

# **What Every Parent, Teacher, and Community Member Needs to Know About No Child Left Behind**

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Last summer I was hired to teach a course called *The Politics of Literacy* at San Jose State University. In preparing the syllabus, I gathered as much information as I could find about NCLB – its origins, provisions, implications, and effects. I assumed that my students – practicing teachers working toward a reading specialist credential and master’s degree – would know a lot about this piece of legislation which had such a profound impact on their professional lives. What I discovered, however, was that although they experienced a sort of low-level anxiety, they were woefully ignorant about significant elements of the act and almost completely unaware of its nuances. These were intelligent, successful educators. If their knowledge was so limited, how likely was it that the average teacher – and, of equal concern, the average parent – was well-informed on this issue?

Then I read the annual Phi Delta Kappan poll (2006) in which Americans are asked to give their opinions on a variety of issues related to public education. There was much of interest in the results, but what most struck me was one fact in particular: the more people knew about NCLB, the less they supported it. <sup>1</sup>If this were in fact true, then the missing link in changing the tide of public opinion was something I already had collected a lot of – information.

And in that moment, the idea for this monograph was born. NCLB is up for reauthorization in 2007. If, after reading this booklet, you share my concerns, I urge you support the recommendations at the end of each chapter and consider one or more of the actions listed in the *Looking Ahead* section. The time is now.

## **Chapter 1: The Origins and Goals of No Child Left Behind**

Despite the fact that he had never read the 1100 page law in its entirety, President George W. Bush signed the No Child Left Behind Act on January 8, 2002. <sup>2</sup> This law, a reauthorization of the Elementary and Secondary Education Act (ESEA) of 1965, was passed with overwhelming bi-partisan support. President Bush stated that “as of this hour, America’s schools will be on a new path of reform, and a new path of results.” Democratic Senator Ted Kennedy concurred, stating that no piece of legislation would have a greater impact on the future of the country. <sup>3</sup> This is true: NCLB’s impact has been both pervasive and destructive.

### **Origins**

The original ESEA was enacted as a part of President Lyndon Johnson’s War on Poverty in an effort to “level the playing field” for disadvantaged students. It was based on the assumption that, by providing financial support, schools could narrow the achievement gap between poor and rich children and between children of color and whites. <sup>4</sup>

Passage of NCLB in 2001, which allowed business interests to exert considerable control over the training of the workforce of the future, was a major achievement of the national Business Roundtable (BRT), the culmination of more than a decade of work toward this goal. <sup>5</sup>

## Goals

NCLB embodies four key principles – stronger accountability for results, greater flexibility for states, school districts, and schools in the use of federal funds; more choices for parents of children living at the poverty level; and an emphasis on teaching methods that the federal government labels scientific.<sup>6</sup> However, influential critics point out that the laudable goals of NCLB conceal an altogether different agenda.

First, NCLB is an unprecedented effort to expand the role of the federal government in education. The Constitution contains no provisions for influence in education. But, if states wish to benefit from federal education funding, they must comply with whatever regulations Washington imposes.<sup>7</sup>

Since the politicians have set a goal of 100% student proficiency in reading and math by 2014, at least 85% of schools will eventually be declared “failures.” Even though parents know better, such public labels cause an erosion of trust in public education.<sup>8</sup>

Who benefits from such mislabeling of public schools?

- Advocates for dismantling of public education in favor of privatization
- Advocates for vouchers
- Advocates for a uniform, standardized business model curriculum which promises to deliver well-trained, compliant workers who understand their place in the Global Economy

NCLB is a law of enormous complexity. The following pages explain each major provision, providing examples of its impact on children, parents, and teachers.

## Chapter 2: Assessment and Accountability

Assessment of academic achievement and accountability for results are at the very center of NCLB. All states have been required to develop annual standardized assessments which measure what students know and can do in reading and math in grades three through eight and once between grades ten and twelve. Data from these assessments must be disaggregated by socioeconomic status, gender, race, ethnicity, disabilities, and levels of English proficiency in order to track the progress of these particular groups as well as that of the entire population.<sup>9</sup>

The formula used to rate schools is called Adequate Yearly Progress (AYP). This rating is based on a target which moves higher and higher as time goes on and each school or district needs to improve dramatically at least every two years to avoid sanctions. All states use the AYP formula, although each can set its own progress rate so long as 100% of all students reach the proficient level (also subject to state definition) by 2014. Schools and districts must sustain growth rates if they are to avoid sanctions.<sup>10</sup> They are also subject to such sanctions if less than 95% of students take the standardized test in the spring.<sup>11</sup>

### Issues With the Tests Themselves

One major concern about the assessment and accountability provisions of NCLB is with the tests that are used to measure student progress:

- The cost of tests and related materials is staggering. According to the American Association of Publishers sales of standardized tests tripled to nearly \$600

million since the NCLB was enacted.<sup>12</sup> One of the top four testing companies showed profits of \$560 million in 2003.<sup>13</sup>

- NCLB regulations have caused many states to abandon efforts to include thoughtful diagnostic assessments in favor of simplistic, rote-based tests. Now that the amount of required testing has grown dramatically, complex assessments are often prohibitively expensive.<sup>14</sup>
- The readability of passages on standardized tests is often far higher than the grade level at which they are to be administered. On the California Standards Test, 81% of the passages analyzed showed readability indices that were above grade level. Half exceeded grade by one year or more and 20% were above grade level by at least two grades. Consequently, all these tests tell us is how poorly children will do when given text which is too difficult for them.<sup>15</sup>
- Dozens of test errors have been found by school officials, teachers, parents, and even students.<sup>16</sup> Inaccurate scoring is also an issue; in 2000 thousands of New York students were required to attend summer school on the basis of faulty test results.<sup>17</sup>
- The use of tests such as the Dynamic Indicators of Basic Literacy Skills (DIBELS), a test that judges a student's success by the number of sounds and words a child can produce in one minute, is widespread. Children are being retained in kindergarten solely because they failed one sub-test. No single assessment should have this much influence, particularly one which views reading as a series of isolated skills to be performed as quickly as possible.<sup>18</sup> As stated in the Standards for Educational and Psychological Testing, "A decision or characteristic that will have a major impact on a student should not be based on a single test score."<sup>19</sup>
- The only thing that counts on these assessments is the number of students who score at the proficient level or above. For example, in California, the passing score on the English Language Arts test is 350 out of a possible 600. If a child scores 250 one year and 349 the next (achieving a two-level jump from Far Below Basic to Basic), the school receives no credit under AYP despite the fact that the student's score went up 99 points. However, a child whose score increases from 349 one year to 350 the next (moving from Basic to Proficient) counts as a success, although the actual score improved by only one point.<sup>20</sup>
- There is no evidence that high-stakes tests improve student achievement. In fact, as assessment experts Valencia and Villarreal note, "Student achievement, based on virtually every transfer measure (SAT, ACT, NAEP) was indeterminate or *decreased* after state agencies implemented high-stakes testing programs."<sup>21</sup> In addition, the American College Testing Program states, "We conclude that academic talent as measured by test scores . . . is not related to significant adult accomplishment."<sup>22</sup>
- Scores from these tests are notoriously volatile with variations due primarily to factors unrelated to what goes on in classrooms. In fact, researchers Thomas Kaine and Douglas Staiger have shown that up to 70% of these variations can be caused by random fluctuations due to transient student populations or statistical errors in the tests. They conclude, "The AYP system cannot tell the difference between a learning gain and random noise."<sup>23</sup>

### **Inconsistent Accountability**

- Under NCLB, states are given considerable freedom to determine the definition of “proficient” and the rate at which their students must improve on the path toward 100% proficiency by 2014. States are required to establish a definition of Adequate Yearly Progress (AYP) and set intermediate goals that provide for annual progress targets. While this flexibility appears laudable, Robert Linn, former president of both the American Educational Research Association and the National Council on Measurement in Education, notes that “the variability in the stringency of state standards defining proficient performance is so great that the concept of proficient achievement lacks meaning.”<sup>24</sup> This is evidenced by the following examples:
- Many states put off the largest required gains until near 2014, hoping the accountability provisions of NCLB will be significantly altered by then. By doing so, they avoid the sanctions imposed on states with more evenly-spaced interim targets. Of the states which initially had more stringent standards, many are now lowering them in an effort to avoid the label of failure.<sup>25</sup>
- In 2006, the state of Alabama sought and was granted permission to give half-credit to students who approach but do not meet achievement targets.<sup>26</sup> At the same time, however, states like Wisconsin who set low achievement standards, thereby decreasing the number of schools which would be designated as failing, are being chastised by the Department of Education, despite the fact that every element of the state’s NCLB provisions were approved by federal officials.<sup>27</sup>

### **Impossible Targets**

At the March 13 joint House-Senate hearing on No Child Left Behind, Robert Linn stated, “There is a zero percent chance that we will ever reach the 100% target.”<sup>28</sup> For example:

- The Harvard Civil Rights Project has estimated that only 24-34% of schools will make their English Language Arts targets on the NAEP by 2014 and only 29-64% will make the target in math.<sup>29</sup>
- By comparing NAEP scores to those from the Progress in International Reading Literacy Study (PIRLS), Richard Rothstein, et al estimate that about two-thirds of Swedish students, the highest scorers in the world, were not proficient as NAEP defines it. Despite the fact that NAEP reports now include disclaimers about the validity of proficiency levels being used, government officials never mention these disclaimers.<sup>30</sup>
- The NCLB accountability system is producing what might be termed an “overdetection” of failure. The National Conference of State Legislators has estimated that, by the year 2010, 70% of schools will be labeled as failing, despite the fact that many of these schools, by any other measure, would be considered successful.<sup>31</sup>
- High school exit exams have proliferated in the years since the passage of NCLB. Between drop-outs and the anticipated low pass rates for seniors, only about 60% of the California freshmen who began high school together in 2002-2003 graduated in June of 2006. Somewhere between 42,000 and 48,000 students were denied a diploma based on the exit exam alone. Had it not been

for legislation (Kidd vs. O'Connell) which allowed students with disabilities to graduate without passing the exit exam, this number would have risen to nearly 72,000. This legislation sunsets in December 2007.<sup>32</sup>

### **Responses to Testing**

Schools, teachers, and students have responded to the drive for higher test scores in a variety of ways:

- High-stakes standardized tests are a major intrusion into classrooms, often taking up as much as 40% of class time for test preparation, practice tests, and administration of the tests themselves.<sup>33</sup>
- There is growing evidence that cheating on tests by students, teachers, and administrators has increased. In fact, in 2005 about one in twelve Texas schools were shown to have unusual results on the Test of Knowledge and Skills (TAKS) which suggests that cheating may have occurred.<sup>34</sup> In Camden, New Jersey, test scores went up dramatically in 2005 and then dropped precipitously in 2006 when testing was closely monitored by state officials. An investigation noted many testing irregularities reported in 2005, as well as unusually similar answers on open-ended math problems, leading to charges of tampering. One principal alleged that he had been pressured to alter test documents.<sup>35</sup>
- Many districts have shifted the focus of intervention services and other efforts to focus on those children who are considered “pushables” (those just below passing) and “slippables” (those at risk of slipping out of the proficient category. When one teacher asked what was to be done for students in dire need of extra help, she was told by her principal to “forget them.”<sup>36</sup>

### **Test Results**

Given the tremendous efforts to increase achievement associated with NCLB, what do test results show?

- In June 2006, the Civil Rights Project at Harvard University (CRP) released a much-anticipated study tracking student achievement in the years since the passage of NCLB. The study had two major findings:
  - NCLB did not have a significant impact on improving reading and math achievement across the nation and states.<sup>37</sup>
  - NCLB has not helped the nation and states significantly narrow the achievement gap.<sup>38</sup>

### **Recommendations:**

- Evaluate progress using multiple measures which would include a range of assessments including teacher-made tests and student work.
- Avoid high stakes testing in which major life decisions are made on the basis of minimal evidence and, in doing so, decrease the likelihood of cheating. Even test publishers, including CTB McGraw-Hill, Harcourt Brace, Riverside, and ETS warn against this practice. As Riverside publishing asserts in its guide for the Iowa Tests of Basic Skills, “Many of the common misuses [of standardized tests] stem from depending on a single test score to make a decision about a

student or class of students.”<sup>39</sup> Insist that the federal government allocate funds to research the effect of increased testing on schools.<sup>40</sup>

- Allow states to assess students only in alternate years and use sampling approaches rather than testing every child so as to minimize the impact on learning time.<sup>41</sup>
- Use a “value-added” accountability system which measures how much each individual student improves over time rather than setting arbitrary and unrealistic targets for all students.

Schools have children for only 9% of their lives from birth through age 18<sup>42</sup> and it has been estimated that schools account for only 25% of the variance in test scores<sup>43</sup>; so it is important to hold schools accountable only for what they can control. Housing stability, clearly outside the purview of schools, has an enormous impact on achievement. Richard Rothstein’s research, for example, shows that alleviating lead poisoning, and providing dental care and school breakfasts may bring a stronger test score gain for less money than is currently being spent on than educational reforms.<sup>44</sup>

### **Chapter 3: Subgroups**

Any group of students which is significantly represented in a school or district is considered a subgroup (e.g., Latinos, special education students). NCLB requires that test data be disaggregated in order to track the achievement of a variety of subgroups. This is a long-overdue commitment to the achievement of all genders, races, ethnicities, etc. and to elimination of the achievement gap between whites and children of color, between poor and middle-class children.<sup>45</sup> However, the effort to measure the progress of so many groups has caused a number of unfortunate consequences:

- States can choose what number of students constitutes a subgroup. If a state decides that there must be 20 students in a given school to form a subgroup, it will, by definition, have more subgroups than a state which sets the subgroup size at 40. Monty Neill, of the watchdog group FairTest, suggests that analysis of data based on a subgroup sample of less than 70 is unreliable.<sup>46</sup>
- Schools serving diverse populations are penalized under the subgroup provision of the law. Because a school is considered unsuccessful if even one of its subgroups does not reach the expected level of proficiency, those schools which have more subgroups are much more likely to be designated as failing. Of those schools which did not make AYP in 2003-2004, only 33% failed because of the test score performance of all students and 23% due to the failure of only one subgroup.<sup>47</sup>
- The expectation that all students with learning disabilities will achieve at the same levels as other students is simply unrealistic, but states are not allowed to make provisions for alternative tests or to significantly modify testing conditions.<sup>48</sup>
- English learners who have been in this country for at least a year must take the state tests required under NCLB. This flies in the face of the assertion of experts within the field of language acquisition that it takes at least five to seven years to acquire the academic English necessary to do well on these tests.<sup>49</sup>

### **Recommendations:**

- Set the subgroup size at 70, making it more likely that assessment data is reliable and that decisions based on this data are sound.
- While continuing to attend to the achievement of all subgroups, don't punish schools for being diverse.
- Modify achievement goals for special education students and English learners. Look for consistent progress rather than expecting students with exceptional challenges to meet the same standard as others.

## **Chapter 4: Sanctions**

Once a school has been designated “in need of improvement” due to lack of progress for two consecutive years on state tests, it is identified for increasingly rigorous sanctions.<sup>50</sup> It is important to note that only schools receiving federal funds under the Title I act (schools with high concentrations of poverty) are subject to these sanctions:

### **Student Transfers**

In its initial year of program improvement status, a school must allow students to transfer to higher-performing schools, including public charter schools, within the district. The district must provide transportation.<sup>51</sup> There are serious problems with these provisions, however:

- There is no evidence that such transfers increase achievement<sup>52</sup>, a fact that parents appear to intuitively recognize, since less than 3% of eligible parents requested such transfers. Receiving schools are, in fact, not significantly better than the schools students have left.<sup>53</sup>
- Of those families applying for transfers, few requests are actually granted due to insufficient funds.<sup>54</sup>

### **Supplemental Educational Services (SES)**

If a school fails to make AYP for a third year (are in Program Improvement Year 2), students from low-income families in the school must be given the option to receive tutoring paid for with school funds. States must maintain a list of approved tutoring services from which families may choose and to communicate information about these providers effectively and efficiently to enhance parental choice.<sup>55</sup> This provision, too, is problematic:

- There is no body of research which provides clear and consistent proof that such tutoring services raise achievement for low-performing students.<sup>56</sup> For example, Catapult Learning, the dominant provider of SES services in Minneapolis, didn't produce any better reading gains than were demonstrated by students who received no tutoring.<sup>57</sup>
- In studies in which tutoring produced substantial gains students received between 30 and 75 hours of expert tutoring from, certificated teachers earning, on average, \$50,000 per year. In an urban, high-poverty school, as many as two-thirds of the students would qualify for tutoring, increasing costs to over \$1.7 million dollars annually. And even with this huge monetary outlay, only half of the tutored students could be expected to achieve above the 45<sup>th</sup> percentile on a standardized test.<sup>58</sup>

- The Department of Education has failed to require states to strengthen the accountability of private tutoring firms. As of 2005, the U.S. Department of Education reported that fifteen states had not established monitoring processes, 25 had not developed standards for monitoring program quality, and none had completed their evaluation standards.<sup>59</sup> In 2007, two-thirds of states said they have great difficulty monitoring SES programs for quality and effectiveness.<sup>60</sup> 40% of districts reported that few or no providers communicate with teachers about their students' needs.<sup>61</sup>
- There have been many ethics violations associated with SES providers. Examples include bribing principals, hiring workers with criminal backgrounds and using school-provided student information to track down potential customers.<sup>62</sup>
- NCLB stipulates no qualifications for tutors. Tutor preparation ranges from four to twenty hours and not all agencies evaluate their tutors.<sup>63</sup>
- The Civil Rights Project at Harvard University released a report in 2004 which noted that few parents took advantage of SES tutoring services, largely because they occurred outside the school day and were often located off-campus. Research done by the Center on Education Policy estimates that only 10-20% of eligible students are enrolled<sup>64</sup>, and, for those who are, attendance rates are estimated to be about 50%.<sup>65</sup>
- The amount districts must pay to SES providers has increased over the past few years.<sup>66</sup> However, profits for those companies are also rising. Sylvan Learning Centers, for example, saw its profits increase by 250% in 2003.<sup>67</sup>
- Five years after the passage of NCLB, we know very little about SES programs and their impact on student learning: What resources do these agencies actually provide? How are students affected by spending an additional hour or two at school each day? What types of instruction are best suited to the after-school environment?

### **Corrective Action/Restructuring**

If a school fails to make AYP for four years, the state must take corrective action including one of the following: replacing school staff, implementing a new curriculum including appropriate professional development, decreasing management authority at the school site level, appointing an outside expert to advise the school, extending the school day, or reorganizing the school internally.

If this lack of progress continues for a fifth year, the district must initiate plans to fundamentally restructure the school. Such restructuring may include reopening the school as a charter, replacing the school staff, or turning over school operations to the state or a private company. Similar sanctions apply to districts which fail to meet AYP.<sup>68</sup>

- We know even less about the effects of these sanctions than we do about the work of SES providers. As Monty Neill of Fairtest notes, not one of these options has any meaningful record of success in consistently raising student achievement.<sup>69</sup>

- California schools which replaced staff were no more likely to show increases in the number of students who scored within the proficient range than schools which chose less radical forms of restructuring.<sup>70</sup>

### **Recommendations**

- Postpone transfer rights until far later in the sanction cycle. Offer tutoring services first, as has been done on a pilot basis in several states.
- Establish accountability measures which identify SES providers who are ineffective or unscrupulous; remove them from the list of providers.
- Specify tutor qualifications and insure that they receive adequate on-the-job training.
- Eliminate school restructuring and take-overs by private agencies or states as potential sanctions since there is no evidence that these strategies are successful and can deeply undermine faculty morale.

## **Chapter 5: Highly-Qualified Teachers and Paraprofessionals**

NCLB includes a requirement that all teachers be designated “highly qualified” by the 2005-2006 school year. To be considered highly qualified, a teacher must hold a minimum of a bachelor’s degree and demonstrate subject matter competency as well as have full state certification for each area in which they teach. A paraprofessional must hold a two-year Associate’s degree or pass a qualifying test.<sup>71</sup> While a qualified workforce is a laudable goal, this requirement has caused a number of problems:

- Mandates on teacher quality make it nearly impossible for small districts to fulfill these requirements since the teachers they hire need to cover a range of subjects.<sup>72</sup>
- There was already a shortage of special education teachers and since these teachers are often expected to teach a wide range of subjects it is virtually impossible to staff such positions with teachers who are technically qualified.<sup>73</sup>
- There has been a decrease in teacher candidates throughout the California State University system due, in large part, to the constraints imposed by NCLB.<sup>74</sup> For those candidates who do enter teacher education programs, it can be difficult to find student teaching placements because schools are reluctant to accept these novices due to the potential impact on test scores.<sup>75</sup>
- States are beginning to explore alternative certification programs. The U.S. Department of Education has funded an Internet-based program administered by the American Board for Certification of Teacher Excellence (ABCTE). The program requires that applicants hold a four-year college degree, complete a background check, pass two computer-based tests, and pay a \$560 fee. No teaching experience of any kind is required.<sup>76</sup>
- More than 30% of new teachers leave the profession within five years and low-income schools suffer even higher rates of attrition. These new teachers enter the profession believing they can make a difference in the lives of children, only to find that the focus of their job is to simply deliver the scripted curriculum which is handed to them.<sup>77</sup>

- Experienced teachers are less likely to remain in Title I schools which have been labeled as failing because they are no longer treated as professionals; the constraints imposed on instruction are so severe that they discourage initiative, stifle creativity, and even require practices which professionals know are harmful to children. Among the factors leading teachers to leave a particular school or the profession in general are a narrowing academic focus, increasing and redundant paperwork, the expansion of time spent on testing, the forced abandonment of techniques which have proven effective, and issues with student discipline that arise in response to uninteresting and inappropriate curriculum.<sup>78</sup>
- Many successful paraprofessionals have been forced out of their jobs by the NCLB requirement that they have at least a two-year college degree. This is particularly distressing in communities with distinct cultures and languages such as that of the Navaho.<sup>79</sup>

### **Recommendations:**

- Revise standards of teacher quality so they reflect what is known about teachers who are successful.
- Allow some flexibility for small districts; allow them to hire teachers who do not meet all of the requirements in each subject they teach and then provide training for these teachers over a reasonable period of time.
- Increase support for new teachers, especially those who are willing to teach in schools which might be considered more difficult.
- Teachers are better educated now than ever before; increase the autonomy they have to teach in ways which meet the needs of all their students.

## **Chapter 6: Narrowed Curriculum and Developmentally Inappropriate Practice**

Reading is a major curricular focus for NCLB and the mandates associated with reading curriculum are based on the finding of the National Reading Panel (NRP) report. Major problems with this report include the lack of participation by classroom teachers, paucity of research evidence, refusal to include for consideration qualitative studies (that is, studies which do not utilize a strict control group/experimental group design), the drawing of inappropriate conclusions given the data cited, and a major disconnect between the panel's actual findings and information provided to the public in a flawed summary document.

The panel identified five components of "scientifically-based" reading instruction – phonemic awareness (ability to discriminate sounds in words), phonics (connecting sounds with letters), vocabulary, fluency, and comprehension.<sup>80</sup> Basing their curricular mandates on the panel's recommendations, NCLB requires that any instructional materials purchased by districts conform to guidelines established to reinforce these five elements.<sup>81</sup> These components are problematic in a number of ways:

- Comprehension is not an element of reading, it *is* reading. If a child masters the other four components noted in the report but does not comprehend, (s)he is not an 80% successful reader; (s)he is not a reader at all. But, as defined by NCLB,

reading comprehension is considered to be an element rather than the goal of reading. In fact, it is viewed as the last element in a hierarchy of isolated skills which can only be learned through direct instruction (that is, transmitted one bit at a time from the teacher to the students).<sup>82</sup> For this reason, reading programs adopting this approach typically postpone an emphasis on comprehension until the other four components are in place, delaying an emphasis on understanding until as late as 2<sup>nd</sup> grade.<sup>83</sup> Nevertheless, the Department of Education labels such programs as “scientific” and requires them.

- With the emphasis on the five elements described above has come a de-emphasis on other crucial aspects of literacy including higher level thinking, writing, and motivation. Teacher read alouds and self-selected reading time for children is frequently diminished.<sup>84</sup>
- Teachers find that their work has been reduced to following a scripted teacher’s guide, passing out worksheets, and drilling students on isolated skills. They are unable to respond appropriately to the diverse needs of their students because required adherence to a rigid pacing schedule forces them to move full speed ahead whether students understand the lessons or not.<sup>85</sup> Teachers are reprimanded if an administrator finds them “off schedule” at any time.
- Non-tested areas such as social studies and art are often cut from the school day. The Center for Educational Policy estimates that 71% of the nation’s school districts have reduced the amount of time spent on history, music, and other subjects in order to increase instructional time for reading and math.<sup>86</sup>

### **Developmentally Appropriate Practice**

- Developmentally appropriate practices such as naptime and recess are frequently eliminated in favor of additional minutes of scripted instruction and test preparation lessons – this despite a recent report from the American Academy of Pediatrics which suggests that recess can foster creativity and social skills and that an absence of time for unstructured play leads to increased stress for students and parents. According to the U.S. Department of Education, about 25% of elementary students get 15 minutes or less of recess per day.<sup>87</sup>
- There is a disproportional impact on poor children, since it is their schools which are most likely to be labeled as failing and limited resources are directed toward an even narrower curriculum.<sup>88</sup>

### **Recommendations:**

- Re-define what it means to be a successful reader – one who constructs meaning from text.
- Advocate for curriculum which addresses the needs of all learners, rather than moving lockstep through lessons which bore students and demean teachers.
- Reaffirm the role of social studies, physical education, and the arts in a well-rounded education.
- Avoid hurrying young children prematurely into a heavily academic environment; honor what is known about developmentally appropriate practice, including the need for unstructured play.

## Chapter 7: Drop-Outs and Retention

NCLB includes a provision to assist schools with drop-out rates above their state's average to implement drop-out prevention programs and facilitate school re-entry for those students who have already left.<sup>89</sup> This provision has a \$0 budget, however,<sup>90</sup> and other provisions of the law serve to diminish rather than increase incentives for keeping all students in school.<sup>91</sup> Likewise, a school's test scores typically increase when they retain students in grade.<sup>92</sup>

- There is a reason for excluding from testing lower-achieving students (such as English learners, special needs students, and those with poor attendance) by transferring or expelling them, or by encouraging them to drop-out. If these students leave school, they do not participate in the tests which determine whether schools are deemed under-performing. Average test scores then increase and the schools avoid sanctions to which, had these students remained, they would most certainly have fallen victim.<sup>93</sup> The World of Opportunity school in Birmingham, Alabama is one school which actively recruits students who have been excluded by local schools and rises to the challenge of meeting these students' unique needs.<sup>94</sup>
- Schools can also increase test scores when they retain large numbers of students in grade, since after a second year at one grade level, students are typically more able to meet grade-level standards. A number of states such as Florida actually require that students be retained – in some cases multiple times – if they don't pass state tests.<sup>95</sup> No research has shown retention to be an effective intervention while much research points to its damaging effects.<sup>96</sup>

### Recommendations:

- Eliminate one-size-fits-all exit exams and offer multiple paths to a high school diploma.
- Focus on improving high school graduation rates
- Eliminate retention mandates. Ensure that, if retention is undertaken, it occurs only when teachers and parents agree that it will benefit the child.

## Chapter 8: Educational Alternatives: Charter Schools and Vouchers

In an effort to build a coalition of Democrats and Republicans, provisions of NCLB which specifically supported school vouchers (in which parents could receive grants which would allow their children to attend private schools) were gutted from the bill at the last minute.<sup>97</sup> However, NCLB increased support to parents, educators, and communities to create new charter schools (schools which are publicly funded but which avoid the contractual constraints within which other public schools must function).<sup>98</sup> And many believe that the designation of more and more public schools as failing is a prelude to the privatization of education and/or a return to vouchers.<sup>99</sup> Nevertheless, there is no evidence that charter schools and private schools are more effective:

- In August of 2006, the Federal Education Department finally released a report which demonstrated that 4<sup>th</sup> graders in regular public schools achieved at significantly higher rates than similar children attending charter schools.<sup>100</sup>
- In July of 2006 Columbia University released a study comparing public and private schools. After the scores were adjusted for ethnicity, income, parent education level, student mobility, and other factors, public school 4<sup>th</sup> graders outperformed their private school counterparts, while 8<sup>th</sup> graders scored at similar levels.<sup>101</sup>
- Private schools are exempt from the provisions of NCLB, even if they accept vouchers paid for with public funds. Parents enrolling their children in such schools may never receive information on the achievement of individual students or of the school as a whole.<sup>102</sup>

#### **Recommendations:**

- Establish charter schools only when other alternatives such as small public schools developed in conjunction with community members have been exhausted.
- Oppose voucher systems, especially those which provide funding for children who are already enrolled in private schools.

## **Chapter 9: Funding Issues**

### **Underfunding**

When NCLB was passed, assurances were given that the law would substantially increase funding for public education by 25%.<sup>103</sup> However, even those who support many of NCLB's provisions are quick to note that it is an underfunded mandate.

- William Mathis, a professor of educational finance, found that federal revenues distributed to the states would have to be increased by 28% in order to adequately fund NCLB mandates. That's about \$130 billion dollars per year, or almost ten times the current funding. Instead, Congress cut funding by \$1 billion in 2005.<sup>104</sup>
- The federal treasury is not making up for minimally funding NCLB by providing money via other channels. For example, the government currently provides less than half of the monies authorized by the Individuals with Disabilities Education Act (IDEA).<sup>105</sup>

### **Reading First**

- Reading First (RF) is a funding arm of NCLB. This initiative was established to increase reading achievement in the primary grades. Under this provision, states were to receive money in the form of six-year grants, based on the number of children in families with incomes below the poverty line. To qualify for funding, states were required to submit a proposal which was to go through a rigorous review process. These proposals were to specify how states planned to assist local districts to implement assessments, select scientifically-based

instructional materials, provide professional development, and evaluate program effectiveness.<sup>106</sup>

- In fall 2006, the Office of the Inspector General released a scathing report chronicling rampant abuses on the part of the RF officials, stating that the program has been beset by conflicts of interest and intentional mismanagement. The report suggests that the department illegally dictated what curriculum schools must use and stacked curriculum review panels with people who supported particular publishers.<sup>107</sup> Follow-up reports have shown financial and political corruption.<sup>108</sup>

### **Recommendations:**

- In addition to holding schools responsible for academic results, hold the federal government accountable for providing funding which would insure equal and adequate resources and opportunities. While NCLB was expected to increase educational funding by 25%, it appears that actual requests from the current administration have fallen as much as \$12 billion short of the requirements of the legislation.
- Continue further investigations of Reading First officials and the researchers closely connected to them.
- Bring education professionals and parents into the conversation about what needs to be done to improve education opportunities for all children.
- Insist on government recognition and amelioration of the fact that one in six of U. S. children live in poverty, without adequate food, housing, and health care.<sup>109</sup>

## **Chapter 10: Opposition to NCLB**

Over the past few years, significant opposition to NCLB has developed:

- Since the start of the 2003-2004 school year, at least 20 states have officially protested all or part of NCLB, as have a number of districts.<sup>110</sup>
- In 2003 a survey of principals and superintendents was conducted by the organization Public Agenda. Of those surveyed, 90% said NCLB was underfunded, 60% said NCLB would require many adjustments if it were to prove effective, and 30% said it wouldn't work at all.<sup>111</sup>
- Over 29,000 educators and concerned citizens signed the Educator Roundtable petition to dismantle NCLB in the first month of the petition's appearance on the Internet. Their comments on the devastating effect of this legislation are telling.<sup>112</sup>
- More than 50 Republican members of the House and Senate, including the House's second-ranking Republican Roy Blunt, have recently sponsored a bill which would allow states to continue to receive federal funding for schools but take control of their educational policies.<sup>113</sup>

## **Chapter 11: Public Response**

Despite the many complexities of education, the public's desires are actually quite clear – they want children to be safe and productively engaged, to develop positive attitudes, and to become responsible citizens.<sup>114</sup> NCLB does not address any of these concerns in substantial ways.

- In 2005-2006 the Public Education Network held a series of hearings to give students, parents, and community members the opportunity to speak about NCLB. More than 1500 people attended these hearings; the consensus of opinion was that they:
  - support accountability provisions, but object to the use of a single test to evaluate school performance and understand that the labeling of schools as failing is an ineffective way to produce results
  - are concerned about the level of stress felt by students and teachers
  - fear the narrowing of curriculum which has resulted from NCLB
  - question the value of such superficial remedies as student transfers and tutoring programs which have proven to be of uneven quality<sup>115</sup>
- The 38<sup>th</sup> annual Phi Delta Kappa/Gallup Poll of the Public's Attitudes Toward Public Schools was released in August 2006. The report offered 32 major conclusions; including:
  - Public ratings of local schools are near the top of their 38-year range and, the closer people get to the schools in the community, the higher the grades they give them.
  - The public's strong preference is to seek improvement through the existing public schools, rather than providing vouchers or contracting with private firms.
  - There is near-consensus agreement that the problems public schools face result from societal issues not from the quality of schooling.
  - The public is aware of the link between adequate funding and effective schooling and understands that current funding levels are a challenge for schools.
  - The public expresses great confidence in teachers.
  - 70% of those who profess knowledge of NCLB believe it is either making no difference in local schools or is hurting them.<sup>116</sup>
- A strong statement by the National Council of Churches Committee on Public Education and Literacy reflects many of these concerns and adds:
  - NCLB has neither acknowledged where children start the year nor celebrated their individual accomplishments.
  - The relentless focus on testing basic skills in NCLB obscures the role of the humanities, the arts, and child development.
  - NCLB exacerbates racial and economic segregation in urban areas.<sup>117</sup>

## New Recommendations from Business and Government

Two new reports recommend additional, radical changes:

- *Tough Choices or Tough Times*, a report produced by the National Center on Education and the Economy, advises that

- 10<sup>th</sup> grade students take a test which would decide whether they are university, community-college/trade school, or workforce bound.
- Schools would no longer be owned by local school district. Rather, they'd be operated by independent contractors.<sup>118</sup>
- Beyond NCLB, issued by the Commission on No Child Left Behind, recommends that
  - Teachers whose students' test scores are not high enough be excluded from Title I schools, despite the fact that the children they teach may be far more challenging than those of other teachers. A similar policy would apply to principals.
  - Schools which choose the most extreme forms of restructuring would be removed from the Program Improvement list, as if they had made AYP.<sup>119</sup>

## Looking Ahead

NCLB is slated for reauthorization in 2007. Given the information provided in this booklet, what is to be done? Clearly, this legislation requires a complete overhaul. It is crucial that we participate in grassroots organizing and then, once communities are united in their opposition to reauthorization of NCLB in its current form, communicate with senators and representatives that the only real answer to the serious problems associated with NCLB is to start from scratch, committing to a new vision for public education which will better serve the most vulnerable among us, our children. Such a vision would set forth our deepest beliefs about learning – that it must address individual needs while providing for educational equity; that it must consider the whole child, not just the part that fills in bubbles on a test; that increased achievement will only result from changes in basic societal inadequacies such as poverty, racism, and class distinctions.

There are a number of steps you can take to further this vision:

- Support Rothstein, Jacobsen, and Wilder's "Nineteen Year Plan" for disadvantaged children which includes adequate prenatal care, high-quality early childhood care, lowered class size and effective teachers in primary grades, and strong after-school and summer programs. The authors have estimated that the pace of increased funding for such a program would be no more than that experienced by elementary and secondary education during the last 50 years.<sup>120</sup>
- Hold forums in libraries and churches. Speak on local radio stations and to local businesses and veterans groups.
- Enlist local PTAs and labor unions.
- Call, write, or email the following major players on the educational scene in Washington, D.C. You can use some of the recommendations from this booklet as talking points or speak to your own concerns:
  - Rep. George Miller      [George.Miller@mail.house.gov](mailto:George.Miller@mail.house.gov)  
(202) 225-2095
  - Senator Ted Kennedy    email via <http://kennedy.senate.gov>  
(202) 224-4543
  - Pres. George Bush      [comments@whitehouse.gov](mailto:comments@whitehouse.gov)  
(202) 456-1111

- Make an appointment with your representatives to convey your views.
- If you are a parent, ask your child what school is like. Is (s)he learning? Is the school experience pleasantly challenging? What would changes would (s)he make?
- If you are a teacher, consider what you are now doing in your classroom that you would not do if it were not required. What would you add to your curriculum if you had the time? Discuss these ideas with your colleagues and administrator and see if you might have more options than you think. Work together with parents and community members. Encourage you local union to take a progressive position on NCLB as the Oakland Education Association has recently done.
- If you are a member of the school community, visit your local school and ask to observe in classrooms. When you see something which concerns you, ask questions. When you see something that impresses you give compliments. Offer to tutor a child, join a committee, or raise much-needed funds.
- Attend school board meetings. Ask questions and expect clear, knowledgeable responses. Offer your opinions and follow up with board members to make sure they act on your concerns.

## **Epilogue**

. If you teach in a Title I school or if your children attend a school labeled as “failing,” much of this information is probably not new to you. You’ve witnessed first hand the pressures which this legislation brings to bear on students, teachers, and administrators alike. But if you neither teach nor parent, or if you do and are lucky enough to be associated with a school which has, to date, avoided the perils of NCLB, please do not assume that you are immune to the fallout. If NCLB is reauthorized with no major changes, virtually every school will be classified as failing by 2014. In the interim, even the best schools will scramble to meet the law’s requirements, diminishing the amount of time and energy left for teaching and learning. With the overarching focus on isolated skills, many young graduates will lack the ability to think at a higher level and work cooperatively. Debates about what it means to be an “educated person” and what role local, state, and federal entities play in teaching and learning are occurring even as you read this text. Join in.

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