

The



# "No Child Left Behind"

Act  
(PL 107-110):

Opportunities for America's Educational Service Agencies

An Analysis Presented to the  
Association of Educational Service Agencies

May 1, 2002

# Foreword

In March of this year, the Association of Educational Service Agencies spoke with me about doing a study of opportunities offered by PL 107-110: The “No Child Left Behind” Act from the perspective of an educational service agency. Of specific interest were opportunities for ESAs to expand or initiate programs, both to increase their value to schools, communities and the State Department of Education, and to have access to the increased federal funding the Act provides.

Several fine summaries and analyses of the Act exist. The Act in its entirety is available on the U.S. Department of Education web site, [www.ed.gov](http://www.ed.gov). However, the analyses are generally written for a K-12 school audience and only lightly touch upon federal programs that might not traditionally be viewed as part of a local school mission. Examples include the programs for homeless children, the emphasis on partnerships with nonprofit community-based organizations and “other public and private entities” called for in the 21st Century Community Learning Centers, family literacy, and the early childhood preparatory programs...programs that may be “naturals” for ESAs to explore and support.

The purpose of this report then is to view PL 107-110, the No Child Left Behind Act, from the perspective of educational service agencies, exploring opportunities for new or expanded directions in programming and new sources of funding. I have not intended to write a scholarly analysis, though citations to the original Act are included throughout the analysis.

Rather, the report offers ESA administrators and their staffs a quick and easily read introduction to the legislation, to pique their interest in opportunities the legislation affords, and to guide their way into a more extensive study of the Act itself.

As an informal companion to the recently researched legal brief by Brustein & Manasevit (see [www.aesa-serves.org](http://www.aesa-serves.org)) on the eligibility of ESAs to access PL 107-110 funding, I hope the report will be useful. I have appreciated very much the challenge of writing it.

Lastly, I must say that as revolutionary and monumental as this Act is viewed to be, it seems nearly every one of its programs has already been initiated and/or supported by an ESA somewhere in this country. I would suggest that a compendium of ESA resources (those who have already “been there, done that”), organized by programs in the legislation, would be a very welcome document.

Kay E. Graber  
KG Communications  
Cedar Rapids, Iowa

# Introduction

PL107-110: The “No Child Left Behind” Act of 2001, is a reauthorization of the Elementary and Secondary Schools Act. However, it provides significant increases in flexibility, accountability and funding; in fact, Congress has increased funding 18 percent for the 2002-2003 school year alone (from \$18.6 to \$22.1 billion). Opportunities for innovation exist, but they must be based on “scientifically-based research” and best practices for increasing student achievement.

The legislation was signed into law January 8, 2002, and will remain in effect for six years. Requirements for noncompetitive formula programs, such as Title I, begin July 1, 2002. Complete implementation of all programs in the legislation, however, will require some rule changes at the federal level. These must be completed by the U.S. Department of Education by January, 2003, and can be tracked on its website, [www.ed.gov/offices/OESE/esea](http://www.ed.gov/offices/OESE/esea).

An outline of the Act is attached as an addenda to this report. However, the report will not go into detail regarding components and formulas for grant proposals, requirements for program accountability, and the amount of funding attached to each program. Rather, it will outline thematic opportunities for educational service agencies to provide programs, collaborate with others, and access funding offered through the legislation, with references to specific sections of the Act for details (See [www.ed.gov/legislation/ESEA02](http://www.ed.gov/legislation/ESEA02)).

Basic themes which emerge throughout the Act are as follows:

- The major goal of the Act is, without a doubt, **increasing student achievement and performance of all students**; hence, the “No Child Left Behind” title. This is to be accomplished by programs targeted at the “disadvantaged student” including those who are economically deprived, those with limited English proficiency, those at risk because of ethnic or geographic barriers, children from minority families, immigrant children, delinquent youth, those who are not safe, homeless children, and those with disabilities. Programs cover students from 3-5 years of age, and those 5-17 years of age.
- The expectation is that all students can and will learn, and that appropriate measures exist or can be developed to demonstrate that learning. **Accountability** is ratcheted up considerably, including the much publicized annual tests for children in grades 3 through 8.
- All instructional and affective programs are to be **“based on scientifically-based research.”** In other words, accountability lies not only in the results of testing but also in the selection of well researched program content and methodology.
- There is great emphasis on **flexibility and choice**, but that flexibility is somewhat selective.

In general, it relates to reduced paperwork for applications and reports, the combination of funding streams, the freedom from requirements for charter schools, and the “equitable participation of private school students and teachers.” If corrective action isn’t taken by low performing schools within a given period of time, parents have the choice of other providers with funding following the student.

- There is also an **emphasis on process**, requiring funding recipients to demonstrate how they intend to develop, implement and evaluate programs and to define efforts for public input.
- Parents receive due recognition, with consistent calls for “**parental participation**” and even for direct instruction for parents, specifically with “family literacy” programs and instruction in English proficiency.
- Nearly every program provides for extensive **professional development for teachers, principals and support staff**, including the **dissemination of best-practice models**. Certification and training for paraprofessionals are required, and professional development is extended to those administering and staffing early childhood programs.
- Many programs call for “**coordination with community groups and coalitions**,” and some allow such groups to be fund recipients.
- As usual, nearly all **funding is designated “to supplement and not supplant”** funding for existing programs. Percentages allowed for administrative purposes range from one to five percent.
- In nearly all programs, the **funding flows through to SEAs** and then is sub-granted to local educational agencies and other entities within the state.

ESA eligibility for federal education funds, even if the ESA is a potential and even logical provider for the programs, is always an issue. The “No Child Left Behind” Act specifically mentions ESAs as potential fund recipients in four places:

- Under Part A of Title I —Improving the Academic Performance of the Disadvantaged, Sec. 1111 (c-5): Other Provisions to Support Teaching and Learning, it reads “where *educational service agencies* exist, the State educational agency shall consider providing professional development and technical assistance through such agencies,…”
- Under Part A of Title I, Sec. 1116 (4-B-iv-II) Technical Assistance—Specific Assistance, it reads “(iv) may be provided... (II) by the State educational agency, an institution of higher education, a private not-for-profit organization or for-profit organization, an *educational service agency*, or another entity with experience in helping schools improve performance.”
- Under Title I, Part A, Sec. 1117 (a-4-A-iv), it reads “Devising additional approaches to providing the assistance described in paragraph (1), such as providing assistance through institutions of higher education and *educational service agencies* or other local consortia…”

- Under “Title IX, Part A, Sec. 9101 Definitions (17), it reads: “EDUCATIONAL SERVICE AGENCY—The term ‘educational service agency’ means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local education agencies.”

The definitions continue in (26A): “LOCAL EDUCATIONAL AGENCY—The term ‘local educational agency’ means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.” Paragraph (D) reads “The term (Local Educational Agency) includes *educational service agencies* and consortia of such agencies.”

In addition to these specific references, there are also opportunities for “community-based organizations” and/or “another public or private entity” to receive Act funding, which would seem to include ESAs.

AESA’s legal brief on eligibility of ESAs, researched by Brustein & Manasevit, provides excellent, detailed information outlining options for ESAs to become providers and receive funding under this Act ([www.aesa-serves.org](http://www.aesa-serves.org)).

## Analysis of Opportunities

Most educational service agencies across the country were established because of program needs that local schools could not feasibly or economically provide. Certainly the education of children with disabilities in the least restrictive environment became the impetus for many ESAs to form. Most ESA mission statements ensure that every child has access to equal opportunities to an education, and many embrace belief statements that “all children can learn”. The goal that “no child shall be left behind,” regardless of the range of “disadvantages”, should be a challenge that ESAs are well equipped philosophically and practically to meet. Thus, the “No Child Left Behind” Act offers a number of “natural” opportunities to ESAs for new and expanded programs and services, and for additional funding.

With a broad interpretation of ESA eligibility as having access to the same programs and funding as do LEAs (Brustein & Manasevut: [www.aesa-serves.org](http://www.aesa-serves.org)), most of the Act becomes open to ESA participation. However, with that broad interpretation, it seems to me that each ESA or state system of ESAs will need to respond theoretically and programmatically to the following questions:

1. Do we, as an ESA, wish to establish (or expand) and administer programs of direct instruction to K-12 students and families? and for children from ages 3 to 5 and their families? If not already, do we wish to become the administrators of demonstration classrooms, alternative schools, charter schools, magnet schools, preschools, Indian/Alaskan/Hawaiian schools, or of any other instructional setting for disadvantaged children? Does our State statute allow us to do so? How would it alter or support our relationship with the LEAs in our area, or does it put us in direct competition?
2. To what extent, if not so already, do we as an ESA wish to become a research organization, setting up control groups of students and programs, collecting data, constructing tests and designing multiple measures...contributing to the “scientifically based research,” annual accountability, and extensive evaluation called for in the Act?
3. To what extent do we, as an ESA, wish to become an arm of our State Department of Education, providing technical assistance for and monitoring LEA accountability to the State plan? Does our SEA need ESA support in order to get the job done, and are we prepared to become more regulatory (or appear to be so) in the process? Will our current relationship and level of trust with our SEA allow them to share with us these responsibilities, and with the authority and funding that goes with such responsibility?

If the answer to these questions is “yes,” then nearly all programs available through the Act, subject to the SEA sub-granting process, would be open to ESA participation, providing the

formula requirements can be met.

From a more conservative perspective, however, there still remain a number of opportunities for ESAs, which are outlined in the remainder of this report.

### **Technical Assistance/Grant Writing**

Whether or not an ESA itself intends to submit sub-grant proposals to the SEA for PL 107-110 programs, an initial opportunity exists for an ESA staff member or group of staff to be knowledgeable about all aspects of the Act and to be able to provide LEAs and community-based organizations a basic understanding, detailed knowledge of requirements, and assistance with grant applications for the funding appropriated in the legislation. Though there may not be any funding for this consultation, it positions the ESA to be a seasoned partner in interpreting federal law, providing “added value” to the educational community.

### **Professional Development** *(Title IX—General Provisions: Definitions, 34)*

PL 107-110 is very clear that “where educational service agencies exist,” SEAs “shall consider providing professional development and technical assistance through such agencies...” The definition of “professional development” does “not include 1-day or short-term workshops and conferences.” Opportunities for K-12 professional development exist on a variety of topics for a variety of learners, including:

- Methodology for assessing English Language proficiency, for teaching the English language, requirements for parental consent *(Title III: Language Instruction for Limited English Proficient and Immigrant Students)*;
- Instruction for paraprofessionals on methodology in teaching reading, writing and math; partnering with a degree-granting institution to provide coursework leading to the required 2-year Associate degree *(Title I, Part A, Sec. 1119: Qualifications for Teachers and Paraprofessionals)*;
- Effective instructional strategies, based on “scientifically based research,” for improving student achievement in reading, including instruction in “phonemic awareness, phonics, vocabulary development, reading fluency, and reading comprehension, and instruction in “the use of rigorous diagnostic reading and screening assessment tools;” *(Title I, Part B, Sec. 1201: Reading First)*;
- Effective instructional strategies, based on “scientifically based research and state academic content standards” for improving student achievement in mathematics and science, mathematics and science summer workshops or institutes, including followup training; *(Title II, Part B: Mathematics and Science Partnerships)*;

- The use of technology and its application to the curriculum and academic content areas (*Title II, Part D: Enhancing Education Through Technology*);
- Instruction for teachers and principals in the use of data and academic assessments (*Title II, Subpart 2, Sec. 2123*);
- Instruction for teachers and principals in the ways to teach children with special needs (*Title II, Subpart 2, Sec. 2123*);
- Instruction in methods of improving student behavior in the classroom (*Title II, Subpart 2, Sec. 2123*);
- Assistance with the establishment of beginning teacher mentoring programs (*Title II, Subpart 1, Sec. 2113*);
- School leadership academies “to help exceptionally talented aspiring or current principals and superintendents become outstanding managers and educational leaders” (*Title II, Subpart 1, Sec. 2113, c-13; Subpart 2, Sec. 2123, a-6*);
- Instruction in methods for teaching civics (*Title II, Part C, Chapter C, Subpart 3*);
- \* Instruction in methods for teaching character education (*Title V, Part D, Subpart 3*);
- Effective instruction for gifted and talented students (*Title X, Part C; Title V, Subpart 6*);
- Instruction for elementary and secondary school counselors, including new models for identification of students in need of treatment, establishment and delivery of mental health and counseling services in the LEA setting (*Title V, Part D, Subpart 2, Sec. 5421: Elementary and Secondary School Counseling Programs*);
- Professional development for school personnel to heighten awareness of specific problems in the education of homeless children (*Title II, Part C*).

### **Early Childhood Programs**

- Professional development for early childhood teachers for the development and assessment of prereading skills in children ages 3-5 (*Title I, Part B, Sec. 1222: Early Reading First*);
- Family Literacy programs for families who have low levels of reading (*Title I, Part B, Sec. 1231: Even Start Family Literacy Programs*).

### **Assessments and Annual Reports**

- The development and scoring of annual assessments, written and/or oral, for English Language proficiency (*Title I, Part A., Sec. 1111: Academic Assessments*);
- The interpretation and analysis (for LEA staff and parents) of national and state assessments in reading, mathematics and science (*Title I, Part A, Sec. 1111: Academic Assessments*);
- The development or selection of multiple measures in reading, mathematics and science (*Title I, Part A, Sec. 1111: Academic Assessments*);

- Electronic scoring of state or local assessments;
- The preparation and printing of clear, appealing and reader-friendly public annual reports at the local level (*Title 1: Part A, Sec. 1111: State Plans: Reports*).

### **Special Supports for Disadvantaged Children**

Using a Special Education model that includes regional employment of such staff as social workers, school psychologists, speech pathologists, etc., such support staff could be deployed to serve the following types of students in a LEA setting:

- Migratory or immigrant children (*Title I, Part C: Education of Migratory Children*)
- Students with limited English proficiency (Speech support) (*Title III*)
- Youth who are incarcerated or delinquent, including transitional and vocational services (*Title I, Part D: Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent or At-Risk*)
- Students at risk of dropping out of school (*Title I, Part D*)
- Homeless children (*Title X, Part C: Homeless Education*)
- Economically disadvantaged students (*throughout the bill*)
- Students attending Indian, Alaska Indian or Native Hawaiian programs (*Title VII*)

### **Infusion of Support for Low Performing Schools (Schools Identified for School Improvement)**

- Assistance with identifying and implementing professional development and instructional strategies, support for “corrective action” (*Title I, Part A, Subpart 1, Sec. 1116 —Academic Assessment and School Improvement*);
- Become an “outside expert to advise the school on its progress toward meeting adequate yearly progress” (*same*)

### **Development of Innovative Programs (*Title V, Subpart 3: Local Innovative Education Programs*)**

### **Administration of Alternative Programs (*Title V: Promoting Informed Parental Choice and Innovative Programs*)**

- Become an alternative “provider of choice” for families of students attending a low-performing school in a “corrective-action status”, a provider of “supplemental instructional services”, and/or provide alternative public governance and supervision of a low performing school (*Title 1, Part A, Subpart 1, Sec. 1116-Academic Assessment and School Improvement, C-10-Corrective Action*);

- Operate programs for youth returning from correctional facilities and programs which serve youth at risk of dropping out of school (*Title I, Part D*);
- Depending upon State statute, establish and administer charter schools (*Title V, Part B*),
- Depending upon State statute, establish and administer magnet schools (*Title V, Part C*).

**Media and Technology** (*Title II, Part D: Enhancing Education Through Technology*)

- Support for innovative technology initiatives, including public-private partnerships, partnerships with public libraries and with Public Television to enhance those initiatives;
  - Development of an effective educational technology infrastructure;
  - Professional development that promotes integration of technology into the curriculum and alignment with state standards;
  - Use of electronic means for teaching and student learning;
  - Use of electronic networks for professional development of LEA personnel;
  - Use of technology to promote family involvement and school-family communication;
  - Training on emerging technologies;
  - Professional development to retrieve Internet-based learning resources;
  - Preparing teachers to be building-based technology leaders;
  - Use of technology to collect, manage and analyze data for school improvement;
  - “Ready-to-learn” television: the production and distribution of educational and instructional programs for children and parents (*Title II, Part D, Subpart 3*);
  - Ready to Teach: the production and distribution of instructional programs for professionals (*Title V, Part D, Subpart 8*).

**Partnerships**

Funding will flow directly from the federal government for those public entities who become a partner with communities and community-based organizations to provide programs when school is not in session (before and after school, summer) as part of the 21 Century Schools Program (*Title IV, Part A: Safe and Drug-Free Schools and Communities*). Such programs might include:

- Strategies to prevent use of illegal drugs, suicide and violence; establishing a safe drug-free environment;
- Comprehensive mental health services;
- Student assistance programs, counseling, mentoring and referral services;
- Crisis management;
- School safety hotline;
- Pedestrian and bicycle safety program;

- “Community learning centers” to provide quality extended learning opportunities to meet performance standards in reading and mathematics;
- Remedial and enrichment learning activities;
- Tutoring and mentoring services.

### **Participation of Private School Students and Teachers**

As a partner, ESAs could also facilitate the participation of eligible private school children and teachers, which must be offered for Title I, II, III and IV programs (*Title I, Part A, Sec. 1120: Participation of Children Enrolled in Private Schools; Title IX, Part E, Subpart 1*).


### **Support and Involvement of Parents** (*Title I, Part A, Sec. 1118: Parental Involvement*)

- Establish Family Literacy services, providing direct instruction to parents who do not have a high school diploma or its equivalent or who have low levels of literacy;
- Information and interpretation of standards for performance of students and schools and the choices provided for parents whose children attend a “corrective action” school;
- Inform parents of their rights for parental consent, parental notification and parental input (*throughout the legislation*);
- Train parents to “enhance the involvement of other parents” through a train-the-trainer process; and
- Provide interpreters and translation services for families of immigrant or non-English proficient families.

ESAs have often wished for more visibility and involvement with public policy at the national level. The “No Child Left Behind” Act gives many opportunities for educators to participate on Peer Review Panels and groups that evaluate the programs being funded. It might be useful to make a concerted effort to place ESA personnel on those panels, if such opportunities exist, so they become more visible as integral partners in the nation’s educational system.

### **Summary**

In summary, PL 107-110, the “No Child Left Behind” Act of 2001, offers numerous opportunities for educational service agencies to develop or expand services, and ultimately, to serve more children in effective and efficient ways. The inclusion of ESAs in the definition of eligible applicants and program providers, particularly with the broader interpretation of ESA eligibility as comparable to that of LEAs, opens up funding not only for such traditional services as professional development but also for the administration of student instruction and alternative programs.



With these opportunities, however, comes additional accountability and required assessments at both the state and national levels. Since federal funds most often flow through the SEA, State statutes and SEA interpretations of an appropriate ESA role may limit those opportunities. In addition, federal funding is targeted for implementation, with only one to five percent allowed for administrative costs and no additional funding for the data that must be collected in order to apply.

The programs outlined in PL 107-110 address many of the problems and needs that educators have identified with children in our society . If these programs can be effectively developed and make a difference in the lives of the nation's children, we will all benefit. And certainly, the more that ESAs can participate, the more valuable and indispensable ESAs will become to families, schools and the nation.

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