



February 20, 2004

James Nobles, Legislative Auditor
Office of the Legislative Auditor
140 Centennial Building
658 Cedar Street
St. Paul, MN 55155

Dear Mr. Nobles:

Thank you for your office's extensive program evaluation of the federal requirements under the *No Child Left Behind Act of 2001*.

In January 2002, President Bush signed landmark legislation that brought additional accountability measures to public schools. Building on 1994's Improving America's Schools Act signed by President Clinton, the *No Child Left Behind Act* calls for closing the achievement gap, improving accountability through additional statewide assessments, undertaking school improvement, expanding educational options, and enhancing teacher quality while providing states and districts with additional federal funding.

The Pawlenty administration strongly supports the goals and tenets of *No Child Left Behind*. While Minnesota has high overall achievement rates, the State has not been as successful in closing the achievement gap between white students and students of color. While many will state that the goal of 100% proficiency is impossible, we must strive to provide a high quality education to all children. If the State is not going to support such a goal, then it must tell the public which children will be left behind. The Pawlenty administration is not prepared to do this.

In a recent speech commemorating the 20th anniversary of *A Nation at Risk*, the seminal report on American education, U.S. Secretary of Education Rod Paige, echoed many of the same themes. He said: "Education is a civil right, just like the right to vote or to be treated equally. And it's the duty of our nation to teach every child well, not just some of them. Yet in the greatest, most prosperous nation in the world, we had created two education systems - separate and unequal - that found it perfectly acceptable to teach only some students well while the rest - mostly minority and mostly low-income - floundered and flunked out."

Some might say that the law is unjust to schools, or that its costs outweigh its benefits. However, this should not stop the State and public schools from addressing the significant issues faced in education – particularly the achievement gap. Last November, more than 100 minority leaders and educators looked beyond the politics and signed a joint letter supporting *No Child Left Behind*. In the letter, they wrote:

“*No Child Left Behind*...is a huge step forward in the movement toward full participation in American democracy....Like other steps before it – including *Brown v. The Board of Education* and the *Individuals with Disabilities Act* - NCLB might justifiably be labeled as a mandate not “fully funded.” But just as we then didn’t use insufficient funding as an excuse to maintain legally segregated schools or to exile special education students from public school classrooms, we must not use funding to escape our responsibilities now. . . . Rolling back any part of the requirement to know more and do more about the large achievement gaps that have long blighted American education sends the wrong message and simply cannot be an option.”

The above statement is particularly meaningful given that research, as well as MDE’s experience working with schools identified for improvement, indicates that successful change is not the result of some untried, magic solution. Rather, these schools have found that they need to focus resources around best practice initiatives such as a comprehensive curriculum with scope and sequence, an alignment of their curriculum to state standards, communication among teachers, use of data to identify strengths and weaknesses, on-going classroom-based assessments for diagnostic purposes and to monitor continual progress, and the use of instructional strategies that meet the needs of diverse student populations.

As the State has started implementation and works with the federal government to gain approval of its plan for compliance, a number of changes requested by the State have been approved. These changes will provide greater flexibility to school districts and charter schools. We believe the federal government will continue to work with the State and provide more flexibility as we work toward full implementation and achieving *No Child Left Behind*’s substantial but important goals.

The Department of Education takes seriously the recommendations made by the Office of the Legislative Auditor in the program evaluation. Most of the recommendations are in process of being implemented and some will be considered for implementation as the State continues to work with the federal government. The Department’s responses to the recommendations are outlined below.

OLA Recommendation:

In cases where the Minnesota Department of Education determines that an AYP determination was made in error, it should ensure that the error does not adversely affect the school’s or school district’s sanction status in subsequent years.

MDE Response:

When determining a school or district's AYP status, the department uses data submitted by the district through the state's MARSS (Minnesota Automated Reporting Student System) accounting system and their annual assessment reports. It is the district's responsibility to ensure data are accurate since the data are used to make numerous decisions, including general education aid.

In addition, districts are given two opportunities to make corrections to their assessment data. Prior to any public release of test information, districts receive early correction rosters to ensure that the student demographics and test participation data reported for a given school and district are correct. The department also instituted a month-long period for review of the AYP determination, data cleansing, and appeals prior to finalizing the AYP status for any school or district. The department has requested the Legislature to designate these preliminary determinations as non-public data so that schools and districts can have a full month to review the data prior to any public release. In 2003, the majority of districts met the timelines even though it was the first year of implementation. The department expects districts will take full advantage of the opportunities already in place and improve the accuracy of AYP determinations for schools and districts.

Since there are multiple opportunities to correct school and district data prior to finalizing AYP status, the department does not agree with the recommendation to hold schools or districts harmless for uncorrected data errors found to be the responsibility of the school or district. In the event that the error comes not from a local district but from MDE, the error will be corrected and schools and districts will be held harmless.

OLA Recommendation:

The Minnesota Department of Education should provide the 2005 Legislature with a plan that outlines how value-added measures of student achievement could be incorporated into the annual AYP determination process.

MDE Response:

The Pawlenty administration strongly supports a value-added system for measuring student achievement. Specifically, Minnesota schools will be able to use value-added measures as another academic component in the AYP formula. The specific criteria and process are currently under development. Implementation will depend upon action by the Legislature. MDE will continue to work closely with the Legislature on the development of the value-added system.

OLA Recommendation:

The Minnesota Department of Education and the Office of Educational Accountability should report to the 2005 Legislature on any unresolved issues regarding the validity and reliability of Minnesota's accountability system.

MDE Response:

As noted in the OLA report, the department has taken strong steps from the very beginning of its implementation to make its accountability system valid and reliable. By using an index measure, Minnesota's system acknowledges improvements in student performance across achievement levels. By requiring a specific number of students to have been assessed prior to making an AYP determination for any group and applying a confidence interval to the calculation, the department has ensured that the AYP determinations are made in the most valid and reliable manner possible.

The department has continued to work with the U.S. Department of Education to improve the state's accountability system. Changes made specifically to address the concerns regarding special education students and English Language Learners have made Minnesota's accountability system more valid and reliable. The department will continue to work on refinements as implementation progresses and changes are warranted.

OLA Recommendation:

The 2004 Legislature should require the Minnesota Department of Education to submit a plan to the House and Senate education committees that outlines how it will monitor the quality and effectiveness of supplemental educational services provider.

MDE Response:

In 2003, MDE decided that the federal criteria for certifying supplemental services providers were not rigorous enough. In order to ensure that the State, school districts and charter schools were protected against "fly-by-night" set ups, MDE received rulemaking authority from the legislature to adopt more rigorous rules for certification.

MDE plans to evaluate supplemental services providers based on outcomes of the services that were provided. At this time, the program is in its first year of operation; plans are still being developed and staffing levels will be reconsidered when more schools are required to offer supplemental services. Once those plans are in place, MDE will notify the legislature.

OLA Recommendation:

The Legislature should require the Minnesota Department of Education to annually prepare a report identifying, at a minimum, the expenditures incurred by school districts (regardless of funding source) to comply with NCLB-required sanctions for low-performing schools.

MDE Response:

As your office noted in Chapter 4, it is difficult to predict some of the costs of NCLB. It is also difficult to make determinations of what costs should be associated solely with implementation of NCLB and what costs should be seen as part of providing an effective and efficient system of public education.

If the Legislature requires MDE to quantify the costs of the NCLB-required sanctions on an annual basis, the burden will ultimately fall to the districts and schools to submit additional reports not required by NCLB. MDE certainly will monitor whether or not the school districts set-aside and use an amount equal of 20% of their Title I, Part A allocation to provide intra-district school choice and access to supplemental educational service providers.

MDE does not currently have the capability to quantify the costs as suggested and would have to rely upon districts to provide that information. This report would be a state-imposed requirement, not a NCLB requirement, and would place additional burdens on districts.

Again, thank you for your office's hard work on this program evaluation. If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Cheri Pierson Yecke

Cheri Pierson Yecke, Ph.D.
Commissioner