



ECS Issue Brief

School Restructuring Via the No Child Left Behind Act: Potential State Roles

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Education Commission
of the **S t a t e s**

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November 2005

INTRODUCTION

With the support of a grant from the U.S. Department of Education's Public Charter Schools Program, the Education Commission of the States (ECS) recently released a report, *State Involvement in School Restructuring Under NCLB in the 2004-05 School Year*, that was one of the first attempts to increase state leaders' knowledge about restructured schools. The report discussed the changes schools were making due to the NCLB's restructuring requirements, and examined how state departments of education were involved in the planning and implementation of school restructuring in the 13 states that had schools facing this sanction in the 2004-05 school year.¹

Building on those findings, this paper is designed to describe alternative roles available to the states in implementing NCLB's restructuring requirements.

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Acknowledgments

This paper was written by Todd Ziebarth, a policy analyst at Augenblick, Palaich, and Associates, a Colorado-based consulting firm; and Bryan Hassel, co-director of Public Impact, a North Carolina-based consulting firm. The U.S. Department of Education's Public Charter Schools Program provided funding for this paper.

WHAT IS THE STATE'S RESPONSIBILITY IN IMPLEMENTING NCLB'S RESTRUCTURING REQUIREMENTS?

NCLB requires that if a school does not make adequate yearly progress (AYP) for five consecutive years, its district must create a plan to restructure the school. If the school does not make AYP for six consecutive years, its district must then implement that restructuring plan in the school.

NCLB provides the following list of possible actions for restructuring:

- Reopening the school as a public charter school
- Replacing all or most of the school staff (which may include the principal) who are relevant to the failure to make AYP
- Entering into a contract with an entity, such as a private management company with a demonstrated record of effectiveness, to operate the public school
- Turning the operation of the school over to the state education agency, if permitted under state law and agreed to by the state
- Any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance.

While NCLB requires *districts* to implement the law's restructuring requirements in schools that face them, it also provides that **states are ultimately responsible** for holding districts accountable for the proper implementation of these requirements. While this responsibility gives leverage to states for ensuring districts actually see to it that fundamental changes are made in schools, most states are not taking advantage of this provision. In fact, states vary widely in interpreting their role in school restructuring. Few have chosen more significant involvement in district decisionmaking, such as participating in developing, modifying and monitoring implementation of restructuring plans. On the other end of the spectrum, most states do not collect or review plans, or provide much oversight of districts.²

Notwithstanding the initial reluctance of most states to play an active role in implementing NCLB's restructuring requirements, state leaders should consider playing more active roles for three reasons.

First, state leaders are constitutionally responsible for providing a system of public education in their states. While state constitutions describe the standard for this system in different ways – for example, “adequate,” “general, suitable and efficient,” “thorough and efficient” – expectations that a high-quality education be provided to all students are increasing. With these expanded expectations and increasing legal challenges to states and districts, it is becoming critical for states to pay greater attention to struggling schools.

Second, turning around chronically low-performing schools is tough work that requires an “all-hands-on-deck” approach. Given that schools facing restructuring have been struggling for several years despite various interventions, it is fair to assume that turning around these schools will require districts and schools to do things in a dramatically different way.

Such changes could include providing significantly more flexibility regarding staffing, budgets, curriculum and scheduling to these schools, to substantially increasing the voice and involvement of parents who send their children to them. While restructuring is in and of itself an insufficient step toward turning around chronically low-performing schools, it may provide the lever to make the necessary changes in such schools. Still, these changes will be difficult.

Lastly, without help from the state, many districts are unlikely to make the tough but necessary changes in schools that face restructuring. Most districts are not using the restructuring requirements to bring about dramatic changes. Instead, most school restructuring plans call for activities that fall under “any other major restructuring of the school's governance arrangement.” This option covers an array of activities, such as modifying curriculum or choosing a school reform model.³ These activities may be helpful, but they fall short of the more fundamental changes inherent in the other NCLB restructuring options, and that are probably necessary in some schools.

POTENTIAL ROLES FOR STATES IN IMPLEMENTING NCLB'S RESTRUCTURING REQUIREMENTS

Some state leaders are already convinced they should play a role in implementing NCLB's restructuring requirements and have been experimenting with various approaches. This section's discussion of potential state roles draws on their initial work and presents some new ideas for state leaders to consider. The roles are grouped into three categories: mildly active, moderately active and highly active.

It is important to note that the category of roles a state chooses to play in implementing the restructuring requirements of NCLB will depend on several factors, including:

- Level of urgency a state feels about dramatically improving the schools that require restructuring
- Number of schools facing restructuring
- Resources a state has available to devote to restructuring efforts
- Political culture regarding local control of public schools in a state.

The discussion of each category below incorporates these factors.

A "Mildly Active" State Role

Some states may not feel a high degree of urgency to turn around struggling schools. Others may feel such urgency, but believe they lack the resources to play a significant role in implementing NCLB's restructuring requirements, especially if a large number of schools face this sanction. In some states, the importance political culture places on local control of public schools may give pause to state leaders. In these situations, it may be most appropriate for states to play a mildly active role, including:

- ♦ **Providing general assistance to district and school leaders who are creating restructuring plans.** States might, for example, point leaders to research about practices in similar schools that resulted in student performance gains.
- ♦ **Identifying technical assistance providers.** A state can identify organizations that districts and schools may tap as providers of more intensive technical assistance. The state can create a process for identifying these organizations including such criteria as a track record of effectively working to turn around struggling schools. Even if a state does not require districts and schools to contract with the organizations on the state's approved list of technical assistance providers, such a list may be a helpful resource to districts and schools that decide they need such help.
- ♦ **Requiring districts and schools to submit restructuring plans for review and comment.** Another mildly active role is for states to require districts and schools to submit their restructuring plans for review and comment, but not require them to obtain state approval. A state can provide feedback to districts and schools about the strengths and weaknesses of the plan. If the number of plans that must be submitted in a state exceeds its capacity to review them, a state may require only the most severely struggling schools to submit them, for example, those schools that are achieving low absolute scores on state tests as well as not making any gains in their scores from year to year.

A "Moderately Active" State Role

Some states may feel a great enough sense of urgency to play a more active role. If resources aren't immediately available, they will reallocate them so the amount of staffing and funding devoted to their efforts adequately matches the number of schools that will need help. If local control is an important political value, state leaders will keep districts in the driver's seat for the implementation of these requirements, but the state's interaction with them will be more significant than in the scenario described above, including:

- ♦ **Building district capacity.** States can provide intensive training to district staff along several dimensions related to turning around low-performing schools – such as needs assessments, data-based decisionmaking, and curriculum and instruction. Instead of intensively working with a potentially large number of schools, states can instead work more aggressively with a smaller number of high-priority districts, who can in turn work with their schools that must be restructured.

- ◆ **Approving restructuring plans.** A state may require that districts receive state approval of school restructuring plans against an established set of criteria that ensures districts and schools are making the difficult changes that may be necessary. The approval may come from the state education department's office in charge of these efforts, the state commissioner of education or the state board of education. The approval process should allow enough time for districts and schools to revise and re-submit their plans, as well as make the staffing, budgeting, curriculum and scheduling changes their plans may require. If there are a large number of schools that face restructuring, a state may require only those schools that are struggling the most to obtain the state's approval.
- ◆ **Tracking and sharing what works (and what doesn't).** The state can either assign internal staff or hire an independent organization to conduct both formative and summative evaluations of what is happening in schools undergoing restructuring. It can also create a mechanism to share the findings of these evaluations on a periodic basis with schools that are in the process of creating or implementing restructuring plans. Again, the state may lead this effort itself or hire an independent organization to do so.

A "Highly Active" State Role

States that feel turning around chronically low-performing schools is of utmost urgency will likely be interested in playing a highly active role in implementing NCLB's school restructuring requirements. These states will both allocate new resources and reallocate existing resources so sufficient staff and funds are available to turn around these schools. Notwithstanding local control, these states will likely push for more dramatic changes, and may actually take the lead in implementing the restructuring requirements in a certain number of schools – perhaps those that are the most chronically low performing. This might include:

- ◆ **Identifying potential school operators.** A major challenge in two of the more dramatic NCLB restructuring options – reopening a school as a charter school and contracting with an outside entity to operate the school – is determining where new, high-quality school operators will come from. To meet this challenge, a state can deliberately cultivate a supply of new school operators. One way to do so is for the state department's charter schools staff to identify existing charter schools that are successfully serving student populations similar to those in schools facing restructuring. A more formal approach is to implement a request-for-qualifications or a request-for-proposals process. The goal of these processes is to develop a list of new school operators. It should contain specific information about each operator's approach as well as detailed data about the results that each operator has achieved with specific types of students. If a district decides to implement the "reopen" or "contract" option, but is struggling to find an entity to operate the school, it may choose an operator from the state-approved list.⁴
- ◆ **Creating competitive funding programs.** To increase the likelihood of success for restructured schools, a highly active state can provide additional resources to schools as they plan and execute their approaches. A state can require schools to apply for these dollars and award them on a competitive basis. Such awards can be used by states to ensure schools are implementing significant changes. To fund these programs, states can either make new appropriations or reconfigure existing programs. For example, those states interested in encouraging the reopen option may craft their next proposal for the federal public charter schools grant program to emphasize this option as a major part of the state's strategy for increasing the number of high-quality charter schools in the state.
- ◆ **Cultivating turn-around leaders.** One of the challenges of the restructuring option that involves replacing all or most school staff is finding school leaders who are equipped to succeed in such situations. To address this challenge, a state can mount a campaign to identify and recruit individuals – from both inside and outside the education system – with the set of competencies necessary to turn around low-performing schools. A state also can establish a training program for turn-around leaders.
- ◆ **Creating capacity for state takeover.** One restructuring option allows the district to turn the operation of a school over to the state. Few states have the capacity and will to operate schools directly. But if a district is interested in pursuing this option, a state could develop capacity in this area. The nature of that capacity will depend on what the state plans to do with taken-over schools. A state can reopen them as charter schools, contract with outside entities to run them or operate them directly by hiring school leaders and staff. In any case, a state's plan also should include an exit strategy whereby control of the school eventually returns to the district.

- ◆ **Creating a viable chartering process for the reopen option.** As schools and districts have considered the reopen option, several questions have been raised about how such a process might work. Because federal law, regulation and guidance is silent on these questions, states should take the lead in creating a viable chartering process for schools that choose the reopen option. This process should:
 - Involve parents and community members in the reopening process
 - Provide adequate time and resources for planning and start-up
 - Give schools autonomy over staffing, budgets and learning programs
 - Make accountability requirements clear
 - Encourage the replication of successful models, but be open to innovative ideas
 - Provide equitable funding to schools
 - Give schools access to facilities
 - Establish rigorous monitoring and oversight processes.⁵

Some states may choose to implement the reopen option in particular schools themselves. While the specifics of each situation will dictate the way in which the state should implement this option, there are two broad approaches for states to consider.

First, the state can create a provision within its accountability system that allows a state entity – such as the state board of education or the state department of education – to implement the reopen option. In this case, the state becomes the entity that oversees the reopening process, as well as the entity that monitors the performance of the school once it is reopened.

As a variant of this approach, if a state is interested in implementing the reopen option but does not have the organizational capacity to effectively reopen and monitor schools, it should consider either turning to an existing alternative authorizer – such as a state charter school board or a state university or college – to take over this job. If alternative authorizers do not exist in the state, it should consider creating them for this purpose. For this approach, the state can create a provision within its accountability system that allows it to turn over the reopening and monitoring of a chronically low-performing school to an alternative authorizer.

SUMMARY TABLE

Level of Activity	Potential State Roles
Mild	Provide technical assistance to district and school leaders Identify technical assistance providers Require districts and schools to submit restructuring plans for review and comment
Moderate	Build district capacity Approve restructuring plans Track and share what works (and what doesn't)
High	Identify potential school operators Create a competitive funding pool Cultivate turn-around leaders Create capacity for state takeovers Create a viable chartering process for the reopen option

ENDNOTES

¹ Wolf DiBiase, Rebecca, *State Involvement in School Restructuring Under NCLB in the 2004-05 School Year*, Denver, CO: Education Commission of the States, 2005.

² Wolf DiBiase

³ Wolf DiBiase

⁴ Hassel, Bryan and Lucy Steiner, *Stimulating the Supply of New Choices for Families in Light of NCLB: The Role of the State*, Denver, CO: Education Commission of the States, 2004.

⁵ National Alliance for Public Charter Schools, *Policy Principles for Creating New High Quality Schools Under NCLB's Restructuring Requirements*, September 2005.

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