

## **NCLB for Attorneys & Advocates: Reading Instruction, Research & Assessments**

[Print this page](#)

**N**o Child Left Behind provisions that are of interest to legal practitioners include legal requirements about reading, reading instruction and reading assessments, highly qualified teachers, public school choice and supplemental educational services, educational programs for immigrant children and English language learners, report cards and notices to parents, privacy, and parental right to inspect instructional materials.

The No Child Left Behind Act (NCLB) defines the standard of education that applies to all children who attend public schools. This standard expressly includes children with disabilities, limited English proficient children, migratory children, Indian children, neglected or delinquent children, homeless children, and young children in need of reading assistance.

### **Statement of Purpose**

The "Statement of Purpose" describes the intent of the law:

The purpose of this title is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and state academic assessments . . .

closing the achievement gap between high- and low-performing children, especially the achievement gaps between minority and nonminority students, and between disadvantaged children and their more advantaged peers . . .

holding schools, local educational agencies, and States accountable for improving the academic achievement of all students . . ." (20 U. S. C. § 6301)

### **Effective Reading Instruction**

Too often, the attorney represents a child who has severely deficient reading skills. Research has found a high relationship between poor reading skills, learning disabilities, and juvenile delinquency. Sadly, schools often use reading programs that are not effective in teaching children with disabilities, English language learners, migratory children, Native American children, neglected children, delinquent children, and homeless children to read.

A primary focus of this law is the requirement that school districts and individual schools use effective, research-based reading remediation programs so all children are reading at grade level by the end of third grade.

The law authorizes funds:

To provide assistance to State educational agencies and local educational agencies in establishing reading programs for students in kindergarten through grade 3 that are based on scientifically based reading research, to ensure that every student can read at grade level or above not later than the end of grade 3. (emphasis added) (20 U. S. C. § 6361)

Attorneys, hearing officers, administrative law judges, and child advocates will find that No Child Left Behind provides legal definitions of reading, reading instruction, and reading research.

**Reading** is defined as:

a complex system of deriving meaning from print that requires all of the following:

skills and knowledge to understand how phonemes or speech sounds are connected to print,  
the ability to decode unfamiliar words,  
the ability to read fluently,  
sufficient background information and vocabulary to foster reading comprehension,  
the development of appropriate active strategies to construct meaning from print, and  
the development and maintenance of a motivation to read. (20 U. S. C. § 6368(5))

The statute defines the **essential components of reading instruction** as:

explicit and systematic instruction in (A) phonemic awareness; (B) phonics; (C) vocabulary development; (D) reading fluency, including oral reading skills; and (E) reading comprehension strategies. (20 U. S. C. § 6368(3))

## **Scientifically Based Reading Research**

No Child Left Behind defines **scientifically based reading research** as:

(A) applies rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and  
(B) includes research that  
(i) employs systematic, empirical methods that draw on observation or experiment;  
(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;  
(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and  
(iv) has been accepted by a peer-reviewed journal or approved by a

panel of independent experts through a comparably rigorous, objective, and scientific review. (20 U. S. C. § 6368(6))

The more generic term, **scientifically based research**, appears seventy-nine times in the statute. The statute explains that "scientifically based research:"

(A) means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and  
(B) includes research that

(i) employs systematic, empirical methods that draw on observation or experiment;

(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

(iii) relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;

(iv) is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;

(v) ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and

(vi) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review. (20 U. S. C. § 7801(37))

## Reading Assessments

No Child Left Behind describes three types of reading assessments: screeners, diagnostic assessments, and classroom-based instructional reading assessments.

A  **screener**  is a "brief procedure designed as a first step" to identify children "at high risk for delayed development or academic failure and in need of further diagnosis . . ."

A  **diagnostic reading assessment**  (i.e., the "further diagnosis) is based on research and is used for the purposes of "identifying a child's specific areas of strengths and weaknesses so that the child has learned to read by the end of grade 3; determining any difficulties that a child may have in learning to read and the potential cause of such difficulties; and helping to determine possible reading intervention strategies and related special needs."

A  **classroom based instructional reading assessment**  consists of classroom-based observations of the child performing academic tasks. (20 U. S. C. § 6368(7))

If a school district receives Title I funds, the district is required to submit a plan to the state that describes assessments that will be used "to effectively identify

students who may be at risk for reading failures or are having difficulty reading." The district's plan must describe how the district "will provide additional educational assistance to individual students assessed as needing help" to meet state academic standards. (20 U. S. C. § 6312(b))

## Questions for the Attorney and Advocate

- Is the child proficient in reading?
- Is the child proficient in auditory processing?
- Does the child have phonemic awareness?
- What is the child's grade equivalent level when reading aloud as measured by the Gray Oral Reading Test?
- What is the child's grade equivalent level when reading silently as measured by the Woodcock Reading Mastery Tests Revised or the Gates MacGinitie Reading Test?
- If the child is not proficient in reading, what steps has the school taken to bring the child to proficiency?
- Has the school administered a screener? If so, what were the findings?
- Has the school administered a diagnostic reading test? If so, what were the findings?
- What reading program is the school using to teach the child to read?
- Is this program a research-based reading program? Does this reading program include the "essential components" listed in 20 U. S. C. § 6368(3)?
- What research supports the use of this program?
- What assessments does the district use to identify children who may be at risk for reading failure or difficulty learning to read? Has the district used such an assessment with this child? What were the findings?
- What "additional educational assistance" is the district providing to this student?
- Is the child's teacher qualified to teach reading?

The *Wrightslaw: No Child Left Behind CD-ROM* packaged with the book includes the *No Child Left Behind Deskbook* and guidance publications from the U. S. Department of Education about assessment, teacher quality, transfers from low-performing and unsafe schools, supplemental educational services from providers selected by parents, and other issues. These publications will help you master this complex statute and provide authority you can attach to legal briefs.

[1] This article is an excerpt from Chapter 7, *No Child Left Behind for Attorneys and Advocates*, in [\*Wrightslaw: No Child Left Behind\*](#) (ISBN 1-892320-12-6) by Peter W. D. Wright, Pamela Darr Wright and Suzanne Whitney Heath. The book is published by [Harbor House Law Press, Inc.](#)

---

## About the Authors

Peter Wright and Pamela Wright are the authors of the best-selling books [\*Wrightslaw: Special Education Law\*](#) and [\*Wrightslaw: From Emotions to Advocacy\*](#). The Wrights provide information and advice about educational law and advocacy at [Wrightslaw](#), the #1 ranked special education website in the world.

[Suzanne Heath](#) is the research editor at [Wrightslaw](#) and writes *[Doing Your Homework](#)*, a column about creative advocacy strategies. Sue does presentations and training about No Child Left Behind and parent advocacy.

Sue is also the webmaster for the [New Hampshire Branch of the International Dyslexia Association](#) and membership chair of the [Council of Parent Attorneys and Advocates \(COPAA\)](#).

Copyright © 1999-2009, Peter W. D. Wright and Pamela Darr Wright. All rights reserved. [Contact Us](#)