



## *MAKING IT CLEAR:*

### **FEDERAL LAW AND OPPORTUNITIES FOR PARENT INVOLVEMENT DURING PUBLIC SCHOOL RESTRUCTURING**

Dear Parent,

Every child deserves a great school. When kids fail or schools fail, parents must engage and help restore them to the path of success. That assistance is especially called-for during a process called “Restructuring” – a status in federal law that requires schools to make major changes due to dreadful student test scores year-after-year.

An increasing number of schools find themselves on the brink of Restructuring – and struggling with the dramatic overhauls required by the No Child Left Behind Act (“NCLB,” for short). NCLB was for 40 years known as the Elementary and Secondary Education Act (ESEA), but it acquired a new name eight years ago when it was renewed. Your child's school might have to undergo Restructuring, either now or in the future. If it does, you can help make sure that changes happen in a way that best promotes your child's education.

Here is the background: NCLB/ESEA requires every school in the country to make “adequate yearly progress,” otherwise known as “AYP.” The AYP target means a majority of each school's students must have at least the minimum acceptable score on state exams. If that doesn't happen, schools must make changes. If a school fails to meet expectations for five years in a row, then Restructuring is the penalty.

This background brief will help you understand what Restructuring is, what you as a parent should know about it, and what you as a parent can do about it. Congress will

likely be making changes to the law before the end of 2010, but for now, this is what applies.

## **I. Restructuring: The Options**

Schools facing Restructuring have a choice. If a school fails to make expected progress five years in a row, the school board can respond in one of five ways. It can:

- (1) Convert the school to a charter school;
- (2) Replace its principal and teachers;
- (3) Give control to the state government;
- (4) Hire an outside contractor to fix it; or
- (5) Hire a "turnaround leader" to overhaul curriculum and instruction.

If your child's school is in Restructuring, you, too, have a choice. You can:

- (1) Join other parents to challenge the fact that your child's school has been identified for Restructuring
- (2) Apply to have your child transferred to another school in the district; or
- (3) Get active and influence the school board's choice about which of the five Restructuring strategies listed above it should pursue.

### **A. *Challenging the Restructuring Identification***

If you disagree with the decision to "Restructure" your child's school, you can take action. You can challenge the school's classification. But your challenge must be based on specific information.<sup>i</sup> Simply disagreeing with the decision to restructure your child's school is not enough. You must direct the district's attention to errors made in identifying your child's school for Restructuring.

When a district identifies a school for Restructuring, officials must provide school-level data to the principal before making a final decision. To challenge the district's identification, a majority of the school's parents must agree that the classification was based on what the rules call "statistical or other substantive errors."<sup>ii</sup> The school's principal must present this evidence of mistakes to the district. The district must then make its final decision within thirty days from the date it originally provided data to the school.<sup>iii</sup>

### **B. *Transferring Your Child to Another School in the District***

When you learn that your child's school will be Restructured, you can apply to have your child transferred to another school in the same district.<sup>iv</sup> The district must explain how the transfer option works when it informs you that your child's school has been identified for Restructuring. This notice must include information about the academic achievement of the school(s) to which your child may transfer.<sup>v</sup>

Your child may apply to transfer to another public school in the district or to a public charter school if the district has one.<sup>vi</sup> The district generally can't *deny* students the option to transfer based on not having enough space, but it can consider enrollment issues in deciding which schools to make available for your transfer. The district is obligated to create new space in higher achieving schools to accommodate transfer requests. If your child transfers, the new school must allow your child to enroll in classes and other activities, treating your child the same as students already enrolled there.<sup>vii</sup>

In choosing a new school for your child, you may want to consider whether the new school has:

- special academic programs or facilities;
- before- and after-school programs;
- highly qualified teachers (NCLB defines it as teachers possessing a state teacher's license and teaching in their field); and
- opportunities for parental involvement.

The district is not required to provide this information in its explanation of your child's right to transfer.<sup>viii</sup> You should ask for it.

The district must inform you about the Restructuring status and transfer option right away—before the first day of the new school year.<sup>ix</sup> If your transfer request is approved, the district in most instances will pay for your child's transportation to the new school.<sup>x</sup> Because each district has a limited amount of funding available for transportation, however, free transportation may not be guaranteed for your child. Even if the district lacks sufficient funds to pay for your child's transportation, it must still give your child the option to transfer to a new school.<sup>xi</sup>

Your child's right to transfer is limited in other ways. First, if there are more transfer requests than the district can fund, the district may not grant some requests. Second,

your child may *not* transfer to another school that has been identified for Improvement, Corrective Action, or Restructuring – three labels that indicate poor academic achievement.<sup>xii</sup> Finally, your child may not transfer to a school the state has labeled "persistently dangerous."<sup>xiii</sup>

### ***C. Helping the District Choose the Right Restructuring Strategy for Your Child's School***

Restructuring strategies are not equally effective for every school. Unfortunately, in some cases, districts fail to implement any of the strategies.<sup>xiv</sup> If you decide to keep your child at a school that has been identified for Restructuring, one of the most important contributions you can make as a parent is to help the school district choose the best Restructuring strategy and help ensure its proper implementation.

So, which strategy will be most effective for your child's school? Like most things in life, it depends. Researchers have found, however, that "[R]estructuring with changes in governance and leadership is the only proven method for making *dramatic, rapid* improvements."<sup>xv</sup> The following section explains how you can help your school district make the right choice for your child's school.

## **II. Comparing Restructuring Strategies**

Studies show that the *process* of choosing a Restructuring strategy may influence the success of Restructuring as much or more than the strategy itself. The involvement and support of parents in selecting and implementing a Restructuring strategy is crucial. There are a few things you should know to help your district decide which strategy fits best for your child's school.

Some districts have many schools in Restructuring status. These districts usually do not have the resources necessary to oversee and implement Restructuring plans for all the schools that need them. Therefore, it is important for you to consider whether your school district has the ability to manage a major Restructuring. If it does not, another possibility may be for state government to take over educational responsibility for your child's school — assuming state law provides that option.

### ***A. Identifying the Problem: Whole-School or Small Subgroup?***

If you believe your school district has sufficient resources, find out why your child's school did not make adequate yearly progress. In addition to requiring schools *as a whole* to achieve AYP, NCLB holds schools accountable for the passing AYP scores of certain student subgroups. These subgroups include students viewed by race and ethnicity, limited English proficiency, poverty, and special education.<sup>xvi</sup> Some schools fail to make AYP because only one of these subgroups of students does not score well enough on state tests. If merely one subgroup did not make the grade, a major overhaul of the school may be unnecessary. Instead, a better choice may be to target changes to the struggling group.

In other schools, however, the problem is more widespread—that students across the board fail to meet benchmarks. These schools need bigger changes, such as hiring a "turnaround leader," becoming a charter school, or contracting with an outside contractor.

### ***B. Changing Leadership: Turnaround Leaders, Charter Schools, and Outside Contracting***

Changes in leadership have been shown to produce the most rapid and dramatic results during Restructuring.<sup>xvii</sup> Hiring a turnaround leader is one such change that may offer great help to a school whose students fail to meet benchmarks across the board. A turnaround will only work, however, if the school district is able to support the necessary steps, if turnaround leaders are available, and if the extra help does not stop at the first sign of success. Parent and teacher support is also an essential ingredient.

If turnaround leaders are unavailable, or if a district is unable to support a turnaround, then a school may benefit from becoming a charter school or hiring an outside contractor. These last two examples of changes in leadership are considered "clean slate" options. They allow schools to close and reopen with a fresh start.

Charter schools are special public schools created by state law. They are commonly run by teachers, parents, and/or community members. Charter schools can try innovative educational methods and models that are sometimes impossible or unworkable under rules governing traditional school systems.

A school in Restructuring should only become a charter school, however, if the state has a good charter law, if effective charter schools are already available, or if the community is willing to invest the energy necessary to create an effective charter school. Not all

states have good charter school laws and some states do not authorize charter schools at all. Good charter laws effectively support and duplicate successful charter schools, while preventing the growth of charter schools that are doomed to fail. If your child's school is facing Restructuring, you should ask your school district for information about your state's charter law. If your state has no charter law or a bad charter law, or if the community is not willing to invest significant time and energy into building an effective charter school, your child's school district might want to consider contracting with an outside provider to manage the school instead.

Remember, leadership and governance are the most important factors contributing to the rapid improvement of a school in Restructuring. Creating a charter school and hiring an outside contractor are both ways to change the leadership and governance of your child's school. But, a lack of experience overseeing schools may be a reason not to choose either of these strategies. State laws often assure charter schools funding and independence. Districts may already have experience granting charters and overseeing charter schools. If your school district has this experience, creating a charter school might be an effective strategy to improve your child's school in Restructuring.

Independent contractors, on the other hand, are not subject to all the legal limitations on charter schools. An independent contracting arrangement allows the district and the school to tailor the learning environment to more closely meet student needs. Once again, the key factors to consider are whether your state has a good charter law and whether there are reliable, knowledgeable alternative educational providers.

### ***C. Getting Involved: Mobilizing Parents***

You will only be successful in helping your district choose the right Restructuring strategy if you and other parents work together to participate in the process. This is most likely to happen if you and other parents are aware of the possibility of Restructuring *before* the district says your school is failing and will need Restructuring. Find out now how your child's school is doing by asking school officials whether the school has met its AYP requirements in recent years. If it hasn't, find out why, and start learning now about possibilities for Restructuring and how you might help to avoid it.

## **III. What Every Parent Has a Right to Know About Restructuring**

If your district identifies your child's school for Restructuring, the district must tell you about its decision without delay.<sup>xviii</sup> The district must explain what this identification means, why it was made, and how your child's school compares academically to other schools in your district and state.<sup>xix</sup> The district must also explain your child's option to apply for a transfer.<sup>xx</sup> Perhaps most importantly, the district must explain how parents can get involved in addressing the problems that led to the identification of your child's school for Restructuring in the first place.<sup>xxi</sup> You have a legal right to this information. If your school district doesn't provide it, you should ask for it.

Once the district finalizes its decision to move forward with Restructuring, it must allow you and other parents an opportunity to comment before it takes action.<sup>xxii</sup> This includes permitting you to comment on which of the five Restructuring strategies the district should implement at your child's school. The school must also let you participate in developing the plan the school will follow in implementing its chosen strategy.<sup>xxiii</sup> The school district has the same duty to consult with parents that it has to consult with the school's staff and outside experts in developing or revising its school improvement plan.<sup>xxiv</sup> Let your voice be heard.

As a parent, you have a right to know the qualifications of teachers and other professionals who work with your child.<sup>xxv</sup> The school must also tell you how your child performed on state academic tests. Additionally, the school must notify you if your child has been assigned to or taught for four or more straight weeks by a teacher of a core academic subject who is not "highly qualified."<sup>xxvi</sup> A teacher is "highly qualified" if he or she meets state teaching requirements.<sup>xxvii</sup> If you think any of these factors contributed to your school's failings, don't be afraid to say so.

#### **IV. Conclusion**

Of course, the Restructuring of your school can be a painful time. Staying active and involved with your child's school can go a long way. Your involvement may even help prevent the need for your child's school to be "Restructured" in the first place. As of 2009-10, your district may receive certain federal funding *only* if it implements programs, activities, and procedures for parent involvement.<sup>xxviii</sup> It is possible these rules will change, perhaps dramatically. But, for now, schools continue to face these consequences when academic achievement chronically lags. So, take advantage of these opportunities and stay informed about the challenges your child's school may confront. Restructuring is hard. To be successful, it takes patience and dedication. It also takes a parent.

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i 20 U.S.C. § 6316(b)(2)(B).

ii *Id.*

iii 20 U.S.C. § 6316(b)(2)(C).

iv 20 U.S.C. § 6316.

v 34 C.F.R. § 200.37(b)(4)(ii).

vi 34 C.F.R. § 200.44(a)(3).

vii 20 U.S.C. § 6316(b)(1)(F).

viii *See* 34 C.F.R. § 200.37.

ix 34 C.F.R. § 200.37(b)(4)(iv).

x 34 C.F.R. § 200.44(i).

xi 34 C.F.R. § 200.44(i)(2).

xii 34 C.F.R. § 200.44(a)(3)(i)(A).

xiii 34 C.F.R. § 200.44(a)(3)(i)(B).

xiv One study found that 40% of schools in restructuring have not implemented any Restructuring strategy.

Referenced in *Press Release: U.S. Secretary of Education Margaret Spellings Announces Proposed Regulations to Strengthen No Child Left Behind*, 22 April 2008, <http://www.ed.gov/news/pressreleases/2008/04/04222008.html>.

xv THE CENTER FOR COMPREHENSIVE SCHOOL REFORM AND IMPROVEMENT, SCHOOL RESTRUCTURING UNDER NO CHILD LEFT BEHIND: WHAT WORKS WHEN?: A GUIDE FOR EDUCATION LEADERS 71 (2006), available at [http://www.eric.ed.gov/ERICWebPortal/custom/portlets/recordDetails/detailmini.jsp?\\_nfpb=true&\\_ERICExtSearch\\_SearchValue\\_0=ED496104&ERICExtSearch\\_SearchType\\_0=no&accno=ED496104](http://www.eric.ed.gov/ERICWebPortal/custom/portlets/recordDetails/detailmini.jsp?_nfpb=true&_ERICExtSearch_SearchValue_0=ED496104&ERICExtSearch_SearchType_0=no&accno=ED496104) (Nov. 5, 2009). Much of the information that follows is drawn from this source.

xvi 20 U.S.C. § 6311(b)(2)(C)(v)(II).

xvii *See* THE CENTER FOR COMPREHENSIVE SCHOOL REFORM AND IMPROVEMENT, SCHOOL RESTRUCTURING UNDER NO CHILD LEFT BEHIND: WHAT WORKS WHEN?: A GUIDE FOR EDUCATION LEADERS, *supra* at 71.

xviii 20 U.S.C. § 6316(b)(6).

xix 20 U.S.C. § 6316(b)(6)(A)–(B).

xx 20 U.S.C. § 6316(b)(6)(F).

xxi 20 U.S.C. § 6316(b)(6)(E).

xxii 20 U.S.C. § 6316(b)(8)(C)(ii)(I).

- xxiii 20 U.S.C. § 6316(b)(8)(C)(ii)(II).
- xxiv 34 C.F.R. § 200.41(a)(2).
- xxv 34 C.F.R. § 200.61.
- xxvi *Id.*
- xxvii *See* 20 U.S.C. § 7801(23) (defining “highly qualified”).
- xxviii 20 U.S.C. § 6318(a)(1).