

Issues and Insights Into the Applicability of the No Child Left
Behind Act of 2001

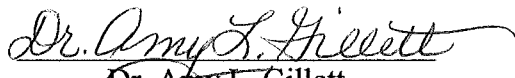
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ABSTRACT

The No Child Left Behind Act of 2001 was a monumental piece of bipartisan legislation designed to make the states more accountable in regards to federal funds that were being spent by schools. The end result of this Act has had many unintended consequences that were not thought about when the bill was being hotly debated in the House of Representatives and the Senate in 2001. This law has caused many challenges and hardships for those in the field of education and has been declared a detriment to children's education by many.

The purpose of this literature review was to look at the issues inherent in the legislation that have caused the greatest conflict amongst many in the field of education. Topics such as racism, sexism, and the role of the federal government and parts of the bill that have had a negative influence on the public schools were some of the points of conflict that were discussed in detail.

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Chapter I: Introduction

Introduction

Education has been at the forefront of our national agenda for quite some time. Our lawmakers have worried about how much the country has been spending on education in the country and the return on those investments.

Education has been near the top of the national domestic agenda since the 1980's. In that time, the federal government has passed innumerable small pieces of legislation, twice reauthorized the Elementary and Secondary Education Act, dabbled with national standards and tests, and supported a mixed bag of innovations such as charter schools and the National Board for Professional teaching Standards. Despite substantial effort, much creativity, plenty of politics, and billions in dollars, however, none of this activity has amounted to much, with Washington continuing to foot only about 7% of the nation's K-12 education bill and most of the real action taking place in states and districts. (Hess & Finn, 2004, p. 1)

The Components of the Act

The No Child Left Behind Act of 2001 (P.L. 107-110; NCLB) is no different from previous attempts by the federal government to meddle in state affairs and NCLB “is a massive piece of bipartisan legislation that was enacted and signed into law on January 8th, 2002” (Wikipedia, 2008, n. p.). This piece of legislation was intended to:

reauthorize a number of federal programs aiming to improve the performance of U.S. primary and secondary schools by increasing the standards of accountability for states, school districts, and schools as well as providing parents more flexibility in choosing which schools their children will attend. (Wikipedia, 2008, n. p.)

This law sounds simple enough, but this one law is very long and consists of 670 pages (No Child Left Behind Act of 2001, 2001) of rules, regulations, statutes, and has many details embedded into it that cause this law to be very hotly debated and contested by many groups and individuals.

There are ten titles to this law and these titles make up the backbone of the legislation. Title I is called Improving The Academic Achievement of the Disadvantaged, Title II is Preparing, Training, and Recruiting High Quality Teachers and Principals, Title III is Language Instruction for Limited English Proficient and Immigrant Students, Title IV is 21st Century Schools, Title V is Promoting Informed Parental Choice and Innovative Programs, Title VI is Flexibility and Accountability, Title VII is Indian, Native Hawaiian, and Alaska Native Education, Title VIII is Impact Aid Program, Title IX is General Provisions, and Title X is Repeals, Redesignations, and Amendments to Other Statutes (No Child Left Behind Act of 2001, 2001). However,

the most significant changes in the 2001 reauthorization were in the accountability requirements. NCLB offered a precise deadline for meeting the goal of “proficiency for all” (the 2013-2014 school year), a clear definition of AYP toward this goal (annual common measurable objectives for Title I and non-Title I Schools), and a specific set of interventions. (Clarke, 2007, p. 148)

Some of these titles are more controversial and detested than other parts of this law, and the portions that are disliked tend to get much more time devoted to them than sections of the law that may be of some benefit to the educational system. There are some individuals who feel that this law has some portions of it that should be retained because they feel that it has had a positive impact on our educational system and that more accountability was needed in how federal money has been spent by the states in regards to education. Advocates of this law would argue that greater accountability would help identify schools that are in need of an overhaul and that by making the system

more accountable and transparent, the taxpayers and the federal government can see what kind of returns they are receiving on their investment. However, “from the outset, NCLB appeared to be on a collision course with states’ fiscal woes. At the time of the law’s passage, many state’s budgets were in shambles, and most states were experiencing their largest revenue shortfalls in decades”(Clarke, 2007, p. 158). The issue of spending has never fully been solved and is a recurring theme.

From any viewpoint these titles contain a great deal of information on how this law should be implemented in the states and in the schools that receive federal funding. These titles created many problems when they were first implemented in the states, because the changes that were entailed in this law were to bring the states into compliance with this federal mandate. This was difficult to do because each state had its own state educational agency, rules, and standards. All of the state guidelines had to become legal according to this law enacted by the federal government and because each state had it’s own unique system, some states had more difficulty than others trying to implement the mandates directed by this law and the federal Department of Education to make schools and school districts compliant with the mandates of NCLB.

Accountability

Part of this law deals with the states and local school districts being held accountable for their achievement, as well as tracking the overall achievement on a school, school district, and state level. The state of Wisconsin “tests students statewide in reading and math in grades 3, 4, 5, 6, 7, 8, and once in high school by 2005-06. The state must test students in science at least once in grades 3-5, 6-9, and in grades 10-12” (Landsverk, 2004, p. 3). It is the mandate that students be tested and held accountable for their test scores to be able to pass on to the next grade and graduate, that has caused a great amount of debate among many in the educational field, because some students can

not pass the test to graduate and thus these students are by the nature of this law, being left behind.

Some of the History

It is interesting to note that many of the ideas that were included in the No Child Left Behind Act of 2001 were not new ideas.

First the accountability measures in the law were not, for the most part, newly formulated in 2001. NCLB collected and encompassed proposals advanced in theory and substance for years, infusing Ronald Reagan, George H. W. Bush, and Bill Clinton era initiatives into a single bill. These were, to be sure, combined in a fresh way, with the important effect. The most important new ingredient perhaps was George W. Bush. Bush persuaded some Republicans to accept proposals they had rejected just one session of Congress earlier, and he tacked with Democrats toward common ground. (Rudalevige, 2003, p. 24)

In effect, President Bush signed into law bits and pieces of legislation that had been circling the halls of Congress for over twenty years. Twenty years is a very long time for legislation to be put on hold and many things can happen to a society in the course of this time. A school district that was moderately well-funded in 1980 when Reagan took office, could have become an underfunded school with many societal problems impacting the performance of that school.

Problems with the NCLB Act

In fact, one of the major problems of this law is that it does not tell the states how to curb the problems that plague many schools. It does not tell or help schools how to curtail poverty, unemployment, teenage pregnancy, domestic violence, gang violence, apathy, and societal disillusionment that are happening to our youth at younger ages and at greater numbers than ever before. It only states that the state must comply with the federal mandate and then the state mandates that schools within it's borders must comply

with the federal guidelines or face repercussions for not making the mandate in a given amount of time.

It is interesting to note that the schools that are unable to make it into compliance with the federal mandate will have funds withheld. This makes very little sense because the schools that are unable to comply with NCLB are schools that usually have the least amount of funds in the first place. Instead of punishing these schools by taking away the funds they need to operate, they should be given more money to be able to hire the best teachers, to buy more technology and materials to help the school gain the assets it needs to become compliant with the law. However, this is not what happens under NCLB, as schools that are unable to meet its accountability and testing standards have had money withheld so the school or district is able to do less than before because it has less resources. Typically schools that have more resources are able to comply with the mandates of NCLB.

Questions to be explored

Another interesting factor that will be explored are the individuals who made this law. Where are the voices of teachers and educators who have dedicated their lives to the education of America's youth? Why were teachers and those who have spent much of their lives teaching not involved in the process of drafting this law? Certainly the government would want input from the people whose lives would be impacted the most from NCLB being enacted into law. Then again, maybe the senators and legislators know more about the educational process and pedagogy than professional educators who have dedicated their lives to the field. This is certainly going to be a theme that is going to be explored more closely and in depth.

Other aspects of this law that will be examined more closely will be the background information on NCLB and its purpose. Other issues that will be discussed and examined will be the issue of accountability. Testing, including standardized testing

in Texas that was used as a model for NCLB, and funding along with the determination of annual yearly progress (AYP) will also be examined as it is tied to the issue of accountability. School choice is another part of NCLB that will be examined, as well as the roles of teachers and parents. The issue of the impact of NCLB will be examined by how this legislation has effected schools and control of the curriculum. Sexism, racism, the increase in the drop out rate is also examined. Last, but not least, many people would like to see this law reformed and an examination of what may or may not be reformed in the future will be examined. These are some of the topics contained herein that are contentious and controversial today, just as when the law was enacted.

Statement of the Problem

The problem is that lawyers in Washington are not teachers and do not understand how students learn and what is truly needed by schools to make them successful. Compliance with the No Child left Behind Act of 2001 is mandatory across the country in every state and school district that receives federal monies. However, input and information from professional teachers who have an understanding of pedagogy and experience in the school setting has been overlooked and common sense has been abandoned in regards to the impact of NCLB. Many people have been impacted by NCLB, but the political leaders have done little to reauthorize or revise NCLB as it is currently implemented. There are many voices that have not been heard in regards to NCLB and its impact on the educational system in the United States. This literature review discusses many of the problems with this legislation and what can be done to remedy the situation.

Purpose of the Study

What are the main complaints of the NCLB legislation? The primary purpose of this literature review was to look at the No Child Left Behind Act of 2001 and how this law has impacted teachers on how and what they teach, and the applicability and practicality of this law, using others' viewpoints, experience, and data in regards to NCLB and its impact on the field of education from the inception of NCLB in 2001 to how it is implemented through 2007. One of the primary purposes of this review was to look for any positive aspects of this legislation, regardless of how few they may be in number.

Assumptions of the Study

The primary assumption is that many teachers have a negative attitude towards the No Child Left Behind Act of 2001 for many varying reasons, from under-funding of this federal mandate, to adding more testing requirements, to an already heavy test-laden school environment. Also, newer teachers who have graduated since NCLB have had to pass high stakes testing since this law was enacted and feel that these tests should not be used as the sole criteria to judge future teaching candidates for entering into schools of education across the country. Also, many authors have a negative view of this legislation and more negative aspects have been written about this law than positive aspects.

Definition of Terms

The terms listed are concepts and definitions that are essential to understand as part of the complex background and complexity that surrounds NCLB. These terms are used throughout the chapters of this thesis and form key ideas and concepts that have had an impact on NCLB, and its implementation in the school system. These definitions are listed in alphabetical order.

Annual Yearly Progress (AYP) is a part of the No Child Legislation that mandates schools make progress every year towards proficiency. Failure to meet AYP leads to sanctions, and repeated failures can lead to a given school to be closed if they fail to meet the AYP mandate.

Individuals with Disabilities Act. This law required schools to make radical changes to how the schools must serve students in need of special education. When this law was enacted, it had a dramatic impact on the education of people with disabilities because school districts could no longer deny an education based on special need.

Elementary and Secondary Education Act of 1965 (ESEA) was reauthorized and NCLB was the new name of this reauthorization.

Individuals with Disabilities Education Act (IDEA) is a law protecting the rights of students with disabilities equal access to an education. NCLB may violate this law.

Individual Education Plans (IEP) are part of the IDEA legislation and mandate that students with disabilities are receiving an adequate education that is free and appropriate. These documents lay out how the students' education is going to be conducted.

No Child Left Behind Act of 2001. The No Child Left Behind Act was enacted by a bipartisan Congress in 2001 and signed into law in 2002. This law was slated to bring accountability to the use of federal money by the states in the educational programs. This law has been very controversial due to the high stakes testing and graduation requirements.

Texas Assessment of Academic Skills (TAAS) was a standardized test given by the state of Texas that was used as a model for NCLB. It was heavily criticized as a failure and was replaced.

Texas Assessment of Knowledge and Skills (TAKS) is the second generation of tests that were supposed to silence the criticisms of the older first generation TAAS tests.

Many teachers and educational professionals feel that this series of tests are an improvement, but that many problems remain.

Title I. This is a federal educational program designed to help at risk children very early in the elementary grades to help these students get a better start towards a successful education. The use of federal funds led to federal mandates on those funds that have since been tied to other pieces of federal education laws such as NCLB.

Limitations of the Study

The limitations of this study are that there are many resources available for a literary review. The sheer number of opinions and research, both supporting and refuting evidence for the effectiveness and applicability of this law are many and varied. This means the evidence and the truth are hard things to examine. Also the scope and the impact of this law vary from state to state, as do the ways the states implement the mandates of this law. This makes generalizations, as well as the results of this mandate, very difficult to judge.

Chapter II: Literature Review.

Introduction

In this chapter the background of how NCLB was derived will be explored in detail from previous laws and legislation that helped mold NCLB into what it is today, along with how this bill managed to become law. This law and its more controversial amendments will be examined. Various perspectives, both positive and negative, will be discussed in detail from people who have been impacted by this law.

The legislative history

We have a clearer understanding today of the ramifications and repercussions of the No Child Left Behind Act of 2001 (NCLB) than we had when the law was enacted and signed into law by President George W. Bush on January 8th, 2002 (Wikipedia, 2008, n. p.). Since then, school districts across the nation have tried to live up to the lofty rhetoric that was signed into law by this bill. The main idea behind the bill is "... based on the belief that setting high expectations and establishing measurable goals can improve individual outcomes in education" (Wikipedia, 2008, n. p.). The title of this law is that the United States educational system should leave no child behind. In reality, the law has made it difficult for some students to pass graduation exams, which causes some students to opt to drop out of school or seek alternative paths to a diploma. Obviously, this is leaving some children behind. The law also leaves children who receive special education behind because only a percentage of a school can take an alternative form of the assessment that is required under NCLB. This causes school districts that have large populations of students in special education programs to fail in statewide testing, and thus not be in compliance with the mandates of NCLB.

To be able to better understand this Act, it is necessary to look at the events that were taking place at its conception, and prior attempts to reform the educational system, and look at the debate that was going on in Congress before this bill made its way to the

President's desk to be signed into law. Buchen (2004) has some interesting insight into the new role of the federal government due to the implementation of NCLB. Buchen stated:

The federal government has always played a significant role in education. Although its role has focused mostly on the financial allocations of Title I, the federal government has used that leverage, for example, to specify the governance process of allocating such funds. In particular, it initially mandated community school boards and later mandated site based management. Although the federal government took no part or position in the perennial debate about the lack of a national curriculum and accompanying standards, advocates for both cited the number of developed countries with national curricula that outscored us on international math and science tests. (Buchen, 2004, p. 18)

This concern over comparing our children's test scores to those of other countries was misleading, but did spawn the excellence reform movement of the 1980's. Berube and Berube (2007) have pointed out that:

The occasion for excellence reform was the nation's losing its competitive economic position to West Germany and Japan. The United States had become the largest debtor nation, with an unfavorable balance of trade. Detroit kept building large automobiles that were not fuel-efficient and could not keep up with the smaller, more competitive Japanese cars. Consequently, politicians and some educators perceived a need to restore economic dominance by improving the schools. (Berube & Berube, 2007, p. 3)

Improving the schools is a good idea. Both the methods and goals used will determine the success of the reform and, in this case, the reform failed due to trying to make comparisons between education here in the U.S. and in other developed countries. Berube and Berube (2007) stated:

The international comparisons in *A Nation at Risk* indicated that the United States was close to the bottom in reading, math, and science. However, the developed European countries educated through meritocracy—a succession of examinations to promote to the next level. Thus the report was comparing different education systems, a fact that was largely ignored. (Berube & Berube, 2007, p. 3)

The report, *A Nation at Risk: The Imperative for Educational Reform* (1983), was put out by the National Commission on Excellence in Education to try and restore the United States to global domination through education. It has been 25 years since this report was published and the United States is still the world's largest debtor nation and we still have a love affair with large automobiles. We are also still trying to compare ourselves to other countries that use a meritocracy system in their schools. None of these ideas worked during this reform movement and they still are not working today, but the bureaucrats in Washington still are trying to make outlandish claims about comparing the U.S. to other countries and the U.S.'s low test scores, when comparing the two, are like trying to compare apples to oranges. In other countries, only the best were going to take the exam and have the opportunity to be tested. In the United States, every student, regardless of ability, took the test and this caused the disparity that led to the outcry that our school system was in need of reform. In many ways things have changed little in twenty-five years.

There are other reasons why *A Nation at Risk* is an intriguing document that has had a larger impact than it should have, and we are still feeling the aftershock to this day. It is interesting to look at some of the ideas, from Ronald Reagan through the Bill Clinton era, to see how these presidential eras would influence what would become NCLB. Kaestle and Lodewick, in *To Educate a Nation: Federal and National Strategies of School Reform* (2007), had some interesting insight into these eras. They started with the Reagan era stating:

He [Reagan] expressed a desire to abolish the U. S. Department of Education, a favorite cause with his conservative supporters. But that reform hit a roadblock after Terrell Bell, Reagan's intrepid secretary of education, appointed a commission that produced a report called *A Nation at Risk* (1983). This report effectively focused public attention on a perceived national crisis in education. (Kaestle & Lodewick, 2007, p. 28)

By bringing attention to this supposed national crisis in education, the Secretary of Education was able to save his department. However, Reagan found other ways to minimize the federal government's role in education. "... President Reagan realized his arguments for dissolving the department were not winnable in the midst of a panic over education. He eventually had to learn to live with the education department" (Kaestle & Lodewick, 2007, p. 28). However, Reagan did manage to keep returning authority and responsibility for education to the states, and to minimize educational reform through federal action.

This devolution of federal action continued on into President George H. W. Bush's administration and state governors became accustomed to less federal aid in the form of money, but they also wielded more control over their states' education curriculum. President George H. W. Bush tried to push an educational act of legislation called "America 2000." "This legislation would have encouraged an educational partnership in which the states would lead and the federal government would play a supporting role. But this particular attempt to reinvent the federal role failed, the victim of partisan disagreements in 1992, an election year"(Kaestle & Lodewick, 2007, p. 29).

George H. W. Bush lost his bid for reelection to Bill Clinton who had been the Governor of Arkansas. Bill Clinton:

... when he became president, he was prepared to reassert a strong federal role in standards based education, but some of his education proposals proved to be

problematic. His Goals 2000 bill established a national council to approve state standards. Goals 2000 also required states to prove that students were afforded adequate opportunities to learn material before being held accountable for it.

(Kaestle & Lodewick, 2007, p. 29)

Clinton became President in 1992 and two years later in 1994, the republicans took control of the House of Representatives, thus killing any notion of a radical educational reform initiative of the Clinton administration. But,

During the 1990's fifty different complex state accountability systems emerged. Based on local interpretations of the national goals for education, each state designed a system of multiple interacting components to include tests, grade levels and subjects tested, benchmarks levels of performance, public reporting and parent input, rewards and sanctions for not meeting state proficiency levels, and specific assistance for low performing schools. (Irons & Harris, 2007, p. 7)

This sounds eerily familiar to many of the mandates that would come into play when NCLB would be ratified into law as key components of the federal law. The problem was that each state had chosen to create their own standards as to how the state would measure adequate educational growth on the part of students in any given state. All of these different models created many problems for the states as they struggled to bring the state into compliance with the federal mandate. Clinton would win reelection in 1996 and "during the next Clinton term the administration sought to protect the progress of the national movement for standards based reform largely by providing funds to help the states to establish standards" (Kaestle & Lodewick, 2007, p. 29).

This impetus for standards-based education leads us at least as far back as the educational scare of the Reagan era. After the push by the Clinton administration for standards-based reform comes, "Clinton's successor, George W. Bush, who surprised many of his conservative supporters by even stronger federal oversight of the standards

movement” (Kaestle & Lodewick, 2007, p. 29). This stronger oversight would become the NCLB Act, which is still impacting our educational system today. In fact it is worth noting that President Bush “... stole the slogan “No Child Left Behind” from Marian Wright Edelman and the Children’s Defense Fund” (Schrag, 2003, p. 232). It is easy to see where the drive for the standards-driven curriculum was derived from, when the path was cut by previous administrations, even though these previous administrations had no idea of what they were trying to accomplish because only some of the ideas they were trying to enact were accepted by Congress on a piecemeal basis.

The fact that legislation was passed on a piecemeal basis did not stop legislation from being enacted.

In 2002 Congress under the leadership of President George W. Bush, passed the No Child Left Behind Act (NCLB), which moved forward the national standards crusade. NCLB was the reauthorization of the landmark 1965 Elementary and Secondary Education Act, which was targeted for the children of the poor. NCLB hoped that, by linking standards to tests, it was meeting the needs of low achieving children in our nation’s highest poverty schools. (Berube & Berube, 2007, p. 41)

The accountability problem

To accomplish this, academic standards from the federal level would be enforced and measured by statewide tests and the National Assessment of Educational Progress (NAEP). Annual Yearly Progress (AYP) is also tied to receiving federal dollars and tied to these standardized tests.

That because in the previous (1994) reauthorization of the ESEA, there was a requirement that “Title I schools”(those getting ESEA Title I dollars) must demonstrate annually that their students were making adequate yearly progress. These Title I schools serve substantial numbers of economically disadvantaged

students, and, therefore, receive a great deal of the ESEA money specifically intended to improve the educational experiences provided to such disadvantaged youngsters. (Popham, 2005, p. 21-22)

Math and reading would be tested nationwide in the fourth and eighth grades. Schools that failed to meet proficiency standards would be warned and failure to meet compliance with the standards could lead to sanctions, "... including the withdrawal of federal funds. NCLB was a bipartisan effort of Republicans and Democrats in Congress and was hailed as President Bush's signature education law" (Berube & Berube, 2007, p. 41). "Science was added for testing in 2005. By school year 2013-14, the law requires that all students score at or above the proficient level established by their state" (Sleeter, 2007, p. 3). However, it would be doubtful that this bill would not have made it into law without some help by lawmakers.

The euphemistically titled Bush education bill was passed in December 2001 with overwhelming Republican and Democratic support, 381-41 in the House, 87-10 in the Senate. Two senators, Ted Kennedy a Democrat from Massachusetts and Judd Gregg a Republican from New Hampshire along with John Boehner a Republican from Ohio and George Miller a Democrat from California in the House of Representatives were largely instrumental in guiding the legislation through Congress in a process that bypassed input from advocacy groups that could have lead to compromises that normally raise alarms and outcries when dramatic shifts or changes are made in federal policy. The implications of NCLB came in to public view in bits and pieces, as provisions of the bill were turned into specific federal regulations and the schools started to read the fine print with more alarm and dislike for this fledgling law. (Christensen & Karp, 2003, p.199)

Initial criticism of the NCLB Act

Many people already detested this law before the ink had even had time to dry and many would try to overturn this piece of legislation. Certainly the elected officials in Washington had little time to bask in their legislative glory on the passing of this bill into law.

However, the honeymoon period was very short for the NCLB legislation as states and teacher organizations filed legal action against the federal government. The governor of Connecticut sued the federal government for not fully funding statewide high stakes testing, and his actions were to be followed by sixteen other states. The National Education Association (NEA) filed suit against the federal government on behalf of school districts and union chapters. (Berube & Berube, 2007, p. 42)

To say that this law was contested and detested by many in the educational profession would be a gross understatement. Many of these lawsuits were struck down, but it did not happen over night. It took many years for the courts to issue proclamations and decisions about the legality of NCLB.

Money was scarce from the start and has been summed up well by Jori Hall and Laurence Parker about the funding of this bill.

Conservatives have trumpeted a new call for equality through legislation such as NCLB, but they have been loathe to attach significant spending dollars that would address the historical and generational effects of racism and social class divisions that have an impact on achievement in many U.S. schools both in urban and rural areas. The late Senator Paul Wellstone (D-Minnesota) voiced one of the few dissenting opinions on NCLB as it was being debated on the floor of the Senate. He basically argued that NCLB played a cruel joke on public schools as another unfounded federal mandate that appears to call for equality of opportunity for all

students regardless of race, social class, language minority or special education status. In reality, due to the lack of federal funding for K-12 education at all levels, true equity would be an elusive dream for schools. His prediction was that the majority of school teachers who worked with low income and minority students on a daily basis would be angry at the federal government for imposing NCLB on them. (Hall & Parker, 2007, p. 137)

Wellstone's prediction that teachers were going to be angry has proven to have some truth.

The argument made on the floor of the U.S. Senate by Wellstone ... in the spring of 2001 have proven prophetic now when we see how their predictions have rung true. NCLB has been the greatest piece of federal legislation that has had an impact on all public schools in the United States. However, federal funds covered only one year of this legislation and states have had to bear the majority share of NCLB implementation cost, which in turn put more emphasis on covering testing, and assessment costs rather than other state supported student educational services. (Hall & Parker, 2007, p. 137)

So far the history has been examined as to how the United States adopted this piece of legislation. Now it is time to look at the law and the pieces of this law that are controversial. To many people in the field of education many pieces of this legislation have had a largely negative impact on the educational system in the United States.

Numerous problems related to NCLB

Testing, testing, and more testing is the modus operandi of this law. Testing is very "high stakes" because if schools do not meet the standards, there are many repercussions for not being adequate. These tests are used to judge "annual yearly progress" (AYP) "... towards the goal of 100% proficiency for all students, including special education students and English language learners, within 12 years (2013-2014)"

(Christensen & Karp, 2003, p. 200). Schools that cannot meet the annual yearly progress standards face many sanctions for not being in compliance with NCLB.

The sanctions include now familiar “corrective measures” like outside intervention by consultants, replacement staff, or state takeover. Other sanctions reflect the administration’s privatization agenda, which lurks just below the surface of the legislation. These include use of federal funds to provide “supplemental services” to students from outside agencies, imposing school transfer or choice plans, or turning management of schools over to private contractors. (Christensen & Karp, 2003, p. 200)

In many ways teachers’ feelings about NCLB can be dependant upon how the school principal handles the pressures placed on them by NCLB.

The teachers experienced varying degrees of pressure to meet No Child Left Behind’s Annual Yearly Progress (AYP) and California’s Academic Performance Index (API) targets. The nature of that pressure depended on the degree to which school site and district administrators, particularly the school principal, supported teachers in making decisions about curriculum and instruction. Almost all teachers talked (often at length) about the impact of principal support. Some principals buffered teachers from accountability pressures and supported their pedagogical expertise; others personified those pressures. (Sleeter, 2007, p. 24-25)

Even recess, which has been a staple of elementary school, has become a victim of the pressures of accountability and high stakes testing. Our children are also going through an obesity epidemic in school, and cutting out recess time is certainly not going to help our nation’s children live healthier lives.

Principals have a large role to play under the NCLB mandate. It is the principal’s job to make sure that the school is making progress and living up to the mandates

contained in NCLB. Surely, the pressure increases as the demands of NCLB on a school is not in compliance with NCLB. However, the individual principal is a large factor in the school and the climate of the school, including how the principal reacts to individual teachers and the standardized testing included under NCLB.

In fact this drive and pressure to perform well on these standardized tests have lead some schools to reduce or cancel recess for students, and this has been troubling to parents. In fact it has been quoted that:

Officials in many school districts indicate that it is the new emphasis on high stakes testing that is to blame for dwindling recess time. This trend concerns parents, principals, and teachers who feel that recess is a vital part of the school day to students. Recess allows students to exercise and to work off pent-up energy. More than that, recess is perceived by many to be a laboratory for forming social relationships and finding one's place in the world. (Henley et al., 2007, p. 58)

These are some of the repercussions that can happen to a school if they are found to not be in compliance with NCLB, and the longer that a school is in noncompliance, the more severe the corrective measures become, and NCLB uses a lot more stick than carrot in regards to the rewards for being in compliance with NCLB. If a school is in compliance, then the school gets to keep what it has, but they receive no extras for being in compliance. However, if a school is found to not be in compliance, it receives even less funds to work with, and money is a very big deal in regards to NCLB because doing the amount of standardized testing that is required under NCLB is very expensive.

Penalties for not making compliance under NCLB

One of the most interesting portions of NCLB is that it makes mandates and stipulates penalties for schools that are not or cannot be in compliance with the law, but this piece of legislation does not fully fund its own testing mandates. This leaves the

states to pick up the tab for the federally mandated testing, using state funds to pay for a federal law. Something about this does not seem fair. It should be that the federal government should have the funds in place to be able to carry through the mandates of the law, but this has not happened with NCLB. As Christensen and Karp stated,

... while the legislation turns up the spotlight, and the heat, on low-performing schools, the extra dollars the Bush administration promised have been undercut by its “war budget” and tax cuts. A \$1.4 billion increase in Title I funding in the first year of NCLB was followed by administration proposals to eliminate 45 federal education programs and more than \$1.5 billion in other education spending in the 2004 budget (including money for small schools, comprehensive school reform efforts, and K-12 math and science education). The president’s 2004 budget fell \$6 billion short of the totals authorized in the original NCLB Act. Even with targeted increases, the legislation still doesn’t provide full funding for Title I, which currently reaches less than half of all eligible low-income students. And despite the new testing and performance requirements that NCLB puts on special education students, the federal budget doesn’t come close to providing the 40% of special education funding called for in the federal Individuals with Disabilities Education Act. (Christensen & Karp, 2003, p. 201)

The budget numbers show that from the beginning, this federal mandate was never fully funded and that schools and states were left to find the funds to comply with the mandates of this law from other sources such as raising taxes on a state, county, or city-wide basis. Essentially the taxpayer was and is left to pick up the bill through higher property, state, or sales taxes. However, the Bush administration could claim to have kept federal taxes low. The money to pay for the testing had to come from some form of taxes; but in this case it did not come from a federal tax increase.

Tied to the money is the notion of annual yearly progress with the ultimate goal being 100% proficiency.

All schools are required to plot a path from current levels of achievement to 100% proficiency within 12 years- theoretically, in steady, equal steps forward.

“Adequate yearly progress” goals will be set for districts, schools, and individual subgroups. Public reporting of scores is designed to identify schools and students that are not “proficient”, while highlighting gaps between genders, races, and other sub-categories (special education, new language learners, low income students, etc.). Any school or district that doesn’t meet all its goals in all its subgroups for two consecutive years will be put in the “needs improvement” category, and if it is receiving Title I money, will face an escalating scale of “corrective action” (The “corrective” steps are mandated only for high –poverty schools receiving federal Title I funds, though states are directed to develop their own sanctions for other schools). (Christensen & Karp, 2003, p. 202)

So the schools that reside in high poverty areas and have the least amount of money and tax-based revenues are the schools and communities that are most likely to feel the punitive measures of NCLB. These schools are going to have more “corrective action” taken against them because they do not have the resources to get in compliance with NCLB. Instead of receiving more funds to work with, these schools have more funds withheld, and in turn they are even more unable to meet their NCLB compliance mandates. Also the idea that all schools will be adequate by today’s standards under NCLB is unlikely.

The “adequate yearly progress” formulas are so convoluted and unrealistic they see, designed to create chaos and new categories of failure. An early survey in *Education Week* suggested that as many as 75% of all schools – not just Title I

schools –could be placed in the “needs improvement” category. (Christensen & Karp, 2003, p. 202)

It would seem impossible for this many of the nation’s schools to be able to meet the standards as they are currently regulated under NCLB. Even schools that score well in the beginning will find it easy to slide into the “needs improvement” category, as the performance targets go up each year and significant numbers of students continue to struggle. A Latino student who receives services for special education and also resides in a low-income home, for example, could be counted as many as four times in a school’s AYP calculations. Even if one of these groups fails to meet its AYP target, the whole school fails. “These formulas invite failure by reducing the measure of school success to a single test score and using achievement gaps to label schools “failures” without providing the resources or support needed to eliminate them” (Christensen & Karp, 2003, p. 202). All this does is make the list of failing schools longer and the resources to fund the failing schools runs out. What will become of these schools then, when the list of failing schools and the resources and funding that they need become so diluted and limited?

Part of what is going to occur as part of this law is that,

Statistical “accountability” to bureaucratic monitors from above will take precedence over real accountability to students and their communities, and the huge testing programs will do nothing to increase the capacity of schools or districts to improve their educational services. Attention and resources will be diverted from more promising school improvement strategies like smaller class, creative curriculum reform, and collaborative professional development.

(Christensen & Karp, 2003, p. 203)

At the end of the day, schools are spending more money and time on the testing of students, but less time on real learning that has true meaning and substance. “The

legislation requires that 95% of all students participate in the mandated assessments” (Christensen & Karp, 2003, p. 203). It is also well known by educators and researchers that test scores alone cannot judge educational success or failure. In fact, if the goal is educational accountability, then standardized tests are of limited value and information.

To assess the effectiveness of a particular school or education program requires multiple measures of academic performance, classroom observations, project-and – portfolio-based assessments, a range of indicators from attendance and drop out rates to graduation rates and post graduation success, measures of teacher preparation and quality, and surveys participation and satisfaction. (Christensen & Karp, 2003, p. 204)

If the goal of NCLB is educational accountability and seeing positive results for the money that has been invested in the educational system, then this mandate has missed its mark. But if the mark was a political one

... to posture about “getting tough”; to drive multicultural curriculum reforms, equity concerns, and more pluralistic, bottom up approaches to school reform out of the system; or to create a widespread general perception of school failure used to justify “breaking up the public school monopoly”, then over reliance on standardized testing may be just the thing. (Christensen & Karp, 2003, p. 204)

This law was to appropriate about \$400 million a year for the first six years to help states develop new tests to meet the requirements of NCLB. “Yet according to estimates in *Time* magazine: “Full implementation of the Bush plan, with high quality tests in all 50 states could cost up to \$7 billion” (Christensen & Karp, 2003, p. 204). This type of testing is obviously a boon for companies that create, produce, and market these types of tests including McGraw-Hill, “which has close Bush family ties” (Christensen & Karp, 2003, p. 205). Even while this law fills the coffers of testing companies, it initially was regarded as an explosion by the \$700 million dollar a year

testing industries due to the rush by the states to implement the production of tests for the states to meet the mandates of NCLB. Gandal has noted: “The normal cycle for creating a new assessment in just one state is 2-3 years. This now needs to happen in two subjects areas in at least 34 states” (cited in Christensen & Karp, 2003, p. 205). Some states made modifications to tests they were already administering, but the results of each state approving and implementing its own tests had some negative outcomes in the first year of the states implementing the various tests under NCLB. “In the first year of the plan’s operation, more than 8,600 schools nationwide were identified as “failing schools” (including 19 of the Department of Education’s elite “blue-ribbon” schools). Michigan led the nation with more than 1,500 schools “needing improvement...” (Christensen & Karp, 2003, p. 205).

While Michigan in truthfulness adopted more stringent standards, which led to these results, other states, such as Wyoming and Arkansas, reported no failing schools because these states had lower standards. Some states thought about diluting their standards or create easier tests just to be in compliance with NCLB. “Other states like Vermont, Minnesota, and Iowa, have considered the drastic step of refusing federal education aid completely to avoid having to comply with NCLB” (Christensen & Karp, 2003, p. 205). Michael Winerip, a *New York Times* education columnist wrote in March 2003: “ As I travel the country, I find nearly universal contempt for this noble-sounding law signed last year by President Bush. Tom Horne, the Republican state education commissioner of Arizona, and Tom Watkins, the Democratic commissioner of Michigan, sound virtually alike in their criticisms” (Winerip, 2003, n.p.). Many years have passed since the inception of NCLB, but the criticisms and disdain for this mandate are still alive today.

High stakes testing in Texas as a model for NCLB

It may be worthwhile to look at what NCLB has been based upon and the results of standardized testing in George Bush's home state of Texas. Before George Bush became President of the United States, he was Governor of the state of Texas. In Texas, standardized tests have been part of the educational system for many years, and were used as a basis for many attributes of what would become NCLB.

Texas is the second largest state, and its educational policies help set the national agenda. Furthermore Texas has often been cited, particularly by backers of President George W. Bush, as a positive example of how high stakes testing can act as a catalyst of education reform. Under the Texas Assessment of Academic Skills (TAAS) program, students cannot graduate if they fail the TAAS exams. Further, a principal's pay is tied to the school's performance on TAAS. (McNeil, 2003, p. 215)

Houston is the fifth largest school district in the United States and under Texas law it must give the TAAS exams if it wishes to continue to receive state money, and these TAAS exams have been used to meet the state of Texas's obligation to the NCLB law. However, the results of implementing TAAS and NCLB have caused a reduction of regular teaching curriculum. TAAS examines reading skills, writing, and math. Common sense would dictate that if a teacher followed a regular curriculum in these subjects, the students would be able to learn the skills and concepts necessary to pass the TAAS.

However, the tests are multiple choice and the test bubbles must be filled in correctly without stray markings on the paper. This means that teachers spend valuable instruction time teaching students how to correctly fill in test sheets, as well as doing drills on test taking, that have no real merit beyond prepping for the test. These types of

activities certainly have very little educational value and do little to enhance or showcase the students' base of knowledge, as the tests are very narrow in scope (McNeil, 2003).

In many ways, preparing for the TAAS exams have had a detrimental effect on students' learning because some schools spend too much time preparing for the TAAS and not enough time in meaningful learning.

Because the principal's pay (and job contract) and the school's reputation depend on the school's TAAS scores, in those schools where students have traditionally not tested well on standardized tests the regular curriculum in these subjects is frequently set aside, so that students can prepare for the test. (McNeil, 2003, p. 216)

Another teacher:

... was dismayed to see, upon returning one day from lunch, that the books for her week's lessons had been set aside. In the center of her desk was a stack of test prep booklets with a teacher's guide and a note saying, "use these instead of your regular curriculum until after the TAAS." The TAAS test date was three months away. (cited in McNeil, 2003, p. 217)

Principals are very concerned about the TAAS and keeping their jobs. These testing materials are also very expensive and the teacher in Houston who is quoted above also had this to say about the cost of the materials. "This teacher reported that her principal, a person dedicated to these students to help them pass the TAAS in order to graduate, had spent almost \$20,000, virtually the entire instructional budget for the year, on these materials" (cited in McNeil, 2003, p. 217).

However, teachers have found that all these test preparations have left major gaps in the students' true understanding in these subjects. In reading it was found that while scores had improved, few students were actually readers. "Few of the students could use reading for assignments in literature, science or history classes; few of them chose to

read; few of them could make meaning of literature or connect writing and discussing to reading” (McNeil, 2003, p. 218). In fact, in schools where scores on the TAAS reading scores did improve, these findings “... were used to justify more TAAS prep, even more pep rallies, even more substituting of test-based programs for the regular curriculum” (McNeil, 2003, p. 218).

In all three subjects teachers have found alarming examples of students doing well on the TAAS, but missing key concepts and skills that are important to be able to use these skills of reading, writing, and math across the spectrum. “In fact students report that in drills on the TAAS reading section, they frequently mark answers without reading the sample of text. They merely match key words in an answer choice with key words in the text” (McNeil, 2003, p. 218). Obviously, much of the reading process is being left out because these test preps are very short and lack many of the skills necessary to derive meaning from longer pieces of work because test preparation in some cases begins in September and does not stop until after the TAAS in March, in the meantime valuable skills and concepts are not being taught (McNeil, 2003). Other teachers “... confirmed that students accustomed to TAAS prep, rather than literature, may be internalizing the format of reading skills tests, but not the habits needed to read for meaning” (McNeil, 2003, p. 218).

Writing too “... has been reduced in many schools to daily practice of the essay form being tested that year” (McNeil, 2003, p. 218). Writing for the TAAS has been focused on the narrow prescription in many schools to focusing writing on passing the writing portion of the TAAS. “Writing had become daily practice in the “persuasive essay,” consisting of five five-sentence paragraphs, a form which clearly qualifies as “school knowledge” in the most limited sense” (McNeil, 2003, p. 219). This is what an African-American mother, who was also a teacher, thought of the curriculum her second son was subjected to after the TAAS was put into place. Her first son had the same

teacher and had a great experience; the same could not be said for the second son who faced having to do drills for the TAAS exam. Another teacher, Mr. Sanchez, also a teacher in the Houston School District, was happy to have a full nine weeks with his students to focus on his own curriculum. He stated, “last year we didn’t have much time, but this year I will have a whole nine weeks” (cited in McNeil, 2003, p. 221).

Math is also tested and this has had an impact on how math has been taught as well.

Under the TAAS-prep system, the teaching of mathematics is also highly truncated. TAAS tests math by having students choose among four or five possible answers. They are not asked to explain their answers, so if students have alternative ways of working a problem, their reasoning is not made visible on the test. Nor are their reasons for selecting “correct” answers. (McNeil, 2003, p. 222)

Obviously this approach to math misses many aspects of being able to work on math problems. It misses the ability to conceptualize in math; it does not help the student to see the problem in his or her mind and work through a number of different ways to solve the problem. In the end “the reductive mathematics on the test is not enough adequate preparation for courses in more advanced mathematics” (McNeil, 2003, p. 222).

Even subjects that were not tested in the TAAS exams were exempt from its grasp. It would be reasonable to assume that these teachers would not have to partake in the test prep. However,

under the TAAS system of testing, teachers reported that there were fewer and fewer venues in which they could do authentic teaching, even when officially only three subjects were tested- math, reading, and writing- were tested. In poor and minority schools, especially, teaching untested subjects such as art science, or social studies was not exempt from the pressures of TAAS prep. (McNeil, 2003, p. 222)

The TAAS system is important because it was used as a foundation for many components that would be used in NCLB. The types of standardized tests used today across the country were modeled on the TAAS exams. It could be argued that some children are being left behind as the TAAS, which was used as a model for the standardized testing movement, has demonstrated through these examples.

Even the results of the TAAS testing system has had a negative impact on many students inside Texas, and now around the country because this testing system has been implemented in many ways inside the mandate of NCLB. “Although there were ostensible gains in scores on the TAAS tests have caused the state’s reforms to be hailed as the “Texas miracle”, a number of studies have suggested that the outcomes may be less positive than they appear” (Darling-Hammond, 2007, p. 90). What was found was that retention rates in ninth grade and dropout or attrition rates had risen dramatically since the 1980’s. Darling-Hammond (2007) also found that fewer than 50% of African-American and Latino students in ninth grade would graduate in four years and that only 70% of white ninth grade students would graduate. Some students were even leaving school before the ninth grade, before their scores could even be counted in school accountability rankings. “Several recent studies have produced empirical data that cast doubt on the gains noted on the state TAAS tests, observing that Texas students have not made comparable gains on national standardized tests or on the state’s own college entrance exam” (Darling-Hammond, 2007, p. 91). It has also been noted “that many students are excluded from the state tests to prop up average scores; and that passing scores have been lowered and the tests have been made easier over time to give the appearance of gains” (Darling-Hammond, 2007, p. 91).

Eventually, Texas moved away from the TAAS and adopted a new generation of tests, which they called the Texas Assessment of Knowledge and Skills (TAKS) in 2002. This is the second generation of standardized tests that were to work out many of the

problems that were inherent in the older first generation of TAAS standardized tests. Here is quote from a high school math teacher about the difference between the older TAAS exams and the new TAKS exam.

We were at basic skills on TAAS... here with TAKS there is a lot of critical thinking. And they have to know concepts. Let's say *slope*. They can't just know slope is rise over run. That means nothing. The question of slope will be presented to them five or six different ways on that test, so they really have to understand the concept and the critical thinking behind it. (cited in Skrla, McKenzie, & Scheurich, 2007, p. 35)

Obviously, Texas found many things wrong in their first generation of standardized tests and made efforts to rectify some of the problems that were inherent in that test. The larger question is what impact did it have on the teachers and how they spent their school day. Here is what Sylvia Bruni, a teacher of senior English, and a gifted and talented program coordinator of 23 years, as well as elementary campus principal, director of curriculum and instruction, university administrator, college professor, mother and grandmother had to say about the TAAS, TAKS, and NCLB:

we need to lead a true reform of our public school system now! What Texas set out to do 23 years ago with the introduction of that first TAAS test was perhaps well intentioned. However, after years of rigid, high stakes testing, and equally rigid and stifling test prep lessons that are totally out of sync with what makes rich teaching and learning, the results absolutely cannot be claimed a victory, neither for our children or our state. So I say to you: Come to Texas and learn from our experience. Spend a day or two in our classrooms and visit with our students and our teachers. Meet and visit with my granddaughter, Victoria, a bright and clever little third grader who this past spring agonized over the advent of the third grade TAKS test—the first one ever to hang the threat of retention

over the heads of Texas third graders. Beginning several weeks before the test was first administered, Victoria, who was reading fluently in her kindergarten year, bit her fingernails down to the quick and cried for hours. She was fearful of failing—in spite of having tried all the test prep strategies that consumed hours of her classroom time week after week. Eventually, Victoria passed the dreaded test, but not before it left its mark on her. At the tender age of nine, this child experienced the fear of failure, a fear she simply did not have the maturity to deal with! (cited in Glickman, 2004, p. 156-157)

Obviously, some schools, particularly in urban and rural schools, are still spending a large amount of time teaching to the test. These test preparation drills are not teaching skills and concepts that are worthwhile or meaningful. However, certainly some of the worst problems have been rectified. But what challenges have yet to be overcome? How are teachers responding to the changes to this test and what has the impact been on other states that have decided that their state's tests must evolve.

Implications for teachers under NCLB

Teachers, of course, are the individuals who are responsible for preparing students to take the states tests, such as the TAKS, and they are the people who are directly responsible for implementing the mandates of NCLB on a daily basis. Part of NCLB is that teachers are highly qualified to teach in the schools. However,

professionals vote with their feet. When conditions become oppressive and work is perennially devalued and criticized, people, who do not want to be associated with failure, leave. Or they plan to leave as soon as their pensions permit. Those who stay survive by putting everything on hold and doing the least possible work to get by. Thus, the next few decades, according to the projections of the Department of Labor, will require some ten thousand new administrators and

double that number of new teachers by 2010. Given the current crushing configuration of education, those estimates may be low. (Buchen, 2004, p. 23)

Education cannot count on as many new teachers as may be demanded to fill classrooms across the country. “One-half of all students who major in education never go on to teach. That does not apply to majors in business, engineering, or even in social services. It gets worse. An equal number leave teaching in the first year and then half that number in the next four years” (Buchen, 2004, p. 23). Put another way “over 50% of education graduates decide not to go into education. Of those whom do only 50% stay after two years. No other profession drains its own talent pool like education” (Buchen, 2004, p. 58). It is hard to retain people to teach when the expectations are unreasonable and the demands are as well. Expounding on this idea of schools receiving Title I funds, which is money earmarked for schools that have many students from low-income families, it becomes even harder and more critical to find good teachers. However, “... the merits of the of the objective were beyond dispute, the “highly qualified” requirement, like some other parts of the law, was almost certainly beyond reach without massive infusions of money that neither the federal government nor the states was prepared to spend” (Schrag, 2003, p. 37). In the end, teachers are left feeling frustrated and powerless in some cases to have an impact on their surroundings and this causes problems that can be summed up in this statement; “Empowering teachers in an imprisoning system only increases demoralization” (Buchen, 2004, p. 23-24). Recruiting new teachers and retaining them is going to be a large challenge as the mandates of NCLB stand today because of all of the expectations that are placed on teachers and because “in some states if schools fail twice in a row, the students are offered vouchers to attend schools of their choice” (Buchen, 2004, p. 50).

Also unclear are the safety of the jobs of teachers who have tenured positions that make them much harder to be dismissed from their positions.

Tenured teachers and administrators can be terminated only after they are given due process and only for just cause. Though state laws vary, just cause generally requires a showing of insubordination, incompetence, immorality, or unprofessional conduct. Failing to meet NCLB's unreasonable AYP requirements does not provide the requisite just cause to terminate a tenured teacher. (Crisafulli, 2006, p. 614)

School Choice and NCLB

Part of the fallout of NCLB is a move to a voucher for students who are attending schools who do not meet the mandates of NCLB and this legislation had helped end the monopoly in public education because of these vouchers.

No longer the official monopoly, education has found its mainstream position eroded by some two million homeschoolers on the one hand, and the over two thousand charter schools on the other hand. The latter adds insult to injury by draining off per-capita dollars. In some small or rural school districts, the loss of funding has left behind schools whose enrollments are so reduced that it is not financially viable to run the schools or to offer a full curriculum. (Buchen, 2004, p. 115)

Both the unions and school administrators have perceived these vouchers as a threat to their livelihoods and have gathered together in opposition to the movement to charter schools and the empowering legislation contained in NCLB. It should also be noted that students who wish to transfer from a school that is underperforming to a school that is in compliance with NCLB has its own problems.

The huge problems of defining and implementing that mandate became clear almost from the moment the bill was signed. What about students who want to attend good schools that are already full? What about the costs of transportation and the conflicting requirements of long-standing legal desegregation

agreements? What about the principle that neighborhood children should have priority? (Schrag, 2003, p. 83)

Or put in other words:

... the practice of school choice still does not appear to be meeting its promise. As others have pointed out, low take up rates are partially due to the efforts of state and local bureaucrats, superintendents, and school board members to minimize NCLB's impact on their districts by keeping children in their current public schools. Transportation issues and space limitations, meanwhile, prevent still other students from switching public schools. (Howell, 2006, p. 142)

These are problems that arose because of NCLB and its lack of vision, and like outsourcing, have created more ills than good. This outsourcing of education has done a great deal of damage to the public schools and has hindered them in meeting the mandates of NCLB because the money is not available to meet the mandates.

In essence,

the legislation of No Child Left Behind thus can be perceived as almost a last ditch effort- not unlike a rescue mission to a area devastated by drought or disease- to salvage students, especially those in urban and rural areas, from the kind of educational neglect that has produced the statistics of failure that triggered the legislation in the first place. There is also a kind of last ditch evangelism to provide a firm hand that will not allow our legacy, the current and future generations of young people, to grow up without the knowledge, skills and caring they will need to be productive citizens and workers. (Buchen, 2004, p. 152)

To think that accountability and the need to have productive and knowledgeable citizens is going to go away is not feasible because we live in a global marketplace in which the United States must remain competitive. NCLB is trying to help in this endeavor.

Accountability and high stakes testing will undoubtedly raise the standards of performance. This is not by any means a solely American crusade. It is going on in England, and in fact all of Europe. It has always been a preoccupation of the Japanese; the Chinese are accelerating the pace and level of education. Singapore just announced an ambitious, well-financed, ten-year plan to achieve international preeminence in ten key academic areas. Invitations to professionals, to academic institutions, to research organizations, and to think tanks were extended. (Buchen, 2004, p. 131).

This eerily sounds much like the alarm that brought on the whole standards-based drive that was the result of *A Nation at Risk*, and the subsequent legislation and what sounded the alarm for more accountability and NCLB. The only difference is that eighteen years have passed and America's children still are not receiving the education that they deserve, if the United States as a country wishes to remain on the cutting edge of global competition and NCLB has done little to help in this endeavor, as the results have shown.

High stakes testing may not be the way to the top in creating a savvier citizen or workforce. Talking about NCLB and its love for high stakes testing, a former dean of the Harvard School of Education, Patricia Albjerg Graham, has stated that "teaching to the test has become the issue of the day" (cited in Berube & Berube, 2007, p. 42) and that "students are given many more tests, many of which are machine scored which limits the kinds of responses that can be expected of students" (cited in Berube & Berube, 2007, p. 42). In the end Graham stated, "testing by itself is an inadequate strategy for attaining universal academic achievement. Some other ideas are necessary" (cited in Berube & Berube, 2007, p. 42). Howard Gardner, a noted individual in the field of educational psychology, has said in interviews that most of the instruments that have been adopted by the states are inadequate for measuring intelligence and that "these instruments may

probe factual or subject matter knowledge, but they typically fall short of probing disciplinary mastery and understanding” (cited in Berube & Berube, 2007, p.43).

Gardner has looked at the standardized tests that the states have been adopting and has concluded that these types of tests measure only literacy and mathematical-logical intelligences and that they are not accurate even at doing that.

Special education and NCLB

Individuals with disabilities are also not helped by the legislation of NCLB.

In February 2005 a bipartisan congressional panel examined the No Child Left Behind Act in relation to children with disabilities. The panel asked Congress to recognize the special nature of disabled students in the national testing process.

The panel concluded that NCLB conflicted with the provisions of IDEA, which required individualized education plans (IEP) for disabled students. Instead, under NCLB, an eighth-grade disabled student must take an eighth-grade test even though that student may be on a sixth-grade level academically. (Berube & Berube, 2007, p. 44).

In the end, standardized testing hurts children with disabilities. However, under NCLB, children with disabilities are under mandate to be tested. “The 1997 Individuals with Disabilities Education Act (IDEA) mandates that students with disabilities be included in the assessments of proficiency in academic subjects, but IDEA also requires that special accommodations be made for disabled students” (Berube & Berube, 2007, p. 44). Some in the educational community question if standardized testing of students with disabilities is appropriate or legal.

The issue of race and NCLB

One of the main tenets of NCLB was that it was supposed to narrow the achievement gap between minorities and white students. However, some have argued that NCLB has actually made race more of an issue and has done more harm than good in

regards to helping minority students achieve in school. Jori Hall and Laurence Parker used critical race theory (CRT) to look at the issue of race inside NCLB and they found that: “A CRT analysis of NCLB shows that this major legislative policy has come up short with respect to resource allocation, and as a result has a deleterious impact on students, especially low income students of color in high poverty districts” (Hall & Parker, 2007, p. 137-138). Hall and Parker also went on to say that:

If NCLB was intended to end or significantly narrow the achievement gap, so far the policy has not worked, and from a CRT standpoint the Bush Administration needs to be held accountable for the failure of the policy to deliver. No Child Left Behind accountability measures are also objectionable as they overlook the personal commitment to the education of low income and minority students. (Hall & Parker, 2007, p. 139-140)

NCLB has also had a detrimental impact on inner city children particularly African-Americans and Hispanics in New York:

The implementation of the full Regents requirements for graduation has facilitated an explosion in the urban drop out rates... This explosion has been particularly dramatic and devastating within African-American and Latino communities. Not only are drop out rates elevating, we are witnessing a rise in the number of “disappeared” eighth graders who never reach high school. The loss of unaccounted for bodies combines, today, with charges that schools are cleansing the records so that long term absentees are now being cleared, after extended absences, from the books. (Weis, Powell-Pruitt, & Burns, 2004, p. 250)

In essence, the very students who are supposed to be making gains due to this piece of legislation, are actually opting out of school at a younger age than ever before.

Sexism and NCLB

Others have also criticized NCLB for being sexist. Karen Zittelman and David Sadker, claimed NCLB includes “a problematic proposal to change Title IX, the federal law prohibiting sex discrimination in education, by encouraging the establishment of public single-sex schools and classes for boys and girls” (cited in Berube & Berube, 2007, p. 45). These two individuals feel that single sex schools are ineffective and that the successes of these types of schools can be attributed to other factors such as smaller class size or better educated teachers, and they pointed to a California experiment in single sex educational school that “turned out to be a dumping ground for boys with behavior problems” (Berube & Berube, 2007, p. 45).

NCLB and military access to schools

Another section of NCLB that upsets parents is this bill gives military recruiters freedom to move inside of schools if they receive federal money.

Congress has passed two major pieces of legislation that generally require local educational agencies (LEAs) receiving assistance under the Elementary and Secondary Act of 1965 to give military recruiters the same access to secondary school students as they provide to post-secondary institutions or to prospective employers (If the LEA receives funds under the ESEA, all the secondary schools in that LEA are subject to the requirements in these laws. LEAs are also generally required to provide student’s names, addresses, and telephone listings to military recruiters when requested. These requirements are contained in §9528 of the ESEA (20 U.S.C. §7908), as amended by the No Child Left Behind Act of 2001 (P.L. No. 107-110), the education bill Congress recently passed. (Landsverk, 2004, p. 35)

Many parents feel very strongly about the military during this time of war and some parents do not believe that violence is the answer to solving the world’s problems,

and having military recruiters, who have been trained to convince people, at best, and lure or dupe people into the military, at worst, make parents very upset at this provision.

The positive aspects of NCLB: A minority viewpoint

Not everyone thought NCLB was a bad idea.

Some researchers and educational leaders view the reforms required by NCLB as promising. A study by Roderick, Jacob, and Bryk (2002) indicates that performance improved in low performing schools after the implementation of standards based reforms. Some school leaders in high minority, low achieving schools have applauded the NCLB Act because it requires school districts and states to disaggregate achievement data by social class, race, ethnicity, disability, and English proficiency. These administrators believe that the disaggregation of achievement data has helped to focus attention on the achievement gap between whites and students of color such as African Americans, Mexican Americans, and Native Americans. (Banks, 2007, p. 189)

The majority viewpoint

However, these individuals who think that NCLB has had a positive impact certainly represent the minority view of the impact of NCLB.

The NCLB Act and related reforms have evoked a chorus of criticism from some researchers and school reformers. The critics of the act argue that standards based reforms driven by the NCLB Act have had many negative consequences on the curriculum and on school life. They contend that these reforms have forced many teachers to focus on narrow literacy and numeracy skills rather than on critical thinking and the broad goals of schooling in a democratic society, have lead to an overemphasis on testing and less focus on teaching, and have deskilled and deprofessionalized teachers. Amrein and Berliner (2002) analyzed 18 states to determine how high stakes tests were affecting student learning. They concluded

that in all but one of their analyses student learning was indeterminate, remained at the same level before high stakes testing was implemented, or went down when high stakes testing policies were initiated. (Banks, 2007, p. 190)

Of course it is easy to lose focus on the individuals who have to deal with these testing requirements on a daily basis. Both teachers and students are impacted by these testing mandates and have a lot to say about what they do to students. John I. Goodland, a professor at the University of Washington and president of the nonprofit Institute of Educational Inquiry in Seattle, had this to say about NCLB.

There is often a devastating ripple effect from the one size fits all federal laws and mandates. Never before has this been more apparent than with the current No Child Left Behind Act. Not only must states and local districts spend part of their seven percent on the administration of mandated testing, but the accountability requirements built into the system virtually force them to abandon many of the hard won changes they have made in order to better meet parental expectations. Consequently, even though the local school has managed to sustain considerable public affection while public schooling has fallen from grace, politically driven school reform appears to be well on the way to thrashing... the public school.

(cited in Glickman, 2004, p. 55-56)

Options for the states

If states wished to not comply with NCLB, they do have at least one option:

According to the Constitution, education is a responsibility of the states, and in theory states could refuse to comply with NCLB by refusing ESEA funds. States have been reluctant to do so, however, because schools in revenue poor districts, which also have students who are the most expensive to educate, would be financially devastated. State governments would be obliged to craft a rescue. As is obvious from the protracted legal battles in many states to equalize school

funding, there is little political will in the states for this. (Weiner, 2007, p.163-164)

Or put another way:

Another legal issue emerging with the implementation of NCLB mandates is the supremacy clause (Art. VI, cl.2) of the U.S. Constitution, stating, “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof... shall be the supreme Law of the Land; and the judges in every state shall be bound thereby, any thing in the Constitution or Laws of any State shall be notwithstanding. (Irons & Harris, 2007, p. 124)

It would be interesting to see the results of a case if it made it to the U.S. Supreme Court and the court challenged the NCLB mandate, “a new contract would have to be written that clearly described conditions that promote, but does not coerce states to participate. If Congress was unwilling to meet the spending requirements, then it would have to examine its intrusion into the state domain of education” (Irons & Harris, 2007, p. 124). In any case, something needs to be done with NCLB because every school will need to be 100% compliant with the mandates of the legislation by 2014 or for many schools “no child left behind is the final nail in their coffin” (Gibboney, 2008, p. 21).

Conclusions and final thoughts

Many have found NCLB to be a complete and utter failure and William Mathis’ policy study of 2006 found and highlighted many flaws that are inherent in NCLB. He found that:

- (a) NCLB’s goal of 95-100 percent proficiency by 2014 is unattainable, (b) proposals to modify AYP, such as modifying group sizes and descriptions of value added models cannot resolve the underlying problems and may exacerbate inaccuracies in reporting, (c) the demands of reporting associated with AYP are underfunded, (d) the programs funded by NCLB do not offset the impact of

poverty on the achievement of students, and (e) NCLB functions in a manner that disproportionately penalizes schools attended by the neediest children. (cited in Chapman, 2007, p. 26-27).

But currently:

As the machinery of No Child Left Behind grinds its way through the states toward its various deadlines, high stakes testing now dominates the scene to such an extent that it has become the new hub. Evaluation has replaced curriculum as a growth industry. Some districts have created and hired new administrators who are solely in charge of data tracking and assessment. Performance evaluation and testing have joined at the hip, and the evaluation of both has been dropped in the laps of overworked principals. The net result is such a busy and clotted educational agenda that no one seems able to get through, let alone solve it. Sticking one's head in the sand like an ostrich appears to be an intelligent strategy. (Buchen, 2004, p. 22-23)

Also today in the educational landscape:

accountability is unavoidable. For better or worse it is a permanent fixture in education. It has been enshrined and mandated in the federal legislation NCLB. Rather than resisting it, educators have to put their own mark of ownership on it. Above all they have to internalize accountability so that it does not remain an external punitive set of rules and regulations. In short, the cure has to be cured. Education has to become not the object, but the subject of accountability. It has to develop its own quality control system. (Buchen, 2004, p. 319)

Buchen has also stated that:

Although the legislation of NCLB has much to recommend it and probably will accomplish much, it rests on a false rallying cry. The claim that no child will be left behind is as absolutist as zero defects in manufacturing or the zero tolerance

school policy toward violence that followed Columbine. The truth is that fewer children will be left behind, but many still will. Higher standards and heavy testing will force many students to perform at higher levels. But the same tests will also result in failures—such as the six thousand students in Massachusetts who, having failed the graduation test five times, will not be granted a high school diploma. Some may argue that maybe that is the way it should be. Those six thousand students had a chance to pass five times and they failed each time. Why should a diploma be cheapened by giving the same recognition to those who succeeded and those who did not? But there are related issues that are not so easily disposed of. (Buchen, 2004, p. 323)

Also Pam Solo, the founder and president of the Civil Society Institute, had this to say about NCLB,

rather than meeting the promise of closing the achievement gap, No Child Left Behind is widening the gap as districts, under tremendous pressure to show progress on tests, push growing numbers of students out of the system into an educational purgatory. They have neither passed nor failed, they have simply become “invisible”. This is a tragedy. We as a nation cannot tolerate losing the potential that these “invisible” children represent. No Child Left Behind is causing thousands of young people to see themselves as failures and are now truly left behind any promise of good jobs and a bright future. The harsh consequences for these young people can only be imagined, but I assure you the cost to their communities and our country will be profoundly real. (cited in Glickman, 2004, p. 234-235)

Obviously many think that NCLB has been detrimental to the public educational system in the United States and even with all of the discord, it remains to be seen what happens with this legislation and what happens “... how No Child Left Behind will

continue to work in practice does remain to be seen”(Smith, 2005, p. 522). The legislation was supposed to be reauthorized in 2007. However, it never came to fruition and now 2008 is drawing to a close and NCLB still has not been reauthorized. More than likely being that 2008 is an election year, a new Congress and President will decide upon this law and all the controversies surrounding it.

Chapter III: Discussion

Introduction

Chapter Three will discuss and analyze the author's viewpoints and critical analysis of the NCLB. A great deal has already been discussed by other people in the educational field and by practicing teachers who feel the impact of this law on their practice everyday. In this chapter the topic will be critically analyzed and conclusions and recommendations will be made on NCLB to remedy the intended and unintended consequences of this law.

Critical Analysis

There are two main points of view on the applicability and usefulness of NCLB. There are those who favor the legislation because they can gain something by the public school system being dismantled and these individuals usually hold a narrow view of what school should entail. To these types of individuals, school should be about facts and figures and the need to make or create a workforce to feed corporate America. The other group of concerned individuals is composed of people who are worried about creating a well-rounded citizen, who can apply what they have learned in school to other situations and have the ability to use knowledge in diverse ways and situations. For those who advocate for NCLB, the ability to read, write, use mathematics, and use the scientific method is all that really matters. There is no need for music, art, or creative thought, and the legislation that is NCLB makes sure of this. The other group thinks that art, music, and creativity should be incorporated into the school curriculum and that these talents are worth exploring and nurturing. In essence, those individuals who believe in the standards movement, including NCLB, have done more damage than good to our educational system because the curriculum has become prescribed and narrow. If these are the types of citizens that we are trying to create, then we are doing a very good job. If we are trying to create well-rounded knowledgeable citizens, who have the capacity to think for

themselves and be competitive in world markets and on the world stage, then we need to rethink NCLB and its consequences.

Conclusions

The strongest conclusion to this literature review was that NCLB was created with many inherent flaws that have had a detrimental effect on the educational system in the United States. The main thrust of this law was to help minority students, but in reality many students who this law was meant to help have been hurt by the testing requirements. If the government wishes to continue on with this mandate, then they should fully fund it and become more reasonable in their proficiency standards as the country certainly will not make it to 95-100% proficient level by the 2013-2014 school year.

Recommendations

There are many recommendations that can be made in regards to NCLB. The first recommendation is that if the federal government wants to make mandates, then they should intend to fully fund them. Meaning, that if the federal government wants the states to comply with this legislation, then the states should receive the money to be able to implement those mandates. Secondly, if the federal government cannot give the states the money they need; then the states should not have to comply with the mandates. Thirdly, some would argue that the federal government should not be meddling in the states in regards to education at all and, this would be the recommendation that many strict constitutionalists would recommend because the federal government was not given this right in the U.S. Constitution.

Recommendations for Further Research

There are many areas that can be looked at in regards to further research on the impact of NCLB on the public school system and other related areas. Some recommendations could include interviewing teachers and collecting further data on the

impact on teachers working in the field, as well as on students who are directly impacted by NCLB. Another group that could be researched more closely could be prospective students at the university level who are impacted by having to take standardized tests as a requirement for teaching certifications, which causes great hardships on university students if they are unable to pass these standardized tests. Lastly, lawmakers and policymakers could be interviewed on their perspectives regarding reauthorization of the law, and further research conducted on how they feel about the unintended consequences that have been a result of this law, as well as what can be done by the government to fix the educational system in the United States.

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