

Education Policy Brief

Closing the Achievement Gap Series: Part III What is the Impact of NCLB on the Inclusion of Students with Disabilities?

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CEEP EDUCATION POLICY BRIEF SERIES ON CLOSING THE ACHIEVEMENT GAP

- ✓ *Is Indiana Ready for State-sponsored Pre-kindergarten Education Programs?*
- ✓ *Response to Intervention (RTI): Basic Elements, Practical Applications, and Policy Recommendations*
- ✓ *What is the Impact of NCLB on the Inclusion of Students with Disabilities?*

“The fourth anniversary of the No Child Left Behind Act, signed into law by President Bush on January 8, 2002, is a time to boldly look ahead, confident that we can solve any educational challenge we face. Four years ago our nation said it would no longer accept a public school system that educated only a portion of its children. Americans said schools should be held accountable for results and students should learn through proven methods. Parents were given more choices, states more flexibility, and schools 40 percent more resources. The results are beginning to come in...helping to close an achievement gap critics once called intractable and inevitable. No Child Left Behind has taught us that change and reform are possible.”

U.S. Secretary of Education, Margaret Spellings
January 9, 2006

“Not everything that can be counted counts, and not everything that counts can be counted.”

Albert Einstein

It has been nearly five years since the No Child Left Behind Act (NCLB) of 2001 was passed into law. The law stipulates statewide systems of accountability based upon challenging academic standards and assessment systems with content aligned to those standards. Prior to NCLB, the Individuals with Disabilities Education Act of 1997 (IDEA) required the inclusion of students with disabilities in state and district assessments. Nationally, the movement toward increased accountability for all students in our schools has been primarily implemented through state mandated standardized assessments. Student results on these assessments have become the primary indicators of success (or lack of success) for students, teachers, administrators, schools, and school systems (Ward, Montague, & Linton, 2003). More importantly, NCLB requires student achievement results to be disaggregated

into subgroup categories based on race/ethnicity, income, limited English proficiency, and includes a subgroup category for students with disabilities.

Across the country, students with disabilities have made progress on state assessments; however, many schools are not making Adequate Yearly Progress (AYP) because of the overall academic performance of the special education subgroup measured against a set standard established by each state for all of its students. In 2005, 942 of 1,831 Indiana schools (51%) did not make AYP as required by NCLB; 719 of the 942 schools (76%) reported not making AYP in the special education subgroup (131 schools did not indicate why they did not make AYP). To say that NCLB is high impact legislation is to understate the case considerably.

State accountability systems have presented new challenges for educators striving to meet the individual needs of students with disabilities in an inclusive educational environment (Ward, Montague, & Linton, 2003). In a recent national survey completed by the Center on Education Policy in Washington, D.C. (2005), educators most often cited the NCLB accountability requirements for students with disabilities and English language learners as their greatest implementation challenge. Few thoughtful educators would reject the aim of the law—to ensure that every student, regardless of race, poverty, disability, or language status, is academically successful and that they are taught by well qualified teachers. Yet, the debate continues as to how best to assess students with disabilities and how best to provide access to the general education curricula for these students.

In this Education Policy Brief, the Center for Evaluation & Education Policy and the Indiana Institute on Disability and Community at Indiana University provide information that focuses on the impact that NCLB is having on students with disabilities: What are the benefits of the law? What are the unintended consequences? Does NCLB conflict with the federal Individuals with Disabilities Education Improvement Act (IDEIA)? In addition, to inform us of the views of Indiana educators about the impact of NCLB on students with disabilities, we conducted an online survey of Indiana superintendents, principals, and directors of special education. Results of the online survey are summarized and recommendations are included. It is important to note that NCLB is scheduled to be reauthorized in 2007; currently hearings are being held and testimony is being given on a variety of revisions that would make the law work better for schools and for students. Our hope is that the information provided in this brief may assist state and/or federal policymakers and education officials as they struggle with future revisions of NCLB and the education of every student in Indiana.

WHAT ARE THE BENEFITS OF NCLB FOR STUDENTS WITH DISABILITIES?

It has now been 20 years since the former Assistant Secretary of the U.S. Department of Education, Madeline Will, outlined specific problems with the special education service delivery system. Will proposed a consolidation of categorical programs and general education to create an educational system that recognized and taught to the individual dif-

ferences of all children in the general education classroom, with shared accountability and responsibility between special and general educators (US Department of Education, 1986). Educators, policymakers, and parents continue to seek a common understanding of Will's vision.

Many parents, advocates, and educators have touted NCLB as the most significant piece of legislation that affects the education of students with disabilities since the passage of the first IDEA legislation in 1975. They celebrate the fact that students with disabilities now "count" in that they fully participate in assessments and their scores must be disaggregated so that progress is public. Indeed, most stakeholders agree that a major accomplishment of NCLB is that general education must now pay attention to the academic achievement of students with disabilities (Reeder, 2004).

The tenets of NCLB and the 2004 revision of IDEA (referred to as IDEIA) are to include students with disabilities in the general education curriculum, classrooms, and accountability systems and are supported by research. Over the past two decades, research

on the benefits of educating students with disabilities with their non-disabled peers have helped to shift the conversation from whether to provide inclusive education to how to develop quality programs that include students with disabilities (Cole, Waldron, & Majd, 2004). Table 1 highlights the educational, social, and economic benefits of quality inclusive programs.

In addition to the research on inclusion, a substantial legal precedence has been established regarding the inclusion of students with disabilities in general education classrooms. Overall, the courts tend to agree that: (a) an inclusive public education offers substantial benefits to all students; (b) inclusion is a right, not a privilege for selected students; and (c) success in separate, pull-out settings does not negate successful functioning in integrated settings (Gaskin et al. v. Commonwealth of Pennsylvania, 2005; Obeni v. Board of Education of the Borough of Clementon School District, 1992). Therefore, NCLB is aligned with the philosophy of inclusion of students with disabilities in the general education classroom and in accountability systems.

Administrators' Views on the Benefits of NCLB

"NCLB has increased the expectations for some students with mild disabilities and some of them have measured up."

Special Education Director

"LEA's need to get a grip and stop complaining. I use it (NCLB) as a tool to ensure high expectations for all students. I also use it to promote a greater variety of instructional practices."

Rural Superintendent

"I agree with standards and accountability for disabled students."

Superintendent

"I have no problem being accountable for the academic achievement of all students. Our students with disabilities have shown tremendous growth each and every year."

Elementary Principal

"A positive aspect of NCLB is that teachers seem cognizant of the standards and focus instructions on the standards."

Rural Superintendent

"I do believe that accountability is needed. Many special education students have been enabled to be less than they could be."

Special Education Director

"It is critical that students with disabilities remain included in the accountability system to ensure that they are receiving the same high quality education as their non-disabled peers."

Special Education Director

"I believe that NCLB has caused a new intensity for students with disabilities to learn state standards."

Rural Superintendent

Table 1. Educational, Social, & Economic Benefits of Including Students with Disabilities

	Benefit	Outcomes	Source
Educational	Improved academic achievement for general education students	<ul style="list-style-type: none"> Achievement increased in at least one academic area when inclusive practices were implemented. 	Baker & Zigmund, 1995; Cole, Waldron, & Majd, 2004; Hunt, 2000; Kochhar, West, & Taymans, 2000; Saint-Laurent, Dionne, Giasson, Roger, Simard, & Pierard, 1998; Salend & Duhaney, 1999
	Improved academic achievement for students with disabilities	<ul style="list-style-type: none"> Students earned higher grades and achieved higher scores on standardized tests. Greater progress in reading and math when compared to students educated in resource settings. 	Cole, Waldron, & Majd, 2004; Grossi & Cole, 2006; Rea, McLaughlin, & Walther-Thomas, 2002; Waldron and McLeskey, 1998
	Improved behavior	<ul style="list-style-type: none"> Higher level of engagement in school activities. Sharp decline in discipline referrals after shift to inclusive practices for students with and without disabilities. 	Kemp & Carter, 2005; Krank, Moon & Render, 2002
	Increased educational attainment	<ul style="list-style-type: none"> Higher high school completion rates and higher rates of college attendance. 	Grossi & Cole, 2006
Social and Emotional	More durable peer networks	<ul style="list-style-type: none"> Students with disabilities in general education classes had larger network of friends. 	Kennedy, Shukla, & Fryxell, 1997; Newton & Horner, 1993; Vaughn, Elbaum, Schumm, & Hughes, 1998
	Improved social skills for students with disabilities	<ul style="list-style-type: none"> Teacher ratings showed improved social skills. Students do not demonstrate high levels of loneliness. 	Kozleski & Jackson, 1993; Tapasak & Walther-Thomas, 1999; Vaughn, Elbaum, Schumm, & Hughes, 1998
	Improved social emotional growth of students without disabilities	<ul style="list-style-type: none"> Improved self concept. Reduced fear of human differences. Increased tolerance. Improved social emotional growth. Improved personal conduct. Positive outcomes for high school students who had interaction with students with disabilities. 	Giangreco et al., 1993; Helmstetter, Peck & Giangreco, 1994; Peck, Donaldson, & Pezzoli, 1990; Staub, 1999
Economic	Increased employment rate and job skill level	<ul style="list-style-type: none"> More time in general education programs resulted in better postsecondary outcomes. 	Blackorby, Chorost, Garza & Guzman, 2003; Grossi & Cole, 2006

Because the assessments must be aligned with challenging content standards in reading, language arts, and mathematics, students with disabilities are being held to higher standards. Clearly, the conversation has shifted from providing students with disabilities access to the classroom to access to the same high standards and curriculum as other students.

Martha Thurlow, Director, National Center on Educational Outcomes, testified in 2004 before the Committee on Education and the Workforce, House of Representatives. She noted that as a result of having actual assessment data for students with disabilities, we know that more students are participating in assessments now than were tested three to five years ago. She also pointed out that while IDEA '97 required that students with disabilities

participate in state and district assessments and that their results be reported publicly, it was not until NCLB was passed that all states really began to pay attention to the requirements. As a result, data on students with disabilities is now readily available, compared to past years in which data was only sporadically available. She further added that NCLB has provided the impetus for special educators and general educators to work together in new and different ways (Thurlow, 2004).

In April 2001, a survey of all state directors of special education was completed by the National Center on Educational Outcomes. Directors from all 50 states and 11 federal jurisdictions completed the survey. More than half of the states reported increased participa-

tion rates, and two-thirds of the states reported stable or increased performance levels of students with disabilities on state tests. Overall, more states listed positive consequences of inclusive standards, assessments, and accountability than listed negative consequences. In addition, over half of the state directors reported that IEP goals are aligned or referenced to state standards (Thompson & Thurlow, 2001). As a result of NCLB, teaching and learning have changed for students and teachers. There is now greater alignment of the curriculum with state standards. In addition, teachers and principals are making better use of test data to adjust teaching to the individual needs of students (Center on Education Policy, 2006).

ARE THERE UNINTENDED CONSEQUENCES RESULTING FROM NCLB FOR STUDENTS WITH DISABILITIES?

The debate over NCLB has often found special education advocates and parents on both sides of the fence, torn between wanting high expectations for students with disabilities and fear that students will suffer some unintended consequences as a result (Olson, 2004). Particularly when the stakes are high for students, there is concern about the potential for unintended consequences. Below are the consequences of NCLB on special education most often noted in the literature.

Narrowed Curriculum

Some worry that a heavy focus on reading and mathematics results in a greater portion of instruction during the school day being spent on these subjects at the expense of other curricular areas, such as: the arts, social studies, science, health education, physical education, vocational/career skills, etc. According to a report by the Center on Education Policy (2004), 71% of districts surveyed have reduced instructional minutes in at least one subject, in order to make more time for mathematics and reading. While some districts reported needing extra time for low-achieving students to learn material, others reported additional negative effects such as reducing creativity in teaching and learning, or lessening activities that might keep students in school (Center on Education Policy, 2004).

Other educators believe a narrow focus on a single test score as the only measure of a student and a school's success forces them to concentrate their time and effort on raising scores. If the content is not on the test, it can become a low priority. Some research suggests that accountability systems have led to a greater emphasis by teachers on standardized test content and test-taking skills, at the expense of other material judged by many to be of greater educational importance (Linn, 2000). Educators continue to express concern about how important issues such as multicultural education, multiple intelligences, character education, service learning, and others fit with the accountability movement driven by state testing requirements (Ward, Montague, & Linton, 2003). When tests define instructional priorities, areas not being tested are "explicitly marginalized" (Eisner, 2001, p.369). An additional concern is that high

poverty schools, with larger numbers of students with disabilities, must narrow the curriculum to a greater degree than low poverty schools who do not struggle to make AYP. As a result, more wealthy schools continue to offer a wider range of curricular selections (Noddings, 2005).

For many students with disabilities, the curricular areas that are being ignored are the very areas that they find motivating and often experience success in. The tendency to force a single academic curricular focus and devalue other types of learning may limit the opportunities for students with disabilities to excel. At the high school level, some worry that the academic focus and extensive remediation may decrease the opportunities that students with disabilities have to enroll in vocational/career programs as well as access to transition-related curriculum that they need to succeed post high school (Olson, 2004).

Students with Disabilities as Scapegoats

Across the country, disability advocates have expressed concern that AYP data could be used to cast a negative light on students with disabilities, making them the scapegoats for school failure. One superintendent from our Indiana survey of local administrators (see page 6 for further details) noted that "focusing accountability solely on (an) individual student's performance can end up blaming the victim for failure as opposed to recognizing the responsibility and impact of all the faculty." In the first year that states began reporting assessment results, there was an outcry in the press that students with disabilities were the primary reason that schools failed. Some policymakers and educators immediately began calling for complete exemption from assessments for students with disabilities. In 2005, a majority of state education officials indicated that they would like to see the accountability requirements for students with disabilities changed or eliminated (Center on Education Policy, 2005).

In addition, the cost of providing intervention services to students not making AYP has been a concern of many educators. In a 2004 study on the cost of implementing NCLB in Ohio, it was determined that the most significant impact on education costs results from the need for extensive additional interventions to ensure that all students meet AYP. In cases where the special education subgroup is the primary group keeping a school from reach-

ing AYP, those resources are focused with increasing the intensity of interventions to these students (Council of Chief State School Officers, 2004). Allocating scant resources to students with disabilities may well be perceived as taking resources away from other students, increasing already existing negative attitudes toward students with disabilities (Allbritten, Mainzer, & Ziegler, 2004).

Impact on Inclusion and Integration

Nationally, some are concerned that special education advocates' hard won success toward more inclusive practices for students with disabilities could be undermined if students with disabilities are the primary reason for a school's failure to make AYP. There is further concern that recent improvements in the past two decades to integrate and include students with disabilities could be diluted, resulting in an increase in segregated programs (Allbritten, Mainzer, & Ziegler, 2004; Reder, 2004).

It is the "high stakes" nature of the current accountability system that is most often questioned. Tests are considered "high stakes" when the results are used to make critical decisions about an individual's access to educational opportunities, grade level retention or promotion, graduation from high school, or the receipt of a high school diploma versus an alternate diploma. These decisions have long-range, long-term implications for the student. A primary concern is that scores on high stakes tests will limit the range of program options (such as career programs, vocational work-related programs, elective classes, etc.) that students with disabilities can participate in because of intense efforts to remediate areas of weakness (Thurlow & Johnson, 2000).

Increased Drop-out and Retention Rate

While the impact of NCLB on the dropout rate is not completely clear, an examination of the national longitudinal database shows that students subjected to Grade 8 promotion examinations are more likely to drop out by Grade 10. There is also anecdotal evidence that suggests that some students are encouraged or provided subtle incentives by educators to leave school (Mathis, 2003).

At the primary grade levels (Grades K-2), the emphasis on accountability may encourage schools to influence their "testing pools" by adopting promotion and retention policies to

ensure that students are not promoted to grades where they will perform poorly on state assessments, thus hurting the performance of the school. While retaining students could be viewed as an appropriate intervention, the research consensus on student retention is that it increases the probability of students' dropping out of high school (Goldhaber, 2002).

According to data reported by the U.S. Department of Education's Office of Special Education Programs, graduation rates for students with disabilities in 2004 were slightly above 32%. Another 11% were identified as no longer needing special education services, which indicates that they became fully mainstreamed students without an Individualized Educational Plan. Even if all of the students who were no longer listed as having disabilities earned regular diplomas and were added to the data, only 43% of students identified as "in need of special services during their school years" earn a high school diploma (Olson, 2004). Indiana data indicate that Indiana's graduation rate for students with disabilities fell from 50% in the 1999-00 school year to 39% in the 2003-04 school year. Indiana's drop-out rate for the 2003-04 school year for students with disabilities was 48% (www.ed.gov/about/reports/annual/osep/2003/index.html). It should be noted that in 2003, graduation rate and drop-out rate were two separate calculations.

"Educational Triage"

In an effort to understand concerns from the fields of educational sociology and policy scholarship over social and educational inequalities, researchers have begun to study a practice that has been labeled "educational triage" (Gillborn & Youdell, 2000; Reay, 1998; Whitty, Power, & Halpin, 1998). "Educational triage" is a term that has been applied to schools that use the practice of dividing students into "safe cases," "cases suitable for treatment," and "hopeless cases," in order to ration resources to focus on those students most likely to improve a school's test scores. Jennifer Booher-Jennings (2005) has studied how some schools use "educational triage" to respond to NCLB and high stakes assessment systems. She explains that because of the enormous pressure to increase test scores, and the number of students passing, some schools are diverting resources (time in class, remediation sessions, after-school help, and extra tutoring) to students on the threshold of passing the test, the so-called "bubble kids." This practice places more value on increased pass-

ing rates than on meeting the individual needs of all students (Booher-Jennings, 2006).

ARE NCLB AND IDEIA CONFLICTING MANDATES?

The reauthorized Individuals with Disabilities Education Improvement Act (IDEIA) was signed into law on December 3, 2004. The provisions of the act became effective on July 1, 2005. When Congress reauthorized IDEIA, effort was put forth to align the law with NCLB. The National Education Association and the National Association of State Directors of Special Education (2004) provide a summary of how both laws address the common issue of educational benefits for all student (see Table 2).

Both IDEIA and NCLB have a multitude of requirements, expectations, and mandates for states and school districts. IDEA '97 required the inclusion of students with disabilities in state and district assessments prior to NCLB, but some states and districts scrambled to meet the new requirements. NCLB's provisions not only referenced IDEA '97, but they also established precedence for increased accountability for all students that likely influenced the 2004 reauthorization of IDEA (National Education Association & National Association of State Directors of Special Education, 2004).

It can be difficult to reconcile the need to administer individualized assessments to determine student growth and success under IDEIA and the requirement to provide standardized assessments under NCLB. Further, IDEIA requires schools to develop an individualized education plan for each student receiving special education services that defines appropriate educational goals, services to support those goals, and appropriate types of assessments and accommodations. For many, the underlying concept of individualized education is in conflict with the concepts of universal content, achievement standards, and assessments that are at the heart of NCLB (Center on Education Policy, 2005). The notion of NCLB-that all students reach a given level of learning in reading and mathematics, as measured by a standardized test-is antithetical to the very foundation of IDEA-that students with disabilities receive instruction that is individualized according to each student's unique needs (Allbritten, Mainzer, & Ziegler, 2004). NCLB defines "educational benefit" based on academic proficiency in reading and math, whereas IDEIA defines "educational gains" for students with disabilities more broadly, taking into account significant educational gains in areas such as functional living skills, behavioral or social skills, and other academic areas beyond reading and mathematics.

IDEIA recognizes that when provided the necessary time, many students with disabilities can and will meet standards at a profi-

Administrators' Views on the Unintended Consequences of NCLB

"NCLB has eroded much of accepting and embracing students with disabilities in the mainstream."

Rural Superintendent

"NCLB has destroyed the progress we had made with inclusion programs."

Suburban Superintendent

"I want inclusion for our students with disabilities but because of NCLB and the standards we expect, we are having to use more of a pull out program for remediation, rather than put them in with their peers."

Rural Elementary Principal

"It breaks my heart to see reversed the progress we have made in allowing students with disabilities to feel success and to be accepted in the mainstream. It is not possible to have it both ways, and unfortunately, with the sanctions tied to test scores, educators are feeling pressure to make decisions for students with disabilities that run counter to what we believe is right and good."

Urban Elementary Principal

"NCLB places a burden on special education students. We have fought hard to have them accepted by their peers and teachers. Now they become responsible for schools not meeting AYP. Who wants to accept these students with the stakes so high?"

Urban Elementary Principal

Table 2. NCLB/IDEIA Summary

	NCLB	IDEIA
Participation in Assessments	Annual assessments in all grades tested must be administered with appropriate accommodations, guidelines, and alternate assessments for all students covered by IDEIA.	Students with disabilities must be included in all state and local assessments using appropriate accommodations or through alternate assessments.
Adequate Yearly Progress	States must submit a plan to demonstrate that they have adopted challenging academic standards for all students and the school district must use academic assessments described in their plan to annually review the progress of each school to determine whether the school is making adequate yearly progress.	There is no corresponding language regarding AYP in IDEIA.
Highly Qualified Teachers	Defines "highly qualified" as any public school teacher who has a bachelor's degree, holds state certification, and demonstrates subject matter competency (test or High Objective Uniform State Standard of Evaluation or HOUSS document).	Uses the term "qualified personnel" which means personnel who have met state approved or recognized certification, licensing, registration, or other comparable requirements in the area in which the individuals are providing special education or related services.

cient level. However, with NCLB, there is a premise that students must reach proficiency at the same pace and at the same level; that all students at a certain grade level will test proficient on state standards (Reder, 2004).

Under NCLB, students with disabilities must take tests geared to standards for their grade level rather than their learning level, which many feel at odds with IDEIA. Some educators are quite concerned that NCLB does not make adequate provisions for students who have mild cognitive disabilities or other disabilities that may seriously affect their learning but are not severe enough to qualify for an

alternate assessment (Center on Education Policy, 2005).

The major disconnect for many educators between the two pieces of legislation has to do with how progress is being measured. IDEIA suggests that progress is determined by an assessment that is appropriate for the individual child, as determined by a committee; NCLB states that you can do this as long as your school meets AYP, as determined by a single, standardized assessment (Frieden, 2004).

SURVEY OF INDIANA ADMINISTRATORS

During the month of September, 2006, an online survey of Indiana superintendents, principals, and directors of special education was conducted to gauge their attitudes and perceptions regarding the national implications of NCLB as they apply to Indiana. There were 282 respondents to the survey; 105 were superintendents, 49 were directors of special education, and 128 were principals at the elementary, middle, and high school levels.

Administrators' Views on the Conflicts Between NCLB and IDEIA

"I believe that the NCLB Act and IDEIA are like the right hand and the left hand that are trying to work against each other. The NCLBA sets a fixed, fairly arbitrary standard that all students must meet, while IDEIA recognizes and institutionalizes the notion that each child is unique and that instruction and achievement standards must be modified in response to that uniqueness."

Rural Superintendent

"The conflicts that I believe are apparent in NCLB and IDEIA need to be resolved. Failure to do so compromises the dignity of children with disabilities."

Rural Superintendent

"Both IDEIA and NCLB have some commonly shared goals and want similar things-accountability for student learning. As a goal this is admirable; as law(s) they leave much to be desired. For IDEIA, I believe the thrust was to ensure that students with disabilities were not excluded from the general education curriculum, accountability and assessment. However, the two (NCLB and IDEIA) are fundamentally different in that the IDEIA is a set of entitlements and protections that emphasize individualization, and the other allows virtually no flexibility or acknowledgement that the students are individuals. A big concern for me is that there is no provision in NCLB for students with disabilities who exit special education services and are no longer "counted" in the subgroup of students with disabilities. Therefore, the very program that provided services that helped the student to be successful does not receive any credit for the intervention."

Director of Special Education

"While I am in favor of higher expectations and more concentrated remediation attempts for students who are already behind, NCLB is unrealistic and is in conflict with IDEIA which allows schools to take into account individual differences, including rate of learning."

Suburban Superintendent

"How about deciding the NBA championship by putting every player on the free throw line and they all have to hit just one free throw. If one player misses, the team loses. That's what NCLB will eventually call for. Reasonable?"

Rural Superintendent

Raised Expectations

In the Indiana survey, 77% of the administrators either agree or strongly agree that NCLB has resulted in raised expectations for students with disabilities and an even higher number (83%) believe that NCLB has resulted in students with disabilities being held to Indiana academic standards (see Figures 1 and 2).

Students with Disabilities as Scapegoats

A large number (70%) of administrators believe that students with disabilities are being made the “scapegoats” for districts that are not making AYP. When the data are disaggregated by roles, an even higher percentage (88%) of directors of special education believe that students in special education are being used as scapegoats (see Figure 3).
Increased Remediation

Increased Remediation

In response to two questions regarding remediation for students with disabilities, 54% either strongly agree or agree that since the passage of NCLB, students with disabilities have experienced more pull-out remediation. Moreover, a majority (74%) believed that there is a pressure to group students with disabilities for the purpose of remediation.

Impact on Inclusion

The administrators from the Indiana survey had mixed opinions regarding the impact NCLB has on inclusion in their schools. A slight majority (67%) either disagreed or disagreed strongly that NCLB has resulted in students with disabilities not being included in the general education classroom for core academics (see Figure 4). Yet, slightly more administrators (46%) believe that NCLB runs counter to inclusionary practices for students with disabilities in their district/school, 21% responding that they are neutral regarding this statement, and 33% indicated that they either disagreed or disagreed strongly with this statement (see Figure 5). There was a great discrepancy between directors of special education and all other administrators as to whether a benefit of the NCLB legislation has been the inclusion of students with disabilities in assessment and accountability systems. Directors of Special Education

believe that including students with disabilities has been beneficial (75%), whereas only 37% of all other administrators in our survey believe that it is beneficial (see Figure 6).

Impact on Drop Out Rate

A majority (66%) of all respondents believe that high stakes testing has resulted in an increase in the number of students with disabilities who drop out of school. However, when looking at the data from special education directors only, a much larger majority (82%) believe that high stakes testing increases the number of students with disabilities who drop out of school (see Figure 7).

Pace of Instruction

When asked about the fixed pace of instruction, 82% of Indiana administrators believe that NCLB puts pressure on teachers to set a fixed pace for instruction and learning. Fifty-five percent of the Indiana administrators responded that NCLB has caused a reliance on the use of packaged programs that comply with NCLB rather than on teacher expertise in designing instruction.

Conflicting Mandates

Finally, a large majority (82%) agreed or strongly agreed that NCLB and IDEIA are conflicting mandates (see Figure 8).

RECOMMENDATIONS

This report has provided information from a national and state perspective that has clear implications for Indiana. It is clear from the information in this report and the survey of Indiana administrators that there is a strong commitment to the noble intentions of NCLB. However, there is uniform concern among educators, policymakers, and parents about the details of implementation. Rarely do we “get it right” the first time with federal legislation, and NCLB is being undermined by flawed regulations and implementation details. The challenge is to keep what is “right” about NCLB, and to revise the components that are difficult to implement, in conflict with the research, and harmful to the education of the whole child.

First and foremost, schools and school districts must be accountable for students with

disabilities, and these students must remain a part of Indiana’s accountability system. A large number of administrators from our survey indicated that NCLB has raised expectations for students with disabilities and that students with disabilities are now being held to state standards. For too long, students with disabilities have been left out of accountability systems. Now that they are a part of the accountability system, they are no longer just the concern of special educators but the concern of all educators. It is often stated that what gets measured is what counts. In this case, who gets measured is who counts. Students with disabilities must be a part of the accountability system, but the system must make sense. What follows are recommendations from the literature and from the Indiana survey for changes that “make sense.”

1. Indiana has been a leader in the development of a quality alternate assessment. They were one of only 10 states to have their alternate assessment approved by the federal government. Currently, Indiana uses the Indiana Standards Tool for Alternate Reporting (ISTAR) as the alternate assessment. Yet, under current guidelines, this alternate assessment can only be used with a very small percentage (1%) of students with disabilities. Indiana, as a leader in alternate assessment, should advocate for and develop a second alternate assessment for students with cognitive disabilities (those who are often labeled as the “gap kids,” who have cognitive disabilities and who may not qualify under the current alternate assessment guidelines). Indiana could have three, rather than two, categories of students with disabilities, and allow appropriate assessments for each category. For example, some students would be assessed using the ISTAR, the current alternate assessment in place. A second alternate assessment could be developed to assess another group of students with cognitive disabilities that uses alternate assessment measures (i.e., portfolios, performances, rating scales, or checklists) that measure proficiency in a different way than the Indiana Statewide Testing for Educational Progress-Plus (ISTEP+). These assessments would need to be standardized in some fashion; rubrics and standardized scoring guides would be two examples. This second alternate assessment should be aligned to state standards and, like ISTEP+, students would be measured against grade level standards (Center on Education Policy,

(Recommendations continued on page 9)

Figure 1

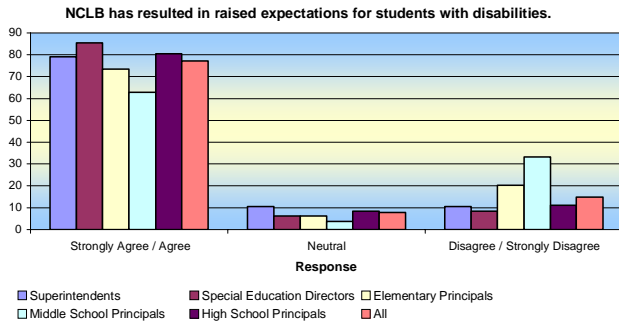


Figure 5

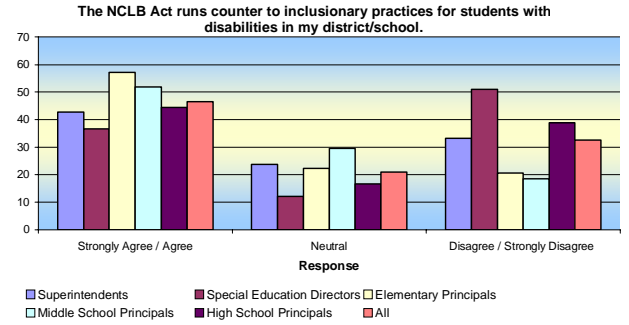


Figure 2

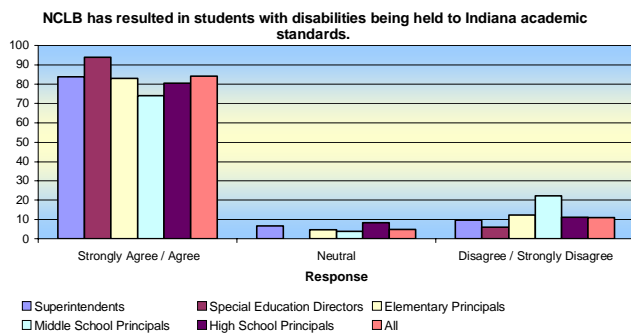


Figure 6

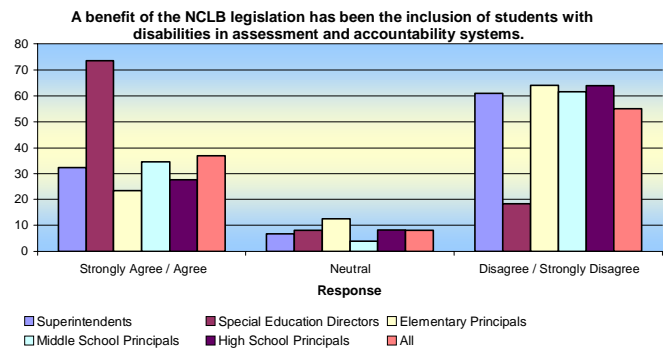


Figure 3

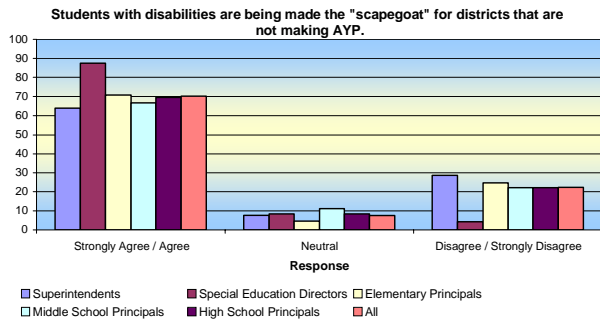


Figure 7

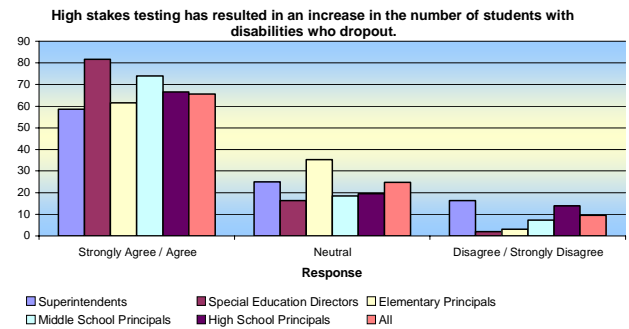


Figure 4

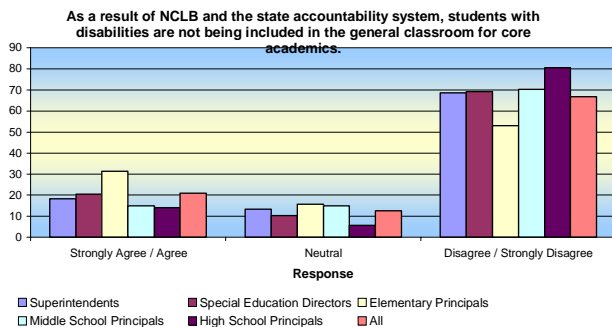
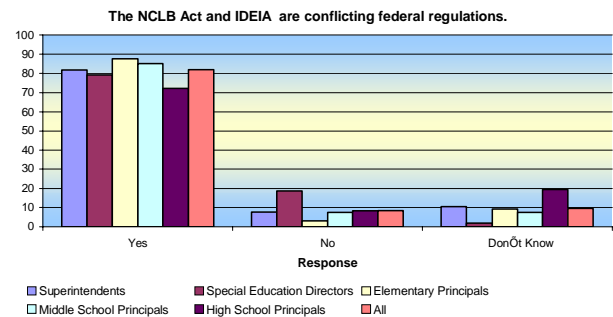


Figure 8



2005; Council of Chief State School Officers, 2004; Reder, 2004). And finally, a third group of students with disabilities could be assessed using the state ISTEP+ test (see Table 3). The development of a three-tiered system of accountability for students with disabilities is currently allowed under NCLB.

2. In a statement released in October 2006, the Council of Chief State School Officers issued a recommendation to Congress that state assessment systems should measure individual students' academic growth, and that the states should be able to use results from a variety of tests to determine student progress (www.edweek.org/ew/articles/2006/10/25/09ccsso.h26.html). Over 95% of the respondents to our survey are in favor of a state accountability system that measures progress of students over time rather than using performance against a fixed standard (cut score) in one school year. A growth model in which AYP is determined based on the growth of the same student from grade to grade would allow Indiana to track individual student growth and give credit for positive movement along all levels of the achievement continuum rather than simply a percentage of students scoring at the proficient level (North Carolina and Tennessee are now using growth model pilot programs approved by the United States Department of Education; Indiana applied to be a pilot state but the application was not accepted). Below are the primary components included in the North Carolina and Tennessee pilot programs and recommended by the Council of Chief State School Officers (2004) to the U.S. Congress to provide all states such flexibility in computing AYP:

- Permit states to set separate starting points (based solely on performance and ignoring demographic factors) and tra-

jectories by subgroup, school, and/or district, while ensuring that by 2014, all students will either be proficient or on their trajectory toward proficiency. Separate starting points would better recognize progress of a low performing subgroup, school, or district in meeting its own trajectory to 100 percent proficiency rather than the statewide trajectory. In the North Carolina pilot, all other statistical methods and safe harbor are applied to a school's proficiency target; a growth trajectory is calculated for all non-proficient students. The trajectory is built based on the student's performance either the previous year, or on the Grade 3 assessment, whichever is appropriate to the grade in which the student first enters as a resident in the state. In the Tennessee pilot, the projection model supplements the statutory AYP model and uses individual student projection data to determine the percent of students, by subgroup and subject area, who are projected to attain proficiency on the state assessment three years into the future. Schools and districts meet AYP through the projection model if all subgroups meet the annual measurable objective in both reading and mathematics.

- Ensure that any school or district that is on a trajectory to make proficiency before 2014 is included in the definition of "safe harbor." Currently under NCLB, a subgroup must demonstrate that it reduced by 10 percent the number of students scoring below proficiency from the prior year; while it acknowledges growth to some extent, the rest of the law, as written, leaves no room for growth models, forces states to set and meet rigid state targets for all groups, and is hampered by trying to measure small changes in student performance

for small numbers of students over a short period of time.

3. Indiana's P.L. 221 state accountability system is a stronger plan for improving student achievement in Indiana. There should be greater alignment between NCLB and P.L. 221. P.L. 221 considers both overall student performance and increases in student performance; NCLB considers subgroup performance. In a brief written by the Center for Evaluation and Education Policy (2005), Jonathan Plucker stated that "given these different approaches, it should be expected that individual schools may not necessarily appear to be making equal progress in both accountability systems. In essence, NCLB's failure to fully recognize improvement theoretically prevents P.L. 221 from correcting this limitation. The forced administrative overlap between the two accountability systems is conceptually, empirically, and motivationally inconsistent and counterproductive toward our goal of improving Indiana's public schools" (Plucker, Spradlin, Cline, & Wolf, 2005, p. 14).

In a speech delivered on April 7, 2005, U.S. Secretary of Education Margaret Spellings announced a proposal for additional flexibility to be granted to states to help them meet federal mandates of NCLB. Included in this proposal were: (1) rules that would allow states to set separate standards for students with disabilities who have "persistent academic disabilities" (up to 2%); (2) convening a panel of experts to consider ways of allowing states to incorporate a growth model into their accountability systems; and (3) a case for states to apply for waivers of certain rules if they could prove they had complied with the tenets of the law and could show increased student achievement (Plucker et al., 2005).

Table 3. Three-Tiered Assessment System

	Group 1	Group 2	Group 3
Students	Students with disabilities who have significant cognitive disabilities	Students with disabilities who have cognitive disabilities	Students with disabilities who do not have cognitive disabilities
Assessment	ISTAR; determined by IEP committee; following guidelines from the Indiana Division of Exceptional Learners	New alternate assessment; aligned with state standards; students tested at grade level; determined by IEP committee	ISTEP+

Administrators' Views on the Needed Changes to NCLB

"If I were to identify a student as having a physical disability which affected the student's ability to be mobile and yet I insisted that the student run a mile to pass a physical education course regardless of the identified disability, I would be doing a disservice to that student. I believe in many cases this is similar to what NCLB does to children."

Superintendent

"Students with disabilities need to be part of the federal mandates but those mandates need to look at student progress. Our current process expects students with disabilities to respond as if they didn't have a disability. While a child with a disability may show progress there is no reward for that progress. Instead, each child is made to feel that he or she is a failure."

Special Education Director

"I agree with the concepts that all students need to be held accountable for learning. I also believe that NCLB mandates have raised the level of accountability for schools and for individual teachers. My biggest gripe with NCLB is that a student or group of students can make progress and the school can be classified as failing."

Middle School Principal

"Our students with disabilities are the only group that does not make AYP in our building although they are the group that consistently posts the highest gains in achievement. Given this, there certainly is something wrong with the way NCLB measures adequate yearly progress."

Middle School Principal

"The negative is that we hold all students accountable at the same level. This would be comparable to having all kids (by 2013-14) jump a hurdle set at a predetermined height. It doesn't take into account that some kids may work very hard to be able to jump an inch! Let's measure success by tracking the same student over time, in line with his/her abilities, not by setting a predetermined benchmark for everyone."

Superintendent

CONCLUSION

The issues addressed in this educational brief are complicated and complex. Yet, there is a sense of urgency to begin to address and revise the aspects of NCLB that are not working for students with disabilities. NCLB is scheduled to be reauthorized in 2007; currently hearings are being held and testimony is being given on a variety of revisions that would make the law work better for schools and for students. Indiana policymakers must be informed and knowledgeable of the impact that NCLB is having on students with disabilities in Indiana and they must be participants in the debate on the federal revisions of NCLB. Most of all, policymakers should advocate for a system that better serves the students in Indiana, including students with disabilities. Currently, there are several bills that have been introduced in Congress that have components of the recommendations in this brief.

This report has highlighted many of the unintended consequences of NCLB for students with disabilities; likewise, it has highlighted the critical reasons that students with disabilities be held to high standards and participate in accountability systems to monitor their learning. Common ground must be found, with a balance between accountability for students with disabilities and a desire to be fair and sensitive to individual differences in students.

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