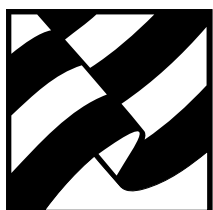


**Education Accountability  
in Minnesota:**  
*No Child Left Behind* and Beyond

**A Project of  
Center of the American Experiment**

Cheri Pierson Yecke, Ph.D.  
Distinguished Senior Fellow for Education and Social Policy  
September 22, 2004



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***Center of the American Experiment***

1024 Plymouth Building 12 South Sixth Street Minneapolis, MN 55402  
phone: 612-338-3605 fax: 612-338-3621 website: [www.amexp.org](http://www.amexp.org)

## Table of Contents

Foreword .....	i
Executive Summary .....	1
Introduction .....	3
Implementation Challenges in Minnesota .....	10
<i>Issue 1</i> Measuring student growth: Transitioning to a value-added accountability model .....	11
<i>Issue 2</i> Fairness: Addressing student subgroup populations .....	14
<i>Issue 3</i> Ineffective teachers: What can be done? .....	16
<i>Issue 4</i> Teacher assignments: Targeting the needs of students .....	19
<i>Issue 5</i> Mobility: Accountability for children educated elsewhere .....	21
<i>Issue 6</i> Special Education: A multiplicity of issues .....	23
<i>Issue 7</i> Teacher Licensure: The need for flexibility .....	29
<i>Issue 8</i> “Too Much Testing”: Confusion between diagnostic testing and testing for accountability .....	30
<i>Issue 9</i> Funding: New strategies .....	33
<i>Issue 10</i> Conflicts of Interest: Community fairness and protecting classroom dollars .....	35
Conclusion .....	36
Appendix A .....	37
Appendix B .....	43
Appendix C .....	49
Endnotes .....	53

## Foreword

Last year, the brilliant education critic and activist, Chester E. Finn Jr., in his most recent speech to an American Experiment audience (I think he's given at least five since in 1990), allowed that he had "never been as ambivalent about a piece of public policy as about No Child Left Behind." While he had been enthused by President George W. Bush's original proposal to improve elementary and secondary education, it didn't take terribly long for Congress to seriously undercut two of its most important and attractive features: state and local flexibility in its eventual implementation and nearly imminent prospects for real school choice.

Minus these components, it's not surprising that few conservatives have come to view NCLB as their favorite piece of legislation ever to emerge from Washington. They are manifestly conflicted about the law: Most do not want this degree of federal involvement, but many are grateful that accountability is finally being required for the hundreds of billions of tax dollars spent every year on education. And as for folks on the left, they've been known to cite their own buckets of irritations with it. Actually, I don't know of too many people in my circles who are especially comfortable with the federal government playing such a hands-on role in education. I, for one, ideologically cringe.

Then, again, in fairness, there is reason to believe that NCLB is already succeeding in one of its core purposes: getting educators and policy makers to think seriously and creatively about making schools (and everyone else involved in educating our children) measurably more accountable for whether girls and boys actually learn what they're supposed to learn. This aim applies especially to minority kids, millions of whom, I'm afraid, are doing dreadfully in their academic work.

Enter Cheri Pierson Yecke—a veteran history and English teacher, former senior official in the U.S. Department of Education in George W. Bush's administration, former Minnesota commissioner of education, and now, I'm overjoyed to say, American Experiment's Distinguished Senior Fellow for Education and Social Policy. A realist, she recognizes that the law is here to stay, and that complaining will not fix it. As part of her first major center project, Dr. Yecke traveled around Minnesota, meeting with education leaders and public officials, trying to figure out how NCLB could be made to work better for all concerned. How, for example, to faithfully and more productively comply with the law without getting diverted (or driven crazy) by its bureaucratic demands and vagaries? About this many-headed question, she learned much. But perhaps even more importantly, she happily learned that the leaders with whom she met

had much to say, not just about fixing NCLB, but also about fixing local, *Minnesota-grown* obstacles to greater educational accountability.

This study, “Educational Accountability in Minnesota: *No Child Left Behind* and Beyond,” reports and builds on those conversations. It is, as I’m confident most readers will agree, as acute, as balanced, and as useful as any analysis of NCLB—and of educational accountability more generally—I’ve seen. As Dr. Yecke writes: “Any modifications suggested in this report are intended to strengthen No Child Left Behind and are in no way presented as a way to dodge the law or mask accountability. Educators recognize that a new day has dawned, requiring new and innovative approaches to old problems.”

This study, I’m likewise confident, can make a solid difference in the way Minnesota schools and educators (and others across the country) go about their vital work. My great thanks to Dr. Yecke, and as with everything American Experiment does, I welcome your comments.

Mitchell B. Pearlstein, Ph.D.

President

September 2004

## Executive Summary

The federal law known as *No Child Left Behind* has changed the dialogue about education in this country. In the past, the underperformance of minority children was masked when schools reported student achievement only in the aggregate. Those days are over. All schools are now required to report achievement for *all* groups of their students, and are being held accountable for helping students to meet specific academic goals.

The dialogue in Minnesota has started to change as well. In the past, we were able to stand proudly as our students were proclaimed as leading the nation on the ACT exam, or being among the top states in the nation on the National Assessment of Educational Progress (NAEP). But now these proud accomplishments are tempered with recognition of the vast gap in achievement in Minnesota between white students and students of color.

U.S. Secretary of Education Rod Paige met with a group of Minnesota superintendents in February 2004 to discuss the implementation challenges of the law. As a result of feedback received at that meeting, a policy change was made that had a positive impact on all schools in the nation.<sup>1</sup> The success of that dialogue led to a summer listening tour around the state by the author to discuss *No Child Left Behind* so as to solicit additional feedback on challenges in implementing the law, thereby generating ideas for Secretary Paige as he and federal officials consider how to fine-tune it.<sup>2</sup> What happened instead was a

dialogue that went beyond *No Child Left Behind* and addressed much broader issues of accountability, including homegrown challenges faced by educators who understand that accountability in education is here to stay.

Education policymakers and administrators in Minnesota see accountability as an issue that both transcends *No Child Left Behind* and is sometimes constrained by it.

Education policymakers and administrators in Minnesota see accountability as an issue that both transcends *No Child Left Behind* and is sometimes constrained by it. In a series of meetings across the state, they made their concerns known.

After providing historical background regarding the law, this report addresses the concerns raised by those Minnesota educators who serve as both policymakers and administrators. These concerns include:

1. Measuring student growth: Transitioning to a value-added accountability model.
2. Fairness: Addressing student subgroup populations.
3. Ineffective teachers: What can be done?
4. Teacher assignments: Targeting the needs of students.
5. Mobility: Accountability for children educated elsewhere.

6. Special education: A multiplicity of issues.
7. Teacher Licensure: The need for flexibility.
8. “Too Much Testing:” Confusion between diagnostic testing and testing for accountability.
9. Funding: New strategies.
10. Conflicts of Interest: Community Fairness and Protecting Classroom Dollars.

We hope that the issues raised and recommendations made in this document will assist in the implementation of *No Child Left Behind* as the federal law matures, and also help to stimulate state policy discussions regarding those homegrown roadblocks to accountability that have been identified.

Each issue is addressed separately and is followed by recommendations for the local, state, or federal level.

Minnesota educators understand that they have a dual obligation to (1) help all children to succeed, and (2) present taxpayers with the evidence that their investment in public education is paying positive

dividends in the form of increased academic achievement. They recognize that this is a new era in public education, and most are embracing accountability even while confronting the challenges it brings.

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Educators recognize that a new day has dawned, requiring new and innovative approaches to old problems.

## Introduction

### ***Historical background***

The federal law known as *No Child Left Behind* (NCLB) is the most recent reauthorization of the 1965 Elementary and Secondary Education Act (ESEA). Initially passed as part of President Lyndon Johnson's "War on Poverty," the primary intent of the law was to provide funding to school districts to help children from disadvantaged families overcome the educational deficits that kept them from performing as well as their peers.

President Johnson expressed a depth of passion for this bill, driven in large measure by the impact education had made in his own life. In formal remarks preceding his signing of the law, he stated that it would "bridge the gap between helplessness and hope," and further stated that "as a son of a tenant farmer, I know that education is the only valid passport from poverty."<sup>3</sup>

At the bill signing, the president publicly acknowledged the contributions of only two lawmakers for their efforts on this bill. Minnesota's Sen. Eugene McCarthy was one of these, and he was present at the signing of the bill. His leadership in working on the bill was acknowledged with gratitude by the president: "He has been working for this education bill ever since the first day he came to the House of Representatives, and ever since he has been in the Senate."<sup>4</sup>

At the signing ceremony, President Johnson declared: "As president of the United States, I believe deeply

[that] no law I have signed or ever will sign means more to the future of America."<sup>5</sup>

The most commonly recognized part of this law is known as Title I, which focuses on assisting disadvantaged children by providing extra

funding to meet the educational needs of these students. The hope was that extra educational funding would level the academic playing field for children living in poverty.

"As President of the United States, I believe deeply [that] no law I have signed or ever will sign means more to the future of America."

*President Lyndon B. Johnson, 1965*

### ***Has ESEA kept its promise?***

As the law approached its fourth decade of existence, however, many began to more aggressively question whether it had made any significant difference toward fulfilling the goal of closing the achievement gap between whites and minorities. Data in Minnesota, as elsewhere, indicate that nearly four decades of federal funding has not resulted in much progress in this area.

The National Assessment of Educational Progress (NAEP) is a nationwide test that is given to a statistical sample of students in every state. As such, it serves as a common metric across states and can demonstrate the relative achievement gap from state to state.



Table 1 shows the enormity of these gaps. Since every ten points equals a year of learning, Latino students are leaving eighth grade approximately three years behind their white peers in achievement—which means they are starting high school with the skills of an average white fifth grader.<sup>6</sup> In math and science, the average black student<sup>7</sup> in Minnesota is starting high school with the skills of an average white fourth grader.<sup>8</sup>

**Table 1**

**National Assessment of  
Educational Progress:  
Achievement Gaps  
Between White and Minority Students in  
Minnesota<sup>9</sup>**

*(Every ten points  
signifies a one-year gap in learning.)*

	<b>Math</b>	<b>Science</b>	<b>Reading</b>	<b>Writing</b>
<b><i>Latino students</i></b> <i>(Achievement gap compared to white students)</i>				
Grade				
4	26	27	N/A*	30
Grade				
8	33	29	32	N/A**
<b><i>Black students</i></b> <i>(Achievement gap compared to white students)</i>				
Grade				
4	27	37	35	23
Grade				
8	44	43	29	N/A**

\* Sample size was too small for reporting purposes.

\*\* State did not participate.

Unfortunately, the gap does not change much once students enter high school, meaning that the average minority high school graduate in Minnesota has skills approximately equivalent to those of an average white eighth or ninth grader.

What does this mean for minority students who want to embrace the American dream of social mobility? What does this mean to minority parents who have been assuming that the education their children are receiving is equivalent to that of their white peers? What does this mean to minority students who start college with a profound skills deficit? What are the future implications for the economic well-being of our state and our nation?

Another alarming issue is that, for the most part, these gaps place Minnesota near the bottom of all states when it comes to disparities among various groups of students. We are tied for last place with Massachusetts in the size of the gap for our eighth grade Latino students in reading, and only Wisconsin has a larger gap than us in the achievement of black eighth graders in math. (See Appendices A and B.)

The fact that this achievement gap exists across the country is well-documented and a cause for alarm, but the depth and breadth of the gap here in Minnesota should be a rallying cry for change. According to Stephan and Abigail Thernstrom, who extensively analyzed achievement gap data in *No Excuses: Closing the Racial Gap in Learning*. “Only if its full magnitude is understood will Americans grasp the need for a radical rethinking of what counts today as educational reform. The shocking facts are a wake-up call.”<sup>10</sup>

Unfortunately, there are some who want to ignore the facts and remain content with the status quo. After the public discussion regarding Minnesota’s achievement gap began in earnest in the spring of 2003, some felt that Minnesota’s reputation as an

educational leader was being attacked. One teacher made her feelings known with these words: “Minnesota has always been a leader in the field of education....to imply that something is hidden from the public regarding our efforts is an insult.”<sup>11</sup>

Fortunately, such sentiments are heard less frequently as educators cope with a new reality: We cannot solve issues if we deny their existence. Hiding behind the veneer of Lake Wobegon is no longer an option, and blindly accepting the status quo and resting on yesterday’s laurels will not move us forward.

### ***ESEA: Achievement and Funding***

In the late 1990s, federal officials and others began to more seriously question whether the funding that was being sent to the states under ESEA was being used as wisely as it should be. The achievement of minority students was not catching up to that of white students, even as the flow of federal dollars was constantly increasing.

Analyses detailing increases in spending have found that the amount of federal spending on K-12 education alone, in inflation-adjusted dollars, went from \$9 billion in 1965 to \$53.3 billion in 2002. This was an increase of 492 percent.<sup>12</sup> But since federal funding for education comes from over thirty-six federal agencies, the total amount spent on education overall is actually much larger. In inflation-adjusted dollars it has grown from \$24.7 billion in 1965 to \$108 billion in 2002.<sup>13</sup> One of the largest increases in federal education funding took place between 2000 and 2004, when funds given to the U.S. Department of Education grew from \$38.4 billion to \$63.3 billion, an increase of 65 percent.<sup>14</sup>

In addition to more spending, the proportion of federal dollars to state and local dollars has also increased in recent years. The federal share of spending on K-12 education was 5.7 percent in 1990-1991 and in 2003-2004 it increased to 8.3 percent.<sup>15</sup>

Hiding behind the veneer of Lake Wobegon is no longer an option, and blindly accepting the status quo and resting on yesterday’s laurels will not move us forward.

Analyses of NAEP data on a national level indicate that although the achievement gap for minorities was narrowing during the 1970s and 1980s in reading, performance after 1988 has retreated. Overall, achievement in math and science for non-Asian minority students has remained relatively flat.

Concerned with this trend of stagnant minority performance in the face of massive spending increases, Congress started to nudge states in the direction of standards and accountability with its 1994 reauthorization

Analyses of NAEP data on a national level indicate that although the achievement gap for minorities was narrowing during the 1970s and 1980s in reading, performance after 1988 has retreated.

of ESEA. Although the resulting law (known as the *Improving America’s Schools Act*) contained provisions for testing, disaggregation of data, measures of adequate yearly progress (AYP), and consequences for not meeting AYP goals, by the end of 2000 a mere eleven states were in compliance with the law, though all states were receiving funding.<sup>16</sup>

## ***Re-thinking ESEA***

The fact that states were not being held accountable for implementing the law as required by Congress led to a rethinking of ESEA. One step in this direction came in 1999 in the form of the *Academic Achievement for All Act*, also known as *Straight A's*, a proposal that would have allowed states to receive their ESEA funds in a block grant in exchange for accountability for student achievement. Participating states would receive their ESEA funds without strings attached—provided they showed continual improvement in increasing student achievement.

After decades of requiring *no* accountability, the new law is *driven by* accountability.

Testimony at a 1999 Congressional hearing on the bill included the following statement: “National success at welfare reform is growing

out of individual state efforts. The same model can and should be applied to education reform. Provide flexible federal dollars to the states...and the same degree of enthusiasm, creativity, and diligence which has brought about dramatic welfare reform in a very short period of time will be seen in education circles...[We] are willing to step forward and accept responsibility for improving student achievement.”<sup>17</sup> The House passed the *Straight A's Act* in 1999, but the Senate took no action.

As attention was diverted to the 2000 election, ESEA reauthorization was delayed. However, discussions picked up in 2001, and the Bush administration proposed a reauthorization that included the *Straight A's* plan. This would have given states the option of receiving their ESEA funds as a block grant and

forgoing the bureaucratic red tape that surrounds federal funding. In a model that mirrored a charter school or charter district, flexibility would be granted to states in exchange for meeting accountability goals. By the time ESEA was reauthorized in 2002, however, this state flexibility option had disappeared.

## ***No Child Left Behind***

The bill that had been thirty-four pages long in 1965 had grown to nearly 700 pages by 2002. After decades of requiring *no* accountability, the new law is *driven* by accountability. The law finally has some teeth, resulting in the announcement on June 10, 2003, that all states, Puerto Rico and the District of Columbia had developed accountability plans that were approved by the U.S. Department of Education—a far cry from the eleven states that had met the requirements of the law under the previous reauthorization.<sup>18</sup>

Major provisions of the law include:

- Annual testing of students in grades three through eight and at high school in reading and math.<sup>19</sup>
- Reporting academic performance results for every school—at the whole school level as well as disaggregating test results for all groups of students, including (1) American Indian/Alaskan Native, (2) Asian/Pacific Islander, (3) Hispanic, (4) Black, (5) White, (6) Limited English Proficient, (7) Special Education, and (8) Free/Reduced Price Lunch.
- AYP (adequate yearly progress) goals that must be met by each subgroup of students.

- Identification of those schools that do not meet AYP goals.<sup>20</sup>
- Educational choices (other public schools or tutoring) for parents whose children attend schools that have been identified as not making AYP for two years or more.
- Educational choices (other public schools or tutoring) for parents whose children attend schools that have been identified as unsafe.
- Report cards for schools.
- New “highly qualified” requirements for teachers.

### ***Supporters and Detractors***

Confusion over any complex law and the many changes it brings can result in misinformation being conveyed to the public. The arrival of *No Child Left Behind* is no exception to this rule. For example, a report conducted by the Minnesota Office of the Legislative Auditor (OLA) announced that “...between 80 and 100 percent of Minnesota’s elementary schools will fail to make adequate yearly progress by 2014.”<sup>21</sup> This is an alarming statement – but it was based on a false assumption.

A different organization conducted a simulation projecting Minnesota school achievement using the assumption that “the provisions of *NCLB* legislation will remain unchanged over the next eleven years.”<sup>22</sup> Since this law has regularly been reauthorized since 1965 and is due for reauthorization in 2007, and since policy changes continue to be negotiated on an annual basis, it is inaccurate to assume that no changes will be made. In fact, from the time the simulation was initiated until the issuance of the

OLA report, policy changes had already produced a number of changes in Minnesota’s AYP formula.

This inaccurate assumption is not stated anywhere in the OLA report. Nonetheless, the statement upon which it is based is now being used by opponents of the law as they attempt to undermine its credibility.<sup>23</sup>

However, any negativity that has been expressed can be contrasted with positive viewpoints. Editorial boards around the country are weighing in with their opinions regarding the law, and much of what is being heard in the major papers is positive:

*The New York Times* (March 2, 2004): “The new law will need tinkering here and there. But its goal and its general roadmap for getting there are the right ones. For the effort to truly equalize education to succeed, Congress will need to fight off destructive schemes by lobbyists and bureaucrats of both parties who are working hard to undermine the new initiative and to preserve the bad old status quo.”

*Chicago Tribune* (March 21, 2004): “Some of the law’s rules need to be tweaked, and in some cases they have been. But the main mission of the law should be unquestioned: Schools will be held accountable for their record in teaching all children, regardless of race, income, or disability.”

*The Wall Street Journal* (Feb. 15, 2004): “Given who’s now complaining loudest, the reform seems to be working. Accountability measures are in place and money isn’t simply flowing to the states for nothing in return.”

*St. Paul Pioneer Press* (August 29, 2004): “[There is] some need for tweaking of the requirements of the U.S. *No Child Left Behind* Act — not the wholesale abandonment of the worthwhile education reform program that some critics have called for, certainly, but some reasonableness in the criteria for measuring the progress of special-education pupils and students with limited English skills. Such fixes will only make *No Child Left Behind* stronger...”

In addition to editorial pronouncements, public opinion polls show that, although the law is complex, the majority of Americans look upon it favorably.

In the 2004 Phi Delta Kappa/Gallup poll, when asked how much *No Child Left Behind* “will help to improve student achievement in the public schools in your community,” the majority of respondents (51

“The new law will need tinkering here and there. But its goal and its general roadmap for getting there are the right ones.”  
*The New York Times*

percent) answered that it would help a great deal or a fair amount, compared to 32 percent who answered that it would not help very much or not at all.<sup>24</sup>

A survey conducted by the Business Roundtable in 2003 indicated that 56 percent of parents and 59 percent of voters agree that, even if only one subgroup of students is underperforming, a school should be labeled as needing improvement.<sup>25</sup> Furthermore, the majority of parents and voters, when given four choices of the “most compelling reason to strive for every child meeting state standards,” stated that society has a “moral obligation

“This nation has a deep moral commitment to the principles of *No Child Left Behind*.

*The Business Roundtable*

to provide a high-quality education to students.”<sup>26</sup>

Said John J. Castellani, president of The Business Roundtable: “This nation has a deep moral commitment to the principles of *No Child Left Behind*. Reporting

achievement by student group will be eye-opening for many people. We must be clear, honest and bold about the data and use it to make changes to ensure that *all* students are performing at high levels.”<sup>27</sup>

### ***Where do we go from here?***

This year is the fiftieth anniversary of the historic Supreme Court ruling in *Brown v. Board of Education*. This 1954 ruling overturned the 1896 decision in *Plessy v. Ferguson*, which established the legal precedent for “separate but equal.” But as history proved, separate was *not* equal. In *Plessy v. Ferguson*, shameful practices and traditions of the day were given precedence over higher promises of freedom and liberty as articulated in our founding documents.

Chief Justice Earl Warren wrote: “In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.”<sup>28</sup> This journey toward equality started in 1776, took a giant leap forward in 1954, and now stands to make yet another leap.

*No Child Left Behind* is a tool with which we can take this next step. For the first time ever, each public school in the country must inform its community about the academic achievement of all — not some, but *all*—of its students. In schools across the nation, the light of accountability will shine into the darkest corners, places where children formerly might have been left to languish in frustration and despair, and where families have been left without hope.

Some might say that the law is unfair to schools, or that its costs outweigh its benefits. But we need look no farther than to the example of one of Minnesota's most famous native sons, Hubert H. Humphrey, Jr., who spoke as a statesman on the issue of civil rights nearly sixty years ago. In 1948, he declared his support for civil rights "because of my profound belief that we have a challenging task to do here—because good conscience (and) decent morality demands it..." He further stated the following: "To those who say, my friends, to those who say, that we are rushing this issue of civil rights, I say to them we are 172 years late!"<sup>29</sup>

There was no time to waste then, and there is no time to waste now. Thurgood Marshall spoke to the court in the *Brown* decision with these words: "There is no way you can repay lost school years."<sup>30</sup> So the question we must confront is: How long should parents have to wait?

In November 2003, over 100 minority leaders and educators looked past party designations, looked beyond politics, and signed a joint letter supporting *No Child Left Behind*. In this letter, they state:

*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. Board of Education* and the *Individuals with Disabilities Education Act*—NCLB might justifiably be labeled as a mandate<sup>31</sup> 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.....We support *No Child Left Behind's* important message that "good schools" are good for all kinds of students, not just some.

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.<sup>32</sup>

Minnesota, long a leader in national measures of academic achievement, must move into a *new* stage of leadership where we maintain our position and continue to cultivate academic excellence in the aggregate, while rising to the challenge of providing a quality education for struggling students, thereby narrowing, and eventually closing, the achievement gap.

Under Hubert Humphrey, Minnesota was ahead of its time and led the way in 1948. We need to lead again.

Our new accountability system provides a mechanism that helps us to identify and reward academic excellence, as well as a way to identify and address challenges. To reach our goals, we must not be afraid to identify and reward excellence, for in doing so we inspire others to reach these same heights. Likewise, we must not be afraid to identify and address persistent underperformance. Remember the words of Thurgood Marshall: "There is no way you can repay lost school years."

We need to move forward knowing that while the road may be rocky and the journey sometimes challenging, our goal is a noble one and is larger than what happens in a single school or a single district. It involves a commitment to something bigger than ourselves, whose culmination we may not even see in our lifetime.

That is the challenge before us.

## Implementation Challenges in Minnesota

Although the bill became law in January 2002, implementation in Minnesota was slow to proceed. During 2002, the state Department of Education (then known as the Department of Children, Families, and Learning) did little or nothing to assist local districts in understanding the enormity of the changes required under the new law.<sup>33</sup> From January 2003 through April 2004, tremendous efforts were exerted to make up for lost time. Deadlines had to be met, an AYP formula had to be negotiated, new standards had to be written, testing aligned to new standards had to be initiated, and accountability measures had to be set into place.

As daunting as such a task appeared, the challenges facing local school districts were in many ways even more dramatic. Having lost a year of implementation time, they had to move quickly to understand and implement a complex accountability system, while simultaneously moving away from the old state standards (known as the Profile of Learning) to the new Minnesota Academic Standards.

In spite of these challenges, in 2003 only 17 percent of Minnesota superintendents indicated that they would choose to opt-out of *No Child Left Behind*.<sup>34</sup> This appears to be due mainly to the financial implications of such a move, as districts would lose their federal Title I funding.

### ***Issues raised by education officials***

In a series of roundtable discussions, educators across Minnesota raised concerns and gave specific feedback regarding the challenges they face as they

continue to work at implementing the law.<sup>35</sup> Their input is meaningful, as they are experiencing firsthand the reality of implementation. Meetings were held in Mankato, St. Cloud, Bemidji, and Roseville with superintendents, school board members, and principals from around the state.

Their frank discussions revealed the following areas of concern:

1. Measuring student growth: Transitioning to a value-added accountability model.
2. Fairness: Addressing student subgroup populations.
3. Ineffective teachers: What can be done?
4. Teacher assignments: Targeting the needs of students.
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Each issue is addressed separately and is followed by recommendations for policy consideration at the local, state or federal level.

Minnesota educators understand that they have a dual obligation to help all children to succeed *and* to present taxpayers with the evidence that their investment in public education is paying positive dividends in the form of increased academic achievement. They recognize that this is a new era in public education, and most are embracing accountability even while confronting the challenges it brings.

## *Issue 1*

### **Measuring student growth: Transitioning to a value-added accountability model**

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#### ***Issue***

There is wide consensus—among superintendents, school board members, principals, and elected officials—that Minnesota should transition into a value-added accountability model.

#### ***Discussion***

Educators in both the rural and metro areas of the state expressed frustration with the current accountability system. The most pervasive concern is that it is not a value-added system; that is, it does not track the achievement of the same cohort of students over time.

#### ***Analysis***

Of the challenges faced by local districts, none is as pressing as meeting adequate yearly progress (AYP) goals. Under *No Child Left Behind*, each state negotiates a unique AYP formula with the federal government, and has the opportunity to annually re-negotiate the criteria used in this formula. In 2003, legislation introduced in the Minnesota legislature would have constrained the department's ability to negotiate by placing certain criteria in statute.<sup>36</sup> Fortunately for Minnesota schools, those sections of the bill were deleted prior to passage.

Accountability under *No Child Left Behind* is currently determined by using what is called a *static* model. This model uses comparisons between the achievements of different groups of students in

specific grade levels over different years. For example, the achievement of third graders in 2004 would be compared to the achievement of a different group of third graders in 2005. The obvious

problem with this model is that there can be large variations in the achievement of different groups of students. While such a model can be helpful in showing whether a school has specific areas of academic strength or weakness, there are other models that are more accurate measures of individual academic growth over time.

A *value-added* model is one that measures the academic achievement of the same group (cohort) of students over time.<sup>37</sup> The achievement of third graders in 2004 is compared to their achievement as fourth graders in 2005, which in turn is compared to their achievement as fifth graders in 2006. It is easy to see how, since at least 2003, this model has garnered widespread support among Minnesota educators and legislators. In fact, the goal of transitioning statewide to such an accountability system was one component of the education omnibus bill in 2003, and there was no public dissent on this issue.

To implement a robust value-added model, there must be annual state testing. Currently in Minnesota,

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The challenge is that, as currently written, *No Child Left Behind* will not allow a value-added model to be used for accountability purposes.

criterion-referenced tests<sup>38</sup> are given in grades three, five, seven, and at high school. *No Child Left Behind* requires annual testing in reading and math for grades three through eight and at high school

to be in place no later than the 2005-2006 school year. (By the 2007-2008 school year, science must also be assessed—once at the elementary level, once at the middle school level, and once at the high school level.) After over a year of intense planning, Minnesota is now on schedule to meet this goal, which will pave the way for the transition to a value-added accountability system.

Being able to examine the growth of individual students over time provides a more complete and accurate view of student growth. In addition, such a system can be used to measure the relative effectiveness of classroom teachers.

However, the challenge with a value-added accountability model is that it could be operationalized in such a way that schools with chronic

and persistent underperformance might go unidentified. For example: Imagine a school where 20 percent of the students are achieving at grade level in third grade, followed by 25 percent achieving at grade level in fourth grade, and then 30 percent reaching grade level in fifth grade. While these numbers indicate an increase, overall performance is still extremely low. Focusing only on growth, no matter how small, would communicate a false sense

of student success, thus eliminating the sense of urgency we all feel in helping our most vulnerable students to succeed.

In the spring of 2003, the chief state school officers from 16 states sent a letter to Secretary Rod Paige asking that “alternate accountability systems” be allowed for the calculation of adequate yearly progress under *No Child Left Behind*.<sup>39</sup> However, the accountability systems that were suggested had the potential of undermining true accountability by allowing *any* growth, no matter how small, to keep a school from being identified as not making AYP. Their request was denied.

Many states that have started with the static model that currently serves as the basis for the *NCLB* accountability system desire to move toward an enhanced value-added growth model that tracks the same cohort of students over time. The benefits of such an accountability model are many, provided that care is taken to ensure the presence of a fixed achievement standard to prevent “gaming” of the system. Being able to examine the achievement of individual students over time provides a more complete and accurate view of student growth, and helps to shed light on the issue of the achievement gap and its relative widening or narrowing. In addition, such a system can be used to measure the relative effectiveness of classroom teachers.

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As the state testing and accountability systems that have been put into place under *No Child Left Behind* begin to mature, consideration must be given to allowing the law to evolve to accommodate these changes. States such as Minnesota are developing systems that could serve as models of robust and meaningful accountability for the rest of the nation. A valued-added model that would meet these criteria is one that would measure (1) individual growth, and (2) growth against a fixed achievement standard toward which all students and schools can aspire.

### ***Recommendation***

**Federal action:** Pilot or demonstration projects should be allowed for states that have developed value-added accountability models that are rigorous, demand high standards and have fixed standards as growth targets. The law should be designed to ensure that stagnant or unacceptable levels of achievement are not masked by the existence of non-challenging standards or non-academic measures. Plans should be analyzed by the U.S. Department of Education to ensure that they meet rigorous criteria. The goal should be to demonstrate the effectiveness of growth-based accountability models.

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## *Issue 2*

### **Fairness: Addressing student subgroup populations**

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#### ***Issue***

To level the accountability playing field, some accommodations need to be made for those schools that have disproportionate numbers of students in each subgroup area.

#### ***Discussion***

Educators in both rural and metro areas expressed frustration with the current accountability system in terms of how it is impacted by the achievement of different student subgroups.

One superintendent in the south central part of the state commented on how he has a larger than average percentage of special education students, a fact that gives his schools a greater chance to be identified as not making AYP: “It’s tough for us. We have a good program, so many parents ‘open enroll’<sup>40</sup> into our district.” The presence of specialized programming has also resulted in certain metro area districts having disproportionately high numbers of special education students. According to the representative of one large metro district: “We have parents who actually relocate here in order to place their children in our program. This gives us a large special education population—larger than any average district.”

Other districts have large numbers of students whose first language is not English, bringing a sense of unfairness that some schools have more challenges than others.

Furthermore, concern was expressed that some students may appear in duplicate counts. It is possible for one child to count in four different categories in a school’s accountability formula. For example, one student might be Hispanic, have limited English proficiency, receive special education services, and come from a disadvantaged family (receives free or reduced price lunch).

Other concerns include that the possibility of a negative backlash against some groups of students from educators and communities that want to protect their schools from inferior ratings. The fear is that subgroups of students whose underperformance causes a school to be labeled as not making AYP might be less welcome in that community, or become scapegoats for a low-performing designation. A representative from a large metro district stated: “We fear that singling out these groups will generate a bias against these kids. Some people want to protect their schools from low performance.” It was noted that this can happen when the demographics of a community undergo considerable change in a short period of time. According to one metro superintendent: “Our district is changing faster than our community can understand.”

Related to this is the fear that voluntary desegregation programs, such as *The Choice is Yours*,<sup>41</sup> might be negatively impacted due to the growing reluctance of districts to continue to open enroll students of color, many of whom come from underperforming schools. One metro area

superintendent, whose district is one of the largest providers in the state’s voluntary desegregation program, made the following comment: “This law could cause a negative impact on voluntary desegregation programs. Any type of concentrated programming—whether it is for special education or different ethnic groups—might endanger a school or district’s reputation. These are *our* students once they arrive in our district. There shouldn’t be a disincentive for us when we are doing the right thing.”

### ***Analysis***

Any perceived backlash that educators describe may be the equivalent of the NIMBY response to growth and energy issues—“not in my backyard.” The questions raised are profound: Do we exclude “other people’s” children from our schools in order to protect a school’s reputation?

In a compassionate society we know the answer is not to condemn children for their academic weaknesses, but to educate them. Some schools or districts have demonstrated leadership in initiating or maintaining specialized programs, and clearly, they should not be punished for this by facing higher odds for meeting their accountability goals.

One issue driving this perceived backlash may be that the presence of children of color who have other characteristics (poverty, limited English proficiency, special education needs) means that a single child who may be counted multiple times for accountability purposes is generally a child whose performance may be below average. Furthermore, since all but two of the eight subgroup categories

have been correlated with underperformance, the chances of multiple counts having a negative impact on a school’s rating are great.

It is interesting to note that, with the exception of the one percent cap for students with severe cognitive disabilities,<sup>42</sup> the law requires that a state establish a cell size for each subgroup of students that is a *whole number*—not a percentage. For example, in Minnesota the cell size for limited English proficient students is twenty, meaning that in any school that has twenty or more such students, the school must count the achievement of those students in its AYP rating. However, the same cell size of twenty must be used by *all* schools, regardless of their relative size. The cell size remains the same if a school has 100 students or if it has 1,800 students. Clearly, the use of a percentage would be fairer to smaller schools.

### ***Recommendations***

**Federal action:** Allow states to use a percentage to determine subgroup size in some cases, as opposed to a fixed number. Care must be taken that percentages are not set too low. (Example: Cell size of 20 percent or twenty students, whichever is less.)

**Federal action:** Allow states to adjust cell sizes for schools with specialty programs.

**Federal action:** The duplication of records for accountability purposes must be addressed so that if such a count must occur for informational purposes, methodological safeguards are in place to mitigate the impact so the school’s accountability rating does not receive multiple hits from a single individual.

## **Ineffective teachers: What can be done?**

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### **Issue**

Administrators want to be able to deal effectively with ineffective teachers.

### **Discussion**

“We need to have the right to terminate people who aren’t holding up their end of the bargain.”

*Rural  
Superintendent*

Educators expressed strong feelings regarding their ability to be held accountable for student achievement when they are forced to deal with some teachers who either refuse to accept

accountability or who are simply ineffective. One rural superintendent from the southern part of the state said: “Superintendents have no power when it comes to accountability.” According to another: “We need to have the right to terminate people who aren’t holding up their end of the bargain.” A high school principal noted: “Getting rid of someone is

cumbersome, but if we are going to be held accountable, we need to be more aggressive in getting rid of deadwood. It is difficult to document, it is time consuming, it is hard – but we can’t go on like we have been.”

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*Rural  
Principal*

One superintendent from the southern part of the state quantified the financial burden: “Do you know what it costs to get rid of a bad teacher? It’s reaching \$100,000. That is the cost for court proceedings, lawyers, and buying people out of their contracts. The union will fight you tooth and nail—they have a full stable of attorneys at their disposal. This is money that should be spent on kids—not on lawyers.”

Many reasons were cited for teacher ineffectiveness, such as teachers losing focus in mid-career or the need for new training in the use of data. One superintendent received many nods from his colleagues when he said: “The problem with some teachers is that they are teaching kids who aren’t here anymore.” In other words, the student demographics have changed in that district, but some teachers are set in their ways and are not willing to adapt their style to meet the needs of more challenging groups of students.

Administrators in rural areas were more likely than metro educators to be frustrated at the process for removing ineffective teachers. When asked why this might be so, one metro area superintendent answered that his district has a sophisticated data analysis system that calculates the value-added impact of each teacher, every year. A teacher’s relative effectiveness is now part of his or her evaluation, causing weaker teachers to look for rigorous professional development – or to leave the

profession. According to this superintendent: “It is easier to document teacher effectiveness in a value-added system.”

Part of the frustration goes beyond the issue of ineffective teachers and focuses on the inability to retain excellent teachers who might not have tenure or seniority. According to one metro educator whose district experienced massive layoffs: “It is heartbreaking to have to stand by and watch while good teachers are let go and ineffective teachers remain.”

### ***Analysis***

A comprehensive study by the non-partisan public policy organization Public Agenda addressed the beliefs of a randomly selected group of 1,345 classroom teachers, and found that many teachers share observations similar to those articulated by Minnesota educators. In response to a question asking how many teachers in their building “fail to do a good job and are simply going through the motions,” 59 percent answered “a few.”<sup>43</sup> Most educators would argue that, especially in today’s high stakes environment, even one is too many.

In another question, teachers were asked: “In your district, does tenure mean that a teacher has worked hard and proved themselves to be very good at what they do, or does it not necessarily mean that?” A surprising 58 percent answered that tenure “does not mean that.”<sup>44</sup> In another question that asked teachers to select a statement that best describes their district, the largest group, 36 percent, agreed with the statement: “Between tenure and the documentation

requirements, it’s too hard for administrators to remove any but the very worst teachers.”<sup>45</sup>

Furthermore, nearly half of all teachers surveyed (47 percent) agree that “the union sometimes fights to protect teachers who

really should be out of the classroom.” Only 29 percent disagreed, and 24 percent were undecided.<sup>46</sup> A superintendent from the southern part of the state expressed a similar sentiment: “Good doctors don’t protect bad doctors, so why does the teachers’ association protect bad teachers?”

However, while teachers in the Public Agenda study clearly recognize that some of their colleagues are just “going through the motions,” they were almost evenly divided on the issue of using value-added academic measures to determine teacher effectiveness. The question read: “Some suggest that the best way to measure teacher effectiveness is to assess students’ skills and knowledge when they first come to a teacher and to measure them again when students leave to see what progress was made. How would you rate this as a way of measuring teacher effectiveness?” Only 5 percent of teachers were undecided, with

“It is easier to document teacher effectiveness in a value-added system.”

*Metro Superintendent*

“Between tenure and the documentation requirements, it’s too hard for administrators to remove any but the very worst teachers.”

*Teachers in Public Agenda study*

48 percent answering “excellent/good” and 46 percent responding “fair/poor.”<sup>47</sup>

“Good doctors don’t protect bad doctors, so why does the teachers’ association protect bad teachers?”

*Rural Superintendent*

The Public Agenda study also indicates that some teachers might be interested in trading in their tenure for a permanent pay increase. Nearly one-third (31 percent) of these

teachers stated that they would be willing to trade their tenure for a \$5,000 annual pay increase, with 26 percent saying that they would consider it if the increase was higher. Only 29 percent would rather hold on to tenure than receive higher pay.<sup>48</sup>

## ***Recommendations***

**State legislative action:** Continue to move forward with a value-added accountability system for the state. In addition to being a fair and popular accountability measure, it will also be a useful tool for evaluating teacher effectiveness.

**State legislative action:** Reform the state employment law, PELRA (Public Employee Labor Relations Act), to make it easier for administrators to document the relative ineffectiveness of certain classroom teachers, thus allowing them more freedom in selecting their staffs.

**State legislative action:** Consider a pilot project whereby teachers would give up tenure for a permanent pay increase. This could be coupled with a performance pay initiative, providing an incentive for teachers to be as effective as possible.

**State legislative action:** Resist attempts to roll the current two percent set-aside for professional development into the general formula as a way of ensuring that these funds are available for professional development activities.



## ***Issue 4***

### **Teacher assignments: Targeting the needs of students**

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#### ***Issue***

Administrators would like the power to assign teachers to the schools and grades where they believe their skills will be best utilized.

#### ***Discussion***

Although the issue of teacher assignment appears to be more prevalent in the metro area than in rural areas, it was identified as a statewide issue. Some school boards have bargained away their right to assign teachers, resulting in a situation where teachers have union bumping rights that can cause a chain-reaction of staff disruption. A superintendent in the southern part of the state declared: “The power of assignment is restricted by the union.” In a different meeting, a metro area superintendent echoed this concern with even more specificity: “Our power to ensure accountability is restricted by union contracts.”

Generally, teachers move out of schools that have challenging populations of students and into schools with fewer challenges. As a result, some of the highest quality teachers end up with the easiest-to-educate children—often leaving the most challenging students with the least effective teachers.

Administrators expressed the need to be able to use academic achievement data and their professional judgments to place teachers where the fit is best.

#### ***Analysis***

The ability of administrators to strategically place their teachers is a critical component in meeting the challenging goals of accountability.

In some cases, the right of assignment has been bargained away by local school boards during teacher contract negotiations, tying the hands of current and future superintendents. Gov. Tim

“Our power to ensure accountability is restricted by union contracts.”  
*Metro Superintendent*

Pawlenty introduced legislation in the 2004 session that would have addressed this problem by prohibiting school boards from entering into agreements that remove the right of assignment from local superintendents. The bill passed the House Education Policy Committee, but did not make it out of the Senate Education Committee.<sup>49</sup> While it would have prevented future board actions regarding the issue of teacher assignment, it would not have been retroactive.

Ineffective teachers might be those lacking in skills or motivation, those who are teaching out of field, or those on a waiver. According to federal statistics, children in Minnesota who live in high poverty districts are twice as likely to be taught by a teacher who is on a waiver than are children who reside in other districts.<sup>50</sup> Although the number of teachers on waivers overall is relatively low in Minnesota, it is still a cause for concern that children in poverty bear the burden of underqualified teachers.

A study out of Dallas demonstrates the importance of allowing administrators the power to place teachers where they are needed the most. Analysis of the achievement of students over a three-year period found that low-achieving students were more than twice as likely to be taught by a series of *ineffective* teachers. Furthermore, 90 percent of the low-achieving students who were assigned to *highly effective* teachers passed the seventh grade math test; while a mere 42 percent of the low-achievers who were taught by ineffective teachers were able to do so.<sup>51</sup>

According to the Education Trust: “The pattern is always the same: poor students, low-performing students, and students of color are far more likely than other students to have teachers who are inexperienced, uncertified, poorly educated, and under-performing.”<sup>52</sup>

“The pattern is always the same: poor students, low-performing students, and students of color are far more likely than other students to have teachers who are inexperienced, uncertified, poorly educated, and under-performing.”

*The Education Trust*

In another example, a school in Tennessee that ranked near the bottom in student achievement and that had been placed on the state’s “needs improvement” list was assigned to a

bright new principal. Through the use of Tennessee’s value-added assessment system, she was able to identify her most effective teachers—those who produced the highest academic gains in a single academic year in specific subject areas. She began

assigning these teachers to her struggling students. In one short year, her school was off the “needs improvement” list, and three years later her school was in the top 20 percent of schools in the state in the area of student achievement gains.<sup>53</sup>

### ***Recommendations***

**State action:** Legislators should revisit the teacher assignment bill that was introduced by Gov. Tim Pawlenty and passed by the House Education Policy Committee during the 2004 legislative session.

**State action:** The issue of teacher assignment is one more reason to transition into a value-added assessment and accountability system so that administrators will be able to identify the relative effectiveness of their teachers for placement purposes. Legislation should continue to support this direction.

**State action:** There are several pay-for-performance models currently being piloted in Minnesota. Efforts in the area of alternate models of compensation should be expanded to include pilot projects that provide additional pay for highly effective teachers assigned to schools with challenging student populations. Such efforts should have a strong evaluation component.

## *Issue 5*

### **Mobility: Accountability for children educated elsewhere**

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#### *Issue*

The issue of student mobility was identified as a problem for schools, as they are currently held accountable for the academic achievement of students who might have spent most of their academic lives being educated elsewhere.

#### *Discussion*

Educators identified student mobility as a critical challenge in meeting accountability expectations. Two metro superintendents cited the concern that nearly three-quarters of those students whose achievement identified their schools as not making AYP had been in their districts for less than two years. According to one of these superintendents: “There are more opportunities with younger students, but it is hard to turn the deficit gap around the older a child gets.”

Districts with high mobility rates experience more than accountability challenges. As stated by one frustrated metro area superintendent: “We are registering students, staffing our buildings, making master schedules (particularly at the secondary level) in early spring, and making other budget decisions for situations where over one-third of the beneficiaries of our services won't even be here. How is that for making good planning into a guessing game?”

#### *Analysis*

Student mobility rates in Minnesota school districts cover a considerable range. As shown in the sampling of districts listed in Table 2 (next page), high overall mobility rates can be found in both metro and rural districts, as well as in districts and schools that serve tribal populations.<sup>54</sup>

It is important to note how the category “total student mobility” is calculated. This category includes summer transfers in, mid-year transfers in, mid-year in-district transfers, and mid-year transfers out—in other words, *all* students who transfer both into and out of the district. The other column, “total students new to districts,” includes summer transfers in and mid-year non-district transfers. In other words, these are generally students new to the district.

The distinction is important, as schools will be held accountable for the achievement of those students who are entering, not exiting, their districts. These are the students who may have learning deficits that the receiving district has not had time to address.

Therefore, although districts such as Brooklyn Center and Fridley have lower *total* student mobility than others in the sample, they have the *largest* percentage of new students (22.5 and 20.5 respectively). For accountability purposes, this latter category is the more important of the two.

**Table 2**

**2003 Student Mobility by District<sup>55</sup>**  
(Select sample districts listed.<sup>a</sup>)

District	Total students new to district <sup>b</sup>		Total student mobility <sup>c</sup>	
	Percent	Ranking	Percent	Ranking
Brooklyn Center	22.5	1	35.8	8
Fridley	20.5	2	40.6	4
Richfield	18.9	3	30.6	11
Cass Lake-Bena	18.7	4	46.3	2
Willmar	18.7	4	40.3	5
Minneapolis	18.6	5	46.7	1
Cloquet	17.7	6	26.2	12
Bemidji	17.6	7	42.5	3
Centennial	17.5	8	40.4	6
Worthington	16.5	9	37.4	7
St. Paul	11.9	10	31.2	10
Red Lake	10.7	11	32.1	9

<sup>a</sup> This is not a random sample, nor does it necessarily include districts with the highest mobility.

<sup>b</sup> Includes summer transfers in and mid-year non-district transfers in only.

<sup>c</sup> Includes summer transfers in, mid-year transfers in, mid-year in-district transfers, and mid-year transfers out.

The issue of student mobility and related deficits in academic achievement is compounded by the fact that highly mobile students generally have other characteristics that are highly correlated with poor academic achievement. In general, when variables such as poverty, ethnicity, and family structure are taken into account, the negative impact of mobility as a sole cause of underachievement nearly disappears.<sup>56</sup> However, there appears to be a strong correlation between high mobility before third grade and underachievement in both math and reading, but especially for reading.<sup>57</sup>

Another concern facing those districts with large numbers of new students is that the level of mobility can reach a point where it may negatively impact the

achievement levels of entire schools, since teachers must slow the pace of instruction to accommodate the need for review and remediation for students who arrive mid-year.<sup>58</sup> According to one researcher: “A revolving door of new students forces teachers to devote attention to remedial rather than new lessons.”<sup>59</sup>

Transfers *within* a district should not be treated as an accountability issue, since it is expected that there will be consistency in educational quality throughout a district. And it should be noted that the achievement of a student who transfers into a new school any time after October 1 does not count towards a school’s accountability rating. However, if a student has not been exposed to a quality education in his or her previous district, it may take longer than a partial year to bring that student’s skills up to grade level.

The challenge here is how to balance fairness for a school or district that is being held accountable for a child who arrives with a large skill deficit, and accountability for that child whose achievement might fall through the cracks due to perpetual relocation.

### ***Recommendations***

**State legislative action:** This multi-faceted issue has not received much attention and clearly needs further study. Educators with high numbers of students transferring into their districts should be called together to discuss the issues they face, the strategies they employ, and the possible solutions they can propose.

## *Issue 6*

### **Special Education: A multiplicity of issues**

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#### ***Issue***

Special education was one of the most talked-about issues in statewide discussions, with educators raising concerns about how such students are counted for accountability purposes and the unintended consequences of including special education students in accountability ratings. In addition, some educators raised questions about the labyrinth of special education funding.

#### ***Discussion***

Multiple issues were raised in the discussions on special education, so they are addressed separately below:

*A child's IEP should drive expectations.* Across the state, the consensus is that the requirements of a child's IEP (Individual Educational Plan) should determine a child's achievement goals, not age-level expectations. A superintendent in the northern part of the state said: "The IEP should set the standard – this is just common sense." There is widespread frustration with the expectation that a special education student may be expected to function at the same level as age peers when he or she may be unable to meet such expectations.

*Unintended consequences.* A rural board member predicted that there will be "a mushrooming of ALCs" (alternative learning centers) unless accommodations are made to address the issue of accountability for special education students.<sup>60</sup>

A superintendent in the same region pointed out that another unintended consequence of the law is that when districts do a good job and help children to exit from special education programs, the only children left in the program (and thus in the subgroup for accountability purposes) will be those who are still not performing as well as their grade level peers: "If the goal of special education is to exit kids from the program, then we will be punished for doing so. This makes no sense."

"The IEP should set the standard—this is just common sense."

*Rural  
Superintendent*

*Highly qualified teachers.* Educators in both rural and urban areas expressed concerns that the federal Title II requirements of *No Child Left Behind* will be difficult to meet unless modifications are made for special education teachers. The new requirements call for teachers in core academic areas to hold a major, college credits equivalent to a major, or to meet other criteria demonstrating their competence in *each* subject area they teach.

That this concern needs to be addressed carefully can be seen in two points of view. One, expressed by a principal from the southeastern part of the state, is that this requirement is nearly impossible to be met by a high school teacher who is teaching a self-contained class where three to four core academic subjects are being taught. He voiced the concerns of many when he said: "If this is what is expected, why

would *anyone* want to be a special education teacher?”

The other view, expressed by an educator in the northern part of the state, indicates that more academic assistance from regular education teachers and attention from administrators is needed whether this requirement is relaxed or not: “With twelve different kids in the resource room and four different subjects going on, plus three to four kids in independent study doing different things – this is nothing more than babysitting.”

*Special education funding.* A school board member from a rural part of the state said that she and her colleagues feel that they are kept in the dark

“Now that districts are being held accountable to NCLB they do not like it, because it might make them actually spend their money on what it should have been spent on all along...”

*Rural educator*

regarding how special education funds are handled in their district. She says her questions often go unanswered:

“There are a lot of shenanigans going on in special education funding.” One educator reported that, in her

district, a self-contained class of special education students did not have reading textbooks for almost five years because teachers were told that there were no funds. Clearly frustrated, she said: “In our district, special ed funding is a rat’s nest.” She sees the federal law and the new accountability as a way to hold local officials accountable: “How can this be—that there is no money for special education curriculum? I know these kids bring a lot of money into the district...Now that districts are being held

accountable to NCLB they do not like it, because it might make them actually spend their money on what it should have been spent on all along...They will finally have to change the way they have been doing things. Believe me, there is a ‘good old boys’ club in [my district].”

*Fully fund IDEA.* There was unanimous consensus that the federal government needs to live up to its commitment to fully fund *IDEA* (the federal Individuals with Disabilities Education Act).

### ***Analysis***

There are many facets to the issue of special education, not the least of which is the definition of special education itself. As noted by a superintendent from the north central part of the state: “You can’t just impose one rule and think it can cover *all* of special education. The field of special ed is too diverse for any one rule to fit all of the kids.”

His words provide a good description of the issue. This subgroup of students includes students whose disabilities are physical (speech, hearing, or physically handicapping conditions) and who, with or without appropriate accommodations, might easily meet or exceed grade-level expectations. Also included in this group are those children who have profound and severe cognitive disabilities, whose achievement must be measured against an alternate set of standards. And between these two extremes are thousands of children whose disabilities range along a broad continuum, and whose achievement expectations are set forth in an IEP.

*A child's IEP should drive expectations.* The concern with which Minnesota educators view the impact of NCLB on special education students reflects concerns that have been expressed nationally. A Phi Delta Kappa/Gallup poll released in September 2004 asked over 1,000 randomly selected citizens for their opinions on a variety of issues, including this one. Over half (61 percent) of the respondents expressed the belief that special education students should not be required to meet the same standards as all other students in the school.<sup>61</sup>

There is an inconsistency in federal law between *No Child Left Behind*, which expects grade-level performance for special education students, and *IDEA* (Individuals with Disabilities Education Act), which holds that a child's IEP should set the achievement expectations for a child. For a child who has been identified as needing special education services, the implicit understanding is that he or she has special needs that must be addressed through a variety of interventions and accommodations. Such a child may be achieving at lower levels yet making good progress—at his or her own rate of learning. The IEP needs to set the expectation for such children, not federal law.

In the same Phi Delta Kappa/Gallup poll, over half of all respondents expressed the belief that the achievement scores of special education students should not be included in a school's accountability rating (57 percent). Finally, 56 percent stated that a school should not be designated as needing improvement if the only group of students not meeting their academic targets are special education students.<sup>62</sup>

In Minnesota, of the 472 schools that were identified as not making adequate yearly progress in 2004, a total of forty-eight (11 percent) were identified solely because of the performance of the special education subgroup.<sup>63</sup> If the law can be adapted to recognize the differences among these students, this number should be expected to diminish. The law needs to permit states to identify students with more specificity than is currently allowed.

“You can’t just impose one rule and think it can cover *all* of special education. The field of special ed is too diverse for any one rule to fit all of the kids.”  
*Rural superintendent*

In 2003, Minnesota negotiated a three-tiered system for defining students with limited English proficiency (LEP) according to their level of fluency, with two of the three groups counting toward accountability ratings.<sup>64</sup> A similar proposal regarding special education was submitted by Minnesota to the U.S. Department of Education as one of the April 2004 amendments to the state's AYP formula, but was not accepted. This proposal deserves a second look. It identifies three different types of assessments for special education students:

- (1) regular assessments (with or without accommodations) measured against grade-level achievement standards,
- (2) alternate assessments measured against grade-level achievement standards, and
- (3) alternate assessments measured against alternate achievement standards.

Under this approach, the achievement of special education students would not necessarily have a negative impact on a school's accountability rating, since these students would be expected to reach the goals stated in their IEPs.

Complicating the issue is the fact that there is currently a one percent cap<sup>65</sup> on the inclusion of achievement scores for students with severe cognitive disabilities in a district or state AYP formula.

However, this cap needs to be implemented flexibly, as some schools and districts have specialized programming that draws large numbers of special education students to their doors, which may cause districts to exceed this cap at the local level. They should not be penalized for their leadership in this area.

*Unintended consequences.* It is hoped that the fear of a “mushrooming” of ALCs would not be a concern, as these alternative learning centers are held to the same strict and rigorous accountability standards as traditional schools. The other unintended consequence raised was that of the federal accountability requirements being a disincentive to allow children to exit from special education. While this is a valid point, changing to allow the IEP to establish a student's expectations for accountability would mean that schools would not have to be concerned about this group of students having only a negative impact on accountability ratings.

*Highly qualified teachers.* A strict interpretation of *No Child Left Behind* would be a discouragement to anyone who aspires to be a special education teacher in a secondary, self-contained setting. The

expectation that such a teacher would have the equivalent of a college major in each of the subject areas he or she teaches is unrealistic. While the situation resulting from this requirement is clearly an unintended consequence, it cannot be addressed without weighing the need for special education students to receive appropriate instruction. This should be addressed through the pending reauthorization of IDEA.

#### *Special education funding at the local level.*

As a state, Minnesota is very generous with its special education funding, as can be seen in Table 3. It would seem then, that services and materials should be readily available for these students.

**Table 3**

#### **Comparison of Special Education Expenditures Against Neighboring States and the Nation: Minnesota's State Expenditure Per Special Education Student<sup>66</sup>**

<b>State</b>	<b>Average State expenditure per special education student</b>
Iowa	\$3,786
<b>Minnesota</b>	<b>\$5,732</b>
North Dakota	\$1,565
South Dakota	*
Wisconsin	\$2,517
U.S.	\$3,225**

\* Data not available

\*\* n=42 states

If, indeed, funding irregularities appear to exist, local school board members should seek audits to determine if funds are being used appropriately. This would be in keeping with their fiduciary responsibilities as board members. There are entities,



such as the Office of the State Auditor, that have the resources to perform such audits.

*Fully fund IDEA.* When Congress passed the Education for All Handicapped Children Act in 1975 (renamed *IDEA* in 1990), the promise was to provide 40 percent of the funding for educating children with disabilities. Educators sometimes wonder how this figure was determined. As explained by the President’s Commission on Excellence in Special Education: “There is no scientific or particular public policy basis for defining full funding of the federal portion of special education at 40 percent of average per-pupil expenditure. In 1975, the congressional conferees arrived at the 40 percent funding level in reconciling differences between the House and Senate versions of their originally passed bills.”<sup>67</sup>

Nonetheless, Congress made a commitment it has not kept. Although recent efforts indicate that progress is being made, IDEA is currently funded at only 18 percent, rather than 40 percent, of the federal commitment.<sup>68</sup> IDEA is currently being reauthorized, and in May 2004 an amendment to provide full funding failed to pass the Senate, receiving only fifty-six of the required sixty votes.<sup>69</sup> Congress has an obligation to keep its commitment to the states—or else to relax the regulations addressing special education that it has placed upon the states.

*Why not consider a scholarship program?* Many of the issues raised by Minnesota educators could be addressed by allowing special education funding to follow the child. Accountability would be placed in the hands of parents, who could consider various options and choose the one that worked best for their

child. If private schools were chosen, public schools would no longer be held accountable for the achievement of these students. Whenever private schools failed to educate these children to their parents’ expectations, parents could exercise the ultimate accountability measure by removing their children from those schools.

In 1975, Congress promised to fund 40 percent of special education costs. IDEA is currently funded at only 18 percent of the federal commitment.

The President’s Commission on Excellence in Special Education recommended such a program using federal funds, but it is no longer being considered as part of the IDEA reauthorization. However, a similar program has been enacted in Florida using state funds.

The Florida program is called the McKay Scholarship Program for Students with Disabilities, and it allows parents of students who receive special education services to choose the educational setting they feel best meets their child’s needs. Parents can choose to send their child to a public school other than the one to which they are assigned, a public charter school, or a private school. The program began in 2000 with 1,000 students and has expanded to include over 8,000 students.

The scholarship equals the lesser amount between state generated funding (which varies based upon the disability of the child), or the amount of the private school’s tuition and fees (if a private school is

selected). The program is cost-neutral to the state and results in additional revenue for local school districts, as a share of the state funding (average of \$560 per student) stays in the district.<sup>70</sup>

While federal special education requirements are not applicable to private schools, parents nonetheless appear to be quite satisfied with this program. In a study that surveyed both current and former program participants, 92.7 percent of current participants were satisfied or very satisfied with their McKay schools, compared to 32.7 percent who expressed the same level of satisfaction with their original schools.<sup>71</sup> The vast majority (86 percent) of participating parents indicated that their McKay school provided all services promised, compared to only 30.2 percent for their assigned schools.<sup>72</sup> Another finding that is quite interesting is that 90.7 percent of former participants believe that the program should be allowed to continue.<sup>73</sup>

### ***Recommendations***

**Federal action:** Recognize the diversity that exists in special education by requiring that a child be evaluated against the standards expressed in his or her IEP for accountability purposes. Care would have to be taken that this move does not result in an increase of students being moved into special education in order to move struggling students away from grade level standards.

**Federal action:** Congress should determine, on a sliding scale, the relative increases in funding necessary to educate children with different disabilities and provide such funding either (1) to the state, or (2) to parents so they can select schools that fit their child's needs. If funding increases are not

forthcoming, then the special education requirements currently placed on the states should be loosened.

**Federal action:** More flexibility should be granted for special education teachers who teach in self-contained classrooms at the middle and high school level as they strive to meet the “highly qualified” requirements of Title II. However, accountability for student achievement should remain in place, affording these students access to appropriate levels of challenge.

**Federal action:** There needs to be flexibility in the application of the one percent cap so that districts with specialized programming are not negatively affected.

**State action:** Resubmit to the U.S. Department of Education the April 2004 proposal calling for the three-tiered assessment system for special education students.

**State action:** Allow districts to pilot a scholarship program for special education students similar to Florida's McKay scholarship program.

**State action:** The state auditor should be prepared to audit districts when reports of irregularities in special education funding are made.

**Local action:** Care should be taken that special education funding is used appropriately.

**Local action:** As the details are worked out on how the new “highly qualified” requirements apply to special education teachers, care should be taken that resource room teachers have access to the assistance of general education teachers and appropriate materials for their students.

## **Teacher Licensure: The need for flexibility**

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### ***Issue***

Minnesota teacher licensing needs more flexibility, especially (1) for teachers transferring into the state, and (2) in the area of science endorsements.

### ***Discussion***

Widespread frustration was expressed with the Minnesota Board of Teaching by educators expressing dismay about the board's unwillingness to provide what they viewed as common-sense accommodations, especially in the area of science licensure. "The science licenses are too narrow, and we don't have the personnel to cover all of the science fields separately," said one rural superintendent.

Another area of concern was the lack of a broader reciprocity agreement with other states. Educators cited examples of teachers with up to twenty years of experience transferring into Minnesota, but being denied a license unless they "jump through the board's hoops." According to one principal: "The board worries only about restricting the flow of teacher licenses in an attempt to limit supply and raise salaries."

### ***Analysis***

While the state offers a broadfield license in the social studies (encompassing civics, government, history, geography and economics), in the area of science, teachers are required to have a separate and distinct license to teach biology, physics, chemistry,

and earth/space science. In small and rural schools, this places a huge burden on teachers and schools. To teach in a different science area, a teacher with one specific science license needs to obtain yet another specific license, and schools have to cut back or eliminate course offerings if teachers are not properly certified.

Educators expressed frustration with regulations that stand as roadblocks to allowing good teachers into the teaching profession or into other fields within the teaching profession. Although *No Child Left Behind* offers a provision to help states streamline their licensure procedures through the HOUSSE process (High, Objective Uniform State Standard of Evaluation), educators were frustrated with the board's inability to link this process to state licensure. According to a principal in the northern part of the state: "HOUSSE and licensure should be one and the same."

### ***Recommendations***

**State legislative action:** Consider legislation requiring the Board of Teaching to develop a more flexible policy regarding science licensure, similar to that offered for social studies teachers.

**State legislative action:** Consider legislation establishing criteria that can be applied to the granting of reciprocity to experienced and qualified teachers who arrive in Minnesota from other states.

## Issue 8

### **“Too Much Testing”: Confusion between diagnostic testing and testing for accountability**

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#### **Issue**

While educators want tests that provide diagnostic information, there is confusion about testing for diagnostic purposes and testing for accountability.

#### **Discussion**

It became widely apparent during the focus groups that the phrase “too much testing” does not express what educators really mean. When pressed beyond this expression, they admit that there is *not* too much testing—there is just not enough of what they see as the most important kind of testing. Once asked to quantify how much testing is from the state and how much is initiated locally, they admit that most of their testing is local—and they do not intend to give it up.

There appears to be widespread confusion in understanding the difference between testing for diagnostic purposes (formative assessments) and testing for accountability (summative assessments).

Both principals and superintendents expressed a strong degree of support for diagnostic testing: “We want tests that are tools—tests that can be used to diagnose student needs and that can be used for staff development.”

#### **Analysis**

Although complaints of “too much testing” are sometimes heard, national surveys indicate that this does not reflect any sort of widespread backlash from

the public. In a survey conducted by Public Agenda, a non-partisan public policy organization, only 11 percent of parents believe that their child’s school requires students to take too many tests, and a mere 18 percent believe that their child’s teachers “focus so much on preparing for standardized tests that real learning is neglected.”<sup>74</sup>

The Business Roundtable also surveyed members of the public and found that 85 percent of those responding found statewide test scores to be useful tools for schools in evaluating how well *students* are performing, and 83 percent agreed that these scores help parents and communities to evaluate how well their *schools* are performing.<sup>75</sup>

A problem arises because there appears to be widespread confusion in understanding the difference between testing for diagnostic purposes (formative assessments) and testing for accountability (summative assessments).<sup>76</sup> A recent newsletter from a major state education organization illustrates the confusion (author’s notes are in italics): “We support fair and reliable accountability [*the role of summative assessments*]. We want a system that gives us nearly immediate results at the classroom and school level so we can use the knowledge gained about each student to actually improve instruction...[*the role of formative assessments*]. The only real failure is the failure of a state accountability system that is unable to reflect fairly the qualities (*sic*) of our states (*sic*) schools [*the role of summative assessments*].”<sup>77</sup>

Few would dispute the value of a formative assessment that is a diagnostic test designed to analyze the specific strengths or weaknesses of a student. It is a powerful classroom tool, and most Minnesota educators make it abundantly clear that they are not willing to drop the popular NWEA (Northwest Evaluation Association) levels tests that are used for diagnostic purposes in nearly half of Minnesota's schools—with one caveat: Many educators agreed with the sentiments of one superintendent from the northern part of the state who said: "We'd drop NWEA in a minute if the state provided a similar tool for us."

It is easy to see why educators like these tests. They get immediate feedback on how well their students are doing in specific skill areas, and children who are found to be struggling can get timely interventions that will prevent them from falling further behind.

A commonality found in underperforming schools that have managed to turn their students' achievement around is that such schools conduct rigorous and regular diagnostic testing. Principals at these schools have found that regular testing is the most fair and unbiased way to measure how well their students are learning, and to pinpoint areas that need remediation.<sup>78</sup>

A unique quality of formative assessments is that children are not measured against a fixed standard (e.g., what all third graders should know and be able to do), but rather, they are measured against their own academic level. This is known as "levels" testing, and while it is extremely helpful in tracking

growth and in identifying areas of academic weakness, it is not necessarily as helpful in determining if a child is meeting specific

expectations for a particular grade level. The state MCA (Minnesota Comprehensive Assessments) tests, on the other hand, are criterion-referenced tests, meaning that they assess students against a fixed standard.

The issue facing Minnesota is whether the state should provide diagnostic testing that provides immediate feedback to teachers (formative testing), in addition to holding schools accountable for ensuring that their students meet specific

grade-level standards (summative testing). As articulated in a previous section that addressed the value-added issue, a concern is that academic growth without a set target could be misconstrued as indicating that everything is fine—when in fact there may be a wide skill deficit.

One approach to reconciling this conundrum would be to align formative and summative assessments, an

Although complaints of "too much testing" are sometimes heard, national surveys indicate that this does not reflect any sort of widespread backlash from the public.

*Public Agenda*

One approach to reconciling this conundrum would be to align formative and summative assessments, an approach that has been in discussion at the Minnesota Department of Education since the spring of 2004.

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Providing diagnostic formative assessments during the school year that are based upon our state academic standards would give teachers the kind of immediate feedback they want for diagnosing student

Providing diagnostic formative assessments during the school year that are based upon our state academic standards would give teachers the kind of immediate feedback they want for diagnosing student weaknesses, *and* it would help them to target their instruction more closely to the state standards.

weaknesses, *and* would help them to target their instruction more closely to the state standards. At the same time, we must retain the criterion-referenced MCA tests as accountability measures, since

formative testing alone will not provide a valid or reliable measure of accountability.

### ***Recommendation***

**State legislative action:** Provide funding to the Department of Education for the development of diagnostic tests that are aligned with the state academic standards. These could be used on a voluntary basis by local school districts and would not replace the grade-level specific MCAs that are used for accountability purposes.

## *Issue 9*

### **Funding: New strategies**

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#### ***Issue***

Education funding needs to be looked at in a whole new light, from the way federal funds are allocated to the desire to implement new instructional models.

#### ***Discussion***

A superintendent from the northern part of the state stated his dismay over funding this way: “Ninety-five percent of the schools in this state are successful—but but from the other five percent, you hear a continual sucking sound. That’s money being wasted for *everyone* when you pour money into schools that don’t produce results.” Another educator in the same region expressed similar frustration with what she described as a “vicious cycle:” “Johnny can’t read, so we need more money and beg the legislature for more money. More money is granted, and guess what—Johnny still can’t read—so, we need more money. Enough already. We need to know what works and then just *do it*.”

*Innovative models.* These people, and others like them, recognize that simply asking for more money is not going to get them very far. A principal in the southwestern part of the state articulated a different approach: “We want to do what is best for kids, but we realize for many kids we can’t do it under the existing model. We want to try a longer school day, a longer school year—but we need resources to make this happen.” A metro superintendent whose district contains a large number of new immigrants expressed

a similar opinion: “Sometimes different groups of kids need different timetables.”

#### *More accurate allocation and distribution formulas.*

The reduction in federal Title I funding that hit Minnesota in the spring of 2004 is still fresh on educators’ minds. They recognize the disconnect in the federal system where Title I funding is allocated to states based upon

census data, but then is required to be distributed by states to districts according to free and reduced-price lunch data.

A superintendent in the northwestern part of the state noted: “We have the technology now to move away from using free and

reduced price lunch as a proxy for poverty. Why doesn’t the federal government use this technology to pinpoint funding where it really needs to be?”

“We have parents who are working 2-3 jobs to stay off welfare, and they can’t understand why their children cannot get the extra help they need.”

*Metro educator*

This solution might appeal to parents, as well. A representative from a large metro district stated that some parents in her district are frustrated that while their children are struggling in underperforming schools, they are unable to access tutoring services available under *No Child Left Behind* because the children do not receive free or reduced price lunches: “We have parents who are working two to three jobs to stay off welfare, and they can’t understand why their children cannot get the extra help they need.”

## ***Analysis***

Using participation in the free and reduced-price lunch program as a proxy for poverty has been a convenient tool for determining the allocation for compensatory funding, since low academic achievement has often been found to be correlated with poverty. However, the superintendent cited above raises an interesting point: with advances in technology, it may be possible to allocate compensatory funding on the basis of achievement as opposed to income.

This would address several issues: (1) the practice of using free and reduced-price lunch data as a proxy for poverty, (2) targeting academic assistance where it is needed, as opposed to having assistance based on poverty alone, and (3) targeting assistance directly to children who are struggling academically.

Furthermore, it is clear that states have received the message that accountability is here to stay. The time may be right to revisit the *Straight A's* proposal that passed the U.S. House of Representatives in 1999.<sup>79</sup> This proposal would have allowed states that met rigorous standards of accountability to receive their federal funds as a block grant. In a modification of that proposal, states that meet their AYP targets—either through the *No Child Left Behind* accountability formula or through an approved demonstration or pilot model—should receive the bulk of their federal dollars in a block grant, being granted flexibility in exchange for accountability. If achievement falls or the minority achievement gap fails to narrow in any given year, then the state would have to revert to receiving all of its federal funds categorically for a specific number of years.

## ***Recommendations***

**Federal action:** A study should be conducted to determine new ways for allocating compensatory funding that moves beyond funding based on census data or participation in free and reduced price lunch programs.

**Federal action:** Congress should allow several states to pilot a modified *Straight A's* program whereby those that meet their AYP targets would receive the bulk of their federal dollars in a block grant in exchange for accountability for student performance.

**State action:** Consideration should be given for piloting a number of alternate models for delivering instruction, such as longer school days, longer school years, or year-round schools. Any demonstration project should have a rigorous evaluation component.



## *Issue 10*

### **Conflicts of Interest: Community fairness and protecting classroom dollars**

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#### ***Issue***

Conflicts of interest may be impacting school accountability.

#### ***Discussion***

After one roundtable discussion in a rural area, a superintendent met me outside and said that he had an issue he could not raise publicly: “The majority of my school board members are either married to teachers or have a son or daughter who is a teacher. This means that during contract negotiations they are discussing and then voting on raises for their own family members. It isn’t right.”

Another educator reported that she had filed charges of sexual harassment against a school administrator, but then withdrew those charges once the school board appointed a board member’s sister as the board’s attorney: “I knew I wouldn’t stand a chance and my reputation would be destroyed in [my district]. How could they do this? How is this fair?”

#### ***Analysis***

Conflicts of interest can arise in a number of ways, from nepotism to the failure to disclose pertinent economic interests. In small districts there is a greater chance that people in supervisory vs. contract roles might be related, so such issues have a greater chance of emerging.

It appears that no inventory has been compiled regarding the relative strengths and weaknesses of conflict of interest laws across the nation, so a check on the conflict of interest laws in a few other states was conducted to see how Minnesota law compares.<sup>80</sup>

Based on this sampling (see Appendix C), Minnesota’s laws appear to be less comprehensive than the laws in other states. For example, New Jersey and Virginia cover a broader selection of financial disclosures than Minnesota, and New Jersey addresses the issue of nepotism in more detail than does Minnesota.

Minnesota’s laws appear to be less comprehensive than the laws in other states.

Whether there is a need to more completely address the issue of conflicts of interest regarding Minnesota school boards is not within the parameters of this report. However, further study is warranted since (1) the issue was raised, and (2) it appears that our laws are less comprehensive than others.

#### ***Recommendation***

**State action:** A state entity may wish to pursue a study to identify the existence of conflict of interest violations in the state under current law, and analyze the requirements in other states to determine if Minnesota’s conflict of interest laws need to be updated.

## Conclusion

*No Child Left Behind* is a law with a noble purpose that has changed the discussion regarding public education. In its simplest form, the law requires that third grade students know how to read and do math at the level of third graders—regardless of the color of their skin or the size of their parents’ paycheck. The same is expected for fourth graders, fifth graders—all the way to high school.

But as with any massive and fundamental change, adjustments will need to be made along the way.

Any modifications suggested in this report are intended to strengthen the law and are in no way presented as a way to dodge the law or mask accountability.

*No Child Left Behind* should be viewed as a tool with which we can take the next steps in providing solid academic opportunities for all. The non-partisan Education Commission of the States recently recommended that we “embrace NCLB as a civil rights issue”:

“At its core, NCLB is a civil rights issue and requires commitment. The fiftieth anniversary of *Brown v. Board of Education* is a stark reminder that school integration has not been accompanied by equality of student academic achievement across color and income lines. The clearly set goals of NCLB offer an unprecedented opportunity to raise expectations and significantly lower achievement gaps that persist in U.S. schools.”<sup>81</sup>

Clearly, accountability has to be balanced between schools and parents. Each has a role and a responsibility to ensure that high expectations and a culture of achievement are integral parts of a child’s life. Students also have a responsibility to take full advantage of the academic opportunities offered to them, stretching themselves to the fullest extent of their abilities as they strive to meet rigorous goals.

The clearly set goals of NCLB offer an unprecedented opportunity to raise expectations and significantly lower achievement gaps that persist in U.S. schools.

*Education  
Commission of the  
States*

As a state and as a nation, placidly accepting the educational status quo and resting on yesterday’s laurels will not move us forward. The same holds true for students, who must constantly be aspiring to reach greater heights, and to schools, which need to look for innovative ways to meet new challenges.

As we move ahead and embrace the new accountability of *No Child Left Behind*, it is with the understanding that the voices of those implementing the law can help to identify areas where this implementation needs fine-tuning.

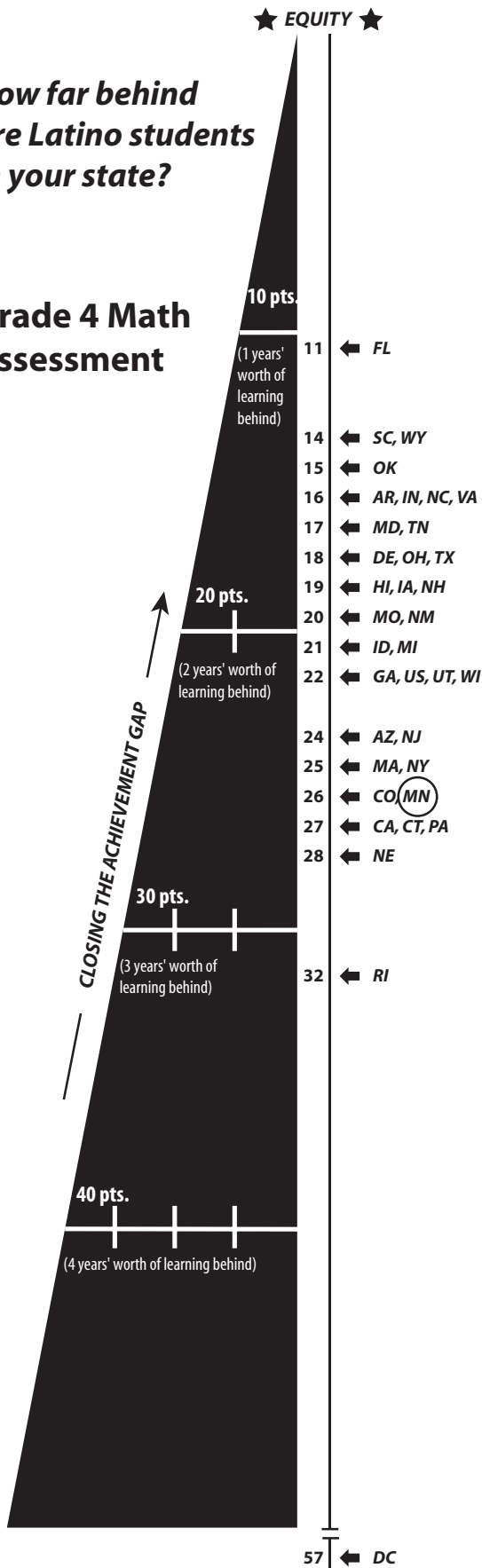
It is our hope that the issues raised and recommendations made in this document will assist in the implementation of *No Child Left Behind* as the law matures, and also help to stimulate policy discussions regarding the homegrown roadblocks to accountability that have been identified.

**Appendix A:**  
**2003 Achievement Gaps**  
**for**  
**Latino Students<sup>82</sup>**

# Achievement Gaps: NAEP 2003

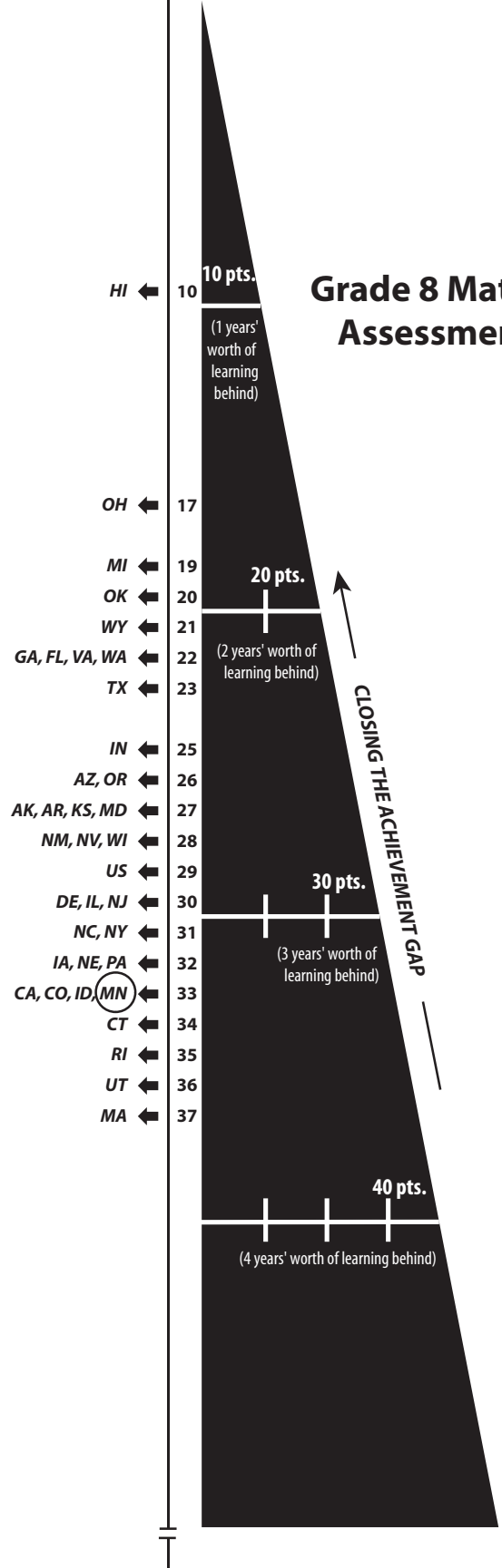
How far behind  
are Latino students  
in your state?

## Grade 4 Math Assessment



★ EQUITY ★

## Grade 8 Math Assessment



**Note:** Gaps are measured by the point difference between minority and White average scale scores  
 \*States that do not appear have sample sizes too small.



# Achievement Gaps: NAEP 2000

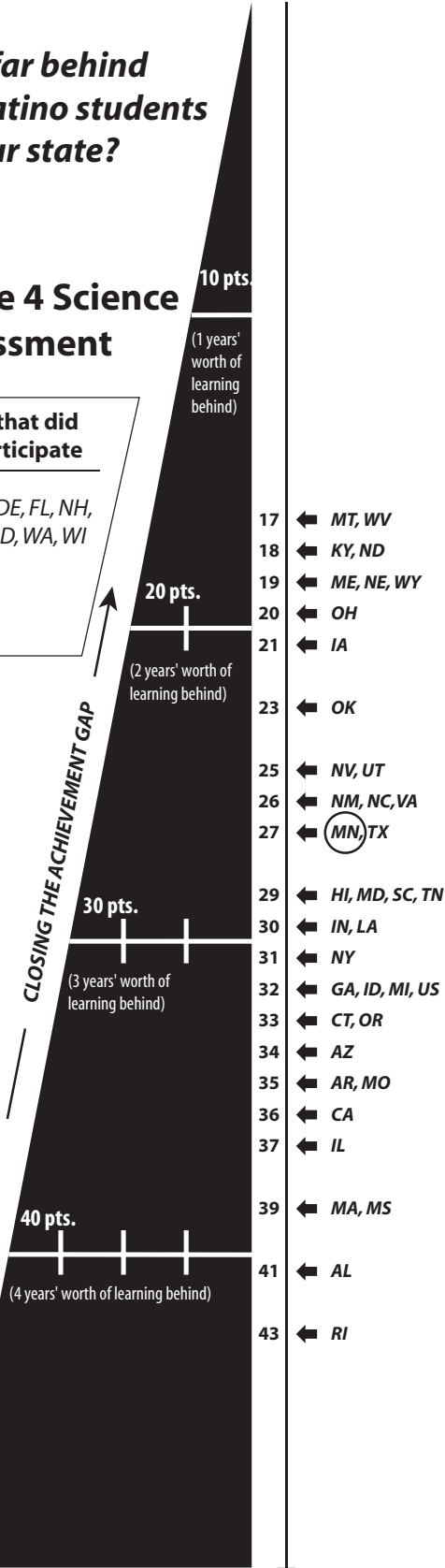
**How far behind  
are Latino students  
in your state?**

## Grade 4 Science Assessment

### States that did not participate

AK, CO, DE, FL, NH,  
NJ, PA, SD, WA, WI

CLOSING THE ACHIEVEMENT GAP



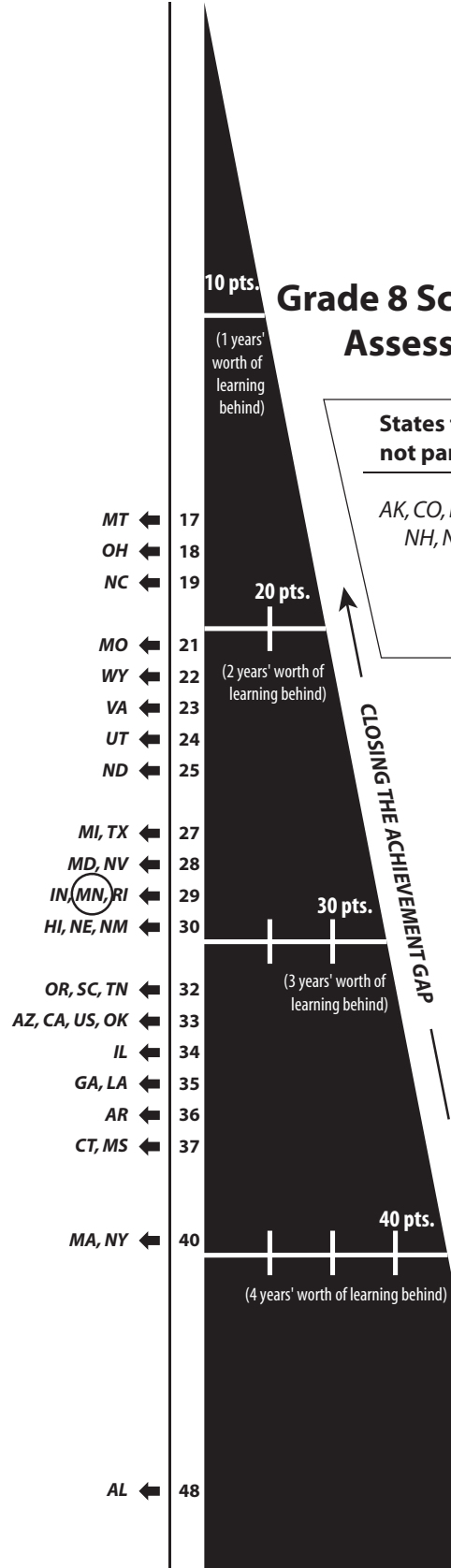
★ EQUITY ★

## Grade 8 Science Assessment

### States that did not participate

AK, CO, DE, FL, IA,  
NH, NJ, PA, SD,  
WA, WI

CLOSING THE ACHIEVEMENT GAP



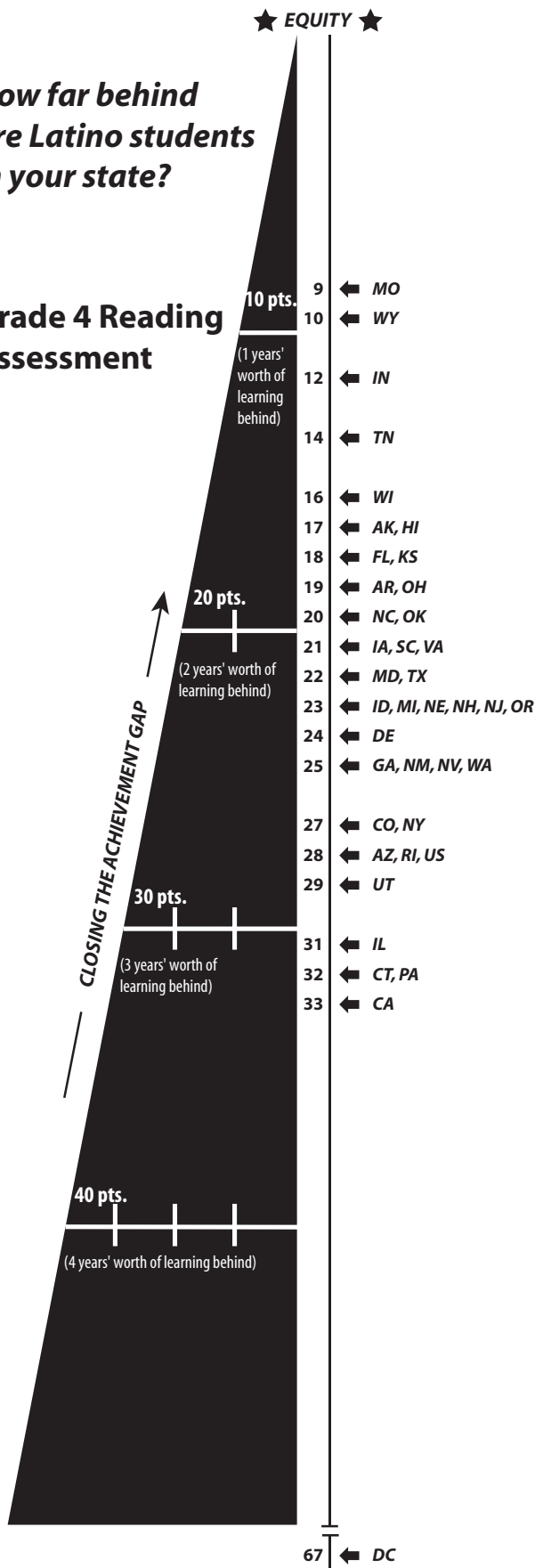
**Note:** Gaps are measured by the point difference between minority and White average scale scores  
\*States that do not appear have sample sizes too small.



# Achievement Gaps: NAEP 2003

*How far behind  
are Latino students  
in your state?*

## Grade 4 Reading Assessment



★ EQUITY ★

OH ← 3

AR, VA ← 9

HI ← 10

PA ← 11

WY ← 14

MI, OK ← 16

FL, OR ← 17

MD ← 20

AK ← 21

IN, WA ← 22

GA, TX ← 24

IA, ID, NM, NV ← 25

IL, KS ← 26

CO, DE, NC, US, UT ← 27

AZ, NJ, NY, WI ← 28

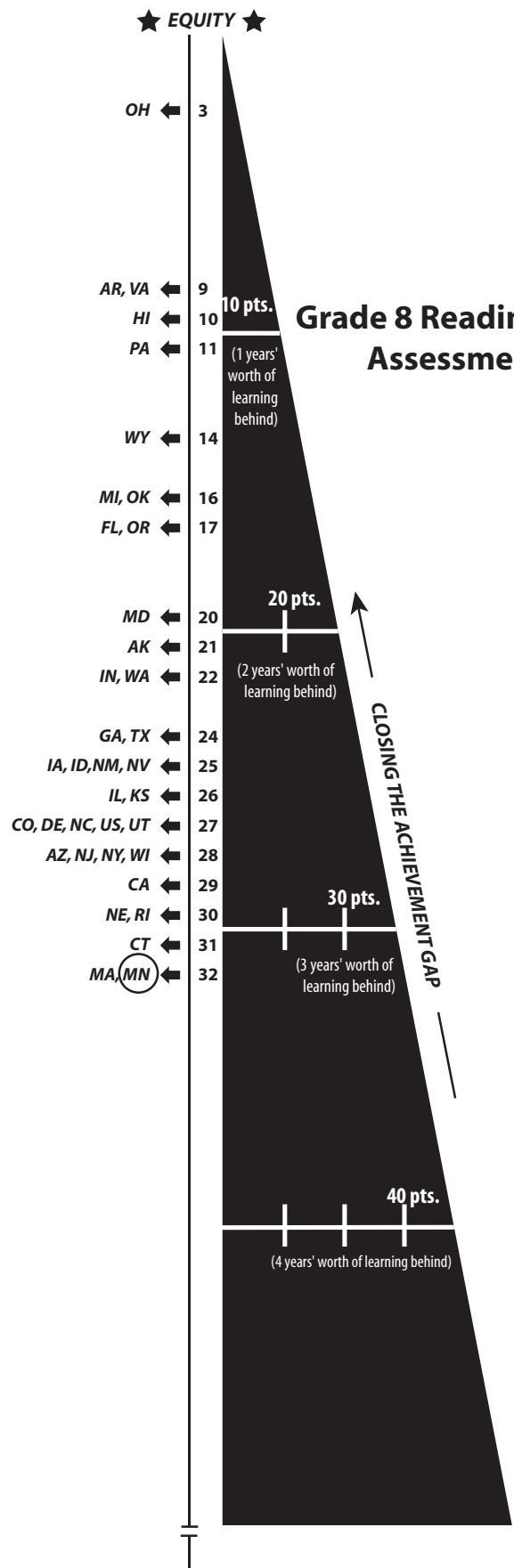
CA ← 29

NE, RI ← 30

CT ← 31

MA, MN ← 32

## Grade 8 Reading Assessment



**Note:** Gaps are measured by the point difference between minority and White average scale scores  
\*States that do not appear have sample sizes too small.



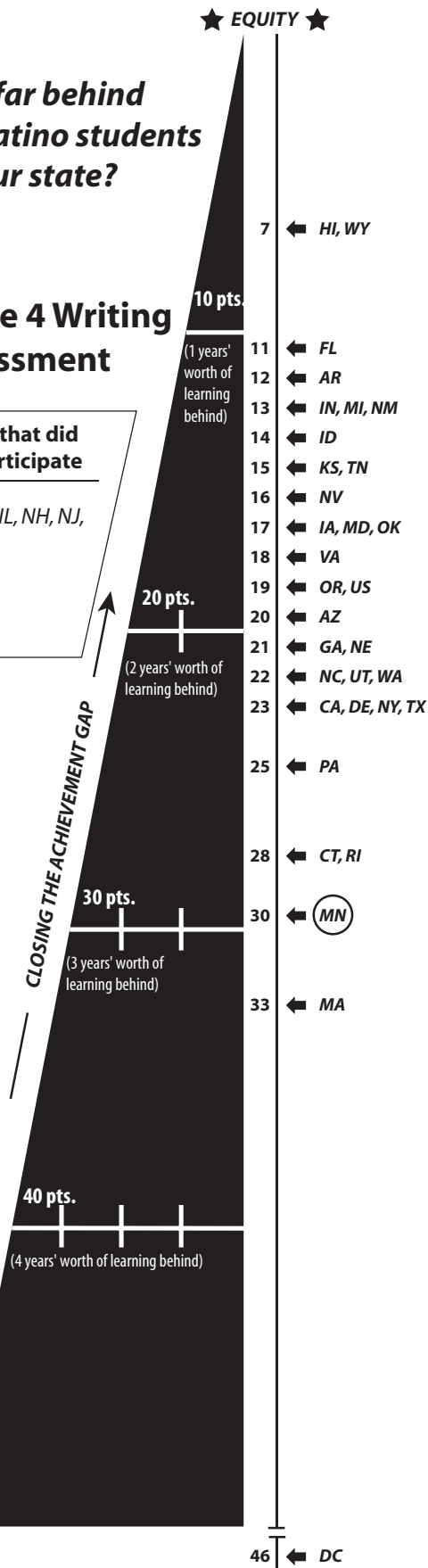
# Achievement Gaps: NAEP 2002

**How far behind  
are Latino students  
in your state?**

## Grade 4 Writing Assessment

### States that did not participate

AK, CO, IL, NH, NJ,  
SD, WI

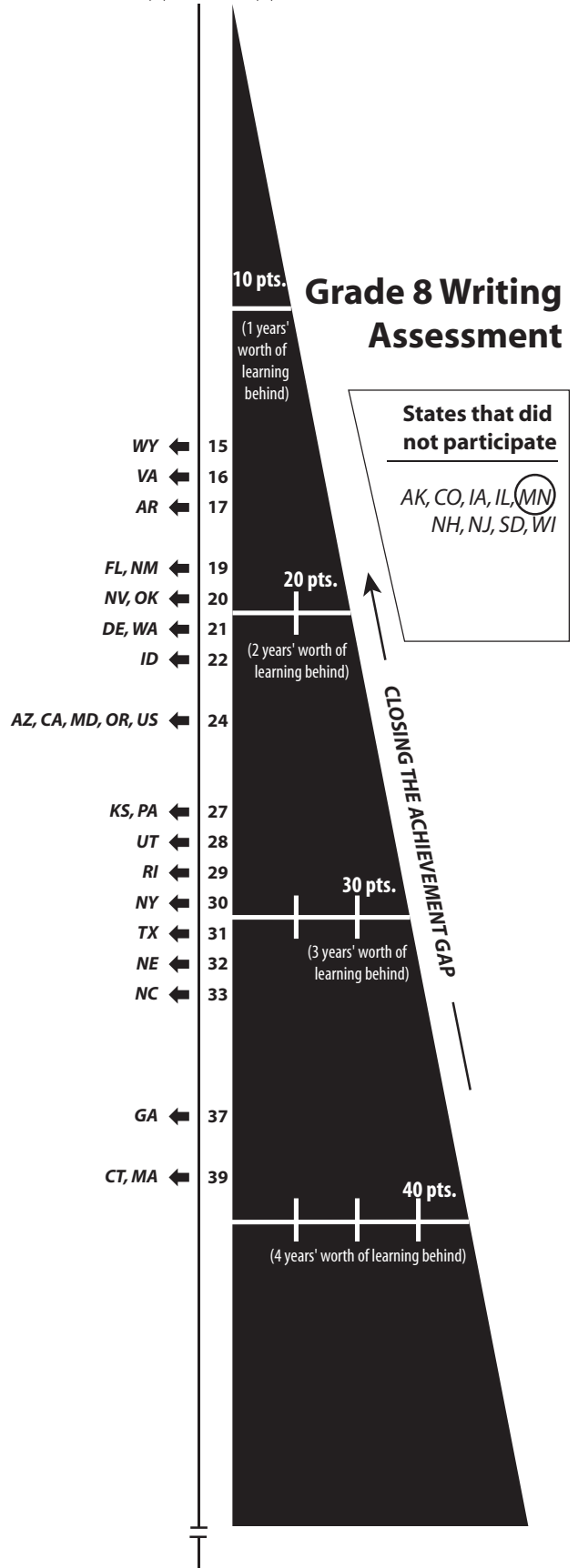


★ EQUITY ★

## Grade 8 Writing Assessment

### States that did not participate

AK, CO, IA, IL, MN  
NH, NJ, SD, WI



**Note:** Gaps are measured by the point difference between minority and White average scale scores  
\*States that do not appear have sample sizes too small.

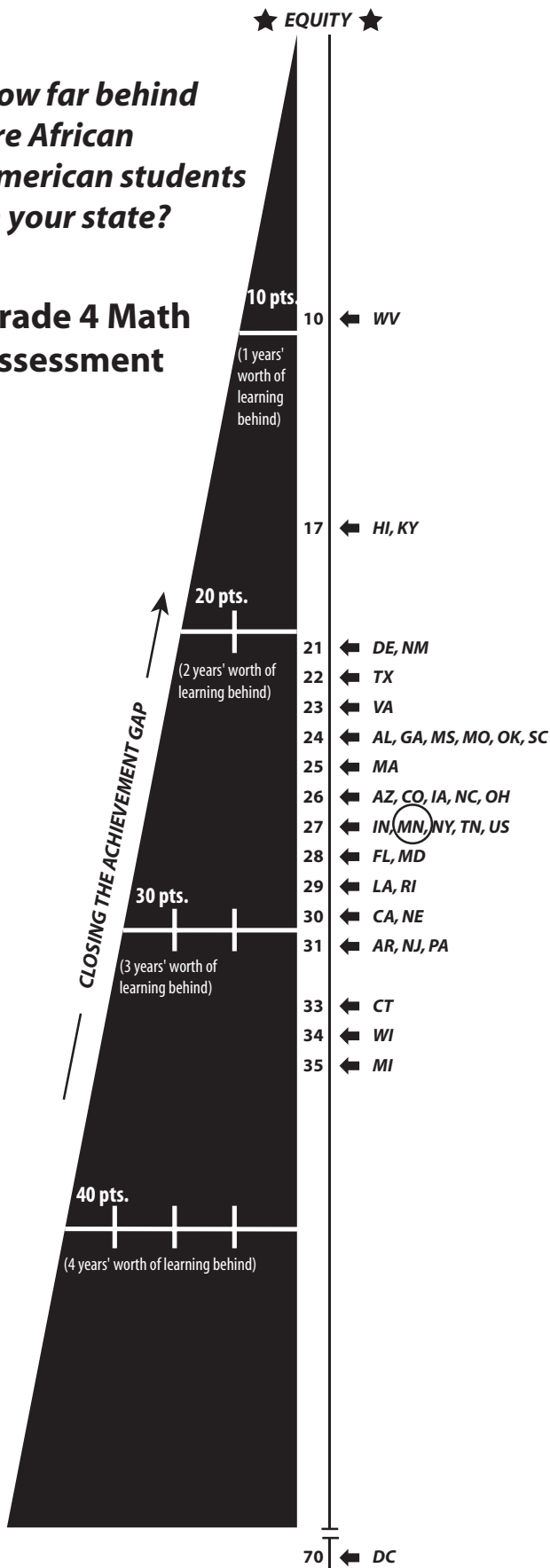
**Appendix B:**  
**2003 Achievement Gaps**  
**for**  
**Black Students<sup>83</sup>**



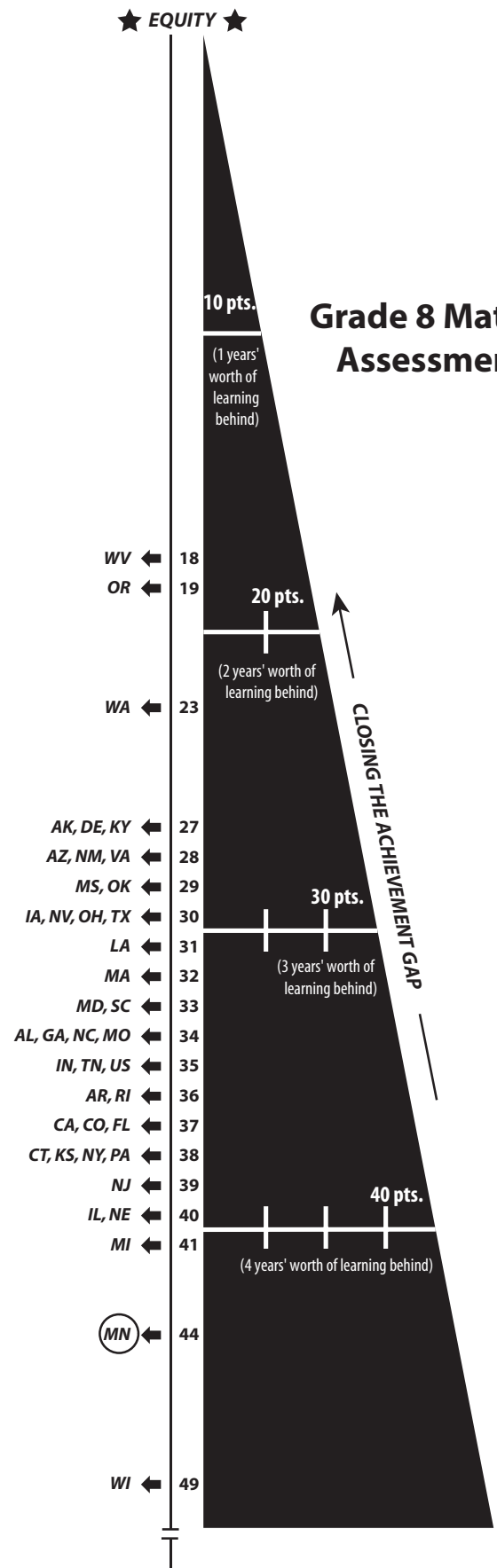
# Achievement Gaps: NAEP 2003

**How far behind  
are African  
American students  
in your state?**

## Grade 4 Math Assessment



## Grade 8 Math Assessment



**Note:** Gaps are measured by the point difference between minority and White average scale scores  
 \*States that do not appear have sample sizes too small.



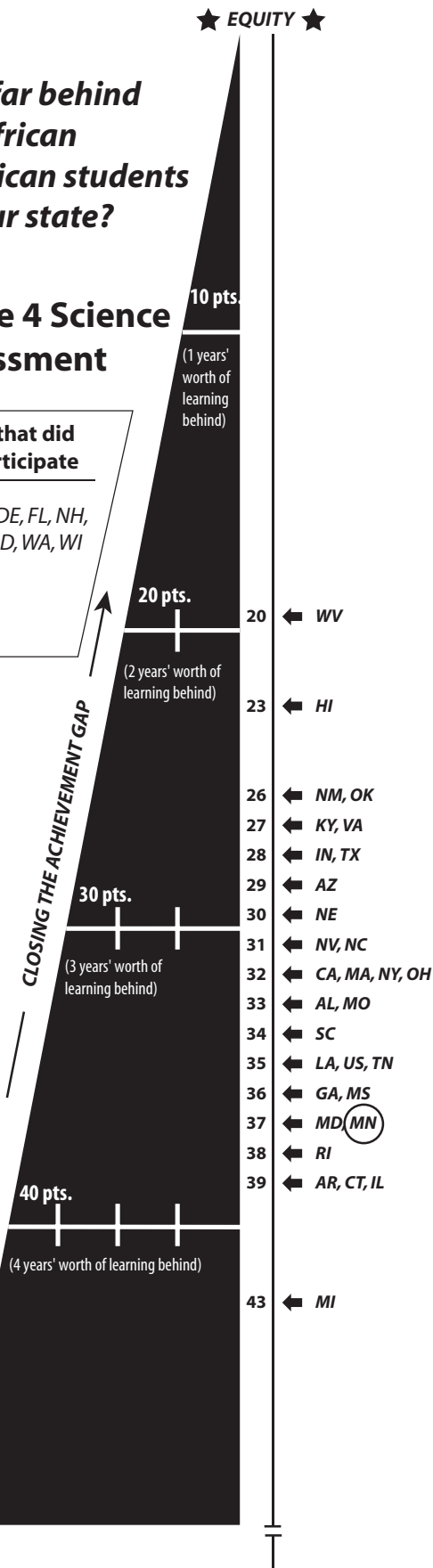
# Achievement Gaps: NAEP 2000

**How far behind  
are African  
American students  
in your state?**

## Grade 4 Science Assessment

### States that did not participate

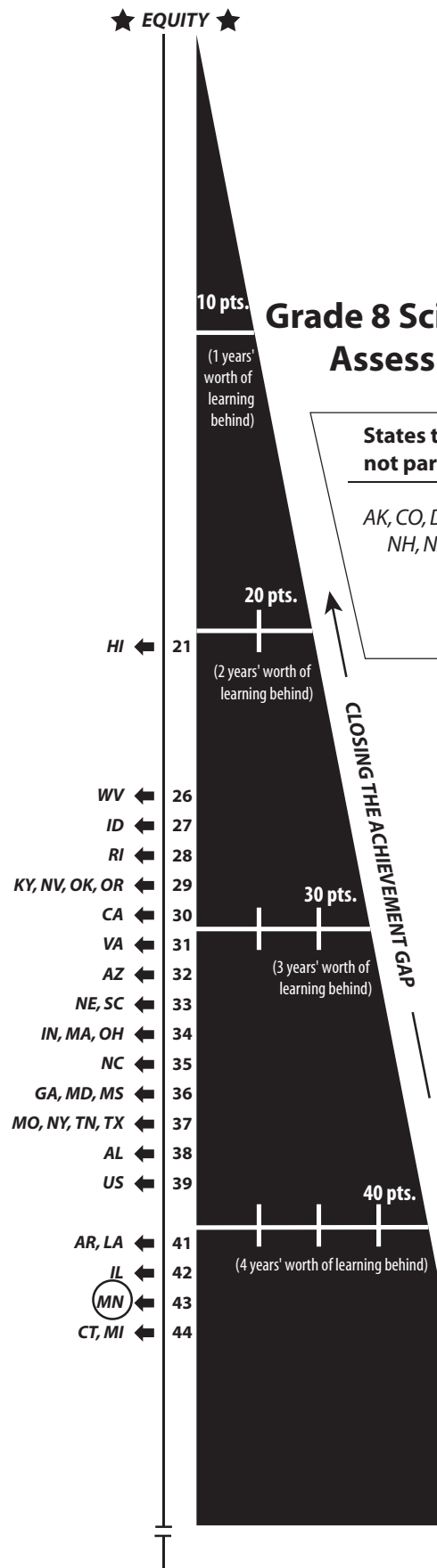
AK, CO, DE, FL, NH,  
NJ, PA, SD, WA, WI



## Grade 8 Science Assessment

### States that did not participate

AK, CO, DE, FL, IA,  
NH, NJ, PA, SD,  
WA, WI



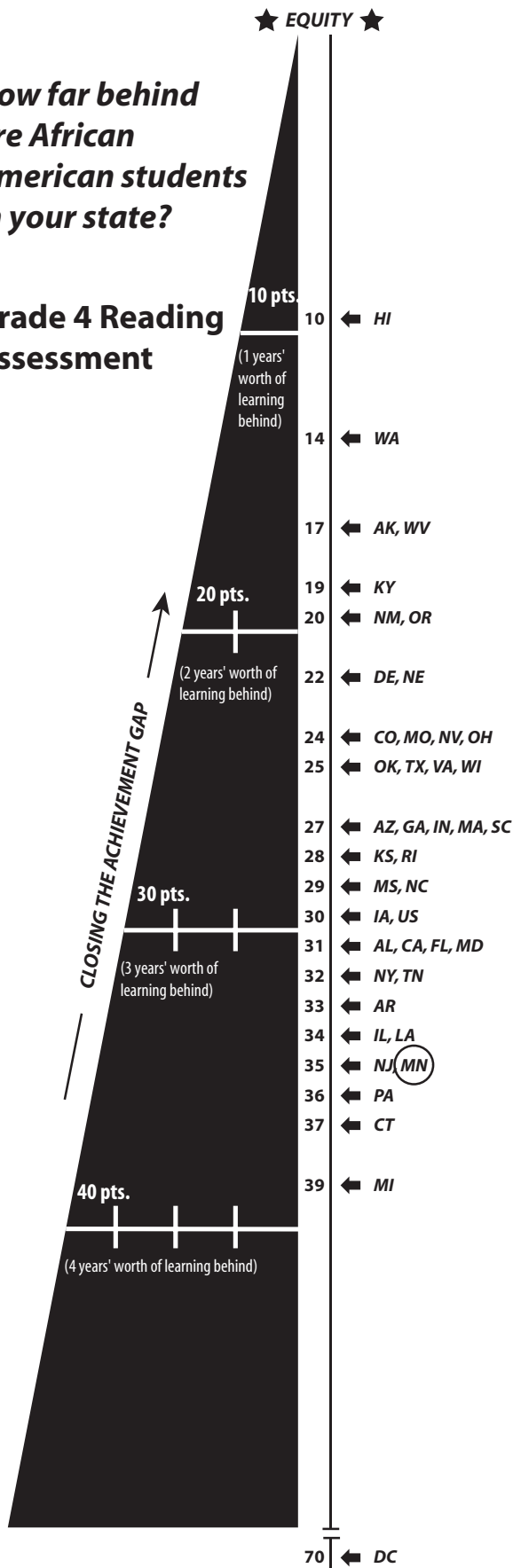
**Note:** Gaps are measured by the point difference between minority and White average scale scores  
\*States that do not appear have sample sizes too small.



# Achievement Gaps: NAEP 2003

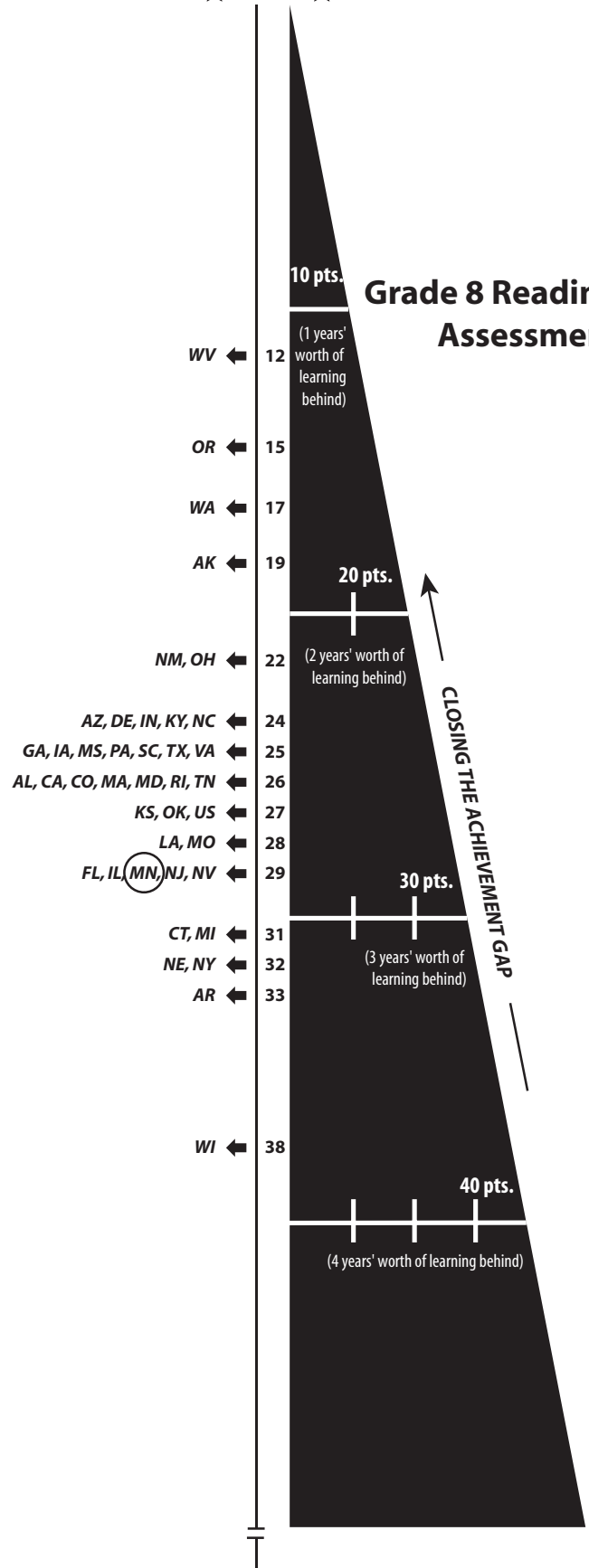
**How far behind  
are African  
American students  
in your state?**

## Grade 4 Reading Assessment



★ EQUITY ★

## Grade 8 Reading Assessment



**Note:** Gaps are measured by the point difference between minority and White average scale scores  
 \*States that do not appear have sample sizes too small.



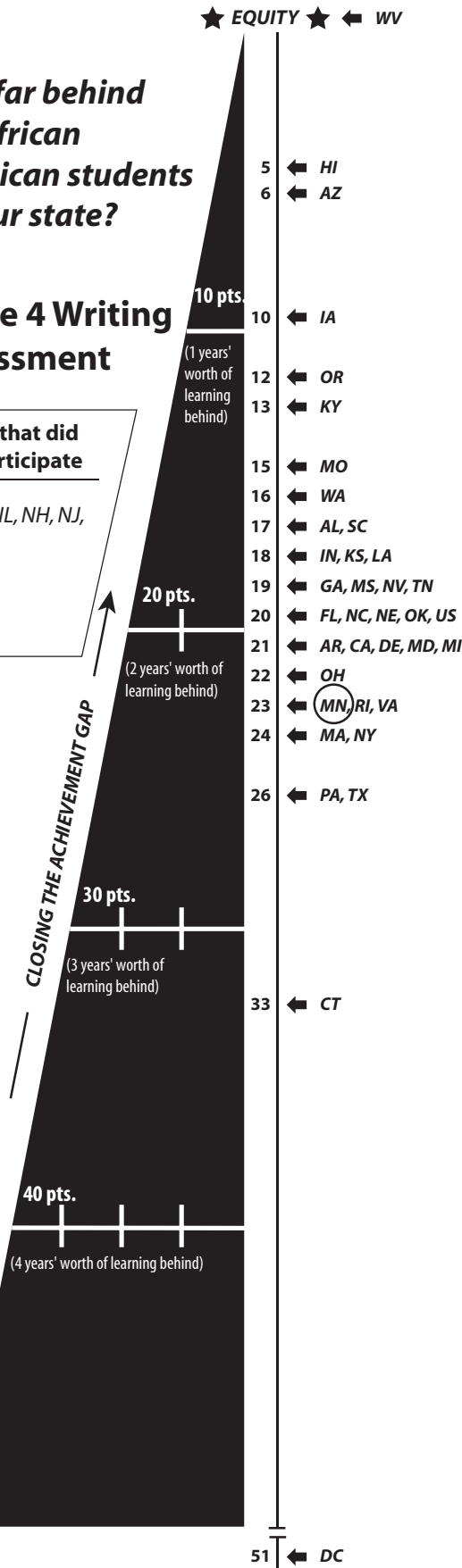
# Achievement Gaps: NAEP 2002

**How far behind  
are African  
American students  
in your state?**

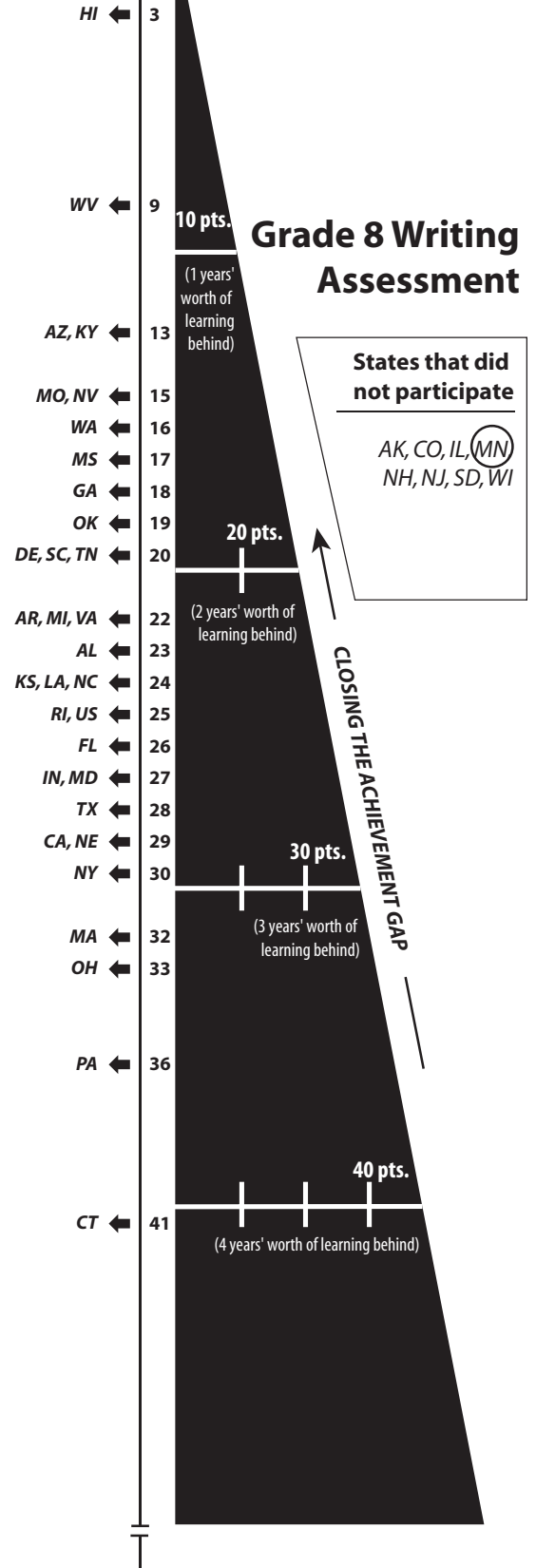
## Grade 4 Writing Assessment

### States that did not participate

AK, CO, IL, NH, NJ,  
SD, WI



★ EQUITY ★



## Grade 8 Writing Assessment

### States that did not participate

AK, CO, IL, MN  
NH, NJ, SD, WI

**Note:** Gaps are measured by the point difference between minority and White average scale scores  
\*States that do not appear have sample sizes too small.

## **Appendix C:**

### **Conflict of Interest Laws**

## Sample of State Conflict of Interest Laws Applicable to School Board Members

STATE		GA	ME <sup>a</sup>	MN	NJ	NM	VA
Separate code of ethics specific to School Boards					§18A:12-24.1		
Requirement for disclosure of employment, contract, or other business interests within the school district.					§18A:12-25	§10-16-3 <sup>b</sup>	§2.2-3115
Requirement for a financial disclosure statement					§18A:12-26	§10-16-3 <sup>b</sup>	§2.2-3115
Special exclusions from conflicts laws for cities with smaller populations							§2.2-3110, §2.2-3115
Prohibitions from gifts, favors, and economic opportunities		§45-10-3 (2), (6), (7)		§609.42 <sup>b</sup> §609.45 <sup>b</sup>	§18A:12-24	§10-16-3 <sup>b</sup>	§2.2-3103
Prohibition against using confidential information for economic benefit		§45-10-3 (4)					§2.2-3103
Restrictions on financial interests in commercial contracts and transactions		§45-10-23	17 MRSA §3104; 30-A MRSA §2605	§471.87 <sup>b</sup> §471.88 §123B.20	§18A:12-2	§21-1-35	§2.2-3108, §2.2-3112
Personal liability for violations							§2.2-3119
Anti-Nepotism Laws	Prohibitions against board members being employed by the district	§20-2-51	20-A MRSA §1002 (4)	§123B.195	§18A:6-8.4	§22-5-5	
	Prohibition against board members being employed by the district unless employment began prior to board membership						§2.2-3108
	Prohibitions against spouses of board members being employed by the district		20-A MRSA §1002 (4)				
	Prohibitions against family members being hired by the district after member is elected to the board			§122A.40 <sup>c</sup>		§22-5-6	§2.2-3119
	Prohibition of involvement in contract deliberations and voting if a family member is involved	No <sup>d</sup>			§18A:12-24		
	Prohibition against deliberations and voting on individuals that board member has financial or personal involvement				§18A:12-24		

a Maine's common law conflicts of interest mandates apply to school boards. *School Union No. 42 v. Paul Bean, Gregory Gravel & Susan Gravel*, No. CV-93-292, 1993 Me. Super. LEXIS 179 (1993). This demonstrates that though specific laws may not be on the books, quite often general statutes or judge-made law may apply to school board members.

b This is a general law applicable to all public officers and applied to school board members.

c Family members may be hired with the unanimous vote of disinterested board members.

d *Ianicelli v. McNeely*, 527 S.E.2d 189 (Ga. 2000) (held that school board's involvement in decisions affecting the compensation and benefits accorded their spouses as school system employees did not presumptively violate the Georgia Constitution's prohibition against public officers and trustees engaging in conflicts of interest).

## Endnotes

- <sup>1</sup> Under *No Child Left Behind*, schools can be identified as not making adequate yearly progress (AYP) in two ways: via participation or proficiency. The change referenced addresses the participation rate. If fewer than 95 percent of any student subgroup in a school is tested, the school is identified as not making AYP. On February 18, 2004, Minnesota officials met with U.S. Secretary of education Rod Paige to discuss implementation challenges. The superintendent of Virginia, Minnesota, Patty Phillips, and state Assistant Commissioner Rollie Morud noted that this requirement was difficult to meet in small and rural schools. In response, Secretary Paige's staff and officials at the Minnesota Department of Education worked together to develop a policy change that allowed a reconfiguration of this formula to make its calculation more fair.
- <sup>2</sup> Organizations that worked to schedule meetings of their members for this study include the Minnesota Rural Education Association and the Association of Metropolitan School Districts. The author is grateful for their willingness to participate in this study, and thanks MREA staff for leading the discussion in St. Cloud. Between 30-40 people attended each of the meetings in Greater Minnesota, while around a dozen individuals attended the metro area meeting. The meetings took place in August 2004 and were followed by a number of personal discussions, telephone calls, and emails to the author.
- <sup>3</sup> President Lyndon B. Johnson's remarks in Johnson City, Texas, upon signing the Elementary and Secondary Education Bill, April 11, 1965. *Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1965*. Volume I, entry 181, pp. 412-414. Washington, D.C.: Government Printing Office, 1966. Available online at <http://www.presidency.ucsb.edu/site/docs/pppus.php?admin=036&year=1965&id=181>
- <sup>4</sup> Ibid.
- <sup>5</sup> Ibid.
- <sup>6</sup> *Achievement Gap Summary Table*, the Education Trust, spring 2004, pp. 14, 16, 18, 20. See also Appendix A. Charts are used with permission of the Education Trust. The author expresses sincere thanks for the work of Autumn Stevens at the Education Trust for customizing these charts for this report. Entire achievement gap report is available online at: <http://www2.edtrust.org/edtrust/summaries2004/2004AchievementGapandSummaryTables.PDF>.
- <sup>7</sup> The term "black" includes both native-born Americans of African ancestry and newly arrived immigrants from Africa.
- <sup>8</sup> *Achievement Gap Summary Table*, the Education Trust, spring 2004, pp. 13, 15, 17, 19. See also Appendix B. Charts are used with permission of the Education Trust. The author expresses sincere thanks for the work of Autumn Stevens at the Education Trust for customizing these charts for this report.
- <sup>9</sup> Ibid. Information is from the most recent NAEP exams: Science 2000; Writing 2002; Reading 2003; Math 2003.
- <sup>10</sup> Thernstrom, A. and Thernstrom, S. (2003). *No Excuses: Closing the Racial Gap in Learning*. Simon and Schuster: New York, p. 11.
- <sup>11</sup> Email cited in speech by Cheri Pierson Yecke, Citizen's League Forum at W.I.S.E. Charter School in Minneapolis, May 22, 2003. "Closing the achievement gap: Why Minnesota's accountability plan must address achievement disparities among our students."
- <sup>12</sup> McClusky, N. (July 7, 2004). "A lesson in waste: Where does all the federal education money go?" *Policy Analysis* (Number 518), CATO Institute, p. 6. Available online at <http://www.cato.org/pubs/pas/pa-518es.html>. Methodology as stated in citation 31, page 27: "Author applied the GDP deflator, National Aeronautics and Space Administration, "Cost estimating web site," [www.jac.nasa.gov/bu2/inflateGDP.html](http://www.jac.nasa.gov/bu2/inflateGDP.html), to data from the U.S. Department of Education, National Center for Educational Statistics, *Digest of Statistics, 2002*, Table 365."
- <sup>13</sup> Ibid. Table 364 used for calculations.
- <sup>14</sup> Ibid.
- <sup>15</sup> *10 Facts About K-12 Education Funding*, U.S. Department of Education, 2004. Available online at <http://www.ed.gov/about/overview/fed/10facts/10facts.pdf>.
- <sup>16</sup> "President Bush, Secretary Paige celebrate approval of every state accountability plan under *No Child Left Behind*: Major milestone in meeting goals of historic law." (June 10, 2003). Press release, U.S. Department of Education, available online at: <http://www.ed.gov/news/pressreleases/2003/06/06102003.html>
- <sup>17</sup> Yecke, C.P. (June 10, 1999). Testimony given at hearing before the Committee on Education and the Workforce, U.S. House of Representatives. *Key Issues in the Authorization of Title I of the Elementary and Secondary Education Act*, (Appendix B). Available online at <http://commdocs.house.gov/committees/edu/hedcew6-46.000/hedcew6-46.htm>.
- <sup>18</sup> "President Bush, Secretary Paige celebrate approval of every state accountability plan under *No Child Left Behind*: Major milestone in meeting goals of historic law." (June 10, 2003). Press release, U.S. Department of Education, available online at: <http://www.ed.gov/news/pressreleases/2003/06/06102003.html>. The status of all states in their implementation of the law has been compiled by the Education Commission of the States. A chart detailing the numbers of states to meet specific goals can be accessed online at: [http://www.ecs.org/html/Special/NCLB/ReportToTheNation/docs/Appendix\\_B.pdf](http://www.ecs.org/html/Special/NCLB/ReportToTheNation/docs/Appendix_B.pdf). A database of specific information for all states can be accessed online at:

- [http://nclb2.ecs.org/Projects\\_Centers/index.aspx?issueid=gen&IssueName=General](http://nclb2.ecs.org/Projects_Centers/index.aspx?issueid=gen&IssueName=General).
- <sup>19</sup> By the 2007-2008 school year, science must also be assessed – once at the elementary level, once at the middle school level, and once at the high school level.
- <sup>20</sup> It should be noted that many people focus only on the language in sections 1111(b)(2)(F) and 1111(b)(G)(iv) of *No Child Left Behind*, which indicate that a state must have a plan and a timeline to ensure that *all* students in each group will meet or exceed the state standards by 2014. This language does not tell the whole story regarding expectations under the law. In section 1116(b)(1)(C) the law notes that identification of schools as not meeting AYP “shall not apply to a school if *almost* every student in each group...is meeting or exceeding the state’s proficient level of academic achievement” (emphasis added). The plan and the timeline is that 100 percent of all students will meet expectations by 2014; but apparently the law recognizes that schools are successful and should not be identified if “almost every student in each group” is achieving the stated goals.
- <sup>21</sup> *Evaluation Report: No Child Left Behind*. (March 2004). Office of the Legislative Auditor, State of Minnesota, p. 40. Report is available online at <http://www.auditor.leg.state.mn.us/Ped/2004/pe0404.htm>.
- <sup>22</sup> Davenport, E.C., Davison, M.L. & Wu, Y.C. (January 26, 2004). *Adequate Yearly Progress Simulation: Final Report*. Office of Educational Accountability, University of Minnesota.
- <sup>23</sup> For example, see the brochure produced by the state teachers’ union, Education Minnesota, and sent to Minnesota realtors in June 2004.
- <sup>24</sup> Rose, L.C. & Gallup, A.M. (September 2004). “The 36<sup>th</sup> Annual Phi Delta Kappa/Gallup Poll of the Public’s Attitudes Toward the Public Schools.” *Phi Delta Kappan*, vol. 86, no. 1, p. 48.
- <sup>25</sup> SDS polling results. (July 2003). Business Roundtable, p. 3. Available online at <http://www.businessroundtable.com/pdf/toolkit/resource/AYPpollsurveyresults.pdf>
- <sup>26</sup> *Ibid.*, p. 7.
- <sup>27</sup> “The Business Roundtable releases poll that reveals parents and voters support *No Child Left Behind* reporting requirements.” (July 2, 2003). Retrieved online on August 31, 2004 at <http://www.businessroundtable.com/pdf/toolkit/resource/AYPpollpressrelease.pdf>
- <sup>28</sup> *Brown v. Bd. of Educ.*, 347 U.S. 483, 493 (1954).
- <sup>29</sup> Speech delivered by Hubert Humphrey to the democratic National Convention. (July 14, 1948). Available online at: <http://www.americanrhetoric.com/speeches/hubberthumphrey.html>.
- <sup>30</sup> Argument: The Oral Argument Before the Supreme Court In *Brown v. Board of Education of Topeka*, 1952-55 238 (Leon Friedman ed., 1969).
- <sup>31</sup> It should be noted that, contrary to popular interpretations, *No Child Left Behind* is not a federal mandate. According to the U.S. Department of Education: “Despite the occasional use of the term ‘mandate’ when discussing federal program obligations, there is no federal ‘mandate’ to do anything in local schools. All obligations are conditions placed on the receipt of federal funds. Any state that does not want to abide by these requirements need not accept the federal grant money. While most states choose to use the federal funds, a few states in the past have forgone federal funds for various reasons.” *10 Facts about K-12 Education Funding*. (2004). U.S. Department of Education, p. 8. Available online at <http://www.ed.gov/about/overview/fed/10facts/10facts.pdf>.
- <sup>32</sup> “Don’t Turn Back the Clock.” (November 2003). Letter to Congress from African American and Latino Superintendents and Civic Leaders. Available online at: <http://www2.edtrust.org/NR/rdonlyres/2A2E3D8E-219D-4C13-A933-E8F6F73116A5/0/31804UpdatedCampaignBEA.pdf>.
- <sup>33</sup> Johns, A. (Spring 2004). “Doing more with less challenges members and districts.” *MASA Newsletter*, p.1. Minnesota Association of School Administrators, 1884 Como Avenue, St. Paul, MN 55108.
- <sup>34</sup> *Evaluation Report: No Child Left Behind*. (March 2004). Office of the Legislative Auditor, State of Minnesota, Program Evaluation Division, Report #04-04, p. 90. The report is available online at: <http://www.auditor.leg.state.mn.us/Ped/2004/pe0404.htm>.
- <sup>35</sup> See endnote 2.
- <sup>36</sup> SF 639, introduced by Sen. Steve Kelley. Available online at: <http://www.revisor.leg.state.mn.us/cgi-bin/bldbill.pl?bill=S0639.0&session=ls83>.
- <sup>37</sup> See Sanders, W.L. & Horn, S.P. (1994). “The Tennessee value-added assessment system (TVAAS) mixed model methodology in educational assessment,” *Journal of Personnel Evaluation in Education*, vol. 8, no. 1, pp. 299-311; Sanders, W.L. & Horn, S.P. (1995). “Educational assessment reassessed: The usefulness of standardized and alternative measures of student achievement as indicators for the assessment of educational outcomes,” *Education Policy Analysis Archives*, vol. 3, no. 6. Available online at <http://epaa.asu.edu/epaa/v3n6.html>.
- <sup>38</sup> Criterion-referenced tests measure achievement against a specific set of standards.
- <sup>39</sup> Letter from Superintendent of Public Instruction of California Jack O’Connell to U.S. Secretary of Education Rod Paige, dated March 24, 2004. Text of the letter is available online at <http://www.cde.ca.gov/eo/co/co/yr04/letter0324.asp>.
- <sup>40</sup> Minnesota has an “open enrollment” law that allows parents the opportunity to choose a public school for their children other than the one to which their children are assigned. More information is available online at [http://education.state.mn.us/html/intro\\_open\\_enrollment.htm](http://education.state.mn.us/html/intro_open_enrollment.htm).



- <sup>41</sup> *The Choice is Yours* is the voluntary desegregation program in place in the metropolitan area. For more information, go to:  
<http://education.state.mn.us/html/020694.htm>.
- <sup>42</sup> The “1 percent cap” allows states and districts to include, as part of their AYP calculations, proficient and advanced scores achieved by students with severe cognitive disabilities when assessed by an alternative set of standards. The number of such scores cannot exceed one percent of the total scores.
- <sup>43</sup> Farkas, S. & Johnson, J. (2003). *Stand By Me: What Teachers Really Think About Unions, Merit Pay and Other Professional Matters*. Public Agenda: New York, p. 44.
- <sup>44</sup> Ibid., p. 45.
- <sup>45</sup> Ibid.
- <sup>46</sup> Ibid., p. 47.
- <sup>47</sup> Ibid., p. 53.
- <sup>48</sup> Ibid., p. 45.
- <sup>49</sup> HF 1986 (sponsor J. Johnson) and SF 2036 (sponsor G. Michel).
- <sup>50</sup> *Meeting the Highly Qualified Teachers Challenge: The Secretary's Second Annual Report on Teacher Quality*. (2003). U.S. Department of Education, p. 70. Of those teachers in Minnesota who are teaching on waivers, 0.9 percent are in high poverty districts and 0.4 percent are in non-high poverty districts.
- <sup>51</sup> Babu, S. & Mendro, R. (April 2003). *Teacher Accountability: HLM-Based Teacher Effectiveness Indices in the Investigation of Teacher Effects on Student Achievement in a State Assessment Program*, paper presented at the American Education Research Association annual meeting, as cited in “The real value of teachers: If good teachers matter, why don’t we act like it?” *Thinking K-16*, vol. 8, issue 1, The Education Trust, pp. 9-11. Available online at <http://www2.edtrust.org/NR/rdonlyres/5704CBA6-CE12-46D0-A852-D2E2B4638885/0/Spring04.pdf>.
- <sup>52</sup> Ibid., p. 8.
- <sup>53</sup> Carey, K. (Winter 2004). “The Real value of teachers: Using new information about teacher effectiveness to close the achievement gap.” In “The real value of teachers: If good teachers matter, why don’t we act like it?” *Thinking K-16*, vol. 8, issue 1, The Education Trust, p. 17. Available online at <http://www2.edtrust.org/NR/rdonlyres/5704CBA6-CE12-46D0-A852-D2E2B4638885/0/Spring04.pdf>.
- <sup>54</sup> Data for 2003 retrieved from the Minnesota Department of Education website on August 31, 2004 at <http://cfl.state.mn.us/datactr/mobility/SMD0203.pdf>.
- <sup>55</sup> Ibid.
- <sup>56</sup> “The complexities of student mobility and achievement” (August 17, 2004), *Research Brief*, Association of Supervision and Curriculum Development, vol. 2, no. 17. Available online at <http://www.ascd.org/publications/researchbrief>.
- <sup>57</sup> Ibid.
- <sup>58</sup> Kerbow, D. (June 1996). “Patterns of urban mobility and local school reform.” *Journal of Education for Students Placed at Risk*, vol. 1, no. 2. See also “The complexities of student mobility and achievement” (August 17, 2004), *Research Brief*, Association of Supervision and Curriculum Development, vol. 2, no. 17. Available online at <http://www.ascd.org/publications/researchbrief>.
- <sup>59</sup> Stover, D. (June 13, 2000). “Schools grapple with high student mobility rates,” *School Board News*. Available online at [http://www.nsba.org/site/doc\\_sbn.asp?TRACKID=&VID=58&CID=333&DID=7712](http://www.nsba.org/site/doc_sbn.asp?TRACKID=&VID=58&CID=333&DID=7712).
- <sup>60</sup> The issue here is that alternative learning centers (ALCs) have historically been nontraditional schools where at-risk students are sometimes placed (or choose to attend). As such, achievement at these schools tends to be lower than in traditional schools. The fear is that some students might be placed in ALCs so that the ratings of traditional schools will not be impacted by the lower achievement of these students.
- <sup>61</sup> Rose, L.C. & Gallup, A.M. (September 2004). “The 36<sup>th</sup> Annual Phi Delta Kappa/Gallup Poll of the Public’s Attitudes Toward the Public Schools.” *Phi Delta Kappan*, vol. 86, no. 1, p. 47.
- <sup>62</sup> Ibid.
- <sup>63</sup> Press release: “Minnesota Accountability 2004: Schools Showing Promise, Schools Needing Improvement: Sixty-four schools improve over last year, 472 make ‘needs improvement’ list.” (August 26, 2004). Available online at <http://www.education.state.mn.us/html/078222.htm>.
- <sup>64</sup> In Minnesota, students comprising the ESL (English as a Second Language) subgroup for accountability purposes include those who have not yet passed the Test of Emerging Academic English (TEAE) along with those who have not yet passed the Minnesota Comprehensive Assessments (MCAs) in reading for three years. In other words, the subgroup includes both those students who are truly language deficient and those who are moving toward grade level fluency.
- <sup>65</sup> See endnote 42.
- <sup>66</sup> Source of table is the document “Requested Modifications to Minnesota’s Accountability Plan and the Definition of Adequate Yearly Progress for School Year 2003-2004 and Beyond,” submitted to the U.S. Department of Education from the Minnesota Department of Education, April 2004. Source of data in table: “State Special Education Finance Systems, 1999-2000; Part II: Special Education Revenues and Expenditures.” Center for Special Education Finance (March 2004). The amounts are state averages.
- <sup>67</sup> *A New Era: Revitalizing Special Education for Children and Their Families*. (July 1, 2002). President’s Commission on Excellence in Special Education. Washington, D.C. Available online at [http://www.ed.gov/inits/commissionsboards/whspecialeducation/reports/images/Pres\\_Rep.pdf](http://www.ed.gov/inits/commissionsboards/whspecialeducation/reports/images/Pres_Rep.pdf).

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<sup>68</sup> National Governors Association. (2004) *Individuals with Disabilities Education Act*. Available online at [http://www.nga.org/nga/lobbyIssues/1,1169,D\\_6282,00.html](http://www.nga.org/nga/lobbyIssues/1,1169,D_6282,00.html).

<sup>69</sup> CCSSO. (August 6, 2004). *Federal Programs: Individuals with Disabilities Act*. Available online at [http://www.ccsso.org/federal\\_programs/IDEA/index.cfm](http://www.ccsso.org/federal_programs/IDEA/index.cfm)

<sup>70</sup> Salisbury, D.F. (March 20, 2003). *Lessons from Florida: School Choice Gives Increased Opportunities to Children with Special Needs*. Cato Institute, Briefing Paper no. 81, p. 6. Available online at <http://www.cato.org/pubs/briefs/bp-081es.html>.

<sup>71</sup> Greene, J.P. & Forster, G. (June 2003). *Vouchers for Special Education Students: An Evaluation of Florida's McKay Scholarship Program*. Manhattan Institute Civic Report, no. 38, p. 15. Available online at [http://www.manhattan-institute.org/cr\\_38.pdf](http://www.manhattan-institute.org/cr_38.pdf).

<sup>72</sup> Ibid., p. 21.

<sup>73</sup> Ibid., p. 27.

<sup>74</sup> "Public Agenda: Survey Finds Little Sign of Public Backlash Against Academic Standards or Standardized Testing." (October 5, 2000). Public Agenda: New York, p. 2.

<sup>75</sup> *Assessing and Addressing the "Testing Backlash."* (Spring 2001). The Business Roundtable: Washington, DC, p. 5.

<sup>76</sup> See Angelo, T. A., & Cross, K. P. (1993). *Classroom Assessment Techniques: A Handbook for College Teachers* (2<sup>nd</sup> ed.). San Francisco : Jossey-Bass; Boston, C. (2002). "The concept of formative assessment." *Practical Assessment, Research & Evaluation*, 8(9). Retrieved online on August 30, 2004 at <http://PAREonline.net/getvn.asp?v=8&n=9>.

<sup>77</sup> Kyte, C. (August 20, 2004). "Guidance on statements you make to the media, your community and to your staffs." MASA email newsletter, p. 1.

<sup>78</sup> Carter, S.C. (2001). *No Excuses: Lessons from 21 High-performing, High-poverty Schools*. The Heritage Foundation: Washington, D.C. More information available online at <http://www.noexcuses.org>.

<sup>79</sup> See pages 6 and 7 of this report.

<sup>80</sup> The author expresses sincere thanks to Peter Nelson of the Center of the American Experiment for his research assistance in this area. States were not randomly selected, but rather, those states whose conflict of interest laws were readily accessible were used for comparative purposes.

<sup>81</sup> *ECS Report to the Nation: State Implementation of the No Child Left Behind Act*. (2004). Education Commission of the States, p. vii.

<sup>82</sup> *Achievement Gap Summary Table*, the Education Trust, spring 2004, pages 14, 16, 18, 20. Charts are used with permission of the Education Trust. The author expresses sincere thanks for the work of Autumn Stevens at the Education Trust for customizing these charts for this report. Entire achievement gap report is available online

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at: <http://www2.edtrust.org/edtrust/summaries2004/2004AchievementGapandSummaryTables.PDF>.

<sup>83</sup> Ibid., pp. 13, 15, 17, 19. See also note 7.