

Draft Two  
5/29/2003  
Nixon Peabody LLP

**The Council of Chief State School Officers**

**THE NO CHILD LEFT BEHIND ACT  
SMALL AND RURAL SCHOOLS BRAINTRUST MEETING  
MAY 29-30, 2003**

**A BLUEPRINT ON NCLB ISSUES FACING SMALL AND RURAL SCHOOLS**

**ONE MASSACHUSETTS AVENUE, N.W. SUITE 700  
WASHINGTON, D.C. 20002-1431  
202-336-7000**

### **Small and Rural School Issues Under the No Child Left Behind Act**

As states, districts and schools work to effectively implement the No Child Left Behind Act of 2001 (NCLB), they must address issues that relate specifically and uniquely to small and rural schools. As a consequence, and based on the requests of many states, CCSSO has established the Small and Rural Schools “Braintrust” [the Braintrust] to help identify key issues and potential strategies that states and districts may consider in their drive to effectively implement NCLB. In addition, the Braintrust will work to identify policy issues that merit further attention by the U.S. Department of Education.

Based on feedback received from states, the initial convening of the Braintrust will address four areas:

1. AYP Accountability for Small Schools
2. NCLB Consequences for Rural Schools
3. Teacher Quality in Small and Rural Schools
4. Other Issues

This workbook provides a framework for considering strategies and options for effectively implementing the NCLB requirements with respect to these issues. It includes a brief summary of the relevant NCLB requirements, relevant summaries of USED-approved state plans, and policy questions to be addressed.

<b>AYP Accountability for Small Schools</b>	
<b>NCLB Requirements</b>	<p><b>In General:</b> Title I of NCLB requires each state to establish a single statewide accountability system (based primarily on state assessments) that holds schools (and districts) accountable for meeting adequate yearly progress (AYP) each year on assessments and at least one other academic indicator (such as graduation rates for high schools) – for students overall and for students in each major subgroup disaggregated by race, ethnicity, poverty, disability, and limited English proficiency. Schools, districts, and states that fail to demonstrate AYP in improving achievement and closing achievement gaps face escalating consequences.</p> <p><b>Defining AYP:</b> States must define AYP through a series of decisions:</p> <ul style="list-style-type: none"> <li>▪ <b>Define AYP Assessment Indicator(s):</b> States must identify the assessments that will be the primary indicators of AYP in reading/language arts and mathematics and ensure that each assessment is valid, reliable, and aligned with state standards. States must determine what cutscores will be used to indicate proficiency, and implement processes to ensure that 95% of all students (including in each designated subgroup) participate in assessments.</li> <li>▪ <b>Establish Starting Points:</b> States must determine the number and level of starting points.</li> <li>▪ <b>Set the Timeline:</b> All states must work towards a goal of 100% proficiency by 2013-14.</li> <li>▪ <b>Set Intermediate Goals:</b> States must set intermediate goals by which the AYP bar must rise at least 2 years from 2002-03 and every 3 years thereafter.</li> <li>▪ <b>Establish Annual Measurable Objectives:</b> States must set annual objectives for the AYP proficiency bar and a “safe harbor” for schools that have made significant progress but have not met the AYP proficiency bar.</li> <li>▪ <b>Define Other Academic Indicators for AYP:</b> High schools are required to use graduation rates as the other academic indicator for AYP. States must determine what other academic indicator will be used for elementary and middle schools.</li> <li>▪ <b>Establish Minimum Number for Subgroup Accountability:</b> States must determine the minimum number for subgroup accountability that protects student privacy and ensures reliability of AYP decisions.</li> </ul>
<b>Small Schools Context</b>	<p>The cornerstone of the NCLB—school and district accountability—is premised upon criteria designed to ensure that accurate judgments regarding school and district performance are made. The small size of schools and districts in many states establishes an array of policy challenges for states working to maintain effective, valid and reliable accountability requirements consistent with NCLB.</p> <p>Some USED-approved state plans address these issues in detail:</p> <ol style="list-style-type: none"> <li>1. Kansas: Minimum number for accountability is 30. Results from small schools in which the aggregate of students is less than 30 will be reviewed on an individual basis to ensure that annual movement toward 100% proficiency is occurring. Kansas will use a mix of averages and current year data to make AYP determinations. When the aggregate across grades is fewer than 30, KSDE will review the current year results and the results from an averaging of 2-3 years’ data including the current school year of data. Whichever is higher will be used for that year. The number of students determines whether 2 or 3 years of data is averaged. Two</li> </ol>

<b>AYP Accountability for Small Schools</b>	
	<p>years of data will be used if the aggregate reaches 30; otherwise, three years of data will be considered. Some schools may still not have 30 students even with three years of data. If data is not available for averaging or if three years does not yield a number close to 30, confidence intervals using the standard error of the proportion will be applied to determine if the current year's results are within an acceptable statistical range.</p> <ol style="list-style-type: none"> <li>2. Mississippi: Minimum number for accountability is 40. For a very small number (&lt;6) of unique schools enrolling fewer than 40 students, the AYP determination will be based on an application of the regular AYP model even though the n-count falls below the minimum of 40. In these cases, the reported AYP results will include a statement indicating that the results may be unreliable due to the small number of students.</li> <li>3. Washington: Minimum number for accountability is 30. Some schools and LEAs are so small that normal AYP decisions would not be statistically reliable. Any school and district that would not be held accountable using the AYP definition will be held accountable through the approval of their School Improvement Plan by the local school board pursuant to WAC 180-16-220 and an annual review by OSPI to determine goal attainment.</li> <li>4. West Virginia: Minimum number for accountability is 50. There are approximately 41 small schools in West Virginia that do not have a total of 50 in the tested class levels. For those small schools, Office of Education Performance Audits will determine AYP using the total subgroup only and averaging the scores for the current year tested plus the previous two years in order to make the AYP decision more reliable.</li> <li>5. Florida: Minimum number for accountability is 30, but is 10 for small schools. Approximately 210 or 6.3% of Florida's schools have less than 30 students. Almost half of those schools have highly mobile populations such as juvenile justice facilities, teen parent programs, and hospital/homebound programs and will not receive an AYP status designation. The remaining schools will receive an AYP designation so long as their student population is larger than 10.</li> <li>6. North Carolina: Minimum number for accountability is 40. For schools with less than 40 students assessed in the tested grades, whatever state test data are available to make an AYP determination for the school, although the results for the school will be flagged as "results based on less than 40 students." For K-2 schools, special education schools, hospital schools and vocational and career centers, a feeder pattern is used to determine AYP.</li> <li>7. Wyoming: Minimum number for accountability is 30, but is 6 for small schools. Schools with fewer than thirty (30) students will eventually be evaluated using a Body of Evidence system. As an interim rule, schools with fewer than thirty assessment scores will receive AYP determinations as long as they have 6 assessment scores (using data from the previous 2-3 years). [Note: The final AYP plan has not yet been posted by USED – this information is from the draft WY submitted on May 1 and available on the state website].</li> <li>8. Wisconsin: Minimum number is 40 (50 for students with disabilities). The very small schools with fewer than 10 students enrolled in grades 3-8, and grade 10 will be evaluated annually for their progress over three or more years. Since the very small schools' progress cannot be reliably calculated, the SEA in consultation with the LEA will take a closer look at their achievement data and evaluate progress on a case-by-case basis. [Note: The final AYP plan has not yet been posted by USED – this information</li> </ol>

<b>AYP Accountability for Small Schools</b>	
	<p>is from the draft WI submitted on May 14 and is available on the state website].</p> <p>9. Missouri. Minimum number is 30. Data for schools that do not meet the minimum cell size will be aggregated over the most recent three years. [Note: The final AYP plan has not yet been posted by USED – this information is from the draft MO submitted on May 16 and is available on the state website].</p> <p>10. Rhode Island. Minimum number for accountability is 45. For schools below the minimum number, standard error is calculated and used to ensure the reliability of the AYP determinations. [Note: The final AYP plan has not yet been posted by USED – this information is from the draft RI submitted on April 24 and is available on the state website].</p>
<b>Policy Questions</b>	<ol style="list-style-type: none"><li>1. What array of strategies may be pursued to validly and reliably report on/evaluate school/district performance in cases where the total number of students in the school/district is below the state-established minimum number?</li><li>2. How can subgroup performance be validly and reliably evaluated in cases where few, if any, subgroups meet the minimum number?</li><li>3. How can the results of student performance be effectively reported in ways that are consistent with NCLB requirements, meaningful to parents and students, and not invasive of student privacy/confidentiality?</li><li>4. Others...</li></ol>

<b>AYP Accountability for Small Schools</b>	
<b>Strategies and Options</b>	<ul style="list-style-type: none"><li>• Maintain established minimum number and supplement evaluation with a variety of statistical analyses to ensure validity and reliability of accountability determinations (e.g., confidence intervals).</li><li>• Supplement AYP determinations with additional supporting evidence that will ensure validity of judgments.</li><li>• Others...</li></ul>
<b>Open Policy Questions</b>	

<b>NCLB Consequences in Small and Rural Schools</b>	
<b>NCLB Requirements</b>	<p><b>School Choice:</b></p> <p><b>Public School Choice:</b> LEAs must make public school choice available for all students attending Title I schools that have been identified as in school improvement, corrective action, or restructuring.</p> <ul style="list-style-type: none"> <li>▪ Public school choice must be made available for students not later than the first day of the school year following the school year in which the LEA administered the assessments that resulted in the school being identified as in need of school improvement, corrective action, or restructuring. Public school choice must continue to be offered until the school is no longer identified for improvement or the student completes the highest grade in the school.</li> <li>▪ Parents must be notified “well before” the beginning of the school year when choice will be offered, even if no choice options are available.</li> <li>▪ LEAs must give priority to the lowest achieving students from low-income families. LEAs may not allow students to transfer to schools that have been identified as persistently dangerous or that have been identified for improvement, corrective action, or restructuring. LEAs are responsible for paying all or a portion of the transportation costs necessary for implementation.</li> <li>▪ SEAs must include in their annual Title I state reports the number of students and schools that participate in public school choice.</li> <li>▪ Where choice is unavailable as an option, USED guidance indicates that the LEA may offer supplemental educational services.</li> </ul> <p><b>Unsafe School Choice Option (USCO):</b> States must establish and implement policy requiring that any student attending a persistently dangerous school or who is a victim of a violent criminal offense while in or on the grounds of a public school may transfer to another school within the LEA.</p> <ul style="list-style-type: none"> <li>▪ <b>Persistently Dangerous Schools:</b> In consultation with a representative sample of LEAs, the state must define “persistently dangerous” using objective data that is attributable to individual school sites and is valid and reliable. The state must reassess schools annually to determine their status as safe or persistently dangerous. Once a school is identified as persistently dangerous, the LEA must:                     <ul style="list-style-type: none"> <li>▪ within 10 school days, notify parents of each student attending that school that it has been identified as persistently dangerous;</li> <li>▪ within 20 school days, offer students the opportunity to transfer to a safe public school; and</li> <li>▪ within 30 school days, complete the transfer of those students who accept the offer.</li> </ul> </li> <li>▪ <b>Violent Criminal Offenses:</b> For students who are victims of violent criminal offenses, LEAs must provide the student with the opportunity to transfer to a safe public school within 10 days.</li> <li>▪ <b>Transfer Requirements:</b> To the extent possible, LEAs should ensure that students have the option to transfer to a school that is making AYP and has not been identified for school improvement, corrective action, or restructuring. Transfers must remain in effect for as long as the original school is identified as persistently dangerous. Transfers may be temporary or permanent.</li> <li>▪ <b>Corrective Action Plans:</b> When a school is identified as persistently dangerous, an LEA must develop a corrective action plan within 20 school days. SEAs should review and approve plans and provide technical assistance to LEAs to implement the plans.</li> </ul>

<b>NCLB Consequences in Small and Rural Schools</b>	
	<p>Upon completion of the plan’s implementation, the LEA may apply to the SEA to have the school removed from the persistently dangerous list.</p> <ul style="list-style-type: none"> <li>▪ <b>Reporting:</b> As part of their consolidated state reporting requirements, States must report to the Secretary information about the number of schools identified as persistently dangerous.</li> </ul> <p><b>Supplemental Educational Services</b>                      Supplemental educational services are additional academic assistance that is provided outside of the regular school day to increase the academic achievement of students in low performing schools.</p> <ul style="list-style-type: none"> <li>▪ LEAs must make supplemental educational services available for eligible students attending schools that do not make AYP for three consecutive years. Supplemental services must be offered until the schools are no longer identified for improvement, corrective action, or restructuring.</li> <li>▪ Eligible students are all students from low-income families who attend Title I schools. LEAs must give priority to the lowest-achieving eligible students based on objective criteria. LEAs may focus services on the lowest-achieving students in the subject area that caused the school to be identified for improvement.</li> </ul>
<b>Rural Schools Context</b>	<p>Rural schools face unique challenges with respect to the consequences that follow from failing to have made AYP for a given number of years. In particular, feasibility and cost issues must be addressed in the context of school choice requirements, and the availability of meaningful supplemental education services may be limited for rural schools.</p>
<b>Policy Questions</b>	<ol style="list-style-type: none"> <li>1. How do districts with few schools or remote schools provide choice?</li> <li>2. How can supplemental education services be made available to rural and outlying schools?</li> <li>3. What are district obligations with respect to interdistrict transfer?</li> <li>4. How can states encourage interagency agreements?</li> <li>5. Are there viable non-choice options that schools may pursue in an effort to address performance issues that surface under NCLB?</li> <li>6. What strategies should schools consider when providing choice options with respect to high transportation costs?</li> <li>7. How can LEAs and SEAs effectively monitor on-line providers?</li> <li>8. Others...</li> </ol>

<b>NCLB Consequences in Small and Rural Schools</b>	
<b>Strategies and Options</b>	<ul style="list-style-type: none"><li>• Technology to expand supplemental services.</li><li>• Others...</li></ul>
<b>Open Policy Questions</b>	

<b>Teacher Quality in Small and Rural Schools</b>	
<b>NCLB Requirements</b>	<p><b>In General:</b> Under Title I, all teachers in core subjects and paraprofessionals must be “highly qualified” by 2005-06. After the first day of the 2002-03 school year, all teachers hired in Title I programs to teach core subjects must be “highly qualified.” After January 8, 2002, all paraprofessionals hired in Title I programs must meet NCLB qualification requirements.</p> <ul style="list-style-type: none"> <li>▪ <b>Highly Qualified Teacher:</b> A “highly qualified teacher” is defined differently for new and veteran teachers, and elementary and secondary school teachers. In general, a highly qualified teacher:                     <ul style="list-style-type: none"> <li>▪ has obtained full state certification as a teacher or has passed the state teacher licensing examination, and holds a license to teach in the State (and does not have certification or licensure requirements waived on an emergency, temporary or provisional basis);</li> <li>▪ holds a minimum of a bachelor’s degree; and</li> <li>▪ has demonstrated subject area competence in each of the academic subjects in which the teacher teaches in a manner determined by the state.</li> </ul> </li> <li>▪ <b>Annual Measurable Objectives:</b> States must establish annual measurable objectives including annual increases in the percentage of highly qualified teachers in each LEA and school and annual increases in the percentage of teachers receiving high-quality professional development.</li> <li>▪ <b>Reporting:</b> States must submit annual reports to USED describing the State’s progress towards meeting the annual measurable objectives. States must also ensure that LEAs publicly report the annual progress of the LEA (as a whole and by school) in meeting the annual measurable objectives.</li> </ul> <p><b>Improving Teacher Quality State Grants:</b> Under Title II, SEAs, LEAs, and the State agency for higher education receive funds to improve teacher and principal quality and ensure that all teachers are highly qualified.</p> <ul style="list-style-type: none"> <li>▪ <b>State Plans</b> <ul style="list-style-type: none"> <li>▪ States and LEAs must develop plans to ensure that all paraprofessionals and all teachers teaching in core academic subjects are highly qualified by the end of the 2005-06 school year. LEAs must perform a needs assessment to identify local teacher quality needs.</li> <li>▪ States and LEAs may use funds to recruit and train highly-qualified teachers and offer high-quality professional development. Activities must be grounded in scientifically based research and be aligned with the state’s academic content and student academic achievement standards, state assessments and state and local curricula.</li> </ul> </li> <li>▪ <b>Accountability</b> <ul style="list-style-type: none"> <li>▪ If an LEA fails to make progress toward meeting the annual objectives for two consecutive years, the LEA must develop an improvement plan with technical assistance from the SEA.</li> </ul> </li> </ul>

<b>Teacher Quality in Small and Rural Schools</b>	
	<ul style="list-style-type: none"> <li>▪ If an LEA fails to make progress toward meeting the annual objectives for three consecutive years and has failed to make AYP for three consecutive years, the SEA must enter into an agreement with the LEA on its use of Improving Teacher Quality State Grants program funds whereby the SEA will: (1) in conjunction with the LEA, teachers and principals, develop professional development strategies and activities based on scientifically based research that the LEA will use to meet the state’s annual measurable objectives for improving teacher quality; (2) require the LEA to use the professional development strategies and activities; and (3) prohibit LEAs from using Title I, Part A funds for any new paraprofessionals (except in limited circumstances). The SEA must also provide funds directly to one or more schools served by the LEA for professional development activities.</li> </ul>
<b>Small and Rural Schools Context</b>	The NCLB requirements relating to highly qualified teachers pose unique challenges for small and rural schools, including those relating to maintaining a teacher workforce that is highly qualified, as defined in the NCLB, and meeting the standards of NCLB in cases where teachers teach in multiple areas.
<b>Policy Questions</b>	<ol style="list-style-type: none"> <li>1. How can small and rural schools attract and retain highly qualified teachers? What strategies may states or consortia of schools/districts pursue to support this goal?</li> <li>2. How can rural and small schools meet the NCLB highly qualified teacher requirements in cases where teachers teach in multiple grades and subjects?</li> <li>3. Others...</li> </ol>

<b>Teacher Quality in Small and Rural Schools</b>	
<b>Strategies and Options</b>	
<b>Open Policy Questions</b>	

<b>Other Issues</b>	
<b>Issues</b>	<ol style="list-style-type: none"><li>1. Small LEAs seek to qualify for federal grants, which are conditioned upon thresholds.</li><li>2. Policy and communications about success for small schools.</li><li>3. Capacity and technical assistance issues for small and rural schools.</li><li>4. Others...</li></ol>
<b>Strategies and Options</b>	
<b>Open Policy Questions</b>	