

No Child Left Behind: The Legal Requirements

Brad Banasik

MASB Legal Counsel

2002 MASB Annual Fall Leadership Conference

Adequate Yearly Progress

- 1994 Reauthorization of ESEA called for states to establish standards for determining adequate yearly progress (AYP) in schools.
- Adopted in 1997, Michigan's standards require schools to show that either 75% of their students scored in the proficient category on the MEAP in all four subjects or that there was adequate improvement in all four subject areas from the previous year.

AYP & NCLB

- NCLB tied AYP to accountability.
- If a school district or school fails to make AYP for two or more consecutive years, it is subject to specific interventions, which become increasingly more rigorous as failure to meet AYP persists.
- When the Department of Education released a list of schools failing to meet AYP, Michigan topped the list with 1,513 schools.

Failing to Meet AYP

- Develop school improvement plan.
- “Promptly” notify parents.
- Provide option to transfer (pay transportation).
- Offer supplemental educational services
- Replacing staff, instituting new curriculum, decreasing school management authority, appointing outside experts, extending school day or year, or restructuring internal organization.
- “Alternative Governance.”

Notification to Parents

- Explain “identification” (include reasons) and describe how the district will address the problem.
- Comparison with schools in district and state.
- Explanation of the parents’ option to transfer their child to another school (2 years) or to obtain supplemental educational services (3 years).
- Description of how parents can become involved. If subject to restructuring, provide opportunity to comment and participate in restructuring plan.

Supplemental Educational Services

- Includes tutoring, remediation, and academic intervention services, which take place outside the regular school day.
- May include public or private school, post-secondary institution, non-profit or for-profit organization, or faith-based organization.
- State identifies acceptable providers, schools provide parents with information on the availability of supplemental education services.

“Alternative Governance”

- Reopen the school as a charter school.
- Replace all or most of school staff relevant to failure to make AYP.
- Contract with outside entity to operate school.
- Turn operation of school over to state (if state agrees).
- Any other major restructuring of school’s governance arrangement that makes fundamental reforms.

Rethinking Michigan's Standards

“Schools identified as needing improvement in Michigan will not be expected to implement the [corrective action and restructuring] requirements until they receive further notification. Check the MDE web page for updates at www.michigan.gov/mde.”

Michigan Department of Education

September 10, 2002

Parental Involvement

- School districts receiving Title I must develop and communicate a policy for promoting parental involvement in program implementation, school review, development of improvement plans.
- Parents also must be notified of and involved in the development and ongoing review of the local parental involvement program and governing policies.

Parental Involvement

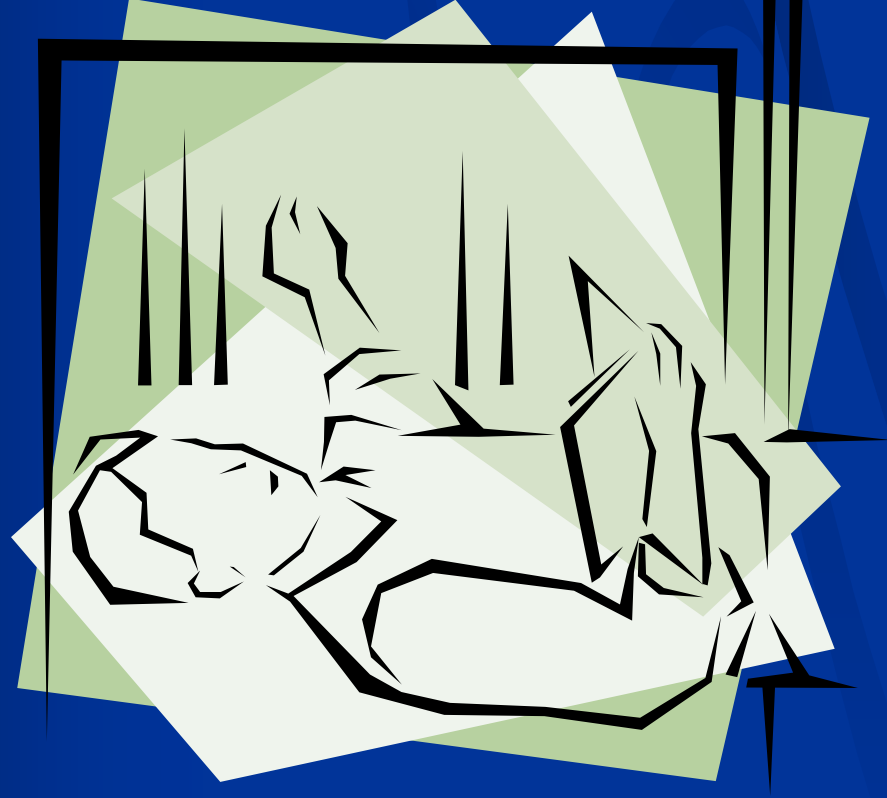
- Hold at least one annual meeting for Title I parents.
- Offer a flexible number of meetings.
- Provide Title I parents with information about the programs, a description and explanation of the curriculum, forms of academic assessment and, if requested, opportunities for regular meetings to discuss the education of their child.
- Develop a school-parent compact that outlines the responsibilities of each party for improved student academic achievement.

Parental Notification: Report Cards

- Whether the district's schools are making AYP.
- The number and percentage of schools identified for school improvement.
- How long the schools have been so identified.
- How students achieved on MEAP tests compared to students in the state as a whole.
- For each school in the district, whether the school has been identified as for school improvement and how the achievement of the school's students on MEAP tests compare to those in the district and the state.

Parental Notifications: Teacher Qualifications

Districts receiving Title I funds are required to notify parents at the beginning of each school year that they may request and obtain information from the district about qualifications of staff instructing their child.



Information must include:

- Whether the teacher has met state qualification and licensing criteria for the grade levels and subject areas taught.
- Whether the teacher is teaching under emergency or other provisional status.
- The baccalaureate degree major of the teacher and any other graduate certification.
- Whether their child is provided services by a paraprofessional and, if so, their qualifications.

Parental Notification: Individual Achievement on MEAP

- Title I schools must provide each parent with information on the achievement level of their child on each of the state academic assessments (MEAP tests) as soon as is practicably possible after the test is taken.
- Must also give timely notice to parents if their child has been assigned to or has been taught for four or more consecutive weeks by a teacher who is not “highly qualified.”

Parental Notification: Limited English Proficiency Programs

- School is using federal funds to provide a language instruction education program for children with limited English Proficiency (LEP).
- Must provide special notification to parents of each child identified for placement in such a program no later than 30 days after the beginning of each school year or after the date of identification.

LEP Notice must include:

- Why the child is placed in the program.
- The child's level of English proficiency.
- How that level was determined and the status of the child's academic achievement.
- Methods of instruction in the child's program as well as other programs.
- How the program will meet the child's educational needs and help him/her learn English and meet grade promotion and graduation requirements.
- Right to remove the child from the program.

Parental Notification: Safe and Drug-Free Schools Programs

- A district receiving safe and drug-free school program funds must inform and involve parents in violence and drug prevention efforts.
- A district must make reasonable efforts to inform parents of the content of safe and drug-free school programs and activities other than classroom instruction.
- If a parent objects in writing, the district must withdraw the student from the program/activity.

Parental Notification: National Assessment of Educational Progress

- Parents of students selected to participate in any NAEP assessment must be informed before the assessment is administered that their child (1) may be excused from participation for any reason, (2) is not required to finish any assessment and (3) is not required to answer any test question.
- Make reasonable efforts to inform parents and the public about their right to access all assessment data (except personally identifiable information), questions and current assessment instruments.

Parental Notification: Military Recruiter Access

- Districts must notify parents of secondary school students that they have a right to request that their child's name, address and telephone number not be released to a military recruiter without their prior consent.
- NCLB and the Patriot Act require schools to provide military recruiters with this information unless advised otherwise by a student's parents.

Parental Notification: Homeless Students

- Choices of schools that the homeless student is eligible to attend.
- No homeless student is required to attend a separate school for homeless students.
- Homeless children must be provided transportation services, educational services, and meals served through school meal programs.
- Contact information for the local liaison for homeless children.

Parental Notification Policies:

Student Privacy

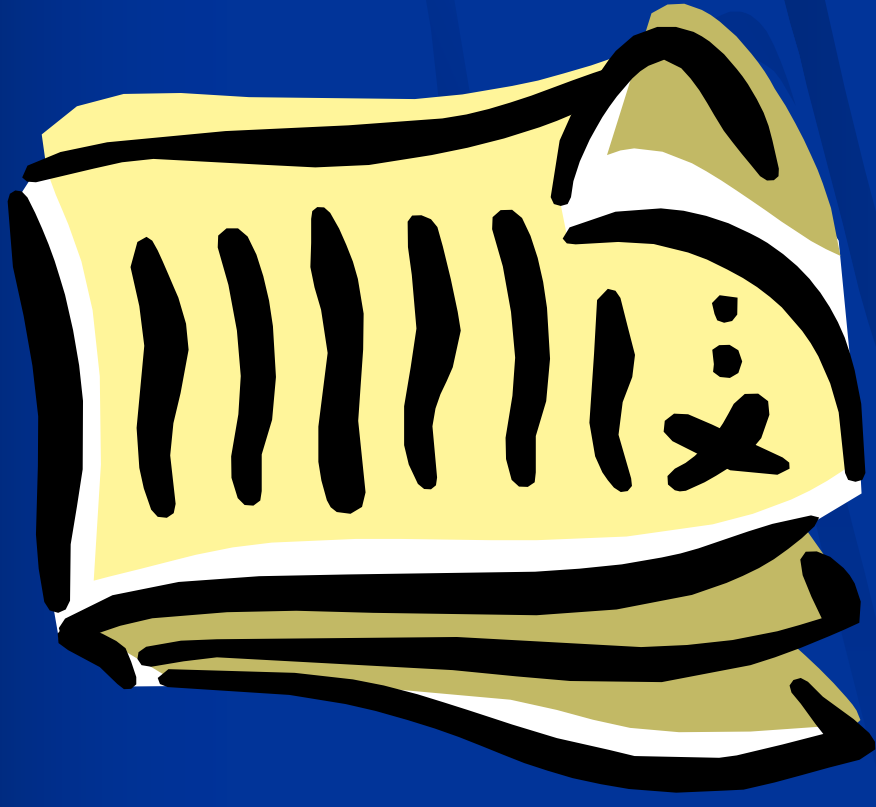
- Rights of parents to inspect third party surveys before they are distributed to students.
- Measures to protect student privacy when surveys ask for certain sensitive information.
- Parental right to inspect any instructional materials.
- Physical examinations or screening of students.
- Collection, disclosure or use of personal information from students for the purpose of marketing or selling that information.
- Parental right to inspect any instrument used to collect personal information before it's distributed to students.

Annual Notice: Student Privacy- Dates of the following activities:

- Activities involving the collection, disclosure or use or personal student information for the purpose of marketing or selling that information.
- Administration of surveys containing requests for certain types of sensitive information.
- Any non-emergency, invasive physical examination that is required as a condition of attendance, administered by the school, scheduled in advance and not necessary to immediately protect students.

Parental Notification: Waiver Request

If a school district requests the U.S. Secretary of Education to waive any provision of NCLB, it must provide notice and information about the waiver to the public in the manner in which it customarily provides public notice.



Ban on Indoor Smoking

- Prohibits federal, state or local agencies from permitting smoking in indoor facilities owned or leased by schools.
- Establishes civil penalties of up to \$1,000 per day for noncompliance.
- Punishes only the responsible agencies. Does not impose penalties directly on individuals who smoke in prohibited locations.

School Prayer

- The U.S. Secretary of Education is required to annually publish guidance on the current state of law regarding constitutional protection for prayer in public schools.
- Schools must annually certify to the DOE that they have no policies that would prevent or deny participation in constitutionally protected prayer.

Boy Scouts

- NCLB prohibits school districts that have established a “designated open forum” or “limited open forum” in their facilities from denying the Boy Scouts the use of school facilities solely on the basis of the Boy Scout’s membership or leadership criteria, or oath of allegiance to God and country.
- The act states it is not to be construed to require schools to sponsor the Boy Scouts.

School Choice for Safety

- States are required to have a uniform policy allowing students who attend a “persistently dangerous” public school or who become victims of a violent criminal offense on school grounds, to transfer to a “safe” public school.
- Michigan’s DOE will define “persistently dangerous schools,” in consultation with representatives of the law enforcement community.

Student Discipline & Safety

- Schools must have appropriate and effective school discipline policies that prohibit disorderly conduct, the illegal possession of weapons, the illegal use, possession, distribution, and sale of tobacco, alcohol, and other drugs.
- Schools must also have security procedures at school and while students are on the way to or from school and a crisis management plan.

Code of Conduct- states responsibilities of students & teachers in maintaining a classroom environment that:

- Allows a teacher to communicate effectively with all students;
- Allows all students in the class to learn;
- Has consequences that are fair and developmentally appropriate;
- Considers the student and the circumstances of the situation; and
- Is enforced accordingly.

Sex Education- Federal funds cannot be used to:

- Operate programs that distribute any kind of contraceptives.
- Distribute obscene materials on school grounds.
- Fund courses or the development or distribution of materials that are designed to promote or encourage sexual activities.
- Fund sex education (or HIV prevention education) in schools unless such program is age appropriate and emphasizes abstinence.

Paraprofessional Qualifications

- Requires all paraprofessionals (teacher aides) hired after the act's enactment to have at least a high school diploma, *and* have either:
 - (1) 2 years of study at a post-secondary institution;
 - (2) obtained an associate's or higher degree; *or*
 - (3) pass a proficiency test.
- All current paraprofessionals must currently have a high school diploma & meet these standards by 2006.

Paraprofessional Qualifications

- School principals must attest annually in writing that their schools comply with the new qualification standards for paraprofessionals.
- The act does not address what school district employers may do with paraprofessionals already on staff who fail to meet qualification standards by the act's deadlines.

Stay Tuned!!!!

- Look for a full-day MASB workshop on NCLB.
- Sample policies are currently being developed by MASB Policy Services.
- Look for updates at www.masb.org or www.michigan.gov/mde.
- Additional Questions: (517) 327-5900, ext 232 or bbanasik@masb.org.