ALLIANCE FOR EXCELLENT EDUCATION

PolicyBrief

June 2007

In Need of Improvement: NCLB and High Schools

On January 8, 2002, President Bush signed the No Child Left Behind Act of 2001 (NCLB) into law at a ceremony at Hamilton High School in Ohio. During that event, the president said that, as a result of NCLB, "all students will have a better chance to learn, to excel, and to live out their dreams."

NCLB was passed with bipartisan support in Congress because consensus had been reached that the nation needed to close the achievement gaps that existed between students of differing racial, ethnic, and economic backgrounds, and that schools should be held accountable for the success of all students. But despite the location chosen for the signing of the bill into law—a public high school—flaws in the design and implementation of NCLB related to funding, measurements, and improvement strategies largely neglect secondary schools and students, thwarting the goal of ensuring that America's students graduate prepared for the twenty-first century.

NCLB is the current version of a landmark law passed by Congress over forty years ago. The Elementary and Secondary Education Act of 1965 (ESEA) was signed into law at the height of the civil rights movement as a central component of President Johnson's War on Poverty. ESEA recognized the role of education in securing social, political, and economic equality across race and class and was designed to supplement educational opportunity for poor children. NCLB continues this focus on equity and retains its role as an important civil rights law by requiring the academic achievement of all students to be measured and to improve over time.

Why the crisis in America's high schools matters to individuals and society

- Only 70 percent of all entering freshmen and barely half of students of color finish high school with a regular diploma four years later. Every school day, nearly 7,000 American high school students become dropouts.
- Only 30 percent of students entering high school read at grade level, so it is not surprising that only a third are prepared for college and work by the time they finish high school.
- Among developed nations, the United States ranks 17th in its high school graduation rate. American fifteen-year-olds rank 15th in reading scores; 23rd in the math scores; and 30th in problem solving skills.
- An estimated 85 percent of current jobs and almost 90 percent of the fastest-growing and best-paying jobs now require some postsecondary education.
- Dropouts from the Class of 2006 cost the nation more than $309 billion in lost wages, taxes, and productivity over their lifetimes.
- High school dropouts often have trouble finding stable, well-paying jobs. Individuals with less education are generally less healthy, die earlier, and are more likely to become parents when very young. Dropouts are also more at risk of becoming embroiled in the criminal justice system, or of needing social welfare assistance from government and other sources.

Although there are debates and legitimate concerns about some of the law's methods and requirements, consensus has emerged on one of its major flaws: NCLB focuses on improving outcomes for students in

grades K−8. While many of the provisions of NCLB do apply to all public schools, including high schools, the law was designed primarily with the earlier grades in mind. The law does not take into account either the nation's evolving needs for an increasingly better educated populace or the considerable differences between elementary schools and secondary schools. Thus, NCLB emerged with provisions that often neglect, or that are even at odds with, the needs of America's millions of secondary students, particularly the six million students who are most at risk of dropping out of school each year. As a result, the educational and equity promises of NCLB fail to extend to America's older students. These are some examples of this mismatch:

- NCLB is the primary federal instrument for supplementing elementary education funding in areas of concentrated poverty, but many low-income secondary students are left behind. Only 8 percent of students benefiting from NCLB's Title I[*]—the law's signature program allocating funding to states and districts with the highest numbers of low-income students—are high school students. The other systemic funding stream in NCLB designed to address inequities in low-performing schools, Reading First, serves only students in grades K–3.

- Funding aside, the goal of identifying low-performing schools and closing achievement gaps is severely undermined at the high school level. Measures of student proficiency are based on inconsistent and low state standards and often measure basic math and reading skills, not the students' levels of preparation for college and the workforce. The law does not require graduation rates to be calculated consistently, nor does it require schools to improve the graduation rates of student subgroups.

- Despite the intent to leverage improved teaching, learning, and outcomes, NCLB's school improvement provisions are not designed to drive high school improvement. NCLB mandates that low-performing schools must take certain actions when they don't meet annual progress goals, but because high schools often don't receive the Title I funds that trigger (and support) this requirement, the requirement lacks teeth at the high school level. Furthermore, the federally mandated improvement actions—including school choice and tutoring—are not effective at the high school level.

In short, the provisions of NCLB that are currently central to closing achievement gaps and leveraging effective high school reform are largely incompatible with what is known about improving high school policy and practice.

NCLB Overview

With each reauthorization of the ESEA, Title I and other programs of the law have evolved to serve a number of additional political and educational purposes. Today, the legislation and its funding streams are leveraged beyond their initial purposes of supplementing education funding in disadvantaged communities; they are also used as devices for requiring reform and improvement at the state, district, and school level.

In 1994, two pieces of federal education legislation—Goals 2000 and the Improving America's Schools Act (the ESEA reauthorization)—became law, cementing a federal role in the standards-based reform movement. These bills required all states to develop content and performance standards in reading (or English language arts) and math and to develop and implement assessments aligned with those standards

[*]For purposes of this brief, Title I refers specifically to Title I, Part A grants to local education agencies.

once in each of the following grade spans: from grades three through five, six through nine, and ten through twelve. States were also required to establish annual benchmarks for improvement referred to as Adequate Yearly Progress (AYP). District leaders would use those scores on the state assessment to decide if schools had made AYP and provide technical assistance to those that needed improvement.

In the No Child Left Behind Act of 2001, Congress built on the goals, frameworks, and requirements of the earlier laws to leverage increased "accountability" for schools and districts to demonstrate results, particularly for poor and minority children, by disaggregating (or breaking down) results for each of the following subgroups of students: economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency. Since the passage of NCLB, the notion of educational accountability has taken center stage as a critical (and potentially powerful) tool for increasing student success and closing achievement gaps. The basic premise of the NCLB accountability system is that it will set goals, identify schools struggling to meet those goals, and require these low-performing schools to implement improvement strategies.

Some of NCLB's design flaws are problematic for all grades. Currently, states decide what students should learn, how to determine if they have learned it, and how to report schools' progress in meeting those goals. Meanwhile, the federal government established an arbitrary deadline of the year 2014 for states to meet their goals, devised a detailed formula to determine annual progress, and prescribed one-size-fits-all educational strategies that should be used in the schools that do not meet those annual benchmarks. The result is a system of inconsistent goals, unreliable standards, and tests that vary across the states—along with a "school improvement" system micromanaged by the federal government.

Snapshot of NCLB's Core Requirements

- All students must be proficient in reading and math by 2014, as defined and measured by state standards and assessments.
- States must assess students in math and reading once annually in grades 3–8 and at least once during their high school years.
- Every public school is evaluated to see if it has made Adequate Yearly Progress (AYP), based largely on the percentage of students scoring "proficient" or above on state assessments, overall and for each of the following subgroups of students: economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency.
- Schools that do not make AYP for two years in a row are identified as "needing improvement." School and district AYP information is communicated to parents and to the public through annual school report cards.
- Those schools that receive federal Title I funding and are identified as "needing improvement" must develop a school improvement plan and, for each additional year that they don't make AYP, must undertake specific actions. These schools are required to spend federal funding to implement federally mandated strategies—public school choice, supplemental education services (SES), corrective action, and restructuring.

At best, these strategies and specific provisions of NCLB do not make sense when implemented at the high school level and represent a missed opportunity to leverage meaningful school improvement. At worst, the law and its implementation create mixed and sometimes perverse incentives and act as barriers to meaningful high school improvement.

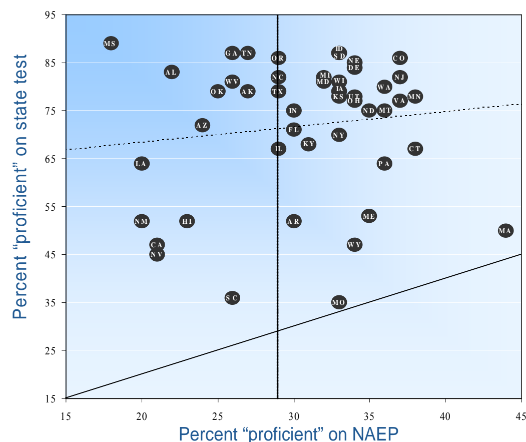
NCLB: Setting goals and measuring progress in America's schools

NCLB set a national goal that all students would be proficient in reading and math by 2014 and that disaggregated data would be used to inform school improvement actions that would close the achievement gap. For high schools, the annual benchmark of AYP is determined primarily by (1) performance on a state test that is administered sometime between grades ten and twelve, and (2) the graduation rate. There are several inherent flaws in both the proficiency and graduation rates provisions of the law.

Proficiency

The universal goal of "100 percent of students proficient by 2014" is problematic for two reasons: there is neither a universal definition of proficiency nor a common way of measuring it. Instead, each state develops its own standards, sets it own definition of proficiency, and develops its own assessments. Despite infusions of significant funds and the expenditure of considerable political capital over the years to improve state standards and assessments, most expert analysts report that they are not aligned to college and workplace demands and are wildly inconsistent across states.[1] This is demonstrated in the graphic to the right.

8th Grade Reading, 2005



Source: Goodwin Liu, *Interstate Inequality in Educational Opportunity*, 81 NYU Law Review 2044 (2006)

The diagonal line represents eighth graders' scores on the NAEP assessment. The dots represent eighth graders' scores on their states' assessment. The farther the dot is from the line, the greater the difference between that state's standards and assessments and NAEP.

While the problem of low and inconsistent standards plagues the education system at every grade level, it is exacerbated at the end of the K–12 education pipeline. In today's increasingly competitive global economy, graduating from high school with a college- and work-ready diploma is a critical step towards securing a good job and a promising future. But if proficiency does not mean college and work preparedness, then proficiency is the wrong goal for high school students, particularly when (as is the case in most states) the test used for NCLB purposes is administered in tenth grade and measures tenth grade (or lower) reading and math skills.[2] Even within a single state, proficiency can mean different things at different times. As evidence, consider that twenty of the twenty-six states that use a high school exit test as their NCLB measure require a lower passing score for graduation than for proficiency under NCLB.[3] Therefore, students can pass the test—and graduate—without attaining what the state considers proficiency.

Graduation rates

In drafting NCLB, Congress recognized that holding schools accountable for their test scores could create perverse incentives to "push out" low-performing students; that is, the easiest way to increase test scores and meet progress goals could be to encourage or force low-performing students out of the school before they take the test. To ensure that AYP "shall not be met or exceeded based solely on increased dropouts,"[4] as noted in the Congressional Committee Report accompanying the law, the legislation was intended to require high schools to also meet state-set graduation goals to make AYP. Unfortunately,

there are significant flaws in the calculation, reporting, and role of graduation rates as implemented by the U.S. Department of Education (the Department) and the states. These flaws undermine the intention of the law, render graduation rate accountability virtually nonexistent, and dilute the usefulness of AYP as a tool for identifying low-performing schools.[†]

The first result: graduation rate calculations that fail to account for large numbers of students who left school without a regular diploma. As with the definition of proficiency, high school accountability is weakened by inconsistent and unsatisfactory state-determined definitions of graduation rates. On the surface, NCLB's definition and requirements related to graduation rates seem rigorous enough to produce meaningful and comparable rates that would be useful to parents, educators, the public, and policymakers. Unfortunately, states proposed and the Department approved a range of methods—there are at least five different types of graduation rate calculations in use by states across the country—some of which are quite misleading. More than five years after the law was enacted, states are still using a variety of flawed methods and, in some cases, different methods for different subgroups of students, depending on the availability of data in that state. State-reported graduation rates differ from those rates reported by respected independent sources by an average of 11 percentage points and as high as 30 percentage points.[5] Not only does this obscure the graduation rate crisis, particularly for low-income and minority students, but it also makes it impossible to compare graduation rates across schools, districts, and states. These misleading graduation rates also undermine the AYP system, by discounting its ability to accurately identify low-performing high schools.

The undermining of graduation rates

Graduation rates are an undoubtedly important measure for identifying low-performing high schools and targeting support and interventions. Yet three key flaws in current policy undermine this goal:

- Inconsistent and misleading graduation rate calculations that underestimate the problem.
- No meaningful requirement to increase graduation rates over time.
- No requirement to include (or improve) the graduation rates of student subgroups as part of AYP determinations.

Second, NCLB does not set an ultimate graduation rate goal; therefore, states are not required to set—and schools are not required to meet—meaningful progress benchmarks (annual measurable objectives) toward that graduation rate goal. While a few states have elected to set meaningful ultimate graduate rate goals, most have not. Only New Mexico, Ohio, and Tennessee have set graduation rate goals of 100 percent by 2013–14.[6] Interestingly, thirty-three states set the same graduation goal for the impending year **and** for 2013–14. As a result, in many states, schools do not have to increase their graduation rates to make AYP. Only a handful of states have set graduation rates benchmarks that increase over time, but most actually allow schools and districts not achieving those targets to still make AYP if they meet a far less meaningful minimum requirement. (In most states, that minimum requirement is just 0.1 percent, or less.[7])

Third, only aggregate (not subgroup) graduation rates are used in the determination of AYP—so graduation gaps and the low graduation rates of poor and minority students, students with limited English proficiency, and students with disabilities are not factored into AYP determinations. While NCLB requires states to report disaggregated graduation rates, most states received waivers on this requirement because they did not have the capacity to collect the data. In a controversial decision, the

[†] Visit http://www.all4ed.org/publications/wcwc/index.html to learn more about the graduation rate in your state.

Department decided that graduation rates did not have to be disaggregated by minority subgroups for accountability purposes, except for the "safe harbor" provision (an alternative formula for meeting AYP for low-performing schools). This means that high schools can make AYP despite a consistent, or even a growing, graduation gap. As the well respected Civil Rights Project has noted, "In essence, by approving these permissive plans while holding firm on test-driven accountability, the Department has effectively allowed the incentives to push out low-achieving minority students to continue unchecked." [8]

AYP: NCLB's blunt approach to identifying low-performing high schools

As a result of the above described problems with proficiency measures and graduation rate calculations, AYP for high schools is fundamentally flawed. The administration of only one test for the purposes of NCLB accountability during the high school years, combined with the lack of meaningful graduation rate accountability, allows schools to hold back or "push out" low-performing students or to focus on improving the scores of a relatively small number of students to improve specific subgroup achievement, instead of working to systematically improve the academic performance of all students.

The problems with AYP for high schools are exacerbated by its application. NCLB's current "pass or fail" system (a school either makes AYP or fails AYP) is quite simplistic and makes no effort to distinguish—in labeling, prioritization, or in prescribed interventions—between schools that are failing almost all students (and thus that need schoolwide reform) and schools that need to focus on raising the achievement of one subgroup of students or on improving results in one subject area. Educators regularly report that AYP tells them what they already knew: "The bad schools don't make AYP and the good schools do." Not only is this a crude approach to identifying and prioritizing schools, but it also does not reflect research and best practices that base school-improvement actions on finer-grain analyses using multiple measures of school performance.

NCLB's rigid provisions requiring certain interventions in certain years (described below) do not take into account the specific needs of schools that are not making AYP. Some schools may need intensive intervention (or even closure) immediately, rather than going through the five- to seven- year process of ineffective interim "fixes" that the law currently mandates. Others need to give their specific school-improvement measure, which is proving successful, more time to become fully effective. In low-performing schools, in particular, NCLB's requirements exacerbate the "churn" of school reform by requiring different actions every two years.

NCLB's interventions for low-performing schools don't work for high schools

Under current law, Title I-receiving schools that fail to make AYP for two years in a row are identified as "needing improvement." These schools are required to spend federal funding on a series of federally prescribed interventions that change every two years: first, public school choice which allows students to transfer to another school; then supplemental education services (SES) such as tutoring; then corrective action, which might include replacing the school staff or appointing an outside advisor; and finally, after another year, school restructuring, which might include reopening the school as a charter school or turning the operation of the school over to the state.

Best practice and research demonstrate that, while there is no silver bullet for improving high schools, successful efforts share common strategies. These include increasing personalization, raising the rigor of coursework, and improving the basic literacy and numeracy skills of low-performing students. High school interventions should be based on these known factors and informed by rich data that identifies

each school's and district's specific weaknesses and strengths, rather than implementing the one-size-fits-all solutions found in the current law.

Furthermore, NCLB universally prescribes interventions for low-performing schools based on *how long* they have not met AYP, rather than on how poorly or well students are performing and regardless of individual school performance and need. Neither public school choice nor SES is driven by school performance data, capacity, or needs, nor do those options fundamentally improve teaching and learning within the school.

Even if there were evidence for prescribing these specific interventions, the reliance on intradistrict public school choice and SES as remedies for chronically low-performing high schools is a flawed strategy. Seventy-five percent of America's school districts have only one high school,[9] and many failing schools are concentrated in urban areas where the vast majority of schools are performing poorly. Thus, high school students often have few, if any, successful schools to which they can transfer. In fact, a recent analysis found that only between 0.2 and 0.4 percent of high school students participated in school choice.[10] And while afterschool tutoring by outside providers may help the very small percentage of students who participate, this strategy cannot effect change in schools where the majority of students need extra help. Furthermore, many older students have afterschool commitments, such as jobs, activities, or caring for siblings, making them unlikely to choose SES. A recent analysis found that fewer than 5 percent of eligible high school students participated in supplemental educational services.[11]

Title I is a faulty trigger for high school improvement

Even if the problems with the goals, measures, and interventions required by NCLB were addressed, low-performing high schools would still be left out and their students left behind. All public schools submit to the NCLB mandates triggered by the acceptance of Title I funds at the state level, including testing, reporting, and being labeled "in need of improvement." However, only those ***schools that actually receive*** Title I funds are required to implement improvement actions.

> **"The fact that most of th[e] high-poverty, high-minority high schools do not receive Title I funding, *the* federal program designed to offset the impact of poverty, is outrageous."**
>
> Balfanz and Legters
> *Education Week*, July 12, 2006

This funding stream may serve as a meaningful lever for change in the earlier grades, but it is an ineffective hook on which to hang high school accountability. Because of the way funds are allocated by the various states and districts, which are often likely to direct additional resources toward meeting the needs of younger students in the hope of correcting problems early in students' educational careers, the vast majority of resources provided by Title I of NCLB go to elementary schools. While this funding is intended to assist *all* low-income students, only 8 percent of those students receiving Title I services are high school students (and only 17 percent are middle school students).[12] This imbalance is caused by under-reporting of poverty levels at the high school level, district-level decisions about the allocation of funds, and overall underfunding of Title I. As a result, most secondary schools receive little support for improvement and are exempt from undertaking significant reforms.

NCLB leaves adolescent literacy deficits unaddressed

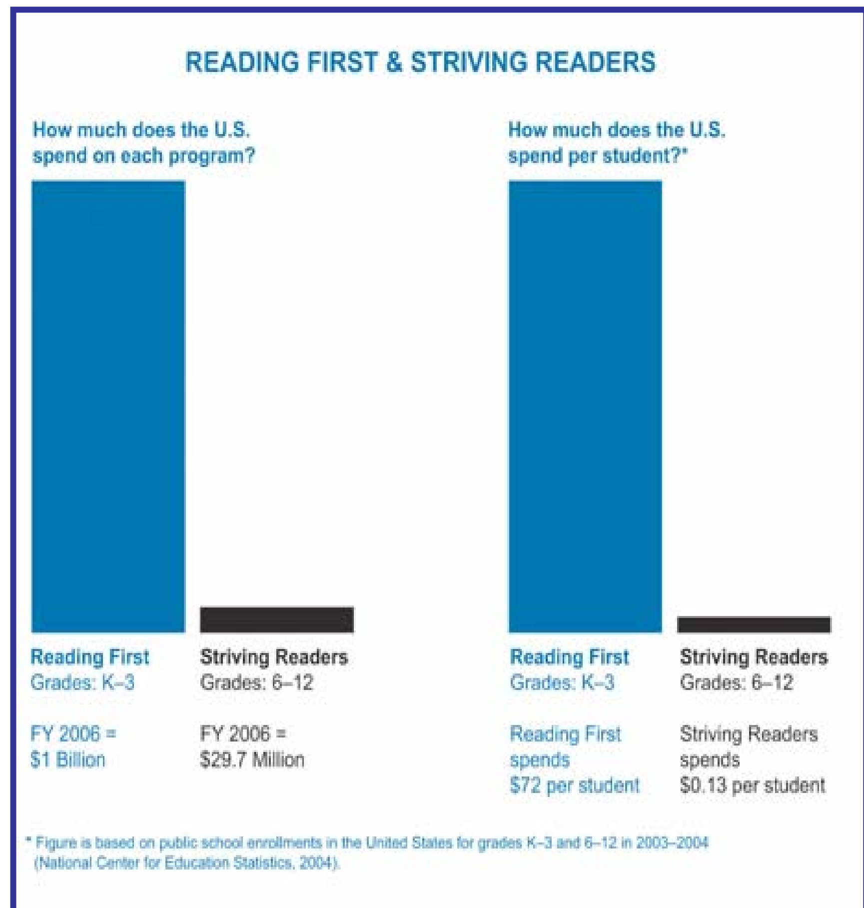
Congress has long recognized the importance of literacy skills in determining students' success in school and has spent billions of dollars over the years promoting vital research and improved reading instruction in the home, in preschool settings, and during the first few years of elementary school.

NCLB recognizes the importance of literacy skills by including a systemic intervention in every state through the Reading First program—a $1 billion early literacy program targeted to students in grades K–3.

America's adolescents face a literacy crisis every bit as alarming as the one confronting younger children. Millions of middle and high school students lack the reading and writing skills they need to succeed in college, compete in the workforce, or even understand their daily newspaper.

Although Congress has demonstrated a real commitment to improving reading instruction in grades K–3, it has made relatively little investment (mainly through the small Striving Readers program) in the literacy skills of students in grades 4–12.

It is in the higher grades that expectations and demands for student literacy increase dramatically, yet educators have fewer tools or resources available to support efforts to improve students' ability to read and write at high levels of comprehension and fluency. Partly because of this de facto national policy of ending specific reading instruction after third grade, almost 70 percent of eighth-grade students read below grade level. This lack of the most basic learning skill contributes greatly to students' failure to master the knowledge and skills they need to succeed in their classes and after graduation and results in many of them simply giving up and dropping out of school.



The current meager federal investment in adolescent literacy through the Striving Readers program provides only 13 cents per student, compared to the $72 provided by Reading First, as demonstrated in the graphic to the right. The lack of federal attention is reflected at the state level, where very few states have significant literacy programs in place and fully functioning for the secondary grades. In other words, the extensive reading efforts in early childhood and early grades have been presumed to have created a sufficient foundation by fourth grade that will successfully carry students through the rest of their educational lives. But research and data clearly show that establishing a strong foundation, while vitally important, does not guarantee later education success.

Conclusion

In 2001, when the president's proposal for a significant expansion of ESEA was introduced and later debated, amended, and ratified by Congress, very little attention was being paid by policymakers, the national education community, or the public to the nation's high schools. In fact, President Bush's original twenty-eight-page proposal for ESEA reauthorization only mentioned the term "high school" twice.

As the law comes up for reauthorization in the 110th Congress, much more is known about the crisis in America's high schools and the need for an appropriate federal role as part of a national solution.

In fact, discussions about the future of NCLB often include calls for "expanding" or "extending" NCLB to high schools. While these calls underscore the point that secondary schools are not properly addressed through the provisions and policies of NCLB as it currently exists, they are nevertheless both inaccurate and misleading. As described in this brief, NCLB does currently apply to high schools—albeit in neglectful or even detrimental ways. Proposals that merely extend testing requirements to high school are shortsighted, as are those that suggest simply reserving portions of current funding streams for high schools. **Instead, there must be a comprehensive appraisal of how the entire accountability and improvement system leveraged under the law currently applies to high schools; then a systemic solution that reflects all that is known about improving high schools from research and best practice must be crafted.**

Despite its shortcomings, NCLB directed a spotlight onto the achievement gap and focused the nation on providing all children, especially those at risk of dropping out, with a high-quality, standards-based education. When Congress reauthorizes the law, it will have a unique opportunity to build on the ideals of "no child left behind" and pass legislation that will lead the nation toward "every child a graduate."

References

Alliance for Excellent Education. (2007). *Understanding high school graduation rates.* Washington, DC: Author.

American Federation of Teachers. (2006). *Smart testing: Let's get it right. How assessment-savvy have states become since NCLB?* Washington, DC: Author.

Balfanz, Robert and Legters, Nettie. (2006, July 12). Closing 'dropout factories': The graduation rate crisis we know, and what can be done about it. *Education Week*, *26*(42).

Center on Education Policy. (2006). *High school exit exams: Standards differ from the No Child Left Behind Act.* Washington, DC: Author.

———. (2007). *No Child Left Behind at five: A review of changes to state accountability plans.* Washington, DC: Author.

Editorial Projects in Education. (2007, June 12). Diplomas count: An essential guide to graduation policy and rates. *Education Week*, 26 (40).

Finn, C. and Petrilli, M. (2006). *The state of state standards.* Washington, DC: Thomas B. Fordham Foundation.

National Center for Education Evaluation and Regional Assistance. (2006). *National assessment of Title I interim report.* Washington, DC: U.S. Department of Education, Institute of Education Sciences.

Orfield, G., Losen, D., Wald, J., and Swanson, C. (2004). *Losing our future: How minority youth are being left behind by the graduation rate crisis.* Cambridge, MA: The Civil Rights Project at Harvard University. Contributors: Advocates for Children of New York, the Civil Society Institute.

U.S. Congress. Conference Committee. (2001). *No Child Left Behind Act: Conference report to accompany H.R.1*. 107th Congress, 1st session. Committee Print 107–334. Washington, DC: U.S. Government Printing Office.

U.S. Department of Education, Office of Planning, Evaluation and Policy Development, Policy and Program Studies Service. (2007). *State and local implementation of the* No Child Left Behind Act, V*olume I—Title I school choice, supplemental educational services, and student achievement*. Washington, D.C: Author.

---

[1] ACT, 2007; Partnership for 21st Century Skills, 2006; ACT, 2006; AFT, 2006; Finn and Petrilli, 2006; ADP, 2004.
[2] Center on Education Policy, 2007.
[3] Center on Education Policy, 2006
[4] U.S. Congress, Conference Committee, 2001
[5] Alliance for Excellent Education, 2007.
[6] *Education Week*, 2007
[7] Ibid.
[8] Orfield et al., 2004
[9] U.S. Department of Education, 2006.
[10] U.S. Department of Education, 2007.
[11] Ibid.
[12] Ibid.