

(AS RELEASED BY THE U.S. DEPARTMENT OF EDUCATION)

no child left behind and charter schools

A look at Non-Regulatory Guidance

The language of the federal No Child Left Behind Act is fairly straight-forward. Section 1111(b)(2)(K) of the Elementary and Secondary Education Act of 1965, as amended by NCLB, states:

Accountability for Charter Schools—The accountability provisions under this Act shall be overseen for charter schools in accordance with State charter school law.”

The devil, as is often said, is in the details. March 2003 saw the release of a U.S. Education Department document entitled: The Impact of the New Title I Requirements on Charter Schools: Non-Regulatory Guidance. Non-Regulatory Guidance is exactly that—this is the U. S. Department of Education’s way of saying this is the best manner in which to deal with a given issue. It is not law—it is guidance. Following the Guidance will minimize issues. Thus, for the purposes of state board of education members, an understanding of this guidance is critical as you work to govern charter schools within your state.

The U. S. Department of Education identified six broad areas within which to issue this guidance. Let’s look at each.

ACCOUNTABILITY

Charter schools are public schools, thus they are accountable with a state’s Title I accountability requirements. Therefore, charter schools must participate as any other public school. However, it should be noted that a state’s Title I accountability plan may not replace or duplicate the role of authorized chartering agencies. Thus, state plans should respect the unique nature of charter schools.

The Guidance recognizes the contract between the charter school and the authorizer. If the contract exceeds the Title I accountability requirements of NCLB, then the authorizer should ensure that the school abides by the contract under state law, even if the school met adequate yearly progress (AYP). In other words, charter schools should be held to the highest standard, either the contract or AYP.

If a charter fails to meet AYP requirements, then the authorizers must take action as required by NCLB. This suggests that states permitting alternative authorizers (universities, municipal governments, etc.) should move to ensure these authorizers have the resources necessary to perform the duties assigned to them under NCLB.

PUBLIC SCHOOL CHOICE

It is clear that charter schools should be listed as choice options if these schools are not “In Need of Improvement” (INOI) in their own right. However, when considering school choice, note that NCLB does not require students transferring under Title I to be guaranteed preference. If a lottery system is used in the charter school, then *all* students will be considered under that system.

If a charter school falls under the choice provision of INOI, the following should hold:

1. The Local Education Agency (LEA) that authorized the charter school must provide choice options and offer transportation to other public school of choice.
2. If the charter school is an LEA, then the authorizer, or the charter school itself, should notify the parents of the school status, and their options. One option is that of returning the students to their “home” public school. A second option, to the extent practicable, is to establish an agreement with other LEAs in relation to school choice.

SUPPLEMENTAL SERVICES

The Non-Regulatory Guidance clearly notes that charter schools, not themselves INOI, may become supplemental service providers.

If a charter school is INOI for two years or more, then Title I students in that school are eligible to receive supplemental services. The LEA must pay for these services on the same basis as it would for eligible students in any other school.

by Michael Hill

A charter school that is its own LEA must pay for these same services, based upon the same formula used for all other schools. These standards stipulate that an LEA must spend up to an amount equal to 20 percent of its Title I, Part A allocation, before any reservations, on:

- Choice-related transportation
- Supplemental educational services
- A combination of these

CORRECTIVE ACTION

Charter schools unable to make AYP goals at the end of the second full school year in INOI are placed under corrective action. The appropriate entity under state law (state board, authorizer, etc.) has the responsibility to reorganize a charter school's management. The specifics of the state's charter school law shall determine the manner in which this will be done, the responsible party, and whether the charter contract needs to be modified.

FULLY QUALIFIED TEACHERS

Charter school teachers, teaching core academic subjects, must comply with the state's charter school law regarding certification or licensure. Therefore, a teacher in a charter school does not have to be licensed or certified *if the state's charter law does not require such*.

- On the other hand, teachers of core academic subjects in a charter school must meet the other requirements:
- Hold a four-year degree, and
- Demonstrate competence in the core subject area within which they teach. Core academic subjects include:
 - English
 - Reading or language arts
 - Mathematics
 - Science, foreign language
 - Civics and government
 - Arts
 - History
 - Geography

Newly hired teachers must meet these requirements prior to their entering the classroom. Teachers hired prior to the 2002-2003 school year have until the end of the 2005-2006 school year to meet the requirements.

PARAPROFESSIONALS

Paraprofessionals with instructional support duties in charter schools must meet the same requirements under Title I as in traditional Title I public schools. Note, this applies only to paid staff, not to parents or other volunteers.

Paraprofessionals hired after January 8, 2002, and working in Title I programs, must:

- complete at least two years of study at an institution of higher education, and
- possess at least an associate's degree; or
- demonstrate subject matter competence through a formal State of local assessment.

Paraprofessionals hired prior to January 8, 2002 have until January 8, 2006 to meet these same requirements.

Within both Fully Qualified Teachers and Paraprofessional areas, accountability for administration of these rules is determined by individual state charter laws. In general, the charter authorizer bears primary responsibility for insuring the statutes have been met.

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glossary of terms

Elementary and Secondary Education Act (ESEA) – the 1965 law that first authorized federal involvement in elementary and secondary education. NCLB's official title is "The Elementary and Secondary Education Act of 1965 as reauthorized in 2001 as the No Child Left Behind Act."

Title I – one section of ESEA of 1965, and part of NCLB. Title I authorizes services to improve academic achievement of disadvantaged students.

Title V – one section of ESEA of 1965, and part of NCLB. Title V reauthorizes the Public Charter Schools national grant program, authorizing innovative programs and informed parental choice.

Adequate Yearly Progress (AYP) – a yearly delineation of progress toward full proficiency by 2014.

Disaggregation of Information – AYP information must be presented for defined subgroups, including: 1) ethnic/racial, 2) limited English proficiency, 3) disabled, and 4) economically disadvantaged.

In Need of Improvement (INOD) – Following the second year of not meeting AYP, schools fall into this category.

National Assessment of Educational Progress (NAEP) – standardized test administered to selected representative schools in each state. Since 1969, assessments have been conducted periodically in reading, mathematics, science, writing, U.S. history, civics, geography, and the arts. State participation is now mandatory under NCLB.

Local Education Agency (LEA) – A school district, or other administrative unit, as defined by the state.

Limited English Proficiency (LEP) – term to describe students whose first language is not English.

Education Management Organizations (EMO) – private, for-profit companies that are relied on by some charter schools for management and administrative purposes.

Individuals with Disabilities Education Act (IDEA) – federal law which mandates that eligible children with disabilities have access to special education and services designed to address their educational needs.