

Legally Speaking

Copyright © 2004 by The School Board of Pinellas County, Florida

VOLUME V, ISSUE 2

Winter 2004

Inside this issue:

Computing Adequate Yearly Progress 3

Highly Qualified Teachers 3



**PINELLAS COUNTY
SCHOOLS**

*Pinellas County Schools is
an equal opportunity institution for
education and employment.*

School Board Members

Nancy N. Bostock
Chairperson

Carol J. Cook
Vice Chairperson

Mary L. Tyus Brown
Janet R. Clark
Jane Gallucci
Linda S. Lerner
Mary L. Russell

Clayton M. Wilcox, Ed.D.
Superintendent

No Child Left Behind Act

By Charlie Eubanks, Director, Special Projects, and
John W. Bowen, School Board Attorney

In January 2002, the No Child Left Behind Act (NCLB) was signed into law. NCLB is the reauthorization of the Elementary and Secondary Education Act of 1965. It is a massive statute (almost 700 pages in length) that represents a major shift in national policy concerning public education. Prior to NCLB, public education primarily was the province of state and local government. Now, with NCLB, the federal government has assumed a much more prominent role.

Title I of NCLB provides financial grants to states and school districts to upgrade the entire educational program of a school that serves a student population that has more than 40% of the students from low-income families. Schools that receive funds under the grants are known as Title I schools. In return for the funds, states and local school districts agree to comply with all of the detailed requirements of NCLB.

One of the major components of NCLB is the accountability system it creates for public schools. This system requires that each state adopt a plan that establishes rigorous academic standards and an assessment system that measures student progress in meeting the standards on an annual basis. For districts and schools that fail to make adequate yearly progress (AYP) as defined in the state plan, NCLB provides a series of consequences and penalties.

While there is provision for some flexibility, these consequences and penalties are substantially the same for each school and school district without any regard to the differing circumstances that may exist for a local school or school district.

School Improvement

First, a local school district must identify "for school improvement" any Title I school that fails to make AYP for two consecutive years. For Title I schools identified "for school improvement," the school district "must provide all students enrolled in the school with the option to transfer to another public school" in the district. The right to transfer is given to all students, *even those students performing at the highest level in their grades and on the assessment tests. Even students who never have been tested are given the right to transfer.*



Mission Statement

*The mission of the
School Board
Attorney's Office
is to provide the highest
quality legal services
to the
Pinellas County School
Board and district by
ensuring timely and
accurate legal advice and
effective
representation
on all legal matters.*

(Continued on page 2)

NCLB ...*(Continued from page 1)*

The option to transfer must be provided by the first day of the next school year following the year that the district administered the assessments that resulted in the identification of the school for improvement. The schools to which the students may transfer may not include another Title I school that has been identified for school improvement or has been designated as "persistently dangerous." Schools available for the transfer include all non-Title I schools, *even if the school has failed to make AYP.*

The district must provide the parents a choice of more than one school, take into consideration the parents' preferences and may not use lack of capacity to deny the option to transfer. If the provisions of a court-ordered desegregation plan "forbids" the district from offering a transfer, the district is required to secure appropriate changes to the desegregation plan to permit compliance with NCLB. In Pinellas the federal court ordered the district to provide NCLB choices under the Choice Student Assignment Plan.

In Pinellas the federal court ordered the district to provide NCLB choices under the Choice Student Assignment Plan.

In addition to offering the transfer, the school district must provide technical assistance to the school in analyzing data from the state assessment system, assistance in identifying and implementing professional development and instructional strategies, and assistance in analyzing and revising the school budget. The school also must develop and implement a two-year school improvement plan in accordance with provisions of the federal regulations implementing NCLB.

If a Title I school, after providing all students with the option to transfer to another public school and otherwise complying with the require-

ments of the regulations, fails to make AYP for a third consecutive year, then the school district must again provide all students enrolled in the school with the option to transfer to another public school. Additionally, the school district must provide supplemental educational services to all students from low-income families remaining in the school.

Supplemental educational services include "tutoring and other supplemental academic enrichment services" at no cost to the parents and are in addition to

instruction provided during the school day. The supplemental services are available only to students from low-income families whose parents request the services, regardless of whether the student is struggling academically. However, if there are not enough funds to pay for all eligible students, then students are prioritized by achievement. *Academically struggling students who are not from low-income families are not entitled to supplemental services.*

Corrective Action

If a Title I school fails to make AYP for a fourth consecutive year, the school district is required to identify the school for "corrective action." For a Title I school identified for "corrective action," the school district again must provide all remaining students enrolled in the school with the option to transfer to another public school. The district also must continue with technical assistance and supplemental educational services.

The corrective action that the district must take must be at least one of the following:

- replace school staff responsible for the failure to make AYP.
- significantly decrease management authority at school level.

- fully implement a new curriculum.
- utilize one or more outside experts to advise the school on revising and implementing the school improvement plan.
- extend the length of school day or school year.
- restructure the internal organization of the school.



If, after one full year of corrective action, a Title I school continues to fail to make AYP, the school district must prepare a restructuring plan and make arrangements to implement it at the start of the next school year. All previous actions required with respect to the school will continue, including providing all the remaining students enrolled in the school another opportunity to transfer to another public school.

Restructuring

If the school fails to make AYP for six consecutive years, the school district must implement the restructuring plan no later than the beginning of the following school year. Restructuring is defined as a major reorganization of a school's governance arrangement that makes fundamental reforms to improve student academic achievement. Again, the school district must continue to offer any students remaining enrolled in the school with the option to transfer to another public school.

Under restructuring, the school district must carry out one of the following alternative governance arrangements:

- reopen the school as a public charter school.
- replace all or most of the school staff, including the principal, who are relevant to the school's failure to make AYP.
- contract with a private management company to operate the school

(Continued on page 4)

Computing Adequate Yearly Progress (AYP)

By Behrokh Ahmadi, Director of Program Evaluation

The computation of AYP is not a simple matter. NCLB requires that every public school and every school district make AYP toward state proficiency goals. All public schools are held to the same criteria, and all students must be included in the determination of AYP.

Not only must the school as a whole make AYP, each of eight subgroups with 30 or more students must make AYP. The eight subgroups of students are white, African-American, Hispanic, Asian, American Indian, economically disadvantaged, limited English proficient and students with disabilities.

A Florida public school or district makes AYP if the following criteria are met for the school overall and for each subgroup:

- **Participation:** At least 95% of all students enrolled in a public school must participate in the state assessment program. Students must be

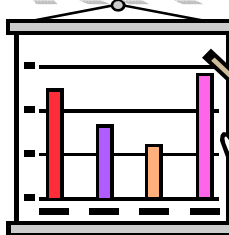
tested using the FCAT or an appropriate alternate assessment for limited English proficient students and students with disabilities. This requirement applies to all students and each subgroup.

- **Reading Proficiency:**

The state has set annual objectives for reading proficiency based on the ultimate goal of having 100% of all students proficient in reading by 2013-14. For the 2004-05 school year, the state objective is to have at least 48% reading at or above grade level. For purposes of AYP determination, students scoring 3 or above on a scale of 1-5 are considered proficient.

- **Math Proficiency:** The state also has set annual objectives for math proficiency based on the ultimate

AYP



Not only must the school as a whole make AYP, each of eight subgroups with 30 or more students must make AYP.

goal of having 100% of all students proficient in math by 2013-14. For the 2004-05 school year, the state objective is to have at least 53% scoring at or above grade level in math. For purposes of AYP determination, students scoring 3 or above on a scale of 1-5 are considered proficient.

- **Other Criteria:** NCLB requires the state definition of AYP to include graduation rates and at least one additional academic indicator as determined by the state. In Florida, the writing assessment is used as the additional indicator and school grades are used as an additional condition. Thus, in addition to

(Continued on page 4)

Highly Qualified Teachers

By Martha O. Barker, Assistant Superintendent, Human Resources

NCLB addresses teacher quality and mandates that all students in core academic subject area classes are taught by highly qualified teachers. The core academic subjects are English, reading or language arts, math, science, foreign languages, civics and government, economics, arts (except dance), history and geography.

According to NCLB, a highly qualified teacher is one who holds appropriate state teacher certification for each core subject taught. This poses a very special challenge for dropout prevention, exceptional education and

hospital/homebound teachers who may be teaching several subjects during the day.

NCLB requires that parents of students in a Title I school be notified if their child is taught by a teacher who does not meet the highly qualified requirements for four consecutive weeks. Although teachers hired in Title I elementary schools since Aug. 8, 2002, must meet the highly qualified requirements now, every teacher of core subject areas must meet this requirement by the end of 2005-06 school year.

NCLB also requires school districts

throughout the United States to ensure that all teacher assistants *working in an instructional capacity* in a Title I schoolwide program meet the standards of highly qualified paraprofessional. These higher standards impact the district in two different ways. First, teacher assistants serving in an instructional capacity on or before Jan. 8, 2002, must meet the following qualifications by Jan. 8, 2006:

- obtain an associate's (or higher) degree; or
- complete at least 60 credit hours at an accredited institution; or

(Continued on page 4)

**PINELLAS COUNTY
SCHOOL BOARD
ATTORNEY'S OFFICE**

**301 Fourth St. SW
Largo, FL 33770**

Phone: 727-588-6220
Fax: 727-588-6514
E-mail: davism@pcsb.org

Legal Staff Members

John W. Bowen, School Board Attorney

James L. Scaggs, Asst. School Board Attorney

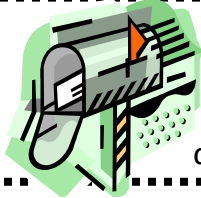
Thomas L. Wittmer, Staff Attorney

Betty Turner, RP, Paralegal

Suzanne Cortina, CLA, Legal Secretary

Diane Luisi, Legal Secretary

Melanie Davis, Clerk Spec II - Newsletter Publisher



Please send comments or suggestions for future articles to Melanie Davis at davism@pcsb.org

**NCLB ...
(Continued from page 2)**

- turn the operation of the school over to the state.

The consequences and sanctions, including the choice option, will continue each year until such time as the school makes AYP for two consecutive school years. NCLB is silent as to any sanctions if the school continues not to make AYP after restructuring. ■



***Computing Adequate Yearly Progress (AYP)*
(Continued from page 3)**

the first three criteria, schools must meet two other criteria:

1. All schools must demonstrate a 1% improvement in the percentage of students meeting state standards in writing. For purposes of AYP determination, students scoring 3.0 or above on a scale of 1-6 are meeting state standards. The writing target also can be met if the school has a writing performance rate of 90% or better.

2. High schools must demonstrate a 1% improvement in the graduation rate. The target is also met if a school attains a graduation rate of 85% or better in the current year.

- **School Grade:** The school must receive a C or better in the State's A+ School Grading System.

A school that has met all of the above requirements with the exception of the reading or math proficiency targets still can make AYP through a provision in NCLB called Safe Harbor. Safe Harbor applies only to those subgroups of students who did not meet the reading or math targets. In Safe Harbor, the percentage of non-proficient students must be decreased by at least 10% from the prior year in the subject being evaluated (reading or math). In addition, the subgroup must make progress in writing proficiency and graduation rate.

Once AYP is calculated, there is a possibility that sanctions will be imposed on the school or district as explained in the article beginning on page 1. ■

***Highly Qualified Teachers*
(Continued from page 3)**

- meet a rigorous standard of quality and demonstrate, through a formal state or local academic assessment,
 - knowledge of, and the ability to assist in instructing reading, writing and math; or
 - knowledge of, and the ability to assist in instructing reading readiness, writing readiness and math readiness, as appropriate.

Secondly, teacher assistants serving in an instructional capacity hired after Jan. 8, 2002, must meet the standards upon employment. At this time these requirements only apply to teacher assistants in identified positions at Title I schools. ■



The Legal Department and Office of Professional Standards
wish you and your family a
Happy Holiday Season.

