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THE NEW ESEA: *WHAT IT MEANS FOR CHARTER SCHOOLS*

The No Child Left Behind Act requires charter schools - along with non-charter public schools - to show yearly academic progress and make achievement gains on tests approved by each state and benchmarked against national assessments. Below are some basic questions and answers to help charter schools put in place systems that meet these new federal demands. And take heart - charter schools have it easier than most other public schools, which will be grappling with performance contracts for the first time.

WHAT DOES A CHARTER SCHOOL HAVE TO KNOW FIRST?

There is a goal to be set by each state, called Adequate Yearly Progress (AYP), which every public school will be required to meet. Here's how it works: Starting with the current (2001 - 2002) school year, states will establish a "baseline" from which AYP will be calculated. Each year, the data from the test that your charter school must take will be assembled for your entire student population, and will also be disaggregated to account for several subgroups, providing a more complete reflection of progress. The subgroups are divided by:

- Gender
- Major racial or ethnic group
- English proficiency status
- Migrant status
- Students with disabilities
- Economically disadvantaged v. non-disadvantaged

HOW IS AYP MEASURED?

The state begins by establishing what constitutes "basic," "proficient" and "advanced" knowledge of the subjects it tests, which must include reading/language arts, mathematics, and, by 2005 -2006, science. More subjects can be included if the state desires. Using current assessments the state next determines what level of proficiency its students as a whole are currently at, and identifies how far it needs to go to get all students and sub-groups to the "proficient" level within 12 years. It then must set in motion a plan to raise the bar in equal increments over time, with the first increase coming no later than two years into the process, thereafter to be raised at least once every three years. From that point forward the student population and each subgroup must meet each year's level of AYP.



WHO MEASURES AYP AND WHO IS RESPONSIBLE FOR HOLDING A CHARTER SCHOOL ACCOUNTABLE?

Charter schools are held accountable by their authorizers, as defined by the state law that created them. Your authorizer may be a school board, a university, a mayor, a municipal body, or a state board or other state-authorized entity. You will continue to report to your authorizer as before, adding the AYP to the list of things that will be monitored. You will not, therefore, have to start reporting on your progress to anyone else. The new law protects charter schools from the kind of burdensome paperwork to which non-charter public schools may be subjected, so before responding to any other agency about AYP or the NCLB Act, be sure to check with your authorizer. Only your authorizer has the responsibility and authority to oversee your performance.

WHAT HAPPENS IF AN ENTIRE SCHOOL OR SUB-GROUP POPULATION FAILS TO MAKE AYP?

Failure to make AYP for two consecutive years puts a school on the "needs improvement" path, (a path that will be mapped out momentarily), unless you are in a category called the "safe harbor."

WHAT IS THE "SAFE HARBOR?"

If some of your subgroups don't make AYP, but the number of kids failing to achieve proficiency in a sub-group decreases by at least 10% from the previous year, you are in the "safe-harbor," and are making progress. In addition to the 10% minimum standard, the sub-group (groups) would also have to make progress on one or more measurable objectives for "continuous and substantial improvement," objectives to be identified by individual states.

WHAT ARE THE DIFFERENCES BETWEEN THE NEW NCLB REQUIREMENTS AND PREVIOUS TITLE I REQUIREMENTS?

In contrast to previous practice in many states, there are no longer separate tests for Title I schools and other public schools. In addition, even children with disabilities will be responsible for demonstrating proficiency, and states must make accommodations and adaptations for all disabled children to be tested in the required subjects. Those requiring additional assistance will take an alternate assessment created by the state.

ARE CHARTER STUDENTS EXEMPT FROM TAKING STATE TESTS?

Because of charters' unique accountability structure, you might think their students are exempt from taking the state assessments created to measure subject proficiency. **THEY ARE NOT.** Because charters are public schools, they must meet the same state standards as other public schools. However, they will continue to be held accountable by their authorizer, not directly by their state, unless the state *is* their authorizer. This means that charters will now be held accountable to state standards as well as all the performance measures identified in their charters.



WHEN DOES ALL OF THIS BEGIN?

In general, states have five years from now for all requirements to be fully operational (meaning annual assessments in reading and math will have been implemented and aligned with state standards, and new science standards will be in place). However, each year new factors are introduced with which you and your authorizer need to ensure compliance, so be sure to review the timeline below.

DOES ANY OF THIS CONFLICT WITH WHAT'S IN OUR CHARTER?

The AYP timeline may not be aligned with the accountability agreements and renewal decision-making timelines already governing charter schools. Authorizers will have to figure out how to coordinate the two sets of requirements if they don't match. You should be aware that this is still an open question.





TIMELINE FOR ACTION

Date/ Year	AYP Year	Event	Improvement Action
2001 - 2002		Baseline year for collecting student achievement data. That's THIS year. (Uses either annual grade 3-8 tests, or current assessment, depending on state).	An important note: Any school already identified as needing improvement according to the previous law, the Improving America's Schools Act (IASA), is considered to already be in its first failing year.
2001 - 2002		State sets "proficiency" level that must be met by schools and major student subgroups within 12 years.	
2002 - 2003	1	Verification year for student data.	Failure to show AYP here and in 2001-2002 necessitates development of improvement plan within 45 days of failure.
2003 - 2004	2	Schools for which 2002-2003 was the second consecutive year of failure to reach AYP start this year with "school improvement" label.	Must provide option for students to transfer to another, better performing public school (including charter), provide transportation, and implement improvement plan.
2004 - 2005	3	Schools for which the 2003-2004 school year was their third consecutive year of failure enter second "needs improvement" year.	Must provide supplemental services to students such as tutoring, after school programs, summer school (parents get list of providers), choice of another public school, transportation, and continue to carry out improvement plan.
2005 - 2006	4	All states must have implemented annual assessments in reading and math, aligned with state standards, for grades 3-8. State science standards in place	
2005 - 2006	4	Schools for which 2004-2005 was their fourth consecutive year of failure move into "corrective action."	Must create a new improvement plan, and take at least one step involving changes of curriculum and altered governance. Students continue to have right to supplemental services and to transfer.
2006 - 2007	5	Schools for which 2005-2006 was their fifth consecutive year of failure must plan for "alternative governance."	School must make a plan to close and re-open as a charter school, a regular school with new staff, with a new curriculum, with new management, or run by the state.
2007 - 2008	6	Schools for which 2006-2007 was their sixth consecutive year of failure require "alternate governance."	The "alternative governance" plan formulated the previous year must be instituted.
2007 - 2008	6	All states must implement and administer science assessments at least once in each grade span 3-5, 6-9, 10-12. This is the last of the NCLB-mandated assessments.	

(Note: This chart shows calendar years as well as "AYP Year." Calendar years are included to help you track when important provisions of the NCLB Act will go into effect. In other words, a school could fail to make AYP for the first time three years from now, and would at that time start its AYP year 1.)



DOES THE NCLB AFFECT A CHARTER SCHOOL IF IT'S ALREADY ACHIEVING PROGRESS?

A charter school that is doing well can be affected by public schools that are not. The NCLB Act says that when schools fail to meet AYP for two years or more, parents are permitted to choose another public school for their children to attend. This same ability applies to the parents of any student who is a victim of a crime or goes to a school designated by the state as unsafe. Be aware that students in failing schools in your state might request admission to your school -- you might have more customers, and if you have room to take them in you must plan for the potential influx of students.

WHAT HAPPENS TO A PUBLIC SCHOOL THAT FAILS TO MAKE THE REQUIRED PROGRESS?

Besides opening up public school choice (if permitted under state law) to parents with students in under-performing schools, the NCLB carries with it many other reforms for failing schools. Among these are requirements to offer students supplemental services such as tutoring, to pay for transportation for students to attend new schools, or to institute new curricula. Ultimately, if a school reaches a sixth consecutive year of failure to make AYP, it will be required to close and either reopen as a charter school, replace all or most of its staff, or turn administration of the school over to the state, a private management company, or some other entity.

HOW DOES THIS IMPACT LIMITED ENGLISH PROFICIENT (LEP) STUDENTS?

If a student has attended school in the United States (except for Puerto Rico) for at least three consecutive years, starting no later than 2002-2003, then that student's progress toward meeting the State's reading/language arts standards must be measured using a test written in English. For students who do not meet that criterion, tests must be developed in a "linguistically accessible" form that can assess their mastery of subjects other than English. This LEP accommodation can continue for two more consecutive years (for a total of five years) if a school or district determines a student has not reached a level of proficiency sufficient to demonstrate his reading/language arts abilities.

Bottom line: The intent here, of course, is to push LEP kids onto a path leading to English fluency, rather than allowing them to languish in programs designed to accommodate their old language. So, after five years, they'd better be proficient English speakers.

HOW DO TEACHER CERTIFICATION REQUIREMENTS CHANGE?

The NCLB Act lays out important guidelines about the qualifications and hiring of teachers. None of these, however, affect charter schools, whose hiring practices must remain consistent with their State's charter school law. In other words, unless your state changes its charter law, you can continue to handle personnel in the same way you did prior to passage of the NCLB Act.



WHAT YOU WILL WANT TO START DOING — TODAY!

READ YOUR STATE STANDARDS:

1. Existing Charter Schools: If you don't know whether or not your state already has standards for reading/language arts and math, find out, and make sure your school's curriculum is aligned with those standards. Then you need to start monitoring what your state department of education is planning to do with those standards -- keep them, alter them, or replace them entirely. After that find out what tests the state will be using, and learn more about assessments they might already use. Finally, with all this in mind, GO TO THE STATE AND LET THEM KNOW WHAT YOU THINK OF THE STANDARDS! According to the current draft rules, states will set standards and create assessments for them "in consultation with LEAs." You and the organization that granted your charter have a right to prod your state to adopt strong, meaningful standards and demanding tests to measure them. For more on what constitutes strong curricula and assessments, visit our website at <http://www.edreform.com/standard.htm>.
2. Potential Charter School Operators: If you are in the midst of writing a charter school application or have been approved to open after this year, you need to carefully follow the advice above to ensure that from the start your school has clear standards and goals that align well to the state's.

REVIEW AND COMPARE STATE TESTS TO OTHERS YOU MAY USE

1. Once your research is complete, you might find that the state is looking to create an assessment system that uses a combination of state and local tests. If this is the case, prepare to integrate tests you might already be using into the state's assessment scheme.

On a related note, understand that assessments that do not meet all the requirements of those attached to state tests MAY STILL BE USED. However, though they may be used to identify schools for corrective action, they may not be taken into consideration to prevent a failing school from being identified as such. In other words if you want to conduct your own tests, you do so at your own risk.

2. Make sure the administrators at your school understand how assessment results will be reported, because starting next year (2002-2003) results must be publicly disseminated down to the student level. These results are the most important product of the NCLB -- they will allow state, local and charter administrators to see how good their "product" really is, and will show parents what they and their children are getting out of the education for which their hard-earned tax dollars are being used. MAKE SURE THEY UNDERSTAND WHAT THE RESULTS ARE TELLING THEM.

In Sum: All of the above is good advice, and you shall do nothing but profit by following it, but keep in mind that not even the final USDOE rules have yet been issued, much less those of your state, so circumstances are likely to change.

BE READY TO ADAPT!