



A Quick Reference Guide to H.R. 648

No Child Left Behind Improvements Act of 2007

PROVISIONS AND RATIONALE

Measuring Adequate Yearly Progress: Group Size / Measuring AYP of Groups

- 1. The “N” size may be larger for school districts than for schools.**

Rationale: N-size is a statistical concept for determining the number of test takers needed to produce a reliable test score. School districts need a larger N-size than that of an individual school because they are considerably larger. In particular, large school districts are negatively impacted by the N-size designated for an individual school. If large school districts are to be identified as in need of improvement and subject to sanctions, a larger N-size should apply – subject to the approval of the state.

- 2. The “N” size for a group within a school may be increased to a number or percentage of that school’s total school enrollment to better align with schools with large enrollments.**

Rationale: N-size is a statistical concept for determining the number of test takers needed to produce a reliable test score. The number of students within a specific subgroup may vary, so schools with large enrollments should be able to have a larger N-size that is proportional to the student population within the school.

- 3. The “safe harbor” requirement is reduced from 10% to 5%.**

Rationale: This flexibility would permit subgroups to demonstrate progress and such recognition would provide more understandable and more manageable goals for the students in the subgroup. At 10 percent, the current Safe Harbor provision has little impact – and where it can be used, it’s frequently based on a confidence interval which is beyond the comprehension of most educators.

- 4. In calculating AYP, students identified in more than one group may be represented in the count for each group as an equal fraction totaling one student.**

Rationale: This change creates a more appropriate approach in determining AYP for schools with large numbers of students belonging to several subgroups than over-representing their count; and would not adversely affect schools with greater diversity. Each student should be counted as one student, not some students counted up to four times.

Goals for Adequate Yearly Progress

- 5. A state may permit a school to be identified as meeting AYP when one or more subgroups fail to meet AYP targets as long as the total number of students in the subgroups failing to meet their AYP targets does not exceed 10% of the total number of students counted for the specific assessment or indicator. (This alternate method could not be applied to the same groups for the same subject in two consecutive years.)**

Rationale: This option permits a one-year deferral of a school being identified as not making AYP when a relatively small number of students are unable to score proficient and the subgroup or subgroups involved made AYP in the previous year.

- 6. Intermediate goals do not have to increase in equal increments.**

Rationale: This option would give schools and school districts flexibility in addressing the unique needs of specific subgroups that may already be positioned at different points to achieve full proficiency.

7. Different groups can have different rates of increase to ultimately reach 100% proficiency.

Rationale: This option would give schools and school districts flexibility in addressing the unique needs of specific subgroups that may already be positioned at different points to achieve full proficiency.

Gain Scores and Other Measures of AYP Developed by the State

8. The basic AYP measurement system may be expanded to include: 1) gain score approaches (like value added) and 2) partial credit for meeting basic proficiency targets.

Rationale: The current accountability system which focuses on “cut scores” is flawed and overlooks a key indicator of student achievement – academic growth. Research concluded that growth is a more accurate measure of success, particularly for students who are traditionally at risk. Allowing alternate methods of measuring AYP gives states greater flexibility to design their accountability systems while continuing to support the broader goals of NCLB. Although the U.S. Department of Education has given one-year approvals for growth models in five states, the number is too small and the conditions too restrictive for this effective policy option.

9. Alternate methods of measuring AYP for schools and/or school districts may be substituted for the existing methodology, provided the system is based on attaining proficiency in the 2013-14 school year and using intermediate goals.

Rationale: States would have greater flexibility to design their accountability systems while continuing to support the broader goals of NCLB.

Participation Rate

10. The specific requirement for 95% test participation may be adjusted to a range of 90% to 95% (based on criteria established in the state plan).

Rationale: The current 95 percent participation requirement can cause schools with small enrollments or subgroups with a small N-size to miss AYP because just one or two students did not take the test.

11. Students may be exempted from the participation rate requirements on a case-by-case basis due to medical conditions, current state laws that grant parents final decisions regarding participation on standardized assessments and uncontrollable circumstances (e.g. natural disaster).

Rationale: This option recognizes that there may be unique circumstances involving students that are not in the control of the school and should not adversely impact the determination of AYP for the entire school or school district.

12. Students determined to have “unusual patterns of attendance” as defined by the state education agency may be exempt from the calculation to determine participation rate and referenced in the local school district accountability plan. (This category of students may include chronic truants as well as students who fail to attend school on a regular basis because of life circumstances but continue to maintain their official enrollment status.)

Rationale: In some communities there are students with very poor attendance but who continue to be encouraged to remain in school rather than drop out. Chronic truancy poses a separate student-based issue than whether a school has weak academic programs or discourages certain students from taking tests. By having this recommended option, schools would have to demonstrate that they are encouraging such students to remain in school.

- 13. Students not participating in the assessment and determined not to be eligible for exemptions may be assigned a “below basic” score by the school. In such cases, the school may not be identified as failing to meet the participation rate for AYP on the basis that those same students did not take the assessment.**

Rationale: Currently a school could be identified as not making AYP on the basis of performance and participation. When calculating AYP, this recommended option would permit a school to make AYP as long as the AYP targets were met since the absent students are given a “below basic” score as part of the final AYP determination. The purpose of the 95 percent participation rate requirement is to keep the determination of academic achievement honest so low-achieving students are not excluded from taking tests. It is not an independent indicator of academic achievement.

Students with Disabilities

- 14. As determined by the state, students with disabilities may be offered an alternate assessment for the purpose of determining AYP, provided that any such assessment is reflected by the student’s IEP and is based on the IEP team’s evaluation and the services to be provided for that student – and meets parent consent requirements for IEP’s.**

Rationale: The IEP team has the authority and expertise to determine the academic requirements for the students, and NCLB should not preempt an IEP team’s determination of the needs of the child – as agreed by the parent.

- 15. The percentage of students statewide who may have their score counted under this provision as meeting AYP may not exceed 3% of the total number of students assessed.**

Rationale: This percentage is consistent with the research.

- 16. Consistent with the student’s IEP, alternate assessments may include out of level assessments. Likewise, a student’s test results for the purpose of determining AYP may be based on gain scores toward meeting the state standard for proficient or on an adjusted “cut” score for determining proficient.**

Rationale: The IEP team has the authority and expertise to determine the academic requirements for the students, and NCLB should not preempt an IEP team’s determination of the needs of the child – as agreed by the parent.

Limited English Proficient Students

- 17. The current regulation is codified relating to 1) first year students in the United States, and 2) counting students as LEP for determining AYP once they leave the group except that such count may be extended to a third year.**

Rationale: The proposed language is consistent with current regulations issued by the U.S. Department of Education.

- 18. Students may be provided an alternate assessment that is based on making specific gains individually determined for that student toward meeting state standards for up to three years, as determined by the local school district.**

Rationale: The proposed flexibility in assessing LEP students for the first three years is necessary to meet the needs of individual students who enroll in schools with wide variations in English fluency and academic backgrounds.

First Assessments

- 19. The higher score achieved by a student who is assessed more than once prior to the beginning of the next school year may be used as the sole score for that student for the purposes of determining AYP.**

Rationale: If a student scores proficient or above after the official test dates but before the beginning of the next school year, treating that student and possibly the subgroup as not meeting AYP is not an accurate representation of the school's performance.

- 20. If a student scores proficient or above on an assessment taken prior to the academic year in which that assessment is normally offered, that student's score can be counted for the purpose of determining whether AYP was met. However, if that student fails to score at the proficient level, that student's score will not be counted for determining AYP.**

Rationale: Schools that offer such assessments more than once should have flexibility in calculating performance using the best possible scores. In addition, allowing states and school districts to "bank" a student's proficient score on a test that is normally given in the following year is both reasonable and consistent with several state plan approvals by the U.S. Department of Education.

State Flexibility by the U.S. Department of Education

- 21. In approving a state's NCLB accountability plan the Secretary shall grant states flexibility to alter the federal framework to align with the state's own accountability system.**

Rationale: States have the authority and responsibility to educate their students. They should not have to implement federal mandates that are inconsistent, duplicative or add no value to state requirements as long as those state requirements support the broader objectives of NCLB.

- 22. The Secretary may provide statutory and regulatory waivers – including waiving requirements that are unnecessarily burdensome or duplicative of state requirements.**

Rationale: States have the authority and responsibility to educate their students. They should not have to implement federal mandates that are inconsistent, duplicative or add no value to state requirements as long as those state requirements support the broader objectives of NCLB.

- 23. When the Secretary approves an amendment to a state plan or grants a waiver, that information must be published on the U.S. Department of Education website in clear and complete language within 30 days.**

Rationale: Information regarding changes approved by the Secretary to a state's accountability plan is currently not readily available. The proposal will ensure that all states are informed regarding adjustments and accommodations granted by the Secretary and receive equitable treatment by the U.S. Department of Education.

- 24. A waiver or state plan revision approved by the Secretary shall be available to any other state on a case-by-case determination.**

Rationale: Information regarding changes approved by the Secretary to a state's accountability plan is currently not readily available. The proposal will ensure that all states are informed regarding adjustments and accommodations granted by the Secretary and receive equitable treatment by the U.S. Department of Education

Public School Choice

- 25. A transfer option need only be offered to those low achieving students within the group who failed to meet their AYP targets in the same subject for two or more years – not to all students in the school.**

Rationale: The current policy does not target students who are low performing. It has resulted in an unintended consequence that higher performing, more affluent students opt for the transfer out of a school identified for improvement, leaving the school less likely to improve its performance in subsequent years.

- 26. Financial obligations for a school district to provide transportation for a student ends when the group to which the student belongs no longer is identified as not meeting AYP target within the student's former school even if that school continues to be identified as not making AYP for other reasons.**

Rationale: Title I funds are already limited. Requiring school districts to continue such financial obligations when the student's former school makes AYP for the specific group of students diverts the much needed resources from other Title I activities. The continuation of providing transportation under these circumstances should be a local option for the school district.

- 27. A student need only be offered the option to transfer to one other school rather than the current interpretation of at least two schools.**

Rationale: The current school choice provision does not take into account specific situations relating to students' health, safety and learning environment that can prevent school districts from offering transfer options to students. As more schools are moving forward on the NCLB sanctions trail, more schools are required to offer school choice in schools identified as needing improvement. In some cases, the choices of schools available within a district to receive transferred students are limited due to the number of schools in improvement. Under those circumstances the law's intent would be met and made administratively more workable if students have one transfer option.

- 28. The current regulation exempting students from being offered the transfer option when health and safety are involved is codified and the following conditions for exemption are added: 1) class-size laws, 2) overcrowding, 3) the need for mobile classrooms, construction, or other significant capital outlays, and 4) such travel burdens as time, safety, and unusually high per pupil costs.**

Rationale: The current school choice provision does not take into account specific situations relating to students' health, safety and learning environment that can prevent school districts from offering transfer options to students.

Supplemental Services

- 29. Supplemental services may be offered in the first year that a school is in improvement status – rather than only offering the transfer option for that year.**

Rationale: School districts should be given more flexibility to offer SES in the first year of improvement because they have unique needs and challenges to address.

- 30. Supplemental services need only be offered to low achieving students within the specific group that fails to make AYP in the same subject for two or more years.**

Rationale: Given the limited Title I funds available, such resources should be targeted only to those students who have demonstrated a need, not all Title I eligible students.

- 31. The state is required to consult with school districts in developing criteria for supplemental service providers.**

Rationale: Current law does not specifically describe a role for school districts in selecting and terminating SES providers locally. Because school districts work closely with providers, they have the knowledge and information on specific providers' performance and impact on students, therefore should be directly involved in selecting and terminating SES providers.

- 32. The state may establish a date, not later than December 15, to permit school districts to spend portions of the 20% set-aside from Title I not needed for such services with appropriate parent notification.**

Rationale: This will allow school districts to reallocate funds that are no longer needed for choice and SES in time to support other Title I initiatives for eligible students within the district. Currently such funds cannot be released in a timely manner to support much needed programs at the remainder of the school year.

- 33. The state is required to develop – and make available to the public – procedures to enable local school districts to bring complaints regarding the selection and performance of the provider, and number of schools served by the provider if such scope of service adversely affects the quality of service.**

Rationale: Current law does not specifically describe a role for school districts in selecting and terminating SES providers locally. Because school districts work closely with providers, they have the knowledge and information on specific providers' performance and impact on students, therefore should be directly involved in selecting and terminating SES providers.

- 34. School districts may not be denied the opportunity to provide supplemental services solely because they did not make AYP or they are in improvement, corrective action, or restructuring status.**

Rationale: The U.S. Department of Education's policy to prohibit school districts identified for improvement from providing SES is an unnecessary restriction, resulting in costlier programs provided by private vendors using the same teachers and facilities that would be available with the school district as a provider. Although ED has already allowed very few school districts in improvement to provide SES, it has not remedied the problem for the overwhelming majority of school districts.

Sanctions in General

- 35. Sanctions for schools and school districts will apply only when AYP is not met by the “*same group*” for two or more consecutive years in a subject or the “*same indicator*” – rather than applying sanctions when different groups and/or different indicators are involved from year to year in that subject.**

Rationale: This provides a more reasonable approach in the identification of schools. By requiring at least a 2-year pattern of low performance of a specific group, limited school resources can be strategically targeted and the number of schools identified would more accurately reflect the needs of students.

- 36. The application of corrective action sanctions to restructure a school district will occur when it fails to make AYP in each grade.**

Rationale: This recommendation provides a reasonable approach for determining whether a school district as a composite of grade spans or grade levels is making AYP.

- 37. Provisions of federal law requiring the restructuring of a school or a school district shall not be implemented unless the total number of students in the groups not scoring proficient or above exceeds 35% of that school or school district's enrollment.**

Rationale: The current restructuring provision does not strategically respond to the specific needs schools and school districts have when only a small percentage of their students are unable to score proficient. Why restructure a whole school rather than intensifying interventions under these circumstances?

38. In addition to deferring implementation of sanctions for one year for schools and school districts that face hardships such as natural disasters or financial difficulties, implementation may also be deferred due to a sudden change in the enrollment of particular groups of students in the school or within identified groups.

Rationale: The proposed change acknowledges that there could be very unique circumstances facing a school or school district such as those receiving displaced students from the Gulf Coast hurricanes.

39. Sanctions relating to corrective action and restructuring will be deferred in any year that appropriations for Title I is not increased by at least \$2.5 billion over the previous year until Title I is fully funded.

Rationale: Federal funding should be increased at rates that recognize the high costs of NCLB sanctions local school districts must incur to implement the federal mandates.

40. Sanctions relating to corrective action and restructuring will be deferred in any year that appropriations are not increased by at least \$2 billion over the previous year for students with disabilities.

Rationale: As the local costs of implementing sanctions relating to restructuring rise and involve more schools, the federal government should pick up the costs of funding its share of IDEA mandates. In the absence of a significant commitment to reaching the federal share of IDEA, school districts should not have to meet the restructuring mandates of NCLB as well.

Non-Public Schools

41. Students receiving Title I benefits in non-public schools shall be given the same assessments, as public school students, with appropriate accountability and test reporting requirements to parents and school districts that are required by NCLB to provide consultative services to those non-public schools.

Rationale: Non-public school receiving federal support should be given the same measure of performance and held accountable in a constitutionally permissible manner. Non-public schools receiving federal Title I services should have some levels of accountability to students, parents and taxpayers for effectively providing educational services.

42. States may authorize a cessation of Title I support to a non-public school whose Title I students as a whole do not make AYP and perform at lower levels than the area public school(s) for three years or more.

Rationale: Non-public school receiving federal support should be given the same measure of performance and held accountable in a constitutionally permissible manner. Non-public schools receiving federal Title I services should have some levels of accountability to students, parents and taxpayers for effectively providing educational services.

***Highly Qualified Teachers**

***43. Special education teachers of multiple core academic subjects who have a bachelor's degree and full state special education certification would be considered highly qualified.**

Rationale: Recruiting and retaining special education teachers were challenges for school districts before NCLB, and the highly qualified requirements have exacerbated the problem. The Department of Education has recognized these challenges and attempted to provide some flexibility. However, given the practical supply and demand realities of special education teachers, it is unreasonable to require special education

teachers of multiple core academic subjects to have to meet the special education certification requirements in addition to subject matter requirements for several academic subjects.

***44. Streamline existing Highly Qualified Teacher requirements for social studies teachers so that teachers receiving a “broad field” state certification in social studies are considered highly qualified without needing an academic major or certification in multiple, specific social studies subjects such as geography, history, civics and government, and economics.**

Rationale: NCLB’s Highly Qualified Teacher requirements break out social studies into five specific subjects: geography, history, civics and government, and economics. This differs from other major subjects such as mathematics and science, in which the law does not break those subjects into more specific groups. As a result, social studies teachers unnecessarily have extra hurdles to leap in order to meet the highly qualified requirements.

***45. Instructional personnel of core academic subjects employed by supplemental educational services providers should be held to the same Highly Qualified Teacher requirements as public school educators.**

Rationale: NCLB’s Highly Qualified Teacher requirements should be consistently applied to recipients of federal funding, including SES providers. If the highly qualified provisions are considered a minimal standard for teachers of core subjects, instructors with SES providers need to meet that standard to help ensure that students who need further academic assistance are receiving it from qualified instructors.

***46. Rural school districts should be given additional, permanent flexibility in meeting the Highly Qualified Teacher requirements for multiple subject teachers. Consideration for additional flexibility should include eliminating hurdles for retired teachers returning to the classroom or out-of-state teachers to meet the HQT requirements.**

Rationale: Rural school districts often employ teachers of multiple core subjects for which the current HQT requirements are unnecessarily burdensome. Although the U.S. Department of Education has granted some flexibility, more is needed because of the unique challenges faced by rural school districts in recruiting and retaining highly qualified teachers.

***47. Congress should improve the Highly Qualified Teacher provisions to emphasize teacher effectiveness by amending the HQT definition to take into account the “value added” to student achievement by teachers and permit that approach as an alternative route to meeting the law’s definition. Substantial federal funding would be necessary to help states and districts develop the data systems required to fairly and accurately measure this. (NSBA is not advocating a new, additional requirement to be met, but rather an alternative way for teachers to demonstrate that they are “highly qualified”).**

Rationale: “Highly qualified” does not necessarily mean “high quality.” The inverse of this could also be true: a high quality or effective teacher may not necessarily meet all the requirements of the HQT provisions currently in NCLB. That’s because current HQT requirements focus on teachers’ knowledge, credentials and in some cases, subject-related assessments, but do not consider the effectiveness of the teacher in helping students learn. A teacher in fact could have a record of success in helping to raise students’ achievement yet not meet all the HQT requirements.

***48. Congress should assist school districts and states in recruiting and retaining qualified and effective teachers through federal incentives and funding, with a specific focus on helping school districts staff hard-to-staff schools and high-need subjects.**

Rationale: Federal policies play a key role in encouraging and supporting comprehensive efforts by school districts and states to recruit, train and retain qualified and effective teachers, teachers of high-need subjects like math, science and special education as well as teachers in high-poverty schools. Local initiatives can be strengthened through increased funding of Title I and II, and expansion of other programs like the Teacher Loan Forgiveness Program and the Teacher Incentive Fund.

***49. Congress should assist school districts and states in strengthening professional development programs by redirecting NCLB's focus away from costly sanctions that have not demonstrated effectiveness and funding comprehensive professional development programs targeted as a percentage of Title I funding accompanied by state matching funds.**

Rationale: Improving professional development or in-service training is critical to improving teacher quality and retaining teachers. Current law has little focus on the need to design and implement comprehensive professional development models. By redirecting NCLB's focus and funding requirements away from unproven sanctions, Congress should fund comprehensive professional development programs that stand to improve the quality of teaching and raise student achievement.

***50. Congress should assist in broadening the pool of new teacher candidates by supporting alternative certification programs that open pathways to teaching for mid-career professionals who demonstrate appropriate subject matter knowledge and classroom management skills.**

Rationale: As many as one in five new teachers enter the workforce via alternative certification programs, which present an opportunity for school districts to cast a wider net in recruiting teachers. Alternative certification programs also recruit a greater percentage of minority teacher candidates and are more likely to place such teachers in high-poverty schools.

***51. The current list of core academic subjects should not be expanded given the practical challenges school districts face in meeting the existing HQT requirements.**

Rationale: The current list of core academic subjects is proving enough of a challenge for school districts and states to meet. The phrase "core academic subjects" would become less relevant if expanded to include additional courses.

** These are additional recommendations from NSBA that are not specifically addressed in H.R. 648.*