

NJCDD MONDAY MORNING

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COUNCIL ON DEVELOPMENTAL DISABILITIES

CLOSER TO THE BALLOT

...proposed Constitutional Amendment sails through Assembly

Near the end of a long day that featured a flurry of legislative activity, the General Assembly unanimously passed ACR240, a bill to amend the state constitution by removing the words "idiot" and "insane" in describing who should be denied the right to vote.

The bill is identical to one that was unanimously passed by the State Senate in February. The measure now awaits Governor Corzine's signature,

before being placed on the ballot in November as a public question.

The offensive language would be replaced by the phrase "person who has been adjudicated by a court of competent jurisdiction to lack the capacity to understand the act of voting," in describing those persons who shall be denied the right to vote.

As previously reported in this publication, the proposed

amendment was drafted by NJCDD's Monday Morning Project in conjunction with the Department of the Public Advocate and the Office of Legislative Services. It was originally introduced in the NJ Senate by Sen. Richard Codey.

Scores of advocates testified or signed petitions in support of the amendment, saying the language, which was adopted in 1789, was offensive and archaic. ✪



The No Child Left Behind Act Turns 5

While IDEA created access to public schools for students with disabilities, NCLB created access to the curriculum and instruction by holding schools accountable for improved outcomes.

By Brenda Considine

Last January marked the fifth anniversary of the No Child Left Behind Act (NCLB), President George W. Bush's effort to improve America's public schools. The law is based on four principles: 1) stronger

accountability for results; 2) greater flexibility for states and communities; 3) proven education methods; and 4) more choices for parents.

NCLB set an historic goal: every child in America reading, writing and doing math at grade level by 2014. Under NCLB,

schools are held accountable for students achieving annual progress toward proficiency in those subjects based on state standards. Performance of every student is measured annually in grades 3-8, and again in high school through

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NCLB turns 5

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state assessments. Schools must report information about income level, race and ethnicity, disability and limited English proficiency to ensure that no child—or sub group of children—falls through the cracks or fails to demonstrate progress. There are sanctions for schools that fail to produce positive results.

According to federal officials, test results show that the law is working. The decades-long achievement gap between minorities and whites, while still evident, has shrunk; America's fourth-graders posted the best scores in reading and math in history, and eighth-graders earned the highest math scores ever.

Students with disabilities have shown progress as well:

- 95 percent of students with disabilities are participating in state reading assessments (2003-04);
- reading scores for 4th-graders with disabilities increased more than 20 points between 2000 and 2005, four times greater than their peers;
- the achievement gap between students with and without

disabilities declined by a third (from 50 to 32 points).

- only 13 percent of schools that missed their Adequate Yearly Progress (AYP) goals did so based solely on the performance of students with disabilities.

Among its provisions for improving student achievement, NCLB introduced free tutoring for children from low-income families in persistently underperforming schools; the 'Reading First' program to boost literacy skills in the early grades; and grants to improve teacher quality. Federal funding for NCLB increased from \$17 billion in 2001 to \$23 billion in 2006.

The law has major implications for the nation's 7 million students with disabilities, who, since the passage of the Indi-

viduals with Disabilities Education Act (IDEA) in 1978, have benefited from a free, appropriate public education in the least restrictive setting.

While IDEA created access to public schools for students with disabilities, NCLB created access to the curriculum and instruction by holding schools accountable for improved outcomes. Two years ago, when IDEA was reauthorized, advocates worked to align many of its key provisions with NCLB, to ensure that students with disabilities are not "left behind." But as NCLB is reauthorized, some of the gains that have been made are threatened. This issue focuses on the key issues on NCLB reauthorization and what advocates can do. ✪

NCLB Reauthorization: The Issues for Students With Disabilities

By Brenda Considine

Most advocates for students with disabilities agree that the rights and protections contained in IDEA—The Individuals with Disabilities Education Act—are complimented and supported by NCLB. For the first time,

schools are publicly accountable for the progress of all students. Students with disabilities have access to a more challenging curriculum, highly qualified teachers, science-based instruction and state assessments because of NCLB.

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NJCDD New Jersey Council on Developmental Disabilities

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NJCDD's Monday Morning is a compilation of news from various sources, organized to inform people with disabilities about policies, programs, laws, trainings and events. The purpose of the New Jersey Council on Developmental Disabilities is to apply its unique resources for culturally competent advocacy, capacity building and systemic change activity, to build leadership in self-advocates and their families, and to assure that individuals with developmental disabilities and their families are full participants in the design of and have access to needed community services, individual supports, and other forms of assistance that support self-determination, independence, productivity, integration and inclusion in all facets of community life.

No Child Left Behind

NCLB Reauthorization

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The positive effects of NCLB are being seen in their academic achievement and post-school outcomes.

Some provisions of NCLB have been challenged by the education establishment as inappropriate and unattainable for students with disabilities. In order for the promise of NCLB to be fully realized for students with disabilities, advocates have identified key issues that require attention:

Accountability Issue

Education lobby groups are telling Congress that a student's IEP goals — not the state's curriculum standards — should be the tool used to measure the proficiency of students with disabilities under NCLB. This notion is gaining support from leaders in the House Education Committee. Advocates for students with disabilities believe such a move would lower academic standards and reduce accountability for outcomes. The IEP is not designed to be used as a tool for holding schools accountable for ensuring that students with disabilities are taught to the academic content and achievement standards established by the state. Annual IEP goals are often set too low and do not align with state or district content standards.

The message to Congress: The IEP cannot replace state curriculum standards or state assessment for accountability. Full participation in state assessment is appropriate and

necessary for all but a very small portion of students with disabilities.

"Growth models" have been proposed as another way to measure individual student achievement. Growth models track students' achievement over time to document progress. Advocates for students with disabilities are concerned that such models could lower expectations and outcomes by setting different standards for students with disabilities. In order to improve the accuracy and fairness of growth model accountability

calculations, they recommend that NCLB include a pilot study in which participating states adhere to certain criteria, monitoring and professional scrutiny.

The message to Congress: Growth models should be used only as a pilot study, and with limitations. Student with disabilities should continue to participate in state assessments.

In order to demonstrate adequate yearly progress (APY) toward NCLB goals, schools must report test scores of the overall student population. They must also report scores for "sub

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Getting "Left Behind:" Understanding "N"

The issue of "n" size is confusing, but important, since accountability for all students is central to No Child Left Behind. A state's "n" size can mean the difference between a school reporting annual yearly progress, or failing.

Consider this example:

The Penn School has 200 students in each grade — 15% (30 students per grade) have disabilities.

All 200 4th graders — including the 30 who have disabilities — take the state test and 95% (190 kids) score in the proficient range. The school is doing well, right?

Now, "n" size comes into play.

Lets assume that every 4th grader who failed to demonstrate proficiency (10 in all) were students with disabilities. That means one third of the students with disabilities in that school did not meet state standards.

In a state with an "n" size of 40, this school *would not* report the scores of 4th graders with disabilities as a "sub group" because there are fewer than 40 students in the group. The school could, therefore, report that it made NCLB goals for the year.

In another state with an "n" size of 30 or lower, this school *would* report the scores of the 4th graders with disabilities as a "sub group." Since 33% of this subgroup failed, the school would likely not make NCLB goals.

In one study, researchers found that an "n" size of 60 or higher allowed every school in the states studied to avoid reporting scores of students with disabilities separately as a subgroup. Even an "n" size of 30 allowed 84-97% of schools to make APY without separately reporting the disability subgroup. ■

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groups” of students such as those with limited English proficiency, students with disabilities, low income students and minority students. If any sub group fails to demonstrate adequate progress, the school is considered “failing,” even if the overall student population met its progress goals.

The size of these groups—referred to as “n” size—has been fiercely debated.

NCLB allows each state to determine the minimum size of these subgroups. A large “n” size allows schools to avoid reporting the test scores of entire subgroups of students,



such as those with disabilities. Schools can report making APY, even when important subgroups of students are failing.

Advocates are concerned because schools that do not have to report subgroup scores are less accountable. Because 22 states currently use a subgroup size of 40 or higher, this problem has far-reaching consequences.

The message to Congress: “N” size should be no greater than 20 students. Adequate



President George W. Bush congratulates the 2007 Presidential Scholars Monday, June 25, 2007 in the East Room of the White House, and highlights the need to reauthorize the No Child Left Behind Act this year.

White House photo by Joyce N. Boghosian

Yearly Progress (AYP) for a school must be met not only for the overall student population, but for each of the current subgroups as well.

Participation in State Assessment

NCLB requires all students to be participate in state testing, but recognizes that some students—those with the most significant disabilities—are best assessed using other methods. Current NCLB rules allow up to 3% of all students in a state to skip the state assessment provided and be offered alternative, easier assessments. This provision is used most often when assessing students with disabilities. Some advocates estimate that up to 30% of students with disabilities may be assessed with alternative and modified assessments.

Advocates believe that the number of students who take alternative assessment should

be reduced. They point to data that show only .5% of all students have the most significant cognitive disabilities. They are urging better monitoring to ensure that a state’s alternate standards are closely aligned to the state’s grade-level academic content standard for all students, and that there are clear rules for which students may take alternate assessments.

The message to Congress: Alternate assessment and modified curriculum must be used for only .5% of all students and only with careful monitoring.

Access Issues

In order for students to have access to the general education curriculum, they need multiple ways to access the content. Universally designed materials improve access to grade level content for students with academic difficulties or limited English proficiency, allow in-

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created rigor for gifted students, improve student engagement and reduce the amount of time teachers spend on locating or creating modified materials. Universal Design for Learning, like its architectural counterpart, ensures that everyone can benefit without the need to retrofit, or make adaptations and modifications.

Advocates believe that NCLB should specifically encourage states to develop flexible content standards that requires universal design of curriculum, teaching methods, instructional materials and assessments to better meet the needs of a diverse group of students.

Advocates believe that NCLB must provide teachers with training in strategies needed to educate diverse classrooms. Teachers must understand how to provide multiple examples, highlight critical features, use multiple media and formats, explain background/context and provide positive behavioral supports. Training is essential to helping educators develop these skills.

Many state assessments are not reliably accurate for certain groups of students, including students with disabilities, because of built in barriers and the uneven application of testing accommodations and modifications. In order for students and schools to get credit for accurate levels of achievement, assessments should be universally designed, to the extent feasible.

The message to Congress:



Although the U.S. Senate has not taken up formal action on NCBL reauthorization, the U.S. NCBL reauthorization, the U.S. House of Representatives has held a series of meetings. Since early March, the House Committee on Education & Labor has held nine NCLB meetings on topics including accountability, progress measures, reducing dropouts, Indian

education and students with disabilities.

There are three Congressmen from New Jersey on the House Committee on Education & Labor—they are Congressman Rob Andrews (D-1); Congressman Donald Payne (D-10) and Congressman Rush Holt (D-12).

Advocates can contact these committee members, and others on the House Committee on Education and Labor by calling 202.225.3725, or by writing to them at 2181 Rayburn House Office Building, Washington, DC 20515.

Members of the Senate Health, Education, Labor and Pensions (HELP) Committee can be reached at 202.224.5375 or by writing to: 428 Dirksen Senate Office Building, Washington, DC 20510.

New Jersey Senators Lautenberg and Senator Menendez are not on the committee, but would benefit from your perspectives.

❖ Resources

- The Advocacy Institute is based in Washington, D.C., and has launched [Our Kids Count](http://www.ourkidscount.org) to promote parent involvement around students with disabilities and NCLB reauthorization.
<http://www.advocacyinstitute.org/NCLB/>
- National Center on Education Outcomes
<http://education.umn.edu/nceo/>

Universal Design of state curriculum, standards, instruction and assessment will benefit a diverse group of learners.

The reauthorization of NCLB represents an important opportunity to focus attention on the

educational needs of children with disabilities. Advocates should work now to improve the implementation of this groundbreaking education law, as well as ensure its positive interaction with IDEA. ✪

COMMUNITY CALENDAR

Achievement & Outcomes for Children with Disabilities

A Call for Families, States and Advocates to Work Together

The Northeast Regional Summit, sponsored by the Region 1 Parent Technical Assistance Center, will be held July 23 in Atlantic City. The focus of the summit is achievement & outcomes for children with disabilities.

The event will bring together leaders in the field of education to share information and experiences, and to develop a plan of action. Your input is needed to help develop ways to improve student outcomes.

Monday, July 23, 2007

**8:00 A.M. - 4:30 P.M. Sheraton Convention Center Hotel
Atlantic City, New Jersey**

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