

Issue #6: What requirements, if any, should be placed on states in terms of rewarding and sanctioning schools and turning around their lowest performers?

Current Law

Rewards and Sanctions

Section 1116 contains a number of requirements for sanctions on the basis of how many years a school or a local education agency (LEA) misses AYP. Table 1 shows the various phases through which a school passes in six years of missing AYP.

Table 1. Sequence of Sanctions for Schools missing AYP

School Year	School Status
By end of school year 1	School does not meet AYP
By end of school year 2	School does not meet AYP
Beginning of school year 3	School enters Phase 1: school improvement (planning)
By end of school year 3	School does not meet AYP
Beginning of school year 4	School enters Phase 2: school improvement
By end of school year 4	School does not meet AYP
Beginning of school year 5	School enters Phase 3: corrective action
By end of school year 5	School does not meet AYP
Beginning of school year 6	School enters Phase 4: restructuring (planning)
By end of school year 6	School does not meet AYP
Beginning of school year 7	School enters Phase 5: restructuring

Once a school is identified for improvement, the law requires it to develop an improvement plan, and requires the school district to offer students the opportunity to transfer to a public school that has not been identified for improvement. If the school fails to make AYP the next year, then the school district must offer its needy students free supplemental educational services.

Once a school is identified for restructuring, it is required to implement a plan that must include one of the following “alternative governance” arrangements for the school, consistent with state law:

- Reopen the school as a public charter school;
- Replace all or most of the school staff, including in some cases the principal, who are relevant to the school’s inability to make AYP;
- Enter into a contract with an entity selected through a rigorous review process, such as a private management company with a demonstrated record of effectiveness, to operate the school as a public school;
- Turn the operation of the school over to the state education agency (SEA) if this action is permitted under state law and the state agrees; or
- Implement any other major restructuring of the school’s governance arrangement that is consistent with the NCLB principles of restructuring.

Districts that do not make AYP are also subject to identification for improvement and corrective action. The law requires LEAs that have been identified for improvement to implement a district improvement plan to improve their curricula, instruction, professional development, and other activities. Corrective action is imposed on schools that, having been identified for improvement, do not make AYP in either of the next two years; this step requires SEAs to implement interventions at the district level from a menu of options that includes changing curricula, withholding funds for administration, or abolishing the LEA.

Differentiated Accountability Pilot

In 2007, Secretary Spellings announced the creation of a pilot program that permitted up to ten states to propose their own methods for categorizing low-performing schools and determining the interventions required for each category, as long as certain “bright line principles” were met.¹² Nine states were approved to participate in this pilot.

2008 Title I Regulations—Restructuring

Concerns that the “other major restructuring” category was leaving too many schools off the hook for real reform, the Department of Education issued regulations in 2008 that tried to toughen it. The department clarified that the “other” category meant “any other major restructuring of a school’s governance arrangement that makes fundamental reforms, such as significant changes in the school’s staffing and governance, in order to improve student academic achievement in the school and that has substantial promise of enabling the school to make AYP. The major restructuring of a school’s governance may include replacing the principal so long as this change is part of a broader reform effort.”

School Improvement Grants

The School Improvement Grants (SIG) program is authorized by Section 1003(g) of ESEA. It’s designed to get extra funding to the lowest-performing schools in order to help them with their turn-around efforts. No funds were appropriated for that program until 2007.

12 For more information on this topic, see the Department of Education’s webpage on differentiated accountability, <http://www2.ed.gov/admins/lead/account/differentiatedaccountability/index.html>.

Then, in 2009, the Department of Education issued new requirements for SIG to accompany a \$3 billion infusion into the program under the American Recovery and Reinvestment Act (ARRA). The regulations required a state to identify, in general, the lowest-achieving 5 percent of its Title I schools already identified for improvement, subject to corrective action, or undergoing restructuring as its “persistently lowest achieving schools.” Furthermore, the department stipulated that one of four intervention models was to be implemented in these schools: restart, school closure, transformation, or turnaround. The department has provided extensive guidance regarding the identification of eligible schools and the implementation of appropriate interventions. Funds are awarded by formula to states and competitively within states.

Background

One of the major issues for reauthorization is whether states should be required to implement any particular sanctions on the basis of assessment results, and if so, whether only their lowest-performing schools should be subject to sanctions. Focusing on the lowest-achieving schools, as proposed in the administration’s “Blueprint for Reform” of ESEA, allows states to concentrate their resources on a much smaller pool of schools. On the other hand, it means backing away from strict accountability for the vast majority of schools.

A related issue for ESEA reauthorization is whether to tweak, overhaul, or scrap the SIG program. Current SIG requirements are complex—there are a hundred pages of guidance just explaining how to identify schools and allocate funds. Additionally, there is the question of whether SIG should continue to require the use of one of its four models, given the limited research on the effectiveness of each.

The requirement of public school choice and supplemental services has also been a contentious issue. Participation in these initiatives has been disappointing, in part because school districts have done a terrible job alerting parents about their opportunities. The administration’s proposal is silent on what role, if any, these initiatives would play. Whether they should continue to be mandated is an important issue.

Options

Option 6A: Maintain basic components of current law, but require districts to identify only (up to) the bottom 10 percent of “schools in need of improvement” for restructuring. A school eligible for restructuring but not in the bottom 10 percent would remain in corrective action. Permit states to identify schools on the basis of the same subgroup missing AYP for two consecutive years, not any subgroup. Fine-tune restructuring requirements to ensure that LEAs can’t opt out by using the “other” provision in current law. Maintain the requirements for public school choice and supplemental services (with a few tweaks).

Pros	Cons
<ul style="list-style-type: none"> • Ensures that LEAs aren't overwhelmed with a large number of schools in restructuring • Keeps up the pressure on schools to improve the achievement of their subgroups 	<ul style="list-style-type: none"> • Remains very prescriptive at the federal level • Does not solve a key problem—that the feds are powerless to actually enforce any of this, turning the law into a paper tiger • Contains restructuring options that have shown little evidence of working • Depends entirely on AYP, the shortcomings of which were made clear above

Option 6B: Require states to develop a system of sanctions and rewards. Require them to focus interventions on the lowest-achieving schools, or “challenge schools,” defined as the lowest-performing 5 percent of schools in each state (based on achievement, growth, and graduation rates) that are not making progress. Require states to implement one of the four turnaround models in these schools. Require them to place the next 5 percent of lowest-performing schools in a “warning” category, and oblige states and districts to implement locally determined strategies to improve each school. Maintain the SIG program and required models. (Administration’s proposal)

Pros	Cons
<ul style="list-style-type: none"> • Frees states to focus resources on the lowest-achieving schools • Gives states flexibility in determining interventions for schools not at the bottom • Represents a more modest and focused federal role, more in line with the federal government’s capacity 	<ul style="list-style-type: none"> • Lets the vast majority of schools “off the hook” from federal accountability, which might lead to backsliding in student performance • Makes use of the SIG models, whose effectiveness is questionable • Sets a bottom threshold, which creates issues when schools enter and exit the bottom from one year to the next

Option 6C: Instead of prescribing specific remedies and interventions from Washington, rely on transparency to foster rigorous accountability strategies at the state and local levels. Don't mandate any rewards or sanctions or specific interventions in low-performing schools (including public school choice and supplemental educational services). Leave "accountability" to the states and—via transparency—to the public.

Pros	Cons
<ul style="list-style-type: none">• Keeps the federal focus on transparency• Acknowledges the federal government's limited authority and capacity to enforce accountability requirements• Allows states to experiment and innovate with different approaches to accountability• Aligns with the spirit of American federalism, which entrusted the operation of K–12 education to the states	<ul style="list-style-type: none">• Opens the door to backsliding in terms of reform and student achievement—especially for schools' neediest students• Does not offer states the political cover from Washington that might empower them to take on low-performing schools and districts

The Reform Realism Position: Option 6C

The "loose" part of the "tight-loose" bargain primarily comes down to this: States should be responsible for determining what to do about their low-performing schools. To write policy that says otherwise is to ignore the overwhelming evidence that the federal government lacks the capacity to enforce accountability requirements in states, districts, or schools. It is also an act of hubris, or worse, to pretend that there is evidence about the "best" course of action for addressing school failure. The field needs room to experiment and innovate—and turning this set of issues over to the states is the best way to provide that room. The federal government should focus on transparency (as detailed in Issue #5); accountability should be left to the states.

Instead of prescribing specific remedies and interventions from Washington, rely on transparency to foster rigorous accountability strategies at the state and local levels. Don't mandate any rewards or sanctions or specific interventions in low-performing schools (including public school choice and supplemental educational services). Leave "accountability" to the states and—via transparency—to the public.