haven't had an opportunity to respond to.

Ms. CORT. I would like to talk briefly about the second subset within the 2 percent that we haven't really discussed at any length today, because I don't want to be perceived as having much dif-

ference with my colleague here who was talking about high expectations for most students.

And I think it is a small subset. But I do think that the issue of this group who falls between the 1 percent of very severely profoundly disabled group of students and those students who are able to get a high school diploma, which is by far the vast majority. And we must continue to have that as our high expectation.

I think the issue of program development for this middle group—and some of them have mild mental retardation. Some are on the autism spectrum, some traumatic brain injury, severe traumatic brain injury. There is a group there who need something distinctly different. And they need preparation for employment and for independence when they leave the system.

And I think there has to be some incentives to schools to develop these occupational, technical, vocational programs that prepare students to leave school ready to be employed, even in states—and we don't want the answer to be to lower the standards for a general education diploma, which has happened in some states. And so the focus on a program for a small band of students that gives districts credit for the development of programs that will lead to employment is very important.

As the state director of both special ed and vocational rehabilitation, I see students exiting school and then needing to access the vocational rehabilitation system when their entitlement to service in the 21 years that they could have been serviced in their school districts hasn't served them as well as it should. And this is involved in transition planning, in getting access to the kind of programs that offer work readiness in a way that we don't have available for many students now.

Ms. RHYNE. I would like to just comment on that, if I may. And that is in the state of North Carolina, there are four pathways to get a North Carolina diploma. One of those pathways is entitled the occupational course of study. This pathway was written specifically for the group of children that Dr. Cort has described.

And it is as you get into high school, it is very focused on work. Students take occupational English, occupational math, science, social studies. And then they are required to spend 1,000 hours of work. Work starts out within your school. It goes out into the community with a job coach. And then there are 300 some hours of paid employment that you must finish. When all of those credits have been earned, the student receives a North Carolina diploma. And this has been incredibly good for this group of students.

Chairman KILDEE. The gentleman from Pennsylvania, Mr. Sestak?

Mr. SESTAK. Thanks, Mr. Chairman. And I apologize for coming in late.

Can I ask you a question, ma'am? As I go around my district and go to the intervention units or pathway schools or Easter seals schools and all, I find there seems to be this dilemma about IDEA and NCLB feeling that neither of them really had a strategic plan for all the disabled.

I am concerned about the 1 percent cap because this seems that IDEA has the focus primarily upon—excuse me if these questions have been asked already—primarily upon both the IDEA and

NCLB primarily upon those most severely disabled. And the question I have, as we have shifted from more toward—an idea that potentially we should have—some said we should have stuck with IEP.

My question comes back to what does the data show. I am curious—and you may have already spoken of this—is what is the research showing about student performance of the severely disabled. Has there been a measurable improvement? In short, what accommodations are actually working? And do we have that?

Ms. QUENEMOEN. I am assuming that your comment is related to those students who the regulation described as having the most significant cognitive disabilities. These are really less than half a percent in terms of incidents in the population.

Mr. SESTAK. Unless there is another way that we are measuring some other group somehow. And so, I am curious of those we have defined and those that are left out of the definition—do we have data?

Ms. QUENEMOEN. We have data based on the student work in the states that have been, frankly, learning how to assess their learning. The field of severe disabilities has been in dramatic turmoil in the last 10 years similar to what it had gone through shortly after the passage of PL 94-142 back in 1975. At that point, there was an assumption that these students could only learn what was called the infant curriculum and that we would systematically move them through stages that we saw in other children much younger.

And after a number of years, based on what parents, teachers, professionals knew that these students could do independently in other settings, they started characterizing that developmental curriculum as ready meant never. If you had to go through all the steps that other kids did to get to tying your shoes, you may never get there.

So a number of researchers shifted to a functional curriculum. And that has served us very well in the area of severe disabilities to make sure that students were able to get through the course of the school day, interact with their peers somewhat, learn self-care skills.

But in the last 10 years after alternative assessment was first required by IDEA 1997, states started having evidence of student works that these students could, in fact, thrive in and demonstrate, again, pieces and lower levels in a way of the academic curriculum in ways that they had never been taught and none of us ever expected. And we were seeing such dramatic evidence that researchers kicked in—the team at the University of North Carolina, Charlotte started tracking the instructional benefits of this method. That discussion is still active.

Mr. SESTAK. The reason I am asking is, you know, it seems to me you can get the data for breaking down the barriers and access that would show NCLB has improved it from 55 to 62 percent, or whatever—I don't have the exact numbers.

My real question, then, is, because I am talking about data statistical analysis, are we, therefore, collecting the data now to determine the best accommodations? And I just don't know.

Ms. QUENEMOEN. Yes. And the term "accommodations"—how these students interact with the grade level content is very, very complex. It is more than the typical accommodations. On the other hand, on the use of accommodations on the general assessment, we are gathering more and more data to understand the affects of these accommodations in instruction and then in assessment over time.

So are we gathering data to understand now that we are actually assessing all kids well? Yes. Do we understand fully what works best for each individual student? I don't think we are to that level yet.

Mr. SESTAK. Yes, ma'am?

Ms. CORT. The proof of success and of change comes really after the student exits school. And IDEA has now started to assess and gather data on where are students with disabilities a year after they exit. Are they employed? Are they in higher education?

And we are certainly seeing in the vocational rehabilitation side the same kind of shift in expectations from the sheltered workshops to virtually everyone able to benefit from some kind of integrated employment. And as we have changed our expectation and the training program, we are seeing people in very different places than they were 10 and 20 years ago.

But we do need to look at what happens after students leave. And the more data systems can be linked—there is so much data being collected it is so confusing. You want it to be accurate.

If we can get a mesh between the NCLB data and the IDEA data so that people can concentrate on common measures that don't sound almost the same but represent different numbers between the two laws, this will help us. And if we can get access to information and data on employment after students leave, I think it will be very helpful.

Mr. SESTAK. My time is up. But that issue is exactly what I hear. It is the two different numbers. And if there is a beauty in NCLB, it is this data that all of a sudden you can shape. And however long that data has to be collected, and when you have two differing sets, it is so much more than anecdotal. It means so much more.

Thank you.

Ms. CORT. We are moving in New York state to an individual student record system. And we are now beginning the process of a P-16 system that will begin to integrate our city and state university system data into the same data systems so that we can see how are students doing when they move onto post-secondary, even if they graduated with a diploma were they ready.

Mr. HARDMAN. May I just add just one very quick point to that alternative assessment issue? Because I want to concur very much with what has been said. But I also want to add that one of the things that we have really got to take a look at that the reauthorization of these alternate assessments is anchoring the assessment directly to value post-school outcomes.

And what we have not done—the good news is these students are in the accountability system. The bad news is we are not measuring the right things at all relative to their independence, interdependence, employment, further education opportunities and so on

as adults. That is where we need to be anchoring these alternate assessments.

Chairman KILDEE. Thank you very much.

I want to thank the panel. This has been a great panel. Very often, two or three people on the panel get all the questions. All of you were asked questions here. And you all responded very specifically to the questions. And I want to first of all thank the panelists. You have been very, very helpful.

And I want to thank also Lloyd Horwich of the majority staff and Brad Thomas of the Republican staff for doing a great job of assembling a great panel. It has been very, very good. And this is where Congress does its best work, when we operate in a bipartisan way.

And it is people like you that bring us together in a bipartisan endeavor. And this bill passed with very strong bipartisan support. It is a very controversial bill. But it did pass in a bipartisan way.

We need your continued input. And we will be calling upon you, I am sure, between now and the time we mark up the bill.

But I very much appreciate the staff, the members who are here, and this panel.

And we will have 7 days in which members may submit additional testimony or submit questions to the panelists.

With that, we stand adjourned.

[Questions for the record submitted to Ms. Quenemoen follow:]

COMMITTEE ON EDUCATION AND LABOR,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, March 30, 2007.

Rachel Quenemoen, *Senior Research Fellow,*
National Center on Educational Outcomes, University of Minnesota, Minneapolis, MN.

DEAR MS. QUENEMOEN: Thank you for testifying at the March 29, 2007 hearing of the Subcommittee on Early Childhood, Elementary and Secondary Education.

Representative Susan Davis (D-CA), a Member of the Subcommittee, has asked that you respond in writing to the following questions:

On Page 8 of your written testimony, you discuss the accommodations that allow special education students to understand and take assessments. What are some examples of accommodations that are widely considered as acceptable and examples of accommodations that are considered as unacceptable under NCLB?

You also mention that states are working "hard" to develop accommodations that ensure standards are not lowered. How do allowable accommodations vary between the states under NCLB?

How involved is the Department of Education in assisting the states in developing these accommodations to make sure they are acceptable under NCLB proficiency testing?

You also mention that some states have defended sometimes "controversial" decisions regarding accommodations. What did these accommodations look like in these controversial cases and how did the Department of Education rule?

You mention in your testimony that disabled students at a certain schools are making gains and achieving, based on formal and informal studies. These schools share certain traits, such as emphasis on inclusion and effective faculty recruitment. How many studies have been conducted in this area and are there efforts to replicate the successful traits in additional schools? That is, is this information being put to use?

Sincerely,

GEORGE MILLER, *Chairman,*
Committee on Education and Labor.

DALE E. KILDEE, *Chairman,*
Subcommittee on Early Childhood, Elementary and Secondary Education.

[Response to questions for the record from Ms. Quenemoen follow:]

Response to Questions From Mrs. Davis of California
by Rachel Quenemoen

I am pleased to respond to the questions asked by Representative Susan Davis (D-CA), a member of the Subcommittee on Early Childhood, Elementary and Secondary Education. I have answered the questions in narrative form below, citing and providing excerpts from the attached documents that provide additional information related to the questions. Neither of these papers is as yet released, so I have taken the liberty of attaching them for your reference purposes, with permission from the authors.

The attachments include:

Christensen, L.L., Lail, K.E., & Thurlow, M. L. (2007). Hints and tips for addressing accommodations issues for peer review. Minneapolis, MN: University of Minnesota, National Center on Educational Outcomes. To be released in April, 2007.

Thurlow, M. L. (2007). Research Impact on State Accommodation Policies for Students with Disabilities. Paper to be presented at the 2007 Annual Meeting of the American Educational Research Association, April, 2007

1. On Page 8 of your written testimony, you discuss the accommodations that allow special education students to understand and take assessments. What are some examples of accommodations that are widely considered as acceptable and examples of accommodations that are considered as unacceptable under NCLB?

NCLB does not define which accommodations are acceptable or unacceptable, nor does Peer Review of state assessment systems make that determination. Instead, NCLB requires that states develop content and achievement standards, and then requires that states design their assessments to ensure that the results will show what students know compared to those state-developed standards. States use a variety of steps to ensure that the results of these assessments in fact reflect what their standards reflect. Peer Reviewers then review the state documentation of these steps to ensure that they have been done consistent with accepted professional practice.

The development of thoughtful and defensible accommodations policies is one important step in ensuring the state assessments reflect what the state standards reflect, grade by grade. Since states have defined these standards in slightly or even considerably different ways, grade by grade, their assessments require slightly or even considerably different accommodations policies. That is up to the state to define, and to defend. I provide more information about what successful defense of state accommodations policies requires, based on a systematic review of Peer Review documentation and letters to states from the U.S. Department of Education, in question 3 below about how the Department of Education is interacting with states on these issues.

There is a summary of the most commonly allowed accommodations in states in Table 6, followed by the most controversial accommodations in Table 7, taken from pages 8-9 of the attached paper. (Thurlow, M. L. (2007). Research Impact on State Accommodation Policies for Students with Disabilities. Paper to be presented at the 2007 Annual Meeting of the American Educational Research Association, April, 2007.)

Excerpt from Thurlow, 2007:

Bolt and Thurlow (2004) reported on the research on the most commonly allowed accommodations in 1999 (Braille, dictated response, large print, extended time, sign language interpreter), and found that in the 36 identified studies on these, there was mixed support and nonsupport for the accommodations for students with disabilities. When Bolt and Thurlow selected accommodations to include in their study, they included accommodations both with and without limitations.

In terms of continuing to examine research findings, it might be useful to make a distinction between those test changes that are allowed by states without restrictions and those test changes that are allowed with restrictions. The test changes that, according to state policies in 2003 and 2005, were the most often allowed without restrictions, are shown in Table 6. In this table, it is also indicated whether some states allowed the test change with restrictions and whether some states prohibited the test change. For some test changes, more than 5 states (10% of the 50 states) altered their policies—so that the number of states in 2005 was different from the number in 2003. This occurred for Braille Edition (which increased in the number of states allowing without restrictions, and decreased in the number of states allowing with restrictions), separate room (which decreased in the number of

states allowing without restrictions and also was mentioned by fewer states), and time beneficial to student (which increased in the number of states allowing without restrictions and also with restrictions—showing an increase in the total number of states mentioning the test change). Of interest is the fact that few studies during this time frame examined the accommodations where dramatic changes were made in policy. This is true even if one goes back to the research before the time period of the current policies—if one assumes that there is more of a lag between research and policy.

TABLE 6.—TEST CHANGES MOST OFTEN ALLOWED WITHOUT RESTRICTIONS*

Test Change	States Allowing Without Restrictions		States Allowing With Restrictions		States Prohibiting	
	2003	2005	2003	2005	2003	2005
Large Print	47	48	2	0	0	0
Individualized Administration	46	45	0	0	0	0
Small Group Administration	47	45	0	0	0	0
Magnification	41	42	0	0	0	0
Braille Edition	38	46	11	2	0	0
Separate Room	38	31	0	1	0	0
Write in Test Booklet	35	35	4	5	0	0
Time Beneficial to Student	35	41	0	4	0	0

*The 2003 information is from Clapper, Morse, Lazarus, Thompson, & Thurlow (2005). The 2005 information is from Lazarus, Thurlow, Lail, Eisenbraun, & Kato (2006).

Another way to look at research on accommodations in the past five years is in terms of whether it has addressed those accommodations that are most frequently allowed with restrictions. These test changes tend to be the accommodations that are more controversial, and that need specifications placed on them (e.g., states allow them to be used in one situation but not another; states allow them to be used by some students but not other students). Table 7 shows the accommodations that are most often allowed with restrictions (also including an indication of the numbers of states that allow without restrictions and the numbers of states that prohibit). These are the accommodations that have received attention, either currently or in the past, and many of the changes reflect both a recognition of research findings and a policy push.

TABLE 7.—TEST CHANGES MOST OFTEN ALLOWED WITHOUT AND WITH RESTRICTIONS*

Test Change	States Allowing Without Restrictions		States Allowing With Restrictions		States Prohibiting	
	2003	2005	2003	2005	2003	2005
Oral Administration/Read Aloud	3	8	44	37	0	0
Calculator	15	19	28	22	1	0
Proctor/Scribe	32	37	17	11	0	0
Extended Time	29	41	16	4	2	0
Sign Interpret Questions	13	8	29	25	0	0

*The 2003 information is from Clapper, Morse, Lazarus, Thompson, & Thurlow (2005). The 2005 information is from Lazarus, Thurlow, Lail, Eisenbraun, & Kato (2006).

2. You also mention that states are working "hard" to develop accommodations that ensure standards are not lowered. How do allowable accommodations vary between the states under NCLB?

A decade ago, when many states used norm-referenced testing (e.g., ITBS, SAT 9, other large-scale "off-the-shelf" tests), the purpose was to compare how their students were doing in the general content of math or reading with students across the country. These tests were carefully "normed" using specific accommodations and forbidding use of others. In those days and on those tests, accommodations choices were typically made by the test publisher, and states simply followed the test publisher's guidelines.

NCLB, and the earlier IASA 1994, shifted testing away from comparing students to one another, and toward comparing what students know to well defined content and achievement standards. States have considerable flexibility to define these content and achievement standards, but once they have defined them, they have a responsibility under NCLB to ensure that their assessment system actually gives them data that reflects those standards. There are many steps in the development,

administration, and analysis of assessments where the state has to ensure that the results of the test reflect their standards, including the test specifications—the design of each grade-level test.

One of these steps is in determining what accommodations will be allowed on parts or all of each test. The key for states is to consider what their own content and achievement standards are supposed to include. If a proposed accommodation will result in the test results meaning something different from what their own standards and testing specifications represent, then they generally do not allow use of that accommodation. In the case of calculators, many states allow the use of the accommodation on parts of the test (e.g., problem-solving items), but do not allow it on other parts of the test (e.g., computation items), since it clearly does not change the intent of the item for some items, but clearly does change the intent of the item for others.

Since every state has slightly or even substantially different content and achievement standards from the other states, all state accommodations policies differ somewhat. The attached paper provides a thorough review of how state policies have evolved over the period from IASA through NCLB. (Thurlow, M. L. (2007). Research Impact on State Accommodation Policies for Students with Disabilities. Paper to be presented at the 2007 Annual Meeting of the American Educational Research Association, April, 2007.)

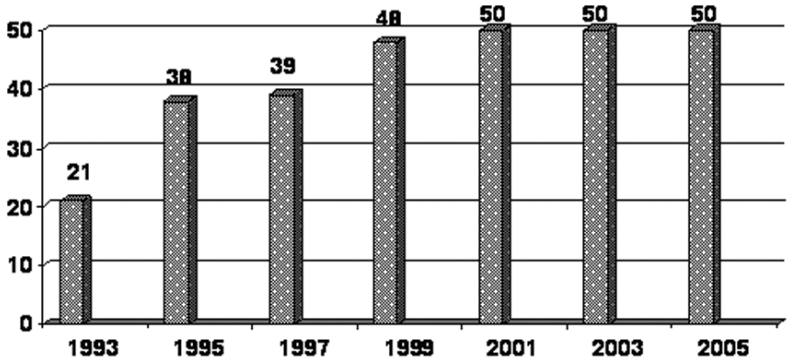
Here is an excerpt from that paper that summarizes these shifts, taken from pages 9-11.

Excerpt from Thurlow, 2007

There have been a number of shifts in accommodation policies over time. These include the steady but dramatic increase in the number of states with accommodation policies/guidance documents, from 21 in 1993 to 50 for the past several years (see Figure 1).

FIGURE 1. NUMBER OF STATES WITH ACCOMMODATION POLICIES OVER TIME

(Number of States)



Nature of States? Accommodation Policies. States' accommodation policies themselves have changed in several ways also. When NCEO first started studying states' policies, we had to contact states to obtain copies of their documents, and even in 1995, we were still able to reproduce all of the accommodation policies and guidance in one report that was less than 175 pages long. This report quoted all the relevant parts of the policies in all of the states that had them (Thurlow, Scott, & Ysseldyke, 1995). Today, and for the past several years, states' accommodation policies have blossomed. They are now available on the state's Web site in nearly every state, and each one in several states is more than 175 pages long.

Sophistication of Policies. State accommodation policies are much more complex than ever before. When NCEO first started summarizing accommodation policies, we simply indicated an X for a test change that was "allowed," a blank for one that was not mentioned by the state, and a P for a prohibited test change. Each time or couple times we summarized policies an adjustment was made to better reflect the increasing complexity of the policies themselves. Table 8 reflects the coding changes that have occurred over time, and in turn provides a glimpse of the complexity and sophistication of the policies.

TABLE 8.—NCEO CODING SYSTEMS FOR ACCOMMODATION POLICIES OVER TIME

Year	Coding System
1993	X = allowed; O = prohibited
1995	Lists of states with certain accommodations
1997	X = allowed; O = prohibited
1999	X = allowed; O = prohibited
2001	X = allowed; X* = score not aggregated if used; O = prohibited
2003	A = allowed; AC = allowed in certain circumstances; AI = allowed with implications for scoring and/or aggregation; P = prohibited
2005, 2007	A = allowed; A* = allowed but called nonstandard (with no implications for scoring or aggregation); AC = allowed in certain circumstances; AI = allowed with implications for scoring and/or aggregation; P = prohibited

Implications for Aggregation of Scores. The type of sophistication reflected in recent years indicates that states are attending to what happens to scores and the aggregation of scores (including the reporting of scores) when test changes have been introduced. Clarity about the effects of the test changes on the validity of test results clearly is of concern to states. This does not mean that all states are in agreement with respect to aggregation for many accommodations.

NCEO introduced the code AI = allowed with implications for scoring and/or aggregation in 2003. This was a modification of the code used in 2001, which indicated a more rigid interpretation (score not aggregated if used). In fact, what is frequently observed is that the implications for scoring or aggregation may depend on specific circumstances, such as the content of the assessment or the assessment itself. Table 9 shows several "allowed with implications for scoring and/or aggregation" circumstances from 2005—for the proctor/scribe accommodation—to give a sense of what the specifications are like.

TABLE 9.—PROCTOR/SCRIBE—IMPLICATIONS FOR SCORING AND/OR AGGREGATION (2005)

State	Specifications
Arizona	Dictating to a scribe is considered a non-standard accommodation when used on the writing portion of Arizona's instrument to Measure Standards (AIMS).
California	Proctor/Scribe—allowed with implications for scoring if used on the CST, CAHSEE, or CELDT.
Hawaii	Proctor/Scribe—Must be in an individual setting; Allowed with implications for scoring if used on any test.
Massachusetts	Proctor/Scribe—Considered non-standard if used on the ELA Composition Test (may alter what the test measures).
Oregon	Proctor/Scribe—Considered a modification if used on writing test (not considered part of standard administration; scores obtained under modified conditions do not allow students to meet content and achievement standards and the scores will not appear in school and district group statistics).
Utah	Proctor/Scribe—Considered a modification on all tests except for the Iowa tests.
Vermont	Proctor/Scribe—Allowed with implications for scoring if used on the writing test.

Thus, the notion of states' policies moving forward with research is a practical reality. As indicated in Table 9, some states appear to be more tuned into variations in content that others. Previous research had not effectively isolated the effects of scribes (Elliott, Bielinski, Thurlow, DeVito, & Hedlund, 1999; Fuchs et al., 2000; Schulte, Elliott, & Kratochwill, 2001), but had suggested that some students who had used scribes had obtained improbably high scores (Koretz & Hamilton, 2000), a finding that had affected policy in the past. Moving forward, some states attempted to address policies through other means—controlling sources of variation in the administration of the accommodations themselves.

3. How involved is the Department of Education in assisting the states in developing these accommodations to make sure they are acceptable under NCLB proficient testing?

Specific aspects of the peer review guidance (U.S. Department of Education, 2004) that address accommodations for students with disabilities are:

4.3 Has the State ensured that its assessment system is fair and accessible to all students, including students with disabilities and students with limited English proficiency, with respect to each of the following issues:

(a) Has the State ensured that the assessments provide an appropriate variety of accommodations for students with disabilities? * * *

(d) Does the use of accommodations * * * yield meaningful scores? (p. 37, Peer Review Guidance)

4.6 Has the State evaluated its use of accommodations?

(a) How has the State ensured that appropriate accommodations are available to students with disabilities and that these accommodations are used in a manner that is consistent with instructional approaches for each student, as determined by a student's IEP or 504 plan?

(b) How has the State determined that scores for students with disabilities that are based on accommodated administration conditions will allow for valid inferences about these students' knowledge and skills and can be combined meaningfully with scores from non-accommodated administration conditions? (p. 40, Peer Review Guidance)

The Department of Education released the Peer Review Guidance in April, 2004. The Guidance outlined specific types of evidence that would be acceptable for peer review, including suggestions on accommodations policies and documentation. States used this guidance to prepare for submission of their materials for peer review. All states have been reviewed at least once at this point in time.

The attached document (Christensen, L.L., Lail, K.E., & Thurlow, M. L. (2007). Hints and tips for addressing accommodations issues for peer review. Minneapolis, MN: University of Minnesota, National Center on Educational Outcomes) summarizes what states have submitted in the peer review process, and what the peer reviewers have found that met or did not meet the expectations for acceptable evidence. This document was completed with cooperation from the Department of Education, with direct partnership of Title I staff. This model of providing assistance to states is common for the Department of Education. That is, they work with Federally funded projects like NCEO to ensure that high quality technical assistance materials being developed by funded projects are consistent with statute, regulation, and guidance.

NCEO staff completed the project in collaboration with the CCSSO state partnership, the ASES-SCASS, a group of 31 states that work to improve the quality of assessment systems for measuring the learning of students with disabilities. The attached summary shows the examples and non-examples of evidence provided in advance to states from the Department of Education Peer Review Guidance, followed by examples of what states actually submitted, both successful and not successful; followed by NCEO's conclusions and recommendations for state practice. The document covers several topics (e.g., accommodations decision-making quality control, monitoring of use on testing day, training provided to key stakeholders), but the following excerpt specifically addresses the defense of state accommodations policies, from pages 12-13.

EXCERPT FROM CHRISTENSEN ET AL., 2007

What the Guidance Says about this Critical Element	Examples of Acceptable Evidence (Bold are from Peer Review Guidance)	Examples of Insufficient Evidence (Bold are from Peer Review Guidance)
4.3 Has the State ensured that its assessment system is fair and accessible to all students, including students with disabilities and students with limited English proficiency, with respect to each of the following issues: (d) Does the use of accommodations and/or alternate assessments yield meaningful scores? 4.6 Has the State evaluated its use of accommodations? (b) How has the State determined that scores for students with disabilities that are based on accommodated administration conditions will allow for valid inferences about these students' knowledge and skills and can be combined meaningfully with scores from nonaccommodated administration conditions?	**4.3 The State assessment system must be designed to be valid and accessible for use by the widest possible range of students.**. **4.6 The State provides for the use of appropriate accommodations and has conducted studies to ensure that scores based on accommodated administrations can be meaningfully combined with scores based on the standard administrations.**. Selected acceptable examples from ACTUAL peer review comments:. 1. The accommodation guidelines indicate which accommodations can be aggregated for reporting and for the accountability system. 2. Accommodations selection documents state that accommodations that invalidate test scores are prohibited.	**4.3 The State assessment system is not designed to be valid and accessible for use by the widest possible range of students.** **4.6 No analyses have been carried out to determine whether specific accommodations produce the effect intended.** Selected insufficient examples from ACTUAL peer review comments: 1. Evidence of meaningful scores not provided for all assessments 2. Results not reported by accommodation type 3. Information on accommodations and valid test scores is not provided for all state assessments 4. Reliance on the belief that if accommodations are those typically provided, they allow for valid inferences 5. Lack of evidence that scores from accommodated administrations are valid representations relative to standards

NCEO Recommendations for Best Practices to Ensure that Accommodations Use Provides Meaningful Scores and Valid Inferences about Students' Knowledge and Skills:

• Provide a logical and rational argument that demonstrates why tests administered with specific accommodations that may be considered controversial do indeed produce scores that are comparable to nonaccommodated tests, given the standards being assessed.

• Identify studies that have been conducted that demonstrate the comparability of scores obtained with the accommodated and nonaccommodated assessments.

• Provide results by accommodations and modifications, to clearly distinguish those that are comparable and those that are noncomparable to results from students who received no accommodations.

• Conduct studies in your states on the use of accommodations by specific groups of students (e.g., category of disability, ethnic groups, etc.).

• Interview students about accommodations (access to, understanding of purpose, reactions of peers, etc.)—variable that will help you understand the validity of scores that result from their use during instruction and assessment.

• Interview teachers to better understand the logistical constraints that impede the provision of accommodations, which in turn might reduce the validity of assessment results.

• Interview decision-making teams to identify factors that produce a tendency too many accommodations for individual students, thereby resulting in the provision of unneeded accommodations; produce a form to aid decision making to avoid students receiving unneeded accommodations.

• Consider further disaggregation of scores by type of accommodation.

• Use established research on accommodations to inform state policies.

In sum, many states have found that a review of the literature on the effects of accommodations on comparability of scores, along with a formal judgmental policy review involving curriculum, assessment, and special education experts, is an essential part of an acceptable defense for state accommodations decisions. Again, these decisions must be related to the state's definition of their content and achievement standards, and the test specifications that define the specific content and achievement standards reflected on the grade-level tests.

In addition, the Department of Education has made available another NCEO-ASES SCASS collaborative product on the OSEP Toolkit. It is a training package for states on use of accommodations. See Thompson, S.J., Morse, A.B., Sharpe, M., & Hall, S. (2005). Accommodations manual: How to select, administer, and evaluate use of accommodations for instruction and assessment of students with disabilities. Washington, DC: Council of Chief State School Officers, ASES SCASS. Also available from OSEP toolkit at—*http://www.osepideasthatwork.org/toolkit/accommodations—manual.asp*

Federal staff in the Title I office have also advised on a number of technical assistance materials for states. For example, I would highly recommend two briefs prepared to explain the NCLB assessment requirements for students with disabilities, and the accommodations decision-making process. Both are written by Candace Cortiella of the Advocacy Institute. The first is an NCEO product, and is on our NCEO Web site, NCLB and IDEA: What all parents of students with disabilities need to know and do, at *http://education.umn.edu/nceo/OnlinePubs/Parents.pdf*

The second is on the National Council for Learning Disabilities (NCLD) Web site, at *http://www.ncld.org/content/view/284/322/* and scroll down to the segment Introduction and Background information to find the link; OR go to the NCLD document through our NCEO Web link, at *http://education.umn.edu/nceo/OnlinePubs/NCLD/Accommodations.pdf* No Child Left Behind: Determining appropriate assessment accommodations for students with disabilities. Both have been reviewed by Department of Education Title I staff for consistency with Title I requirements. Although they were written for the parent audience, they have been widely disseminated and used by states, parent organizations, and policy-makers.

Recently proposed regulatory language has added to the challenge states are facing, however.

Here is an excerpt from the attached paper that summarizes these shifts, taken from page 3: (Thurlow, M. L. (2007). Research Impact on State Accommodation Policies for Students with Disabilities. Paper to be presented at the 2007 Annual Meeting of the American Educational Research Association, April, 2007.)

Excerpt from Thurlow, 2007

The federal requirements have ratcheted up the need for states to attend to the research and to ensure that their students are using accommodations during assess-

ments that are producing valid scores. In fact, during the proposal for new regulations in 2005, the Department of Education attempted to confirm in regulations practice that had been imposed through non-regulatory guidance—that being that any student who participated in assessments in a way that produced invalid test results (and this included using changes in testing procedures considered by the state to be modifications) would no longer be considered participants in the assessment. For No Child Left Behind Adequate Yearly Progress (AYP) accountability purposes, which require that each subgroup have at least 95% participation for the school or district to be eligible for meeting AYP, this posed a serious threat. The specific words in the Notice of Proposed Rule-Making (December 15, 2005) were as follows:

> Tests administered with accommodations that do not maintain test validity are not measuring academic achievement under the State's assessment system. Under the reauthorized IDEA, each IEP now must indicate "appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and district wide assessments." State and LEA guidelines thus need to identify, for IEP teams, those accommodations that will maintain test validity. Similarly, under Title I, the concept of "appropriate accommodations" in the context of assessments must be thought of as accommodations that are needed by the individual child and that maintain test validity. The Title I regulations would only consider a student to be a participant for AYP purposes if his or her assessment results in a valid score.

These developments suggest that there is a whole new set of pressures in place on research and on policy. They are in the works at the same time that research and policy are continuing to react to the need for more information to respond to what is a critically complex area of study and policy making.

4. You also mention that some states have defended sometimes "controversial" decisions regarding accommodations. What did these accommodations look like in these controversial cases and how did the Department of Education rule?

The most common "controversy" relates to the accommodation of reading aloud parts of the reading tests. At the 2006 CCSSO Large-scale assessment conference in San Francisco, two states with varying stances on this accommodation presented the key issues they have considered. Dan Wiener of the Massachusetts Department of Education, where they have successfully defended their decision to allow the read-aloud in some cases, made the following key points. First, he pointed out that state accommodations decisions must be made based on the need for: inclusion; fairness, equity, flexibility; accessibility; appropriateness for each student; and defensibility. Second, he stated that states have an obligation to ensure the read-aloud accommodation will be: used only by small number of students who need it; used as a last resort, when no other access to the test exists; used only when already used for routine instruction; used when necessary to allow participation in grade-level tests, rather than alternate assessments. He emphasized the necessity of intensive training, materials, and support for IEP teams to ensure good decisions are being made, and read-aloud accommodations in instruction OR in assessment are not being used as an excuse not to teach students the underlying skills. He also emphasized that even with training in place, close monitoring of the decisions being made is essential.

However, another key point was made by Mr. Wiener on the effects of use of this accommodation. He said that states have an obligation to explain use of this accommodation to the public. This includes an explanation of why this accommodation is allowed under certain conditions; who should be considered for this accommodation, including publicly defining the "threshold" for consideration. For example, "severely limited or prevented" from reading based on effects of disabilities does not mean simply reading below grade level. He points out that struggling readers need extended time, not read-aloud. He also emphasized that the state has an obligation to communicate clearly to the public (and to parents) what the results of a reading test mean when the read-aloud accommodation is used on the Language and Literature test, specifically that the test results do NOT say that the students who take the test with this accommodation can in fact read.

Massachusetts' accommodations policies (and their entire assessment system) have been approved through Peer Review. For more information on the Massachusetts' accommodations policies see Accommodations Policy, Participation Requirements, AlternateAssessment on the web: *www.doe.mass.edu/mcas* or contact Dwiener@doe.mass.edu

At the same conference session, Dr. Melodie Friedebach from Missouri explained the decision their state had made on the read-aloud accommodation in a presen-

tation entitled To read or not to read—that was our question. The state had decided at one time to allow the read-aloud accommodation due to impact upon district accreditation, the high stakes environment, a push to have all students assessed, to acknowledge that time was needed to improve reading instruction for all students. Still, the decision was controversial—both in and out of the state Department of Education.

In 2005, they reviewed this decision to allow the read-aloud accommodation, and were alarmed to see a very large number of students with disabilities taking the test with the accommodation. They found that at grade 3, approximately 50% of students with IEPs had the Communication Arts assessment (CA) read to them in years 1999-2005, and at grade 7, percent of students with IEPs that had test read to them grew from 50% in 1999, to 60% in 2005. The actual incidence of students who cannot learn to read well even with high quality instruction should be much smaller than this, and they worried that this accommodation had the unintended and negative consequence that many students were not expected to learn to read well. In addition, they found that in fact the use of this controversial accommodation by so many students did not result in significant numbers of children scoring at proficient or above, and had little impact on improving scores for accountability systems.

In addition to this alarming data, they considered several other issues. Advice from their Technical Advisory Committee for assessment was to discontinue practice of reading the CA test, and given this technical advisor response, they were also concerned about gaining approval of State Assessment program through the U.S. Department of Education based on peer review of evidence of use of valid accommodations. They were also concerned about lowering expectations for students with IEPs and lack of focus on reading instruction for the students. Finally, they knew that NAEP and other large scale assessment measures of student achievement do not "count" reading accommodation as a valid accommodation when construct of reading is being assessed.

Thus, in 2005, they decided to discontinue use of the read-aloud accommodation for their Communication Arts (CA) assessment beginning in Spring 2006, deciding that oral reading of the CA assessment will invalidate test for accountability purposes. All other assessments may be read to a student. Following that decision, Dr. Friedebach reported what she called some "fallout," including letter writing campaigns from certain districts (those with unusually high rates of use of the oral reading accommodation), but there were no public negative comments from professional organizations. There was concern regarding the anxiety and stress created for students who can't read at grade level, but that was balanced by evidence of greater interest in professional development regarding reading instruction for primary and middle school students with disabilities. There was also expressed interest in the development of additional assessments for 2%. Their ongoing state plans include to continue to invest in professional development focused on reading instruction (Reading First, DIBELS), share impact of Reading First instruction on students with IEPs, and develop a plan for additional assessments for 2% of the students with IEPs.

5. You mention in your testimony that disabled students at certain schools are making gains and achieving, based on formal and informal studies. These schools share certain traits, such as emphasis on inclusion and effective faculty recruitment. How many studies have been conducted in this area and are there efforts to replicate the successful traits in additional schools? That is, is this information being put to use?

Numerous research organizations have been studying the characteristics of successful schools for students who have been affected negatively by achievement gaps for the past 30 years. Unfortunately, many of these studies do not look at students with disabilities as a targeted subgroup for their study. The Donahue Institute at the University of Massachusetts and the ASCD study in Rhode Island cited in my testimony are two studies focused specifically on the students with disabilities subgroup. However, it is striking to compare the research being done on other low-achieving subgroups, since the findings are remarkably consistent, and suggest that successful traits in successful schools yield success for ALL students.

NCEO hosted a teleconference in February of 2006 entitled "Making good decisions on special education flexibility options," and we included a side-by-side review of the major studies looking at traits of schools where traditionally low-performing subgroups are succeeding. I have attached that side-by-side comparison, but the key findings of the 4 major studies we compared are provided here.

NCEO SIDE-BY-SIDE SUCCESS LITERATURE*

	Donahue Institute October 2004	Ford Foundation February 2005	EdSource 2005	Ed Trust December 2005
TITLE and AUTHORS.	A Study of MCAS Achievement and Promising Practices in Urban Special Education;. Report of Field Research Findings; and ..... Case Studies and Cross-Case Analysis of Promising Practices in Selected Urban Public School Districts in Massachusetts. This report is available to download for free at: http://www.donahue.umassp.edu/docs/?item—id=12699. Executive Summary: http://www.donahue.umassp.edu/docs/?item—id=12695.	Inside the Black Box of High-Performing, High Poverty Schools: A report from the Prichard Committee for Academic Excellence. Patricia J. Kannapel and Stephen K Clements with Diana Taylor and Terry Hbpshman with funding from the Ford Foundation. This report is available to download for free at: http://www.prichardcommittee.org/Ford%20Study/FordReportJE.pdf.	Similar Students, Different Results: Why Do Some Schools Do Better?. A large-scale survey of California elementary schools serving low-income students.. Williams, T., Kirst, M., Haertel, E., et al. (2005). Mountain View, CA: EdSource.. This report is available to download for free at: http://edsource.org/pub—abs—simstu05.cfm.	Gaining Traction, Gaining Ground: How Some High Schools Accelerate Learning for Struggling Students This report is available to download for free at: http://www2.edtrust.org/NR/rdonlyres/6226B581-83C3-4447-9CE7-31C5694B9EF6/0/GainingTractionGainingGround.pdf Accompanying case studies: http://www2.edtrust.org/NR/rdonlyres/012DC865-97CA-4C2F-8A04-9924E2F392F0/0/ThePowerToChange.pdf The Power to Change: High Schools that Help All Students Achieve—Karin Chenoweth

FINDINGS .....

There is no single blueprint for advancing the achievement of students with special needs in socio-economically complex urban areas. However, to the extent that urban districts face a litany of common conditions and problems, the practices identified herein may be put to productive purpose in other districts, as well..

1. A Pervasive Emphasis on Curriculum Alignment with the MA Frameworks.
2. ''Effective Systems to Support Curriculum Alignment.
3. Emphasis on Inclusion and Access to the Curriculum.
4. Culture and Practices that Support High Standards and Student Achievement.
5. ''A Well Disciplined Academic and Social Environment.
6. Use of Student Assessment Data to Inform Decision-Making.
7. ''Unified Practice Supported by Targeted Professional Development.
8. ''Access to Resources to Support Key Initiatives.
9. Effective Staff Recruitment, Retention, and Deployment.
10. ''Flexible Leaders and Staff that Work Effectively in a Dynamic Environment.
11. Effective Leadership is Essential to Success

The eight study schools generally received high ratings on the audit, scoring highest in the areas of school culture and student, family, and community support. When audit results were compared to those of low-performing, high-poverty schools, the eight study schools scored significantly higher on:.

1. Review and alignment of curriculum ....
2. Individual student assessment and instruction tailored to individual student needs.
3. Caring, nurturing environment of high expectations for students.
4. 4. Ongoing professional development for staff that was connected to student achievement data.
5. Efficient use of resources and instructional time.

Extensive analysis of the survey findings used regression analysis to determine which activities more common at high-performing than at low-performing schools were correlated with higher API scores..

The practices found to be associated with high performance were:.

1. Prioritizing Student Achievement. .....
2. Implementing a Coherent, Standards-based Curriculum and Instructional Program..
3. Using Assessment Data to Improve Student Achievement and Instruction..
4. Ensuring Availability of Instructional Resources..
5. Principal leadership in the context of accountability-driven reform is being redefined to focus on effective management of the school improvement process..
6. District leadership, accountability, and support appear to influence student achievement..

In high impact schools, these spheres are addressed (examples are provided from many subsphere information:

Sphere 1: Culture

For example, a clear focus in high-impact schools is on academics vs. on rules.

Sphere 2: Academic Core

For example, consistently higher expectations for all students, regardless of students' prior academic performance

Sphere 3: Support

For example, administrators and teachers take responsibility for ensuring that struggling students get the additional help that they need

Sphere 4: Teachers

For example, more criteria than teacher preference to make teaching assignments * * * Teacher assignments are made to meet the needs of the students, rather than the desires of the teachers.

Sphere 5: Time and Other Resources

For example, a larger fraction of that time [of students in affected subgroups] is spent in grade-level or ''college-prep'' courses, while students in average-impact schools spend more time in ''support'' or ''remedial'' courses.

*Full document online at http://education.umn.edu/nceo/Teleconferences/tele11/default.html scroll down to ''Additional Resources''

However, you have asked one of the most challenging questions we are facing in school reform at this time. That is the question of whether there are efforts to replicate the successful traits in additional schools? and That is, is this information being put to use?

What is alarming is that many schools and districts have not committed to evidence-based practices in order to ensure the success of all the students. In my testimony, I answered a similar question of why have educational professionals so resisted actually teaching students with disabilities the challenging content, and expecting them to learn it. As stated there, part of the answer to this rests in centuries of fear and bias, or more recently, pity and caretaking toward people with disabilities, or for that matter, any people who are different from the typical. Given recent rhetoric and position statements on NCLB reauthorization among educational organizations, it seems to me that these attitudes are institutionalized in some professional organizations, even those representing special education.

However, the literature on change processes suggests that even with a shift in attitudes and beliefs, we are facing huge challenges in changing practice in all public schools. States ultimately have the responsibility to provide leadership on reform strategies that result in high achievement for all students. NCEO does not focus on this type of reform question, so in response to your question I asked Dr. Margaret McLaughlin at the University of Maryland with whom we partner frequently on the overlap of assessment and standards-based reform issues, to comment. She said, via email,

> The issue of "scaling up," and sustaining progress in reform, is not well researched in either general or special education. It is an area where we need to look at what local education agencies (LEAs) know and can do to support more schools getting better. My own anecdotal observations, over about 15 LEAs and about that many years, is that good schools, that is those getting results for general education students, are also getting them for students with disabilities. Those schools that need help for multiple sub groups are turned around through sustained and focused district support, weekly if not more, in developing formative/curriculum based assessments and monitoring student progress; having a well sequenced standards-based curriculum, not just a bunch of textbooks; teachers—both general and special education licensed—who know how to teach that curriculum; and flexible arrangements and use of special education personnel. This usually means a school has an effective principal and very good teachers who can respond to the intensive professional development. Most of this really only happens in suburban or small better resourced districts. (Margaret McLaughlin [mjm@umd.edu])

In other words, actually shifting practice is labor intensive, complex work, and requires resources and leadership. I would also suggest it takes a long-term commitment to intensive and focused professional development, both preservice and inservice. Although NCEO is not charged with working on reform implementation in schools, we do work with change processes around assessment system design. In that work, we rely on a research based that suggests these components are essential to systematic, sustainable change:

- access to a research-based knowledge base information infrastructure to support use of knowledge;
- a coaching culture that recognizes natural leaders and stakeholders as resources;
- access to peers, networks, and partners with knowledge and skills to be shared in a learning community , and
- working partnerships across researchers, practitioners, parents, advocates, and students.

[The prepared statement of the National School Boards Association (NSBA) follows:]

Excellence and Equity in Public Education through School Board Leadership

Office of Advocacy

- E. Jane Gallucci
  President
- Anne L. Bryant
  Executive Director
- Michael A. Resnick
  Associate
  Executive Director

March 29, 2007

The Honorable Dale Kildee, Chair
Early Childhood, Elementary and Secondary Education Subcommittee
House Education and Labor Committee
United States House of Representatives
2107 Rayburn House Office Building
Washington, DC 20515

Re: *Hearing of the House Early Childhood, Elementary and Secondary Education Subcommittee on No Child Left Behind and Students with Disabilities, March 29, 2007: National School Boards Association Statement for the Record*

Dear Chairman Kildee:

The National School Boards Association (NSBA), representing over 95, 000 local school board members across the nation commends you for your support to reauthorize the Elementary and Secondary Education Act (ESEA)/No Child Left Behind (NCLB) Act during the 110th Congress, and for holding a hearing on the specific issues related to students with disabilities. NSBA appreciates the opportunity to submit a Statement for the Record, and looks forward to working with you closely to ensure that the reauthorization addresses the very critical issues impacting students with disabilities.

NSBA strongly supports the goals of the Elementary and Secondary Education Act and its subsequent reauthorizations, including the No Child Left Behind Act of 2001. After having five years of experience with implementing this federal, law, we have identified several key recommendations that we believe will improve the law and its impact on students with disabilities.

NSBA has identified over 40 specific recommendations for improving NCLB. Our general concerns are three-fold:

- Assessments for all students, including students with disabilities, should be reliable and valid;
- Accountability models should fairly and accurately reflect the performance of students, school, and school districts; and
- Sanctions directed by the federal law should be proven and designed in a manner that would result in improved student performance rather than for punitive reasons.

The NSBA recommendations have been incorporated into legislation, the *No Child Left Behind Improvements Act of 2007, H.R. 648*, introduced by Rep. Don Young (R-AK), with strong bipartisan support. We encourage you to review H.R. 648 in its entirety. However, for your convenience we have enclosed a copy of our *Quick Reference Guide* to the bill that provides our recommended provisions and a brief rationale.

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NSBA urges the Subcommittee to incorporate our recommendations into the reauthorization bill. NSBA believes that the current law can be amended to address key barriers to full implementation while maintaining the core principles of the law to improve achievement for all students, including students with disabilities. Of specific concern to school districts in increasing the academic performance of students with disabilities is that the reauthorization bill would address the following provisions:

1) As determined by the state, students with disabilities may be offered an alternate assessment for the purpose of determining AYP, provided that any such assessment is reflected by the student's IEP and is based on the IEP team's evaluation and the services to be provided for that student – and meets parent consent requirements for IEPs.
2) The percentage of students statewide who may have their score counted under this provision as meeting AYP may not exceed 3% of the total number of students assessed.
3) Consistent with the student's IEP, alternate assessments may include out of level assessments. Likewise, a student's test results for the purpose of determining AYP may be based on gain scores toward meeting the state standard for proficient or on an adjusted "cut" score for determining proficient.

   Rationale: The IEP team has the authority and expertise to determine the academic requirements for students, and NCLB should not preempt an IEP team's determination of the needs of the child – as agreed by the parent.

4) In calculating AYP, students identified in more than one group may be represented in the count for each group as an equal fraction totaling one student.

   Rationale: This change creates a more appropriate approach in determining AYP for schools with large numbers of students belonging to several subgroups than over-representing their count; and would not adversely affect schools with greater diversity. Each student should be counted as one student, not some counted up to four times.

5) A state may permit a school to be identified as meeting AYP when one or more subgroups fail to meet AYP targets as long as the total number of students in the subgroups failing to meet their AYP targets does not exceed 10% of the total number of students counted for the specific assessment or indicator. (This alternate method could not be applied to the same groups for the same subject in two consecutive years).

   Rationale: This option permits a one-year deferral of a school being identified as not making AYP when a relatively small number of students are unable to score proficient and the subgroup or subgroups involved made AYP in the previous year.

The Honorable Dale Kildee
March 29, 2007
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6) Intermediate goals do not have to increase in equal increments.

Rationale: This option would give schools and school districts flexibility in addressing the unique needs of specific subgroups that may already be positioned at different points to achieve full proficiency.

7) The basic AYP measurement system may be expanded to include: 1) gain score approaches (like value added) and 2) partial credit for meeting basic proficiency targets.

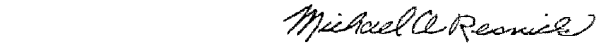
Rationale: The current accountability system which focuses on "cut scores" is flawed and overlooks a key indicator of student achievement - academic growth. Research has concluded that growth is a more accurate measure of success, particularly for students who are traditionally at risk. Allowing alternate methods of measuring AYP gives states greater flexibility to design their accountability systems while continuing to support the broader goals of NCLB. Although the U.S. Department of Education has given one-year approvals for growth models in five states, the number is too small and the conditions too restrictive for this effective policy option.

8) Students may be exempted from the participation rate requirements on a case-by-case basis due to medical conditions, current state laws that grant parents final decisions regarding participation on standardized assessments and uncontrollable circumstances.

Rationale: This option recognizes that there may be unique circumstances involving students that are not in the control of the school and should not adversely impact the determination of AYP for the entire school or school district.

NSBA very much appreciates the opportunity to submit a Statement for the Record, and would be pleased to provide recommended legislative language in support of our recommendations. Questions concerning our specific recommendations may be directed to Reginald M. Felton, director of federal relations at 703-838-6782, or by e-mail, rfelton@nsba.org.

Sincerely,



Michael A. Resnick
Associate Executive Director

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[Whereupon, at 12:21 p.m., the subcommittee was adjourned.]

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