

Governor and Legislature continue to comply with the requirements of the federal No Child Left Behind Act

By Kevin Quinn and Larissa Wasyl

At a time when states such as Connecticut, Colorado, Minnesota, Vermont and Utah are strongly pushing back against increased testing and accountability in exchange for federal Title I funds, New York continues to comply with the requirements of the federal No Child Left Behind Act (NCLBA). Presently, New York expects to receive \$1,846,622,718 in the 2005-06 school year under the provisions of NCLBA for its 698 school districts and 61 operating charter schools.

On June 30, 2005, the Governor signed as Chapter 129 of the laws of 2005 legislation to extend, until June 30, 2006, authorization for the State Education Department (the “Department”) to implement the choice and other provisions of NCLBA. Originally scheduled to expire on June 30, 2003, the implementing authority has been extended twice since its original enactment in 2002. Since enactment of the NCLBA implementing legislation, the following actions have taken place:

- **Supplemental Education Services:** students attending a public school identified as “in need of improvement” for three consecutive years are entitled to receive free tutoring services from an independently approved provider. Since 2002, 332 New York schools have been identified as “in need of improvement Year 3.” School districts that have schools that fall into this category, then contract with independent providers to provide tutoring services. Since 2002, the Department has approved 251 SES providers. With regard to SES services, the United States Department of Education recently released new federal guidance on the implementation of this program. (To view the new Guidance, visit our [Education Resources](#) page and click on the link for the United States Department of Education)
- **Unsafe Schools:** a student attending a public school who is the victim of a violent criminal offense on school grounds or who attends a “persistently dangerous school,” is entitled to transfer to a safe public school within the school district. Annually, a list of persistently dangerous schools is compiled by the Department. Since 2002, nine schools have been identified as persistently dangerous. (To view this list, visit our [Education Resources](#) page and click on the link for the New York State Department of Education and view NCLBA).

- **Gun Free Schools:** a student must be suspended for at least one year when it is determined that s/he brought a firearm to school. Additionally, a student who is at least sixteen years of age, or a student who qualifies for juvenile offender status, must be referred to the criminal justice system if s/he brings a firearm or weapon to school.¹
- **Homeless Children:** Each school district must designate a liaison for homeless children to ensure proper coordination of enrollment and equal treatment of homeless children in public schools.

The opinions expressed in this bulletin are intended for general guidance only. They are not intended for specific situations. As always, readers should consult a qualified attorney for specific legal advice.

¹“A superintendent shall refer the pupil under the age of sixteen who has been determined to have brought a weapon or firearm to school in violation of this subdivision to a presentment agency for a juvenile delinquency proceeding consistent with article three of the family court act except a student fourteen or fifteen years of age who qualifies for juvenile offender status under [the criminal procedure law]. A superintendent shall refer any pupil sixteen years of age or older or a student fourteen or fifteen years of age who qualifies for juvenile offender status under [the criminal procedure law], who has been determined to have brought a weapon or firearm to school in violation of this subdivision to the appropriate law enforcement officials.” N.Y. Educ. Law § 3214(d)(1).