

**Note: This paper has been published as Betts, Julian, and Anne Danenberg, “San Diego: Do Too Many Cooks Spoil the Broth?”, in Frederick Hess and Chester Finn (Eds.), LEAVING NO CHILD BEHIND? OPTIONS FOR KIDS IN FAILING SCHOOLS, New York: Palgrave MacMillan. pp. 213-238. 2004.**

# **San Diego: Do Too Many Cooks Spoil the Broth?**

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February 2004

This paper was prepared for the American Enterprise Institute-Thomas B. Fordham Institute conference on public school choice and supplemental service provisions of No Child Left Behind in January 2004. We are indebted to the many people we have interviewed in San Diego City Schools district, external supplemental service providers and members of several community based organizations for sharing their insights, and in particular to Karen Bachofer and Ellen Yaffa for facilitating many of these conversations. We thank Chester Finn, Rick Hess, and conference attendees for valuable suggestions.

## **I. Introduction**

Since January 2002, when President Bush signed the No Child Left Behind Act (NCLB) of 2001 into law, school districts around the country have scrambled to understand the law, how it affects their district, and how to implement its numerous provisions. San Diego City Schools (SDCS) is no exception. This essay explores the process of NCLB school choice and supplemental service implementation and attempts to convey insights about the case of San Diego through descriptive statistics and qualitative interviews with key district and school-site personnel, external supplemental service providers, as well as results from a focus group organized for us by a community-based organization (CBO).<sup>1</sup> In all we conducted interviews with approximately twenty key informants between August 2003 and February 2004. Eleven of these were external to the district.

In general, districts in California received little interpretation of the law's implementation beyond the legislation's official wording. In February 2003, California's state superintendent of schools—Jack O'Connell—issued a memorandum to all district superintendents, county superintendents, and categorical program directors in the state announcing the requirement for submission of five-year Local Educational Agency (LEA) plans by June 1, 2003 to receive federal funding under NCLB.<sup>2</sup> It is evident from this and other documents on the CDE website that interpretation of federal requirements was left mainly to local districts—which conforms to the intention of the legislation to allow more local control and flexibility.<sup>3</sup> San Diego's submission was fully approved in the first round of Plan approvals in July 2003.<sup>4</sup>

### Ranking San Diego

Before examining San Diego's implementation of choice and supplemental service provisions of NCLB, it is useful to rank the district on a number of dimensions. San Diego City Schools is the second largest district in California and one of the largest districts in the United States—in 2001-02 it ranked 8<sup>th</sup> in large city district enrollment nationally.<sup>5</sup> The district shares characteristics common to many urban districts: Compared to California as a whole, it has relatively high shares of non-white students, limited English proficient (LEP) students, and students who are economically disadvantaged—approximately 74 percent, 29 percent, and 57 percent, respectively.<sup>6</sup>

Table 1 shows selected district and student characteristics in San Diego compared to the other four districts in California that have historically been the largest urban districts in the state: Los Angeles Unified (1<sup>st</sup>), Long Beach Unified (3<sup>rd</sup>), Fresno Unified (4<sup>th</sup>), and San Francisco Unified (5<sup>th</sup>). In the 2001-02 academic year, San Diego ranked first among the five districts in per-pupil expenditures—at over \$7,500—and was substantially higher than the state's district average of \$6,719 per pupil.<sup>7</sup> In terms of student demographics, San Diego has the lowest percentages of non-white students and economically disadvantaged students when compared to the other four districts in the table, which each have over 80 percent non-white and over 58 percent economically disadvantaged students. The percentage of LEP students, while not the lowest of the five districts, is close to San Francisco's low of approximately 28 percent. Still, each of the five districts has considerably higher percentages of non-white, LEP, and economically disadvantaged students than California as a whole. Although there is some variation among the districts, each of them exhibits student characteristics common in large urban

districts. Most of these districts also have a substantial number of schools that have been identified as “program improvement” (PI) schools in which students are eligible to transfer to other, better performing schools under NCLB.

As the table shows, the number and percentage of PI schools and the number and approximate percentage of students in each district who attend such schools also varies across districts.<sup>8</sup> Of the five large districts, only Long Beach has fewer than 10 percent of its schools and students in PI status as of fall 2003. San Diego falls on the median—with 18 percent of schools attended by 27 percent of students in the district. Fresno has the dubious distinction of having the largest percentages of schools and students in failing schools—40 percent of its schools are PI, and almost half of the district’s students attend these schools.

Because San Diego’s position is quite similar to the other large urban districts in the state, both in terms of student demographics and the large numbers of students attending PI schools, the district is also likely to encounter NCLB implementation challenges that are similar to those experienced by other large urban districts in California and perhaps in the rest of the nation. The ensuing analysis focuses attention on the question of how these new opportunities were implemented, participation in the program, and the tensions between the NCLB choice and supplemental service programs and existing programs.

## **II. Implementation and Emerging Issues**

## Organization

In SDCS the implementation of NCLB has been overseen by the Superintendent's office. High-level leaders are coordinating the process through an "NCLB leadership team" that includes leadership from legal, communications, legislative services, instructional support, human resources, and other departments. From this broader committee there are subcommittees, or "detail committees" (including supplemental service and choice committees) that provide input from their respective departments, which is relayed back to the upper levels of management.

The school board has not been actively involved but has had occasion to vote on some of the implementation provisions. Perhaps most importantly, the board approved reservation of 20% of Title I funds for school choice and supplemental educational provisions, and chose to allocate 5% to supplemental services and 15% to busing related to the choice program. The 2003-2004 allocations are \$7 million (15%) for choice and close to \$2.4 million (5%) for supplemental services.<sup>9</sup> These amounts appear to further confirm the district's commitment to supporting choice and supplemental service provisions.

Our overall impression of the response to NCLB is that there is a clear consensus among district administrators that the intent of the legislation is laudable, but that implementation issues abound. Overall, support from the district seems quite clear. Alan Bersin, the district's superintendent, attended the NCLB bill signing. As one administrator remarked: "You can't go to the bill signing and then not implement."

When asked to characterize the implementation process, one administrator suggested that the district could have proceeded more quickly if the federal regulations

accompanying the legislation had come out more quickly: “The legislation was signed in early 2002, but there were no regulations to go with it, so it hasn’t been uppermost in people’s minds until now.” However, the same administrator opined that because of the cross-functional process described above, the district had a better structure in place than many districts that relied entirely upon their Title I office to handle implementation. Other administrators pointed to delays in receiving the state’s initial interpretation of how to implement details of the program.

Partly counterbalancing concerns about the rush to implement NCLB, several administrators acknowledged that the U.S. Department of Education (USDOE) had previously granted a waiver to the district to use much of its Title I allocation to fund its Blueprint for Student Success, which beginning in 2000 implemented a variety of interventions for students who lag behind academically. (The waiver was required because the district does not target these interventions towards students in Title I schools. Rather, *any* student in any school who lags behind is eligible for these services.) The Blueprint, which was implemented in 2000, is in many senses consonant with the NCLB goals of providing supplemental instruction to students in need.

The district also implemented NCLB’s choice and supplemental service provisions largely without help from local non-governmental organizations. A district advisory council, which is a non-district stakeholder involved in Title I schools, has provided limited input, as has the local chapter of the Association of Community Organizations for Reform Now (ACORN).<sup>10</sup> However, one administrator acknowledged assistance from the Council of Great City Schools, which he characterized as the best

source on (financial) set asides under the law, and more generally of assistance in interpreting the federal regulations to accompany the law.

### *Identification of Program Improvement Schools*

Like other districts across the nation, the first link in the chain of implementation is identifying which schools are failing to meet the federal definitions of academic progress. Timing has already emerged as a crucial issue. Because the state test takes place in the spring, the state Department of Education does not announce which schools have not made AYP—and thus have been newly designated PI—until late in August each year. District observers suggested that it is quite difficult for parents to make decisions about switching their children to non-PI schools and for the district to update its web of bus routes in the few weeks between the announcement and the start of school. There is less uncertainty for schools that were designated in 2002, because the district decided that for the sake of continuity such schools would be designated as PI for a second year, and parents were notified in March of their options for the 2003-2004 school year.

### *Information Provided to Schools and Parents*

The second key link in implementation is to inform parents with students in PI schools of the options available. The district sends out a series of letters to all parents of students at schools that have been designated PI.<sup>11</sup> In 2002, the district mailed over 100,000 letters in multiple mailings to families in affected schools. Our interpretation of these letters is that they are, for the most part, quite neutral. Although the letter that informs parents about school choice does state that supplemental services available at a PI school may not be available at a non-PI school, we do not interpret this as a direct attempt by the district to discourage parents from moving their children. Rather, it points

subtly to a flaw in the legislation itself—that services are linked to the school and do not follow the student if s/he moves to a non-PI school. However, we also acknowledge that the letters may not be targeted to the “average” parent at a failing school, in that they do not highlight parents’ choices early in the letters, clearly identify supplemental services as free tutoring, or use large, easy-to-read fonts. On the other hand, the wording is straightforward, and the letters are accurate and concise.

Communication with non-English speaking parents creates further challenges for the district, as just under 30% of students are LEP. Given the large numbers of immigrant families in San Diego, this probably understates the percentage of parents who are LEP. Letters mailed to parents are routinely translated into Spanish, but language translation services for five languages are available through the district. In some cases, groups of parent volunteers translate for parents who speak other languages. However, CBO focus group participants told us that sometimes ethnic misidentification may also be a problem—for example the translation might go out in Vietnamese when the family is Laotian. Furthermore, district and CBO respondents universally agree that written translation does little to inform parents when they are not literate in their native language.

In addition, the district held a number of parent meetings, and at their “Focus Schools,” which are the elementary schools in the lowest decile of the state’s test-score system, the district has “Parent Academic Liaisons” (PALs) in place to help parents with NCLB and other issues.<sup>12</sup> However, a PI school principal said that although teachers do speak with parents about their choices in parent-teacher conferences, the lack of a PAL in that school severely limited the school’s ability to help parents understand their choices. Several district administrators acknowledged that the complexity of the NCLB choice

and supplemental service provisions coupled with language barriers made it quite difficult to get all the information that they would like parents to know into their hands.

*Choice Implementation: Patterns in Place*

In some ways, San Diego has a “head start” in its ability to implement choice provisions of NCLB: Its history over the last twenty-five years is one rooted in various school choice options for students in the district, in large part due to court orders in the late 1970s to desegregate the district.<sup>13</sup> San Diego’s board of education adopted a policy of voluntary integration through several programs over the years, including the Voluntary Ethnic Enrollment Program (VEEP) and Magnet programs.<sup>14</sup> The key characteristic common to all of these programs is the opportunity for a student to attend a different school than the “neighborhood” school. Of these programs, VEEP and the magnet programs, both of which provide busing, are by far the most extensive.<sup>15</sup> There are two other important forms of choice in the district: open enrollment through the state’s School Choice program and a network of charter schools.<sup>16</sup> In 2001-2002, 6% of students participated in busing through VEEP, 6% were bused into magnet schools, and additionally 7% participated in Choice and 6% in charter schools—for a total of 25% of students in some type of choice program.<sup>17</sup> The district does not provide busing for the *pre-NCLB* Choice program or, in general, for the charter school program.

As a result of its integration programs, San Diego has established an extensive busing system. Moreover, many of the VEEP sending schools are also Program Improvement (PI) schools under the terms of NCLB, meaning that they are required to allow students to enter the NCLB school choice program. Thus the district already has busing patterns in place to move students from many NCLB PI schools to NCLB

“choice” (receiving) schools. On the other hand the new NCLB choice program has the potential to clash with the existing choice programs in several ways, ranging from financial to the planning of bus routes.

*Arrangement of Bus Routes and Processing of Student Busing Applications*

As noted above, SDCS’s Voluntary Ethnic Enrollment Program (VEEP) originated in court desegregation orders in the 1970’s. This program allows students to apply for busing between schools within each of several allied patterns. (Allied patterns were designed to facilitate racial integration. However, now that the district is no longer under active court supervision, students of any race within a VEEP allied pattern can apply to attend a “receiving” school.) The second school choice program that provides busing is the district’s magnet program.

One of the logistical challenges that districts face in implementing NCLB’s choice provisions is designing bus routes. Not surprisingly, the district has piggybacked its NCLB busing program on top of its VEEP program. Students at a given PI school thus are offered a menu of school choices that lie within that school’s VEEP allied pattern. There are other cases in which a newly designated PI school has not already been part of an allied pattern, or has been in an allied pattern as a receiving rather than a sending school. For these schools, new busing options were created. As a result, there are now some schools in the district that receive students as VEEP receiving schools, but, now that they have been designated PI schools, also send some students to other non-PI schools.

The district had two reasons for piggybacking on top of existing VEEP busing patterns. The first was simply a desire to serve as many students as possible in a cost

effective manner. The second reason was that administrators were concerned that if the PI designations of schools in VEEP patterns change over time, so that, for instance, a traditionally VEEP-sending school is no longer PI, students who wished to remain at their choice school could do so by re-applying through the VEEP program. More to the point, many administrators expect the number of PI schools to grow over time, so that students who had chosen to attend a formerly non-PI (but VEEP-receiving) school would have the option of continuing to be bused to that school should it become PI. In other words, administrators have sought to provide consistency to students in the face of expected fluctuations in which schools are designated PI.

Participation rates in NCLB-mandated busing has been low in the first two years, but increased markedly in the second year. In the first year, 72 students filed 90 applications for busing under NCLB and 24 actually chose to enroll. The main reason for the low uptake rate in fall 2002 was timing. The district did not know which schools were PI until late summer, and parents in effect were offered a chance to submit applications in many cases around the time that their students had already started or were about to start their school year at their local school. Applications for fall 2003 proceeded in a much more timely fashion, partly because all schools that had been designated PI in 2002 were automatically designated as PI for the 2003-2004 school year. This allowed the district to mail letters to the parents of all students eligible to enroll in the NCLB choice program in March 2003. Given that the district appears to be in relatively strong position to implement NCLB choice provisions, a natural question arises: How many students who are eligible to request a change of school site are requesting such a change?

### *The PI and Choice Schools*

In fact, very few students who are eligible to apply to a “better” school did so by August 2003. Figure 1 illustrates the percentage of students for Grades K-5, 6-8, and 9-12. Overall, very few students who are eligible applied to another school—just 39 elementary, 225 middle school and 216 high school aged students—for a total of 480 students, or approximately 1 percent of those eligible. As the figure shows, the applications as a percentage of 2002-2003 enrollment in PI schools ranged from half a percent in grades K-5 to 1.5 percent in grades 9-12. Although the absolute number of students applying to change schools in grades 6-8 is slightly higher than in grades 9-12, the percentage is slightly lower. As of late October 2003, 61% of these students had accepted the district’s offer of bus service to a non-PI school.

A comparison of selected school and student characteristics at sending and receiving schools in Table 2 suggests that the two types of schools are significantly different in some key ways. PI schools have higher proportions of non-white students, LEP students, and economically disadvantaged students. Close to half of students in Choice schools are white, whereas only about 10 percent of students in PI schools are white. Close to 40 percent of students in PI schools are LEP while approximately 11 percent in Choice schools are LEP. Almost 72 percent of students in PI schools receive free or reduced price meal assistance, but only a quarter of students in Choice schools receive such assistance. The latter of these factors is closely associated with low academic performance.<sup>18</sup> Students in PI schools are also significantly less likely to be enrolled in the same school for the entire school year—over twice as many students change schools at PI schools (8.1 percent) compared with Choice schools (4 percent).

Of course, the academic performance of PI schools is lower—as measured by the Academic Performance Index (API), which is a weighted average of test scores of students at each school. Choice schools score, on average, approximately 165 index points above the PI schools—scores that are much closer to the target of 800 that the state has set for all schools. Finally, the proportion of teachers who lack full credentials is higher in PI schools. Most teachers in San Diego have a full credential, yet even with such a low percentage of teachers lacking full certification at both types of schools, the contrast is stark—four times more teachers at PI schools lack full certification.<sup>19</sup> Clearly, the Choice schools are quite distinct from the PI schools on a number of dimensions, and this translates into a sizeable gap in test scores.

Why, if given a choice to attend better schools, are so few students in PI schools electing this option so far? Previous research, as well as our own recent interviews suggest a few possibilities: Immigrant parents in California may not understand their rights and the rights of their children, and may have expectations that the school system “knows what’s best” for their children.<sup>20</sup> Thus, they may be hesitant to exercise options that are available to them. One of our parent respondents suggested that economically disadvantaged parents may not want to send their children by bus to a school far from home, where, if the student became ill, for example, the parent or a caregiver would not be able to pick the child up from school early. In addition, a high school principal described students who would have to make five bus transfers on public transportation if they missed the school bus. Other factors behind the low application rates could include late notification to parents and letters that do not clearly highlight options. However, district personnel are adamant that the district is making every effort to inform parents of

their options. It may also be that parents are opting to take advantage of supplemental services offered at the neighborhood school rather than sending their children to other schools. In any case, as of late December 2003, only 692 students—53 in elementary schools, 324 in middle schools, and 315 in high schools—had applied to change schools in the 2003-2004 school year.<sup>21</sup>

### Supplemental Service Providers

In 2002 the state released a list of potential supplemental service providers to districts and the general public. By the end of 2003, this list consisted of 102 non-SDCS providers, 51 of which are listed as *potential* supplemental service providers in the district.<sup>22</sup> However, for a variety of reasons, it was not possible for the district to allow parents in PI schools to choose freely from this state list. For example, 36 of the providers are other LEAs themselves. More generally, the district gleaned little from state sources about the strengths and weaknesses of each supplemental services provider it had approved, or even the criteria the state had used to qualify providers. The district therefore created a subsample of the state list and then allowed parents/guardians of eligible students to choose a provider from this reduced list.

There were four reasons for paring down the state list. First, the service provider had to be able to provide services locally. Second, simply because a provider had put its name on the state list did not guarantee that the provider really was interested in participating in the local program. A prominent example was Sylvan Learning—when SDCS contacted their local office, they were told that Sylvan did not plan to provide supplemental services in San Diego County. A third issue was providers' lack of capacity to serve a variety of students. For instance, one administrator told us: "(Private

providers) often are not equipped to deal with a range of students. Some have told us they have no capacity for English Learners.” Because the state’s list does not include information regarding capacity to serve diverse student populations, the responsibility for confirming capacity lies with each district.

A fourth reason for paring down the state list is the legislation’s requirement that districts be responsible for ensuring that providers are living up to their promises. The district’s legal department took this charge quite seriously. For example, if a student were injured by an employee of a supplemental service provider or by any other person on the premises of that provider, the district could be liable. As one administrator put it to us: “We routinely fingerprint teachers for background checks.” All staff working with students, including supplemental service providers (onsite or Internet) must undergo these checks.

An important wrinkle in the provision of supplemental services has emerged in San Diego. Several administrators mentioned to us that they believed that the district’s own “Blueprint for Student Success,” implemented in 2000, in many ways captures the spirit of NCLB’s supplemental service, school choice, and professional development requirements. For example, the district has used test scores since 2000 to identify students who lag behind, and then steers these students into a series of interventions, including Extended Day Reading Program (EDRP) in which students receive teacher-supervised reading time at the start or end of the school day, and the similar Extended Day Math Program (EDMP). As one administrator put it:

We’re an ideal provider because we can provide this as part of a coherent system. The district already has in place a set of preventive measures and interventions for students who lag behind. A student can

now spend another 90 minutes with her same teacher who knows what she needs. Coherence is everything.

However, an external provider opined that giving students “more of the same” in an under-performing school may do little to improve student performance, and a PI school principal told us that it is extremely difficult to convince the best teachers to serve as supplemental service instructors in the extended-day programs. Given our finding that PI schools have four times more uncertified teachers than choice schools, it may be that students in the district-run programs are not always getting the quality of instruction that they need—during the regular school day, or through the district’s supplemental service program.

The number and nature of providers that have provided supplemental services has changed considerably between the 2002-2003 and 2003-2004 school years. In the first year, only one non-district provider met the district’s criteria. This company provided secondary school students with help over the Internet. Because so few students opted for these services, the provider decided not to continue for a second year. In contrast, nine state-approved providers contacted the district about the possibility of providing services in the 2003-2004 school year. The district sent a survey to each of these potential providers. Eight providers ultimately indicated a firm interest in providing supplemental services, and the district was able to sign contracts with five of the eight. Two providers work at school sites rented from the district, and the other three providers work with students online. Notably, so far there are no providers that are working with students at non-SDCS locations. A district official told us that one potential provider could not sign a contract because it could not find a suitable offsite location in time for the 2003-2004 school year.

Administrators reported that principals and teachers put in a great deal of effort to get the application forms back in. However, preliminary information for 2003-2004 suggests that the district has to repeat its efforts to recruit students into any of the supplemental service programs, including the district's own. In both years, the district has done an initial mailing to parents, and then had schools give students letters to take home to parents. In addition, a PI school principal told us that in parent-teacher conferences teachers remind parents that as part of the "learning contract" that students have, they need to enroll in after-school academic programs. Although only 25% of students in this school were receiving supplemental services in early 2004, that percentage represented virtually all of the students performing at "far below basic" proficiency. Ultimately, all who applied for supplemental services in the district received them.

In any case, by far the largest provider has been the district itself. The district is using the funds to reduce class size in its EDRP, EDMP and California High School Exit Exam (CAHSEE) preparation classes to about 10 students in PI schools, with the intent of providing enhanced teacher-student interactions. In 2002-2003, only three students enrolled in the online program, while 4,370 students received supplemental services directly from the district—which represents 86% of students who were eligible to receive them.<sup>23</sup> In 2003-2004, 4,227 students were enrolled in supplemental services. About 26% of students in supplemental services in 2003-2004 chose non-district providers, up from only 0.1% in 2002-2003. This growth suggests that the district is opening up opportunities for outside providers. However, one supplemental service provider told us

that the district had limited their enrollment to 100 students, and that they only had 10 students enrolled as of February 2004.

It is worth pointing out that the district is competing with external providers for meaningful amounts of supplemental service funding. For instance, on average, Internet-based providers are typically paid a maximum of \$900 per student. Onsite providers receive about the same per student, and are charging \$50-\$60 per hour per student. In theory, any district that set itself up to compete with outside service providers could have a large incentive to direct “customers” its way. One external supplemental service provider told us that SDCS was not “aggressively discouraging” students from enrolling in its program and ranked the district “8 on a scale of 1 to 10.” Yet, another external provider ranked the district “3 on a scale of 1 to 10,” and suggested that SDCS was making it difficult to do business because the “massive amount of paperwork” required by the district is reducing private providers’ profits. Perhaps summing up the school-level attitude regarding external providers, a PI school principal told us that external services would be welcome at that school—as long as the principal knew that the external staff was qualified and had a good rapport with students.

### **III. Early Challenges and Emerging Long-Term Problems**

#### ***Initial Barriers to Implementation***

This section itemizes transitory problems related to implementation. One administrator summed up the 2002 implementation as follows: “Globally, the concern has been the fast pace of implementation.” The deadlines for implementation by fall 2002 were compounded by the late release of the regulations to accompany the regulation

by both the U.S. Department of Education and the state Department of Education. The latter regulations arrived just ten weeks before classes began. These delays made it difficult for the district to implement fully the school choice and supplemental service provisions of NCLB in time for classes in fall 2002. A senior administrator summarized some of the difficulties the district experienced in 2002 as it attempted to implement the state's regulations:

Materials from the state were overly general. The materials had to cater to all sorts of districts. They were not sufficient to convey details to a local audience.

We had to make a lot of phone calls to the state to understand implementation. It was a typical case of flying the airplane while you are building it...

The same administrator stated that one of the biggest problems was that all decisions about which students would enter the VEEP and magnet systems and related decisions about bus routes had been made by April 2002, two months before state regulations arrived.

Another administrator amplified these concerns:

The timing has been very poorly managed. July is a difficult time of year, especially for notification to principals and staff, who are on vacation at that time unless it's a year-round school. Turnaround between July and August 15 was very difficult turnaround time---it was just thrust upon the district and wasn't very well explained. Usually with the STAR [state test score system] release there's a package of information, but the AYP didn't have one. It would have helped to have a media kit or more information with the timing. Sacramento folks aren't talking about how complex a measure this is.

Implementation of NCLB apparently proceeded more smoothly for the 2003-2004 school year than the prior year. But some additional hiccups occurred. For example, the state introduced a new definition of AYP that was not available until June 2003. This

made even preliminary analysis of which schools might qualify as PI schools impossible until summer 2003.

A second concern voiced by both administrators and CBO representatives we interviewed was that parents did not have a ready information source about NCLB and the relations between the its two key elements (AYP and PI schools) and the state's preexisting accountability system. The nine CBO members we interviewed told us that they had received virtually no questions from parents about any aspect of NCLB. They found this striking because they interact with thousands of parents each year. Some stated that the district could have done more to interact with parents, especially those who do not speak English, but that the overarching issue was the sheer complexity of the legislation.

A third concern shared by several administrators is that the state should provide better information on the qualifications of supplemental service providers on the state's official list, as well as their academic offerings. The state made the list available on the Internet and directly to districts, but according to the district refused to provide much information about the providers. Given the district's concerns about providers' curriculum and health and safety standards, this presented a major obstacle that limited the number of external providers working with the district.

For the most part, the district sees these initial challenges as temporary. Indeed, the numbers of choice applications, supplemental service providers in the district, and students receiving supplemental services, are all increasing with time.

### Potential Flaws in the Legislation Itself

Unlike the apparently temporary issues above, the problems we outline below are best considered as systemic long-term impediments to the success of NCLB.

#### *Systemic Problem #1: Timing*

We cannot dismiss all timing problems as temporary glitches. Because students are tested towards the end of the school year, and because it takes several months to grade the millions of tests, the California Department of Education does not designate new PI schools until late August each year, about two weeks before school starts. This forces the school district to devise new bus routes, and to inform parents of their choices, in two weeks. This schedule is, in the words of one administrator, “completely unworkable”.

One administrator gave a detailed picture of the pandemonium that has taken place in the last two weeks of August. Once the list of new PI schools is released to the district, the bus routes must be overhauled. This is time consuming because a fixed number of buses must somehow be stretched to meet the new NCLB choice requirements while continuing to serve the VEEP and magnet students and the students who had already started NCLB busing in a prior year. Contracting out for additional buses on very short notice is apparently not a realistic possibility, in part because it is hard to obtain private sector bids at the rates the district is willing to pay. This administrator next mentioned the challenge of communicating options to parents, in some cases in late summer after a school has newly been identified as needing improvement:

This year we mailed out 105,000 letters overall to parents... For each letter, a draft must be reviewed by Legal, Communications, and the departments that deal with teachers, supplemental services, and busing. Then we need to print and deliver all of these letters just at the time when

our business services department is already fully booked [with other items that are distributed at the beginning of the school year]. So we have to put the contract out to bid and wait the required number of days before choosing a contractor.

The district also prints this letter in six languages. The total number of letters referred to by the administrator includes a general mailing that is followed up by more specific and more highly targeted letters indicating whether choice or both choice and supplemental services are available to given students. The administrator continued with the next steps:

...After that, the next challenge is to handle requests from parents... In comparison, setting up busing for students (in PI schools) who apply in spring is quite easy. But when we make further additions to busing in fall it is very difficult to change teacher allocations at schools in response. I believe that it is state law that teacher allocations are locked in by the fourth Friday in September.

...Another problem is re-confirming student addresses over the summer. We wait until September to re-confirm student addresses because we get a much better response. ...Overall, I can't see how this is viable long term unless we get real-time test score data.

A CBO respondent made the point that "...at the very time when the increased requirements are appearing regarding communicating with parents, the school district has reduced its parent involvement and translation units." District administrators confirmed that this is true, due to tight budgets, and surely this complicates matters. One administrator told us that the cuts were too small to have affected NCLB communications greatly.

#### *Systemic Problem #2: Inconsistencies in AYP Definitions and PI School Selection*

Administrators criticized the formula for calculating Adequate Yearly Progress (AYP) on a number of grounds. This matters because schools can be incorrectly labeled as PI due to flawed statistical assumptions embedded in the definition of AYP.

Thomas Kane and Douglas Staiger analyze NCLB eligibility criteria and argue that small random errors in school outcomes on each of the criteria can lead to a school being deemed to have failed to meet AYP.<sup>24</sup> If a school fails to make AYP for two consecutive years it is designated PI, and low-SES low-scoring students at this school now qualify to be bused to another school at district expense. District officials seemed keenly aware of the probability that for random reasons many schools will be labeled as needing improvement. One administrator put it most simply: “Almost all schools will occasionally fail (to meet AYP).” A second shared this concern, combined with a related concern that it is unrealistic for the NCLB legislation to expect 100% of students to meet Proficient standards by 2014: “Without legislative changes, NCLB twenty years from now will be viewed as a disaster. Every school in the state will be PI.” Unless California lowers its rather high standards, or the re-authorization of NCLB does allow some flexibility, this San Diego administrator is surely correct.

A second problem identified by several administrators is that under NCLB the only thing that matters for AYP is the percentage of students who meet the test score defined by the state as Proficient. Many argued that a single absolute cutpoint does not provide a complete measure of school quality.

A third weakness in the definition of AYP is that there is no longitudinal component, meaning that the calculations in two consecutive years can be based on quite different student populations.

### *Systemic Problem #3: Inconsistencies on Capacity Constraints in Busing*

A third common criticism we heard is that the legislation and regulations are highly contradictory on how districts should deal with capacity constraints in the busing

system as demand for school choice grows, especially if the supply of non-PI schools falls. The number of available non-PI schools could indeed fall over time because of the problems with the definition of AYP we have discussed. In SDCS this problem already seems to be severe: roughly half of the comprehensive high schools have been denoted PI. For every additional high school that becomes PI, the number of students eligible to apply for busing to non-PI schools increases, and the number of non-PI high schools that could potentially accept bused students falls.

District officials were careful to point out that the district's own allocation of the 20% Title I set-aside between busing and supplemental services determined the maximum number of dollars that the district would be required to spend on NCLB-related busing. Nonetheless, certain popular receiving schools could become swamped well before the district reached its spending cap for NCLB busing. A receiving school principal told us that already in fall 2003 the school had to turn away 9<sup>th</sup> grade applicants.

### Unintended Consequences

We now concentrate on six unintended consequences of the NCLB's choice and supplemental service provisions. Typically, it is too early to tell whether these consequences will impinge in a major and negative way on students.

A first unintended consequence that several administrators predicted is that the school choice provision of NCLB could lead to some perverse mislabeling of schools as PI. As required by law, the district invited low-SES and low-performing students at PI schools to exercise school choice. Based on the first two years of NCLB choice, one administrator told us: "One prediction we have is that all schools' test scores will fall because better students appear to be leaving PI schools." One upshot of this non-random

selection of students is that PI schools will find it hard to escape the PI designation because their test scores will, quite mechanically, decline. Similarly, at non-PI receiving schools, the arrival of NCLB choice students will lower average test scores. As a receiving school principal said, “We aren’t *afraid* that our scores will fall—we *know* they will.” **In other words, large movements of NCLB choice students could condemn both PI (sending) and non-PI (receiving) schools to PI status.**

A second unintended consequence of NCLB could be that choice will create what one administrator called “us-them tensions” at receiving schools. Unlike existing programs like VEEP, the new busing program explicitly targets low-scoring students. One administrator suggested that this will stigmatize the NCLB students at their new schools. A second administrator worried that students who switch schools under NCLB will be blamed for any decline in test scores at the receiving school. Neither administrator had evidence that these tensions had already arisen, but both worried that they will occur as the choice program grows.

Indeed, students who opt to attend a school far from home are clearly crossing much more than the 25 miles between home and school, as a principal described:

Imagine plunking down students who are unfamiliar with the culture of the school, the culture of the community... There are discipline issues [that the new kids bring with them] and the incoming kids get the blame for fights even when they are not involved. We have more at-risk kids without extra support [in the form of counselors and bilingual staff]. Almost 30% of my incoming students are LEP, and I have no bilingual staff.

A third unintended consequence stems from the assumption implicit in NCLB that districts have not already taken steps to boost learning at their lowest-performing schools. In San Diego, the district implemented the Blueprint for Student Success in 2000, which

has devoted considerable resources to students and schools that have lagged behind. Several district administrators worried that students who leave the bottom-performing schools under NCLB will often go to schools that currently have fewer supports in place for students who are behind.

Compounding the irony, the time students spend on the bus may aggravate this problem: a school principal in a Choice high school told us that although students being bused in from PI schools *are* eligible to take advantage of the district's Extended Day tutoring programs in the new school, few of these students enroll. The principal told us that the programs take place after school but the students "don't take advantage of the services because they [would] get home at 6:30-7:00 at night. So, it's kind of undermining the whole purpose."

A fourth side effect of NCLB again stems from the assumption in the federal legislation that districts have not already implemented similar actions. Many administrators spoke to us about the potential negative consequences of NCLB choice on the longstanding school choice programs in SDCS, principally VEEP and magnet programs. We detected two strands of argument here. First, because the district is taking NCLB choice so seriously, it is raising questions about the long-term viability of existing busing programs like VEEP and magnets. Second, families who have applied to VEEP, magnet and the open enrollment program (Choice) have reacted quite negatively to the district's decision to give top priority to the NCLB choice applications, thus delaying decisions about applications to the pre-existing choice programs.

A fifth side effect of NCLB that several district officials mentioned is that NCLB has the potential to confuse the public as it attempts to grasp the differences between the

state and federal accountability systems. One administrator told us that it will take some time for parents to learn what it means for a school to be “Program Improvement”. Indeed, some principals did not seem to understand the concept well, in spite of central office attempts to offer training sessions for principals. One administrator implied that if the understanding among principals was so low, the public would fare even worse. The principals with whom we spoke do not seem to distinguish between “NCLB students” and other students who may be in choice programs or in need of additional instructional services. Moreover, our conversation with CBO staff confirmed that school personnel appeared to know little about what the legislation means in practice.

Another administrator worried that the NCLB concept of Adequate Yearly Progress, which is used to determine PI status, was likely to confuse parents:

It took a number of years for people to understand the state accountability system. In California people are just now getting the idea. NCLB adds a new layer on top of that. ... Unintended consequences are most likely to crop up in public relations. AYP is very hard to explain to any audience. I worry that some schools are about to be blindsided even though they are genuinely improving. We could also be overly reactive. Parents may flee [schools] based on very incomplete information. A single number doesn't tell all. Conversely, a pretty mediocre school could meet AYP even though all subgroups just barely met targets.

A final side effect of NCLB suggested by one administrator is an adverse impact on charter schools. Almost all charters in SDCS are Title I schools and so are subject to the NCLB choice and supplemental service provisions. The administrator predicted trouble for charter schools regardless of whether they became PI schools. If a charter becomes a PI school “it cannot charter buses on its own,” and so would become dependent on the district. Conversely, a non-PI charter school that opted to accept NCLB choice students would then become subject to NCLB regulations for receiving schools.

In 2002-2003 no charter schools acted as receiving schools, but five are doing so in 2003-2004.

#### **IV. Possible Remedies for Problems Encountered to Date**

Our findings suggest some fine-tuning to the NCLB legislation that could improve the long-term prospects for the NCLB choice and supplemental service programs.

##### *i) The Timing Problem*

One of the biggest problems with NCLB implementation is the two week period in which the district must arrange busing options for newly identified PI schools each August. A simple remedy is to reverse the current NCLB policy that offers students busing in the first year that their school is a PI school and both busing and supplemental services in the second year. Instead, supplemental services would be available immediately, while the more difficult to implement program, busing, would be offered the second year. All students at the PI school would receive a letter by the start of the school year listing a menu of alternative sources of supplemental services, and during that academic year any student who wished could also apply to be bused to another non-PI school the following year.

##### *ii) Mitigating Definitional Problems*

One administrator suggested to us that the base-year API used to determine whether the school has met its growth target should use only those students who were also in the school the prior year. This innovation would prevent schools being mislabeled as having failed to make AYP, or mislabeled as PI schools, simply because the student population had changed in a way that reduced average achievement. It would also

eliminate the possibility that NCLB busing causes test scores at *both* sending and receiving schools to fall, increasing further the number of schools mislabeled as PI.

*iii) Simplifying and Aligning Accountability between District, State, and Federal Levels*

Strikingly, three separate entities have endeavored to create accountability systems in SDCS. The district adopted its Blueprint for Student Success in 2000, which incorporates district-specific testing and district-designed interventions. On top of this system is the state's accountability and testing system and the new federal requirements.

There is a sense of “too many cooks spoil the broth” in all this. It might behoove Congress to consider a far less prescriptive system of testing and rules for designating PI schools. If Congress afforded each state the opportunity to qualify with the U.S. Department of Education its own system of testing and identification of lagging schools, players at all levels could benefit.

*iv) Improving Information Dissemination*

Our meeting with several representatives of CBO yielded many ideas for how SDCS could disseminate better and more timely information to parents. Suggestions included a mandatory parent-teacher conference to discuss enrollment options, district-sponsored training on NCLB for both district and CBO staff, and the hiring of parent liaisons at each school. Of course, all of these sensible reforms are costly.

**V. Conclusion**

Implementation of NCLB's choice and supplemental service provisions appears to be proceeding fairly well in San Diego. Participation in supplemental services is quite high, with 86% of eligible low-scoring students applying for and receiving services. So

far, the district itself has been the dominant provider of supplementary services. It uses the funds to enhance its pre-existing interventions for low-performing students. However, non-district providers served fully 26% of these students in 2003-2004, up from less than 0.1% in 2002-2003. The two external providers we interviewed had divergent opinions on “doing business” with the district. One bemoaned the paperwork required by the district, while the other praised the district as being very open to working with outside supplemental service providers.

Participation in NCLB choice is small, at around 1% of eligible students, but growing. Given that about one quarter of SDCS students were already participating in other public school choice programs, the low participation in the NCLB choice program is not surprising. Furthermore, the NCLB requirement that newly identified PI schools immediately offer school choice has clearly hampered participation, because the district has had only about two weeks before classes start to design new bus routes and to inform parents at newly named Program Improvement schools.

Although district administrators repeatedly told us that they support the intent of NCLB, they are tangibly frustrated with many of the details of NCLB implementation. The previous section suggests some possible remedies. Perhaps the most important of these suggestions is to switch the order in which supplemental services and choice are rolled out at newly identified PI schools. In this way, choice would become available only in year 2 of PI status, instead of year 1. This would mitigate the severe timing difficulty that the district faces in organizing school choice options after the state identifies new PI schools late each summer.

In light of many press and media accounts of districts actively opposed to the NCLB, the greatest puzzle in our account of NCLB implementation in San Diego may be that the district administration appears to support the broad goals of NCLB. One explanation is that before NCLB the district had itself implemented reforms that facilitated school choice and supplemental services for students who lag behind. These reforms in San Diego are very much in the spirit of the NCLB. In the end, the degree of alignment of goals and strategies—at least in broad terms—between the district and the federal government may prove crucial to the successful implementation of NCLB.

But underlying this similarity in broad goals between San Diego and federal legislators simmers a very real tension between three systems of accountability that have been imposed at the local, state and federal levels. The provisions of these accountability systems overlap and in some cases are quite inconsistent with each other. Perhaps the key question for the next five years is simply this: In districts like SDCS that have already implemented similar reforms, will the NCLB provisions for school choice and supplemental services simply become a case of too many cooks spoiling the broth?

## Tables and Figures

Table 1: Selected summary statistics for San Diego, other large urban districts, and California, 2002-2003.

	San Diego	Los Angeles	Long Beach	Fresno	San Francisco	California
Total K-12 Enrollment, 2002-2003	140,753	746,852	97,212	81,222	58,216	6,244,403
Number of Schools	185	677	89	101	114	9,087
District level expenditures per-pupil (2001-2002)*	\$ 7,501	\$ 7,353	\$ 6,796	\$ 6,967	\$ 7,313	\$ 6,719
<b>Student Characteristics (%)</b>						
2002-2003:						
Non-White Students	73.8	90.6	82.8	81.7	87.9	65.7
<i>Limited English Proficient:</i>						
Total LEP	28.7	42.9	32.8	32.3	27.9	25.6
LEP who speak Spanish	80.5	93.3	84.0	62.1	38.0	84.3
<i>Socio-Economic Indicator:</i>						
Free or Reduced-Price Meals	56.8	75.4	65.2	76.4	58.9	48.7
<b>PI Schools and Students (Fall 2003):</b>						
<i>Schools:</i>						
Number of PI schools	33	109	7	40	30	1,205
Percentage of PI schools	18	16	8	40	26	13
<i>Enrollment:</i>						
Approximate Number of Students	38,588	255,213	7,095	38,588	11,106	1,198,462
Approximate Percentage of Students	27	34	7	48	19	19

Sources: Authors' calculations from California Department of Education CBEDS and AYP datasets and \* [www.ed-data.k12.ca.us](http://www.ed-data.k12.ca.us) (district financial statements).

Note: Includes all schools and students. "Program Improvement" (PI) is the designation California gives to schools needing improvement under NCLB rules. PI schools include **all** PI schools.

Table 2: Selected School, Student, and Teacher Characteristics in San Diego. Comparison of Program Improvement and Choice Schools, 2002-2003

Percentage of Each Characteristic:	School Type		T-tests
	Program Improvement (31 Schools)	Choice (41 Schools)	
<i>Students:</i>			
American Indian	0.4	0.7	***
Asian	8.3	11.3	*
Pacific Islander	1.2	0.9	*
Filipino	7.9	8.5	
Hispanic	52.3	22.4	***
African American	19.7	8.0	***
White	10.4	48.4	***
Limited English Proficient	38.2	10.8	***
Free or Reduced-Price Meals	71.7	25.3	***
Did not attend same school continuously between fall 2002 and spring 2003	8.1	4.0	***
<i>Academic performance:</i>			
School's API Rank, 2002-2003	609.1	773.6	***
<i>Teachers:</i>			
% Lacking full credentials	0.8	0.2	*

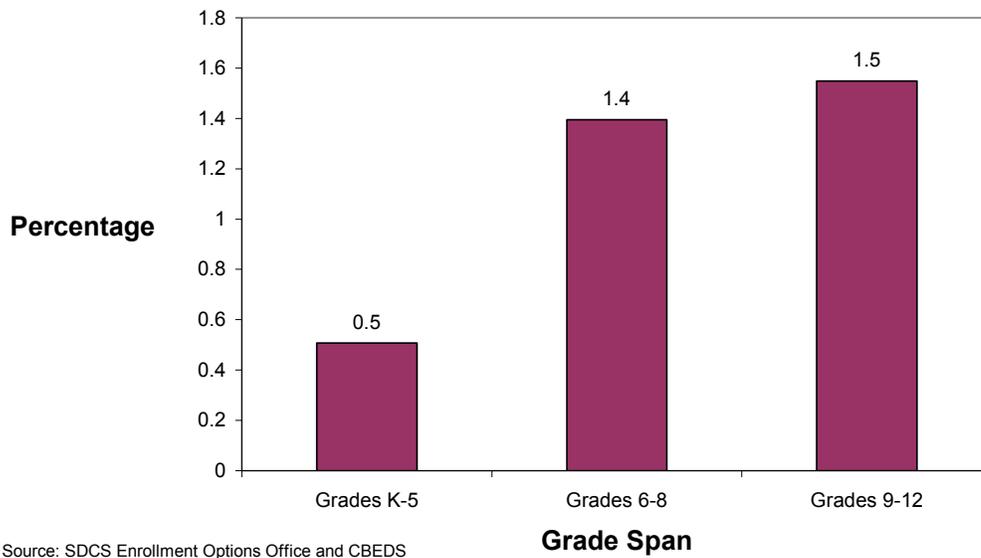
Sources: SDCS Enrollment Options Office, CBEDS, API, and AYP datasets.

Note: T-test that the enrollment-weighted means are significantly different in the two types of schools: Probability > |T| \* = 0.10, \*\* = 0.05, \*\*\* = 0.01

Note: Student ethnicity percentages may not sum to 100 due to rounding.

Figure 1

**Figure 1. Choice applicants as a percentage of students in San Diego PI schools for 2003-04 academic year, by grade span, August 2003**



## Notes:

<sup>1</sup> We are grateful to Ellen Yaffa, a staff member of Social Advocates for Youth (SAY-San Diego) for organizing a meeting with this group.

<sup>2</sup> Jack O'Connell, "Local Educational Agency Plan Memorandum," (Sacramento, CA: California Department of Education, February 26, 2003). See this and several other state documents at <http://www.cde.ca.gov/pr/leap> (available December 2003).

<sup>3</sup> The state documentation appears to confirm interview respondents' experience that they had received little guidance from the state in how to interpret the new provisions.

<sup>4</sup> See San Diego City Schools, "Local Education Agency Plan, June 10, 2003," (San Diego, CA: 2003). <http://www.sdc.s.k12.ca.us/nclb/draftLEAplan.pdf> (available December 2003).

<sup>5</sup> Although Sable and Aronstamm Young (Table 1, p. 12) rank the district as 17<sup>th</sup>, when districts that encompass more than a city unified district (such as Puerto Rico, which includes the whole island) are removed, SDCS is 8<sup>th</sup>. Jennifer Sable and Beth Aronstamm Young, *Characteristics of the 100 Largest Public Elementary and Secondary School Districts in the United States: 2001-02*, (Washington, DC: U.S. Department of Education, National Center for Education Statistics, 2003).

<sup>6</sup> LEP students are known as "English learners" (EL) in California. We maintain the acronym LEP for consistency with other studies across the nation. Economic disadvantage is measured as free or reduced price meal assistance under the Federal Title I definition. These two measures are highly correlated—at 0.74 in California.

<sup>7</sup> Education Data Partnership, "District Financial Statement," in *Fiscal, Demographic, and Performance Data on California's K-12 Schools* (Sacramento, CA: 2003) <http://www.ed-data.k12.ca.us> (available December 2003).

<sup>8</sup> PI school status is based on spring 2003 test data, while enrollment is collected in the fall of 2002 for the 2002-03 academic year.

<sup>9</sup> Christiane McPhee, SDCS, February 17, 2004 (personal correspondence).

<sup>10</sup> Non-district stakeholders could include individuals or representatives of community-based organizations, the business community, and non-district supplemental service providers who either serve the district in a formal or informal advisory capacity or who act as an external lobby.

<sup>11</sup> See Alan D. Bersin, "Year 1 Letter," (San Diego, CA: San Diego City Schools, 2003). [http://www.sdc.s.k12.ca.us/nclb/yr1\\_ltr.pdf](http://www.sdc.s.k12.ca.us/nclb/yr1_ltr.pdf) (available December 2003). Also, see the letter regarding supplemental services at [http://www.sdc.s.k12.ca.us/nclb/yr2\\_ltr.pdf](http://www.sdc.s.k12.ca.us/nclb/yr2_ltr.pdf) (available December 2003).

<sup>12</sup> PALs are certificated resource teachers who work directly with parents of children in Focus schools. For more information on PALs, see <http://www.sdc.s.k12.ca.us/comm/factsheets/pals.pdf> (available December 2003).

<sup>13</sup> The main cases are *Crawford v. Board of Education* (1976) and *Carlin v. Board of Education* (1977). In the first, the California Supreme Court ruled that the effects of segregation are more important than the reasons why segregation occurred, while in the latter, the California Superior Court in San Diego County ruled that the district must take measures "to alleviate minority racial isolation—whatever its cause" (p. 1). A third case, *NAACP v. San Bernardino* (1976) allowed a broad range of strategies to integrate districts. San Diego City Schools, Office of Instructional Support. *Report on Voluntary Ethnic Enrollment Program (VEEP) Schools* (San Diego, CA: 2003). <http://prod031.sandi.net/saa/programstudies/reports/VEEP2003.pdf> (available November 2003).

<sup>14</sup> According to the SDCS report (*ibid.*), other programs that existed over the years also included Already Balanced Community (ABC) program and Learning Centers/Exchanges. The programs that exist in 2002-03 are VEEP, magnet, Academic Enrichment Academy (AEA), Off Campus Integrated Learning Experience (OCILE), Academic Academies, and Race/Human Relations.

<sup>15</sup> For a full discussion of VEEP, see *ibid.*

<sup>16</sup> SDCS includes 21 charter schools to date. These schools were listed separately from the district in the 2002-03 Title V, Part A entitlement list. However, only 18 of them received funding. California Department of Education, School Fiscal Services Division, "Entitlements for NCLB Title V-Part A Innovative Programs Fiscal Year 2002-03" (Sacramento, CA: 2003).

<sup>17</sup> Lorien A. Rice and Julian R. Betts, "Who Leaves and Why? An Analysis of School Choice Options in a Large Urban District," (manuscript, Department of Economics, UCSD, 2003).

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<sup>18</sup> Julian R. Betts, Andrew C. Zau, and Lorien A. Rice. *Determinants of Student Achievement : New Evidence from San Diego* (San Francisco, CA: Public Policy Institute of California, 2003).

Julian R. Betts, Kim S. Rueben, and Anne Danenberg, *Equal Resources, Equal Outcomes? The Distribution of School Resources and Student Achievement in California* (San Francisco: Public Policy Institute of California, 2000).

<sup>19</sup> See Betts, Zau, and Rice.

<sup>20</sup> Alec Ian Gershberg, Anne Danenberg, and Patricia Sánchez, *Beyond "Bilingual" Education: New Immigrants and Public School Policies in California* (Washington, DC: Urban Institute Press, forthcoming 2004).

<sup>21</sup> These numbers represent an increase of fewer than one per 100 students between August and December 2003 across the schools that were eligible.

<sup>22</sup> California Department of Education, "Approved Providers, Supplemental Educational Services," (Sacramento, CA: 2003). [http://www.cde.ca.gov/iasa/titleone/pi/ssp\\_search.asp](http://www.cde.ca.gov/iasa/titleone/pi/ssp_search.asp) (available December 2003).

<sup>23</sup> This represents only about 11% of students at PI schools in part because many PI schools were in their first year of PI status, and students at these schools are not eligible for supplemental services. Further, because NCLB authorizes districts to direct supplemental services to the lowest-scoring students in each school, the district in 2002-2003 aimed supplemental services at approximately 5,000 of 24,957 students in schools eligible to offer supplemental services.

<sup>24</sup> Thomas J. Kane and Douglas O. Staiger "Volatility in School Test Scores: Implications for Test-Based Accountability Systems", in Diane Ravitch (Ed.), *Brookings Papers on Education Policy - 2002*, (Washington, DC: Brookings Institution Press, 2002).