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April 26, 2005

## **NCLB v. UPASS**

Utah Public Education After HB 1001

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In Special Session last week, the Utah Legislature passed HB 1001, which codifies the legal

supremacy of

UPASS, Utah's evaluation system of student achievement, over that of any federal requirements under the No Child Left Behind Act of 2001. During the interim session, Utah legislators will be working out the "nuts and bolts" of what this means to the Utah State Office of Education, the entity charge with facilitating the collection and dissemination of both UPASS and NCLB data. The federal Department of Education has, since the conclusion of the Utah Special Session, been silent on what repercussions may fall on Utah, although prior to the session, US Secretary of Education, Margaret Spellings indicated in a letter to Utah Senator Orrin Hatch, that HB 1001 put Utah Title 1 funding in jeopardy.

This article is intended to clarify some of the misconceptions surrounding the whole debate over NCLB in Utah and specifically around the tests used for both systems, student cohort size, and the monetary issues that Utah may face. This article will conclude with two scenarios—one, Utah loses not only its Title 1 funding, but also Title II-IV funding, which have similar funding formulas as Title 1 and are meant as supplements to Title 1 funding. A second scenario, has the Utah State Office of Education continuing to operate under a "dual reporting system" as it has since NCLB went into effect and by so doing retains its Title 1 funding.

### **No Child Left Behind and Title I**

No Child Left Behind was a reauthorization of the Elementary and Secondary Education Act of 1965. (ESEA). Under the provisions of ESEA, the federal government recognized that students growing up in poverty needed additional help from the schools they attended, and also presented new challenges. The federal government then created a funding mechanism by which these students could be assisted. In shorthand, that funding is called Title 1. Title 1 funds provided about \$76 million in additional resources to students in Utah schools last year. These schools are mainly concentrated in Salt Lake, Ogden and San Juan school districts, however, many rural school district have a disproportionate number of Title 1 students given their



student body size. As shown in [Figure 1](#), in 18 rural school districts, all elementary schools (K-8) are classified as Title 1 schools. This gives these areas an extremely high concentration of Title 1 students relative to the statewide average, as shown in [Figure 2](#). Allocations of NCLB-specific Title 1 funds to the school districts equaled \$66.3 million in 2004, approximately 3.6% of the school districts' total state and federal funding. However, in some districts such as Duchesne, Salt Lake, Ogden and Grand, NCLB Title 1 funds were over 7% of total state and federal funds. For Granite School District, with the largest number of Title 1 students, NCLB federal funds equaled 6.5% of total state and federal revenues to the district. [Figure 3](#) gives a per-pupil spending estimate for Title 1 activities by district.

### **More than Title I**

Supplemental to Title 1, there are three more federal funding sources used for schools with high incidences of poverty--Titles II, III, IV and V.

- Title II provides resources for training teachers.
- Title III monies are used for students in limited English proficiency (LEP) programs
- Title IV funds the 21<sup>st</sup> Century Schools program which focuses on drug, alcohol and tobacco prevention education
- Title V monies are allocated for "promoting informed parental choice and innovative programs," allowing the state and districts to share best practices in Title 1 schools and informing parents of Title 1 students of alternative education programs.

Altogether, these funds provided \$74.6 million to schools in Utah in 2004.

### **Adequate Yearly Progress**

Under the provisions of the law, schools that receive Title 1 funding are required to prove that their students are improving academically. The proof is in the form of test scores on some type of standardized test, chosen by the education office in each state. Title 1 schools are required to prove that each categorical student subpopulation (low-income, racial and ethnic groups, LEP, and disabled) shows improvement year over year, with the goal of having these students performing at grade level by 2013. This is termed Adequate Yearly Progress (AYP). If schools do not meet AYP, a series of increasingly stringent sanctions by the federal government is enacted, including requiring vouchers for students to attend other schools, providing private (not staffed by teachers or aides from the school or the district) tutoring services and ultimately, bringing in a private education firm, such as the Edison Group, to run the school.

### **Program Gaps**

As NCLB and Title 1 funding target the most disadvantaged schools, one of the gaps in the program is that only Title 1 schools are sanctioned for failing to make AYP. The federal government has no "sticks" with which to prod other schools to meet AYP, although the students in those schools are taking the same standardized tests that Title 1 students take. This means that a non-Title 1 school could fail to make AYP year after year with no actions (unless the state office of education creates its own sanctions) taken against it.

Another concern regarding AYP and student performance has been part of the loggerhead between UPASS and NCLB. No Child Left Behind, although it requires testing of students as a gauge of performance, does not track individual students longitudinally, or over time. NCLB compares this year's fifth graders to last year's and expects to see improvement in test scores, regardless of the abilities of either group. For this reason, NCLB is more concerned with how well the system, specifically the teacher, responds to the differing abilities of the students in the fifth grade class. In simple terms, NCLB says that somehow the system of education should be getting better at educating low-income, minority, LEP and disabled students over time, and if this is the case, it will be proved out in the test scores of these children.

While these implicit assumptions may or may not be proved out, the assumptions under UPASS

of tracking students longitudinally also present challenges. The most obvious, as shown in [Figure 4](#), is that the “cut score” between proficiency and non-proficiency is lower, for the most part, every year. A student in the first grade is deemed proficient in Language Arts if they answer 76% of the questions correctly. By the seventh grade, that proficiency score has dropped to 48%. Therefore, a student tracked over time, could actually be performing worse than he/she did in previous years but as long as they score above the “cut score,” they are deemed proficient and there are no repercussions.

## Testing

So what exactly are these standardized tests given to students and how do they differ in Utah under NCLB and UPASS? This is a question that seems to have not just the average parent confused but policymakers as well. The reason for the confusion may be that the same test is used. At the end of every school year, Utah students take what is called a CRT in each subject. CRT stands for “criterion reference test.” A criterion test is simply a test that grades on a body of knowledge that the student has been exposed to and is graded based on the raw number of right answers the student gives. Utah’s CRTs are aligned with the curriculum the student should have learned during a given school year.

CRT scores are what Utah currently reports to the federal Department of Education for the purposes of determining AYP. CRT scores are also used as **part** of UPASS. However, UPASS has a much more complex and obscure set of formulas to determine student progress. In addition to the CRT tests given annually, another set of standardized test scores are included. Until this year, that test was the SAT 9, or Stanford Achievement Test version 9. UPASS reports on the Utah State Office of Education report SAT 9 scores for the 2003-2004 school year. However, for this school year and going forward, USOE has switched to the Iowa Test of Basic Skills (ITBS), so student scores on the SAT 9 will not be comparable to the new test. Both the SAT 9 and ITBS are what are known as norm reference tests. These are different than the CRT tests. Norm tests are given to a national sample of students to benchmark the test on a bell curve. The bell curve that is created by that sample group then is used to compare individual student performance. A student receiving the results of their test would then find out that he/she performed better than 85% of the students taking the test.

## SAT 9 and ITBS Tests

SAT 9 tests are administered in the 3<sup>rd</sup>, 5<sup>th</sup>, 8<sup>th</sup> and 11<sup>th</sup> grades in Utah. Traditionally, Utah students have performed better than their national counterparts on norm reference tests, which may be the reason for their inclusion in UPASS. The possible reasons for this may range from a more challenging curriculum that familiarizes Utah students with concepts ahead of their national peers to the simple fact of demographics. White, middle-income children consistently out-perform their minority, low-income peers on standardized norm-referenced tests. As Utah’s school age demographics have become more ethnically diverse, SAT 9 scores in the state have declined, which may also be a reason for the abandonment of the SAT series for the ITBS. ITBS is used by more ethnically diverse states such as New Jersey to track student performance.

Beyond the CRT and the norm-reference testing detailed above, UPASS also tracks ACT scores of college bound students, attendance, graduation rates and requires a writing test of all students in 6<sup>th</sup> and 9<sup>th</sup> grade. Out of this complex series of benchmarks, UPASS determines the progress of schools. Because of this complexity, UPASS will not be fully operational until the 2006-07 school year; a point that was completely missed in the recent debate and one that will leave Utah scrambling in 2013 deadline to prove to the federal government that all categorical subgroups of students are testing at grade level.

## Fallout from HB 1001

There are two scenarios that could result from the recent passage of HB 1001. The first is that the federal government determines that Utah is “out of compliance” with NCLB requirements

and stops awarding Title 1 money to the state. Is this really such a bad thing? After all, it is only 7% of the state's education budget; can't that money be made up elsewhere? At the aggregate level, the answer is probably yes. Utah could find another \$76 million a year to put into the state's education system. If nothing else, legislators could decrease the amount of funding higher education receives from income tax revenue. However, the question then becomes, will that money get to the former Title 1 schools? The answer becomes a little less clear. Revenue distributed from the Uniform School Fund, the primary vehicle for state funding, is distributed based on the "weighted pupil unit" or WPU and the WPU formula as it is currently constituted takes into little account the socio-economic factors that drive Title 1 funding. There is a provision in the WPU for what are called "highly-impacted schools" which for practical purposes are Title 1 schools. However, in legislative budgeting lingo, the category called "highly-impacted schools" is funded "below the line." The WPU is made up of two types of funding-shorthanded as above the line and below the line. Above the line funding is an automatic funding formula that allocates most of the uniform school funds. Below the line funding are items to be funded at the legislature's discretion. Even during years with significant revenues, the legislature hasn't been enthusiastic about funding these programs above their minimal level. This pattern of behavior casts doubt on whether legislators will be willing to fund highly impacted schools at levels sufficient to make up for the loss of federal funds.

The final direct funding option available would be to increase property tax revenues to these schools. However, given the fact that Title 1 schools exist in areas of poverty, the likelihood of local revenues increasing sufficiently to cover the gaps left is small.

All of this leaves school district superintendents with the grim task of shifting monies around internally among schools within a district or cutting programs, neither of which would help students in Title 1 schools and could potentially impact other students as well, if funds are shifted from regular schools.

The second scenario is more positive. If the state submits a waiver to the federal Department of Education, requesting that UPASS be used to meet the requirements of NCLB (a step that to this point the state hasn't taken) or if the status quo of dual reporting is allowed to continue, Title 1 monies should continue to flow to the state and the schools that need them. Dual reporting provides the most attractive option to resolve the stalemate between the federal government and Utah. Since both UPASS and AYP reports are generated on the same test data, the CRTs, the State Office of Education has been submitting UPASS results to the state and AYP reports to the federal government. The infrastructure for doing this is in place; the costs are minimal compared with the alternatives. This would allow Utah to continue to receive Title 1 funding and also use UPASS to measure student progress by the state's standards.

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