

# EDUCATION DAILY

The education community's independent daily news service

## NCLB implementation

### NCTQ: States wriggling out of teacher standards

Only Colorado requires teachers to demonstrate content mastery

States' resistance, ambiguity in the law and loopholes threaten to sink the No Child Left Behind Act's goal of placing a competent teacher in every classroom by January 2006, charges a report to be released today.

*Chart of states' grades for teacher quality, p. 2*

The National Council on Teacher Quality said few states are complying with the spirit of the law. Some are indifferent and others are antagonistic, especially when it comes to certifying veteran teachers as "highly qualified."

"Most states share neither the urgency nor the single-minded focus of the U.S. Congress in seeking to address the low academic standards required of American teachers," the report said.

#### Rampant failure

The report gave letter grades to 39 states that have developed the High Objective Uniform State Standard of Evaluation (HOUSSE) framework, which allows states to set less-stringent standards for veteran teachers.

Colorado, in the report's estimation, is the only state worthy of an "A+," for demanding that all of its teachers, both new and veteran, objectively demonstrate familiarity with the subjects they teach.

Some of the nation's largest states were among those receiving an "F," including California, Florida, Michigan and New York.

Many of the states receiving an "F" rely on a point system allowing credit for experience to count toward the highly qualified classification. Some of the experience points, such as mentoring and committee work, are irrelevant, the report said.

Others offer large loopholes for veteran teachers who want to opt out of content-specific tests, it added.

"Many [states] have exempted large numbers of veteran teachers, arguing that their  
(See **TEACHERS** on page 2)

## Today's Highlights

Vol. 37, No. 236 • Friday, December 17, 2004

### JONES RESIGNS

ED's general counsel Brian Jones to leave Education Department after leaving mark on Title IX, single-sex schools ..... **Page 3**

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## Education insider

### A champion of local control, Christensen remains critical

LINCOLN, Neb.—On March 24, 2003, the No Child Left Behind Act overcame a key crisis here during a breakfast meeting at the governor's mansion—proving flexible enough to accommodate a state famous for local control of education and its outspoken schools chief.

On one side of the bargaining table sat U.S. Education Secretary Rod Paige and several members of his staff.

On the other side were Gov. Mike Johanns, four of the state's five congressmen, several members of the state board of education, and one of the nation's most vocal critics of NCLB—Education Commissioner Doug Christensen.

In the months leading up to the meeting, the two sides had engaged in an escalating war of words over the state's patchwork assessment system. Rather than requiring a statewide test, Nebraska allows schools to devise their own tests to measure student progress.

Christensen had made several trips to Washington, D.C., but was unable to convince ED officials such a system was legitimate. In a recent interview at his office in Lincoln, he recalled fearing that NCLB was going to "stomp all over their hard work."

With a deadline for the submission of state plans only a few months away and the possibility of Nebraska withdrawing from NCLB on the rise, the situation grew urgent.

(See **CHRISTENSEN** on page 6)

**TEACHERS** (continued from page 1)

State	Grade
Alabama	B+
Alaska	D
Arizona	D
Arkansas	C-
California	F
Colorado	A+
Connecticut	F
Delaware	D+
Florida	F
Georgia	C
Hawaii	B+
Illinois	C
Indiana	D
Kansas	B
Kentucky	D+
Louisiana	C
Maine	D-
Maryland	B+
Massachusetts	D+
Michigan	F
Minnesota	C
Nevada	D
New Jersey	C
New Mexico	D
New York	F
North Carolina	F
North Dakota	D-
Ohio	D
Oklahoma	C-
Oregon	B-
Pennsylvania	B+
Rhode Island	C-
South Carolina	F
Tennessee	D-
Texas	B
Vermont	B-
Virginia	D
West Virginia	F
Wyoming	C
Idaho	Incomplete and strong
Iowa	Incomplete and weak
Mississippi	Incomplete and weak
Missouri	Incomplete and weak
Montana	Incomplete and weak
Nebraska	Incomplete and weak
New Hampshire	Incomplete and strong
South Dakota	Incomplete and failing
Utah	Incomplete and strong
Washington	Incomplete and failing
Wisconsin	Incomplete and strong

current regulations demonstrate the right kinds of policies, even though most of these teachers were hired under a different set of rules and markedly lower standards,” the report said.

Eleven states opted not to develop a HOUSSE plan because they believed their certification systems were worthy. The report said their certification systems do not meet federal standards, “particularly at the elementary and middle school level.”

The report predicted ED may choose next year to target some of the states with low standards by threatening to withhold funds; however, due to political considerations, “it seems most likely that the department will choose to target states found noncompliant on new teachers” rather than veterans.

The report noted two important caveats: there is no research on the effectiveness of teachers who have passed licensing tests and little on the effectiveness of teachers with majors in their subject matter below the high school level.

The report makes several recommendations, including:

- Congress should revisit the structure of the highly qualified teacher provision;
- ED should spell out that a college major requires no fewer than 30 credit hours and a minor requires no fewer than 15 hours;
- New elementary teachers should earn a minimum of 30-credit hour major in the liberal arts, focusing on K-5 curricula such as math, English, science, social studies, art and music.

**AFT responds**

American Federation of Teachers (AFT) spokesman John See said he believes states are attempting to comply with the law as it’s been written. The union has been a strong advocate for teacher quality for years, but has a vision “much broader” than the act for improving teacher quality, including mentoring and strengthening teacher colleges.

“We place more emphasis on hands-on experience in the classroom ... and recognize the value of that more than I see in this report,” he said.

“*Searching the Attic for Highly Qualified Teachers*” is available online at [www.nctq.org](http://www.nctq.org).

—Stew Magnuson



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## Education Department

# ED's General Counsel Jones announces resignation

Brian Jones, the Education Department's general counsel, announced his resignation yesterday after more than three years as ED's top legal adviser and a key policy aide to Education Secretary Rod Paige.

Jones' resignation follows those of Paige and deputy secretary Gene Hickok since President Bush's re-election last month. The precise date of his departure was not announced.

"Brian Jones has been an integral part of our team, working hard to keep the president's charge that each and every child in our great nation receive a quality education," Paige said.

He added that Jones' "leadership, counsel and guidance have been crucial during this historic era" for the nation's schools and students.

### Leaving mark on Title IX

Jones has been especially prominent in ED's actions with regard to Title IX, which bars gender discrimination in federally funded school programs.

In 2002, he spoke out in support of a Justice Department brief that asked a federal court to dismiss a lawsuit alleging Title IX was unfair to some male athletes (ED, May 31, 2002).

And earlier this year, when Paige unveiled plans to make it easier for students to attend

single-sex schools, Jones explained, "There's no suggestion that anybody could ever be forced into a single-sex setting in a classroom or a school" (ED, March 4).

In his resignation letter to President Bush, Jones wrote: "Because of your vision and Secretary Paige's clear voice and steady hand, the education establishment in this country has been inalterably changed for the good. Accountability, sound research and parental options are today no longer empty slogans, but rather watchwords of genuine reform."

Bush nominated Jones for the post on April 30, 2001. He was confirmed by the Senate on Sept. 14, 2001.

Jones is a past president of the Center for New Black Leadership, a national public policy think tank.

Prior to his appointment as general counsel, he was in private practice in San Francisco, where he handled employment litigation and employment and education law counseling.

Previously, he served as deputy legal affairs secretary to former California governor Pete Wilson and as counsel to the U.S. Senate Judiciary Committee.

—David Hubler

## NCLB implementation

# ECS finds state policies vary in handling failing schools

A new survey finds states are taking a variety of approaches to dealing with schools that consistently fail to make "adequate yearly progress" (AYP) under the No Child Left Behind Act.

According to the Education Commission of the States, "a particularly challenging provision" of NCLB requires schools that fail to meet AYP for five consecutive years to be restructured in one of several ways—including closing and reopening them as charter schools or hiring a private education entity to operate them as public schools (ED, Aug. 13).

The ECS report examined in particular states' "close and reopen policies" for failing schools. Among other things, the survey found 11 states cannot implement the "close and reopen option" because 10 of them—Alabama, Kentucky, Maine, Montana, Nebraska, North Dakota, South Dakota, Vermont, Washington and West Virginia—have no charter school law and the other one—Nevada—lacks the option in its restructuring law.

Six states—Alaska, Delaware, Maryland, New Mexico, New York and Ohio—have poli-

cies that were enacted as a result of NCLB and are directly related to the AYP timeline. ECS said these policies merely restate NCLB and do not provide further details.

Six others—California, Colorado, Georgia, Louisiana, Pennsylvania and Tennessee—had accountability policies in place prior to NCLB and have different alternatives for the "close and reopen option."

The remaining 27 states have policies that "are silent on this option," but can still be implemented within the parameters of the states' charter school laws.

### Anticipating change

Todd Ziebarth, who conducted the study on behalf of ECS, said, "We thought it would be helpful, before a major number of schools face restructuring, for us to take a step back and look at what policies are in place across the country."

He said the idea was to try to help states "get ahead of the curve" so they're ready when their schools face restructuring under NCLB.

"*State Policies for School Restructuring*" is available online at [www.ecs.org](http://www.ecs.org).

—David Hubler

## Daily Briefing

### Federal Watch

#### Phone companies to pay more for E-rate

The amount that telephone companies are expected to contribute to federal universal service programs, including telecommunications funds for schools and libraries, will likely increase from 8.9 percent to 10.7 percent.

The Wireline Competition Bureau proposed the increase this week in a public notice on the Web site of the Federal Communications Commission (FCC).

In addition to schools and libraries, federal universal service programs provide funds to help pay for phone services in high-cost areas, rural healthcare and phone bills for low-income families. These funds are administered by the Universal Service Administrative Company.

Mark Wigfield, spokesman for the Wireline Competition Bureau, a division of FCC, said the proposed increase will not affect the amount of funding distributed through the E-rate program to schools and libraries. E-rate funds are capped at \$2.25 billion a year.

### White House

#### Ed Trust's Haycock urges business, school leaders to discuss high school achievement

Education Trust director Kati Haycock yesterday encouraged attendees of the White House Conference on the Economy to invest more energy and money into high schools.

She urged political and economic leaders to honestly confront the underperformance in the nation's high schools, especially the achievement gap between white and minority students. "You've been told over and over again that these kids just can't learn—when the truth is that it's we adults who are the problem," Haycock said. "Every day some teachers and some schools show through their own results that we can indeed teach these students to very high levels."

Haycock suggested gathering together K-12, higher education and business leaders to ensure high school standards have meaning in the real world (ED, Feb. 11). She also argued the government should align policies in all federal education programs—from Head Start up to the Higher Education Act—to increase achievement at every step.

### Across the Nation

#### Arizona

#### Education department, foundation, state utility set to sign character-promoting pact

The state education department, the Arizona Public Service (APS) utility and the Arizona Character Education Foundation are scheduled to sign a five-year partnership today to help further fund and promote good character education in Arizona.

APS will commit more than \$250,000 over five years to help fund training and materials for Arizona schools.

The state surveyed school principals throughout Arizona regarding the impact of their character education programs. Of the 742 schools that responded, 76 percent have a character education program. Among them, 92 percent noted an improvement in students' self-discipline; 78 percent of the principals noted an improvement in school climate; and 69 percent noted an improvement in the level of respect.

"The results of Arizona's character education programs have been outstanding," state superintendent Tom Horne said.

*Further information is available at [www.azcharacteredfoundation.org](http://www.azcharacteredfoundation.org).*

#### Business leaders to encourage students to take comprehensive work loads

The Arizona Business and Education Coalition is receiving \$300,000 from the state education department to join the State Scholars Initiative to encourage high school students to take a well-balanced course load.

The Arizona pilot districts include: Flowing Wells Unified School District, Payson Unified School District, Snowflake Unified School District and Peoria Unified School District.

About 190 school districts in Arkansas, Connecticut, Indiana, Kentucky, Maryland, Mississippi, New Jersey, New Mexico, Oklahoma, Rhode Island, Tennessee and Washington currently participate in State Scholars activities.

*For more information, see [www.centerforstatescholars.org](http://www.centerforstatescholars.org).*

### Illinois

#### State scapegoating students with special needs and limited English, says Dunn

Illinois' interim state schools superintendent, Randy Dunn, said the No Child Left Behind Act is "scapegoating" students with special needs and limited English proficiency, and said he feels a "moral imperative" to address it, the *Chicago Sun-Times* reported.

New state data showed 235 school districts failed to meet NCLB standards in 2004 solely due to the scores of students with disabilities and limited English proficiency (ED, Dec. 16).

"We're seeing a scapegoating effect on these kids," Dunn said. "I keep coming back to the moral injustice of this, especially when these children are making progress."

### Florida

#### House votes to bolster adult supervision in pre-K classes; Senate to consider measure

The Florida House of Representatives has approved a proposal that would add a second adult in pre-kindergarten classrooms with more than 10 students.

A Senate committee withdrew a similar measure on strengthening the teacher-student ratio, but promised to work with the House on the plan.

## Daily Briefing

The Senate was expected to start floor debate on the bill yesterday.

Lawmakers went into a special session this week proposing an 18-to-1 student-teacher ratio for the pre-K program. Democrat lawmakers failed in their attempts to add a fourth hour of daily instruction.

### Maryland

#### County board opens probe into school chief's and girlfriend's ties to software purchase

The Prince George's County, Md., school board has opened a new, independent investigation into the activities of schools CEO Andre Hornsby and his live-in girlfriend, who worked for a software company from which Hornsby purchased more than \$1 million in teaching aids (ED, Dec. 2).

The new probe comes in the wake of news that Sienna Owens, Hornsby's girlfriend, who was a sales official for Leapfrog Schoolhouse, Inc., no longer works for the company. Company officials would not say whether she quit or was fired.

Owens has insisted she made no money from the sale because the commission went to the sales representative for Maryland. Leapfrog president Bob Lally recently resigned after an internal investigation uncovered unspecified ethical violations.

The county school board voted unanimously to hire an outside investigator to examine Hornsby's dealings with Leapfrog and another software company that had provided him with an all-expense-paid trip to South Africa before he became county schools chief.

Hornsby, who remains on the job, also is being investigated by federal and state officials.

### Study Hall

#### Students not ready to meet federal academic proficiency requirements, report says

Most students do not meet state reading proficiency standards, calling in to doubt the No Child Left Behind Act's ultimate goal of universal student proficiency, according to a new study.

Based on 2003 test data compiled from several states, fewer than half of their students in grades 4-12 tested met NCLB goals in reading, the RAND Corporation found.

Proficiency rates on state assessments varied, ranging from 28 percent in the District of Columbia to 90 percent in Massachusetts; so did the pass rates for middle and high schools, the report showed.

RAND also examined data on the National Assessment of Educational Progress (NAEP) taken by all states. Both NAEP and state assessments showed large achievement gaps by racial, ethnicity and low-income groups. Students with limited English proficiency and disabilities performed at the lowest levels, the report showed.

"Will Schools Meet Federal Reading Requirements by 2014?" is available online at [www.rand.org](http://www.rand.org).

### Legal Briefs

#### Chicago schools ordered to open seats to students in desegregation dispute

**Case name:** *United States v. Board of Education of the City of Chicago*, No. 80 C 5124 (U.S. District Court, Ill., Northern Dist., East. Div. 12/07/04)

The United States filed suit against the Chicago schools, claiming they have failed to enforce provisions in its court-ordered desegregation plan. The suit alleged the city has allowed 775 white students to transfer into schools where the population is already more than 50 percent white. It also claimed the system has allocated a disproportionate amount of desegregation funds to magnet schools compared to compensatory and supplemental programs.

**Ruling:** A complete analysis of the disputed seats and the racial composition of the schools would not be feasible by the end of the school year, rendering the issue moot, the court ruled. Forcing students to change schools in mid-year also would be disruptive. The district must remedy the situation by next school year and publicize 83 currently empty seats in "majority white" schools by today. The court ordered the district to reallocate the magnet school funds for the second half of the school year, but left intact the first-semester budget.

### Funding Alert

#### NFIE Innovation, Learning and Leadership grants

**Scope:** The NEA (National Education Association) Foundation for the Improvement of Education (NFIE) is accepting applications for the next round of *Learning and Leadership* grants (which fund professional development experiences) and *Innovation* grants which support teachers' collaborative efforts to develop and implement novel ideas resulting in high student achievement.

**Deadline:** Applications are reviewed three times per year. The next upcoming deadline is Feb. 1.

**Funds:** Grants range from \$2,000 to \$5,000.

**Eligibility:** The NEA Foundation's grants are available for all subjects, including the arts, literacy, science, and technology. U.S. public school teachers of grades K-12; public school education support professionals; and higher education faculty and staff at U.S. public colleges and universities are eligible. Preference will be given to members of the National Education Association.

NFIE specifically encourages grant applications from teachers and staff with less than seven years of experience in the profession.

**Contact:** NFIE, Attn: Learning and Leadership Grants or Attn: Innovation Grants, 1201 Sixteenth St. NW, Suite 416, Washington, DC 20036-3207, (202) 822-7840; fax, (202) 822-7779

**E-mail:** [info@nfie.org](mailto:info@nfie.org)

**Web:** [www.nfie.org/programs/howtoapply.htm](http://www.nfie.org/programs/howtoapply.htm)

## CHRISTENSEN (continued from page 1)

A meeting was arranged. At the start, it was tense, Christensen recalled. Paige faced a united front that included two prominent Republican lawmakers, Sen. Chuck Hagel and Rep. Tom Osborne.

After two hours, Johanns asked Paige how much flexibility ED had. "I'm not sure," Paige responded, by Christensen's account. "But whatever flexibility is there, I will see that you have it."

That guarantee cracked the ice, and the two sides began to work together. After the meeting, Nebraska officials were able to convince ED to its satisfaction that their patchwork system of local assessments met federal demands of rigor and fairness (ED, Feb. 28, 2002).

### Honoring local wisdom

More than a year-and-a-half later, Christensen remains one of the nation's most vocal champions of local control.

And Nebraska stands firmly behind him for it. The state education board has kept him in the office for 10 years.

Among his supporters is Nebraska State Education Association president Duane Obermier. Christensen "has tried to put together a model in Nebraska that really has a lot of faith in the people who are closest to what's going on, and that's the classroom teachers," he said.

Christensen emerged as an outspoken critic of the No Child Left Behind Act in its inaugural years, and still believes what he told Paige at a private lunch after the showdown in 2003.

"Our primary principle is, if it doesn't lead us to school improvement, if it's just compliance, we're not going to go there," he said. And the state will "integrate NCLB into our system, but not the other way around."

A native Nebraskan, Christensen had served as superintendent for the North Platte, Neb., public schools for five years before coming to Lincoln. He was surprised when his predecessor, Joe Lutjeharms, invited him to join his staff as associate commissioner. Christensen had publicly clashed with Lutjeharms over several issues.

When Christensen became commissioner, he promoted his philosophy that local schools and communities know what's best for their children. The patchwork system of school testing—which some lawmakers fault for "making it virtually impossible to compare student achievement across school districts" (ED, March 28, 2002)—was a cornerstone of that thinking.

After the Lincoln showdown, Christensen and Paige had a private lunch where the two hit it off. They had a mutual affinity for pheasant hunting, and Christensen appreciated Paige's statement that he wanted states to succeed.

### Adequacy in Nebraska

When asked whether Nebraska is adequately funding its public schools, the normally outspoken Education Commissioner Doug Christensen falls silent for a moment. He is, after all, facing two lawsuits alleging the state is failing its constitutional duty to provide an adequate education to its students (ED, Aug. 31).

But he does respond: "I think when you look at the changing demographics of our kids, the increases in poverty, the increases in English-language learners and the increases in mobility, there is no question in my mind that resources are not adequate to do the job."

"Had those things not happened," he added, "I'm not sure I would have answered it that way."

But the détente hasn't tempered Christensen's criticism of the law—particularly its "adequate yearly progress" (AYP) provisions. "Why can't the schools have their own trajectory towards 100 percent?" he asked.

When the law comes up for reauthorization in 2006-07, he would like to see a continuous progress model based on individual schools' baselines. "It would fix the entire achievement [controversy] and you wouldn't hear a word out of me."

As for Bush Administration proposals to expand NCLB to high schools (ED, Nov. 4), Christensen predicted that the law's top-down approach would fail. "We have to reinvigorate high schools but I don't think you do it by forcing standards down people's throats," he said.

NCLB in high school will result in rote, multiple-choice content testing, which won't assess "real understanding," he maintained.

"It will make high school even more meaningless than it is now," he said.

He believes there may be further pressure from the federal government to adopt a state test. Confrontations over public school choice and supplemental services also are looming, he said (ED, Dec. 13).

But ED spokeswoman Susan Aspey said Nebraska has nothing to fear, she said, noting the law's flexibility for states with high numbers of rural students.

Christensen hopes so. "If we have to go to a single state test, it will be without me being here, because I can't do that."

*For more information, see [www.nde.state.ne.us](http://www.nde.state.ne.us).*

—Stew Magnuson