

THE NO CHILD LEFT BEHIND FAIRNESS ACT OF 2004

What does this bill do?

- Requires the Department of Education to play by its own rules in determining whether schools have made Adequate Yearly Progress, or AYP, under the No Child Left Behind (NCLB) Act. AYP is the centerpiece of NCLB's new accountability system for school districts and schools. Schools are required to make clear, measurable progress in student achievement each year, and AYP measures this progress.
- Allows schools to request a review of their AYP determination for the 2002-2003 school year based on the Department of Education's new regulations and guidelines. Otherwise, schools will be unfairly penalized because the Department of Education failed to issue these regulations and guidelines before AYP for this school year was determined.
- It is also important to look at what this bill does not do: it does not change or modify the accountability provisions in NCLB in any way.

Who would this bill help?

- Schools – potentially *thousands* of schools across the country that did not make AYP for 2002-2003 school year due to the absence of clear guidance on how to include children with disabilities and children with limited English proficiency in their assessment systems.

Why is this bill needed?

- Without this bill, thousands of schools across the country could be misidentified as not meeting academic standards for the 2002-2003 school year. **Labeling the wrong schools would require many schools to take remedial actions that may not really be necessary, squandering funds that could be spent on other purposes.**
- The Administration took two years after the enactment of NCLB to develop crucial guidance to schools in calculating their AYP results. The delays in issuing those instructions forced schools to evaluate and report on assessments in the absence of clear rules.
- Now that the guidelines are in place, the Department of Education is compounding the problem by refusing to let schools recalculate their academic progress based on the standards set in the Department's own guidelines.
- Misidentifying successful schools as needing improvement would dilute – rather than increase – the amount of assistance available to schools that *do* need to improve.

How does this bill help?

- The Secretary of Education has cited the lack of any legislative authority as an obstacle to applying the regulations retroactively. The NCLB Fairness Act provides this authority.
- It allows us to compare apples to apples. If schools are judged based on different criteria for different years, it will be harder to tell whether they are making progress. Without the NCLB Fairness Act, we will be comparing apples to oranges (i.e. different criteria for different years.)