

State Officials Advised to Develop Their Solutions to Meet the Goals of No Child Left Behind While Spending Less Time on Technical Implementation Issues

*A Technology Monitoring and Information Service (TechMIS)
SPECIAL REPORT*

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During the annual legislative conference of the Council of Chief State School Officers held in Washington, D.C. on March 15-18, state education officials were advised to come up with their own solutions for making progress toward the goals of No Child Left Behind while spending less time on technical issues and concerns created by the Law. Too much time and energy is spent on unanswered questions regarding issues such as adequate yearly progress, scientifically-based research, highly-qualified teachers, and disaggregation of assessment data. Frederick Hess, resident scholar at the American Enterprise Institute, argued that the implementation problems confronting states -- which have been delegated "the problem" by USED -- is that bureaucracies, like state education agencies, are good at applying rules. However, under No Child Left Behind the rules are nonexistent or unclear. Also, he warned state officials that they have to be aware of "two conversations" that are occurring regarding implementation of the law. One "conversation" is taking place among certain high-level Administration officials at the White House and some Senators and Congressmen and their staffs who wrote the legislation. The legislators are "fed-up" with the lack of progress being made in education with continuing increases in funding; feel that "good faith" efforts on the part of states can not be relied on; and believe the only approach to improve education is through the use of a "hammer." The other group conversation, for example, interprets accountability and assessment as continuous analysis of test results to inform discussions and to develop intervention strategies for at-risk students. He warns state officials not to expect much consolation from the Washington group having the first "conversation."

Jack Jennings, Executive Director of the Center for Education Policy, who has been involved in all ESEA reauthorizations since 1965, and whose bipartisan group supports the goals of No Child Left Behind, argued that the Administration is most likely to "stick by their guns" regarding "choice" and "supplemental services" provisions but is more likely to treat other provisions, such as teacher "high quality," with a more common sensical and reasonable approach. Another area in which common sense approaches are likely to be relied on relates to assessment and reporting provisions for students with disabilities and limited-English-proficient students. As Lynn Olson, Senior Editor of Education Week noted, there is a two-fold problem which TechMIS identified two years ago: (a) what subsets of these subgroups, even when provided reasonable accommodations, are not able to demonstrate what they know on state assessments and should be provided alternative assessments; and (b) should

students in these two subgroups who exit from the English language acquisition and/or special education programs continue to be counted as members of a subgroup for Title I accountability reporting purposes? Otherwise narrowing the achievement gaps between these subgroups and other subgroups is not likely to happen. The February 26 issue of Education Week addressed this problem, noting that the January 8th Federal Register brief announcement from USED that this problem had inadvertently not been addressed in the Title I Final Regulations, even though several states commented on the issue.

In our later conversation Dr. Robert Pasternack, Assistant Secretary for Special Education and Rehabilitation Services, indicated that USED does not have an answer for these problems and that proposed regulations will be published in the near future in order to receive public comments from various stakeholder groups and organizations (see related Washington Update item). Conversations with most state superintendents and/or their deputies, indicated that this issue is a major issue, if not the major issue, as it relates to adequate yearly progress definitions. Only a limited number of state officials indicated that they had in place or were pilot-testing alternative assessments for special education students.

In the meantime, USED official, Celia Simms, Special Assistant in the Office of Elementary and Secondary Education, noted that 31 peer reviews of state accountability plans submitted by January 30 had been conducted with five approved in January. Again, one of the major problem areas relates to the treatment of English language learners and students with disabilities in the area of assessment and reporting. Not only have final regulations in this area not yet been published by USED, only recently was \$17 million allocated to consortia of states to develop, adapt, or modify assessment systems to take into account these two subgroups of students (see January TechMIS).

Jack Jennings advised state officials to spend less time on technical issues and to focus on critical solutions in the area of assessments and defining “proficient” as part of adequate yearly progress. Fred Hess indicated that only one state, Massachusetts, has adequately focused on these two areas.

In his concluding remarks, Jack Jennings warned state officials that the “effects” of the choice provisions will not “kick-in” until next September. In many districts, the major enforcement mechanism will not be USED but rather the local press and media which will begin identifying and reporting on failing schools, the number of teachers who are not highly-qualified in low-performing schools, and other indicators on state and district report cards. He recommended that district officials begin to educate the local press on the intricacies and limitations of various types of tests used by the district and the practical realities of implementing many of the NCLB provisions on the schedule in the law. He also recommended that both state and local district officials document the cost of implementing some of these provisions, such as hiring only highly-qualified teachers and teacher aides and reducing the achievement gap for limited-English-proficient students and students with disabilities. This information should be provided to the press. This point was reiterated in a subsequent presentation to the state officials by KSA-Plus Communications, which is a public relations firm used by the Council of Chief State School Officers and several states. The Center for Education Policy will be conducting two 2-1/2 day workshops for invited members of the press focusing on No Child Left Behind, particularly the assessment and reporting provisions.

During a closed session of the 40+ chief state school officials in attendance, virtually all agreed to take a strong stand on “common sense” approaches to many of the unresolved issues in the law and regulations, even where such regulations do not currently exist. State officials from two states that are developing alternative assessments for students with disabilities felt using the same proficiency level for all subgroups of students was totally unrealistic and sought advice on alternatives. Most state officials agreed that one of the “Achilles heels” of the entire NCLB will be handling assessments and AYP issues relating to limited-English-proficient students and students with disabilities.

Several of the chiefs were only recently elected or appointed and had been on the job for as few as three days before the meeting. The turnover of thirteen chief positions has also contributed significantly to implementation of the law because many of them were of different “political persuasions” regarding NCLB than their predecessors. Interest in and knowledgeable about major provisions in NCLB varied significantly among the chiefs. Officials in one state actually proposed alternative solutions to the problems related to LEP and special education student assessments, AYP proficiency level and reporting which were denied by USED. On the other hand when asked how many schools had been identified for improvement in the state, one chief with a dual accountability system noted, for state reporting purposes, over 200 had been so identified but he was unaware of any identified under the NCLB accountability provisions. When asked if any districts had applied to become supplemental service providers and how many, if any, had been approved, he asked the question who approves them; the reply was your office.

One question which was not asked during the sessions we attended, related to the possibility of technical amendments to the law. As one panelist noted, some of the last minute provisions prior to passage of the Law upset many of the initially pro-voucher, conservative supporters who in combination with the Senators and Congressmen who “crafted the legislation” would not be receptive to any amendments which would be perceived as reducing the effects of the accountability provisions. Jack Jennings offered that if there were any attempts to amend the legislation, they would likely occur beginning in October through November when many of the choice and other effects “kick in” at the beginning of next school year. Underneath the surface, many state officials appear to believe if adequate Federal funding is not available to implement some of the high-cost requirements because of reallocation to international activities, that implementation of many provisions will be put on hold.