

A slightly modified version of this paper was published as:  
Julian R. Betts, (2007), “California: Does the Golden State  
Deserve A Gold Star?”, Chapter 3 in Frederick M. Hess and  
Chester E. Finn Jr. (Eds.) **No Remedy Left Behind: Lessons  
from a Half-Decade of NCLB**, Washington, D.C.: AEI Press,  
pp. 121-152.

NCLB Implementation in California:  
Does the Golden State Deserve a Gold Star?

Julian Betts  
University of California, San Diego  
Public Policy Institute of California

[jbetts@ucsd.edu](mailto:jbetts@ucsd.edu)

Abstract

The study examines NCLB school choice, supplemental education services and Local Education Agency remedies in California. Student participation rates in the interventions, and especially choice, are still quite low. Barriers to increased participation are outlined. California's department of education bears a huge information gathering burden; it may need additional personnel or outside help to focus on NCLB. Possible reforms to NCLB include changing federal requirements for parental notification to allow shorter, more direct letters, and allowing higher income but low-achieving students in failing schools to participate in interventions as long as the programs fail to attract enough low-income participants.

**Revised version: Jan. 8, 2007**

Prepared for the American Enterprise Institute/Thomas B. Fordham Foundation Conference,  
"Fixing Failing Schools: Is the NCLB Toolkit Working?"  
November 30, 2006

The collected papers for this conference can be found at [www.aei.org/event1351](http://www.aei.org/event1351)

## INTRODUCTION\*

The goal of this paper is to assess the implementation of NCLB's provisions related to school choice, supplemental service provisions and Local Educational Authority (LEA) remedies, in the context of California. California provides a challenging testing ground for NCLB's provisions for a number of reasons. First, California has a large population of English Learners (EL), which makes the challenge of having every student in the state reach proficiency in reading and math by the target date of 2013-2014 particularly daunting.

Second, state departments of education are expected to play a major role in implementation of NCLB. They define the proficiency standards, set the timelines for "Adequate Yearly Progress" (AYP) by which schools are judged, administer tests and then use the results to judge schools. In addition, the state department of education is responsible for vetting providers of supplemental educational services (SES), and for ensuring that individual districts are administering the various components of NCLB in the spirit and letter of the law.

In Rhode Island, one can almost imagine a room big enough for the state to bring all the relevant players together. But in California, which in 2005-2006 had roughly 6.3 million students, 9,600 schools and 1,000 public school districts, the challenge is obviously of an entirely higher order. The question is clear: can a state bureaucracy centrally implement the federal accountability guidelines in an efficient and fair way? These questions will receive considerable attention in this paper.

Third, California has a reputation for having set relatively high standards for students to be labeled proficient or higher in math and reading. Many states have received criticism for

---

\* I thank Chester Finn for helpful comments. I am very grateful to the many people I interviewed for sharing their valuable time to participate. In alphabetical order I thank, without implicating, Karen Bachofer, Wendy Harris, Ann Just, Camille Maben, Christine Quinn, Steve Schneider, Mariam True, Dale Vigil, and Charles Weis. Several others around the state preferred to speak to me anonymously but this in no way diminishes my gratitude to them.

watering down their academic standards as, year by year, the number of schools deemed “in need of improvement” has grown. California has largely escaped this pattern of retrenchment.<sup>1</sup>

This paper will provide a description of California’s accountability system and how it relates to the system required by NCLB, and how the NCLB school choice, Supplemental Services and LEA improvement programs are being implemented. The end goal is to present a discussion, based on data as well as a series of interviews, of the extent to which California is realizing the promise of NCLB, and the degree to which experience in California points to reforms to NCLB that might make the federal law more effective.

## **SETTING THE SCENE: ACCOUNTABILITY IN CALIFORNIA**

What is the educational setting in California, and how does this affect NCLB? In addition to the large English Learner population and the sheer size of the state, perhaps the most relevant issue is that California was one of the states that embarked upon its own accountability system well in advance of the passage of NCLB. The Public School Accountability Act of 1999 (PSAA) and subsequent legislation created a system of measuring educational outcomes at each school, along with a cascading series of interventions for schools and districts that failed to keep pace, and a series of financial rewards for schools that met achievement targets and for staff at those schools. (The financial rewards were short-lived, being cancelled after roughly two years because of budgetary issues.)

The setup of the state’s accountability system differs in important regards from the federal system. At the heart of the state system is a single number, the Academic Performance Index (API), which varies between 200 and 1000. All schools are expected to reach a score of at least 800 by 2020. Most importantly, the state system gives a “passing” grade to any sub-800

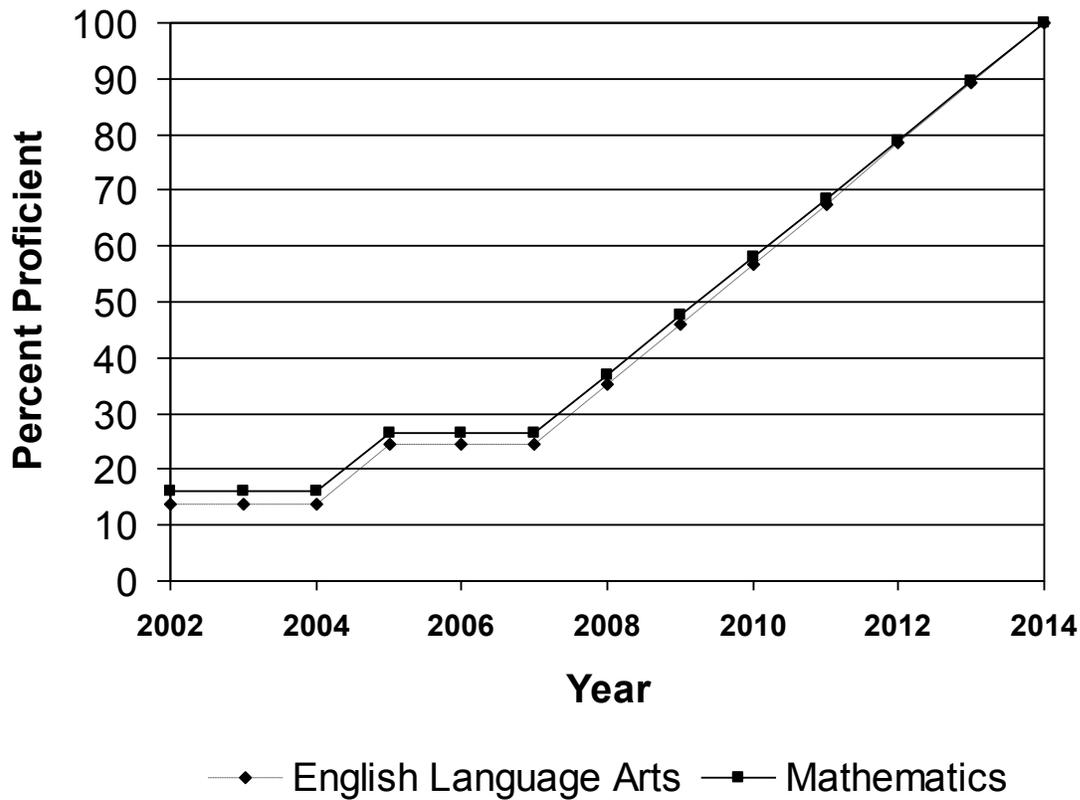
school that improves by at least 5% of the gap between the prior year's base API and the long-term goal of 800. In sharp contrast, the federal requirement that schools make Adequate Yearly Progress (AYP) is really a stipulation that in a given year a predetermined percentage of students must have test scores that reflect proficiency on the state's standards. The California accountability system emphasizes *growth* in achievement while the federal system as implemented in California emphasizes the percentage of students that meet proficiency targets, with these percentages changing only every few years.

The difference between these two systems has led to considerable public confusion. High-scoring schools with slow growth might make AYP but fail to improve enough to meet the state's expectations; conversely, low-scoring schools that are improving rapidly would fail to make AYP but would be given high grades in the state system. This confusion is relevant if one believes that accountability systems must be transparent in order to receive widespread support and to have the maximum effect.

Like many other states, California sets the percentage of students who must be proficient for each year, although it must reach the federal requirement of 100% of students meeting the proficiency standards by 2013-2014. Figure 1 shows the percentage of students who must demonstrate proficiency in math and English Language Arts in an elementary or middle school or district in order for the school or district to make Adequate Yearly Progress, by year. As the Figure shows, the state has set the initial percentage of students who must be proficient quite low and gradually, in step-like fashion, raises this percentage until it reaches the required 100% by 2013-2014. (Requirements for high schools are similar but the percentage of students required to be proficient is initially slightly lower than in elementary and middle schools.) The figure makes it quite clear that the state set its initial AYP target of minimum percentage proficient at a quite

low level, and increases this target only once between 2002 and 2007. But then starting in 2008 California steeply accelerates these requirements, so that the percentage of students expected to be proficient increases linearly to 100% in 2014, as required by NCLB.

**Figure 1**  
**Percentage of Students Required to be Proficient in English Language Arts and Math in Order for School or District to Make Adequate Yearly Progress**



This pattern does not mean that California has low standards. On the contrary, several studies suggest that California has relatively high standards. For instance, Education Week (2006) gives California’s standards a rating of B+. Only 11 states out of 50 had higher grades and 32 states had lower grades.<sup>2</sup> Similarly, in comparisons of National Assessment of Educational Progress test scores with the performance required for students to be deemed proficient on each state’s grade 8 math test, McLaughlin and Bandeiro de Mello (2005) ranked

California's standards the 13<sup>th</sup> most rigorous in the country. California has relatively high absolute standards for what it deems student proficiency.<sup>3</sup> Thus, all Figure 1 shows is that the state has set the percentage of students required to meet these demanding proficiency standards quite low through 2007.

As described elsewhere in this volume, a school must do more than meet these proficiency targets in math and English language arts each year. In addition, it must reach a 95% participation rate among students for each test, and must additionally meet these proficiency and participation targets for up to 10 student subgroups, consisting of 7 racial/ethnic groups, economically disadvantaged students, English Learners, and special education students. A school must meet targets for each of the groups that is large enough to be “numerically significant”. In addition to these 44 potential goals, California has designated two additional targets. The first, in a tip of the hat to the state's pre-existing accountability system, requires the school's Academic Performance Index to be at or above a certain minimum, or show growth of at least one point. The second is a fairly lax high school requirement for at least 0.1% growth in the graduation rate each year. Thus, the number of hoops through which a school must jump varies with its size and diversity. A large high school with a diverse student population would in theory have to satisfy 46 requirements to make Adequate Yearly Progress in any given year. Conversely, a small elementary school that is demographically homogeneous could face as few as five requirements (related to proficiency and participation rates in the math and English language arts tests and the API requirement).

The steep impending increase in the percent of students who must be deemed proficient, along with the sheer number of targets, implies that the much anticipated drama of a majority of schools and districts eventually being labeled as “failing” under NCLB will likely not take place

in California until around 2009 or 2010. Once the definitions of AYP begin to ramp up sharply in a few years, as shown in Figure 1, districts may quickly use up their Title I apportionments for busing and Supplemental Services, and shortages of buses and outside providers of tutoring could emerge.

Seen in this light, any problems with a lack of funding, buses, or outsider providers of educational services to meet the demand for services from students in “failing” schools today would be a grave harbinger of shortages in the future.

The next three sections discuss NCLB school choice, Supplemental Services and remedies for local education authorities (LEA’s) that have been identified as in need of improvement.

## **NCLB CHOICE IN CALIFORNIA**

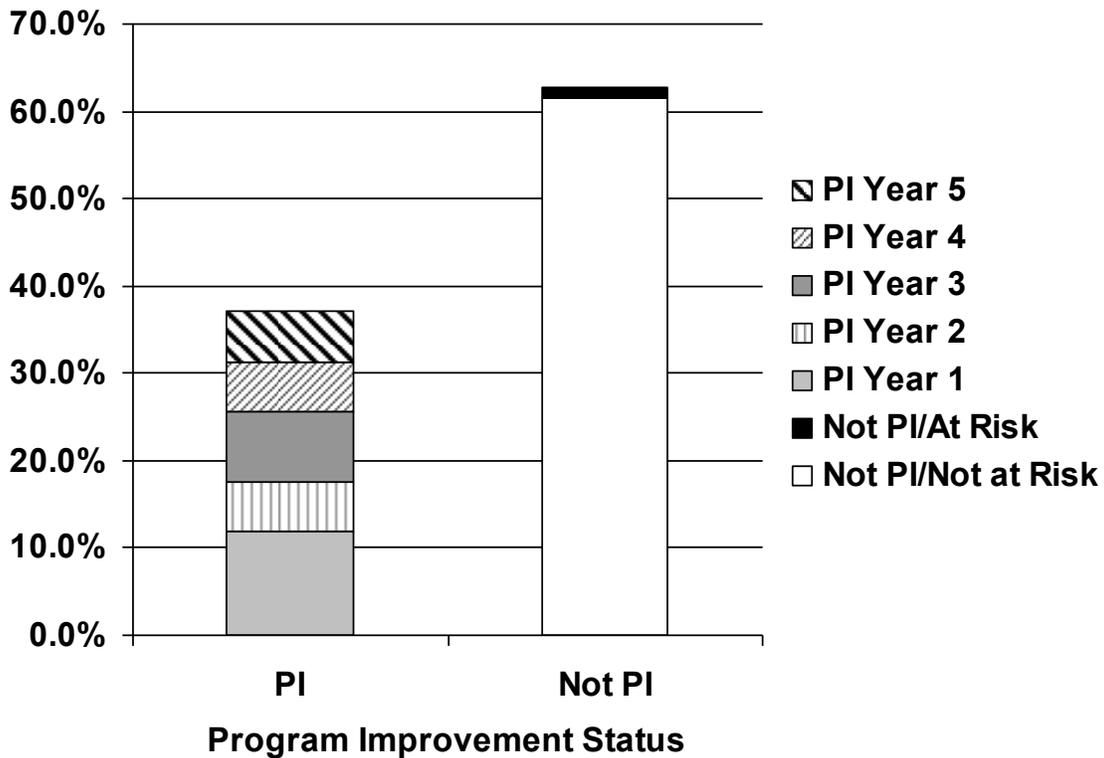
After having failed to make AYP two years in a row in a given subject, a Title I school is placed into year 1 of Program Improvement (PI). In year 1 of PI status, such a school must immediately begin offering district-funded busing to allow students to attend other non-PI schools. A PI school must continue to offer choice until it gets out of Program Improvement. To exit PI status, a school must make AYP for two years in a row.

Thus, the total effect of NCLB school choice on students in California is a function of several factors: how many schools enter PI status, how many schools stay in PI status, how many students at each PI school opt for the choice program, and, finally, the effect of school choice on the achievement of those who switch. We know a lot about the number of schools in PI status, and overall student participation in NCLB school choice, but statewide almost nothing is known about whether those who switch schools boost their achievement as a result. However, we will

review a recent experimental study of choice programs in San Diego that is likely to give an accurate picture of the effect of choice in that locale.

Figure 2 shows that of 6,059 schools in California that receive Title I funding, 37% were in PI status in fall 2006. This amounts to about one quarter of *all* California schools. (This latter figure is lower because 3600 schools in the state are not Title I schools.)

**Figure 2**  
**Percentage of Title I Schools by Year of Program Improvement Status, 2006-2007**



Notes: Non-PI schools are divided into those that are at risk of entering PI status next year because they failed to make AYP in 2006. Four Title I schools for which PI status was pending as of October 2006 were omitted from the analysis. Calculations based on data downloaded from <http://www.cde.ca.gov/ta/ac/ay/tidatafiles.asp> October 2006.

About one in three PI schools are in the first year of PI status, and so must offer NCLB school choice but are not yet required to offer supplementary services. In addition, as shown by the bar on the right, 1.3% of schools are not yet in PI status but are at risk of entering PI status in 2007 because they failed to meet AYP in 2006. This is a fairly small percentage of all Title I schools, and as shown by the distribution of schools in PI status in the left-hand bar of Figure 2, anywhere from five to 12% of Title I schools entered PI status in each of the last five years. This drop-off in entrance into PI status largely reflects the fact that most schools that were challenged by the proficiency standards shown in Figure 1 got into trouble with meeting AYP long before 2006. Nonetheless, the sharp and steady increases in the proficiency standards that will begin in 2008 will no doubt greatly increase the share of Title I schools in PI status.

Figure 2 raises some red flags in that roughly 25% of Title I schools are in year two or higher of PI status. The AYP requirements have been quite stable in the last few years, and the requirements will soon become much more stringent, as shown in Figure 1. These facts suggest that many of these PI schools will *never* make Adequate Yearly Progress again.

To judge whether this prediction is overblown, we can ask what percentage of schools exit from PI status after making AYP for two years. In 2006, 104 schools exited PI status, or about 6% of the schools that had been in PI status the year before. Most of these schools that escaped PI status were in year 1 or 2 of PI status, which indeed suggests that many schools get into PI status and have a very difficult time getting out. In addition, about one sixth of schools in PI status in 2005 made AYP in 2006, meaning that if they make AYP in 2007 they too will exit PI status.

Overall, these figures suggest that most Title I schools in California are not yet in PI status, but the net percentage is growing, and will probably grow markedly in 2008 and 2009. Already, 37% of Title I schools must offer choice to their students.

The next question is how many students at eligible schools are opting into the NCLB school choice program. Table 1 shows that the number of students participating in NCLB school choice in California to date has been very small. For the one year in which the California Department of Education has provided an estimate of the total number of California students who were eligible to participate in NCLB Choice, 2003-2004, we find that a mere 0.3% of eligible students elected to leave their school.

**Table 1**  
**Number of Students Participating in NCLB School Choice by Year, and as a Percentage of Eligible Students and All K-12 Students**

| <b>Year</b>      | <b>Number of Students Participating in NCLB School Choice</b> | <b>Number of Eligible Students</b> | <b>Percent of Eligible Students Participating</b> | <b>Percent of All K-12 Students Participating</b> |
|------------------|---|------------------------------------|---|---|
| <b>2002-2003</b> | 3139  | N/A                                | N/A   | 0.05%   |
| <b>2003-2004</b> | 3609  | 1124591                            | 0.3%  | 0.06%   |
| <b>2004-2005</b> | 8509  | N/A                                | N/A   | 0.13%   |

Notes: N/A: not available

Sources: 2002-2003 and 2003-2004 data from California's Consolidated State Performance Reports for the given years. Data for 2004-2005 courtesy of Ann Just, California Department of Education.

Why are these numbers so low? Part of the problem is clearly that the timetable for enrolling students in NCLB school choice in the first year that a school is in PI status is completely unworkable. Betts and Danenberg (2004) report that in San Diego the district had approximately a week after new PI schools were announced before fall classes started.<sup>4</sup> In this period they were expected by the law to develop bus routes, advertise them and enlist participants. Reportedly, it took some time for parents at these schools to learn about the choice

option, and many were unwilling to send their child to another school after the school year was already well under way. Such problems have persisted. In 2006, the state Department of Education issued its press release describing annual accountability results on August 31, so it was only then that it became clear which schools had entered and exited PI status.

But by 2006, problems with introducing choice at newly designated PI schools cannot be the main explanation for such low participation rates. Figure 2 shows that of the 37% of Title I schools that were in PI in 2006-2007, 25%, or about two thirds, were in years 2 through 5 of PI status. This means that the majority of schools that are required to offer school choice in 2006-2007 have been doing so for anywhere from one to four years. Even in 2004-2005, the last year for which we have data on participation in NCLB school choice, it is likely that between half and two-thirds of PI schools at that time had already been required to offer busing for 1-2 full years. We infer that timing problems in schools in their first year of PI status cannot be the primary cause of low participation.

Theoretical alternative possibilities for low participation rates are that districts fail to send letters to parents informing them of the school choice program, that the letters do not state clearly that parents can elect to have their students bused to other “non-failing” schools, that many parents whose first language is not English cannot interpret the information in the letters clearly, that districts have had trouble offering sufficient busing services, that there are not enough non-PI schools, or spaces at non-PI schools, to meet parents’ demand, or, finally, that parents, although well informed of their choices, are simply not very interested in having their children bused out of the neighborhood. I know of no statewide studies of any of these questions.

Federal and state policymakers have certainly focused on the possibility that parents at PI schools are not receiving clearly worded invitations from the district to enroll their children in other schools. Districts are required by federal law to send such letters, and the California Department of Education provides templates on its website in both English and Spanish. The templates seem reasonably clear.<sup>5</sup> To this reader's eye, the letter explains PI status, how a school can enter PI status, and the parent's options quite clearly. A weakness of the template is that the California Department of Education, in trying to follow guidelines from the U.S. Department of Education, has produced templates that quite simply lack marketing pizzazz. For instance, it is not until the top of page 3 of the letter that parents are told of the school choice option. One can imagine a parent receiving this longish letter and never making it to the end. A simple fix would be to change the template to list in bold print at the top of page 1 that the student in question has the right to transfer to another school, before getting into the detailed explanation of PI status and its implications.

It is hard to know whether family notification has been a significant problem in many or most districts in California. The U.S. Department of Education has asked the largest districts in the state to provide it with all versions of notification letters. Furthermore, a group of pro-school-choice lawyers led by Clint Bolick sued Los Angeles Unified School District and Compton Unified School District in March 2006 for failing to provide adequate choice provisions to families. Press coverage of the legal complaint by Hoff (2006) makes clear that the Bolick complaints against the two districts are in fact quite different from each other. In the case of Los Angeles, the complaint alleges that parents received notifications late and had only a few weeks to make decisions. In the case of Compton, the complaint alleges that Compton Unified failed to notify parents at all.<sup>6</sup>

Another possibility, that parents whose first language is other than English are reluctant to send their children to schools out of their neighborhood, gains some credence from a recent study of non-NCLB school choice programs in San Diego.<sup>7</sup> The authors model the probability that students apply to each of the choice programs as a function of the characteristics of the student, of his or her local school, and of the schools that the student could apply to in the given program. The analysis shows that English Learner students are significantly less likely to apply to leave their school than otherwise similar students. This result cannot be explained by poor publicity, because the district distributes a detailed choice pamphlet to every district family annually, and includes materials in Spanish. One possible explanation is a lack of adequate information networks among such families.

Ventura County Superintendent Charles Weis reported to me that choice had not yet proven very popular in Ventura County. When I asked him why, he replied: "It's because most people want their local school to be successful, and because they don't find it convenient to get their children across town. Also, choice has its biggest impact when the choice schools have a different program (than the local school). NCLB choice is within the same district and is not distinct. Also the choice schools may have fewer supports for EL and other struggling students than does the local school". He also reported that a lack of spaces at non-PI schools and difficulty in finding busing had not been problems so far.

In Hayward Unified School District, an urban district in the San Francisco Bay area, a mere ten students have opted for NCLB Choice in the 2006-2007 school year. With about half of the district's schools in PI status, these numbers are very low. Hayward's Associate Superintendent of Educational Services, Christine Quinn, believes that the main explanation for low participation is that the district already has an open enrollment policy that adequately meets

parents' needs. By the time the district identifies parents in PI schools, verifies home addresses and sends out notification letters by late September, "people who want to move have already moved," she reports.

The next question is whether public school choice will boost achievement for those who switch. Given the small numbers of enrollees and the need to study the longer-term effects, convincing evidence on the NCLB school choice program is probably years away.<sup>8</sup>

However, the San Diego study cited above does examine pre-existing choice programs in that district. Using "gold-standard" experimental approaches, in which lottery winners' outcome are compared to lottery losers' outcomes one, two and three years after the lottery, Betts and co-authors find little evidence that those who win lotteries to the district's traditional busing program, its magnet program, or its state-mandated open enrollment program, perform any differently than lottery losers on a variety of math and reading tests.<sup>9</sup> The main exceptions are numerous cases in which lottery winners fare worse one year after the lottery, but later recover, perhaps due to adjustment costs when students switch schools, and magnet high schools, where some evidence emerged that lottery winners fared better in math two and three years after the lottery. This study is particularly relevant to NCLB school choice in San Diego because the district implemented NCLB school choice by piggybacking the new program on top of the existing voluntary busing program. Because NCLB school choice in its first few years was identical to the pre-existing voluntary busing program offered by the district, it is highly likely that the results from this experimentally based study will closely mirror the results for NCLB school choice in San Diego, at least through 2003-2004, the final year of the study.

## NCLB SUPPLEMENTAL SERVICES IN CALIFORNIA

NCLB requires that Title I schools in year 1 and higher of Program Improvement status offer choice. In year 2 and higher of PI status these schools must also offer supplemental education services, in other words, tutoring, to students who remain at these schools instead of opting for NCLB Choice. It is clear in California and nationally that NCLB has thus far provided school choice to only a very few of the students who are eligible. This, plus the relatively low cost of Supplemental Services relative to busing, suggests that Supplemental Services could ultimately provide services to far more students than will NCLB school choice.

Figure 2 shows that in 2006-2007, 25% of Title I schools in California are in year 2 or higher of PI status, and therefore are required to offer supplementary services to their students. Table 2 shows recent participation numbers. As for NCLB school choice, the state published the numbers of participants together with the total number of *eligible* students in 2003-2004. Participation rates in that year are not huge, at 7%, but are markedly higher than the 0.3% participation rate reported above for NCLB school choice in that year. The same point can be made in slightly different way by comparing the number of students enrolled in NCLB school choice and Supplemental Services in 2004-2005: only 8,509 California students had enrolled in NCLB school choice compared to 98,403 students enrolled in Supplemental Services.

**Table 2**  
**Number of Students Participating in NCLB Supplemental Services by Year, and as a Percentage of Eligible Students and All K-12 Students**

| <b>Year</b>      | <b>Number of Students Participating in Supplemental Services</b> | <b>Number of Eligible Students</b> | <b>Percent of Eligible Students Participating</b> | <b>Percent of All K-12 Students Participating</b> |
|------------------|--|------------------------------------|---|---|
| <b>2002-2003</b> | 30049  | N/A                                | N/A   | 0.5%  |
| <b>2003-2004</b> | 41198  | 588388                             | 7.0%  | 0.7%  |
| <b>2004-2005</b> | 98403  | N/A                                | N/A   | 1.6%  |

Notes: N/A: not available

Sources: 2002-2003 and 2003-2004 data from California's Consolidated State Performance Reports for the given years. Data for 2004-2005 courtesy of Ann Just, California Department of Education.

Any entity can apply to provide supplemental education services (except for public schools in PI status). The California Department of Education is required to evaluate and approve applications from potential providers. The 2006-2007 application booklet, including instructions and forms, strikes this reader as somewhat daunting, at 28 pages. But most of the information that the Department of Education asks applicants to provide seems reasonable, ranging from letters of reference to details on academic focus, and financial viability. A representative for the applicant must also sign off on a long list of assurances such as "Provider assures that the instruction provided is secular, neutral, and non-ideological." and "Provider agrees to ensure it does not disclose to the public the identity of any student eligible for or receiving supplemental educational services without the written permission of the student's parents." <sup>10</sup>

As of 2006-2007, California's Department of Education reports 286 providers as having been approved by the state. The breakdown of providers is quite interesting. Although most providers are entities other than public schools or school districts, public school districts and

related entities are important providers. Ten county offices of education, 36 districts and 9 schools are among the state-approved providers. Granted, this is only about one seventh of the providers, but it is likely that these public-school providers supply a disproportionate share of supplemental education services. Of the remaining six sevenths of providers, both non-profit and for-profit entities are well represented. California Department of Education figures suggest that overall 42% of providers are for-profit entities.

Betts and Danenberg report that in 2003 San Diego Unified School District administrators went to considerable lengths to find out which of the state-approved supplemental service providers were willing to work in San Diego. At the same time, administrators expressed concern that the state provided districts (and by extension parents) with virtually no information on the capabilities and background of each provider.<sup>11</sup>

A reasonable hypothesis is that if such information bottlenecks still persist, it could reduce the demand for non-district-operated Supplemental Services. As of 2006, the state Department of Education has improved considerably the online information it supplies on each provider. Anybody with a web connection can see the list of providers, along with for each provider contact information, a list of subject areas, grades, times and modes of delivery of services, date approved by the state, and districts currently served. It would be easy to criticize this list as being superficial. But what is provided should still be of considerable help to both districts and parents.

However, online information is missing on many of these items for many of the providers because the new application requirements were put in place after most providers were approved. There is clearly room for further improvement in disseminating information on supplemental service providers, and as providers come up for their renewal every two years the more detailed

application forms now required will lead to better public dissemination of information on providers. Camille Maben, the Director of the School and District Accountability Division of the state Department of Education, and Ann Just, director of Title I for the state, told me that the information will improve in future years, and that they listened carefully to districts' requests for information, while heeding concerns from some of the for-profit providers that they did not want detailed proprietary information on teaching methods posted on the web.

I interviewed Camille Maben and Ann Just regarding what they had heard from the field about how well districts and SES providers were working together. Some SES providers have expressed concern at a lack of district responsiveness, but often have not complained directly to the state Department of Education so much as directly to its federal counterpart. These officials reported that some of the most typical complaints by providers were:

- 1) that the level of liability insurance required by districts was exorbitant,
- 2) that some of the largest districts get notification letters out to parents too late in the school year, and sometimes after SES providers have already held providers' fairs for parents, and
- 3) that some districts do not allow providers to use district property.

The California Department of Education's response to this latter problem has been that if a district has a policy that allows or does not allow outside groups to use school facilities, then this policy, in fairness, must be applied to the SES providers as well.

Variations in the complexity of coordinating SES providers from one district to another may explain why some districts allow providers to use school facilities. One SES provider told me that his organization built a direct relationship with a single school and worked so closely with school staff that administrators freely offered the provider access to the school's facilities

after school. Similarly, in Hayward Unified School District, only seven SES providers signed contracts for 2006-2007 and so it was reasonably simple to allow each provider access to at least certain schools. But in San Diego Unified School District, which by fall 2006 had 37 external SES providers, providers are not allowed onto school sites. Mariam True, Executive Director of Teacher Preparation and Student Support for San Diego, told me that the district had allowed a few providers onto school campuses several years ago when there were only a few providers, but problems quickly cropped up. Use of classrooms sometimes clashed with extracurricular activities or teachers' own preparations for the next day's classes. Sometimes the provider's tutor would not show up and no school staff would be available to supervise the classroom. In a few instances, providers asked school staff to run off copies of the provider's own teaching materials, at the school's expense. But the biggest concern, True told me, that as the number of providers mushroomed to 37, there was no way to assign scarce classroom space in a way that would be seen as equitable. As a result, SES providers mostly work by coming to students' homes or by meeting in other public locations, such as churches.

The state Department of Education, partly in response to frictions it had heard about from both districts and providers, has posted on the web a list of 21 quality assurance factors that SES providers must meet, along with districts' implicit responsibilities to check on these factors in a timely fashion. For example, the state requires districts to provide explicit steps for SES providers to take under a formal complaint process. If provider complaints are not resolved at the local level only then will the state Department of Education intervene.

At the California Department of Education, Camille Maben and Anne Just told me that they have also heard many complaints from districts about failings of SES providers. These include the following:

- 1) Some districts complain of “bait and switch” tactics where what is promised is not delivered.
- 2) Similarly, some providers have failed to send out tutors after signing up students, or have started too late in the school year.
- 3) Some providers have done end runs around district procedures such as going to shopping malls to obtain parent signatures on signup sheets that are supposed to go to the district. This has produced headaches for districts that have to go through these signup sheets name by name, only to find that some students are not even in the district or that they are district students but are not eligible because they are not enrolled in PI schools, or are enrolled in PI schools but are not eligible because they are not low-income students.
- 4) Some districts have complained to the state about what they viewed as excessive incentives being given to families to sign up such as computers and in an extreme case, free trips for four to Disneyland. The state has since issued new regulations that place a cap on the monetary incentives that can be given to families. The issuance of computers caused some districts particular problems because the families sometimes found the computers unreliable or could not afford to pay for Internet Service Providers, and in both cases families sometimes came to the district expecting them to fix these problems.
- 5) Some districts have complained that SES providers bypass rural areas.
- 6) Some SES providers have ignored standard procedures to protect children from potentially abusive situations, for instance, by ignoring requirements that an adult be present if tutors provide in-home tutoring. In another case, a provider was unable to comply with standard background checks because all of the tutors working for an online company lived outside the United States.

Mariam True of San Diego Unified echoed this last concern. She related to me the story of one out-of-state provider that claimed to have done its own background checks of its employers. When district staff saw samples of these background checks, their reaction was that the provider “basically just Googled the people”. Since then this provider has agreed to use the FBI to do criminal checks.

- 7) Inadequate provider quality was another concern that several district and county administrators mentioned to me. In San Diego, Mariam True told me of asking one potential provider for evidence of student progress based on pre- and post-tests. The best the provider could muster was a copy of a high school economics exam, which was puzzling as this provider was proposing to work with elementary school children. She told me that she had concerns about whether the state Department of Education was adequately vetting providers. Hayward Unified’s Associate Superintendent of Educational Services, Christine Quinn, told me similar stories, and concluded, like True, that she is “not convinced that these providers are really doing an advanced curriculum. The biggest problem is a lack of program evaluation by the state. The CDE (California Department of Education) should do more to evaluate providers at the start. For instance, we want to know things like whether the service provider will provide students with work aligned to CST.” (CST is the California Standards Test that has become the backbone of the state’s accountability system.)

Although participation in SES is much higher than in NCLB school choice it is still surprisingly small, which begs the question: “Why?”

Mariam True believes that a lack of providers and poor or late parental notification were not factors in San Diego, where there are now 37 outside providers, and where parents receive in

September a detailed booklet explaining the offerings of each provider, both in text and with a quite handy two-page checklist that allows parents to compare providers. In addition, parents are given three weeks to sign up.

Instead, she cited as the main barrier to greater participation the formal letters of notification as the main villain: “The U.S. Department of Education has a long list of things that need to go into the letters to parents. This is one of the biggest barriers to getting students interested. What I know about getting people to read information is that if it is in simple language and concise they will read it. But if the letter does not get to the point quickly they are going to toss it.”

San Diego has attempted to get the word out to parents more effectively, by mailing its annual booklet describing SES providers in plain English. Indeed the front cover states in large bold type: “FREE TUTORING!”, and the booklet is noticeably lacking in “legalese”. (The booklet is available in other languages as well.)

She additionally recommends that SES be extended beyond students who are eligible for free/reduced-price meals because, at least as of fall 2006, San Diego was still spending only about three quarters of its SES budget. (In spite of intentionally over-budgeting by about \$250,000 last year, actual SES costs came in under budget because many students dropped out of the services.) Her reasoning is that relatively affluent parents at a school become confused as to why other parents in the same school, but not they, are receiving invitations to enroll their children in SES. True argues that it would be better to offer these services to all low-achieving students, and only to resort to income preferences once the program becomes oversubscribed.

In other cases, delays may reduce student interest. Hayward Unified’s Associate Superintendent Quinn stated that her district did have problems getting SES going early in the

school year, and argued that slowness in receiving funding from Sacramento was a big contributor. In 2006, it was not until November that the State Department of Education notified the district of its SES allocation.

Another distinct possibility is that students and parents are not particularly interested in more school work after school. One SES provider in northern California had developed a good relationship with a single school, but withdrew because of inadequate demand from parents. This provider felt that the school had gone out of its way to notify parents, and to obtain buy-in to the after school program to be provided. The school even provided free space after school. However, student interest in staying after school to do more academic work was very low. I asked this same provider if the state's application process seemed too time-consuming. Its representative replied that he thought the screening was necessary, and that it had not been a burden thus far.

This provider's impression, that low demand for SES largely reflects families' unwillingness to participate, was echoed in conversations I had with officials at the California Department of Education. They related that reasons they had often heard for low participation rates include conflicts of after-school programs either with the bus schedule or with the after-school sports program, a lack of enthusiasm among parents with the providers' academic offerings, and the tendency of some students, once enrolled, to dislike the program and drop out.

Apart from the question of participation rates, the main question is whether supplemental tutoring can work. An ongoing RAND Corporation national study should eventually shed some light on this question. In San Diego, we can say something about SES as provided by San Diego Unified School District itself. The study by Betts and Danenberg cited earlier found that the district's own Extended Day Reading Program (EDRP) accounted for 99.9% and 74% of

Supplemental Services provided in 2002-2003 and 2003-2004 respectively. Betts, Zau and King (2005) assess this and other parts of the district's former Blueprint for Student Success and found, using student fixed-effect models, that EDRP had been quite effective in boosting reading achievement in the district.<sup>12</sup> (Ironically, the district has decided to stop participating as a supplemental service provider. One of the reasons was complaints from some external providers who felt that that there would not be enough students left over for them, even though the district has yet to spend a full 5% of its Title I allocation on SES.)

## **NCLB REMEDIES FOR LOCAL EDUCATION AUTHORITIES IN NEED OF IMPROVEMENT**

Districts as well as County Offices of Education that accept Title I money must meet all of the test score and student participation criteria just as individual schools must. Any of these LEA's that fail to meet criteria in the same subject for two years in a row will be placed into Program Improvement (PI) status. As of fall 2006, 162 LEA's were in PI status. Of these, 61 were in the first year and 101 were in their second year.<sup>13</sup>

The state Department of Education expects to have some LEA's entering their third year of PI status in 2007-2008, at which time the state will announce the corrective actions that will be taken. According to Wendy Harris of the Department of Education, no decisions have yet been made on what these corrective actions will be.

What happens when a Local Education Authority (LEA) is designated in need of improvement? Most of the steps are required by NCLB, but California law has also created some additional actions. First and foremost, under federal law, a newly identified LEA has 90 days to produce a new plan of action that incorporates results of a self-evaluation of educational

needs. Next, the LEA must contract with the County Office of Education or another outside provider to verify that the LEA has correctly identified its needs and then to support it as it attempts to improve its educational offerings.<sup>14</sup> The state legislature allows LEA's under PI status to apply for grants of \$50,000 plus \$10,000 per Title I school to help it implement reforms, with this funding available for up to two years per LEA. (Under Assembly Bill 2066, California uses some of its federal 4% set aside funds to finance these grants.)

California provides several tools to help LEA's in the process of self-evaluation. It sends Title I schools and schools with low API scores an "Academic Program Survey" that gauges each school's alignment with nine program components.<sup>15</sup>

The district uses this information together with demographic and test score data and then completes a *separate district-level survey* called the District Assistance Survey (DAS), again designed by the state Department of Education.<sup>16</sup> This survey focuses on the provision of math and English language arts classes, and asks the district how it supports these efforts in terms of curriculum and assessment, professional development and human resources, data-driven monitoring, parent involvement, and several other categories of assistance. The survey is quite detailed, at 14 pages in length, and administrators are expected to consult widely before answering the survey. As the instructions state: "Older students, parents, teachers, administrators, board members, and key community leaders should be consulted to inform DAS results. Use of a representative district group will help build ownership and facilitate needed district changes." The results of this survey are intended to point to areas for improvement as the district (or county office) writes up its own LEA plan.<sup>17</sup>

The answers to the DAS given by a district in PI status must be "verified" by an outside agency, which is typically the county office of education. This external contractor verifies that

the diagnosis of LEA weaknesses and the prescription for reform are both accurate. It then helps the LEA implement the plan.

Is the DAS, which in turn builds upon data from school-level Academic Program Surveys, likely to help districts? This author's impression is that if key district players are united and focused on improving academic outcomes, the detailed self-analysis required to answer the DAS could do much to identify areas of weakness and to generate support for reforms to deal with these weaknesses. However, a district that viewed this exercise as undesirable meddling by outsiders would probably find it quite easy to avoid identifying areas of weakness. There may indeed be strong incentives to do exactly that. If an LEA fails to move out of PI status, one of the potential corrective actions is for the state to remove "local educational agency personnel who are relevant to the failure to make adequate yearly progress", or to appoint a receiver for the LEA. (See California Education Code Section 52055.57.) Clearly, if one felt one's job threatened, there is little incentive to be frank on the survey about the district's greatest weaknesses, especially if one lacked confidence about being able to move the district forward out of Program Improvement status.

Insights provided by Charles Weis, Superintendent of Education for Ventura County, strongly confirmed my hypothesis that the effectiveness of the District Assistance Survey and related planning exercises could range from very high to very low, all depending on the reactions of district leadership. His County Office has worked as an external evaluator for several districts in Ventura County and elsewhere, and in addition he has gleaned lessons from county offices elsewhere in the state:

"I was initially skeptical of the DAS but I have now seen examples of how it really can be helpful. One district we are working with saw PI status as an opportunity to really dig into (finding ways to improve) subgroup support that it had previously ignored. But other districts have said 'Oh God, another report to the state,' and so did not get very far with self-diagnosis. I know of one district where the self diagnosis was found by the external contractor to be wrong. They (district)

administrators had lied to themselves: they had claimed that formative assessments were in place but it turned out really to have been implemented in only one place. They did not see this until the external evaluator came along and pointed out the problem.....Overall, Oxnard High worked its way out of PI status because they viewed it (the reform effort and DAS) seriously. Others in the county are trying to take reform seriously too, but sometimes there are some blind spots. Sometimes districts don't want to dig into pet projects.”

Superintendent Weis' main suggestion for the DAS was for the state Department of Education to supplement it with a menu of reforms for which there was solid evidence of success, and to let the local district choose a reform path from this menu in collaboration with the outside evaluator.

A separate question concerns whether the external evaluator can simultaneously be knowledgeable about the LEA and serve as an independent, arms-length, evaluator. First, suppose that the district hires an evaluator which is truly arm's length in the sense that it has had little experience with the district. This evaluator's lack of inside knowledge could make it very difficult for it to vet the district's responses to the survey and to spot overly rosy responses. Part of the reason for this is that most of the questions in the DAS are quite qualitative. A typical question in the survey reads as follows: “The district clearly communicates with all stakeholders, especially teachers, students, and parents, (e.g., by means of publications, parent information nights, internet, mail, etc.) regarding: standards-based grade-level expectations”. Two rational and well informed people could review whatever evidence is available on such a topic, apply their own standards, and then come to entirely different conclusions about whether the district was accomplishing this goal.

Second, suppose that a district instead hires as an evaluator a contractor that has already done work with the district in the past. In this case, the contractor might be able to spot errors in the district's survey responses, but it might lack the independence necessary to challenge the district.

One district in PI status reported to me that it had hired as its outside evaluator a private-sector contractor that had already been working with the district for several years. The advantage, administrators said, was that the evaluator had been sitting in on key district committees for some time and so really knew how the district reform efforts were set up. But then this raises the question of whether such a contractor has undergone “agency capture”, that is, whether it has come to identify so closely with the district in question that it can no longer objectively identify blind spots in the district’s self-evaluation. I have no evidence on this, but the possibility seems apparent.

The Association of California School Administrators (ACSA) has recently issued 43 recommendations for reform to NCLB.<sup>18</sup> Some of these recommendations shed light on widespread concerns among California school administrators about the treatment of districts in PI status. Among the concerns about NCLB’s approach to LEA’s and schools are that the time given to them to get out of PI status “is far too short, and the timeframes are not founded on scientifically based research”. In addition, the ACSA document argues that “The corrective actions for school districts in particular, are extremely rigid and limiting. NCLB should be amended to add ‘and any other corrective action deemed appropriate by the appointed state agency in consultation with the school district’”.

## **INFORMATIONAL AND ADMINISTRATIVE DEMANDS CREATED BY NCLB, AND THE STATE DEPARTMENT OF EDUCATION’S ROLE**

A key question in California concerns whether the informational demands created by NCLB’s accountability requirements can be met by the various players. Given the focus of this chapter on the response of California as a whole, I focused on the state Department of

Education's ability to meet the demands from parents, schools, districts and the federal Department of Education for information.

As an intermediary, the state Department of Education is clearly in a bind. The problem is perhaps worse in California than in most other states for two reasons. First, California is much bigger than most states, so that a proportionately larger amount of information must be centralized and processed. Second, the U.S. Department of Education has asked California to provide additional information regarding provision of information by districts to parents about NCLB school choice and SES.

Ann Just, the state's director of Title I, painted for me a detailed picture of the demands placed upon her office, which has 11 employees focusing on all aspects of Title I apart from the financial issues. Her office deals with 49 separate tasks related to Title I, only two of which are SES and NCLB school choice. Yet, she says, she could have her 11 staff work full time on SES and choice and it would still not meet the demand. In 2006, these staff participated in 71 compliance reviews around the state, and also spoke at many conferences for administrators, in addition to handling questions that come directly to the Department.

The heaviest burden has come from the U.S. Department of Education, which has asked California to document in detail the efforts being made to notify parents of their rights under NCLB school choice and SES provisions. The U.S. Department of Education has asked the 20 largest districts in the state to provide, via the California Department of Education, templates of their letters of parental notification and timelines for implementation. Ann Just told me that all of her staff did nothing for six weeks in summer 2006 except work with districts on their notification letters. The California Department of Education has been asked by its federal counterpart to write three reports in 2006 to provide updates on district implementation plans and

then to check whether the districts are maintaining their proposed timelines. After the California Department of Education provided district templates in August, it was asked to gather the specific letters from every school, signed by the principal or designee. In addition, the California Department of Education was asked to verify that parents have read the letters.

How do administrators at the county and district levels in California view their interactions with the state Department of Education?

I have already discussed concerns raised by several interviewees that the state issues news of which schools have entered and exited PI status as well as details on allotments of NCLB intervention funds too late in the school year.

Ventura County Superintendent Weis told me that “Our CDE (California Department of Education) is one of the smaller per capita in the nation. It is evident to me that in the case of complex reforms like NCLB that they are not equipped to help schools.” He saw two alternatives. One was to increase staffing at CDE, but his preferred route was to improve coordination between the state Department of Education and the County Offices of Education, and to do more to have each County Office in the state standardize its assistance to districts related to NCLB.

Numerous district administrators echoed concerns that the state Department of Education has not been able to keep up with the need of districts for accurate and timely information on implementation of NCLB. Superintendent Dale Vigil of Hayward Unified School District expressed dismay that he had taken several staff out of the district for an NCLB briefing by state Department of Education officials, only to find that his staff was more knowledgeable about certain aspects of the reforms than were the briefers from the state.

Administrators in several districts reported to me that they would like to get more information on SES providers from the state, that they would like to see stronger vetting of quality of SES providers by the state, and that they would like more timely updates on both process and current regulations from Sacramento. For example, one district administrator told me that after the state had increased reimbursement rates for SES providers, the district learned this fact indirectly from the providers themselves, but was not notified by the State Department of Education itself. This lack of notification embarrassed district staff who had questioned the providers' most recent billing rates.

## **UNINTENDED CONSEQUENCES**

Three key examples of unintended side effects of NCLB seem apparent, and a fourth example has probably not occurred yet, but is likely to as the AYP requirements become stiffer.

The first unintended effect is that the public is greatly confused by the differing visions and terminologies in the state and federal accountability systems. I recently wrote about an attempt by San Diego Unified School District to come up with a unified framework for ranking schools based on their performance in both the state's growth-oriented accountability guidelines and the federal government's approach of absolute standards that increase over time, and to provide one overall ranking of school progress. In addition, the district proposed to use this system to reward top-performing schools with additional flexibility, while providing additional district oversight and assistance to schools performing poorly according to both the NCLB and the state's guidelines.<sup>19</sup> Tellingly, when I presented this idea at a conference in 2004, the superintendent of a California district outside San Diego told me that San Diego's effort, although laudable in intent, was "doomed to fail" because it added yet another layer of

complexity onto a situation that the public finds “hopelessly confusing”. This general refrain that the state and federal systems are incompatible, is heard over and over again. For instance, State Superintendent Jack O’Connell’s annual press releases on state accountability results are notable for the attention they devote to explaining the differences between the two systems. In addition, his 2005 press release makes clear his unhappiness with the way NCLB is implemented. It reads in part:

“It is important to remember the dramatic escalation in the AYP targets when viewing this year’s results,” O’Connell noted. “The dichotomy in the progress reports released today underscores why we support our state API growth model as a more accurate reflection of trends in our schools...”<sup>20</sup> Ventura County Superintendent Weis echoed these concerns. He told me: “The press and radio stations have a hell of a time understanding the difference between the state and federal systems. How do we explain to the public that a school has made big gains in API but the federal government (system) says that this school is in Program Improvement?”

Ironically, although California was one of the states calling most loudly for the U.S. Department of Education to move from an absolute standards model to a growth model, when the latter recently allowed states to apply to create an alternative “growth” model of accountability, California did not even apply. The federal authorities decided that growth models should be student-based, and California is not in a position to do this because it has dragged its heels on creating a longitudinal system that follows individual students’ progress over time, as students switch among schools and districts.

A second unintended consequence of NCLB that has emerged is that it apparently clashes with the federal Individuals with Disabilities Education Act (IDEA). The latter law requires that students with disabilities be given access to modifications during any testing period. Examples

include giving these students additional time or reading questions aloud. NCLB states that students who receive such accommodations cannot be counted as having participated in NCLB testing. Recently, San Diego's newly appointed Superintendent, Carl Cohn, spoke out forcefully against this policy. In an op-ed, he told the story of a local school with high test scores and high participation rates that was labeled as "failing" because these students' tests were discounted, causing the percentage of students with disabilities who had officially participated in testing to fall below the 95% requirement. Cohn writes:

"For most people, this outcome must be hard to believe. Who could imagine that bureaucrats in the U.S. Department of Education would have the power to erase from existence the hard work of disabled children in Mira Mesa? Who would then suspect that this decision would have the power to ruin the hard work of an entire school community?"<sup>21</sup>

This problem does not appear to be isolated to San Diego. The Association of California School Administrators (ibid, 2006) recommends that a reauthorized NCLB should "allow students' scores who test with 'modifications or accommodations' as allowed by IDEA, to count toward the participation rate". Similarly, they argue that students with disabilities should have until age 21 to be counted as high school graduates.

A third unintended consequence of NCLB stems from the fact that the composition of some student groups is malleable over time. For instance, it is clear that many schools will not make the 100% proficiency target for English Learners in 2013-2014 because many of these students will have just arrived in the country, with little knowledge of English. Similarly, as the best-performing students exit from English learner status, it will mechanically lower the proficiency levels of the remaining group, erroneously implying that the school is doing worse over time with students in a given group. This problem has partially resolved itself because the U.S. Department of Education allows districts to exempt English Learners for up to three years. But this accommodation does not completely eliminate the problem: in California the vast

majority of English Learners have not improved their abilities in English to the point of being redesignated as Fluent English Proficient within their first three years of schooling.

A related but more disturbing aspect of NCLB's definition of subgroups is that it sometimes creates a perverse incentive for administrators not to re-label students, for fear of the percentage of students who are "proficient" falling below the state's requirements to make AYP. Such problems could cause schools to resist redesignating students. Conversely, schools that have acted faithfully to redesignate students whose achievement has grown sufficiently could in theory have been cast into PI status, solely as a result of these redesignations lowering the percent proficient for the subgroup. Both of these issues deserve further study.

The Association of California School Administrators in a study cited above notes its concern about this general problem, and states that "Dropping students out of a subgroup when they attain academic proficiency mitigates against schools and school districts reaching the 100% proficiency goal. Students who have been identified as English learners or in need of special education services should remain in the subgroup for NCLB accountability purposes 'only,' even after they have reached proficiency achievement levels." The sentiment of this recommendation sounds reasonable, although one could easily quibble over whether redesignated students should forever be counted in the English learner or special education subgroups, or only for a limited time, say, two years after being redesignated.

A fourth unintended consequence was mentioned to me by Charles Weis, Superintendent of Education for Ventura County. He suspects that as more and more schools fall into PI status, and assuming that more students begin to leave for the non-PI schools, enrollment will shrink at PI schools and grow at non-PI schools. Districts will be forced to transfer teachers at those PI schools to the very non-PI schools receiving students under NCLB school choice. In other

words, teachers at failing schools will begin to follow in the footsteps of their students as they switch to schools with high test scores. If the drafters of NCLB anticipated that choice would allow students at PI schools to escape their teachers, in some sense this may not be entirely correct.

## **CONCLUSION**

It is still too early to tell how NCLB-mandated school choice, Supplemental Services, and district remediation will affect student achievement. In California the state seems to be implementing district remediation, choice and Supplemental Services with good intentions. Of course, good intentions do not earn a state a grade of A+, or a Gold Star as suggested in the title. However good the intentions, capacity problems in Sacramento, timing problems, and a lack of parent interest have limited the growth and effect of these interventions. To answer convincingly the question “Have these interventions provided a big boost to student achievement?”, one needs to know participation rates and the effect on participants. In both the Supplemental Services and especially the NCLB school choice programs, student participation is still quite low. The low participation rate for the latter program, at 0.1% of all K-12 students in 2004-2005, is particularly worrisome.

Evidence on the effect on actual participants in NCLB school choice programs is fragmentary at present. Aforementioned experimental analysis in San Diego raises doubts about school choice by itself to boost achievement.

But even if the effects on individual students were sizeable, NCLB school choice is clearly at risk of becoming almost irrelevant to student achievement statewide. The reason is simple: almost nobody is participating. Administrators I interviewed did not mention a lack of

buses, a lack of slots at non-PI schools, or a lack of funding as barriers. Instead, what I repeatedly heard was that it is quite difficult to get parents and their children interested in choice programs.

Parents' confusion about the divergent methods and vocabulary of the state and federal accountability systems could perhaps explain why so few parents are signing their children up for school choice. Several quotations above obliquely support that argument. However, the U.S. Department of Education has allowed a handful of states to use student-level gains in achievement as an alternative way of measuring Adequate Yearly Progress. California's system, established in 1999, is also a gains model, but it defines gains at the school level rather than the student level, and so, California is unable to participate in this student-level trial. For this, California has only itself to blame, as it has resisted moving to a system of statewide student identifiers, and truly longitudinal information, for some time. This problem may resolve itself by roughly 2008, as the state is tentatively promising to create such a system.

The picture seems less bleak for Supplemental Services, thanks to much higher participation rates. In 2003-2004, 7% of eligible students statewide were participating, which amounted to 0.7% of all K-12 students. In 2004-2005, participation more than doubled to 1.6% of all K-12 students. But questions remain about whether there is an adequate supply of providers, especially in rural areas, and some administrators raised questions about the quality of at least a few of the providers, and at the same time called for more full vetting of potential providers by Sacramento.

As for NCLB choice, little research evidence on the effect of SES on test scores currently exists. In San Diego, evidence from earlier work by myself and co-authors uses quasi-experimental analysis of the district's own after-school reading program, which dominated SES

provision in the first few years of NCLB. The results imply that at least initially SES in San Diego was probably quite effective.

Is Sacramento devoting enough resources to oversee NCLB? This author finds it hard to believe that in a state with 6.3 million students the California Department of Education can adequately handle all questions when it devotes only 11 staff to non-fiscal aspects of Title I. Several district interviewees told me that it has sometimes proven quite difficult to get answers to implementation questions from Sacramento. However, it would clearly be a huge misrepresentation of the situation to describe the parts of California Department of Education that deal with NCLB as a huge and unresponsive bureaucracy. Those in Sacramento who are responsible for administration and oversight are a surprisingly small group. It seems clear to this writer that more people are needed. None of the interviews conducted for this paper yielded any hints as to whether more personnel in Sacramento could alone solve the bottlenecks, or whether there are more fundamental issues.

Bringing county offices of education in to help districts interpret regulations and troubleshoot, but in a way that was coordinated statewide, could also help.

Compounding matters, California has received special scrutiny from the U.S. Department of Education regarding compliance of districts regarding parental notification of students' rights to NCLB school choice and Supplemental Services. The workload this has created for the California Department of Education has clearly been large, with these compliance checks crowding out much of the other Title I work that the state Department is required to do. Will all of this pay off? If we see marked increases in participation in NCLB choice and SES in the next few years, the case could be made.

But the sharp focus on parental notification neglects other barriers that could be equally or more important. As numerous district employees and an SES provider told me, the truth seems to be that even with adequate parental notification, it really is quite hard to convince parents to enter these programs.

California, as an extremely large state, does not seem to have created clear channels of communication on issues of NCLB implementation and compliance between districts, county offices of education, Sacramento and Washington. Players in each of these locations might find it tempting to “blame the other guy”. Indeed, most but not all of the district and county administrators with whom I spoke raised concerns about the California Department of Education’s ability to convey rules on implementation to districts. But to claim that this is “just a Sacramento problem” would be highly simplistic. As noted, more should be done to bring county offices of education in as intermediaries between the state and the local districts.

Neither is Washington blameless. Several of the people I interviewed around the state felt that the enforcement of NCLB provisions by D.C. has been needlessly heavy-handed. One administrator told me that it makes sense to set standards and let the local agencies define the processes, but it does not make sense both to define standards and then to define the program interventions that every district must implement, regardless of the local context. Another administrator in a different part of the state made a similar point: “Washington should focus less on process and more on outcomes”. Or as another administrator in a different location put it more bluntly: “There is micromanagement (from D.C.) that goes almost beyond comprehension.”

Congress is moving towards reauthorization of NCLB, perhaps as early as 2007, and one of the goals of this volume is to provide suggestions for fine-tuning NCLB. In conclusion, here are some of the ideas that have emerged from my conversations around the state:

- The NCLB choice program risks becoming irrelevant because of the extremely small student participation both in California and nationwide. The U.S. Department of Education has launched an audit of the notification letters being sent home by the largest California districts. But many other obstacles could prove to be more important. All the institutional fixes in the world will achieve little if parents truly do not care for school choice of the NCLB flavor. One option would be for the U.S. Department of Education to perform a survey of parents who have refused offers to enroll their children in NCLB choice to find out what the barriers might be.
- Short lead times for parents offered NCLB school choice has clearly been a problem. So, a revised law could formally allow states or individual districts to implement SES in the first year that a school falls into PI status, leaving NCLB choice, which takes much longer to plan and implement, for year 2. Such a change would generalize the exceptions that the U.S. Department of Education has started to make in this regard for some locales.
- The U.S. Department of Education could move away from its insistence on detailed and formal letters of parental notification that students are eligible for SES or NCLB school choice. Instead, it could encourage and even *require* districts to adopt simpler notification forms that get to the point quickly and in plain language.
- Camille Maben of the state Department of Education reported to me that everywhere in California administrators ask her what is known about the effects of Choice and SES on student achievement. The U.S. Department of Education, to its credit, has contracted

with the RAND Corporation to conduct a rigorous evaluation of this question in a limited number of districts around the nation. It should be simple and relatively inexpensive, relative to the cost of the SES and NCLB school choice programs themselves, to commission additional analyses from researchers who have worked both with states and individual districts.

- The U.S. Department of Education could consider providing more guidance on district-level reforms that have been scientifically proven to boost achievement, and to provide information on these proven interventions both to the state departments that authorize SES providers and to the parents who must choose between SES providers.
- We could address concerns in Washington that not enough students are availing themselves of SES and especially NCLB choice by dropping the stipulation that these services are to be targeted to low-income students in failing schools, and instead, making them available to *all* low-achieving students in these schools. Mariam True of San Diego Unified pointed out that such a change would enhance SES programs for the additional reason that parents would be less confused about who and who was not eligible to participate. To retain some of the original flavor in the current law of directing services towards low-income students, a mechanism could be put into place so that if and when a program became oversubscribed, first priority would go to low-income applicants, with lotteries assigning spots as needed. After all, not all low-achieving students live in poverty, and our end goal is to leave, quite literally, no child behind.

## ENDNOTES

---

<sup>1</sup> One notable exception is the California High School Exit Examination (CAHSEE), which California has designated as an additional educational goal under NCLB. Originally announced as a binding requirement on the graduating class of 2004, the state announced in mid 2003 that in order to graduate in 2004, students need not have passed the CAHSEE. Since that time, the exam standards have been slightly watered down, and in spring 2006, for the first time, grade 12 students were prevented from graduating if they had yet to pass the revised CAHSEE.

<sup>2</sup> McCabe, Melissa, "State of the States: Overview," *Education Week*, 2006. Specific table downloadable from <http://www.edweek.org/media/ew/qc/2006/17sos.h25.sa.pdf>.

<sup>3</sup> McLaughlin, D., and Bandeira de Mello, V., How to Compare NAEP and State Assessment Results: NAEP State Analysis Project. Paper presented at the National Conference on Large-Scale Assessment, June 18, 2005. San Antonio, TX.

<sup>4</sup> See Julian R. Betts and Anne Danenberg, "San Diego: Do Too Many Cooks Spoil the Broth?" in *Leaving No Child Behind? Options for Kids in Failing Schools*, eds. Frederick M. Hess and Chester E. Finn (New York: Palgrave MacMillan, 2004). Given the short timeframe of one or two weeks which California districts have between the announcement of new PI schools and the start of the school year, Betts and Danenberg therefore suggested that the U.S. Department of Education consider requiring that schools offer Supplemental Services in the first year that they are deemed in need of improvement and the more difficult to organize choice program in year two. The Department of Education has recently authorized several states to experiment with this approach.

<sup>5</sup> The state's template for parental notification can be found at <http://www.cde.ca.gov/ta/ac/ti/documents/1parenttempdist.doc>.

<sup>6</sup> This account is based upon David J. Hoff, "Complaint Targets NCLB Transfers in Calif. Move is Step in Campaign to Include Private Schools in Law's Choice Provisions," *Education Week*, March 29, 2006.

<sup>7</sup> Julian R. Betts, Lorien A. Rice, Andrew C. Zau, Y. Emily Tang, and Cory R. Koedel, *Does School Choice Work? Effects on Student Integration and Achievement*, (San Francisco: Public Policy Institute of California), 2006.

<sup>8</sup> Some of the first evidence is likely to come from the RAND Corporation, which is under federal contract to evaluate the effects of both NCLB school choice and Supplemental Services in a sampling of districts nationwide.

<sup>9</sup> Julian R. Betts, Lorien A. Rice, Andrew C. Zau, Y. Emily Tang, and Cory R. Koedel, 2006, op cit.

<sup>10</sup> This description is based on the California application form available at <http://www.cde.ca.gov/ta/ac/ti/documents/suppapp06.doc>.

<sup>11</sup> Julian R. Betts and Anne Danenberg, 2004, op cit.

<sup>12</sup> Julian R. Betts, Andrew C. Zau and Kevin King, *From Blueprint to Reality: San Diego's Education Reforms*, (San Francisco: Public Policy Institute of California), 2005.

<sup>13</sup> There are no districts or county offices in third year of PI status because the state and federal Departments of Education disagreed about the optimal way to identify PI districts in 2004-2005. The disagreement hinged upon the California Department of Education's decision to focus on the economically disadvantaged subgroup, while the federal law states that if an LEA fails to make AYP in a given subjects for two years in a row *in any student subgroup*, it must be labeled as in need of improvement. As a result, the state's initial list of 14 LEA's from 2004 increased by 141 LEA's in April 2005 based on the guidance of the federal Department of Education. Because of this late notice, LEA's that were designated as PI in 2004-2005 were deemed to be entering their first, rather than second, year of PI status in fall 2005.

<sup>14</sup> For details see California Education Code Section 52055.57 available at <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=52001-53000&file=52055.57>.

<sup>15</sup> See for instance the elementary school survey at <http://www.cde.ca.gov/ta/lp/vl/documents/egaps.doc>.

<sup>16</sup> The District Assistance Survey can be found at <http://www.cde.ca.gov/ta/lp/vl/documents/distassistsrvy1.doc>. The nine components include the degree of alignment of curriculum with state content standards, adherence to suggested minimum times per day for math and English language arts, indicators for whether the school's principal has completed the state-mandated training program, measures of teacher professional development, indicators for whether the school uses testing every 6 to 8 weeks to feed back into instructional lesson plans, measures of content support for teachers, the degree of principal-led collaboration, the use of pacing schedules, and the extent to which the school can pay for the elements of its plan. The Academic Program Survey is similar for middle and high schools.

---

<sup>17</sup> California is also a pilot program in four districts in 2006-2007 an expanded system in which teams from county offices of education work with senior district administrators to find ways to focus available categorical funds on the schools most in need.

<sup>18</sup> Association of California School Administrators, *Recommendations for the 2007 Reauthorization of The No Child Left Behind Act* (Sacramento, CA: Association of California School Administrators, 2006).

<sup>19</sup> See Julian R. Betts, "The Promise and Challenge of Accountability in Public Schooling," in *Urban School Reform: Lessons from San Diego*, Frederick M. Hess (Ed.) (Cambridge, MA: Harvard Education Press), pp. 157-176, 2005.

<sup>20</sup> See <http://www.cde.ca.gov/nr/ne/yr05/yr05rel103.asp>.

<sup>21</sup> Carl Cohn, "Kids Don't Count: What Happens When Washington Decides How to Count Kids?" *San Diego Union Tribune*, September 29, 2006 available at [http://www.signonsandiego.com/uniontrib/20060929/news\\_lz1e29cohn.html](http://www.signonsandiego.com/uniontrib/20060929/news_lz1e29cohn.html).