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Children with Disabilities Under No Child Left Behind (NCLB): Myths and Realities

What do we really mean by “No child left behind”?

The purpose of the federal No Child Left Behind Act (NCLB) is “. . . *to ensure that **all** children have a fair, equal and significant opportunity to obtain a high-quality education . . .*” (*emphasis added*).

Recently, there has been discussion in the media about expanding the number of students with disabilities who may be excluded from the accountability system created by NCLB. There is also a great deal of confusion and misinformation about what this law already requires with regard to students with disabilities. “Children with Disabilities Under No Child Left Behind: Myths and Realities” is an attempt to address some of these misconceptions.

Myth #1. It is unfair to require children with disabilities to take those tests. It will endanger their already fragile self-esteem and increase the likelihood that they will drop out of school.

Reality. Most children with disabilities are able to keep up with their peers academically and take standardized assessments (tests) successfully -- some with and some without accommodations and/ or modifications (changes to the test that take the student’s disability into account).

Congress included students with disabilities in the accountability system of NCLB on purpose – because they are one of the groups of school children in need of attention. As with all students, students with disabilities each have unique strengths and needs. It is impossible (and offensive) to generalize about how “*they*” will fare on any particular assessment.

Many students with disabilities do not qualify for special education because they do not need it. Of those who do qualify, **the vast majority do not have disabilities that would prevent them from keeping up with their peers academically.** This means they should be able to participate meaningfully in the regular standardized tests.

Some students may require approved modifications or accommodations in order to take the regular test. However, once these accommodations are provided, the students perform just like other students in their class. For example, a blind student might need a version of the test in Braille, but once the Braille version is provided, the student can participate at the same level as his classmates.

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In the most recent data (school year 2000-2001) published by the U.S. Department of Education, even a very conservative count shows that a far greater percentage of school aged (ages 6-21) children in special education have a primary disability that is not related to their cognitive or intellectual ability than those who do.

There are 13 eligibility categories within the Individuals with Disabilities Education Act (IDEA) -- the federal law that creates the special education program. By definition, nine of these categories do not include cognitive or intellectual impairments (speech or language impairments, emotional disturbance, specific learning disabilities, hearing impairments, orthopedic impairments, other health impairments, visual impairments, deaf blindness, autism).

In school year 2000-2001, the categories of students that did **not** include cognitive impairments totaled **86.5%** of children eligible for special education under IDEA. The categories that could include cognitive impairments totaled **13.4%**.

In addition, a great many students within the other four categories (multiple disabilities, mental retardation, traumatic brain injury, and developmental delay) are **also able to function at grade level on the tests with or without approved modifications or accommodations.**

Removing more students with disabilities from the accountability system will defeat its purpose. It is discrimination, pure and simple, to assume that students with disabilities should be “protected” from the tests that all students take, from the level of accountability we expect from public schools with regard to all students, and from the high expectations we have for all students. If students with disabilities are excluded from the accountability system, they will become completely invisible, forgotten in the rush to meet the needs of students whose scores count.

Myth #2. It is unfair to require school districts, which otherwise do well on state tests, to be found “in need of improvement” when it is only the scores of children with disabilities that are holding them back. The law needs to have exceptions written into it to prevent that from happening.

Reality. There are already a number of exceptions in the law allowing school districts to remove the scores of children with disabilities from the accountability system. Additional exceptions are not needed and would be harmful to students with disabilities.

All districts have students with disabilities enrolled in their schools -- there is nothing unique about this. One example often given as a reason for expanding the exceptions within NCLB is that of a school district with a facility like the Mayo Clinic within its borders, where families of children with disabilities may settle in greater numbers in order to be closer to treatment facilities. Such cases are rare and there already is an exception to protect districts in such cases.

Some of the exceptions that already allow districts to exclude the scores of students with disabilities or to use those scores to the district’s advantage are:

- If a school or district has a smaller number of students with disabilities, the scores of those students may be excluded if the number of students is too small to yield “statistically verifiable information” or the results would reveal “personally identifiable information” about an individual student.

“Adequate Yearly Progress” (AYP) is the benchmark used to determine whether or not a school or district is in need of improvement, as defined by NCLB. (It is from this

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calculation that schools and districts would like to have a greater number of scores of students with disabilities excluded.) The number of students who may be excluded from the district's AYP calculation because of small sample size is set by the state, and varies greatly from state to state. In Maryland, very few students are excluded (the set of students or "n" must be 5 or fewer), but in other states, the number of students may be as high as 45. This makes a big difference because there are many more districts with 45 or more students with disabilities than there are with only 5. Thus, in states with a high "n", the scores of a relatively high number of students with disabilities may already have been excluded from AYP.

- Even if the group of students with disabilities within a school or district is not scoring high enough to be counted toward Adequate Yearly Progress, the school or district still can make AYP -- as long as that group of students improves by 10 percent over the prior school year and makes progress on one other academic indicator, such as graduation rate.
- Schools and districts must test 95 percent of their children with disabilities, which means that the scores of up to five percent of the students with disabilities already may have been excluded from the AYP calculation. Schools and districts are not permitted an automatic five percent exemption. This exception was included to provide for students who were absent on the day of the test -- but it still factors into the AYP calculation.
- States may opt not to test students in schools that do not assign grade levels so their scores would not be counted.
- Certain students with cognitive disabilities may take a test that is based on achievement standards that are different from those that apply to other students. (Option 4 as described below). In NCLB, only scores that meet the level of "proficient" or "advanced" may be counted positively toward AYP (i.e. "help" the district). There is a cap on the number of "proficient" and "advanced" scores from the Option 4 students that may be counted toward AYP, but that cap is pretty high-- 1% of the total number of students taking the test in that grade. Although this exception does not involve a large number of students, the scores of students with disabilities may actually be a benefit for a district -- improving, not reducing its chances to make AYP.

In addition, as mentioned in the Mayo Clinic example above, in cases where a district has a high incidence of students who meet the criteria for Option 4, the district may request a waiver from the state to allow it to count the proficient and advanced scores of even more of the students who take the Option 4 test.

- The state may allow a school or district to average its data over three years, enabling it to hide slow or no improvement within groups of students, such as students with disabilities, for some time.

If, even with all of these exceptions, a school district is unable to make AYP because too many students with disabilities don't achieve the proficient level, perhaps the district truly is in need of improvement.

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One purpose of NCLB is to raise expectations for students with disabilities, and unfortunately, expectations for this group of students have always been very low. Congress very specifically tried to raise expectations for students with disabilities when it made sweeping changes to the IDEA in 1997, and for that matter, when it passed the law over 25 years ago.

Myth #3. It is unfair to expect children with different types of disabilities to achieve on a "one size fits all" test.

Reality. It is not a "one size fits all" test. Students with disabilities may take the tests in one of four ways, in a manner that is selected specifically to meet that individual student's needs.

In order for a student with a disability to take the test in any manner different from the way that students without disabilities are taking it, the student must meet certain legally based criteria.

Option 1: Take the *regular* assessment in the *same manner* as other students.

Option 2: Take the *regular* assessment with approved *accommodations or modifications*. For example, having a teacher read a test out loud to a blind student or providing the test in Braille.

Option 3: Take an *alternate* assessment that is based on the *same achievement standards* as the regular assessment. There is nothing that requires a state to have only one alternate assessment, and since students have varied and unique needs, it makes sense to consider having more than one alternate assessment.

Option 4: Take the *alternate* assessment based on *different achievement standards* (e.g. a life skills rather than academic curriculum).

There is no restriction on the number of students who meet the criteria for Option 4 who may *take* the test this way – only the manner in which their scores are *counted* at the district level. The one percent cap was intended to prevent states and districts from including the scores of students who are capable of using Options 1-3, thus "padding" their AYP with the scores of students who took a test that was too easy for them.

Myth #4. The Department hasn't provided enough time for us to create these alternate ways to test students, so we have no accurate way to measure the progress of children with disabilities.

Reality. The requirement that states offer the option of an alternate assessment, accommodations or modifications to the test to students with disabilities is not at all new.

States have been required to provide alternate assessments since at least the last time the IDEA was revised in 1997.

In fact, some states like Pennsylvania, have been successfully using an alternate assessment for years. The requirement that accommodations and modifications to standardized tests be provided for qualified students with disabilities has existed for even longer than the requirement for alternate assessments, due to the passage of federal and state civil rights laws.

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The difference is that this is the first time that states, districts, and schools that don't meet these requirements will be held accountable. Until now, only the students themselves have been hurt by "one size fits all" tests that penalize them for problems caused by their disabilities.

Conclusion

Since a large number of students with disabilities would have to fail in order for this failure to have an impact on the district's AYP status and since a great many students with disabilities can succeed on standardized tests, a finding of "needs improvement" achieves the primary goal of this law – it shines a light on those groups of students for whom the American dream of a quality public school education has not always been a reality.

If we allow this light to dim—by exempting the scores of more students' from AYP—students with disabilities will recede back into the shadowy backrooms they inhabited for all those years before laws were passed to protect their civil rights.

About The National Association of Protection and Advocacy Systems (NAPAS)

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More information from NAPAS:

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