

**Implementing No Child Left Behind:
Eight States' Approach**

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Introduction

State accountability systems in education are not a new concept. What is new about *No Child Left Behind* (NCLB, P.L. 107-110) is a federal mandate requiring every state in the nation to implement an accountability system, with real consequences for not achieving adequate yearly progress (AYP). Under the new law, every state is required to develop “rigorous academic standards,” implement annual testing in reading and mathematics in grades 3-8 by 2005-06, and to take steps to ensure that every school makes progress towards having every student subgroup reach a proficient level in twelve years.¹

What is most unique about NCLB is that every statistically significant subgroup in a state (the economically disadvantaged, those in with limited English proficiency, major racial and ethnic groups, and the disabled), must show AYP. Although states are allowed to create their own assessments and set their own definition of AYP, states must participate in NAEP tests (in 4th and 8th grade reading and math every other year) in order to evaluate the rigor of state standards. In addition, states, districts, and schools must publish and disseminate annual report cards that detail the students scores disaggregated by subgroups.^{2, 3}

Federal spending on the Department of Education has been increased by 15% for FY2001 in order to help states pay for the new testing requirements.⁴ NCLB has consequences for schools, districts, and states that fail to meet AYP. If a school fails to meet AYP for two consecutive years, they must receive technical assistance and create a turnaround plan, and their students must be offered public school choice. If AYP is not reached for three consecutive years, low-income students must receive “supplemental educational services.” If AYP is not met for four consecutive years, the state must take corrective action and major restructuring – such as replace relevant school staff, implement a new curriculum, appoint an outside consultant, or extend the school day or year. If AYP is not met for a fifth consecutive year, the school must be restructured with an alternative governance – such as reopening as a public charter school, replacing most of the school’s staff, or contracting with a private management company to operate the school.⁵

For the eight states studied in this report (Massachusetts, Maryland, Michigan, Minnesota, Texas, South Dakota, South Carolina, and New York), the major challenges will be to 1) extend existing testing regimens (which currently exist in only a few grades) to all grades 3-8; 2) to report disaggregated subgroup data and to base AYP on disaggregated results; and 3) to bring full accountability to all schools, not just those served by Title-1 funds. Table 1 provides a summary of the findings.

¹ See *No Child Left Behind: A Desktop Reference*. Office of the Under Secretary, U.S. Department of Education, pp. 13-23. September 2002. Available from <http://www.ed.gov/offices/OESE/reference.html>.

² No Child Left Behind Act of 2001, Conference Report to Accompany H.R. 1. December 12, 2001. Available from <http://www.ncela.gwu.edu/miscpubs/legislation/nclb/rpt107334-i.pdf>.

³ Education Commission of the States. *No State Left Behind: The Challenges and Opportunities of ESEA 2001*. March 2002. Available from <http://www.ecs.org/>

⁴ Rudalevige, Andrew. “Accountability and avoidance in the Bush education plan: The ‘No Child Left Behind Act of 2001’.” Paper presented at the conference Taking Account of Accountability, Program on Education Policy and Governance, Kennedy School of Government, Harvard University, June 2002.

⁵ *Ibid.*, pp 46-51.

Massachusetts: Expansion of existing testing required

Massachusetts is in a good position to implement NCLB. Its NAEP scores are above the national average, with 33% of the students in 4th grade testing proficient in mathematics, and 37% of 4th grade students testing proficient in reading.⁶ The state is 77% white, with the major minority group being Hispanic. Though almost 5% of the students are designed as being limited English proficiency (LEP), about 57% of them are Spanish-speakers. The state thus administers a version of its assessment test in Spanish. Massachusetts has 25% of their students eligible for free or reduced-price lunch (one of the lowest of the states), and one of the highest per-pupil expenditures (\$8,300). Almost all (97%) of their schools receive Title-1 funding, so the state already has extensive experience with federal accountability statutes.⁷

Massachusetts already has a well-developed state curriculum, and performs annual testing in grades 4, 8, and 10 in English, math, science/technology, and history/social studies. Its state-developed assessment is called the Massachusetts Comprehensive Assessment System (MCAS), and it is a criterion referenced test with 80% of the questions being census-sampled, and 20% being matrix-sampled.⁸ Massachusetts will need to develop new tests for the grades that are not currently tested (3, 5, 6, 7), and it has laid out a detailed schedule for pilot testing and implementation.

The state already publishes report cards for schools and districts, and has a system of accountability in place for students, schools, and districts.⁹ Massachusetts already has an existing AYP, based on MCAS scores, but accountability is not disaggregated by subgroup (even though the state publishes disaggregated data).¹⁰ The new AYP required under NCLB will be based on both the school's absolute assessment on the MCAS, as well as relative progress. Graduation rates will also be included in AYP, as required by NCLB.¹¹

Maryland: A leader in the state accountability movement

Maryland already has one of the most extensive accountability provisions in the nation, and was one of the first states to implement accountability. It's NAEP scores are at the national average, with 22% of the student body in 4th grade proficient in math and 29% proficient in reading. It has a large African American minority population – approximately 37% of the state population, which brings special challenges to the Department of Education.¹²

⁶ National Center for Education Statistics. *Massachusetts State NAEP Profile*. Available from <http://nces.ed.gov/nationsreportcard/states/profile.asp?state=MA>. Accessed 22 Nov. 2002.

⁷ Ibid.

⁸ Consortium for Public Policy Research in Education. *Assessment and Accountability in the Fifty States: 1999-2000: Massachusetts*. Available from http://www.cpre.org/Publications/Publications_Accountability.htm.

⁹ Ibid.

¹⁰ Massachusetts State Department of Education, *Massachusetts State Consolidated Plan*, June 2002.

¹¹ Ibid.

¹² National Center for Education Statistics. *Maryland State NAEP Profile*. Available from <http://nces.ed.gov/nationsreportcard/states/profile.asp?state=MD>. Accessed 22 Nov. 2002.

The state already has banded standards (in preK-3, 4-5, 6-8, 9-12), and will create state curriculum from these standards in grades 3-8 as required by NCLB.¹³ The Maryland State Performance Assessment Program (MSPAP) is a state-made, norm-referenced, matrix-sampled test that is currently administered in grades 3, 5, and 8.¹⁴ It plans to pilot new tests in grades 3, 5, and 8 in reading and mathematics, and a new test in grade 10 reading. These tests will be ready for use in spring of 2003 and will be followed no later than the spring of 2006 with reading and math tests in grades 4, 6, and 7 (as required by NCLB).¹⁵ Currently, the State Department of Education expects to identify a commercially available norm-referenced test that will cover most of the standards, and to work with that vendor to build the additional items in time to administer the tests in the spring of 2003.¹⁶

Maryland currently issues extensive report cards for schools and students. For schools to receive a satisfactory rating, more than 70% of their students have to perform at a satisfactory level in each subject area, the attendance rate must exceed 94%, and the dropout rate must be less than 3%.¹⁷ School performance is monitored via the School Performance Index (SPI). If the school fails to meet the expected SPI, it may be reconstituted by the state. Schools are also rewarded with \$64,000 grants for SPI gains over two consecutive years.¹⁸ Currently, only 46% of Maryland's schools satisfy the SPI requirements.¹⁹

Maryland is prepared to establish its Adequate Yearly Progress starting point based on the results from the spring 2002 administration of MSPAP and geometry at the tenth grade level.²⁰ It currently reports disaggregated data by gender and race/ethnicity only, so it must add LEP and disability subgroups to bring it into full compliance with NCLB.

In the 2000-01 school year, limited English proficient students numbered almost 24,000, or 2.8% of the public school student population in Maryland. Of the 24,000, the largest number (12,800) were Spanish speakers who comprised approximately 1.5% of Maryland's total public school population. In March 2000, Maryland selected the IDEA Proficiency Test (IPT), published by Ballard and Tighe, as the assessment of English proficiency that is used on an annual basis in all local school systems.²¹

Michigan: Average state with average performance

Michigan has an average state academic record – its NAEP scores are at the national average, with 29% of 4th graders proficient in mathematics, and 28% of 4th

¹³ Maryland State Department of Education, *Maryland State Consolidated Plan*, June 2002.

¹⁴ Consortium for Public Policy Research in Education. *Maryland*, supra note 8.

¹⁵ Maryland State Department of Education, *Maryland State Consolidated Plan*, June 2002.

¹⁶ *Ibid.*

¹⁷ Consortium for Public Policy Research in Education. *Maryland*, supra note 8.

¹⁸ Maryland State Department of Education. Available from <http://www.msde.state.md.us/>. Accessed 22 Nov. 2002.

¹⁹ *Ibid.*

²⁰ Massachusetts State Department of Education, *Massachusetts State Consolidated Plan*, June 2002.

²¹ *Ibid.*

graders proficient in reading.²² It is largely white (74% white, 19% African American), and has an average level of education spending per-pupil (\$7,400).²³

Michigan currently administers the Michigan Educational Assessment Program (MEAP) test in reading and math (in grades 4 and 7) and in writing and social studies (in grades 5 and 8).²⁴ It is a state-made, criterion-referenced, census-sampled exam. Its current target for schools is to close the achievement gap between the highest and lowest MEAP scores by at least 10% of the gap in math, reading, science, and writing. Schools which do not meet AYP for two consecutive years are asked to rewrite their Title-1 plans, or may become unaccredited.²⁵ Recent legislative activity in the state has given it the power to take over the Detroit school district if its AYP targets are not met.

Interestingly, Michigan's AYP requirements are more strict than NCLB, since they measure performance on science and writing in addition to math and reading. Under the existing state system, over 1,500 schools were identified for improvement. If Michigan were to implement NCLB requirements, only 1,100 schools will be targeted for improvement.²⁶

The State Board of Education has approved a specific plan for implementation of NCLB, including a timetable that will result in the first public accountability report in December 2002. This plan will allow direct coordination of federal AYP measures in Michigan's accountability system.²⁷ Data is currently disaggregated by gender, ethnicity, migrant status, disability, and LEP status, but this disaggregation is not currently used for accountability as required by NCLB.²⁸

Spanish is spoken by 45%, and Arabic is spoken by 22%, of the LEP student population. Further data will be accumulated and studied by the MEAP staff during 2002-03 school year to determine if it is feasible and necessary to administer the MEAP assessments in a language other than English.²⁹

Minnesota: Real accountability consequences needed

Minnesota currently does not have an accountability system with real consequences for schools, and it will require major innovations in order to comply with new NCLB requirements. Minnesota's NAEP scores are above the national average, with 34% of 4th graders proficient in math and 36% proficient in reading.³⁰ Minnesota is largely racial homogenous, with 84% of the population being white.

²² National Center for Education Statistics. *Michigan State NAEP Profile*. Available from <http://nces.ed.gov/nationsreportcard/states/profile.asp?state=MI>. Accessed 22 Nov. 2002.

²³ Ibid.

²⁴ Consortium for Public Policy Research in Education. *Michigan*, supra note 8.

²⁵ Michigan State Department of Education. Available from <http://www.michigan.gov/mde>. Accessed 22 Nov. 2002.

²⁶ Ibid.

²⁷ Michigan State Department of Education, *Michigan State Consolidated Plan*, June 2002.

²⁸ Consortium for Public Policy Research in Education. *Michigan*, supra note 8.

²⁹ Ibid.

³⁰ National Center for Education Statistics. *Minnesota State NAEP Profile*. Available from <http://nces.ed.gov/nationsreportcard/states/profile.asp?state=MN>. Accessed 22 Nov. 2002.

Minnesota administers the Minnesota Comprehensive Assessment (MCA) in reading, math, and writing in grades 3, 5, 8, and 10. This is a state-made, criterion-referenced, census-sampled exam that follows the state curriculum.³¹ Minnesota schools are currently required to offer learning opportunities based on content standards in math, reading, and science at the primary level (grades K-3), the intermediate level (grades 4-5) and the middle level (grades 6-8).³² Minnesota will need to expand both curriculum and assessment testing to all grade levels 3-8.

Minnesota has high-stakes for student accountability, since students must pass the MCA in order to graduate from high school. The state has low-stakes district and school accountability, mainly through public reporting of district- and school-level results.³³ In order to be qualified as proficient, districts must have at least 80% of their graduating students pass the Basic Skills exam. Schools must have at least 60% of their students passing Basic Skills in order to qualify for proficiency. Only Title-1 schools are required to make AYP, and 25 of 51 Title-1 schools failed to meet AYP in 2001.³⁴ Most of these schools were in Minneapolis. Data is reported disaggregated only by disability, LEP, and free/reduced lunch.

There are approximately 80 different languages spoken by Minnesota students identified during the official student counting period of October 2001. The state currently provides official translations on state assessments in Spanish, Vietnamese, Hmong, and Somali. Minnesota has developed and implemented the Test of Emerging Academic English to assess the academic reading and writing skills of non-native speakers of English. This test is aligned to the state's content standards in reading and writing. It is given annually to all students identified as Limited English Proficient in grades 3-12 to measure progress in academic English language skills.³⁵

New York: Reform Will Have to be Revisited

For decades, New York has relied on the commercially-prepared Regents Competency Tests (RCTs) to assess secondary school student performance. Recognizing the need for assessment at an earlier point in students' careers, the state in 1998 implemented a revised assessment system which provides for examinations in the fourth and eighth grades. The state has moved slowly, however, to use its revised assessment system as the basis for accountability measures at the school and district level. Consequently, despite an extensive assessment infrastructure, the state may have to implement significant structural changes to accommodate the mandate of *No Child Left Behind*.

New York's revised assessment system, the New York State Assessment Program in English Language Arts and Mathematics, is administered in grades four and eight. In addition, the Regents Competency Tests are administered in reading, mathematics,

³¹ Consortium for Public Policy Research in Education. *Minnesota*, supra note 8.

³² Ibid.

³³ Ibid.

³⁴ Minnesota State Department of Children, Families, and Learning. Available from <http://www.educ.state.mn.us/>. Accessed 22 Nov. 2002.

³⁵ Minnesota State Department of Children, Families, and Learning, *Minnesota State Consolidated Plan*, June 2002.

science, and social studies in the eleventh grade to all students in the state. As the state prepares to withdraw the obsolete Regents Competency Test, however, it has implemented the Regents *Comprehensive* Examination in English and Mathematics, which serves as a *de facto* high school exit exam: students must score at least sixty-five on the examination to be conferred a diploma by the state.³⁶ The state provides several accommodations for disabled students, and translations for LEP students in grades four and eight in languages ranging from Chinese to Haitian Creole. Although the state has individual student records for the examinations administered in grades four and eight, permitting disaggregation by race, poverty indicators, LEP status, and gender, data from the high school assessments are collected in the aggregate, limiting how the state can disaggregate that data. Based on their performance on the fourth and eighth grade examinations, students are placed into one of four levels of performance; “level four” represents a student “moving towards high performance on the Regents exam,” while “level one” represents a student that “has serious academic deficiencies.”³⁷ Students are held accountable for their performance by the requirement that each student pass the Regents Comprehensive Examination to be awarded a degree. The state also distinguishes between a “local” diploma and a “Regents” diploma, which requires that a student complete three units of study in a language other than English and have passed Regents examinations in eight subjects.

Schools and districts are assessed by report cards, which feature prominently the expectation of the State Board of Regents that ninety percent of all students in grades four and eight should be at or above level two performance on the English Language Arts and Mathematics exams, and that schools should have a dropout rate of no more than five percent. The System of Accountability for Student Success focuses on identifying schools “farthest from state standards and most in need of improvement,” designating these as “schools under registration review” (“SURR”). The state Commission of Education identifies those schools that are farthest from meeting the ninety percent passage rate in the fourth, eighth, and eleventh grades (as well as limiting dropout rates to five percent). These schools are then notified as under “registration review,” and must develop plans for improvement. In addition to the statewide performance standards, the Commissioner may place a school under registration review if it is “identified as a poor learning environment based on a combination of factors affecting student learning,” including high rates of absenteeism and violence. After placement under registration review, the school must notify parents of students who attend the school that it is under review, and the school is given three academic years to demonstrate that students are meeting performance benchmarks. Eventually the Board of Regents may revoke the school’s registration to issue diplomas in response to a school’s failure to address performance issues. Although the state does not yet have a working definition of adequate yearly progress in place, a proposal currently before the legislature works from a “gap reduction” methodology, under which schools under registration review are required

³⁶ During the transition period to the Regents Comprehensive Examination and away from the less rigorous Regents Competency Examination, schools are permitted to award diplomas to students who score between fifty-five and sixty-four on the Comprehensive Exam. Beginning for students graduating in 2004, a passing score of sixty-five is required to meet local diploma requirements.

³⁷ Consortium for Public Policy Research in Education, *Assessment and Accountability in the Fifty States: 1999-2000: New York*, at pages NY-9-, NY-10.

annually to close a certain amount of the gap between their performance and the ninety percent passage rate standard. Because this standard for state accountability has not yet passed, for Title I purposes New York currently uses a definition of AYP based on the absolute percentage of students performing at or above Level Two on the grade four and eight English and mathematics examinations. Under this system, 105 schools are currently under registration review; ninety-seven of these are located in New York City.

South Carolina: Ahead of the Curve?

In 1998, South Carolina passed the Education Accountability Act which, according to the *State Consolidated Plan* submitted in response to the *No Child Left Behind Act of 2001*, “embod[ies] the purposes of the [Act].”³⁸ Indeed, an assessment of existing and developing state programs confirms that South Carolina has an assessment and accountability infrastructure which appear to meet and possibly exceed the mandate of *No Child Left Behind*.

The 1998 legislation, among other critical initiatives, called for the implementation of the Palmetto Achievement Challenge Tests (PACT), a criteria-referenced examination designed specifically for the state, to replace a group of off-the-shelf exams used throughout the state for the prior twenty years.³⁹ The PACT is administered in grades three through eight in mathematics, reading, English, science, and social studies, and the PACT Exit Exam is administered to all tenth graders. In addition, the state administers end-of-course tests in grades eleven and twelve in mathematics, English, science, and social studies. The state provides several accommodations for students with disabilities⁴⁰ and LEP students during the administration of the PACT Exam, but the test is not given in languages other than English. The state Department of Education has created four performance standards for students’ PACT performance, including “below basic,” “basic,” “proficient,” and “advanced,” and has promulgated specific score ranges on the examination for each designation. No student may graduate secondary school in South Carolina without earning a grade of “basic” on the PACT Exit Examination, which she may retake up to five times if necessary. Student performance on examinations is disaggregated by gender, ethnicity, free lunch, reduced-price lunch, disability, within-age-range students, and overage students.

South Carolina also has extensive accountability and assessment measures for schools and districts. Both schools and districts must provide a “Report Card” to parents which indicates the school and district performance compared other schools in the state. Both schools and districts are measured on “absolute performance ratings,” which are calculated on the basis of student performance on the PACT, and “improvement ratings,” which depend upon longitudinally-matched student data comparing current performance to the previous year’s.⁴¹ These ratings are combined to divide schools and districts into

³⁸ South Carolina State Department of Education, *South Carolina State Consolidated Plan*, “Historical Perspective,” at page 2.

³⁹ The state continues to use norm-referenced assessments through the TerraNova examination.

⁴⁰ Interestingly, the state offers portfolio-based assessment of student work, coupled with an oral examination, for students with disabilities in lieu of the PACT.

⁴¹ The current accountability system replaced a similar structure which South Carolina has used aggressively to hold unsatisfactory schools accountable for their performance. Under that system, six

categories including “excellent,” “good,” “average,” “below average,” and “unsatisfactory.” Schools rated “unsatisfactory” are required to provide the State Board of Education with reasons why a state of emergency should not be declared in the school, and the Board is empowered by state law, if unsatisfied by the school’s explanation, to replace the school’s administration or assume management of the school if necessary to address the emergency.

South Dakota: A State Left Behind?

As a state with a long history of local control over educational funding and regulatory promulgation, South Dakota is perhaps among the group of states least prepared to meet the mandate of *No Child Left Behind*. Although South Dakota features extensive examination of students in both primary and secondary education, the state has conceded that it “lacks a school accountability mechanism,” and in fact that there is doubt as to the legal authority of the state to enact a system of accountability based principally on assessment results.⁴²

Although the state has conducted the South Dakota Achievement and Ability Testing Program (SDAATP) since 1985, the program was substantially modified in 1995 and again in 1997 to institute the statewide administration of the same achievement examinations.⁴³ The state currently administers the Stanford Achievement Test (SAT9) in grades two, four, eight, and eleven in reading, mathematics, language arts, science, and social studies. In addition, the Stanford Writing Test is administered in grades five and nine. The SAT9 is a norm-referenced examination, although the state avers that it has completed an analysis to align the state curriculum with the content tested on the SAT9. No exit exam is required for graduation from high school in the state, and LEP students are exempted from the state examination until their English skills are developed; the exams are not provided in alternate languages, despite the presence of a significant Native American minority population in South Dakota. The state claims to be capable of disaggregating SAT9 performance data by gender, race, LEP status, and migrant status, but does not publish the results due to restrictions imposed by “staff constraints” and the fact that the state has one significant minority group and the “performance level of that group can be a sensitive issue.”⁴⁴

South Dakota has no school- or district-based accountability or assessment standards in place; school districts generally do not provide data on student performance

districts in South Carolina were defined as “impaired”; and state administrators in fact overtook one school district’s operation in response to that district’s consistent failure to articulate a plan for improvement.

⁴² See, e.g., South Dakota Department of Education and Cultural Affairs, *ESEA Consolidated State Application*, at page 11.

⁴³ Indeed, until 1997, South Dakota’s commitment to local control in education extended even to the selection of examinations to measure student competence. See Consortium for Public Policy Research in Education: *Assessment and Accountability in the Fifty States: 1999-2000: South Dakota*, at page SD-1. This analysis, current as of May 2000, was consistent with the state’s consolidated application to the United States Department of Education for funding under the ESEA in 2001.

⁴⁴ See Consortium for Public Policy Research in Education: *Assessment and Accountability in the Fifty States: 1999-2000: South Dakota*, at page SD-8. This analysis, current as of May 2000, was consistent with the state’s consolidated application to the United States Department of Education for funding under the ESEA in 2001.

to the state, and local newspapers are often the best source of information regarding school performance. The state does publish an *Annual Report on Academic Progress*, available to the public through the South Dakota Department of Education and Cultural Affairs website. School accountability is limited to the existence of an input-based system of accreditation which requires only that schools adhere to state guidelines in terms of course offerings, school calendar, staffing, and other statutory requirements. Even this limited system has generated controversy, however, as the Bureau of Indian Affairs has sought accreditation of Native American tribal schools which generally do not qualify, forcing students at these schools to apply for certificates of exemption from the state's compulsory education statutes.

The only existing standard for schools' annual yearly progress in South Dakota is that used for Title I schools; AYP is defined as a 5% increase each year in the number of students moving from "below basic" to "basic" on the SAT9 or from "basic" to "proficient." Subgroup performance, however, is not considered in the Title I AYP assessment, notwithstanding the existence of the large Native American minority population. Partly because of this omission, the United States Department of Education reports that fully 100% of South Dakota schools meet this standard for annual improvement, a statistic that may suggest that even the state's limited Title I AYP lacks rigor.⁴⁵

Texas: Staging Ground for *No Child Left Behind*

As President Bush's home state and the scene of the eight-year Governorship that preceded his election to national office, Texas serves as a fascinating parallel to the policy initiatives codified in *No Child Left Behind*. Indeed, as one might expect, Texas' existing assessment and accountability infrastructure features district-level assessments of progress, district-level accountability, and finely disaggregated measurements of school performance.

The Texas Assessment of Academic Skills (TAAS) is administered annually in reading and mathematics in grades three to eight; in order to pass the TAAS, students must answer seventy percent of multiple choice questions correctly. Writing examinations are administered in grades four and eight, and students must be assigned a score of 2 out of 4 in order to pass. Texas also features "exit" examinations in reading, mathematics, and writing in grade ten, and end-of-course examinations in English, History, Biology, and Algebra I. In order to be conferred a secondary diploma in the state of Texas, students must pass either all four end-of-course examinations or the exit-level TAAS. The TAAS is a criterion-referenced examination.⁴⁶

⁴⁵ The U.S. Department of Education is required by statute to track the percentage of schools meeting AYP as defined under Title I. These statistics are not reported by the state, but are available at the DOE's website. See United States Department of Education, *State Education Indicators with a Focus on Title I*, available at http://www.ed.gov/offices/OUS/PES/esed/2000_indicators/southdakota.html.

⁴⁶ As opposed to normatively-referenced. Broadly, criterion-referenced examinations purport to measure a student's understanding of material "relative to the domain of content" in the examined subject, while a normative examination provides relative scores among students "in a well-defined group." See University of Oklahoma, *Criterion-Referenced Assessment*, available at <http://www.ou.edu/education/edpsy/iptwww/instdsgn/Illustration/Lecture%20Outline%20Presentations/1> (accessed November 20, 2002).

School performance is measured on district report cards⁴⁷ which report average TAAS passing rates, disaggregated by ethnicity, gender, LEP, special education, economic disadvantage, and grade, as well as attendance and dropout rates and student to teacher ratio. The Texas Accountability Rating System uses three base indicators – TAAS performance, dropout rates, and attendance rates – to divide districts into four groups: exemplary,⁴⁸ recognized,⁴⁹ acceptable,⁵⁰ and unacceptable, or “low performing.” A school achieves adequate yearly progress when it is deemed *acceptable* on its annual report card. Year-to-year improvement is also measured through the Comparative Improvement Index (CI). The CI divides districts into a comparison group of forty schools in the state which most closely match a school’s characteristics⁵¹ and measures the growth of individual student scores on the TAAS reading and math tests in grades three to eight. Schools are then ranked in quartiles on the Texas Learning Index (TLI) scale, which compares total student score growth; the state has set the TLI “growth standard” at five points per student per year.

If a school is deemed unacceptable or low performing on the AEIS criteria, Texas law provides for public notice and a public hearing, submission of an improvement plan for state review, and, eventually, an order to close the school where the school fails to earn an acceptable rating. In addition to these strong sanctions for underperformance, the Texas system includes the Texas Successful Schools Award System (TSSAS), which provides funding to schools in the top quartile on the TLI average growth indicator and which earn ratings of acceptable or higher. In 2001, 100 Texas schools were deemed “low performing,” with many schools concentrated in the Austin and Dallas school districts. These districts were, in turn, deemed “low performing,” defined as any district with one low-performing school.⁵²

Conclusions

The eight states assessed here vary widely in their readiness to implement the mandate of *No Child Left Behind*. Although a minority of the states have implemented

⁴⁷ These “report cards” are known as the Texas Academic Excellence Indicator System (AEIS). See Consortium for Policy Research in Education, *Assessment and Accountability in the Fifty States: Texas*, at page TX-3.

⁴⁸ To be exemplary, school districts must have ninety percent of students in *each disaggregated subgroup* (including African-American, Hispanic, White, and Economically Disadvantaged) pass the TAAS, and must also have a dropout rate of less than one percent for each group.

⁴⁹ To be recognized, school districts must have eighty percent of the total students and each student subgroup pass the TAAS in each subject, and must have dropout rates of three and one half percent or less for all groups.

⁵⁰ In order to be deemed “acceptable” schools must have at least fifty percent of the total students and each student subgroup pass the TAAS in each subject, and a dropout rate of less than six percent for all groups.

⁵¹ The characteristics used to group the schools include ethnic background, mobility of students, and percentage of limited English proficiency (LEP) students.

⁵² Texas’ Department of Education offers an online data-production facility which allows one to search for districts by performance. In November 2002, a search of 2001 results revealed 100 Texas schools deemed “low performing” in that year. See Texas Education Agency, *2001 Statewide Rating Summary*, available at http://www.tea.state.tx.us/cgi/sas8/broker?_service=marykay&_program=perfrept.perfmast.sas&prgopt=2001/acct/ratesum.sas&year4=2001&category=LC&year2=01&topic=acct&gifname=g_account01ratelist&level=Statewide&title=Rating+Summary.

sufficient testing infrastructure to comply with the statute's requirements, a broad majority will require significant additional funding to prepare for larger-scale assessment in grades three through eight. In addition, nearly every state must reassess the disaggregation of their testing data to ensure that they can demonstrate adequate yearly progress on behalf of subgroups per the statute's command. Indeed, some states must begin administering examinations to students in subgroups now exempted from assessment. In addition, most of the states will be required to reassess their current definitions of adequate yearly progress to reflect an assessment of subgroups currently (1) not included in their definitions of proficiency; (2) not included in their definitions of AYP; or (3) not assessed at all, as is the case in many states with significant LEP minorities.

What is striking about our conclusions is that these barriers exist principally for states we generally consider fairly well prepared to enact *No Child Left Behind* and its mandates. For those states for whom assessment itself is novel, the multi-year, multi-subgroup testing demands of the statute present a challenge of immense scale perhaps unmatched by any state's experience in educational reform. For those states, the challenges presented by the statute may be such that schools will spend much of the program's life adjusting to its qualifications.

Finally, the accountability standards imposed by *No Child Left Behind*, in nearly all of the states we studied, leave a significant proportion of schools as "underperforming," but the statute provides no clear recourse for students attending these schools. This is particularly troubling in view of the fact that the broad majority of these schools are located in urban areas where minority populations are already aware that they are in need of educational alternatives. The assessments of *No Child Left Behind*, for these students, may point out what they already know without providing alternatives to improve their educational outcomes.

Across all eight states, it is clear that significant work remains in the implementation of *No Child Left Behind*. But perhaps that discovery is significant in itself, indicating that the law has begun to work on the perceptions, performance, and expectations of stakeholders in primary and secondary education. Time, perhaps, will better tell whether the law will provide improved education for students, and guidance for states which lag behind their peers in education reform.