



Commentary

A year ago, in January 2002, President Bush signed the No Child Left Behind Act. This far-reaching education law has two major purposes: to raise student achievement across the board and to eliminate the achievement gap between students from different backgrounds. To accomplish these ends, the law requires states and school districts to deal forcefully with schools that are not improving achievement and to ensure that all students are taught by highly qualified teachers. In our opinion, these are worthy goals for the country.

Over a five-month period during the summer and fall of 2002, the Center on Education Policy reviewed the implementation of this Act by the U.S. Department of Education and the state governments. We read the plans states submitted to the federal government, conducted confidential interviews with scores of state administrators in nearly every state, and reviewed the guidance and regulations issued by the federal government. During this first year of what is intended to be a six-year study, we concentrated on the federal and state actors, because the main tasks required by the Act for 2002 involved building state-level systems for additional testing, greater accountability, and data collection, with only a few new requirements affecting some local schools. In the fall of 2003, however, this will change, as the force of this major challenge for American public education reaches every local school in the country.

Our study found that the states are committed to the goals of the legislation and are trying hard to carry them out, but the prescriptive nature of the requirements is causing great concern. States are moving faster on the elements of the law where they have more experience, such as developing state tests, and slower on aspects where they need to create new procedures, such as approving nonprofit and for-profit groups to provide tutoring. We also found that the fiscal crisis in most states, coupled with the prospect of limited additional federal aid, could threaten the successful implementation of this very ambitious law.

Nearly four decades ago, another ambitious federal policy was initiated when President Johnson signed into law the Elementary and Secondary Education Act of 1965. This legislation, which vastly expanded federal aid to education, was meant to improve American public schools and help poor children climb out of poverty by providing them with a better education. New compensatory education programs took shape in almost every school district, new textbooks were bought, innovative programs were offered, and research was conducted to find better ways of teaching and learning. There was great enthusiasm for that law because its promises seemed so noble.

Four decades after ESEA was enacted, debate persists about the original Act's effectiveness in improving American schools and raising the achievement of poor children, although the weight of evidence suggests its impact on student learning was modest. In short, a major policy was not as successful as it could have been, because the promises





made by President Johnson and his supporters were overstated and the changes needed to carry out those promises were underestimated. Moreover, the war in Vietnam drew funding and attention away from the Act, slowing its momentum. In the years that followed, many poor children received additional services as a result of ESEA, but the ways of administering its programs became too highly regulated and perfunctory.

After completing our analysis of the first year of the implementation of the No Child Left Behind Act, we see striking—and unsettling—parallels with the first years of the Elementary and Secondary Education Act, even though the times are obviously different. President Bush and Members of Congress have made lofty promises for the success of this initiative, while generally underestimating the magnitude of change that must occur in American public education to bring about those promises. Although President Bush supported a significant increase in appropriations for the first year of NCLB as part of a political compromise to get the measure enacted, his budget for the second year proposes a much smaller increase. The states are in no financial shape to make up the funding difference. And since the Act was signed, the nation's attention and resources have shifted to a war on terrorism and now a possible war against Iraq.

Some critics of the original ESEA say that it failed because it provided money without accountability, and that the NCLB Act will succeed because it requires strict accountability. The ESEA of 1965 may have offered money without much educational accountability, but the NCLB Act demands heavy accountability without much greater federal financial and technical assistance—an approach no more likely to succeed.

In 1965, extensive federal requirements like those in NCLB would never have made it through the Congress. At that time, the federal role in education was marginal, most state education agencies had very limited authority and capabilities, and local people were extremely wary that more federal aid would bring federal control. Since then, the federal and state roles in education have grown, and states and school districts recognize that accepting federal requirements goes along with receiving federal funding.

The No Child Left Behind Act places greater demands on states and school districts than ever before. States must define the level of proficiency that all students are expected to reach and set a timetable for schools to bring all their students up to this level by school year 2013-14. States must also expand their testing programs, analyze and report test results in new ways, provide technical assistance to under-performing districts and schools, help teachers become better qualified, and much more. School districts must raise test scores in reading, math, and science, close achievement gaps, design improvement strategies and interventions for under-performing schools, hire or develop better-qualified teachers and classroom aides, and create or expand public school choice programs, among other duties.

It remains to be seen how well these demands will be accepted and carried out. Since the federal government continues to provide only about 7% of the total funding for public elementary and secondary schools, it may have trouble demanding 100% accountability from schools.



We want this law to succeed because its goals are the right ones for American children. By spotlighting the performance of poor students, disabled students, and students from all major racial-ethnic groups, the law refines the commitment to disadvantaged children that began in 1965, while also recognizing the need to provide a high-quality education for all children. These goals resonate with people, as we heard in our interviews during the last months. We therefore offer these recommendations for this second year of the Act.

First, the rhetoric from Washington ought to be toned down. The President and others ought to be careful about making grand promises for NCLB, because the challenges of carrying them out will soon become very clear. Our leaders should emphasize the soundness of these goals but also recognize how much work it will take at the state and local levels to accomplish them.

Second, the federal government ought to be flexible and sensitive to the complex and varying circumstances found in states and school districts — which, after all, provide the vast majority of education funding. To the extent possible, the Department should allow states to achieve the goals of the law without having to dismantle aspects of their assessment and accountability systems that are working well. If the U.S. Department of Education takes a rigid, heavy-handed approach to compliance, our state interviews suggest that state and local responses could turn from dedication to making the law work to mere technical compliance with the law's many detailed requirements.

Third, the President and the Congress ought to fully fund the Act so states and school districts can go about making improvements. The U. S. Department of Education should also provide technical assistance to help states and districts find ways to raise student achievement through such means as improved professional development for teachers and more effective strategies to help students.

Fourth, all the requirements of the law ought to be implemented as fully as possible. National policymakers should carefully monitor how the requirements play out in states, schools, and classrooms. If unintended effects emerge, then changes in the law should be considered in later years. For example, if large numbers of schools are targeted for interventions because of test score volatility unrelated to student learning, as explained in Chapter 2 of our report, then policymakers should consider changes that would target interventions and assistance on schools with the highest degree of failure and greatest needs.

Much more information about the issues raised here and other aspects of state and federal implementation of NCLB can be found in the Center's full report.

The No Child Left Behind Act is too important to America's children for the nation to let it fail. We urge our leaders to closely monitor the impact of the legislation, be ready to make changes if needed, and commit themselves to providing the major financial and other assistance that will be essential to help every child to succeed.

Jack Jennings
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Summary of Key Findings

Chapter 1: Looking Broadly at the Act's First Year

After reviewing the first year of implementation of the No Child Left Behind Act, the Center on Education Policy has concluded that states are committed to the Act's goals of raising achievement for all subgroups of students and enhancing the quality of the teaching force. States are trying hard to implement the law, even though its deadlines for making massive changes are short and the final regulations on a few key issues were late in coming from the U.S. Department of Education (USED). The Center also reached other broad conclusions about federal and state implementation:

- The law contains many detailed requirements, and support for it could erode if the U.S. Department of Education applies these requirements too rigidly — for example, by preventing states from maintaining elements of their existing testing and accountability systems that are working well. Limited waivers of specific requirements may be necessary in some individual cases to accomplish the law's broader goals.
- States are making headway in carrying out the law's requirements for standards and assessment, because they already have experience in these areas, but are moving more slowly on implementing newer roles, such as developing lists of approved providers of supplemental education services, helping local school districts assess the qualifications of Title I instructional aides, or providing guidance to school districts about which instructional practices are based on scientific research.
- The majority of states interviewed by the Center rated the quality of USED written regulations and guidance as good to fair, with guidance on assessments and teacher quality receiving higher ratings than guidance on scientifically based research. States gave the Department lower marks for the timeliness of its regulations and guidance.
- The Act is asking states to do more than ever before at a time when most states are facing severe financial strains. If federal education funding for fiscal year 2003 provides only the modest increase proposed in the President's budget, states and school districts will be hard pressed to carry out the many new demands, such as providing technical assistance to all schools identified for improvement.





Chapter 2: Assessing Student Progress and Holding Schools Accountable

The assessment and accountability provisions of NCLB are the heart of the Act. The Center's study revealed the following about these aspects of implementation:

- The most formidable challenge of the law, according to virtually all state officials interviewed, is to come up with a suitable plan for determining whether schools are making adequate yearly progress in raising student achievement. State efforts to do this have been hampered by the federal government's delay in issuing final regulations on adequate yearly progress and other complex accountability questions.
- The rules for determining whether schools and districts are making adequate yearly progress present practical and technical dilemmas that could result in large numbers of schools being identified for improvement. States are concerned that if they have to assist all of the schools identified, it will spread their resources too thinly and subvert the law's intent of targeting extra money and help on the schools and students that need it most.
- NCLB continues to allow each state to define proficiency in its own way, which means that states that set higher expectations could be unintentionally penalized, because their schools will have farther to go to reach the goal of 100% proficiency, while states with lower expectations could have an incentive to keep them low.

Chapter 3: Providing Public School Choice and Supplemental Educational Services

Among the provisions of NCLB that affected school districts this fall were requirements to offer public school choice and supplemental education services, such as tutoring, to students in schools identified as needing improvement under the terms of the prior law. States and school districts were generally slow in acting on these requirements, according to our state interviews and other anecdotal evidence. Many school districts had not yet received test data showing which schools and students would be eligible, and states were awaiting final regulations from the U.S. Department of Education. Other findings also emerged from the Center's study:

- In fall 2002, several states estimated that few parents had made use of the public school choice option thus far. This could be due to state and local delays in implementing the requirements, inadequate efforts to inform parents that the option was available, or the commitment of parents to their neighborhood schools.
- Even with the declaration in final regulations that lack of capacity cannot be used to deny choice for students, practical constraints could make it difficult to implement the choice requirements in districts that have overcrowded schools, have a single school at certain grade spans, or are located in rural or remote areas.



- As of November 2002, only 15 states had developed a list of approved providers of supplemental education services, as required by Department of Education guidance. Many states were waiting for final regulations, while others did not have any schools that were required to offer these services this school year. The number of providers on state-approved lists varied widely, from a handful to more than 100.

Chapter 4: Improving the Qualifications of Teachers and Paraprofessionals

The NCLB Act requires all teachers of core academic subjects to be “highly qualified,” as defined in the law, and raises the minimum qualifications for paraprofessionals in Title I schools. The Center reached several findings about implementation of these provisions, which have already taken effect for some teachers and paraprofessionals:

- All the states we interviewed had or would soon have information on the number of teachers who are fully certified, but many said their data gathering systems will have to be revised to fully reflect the federal definition of “highly qualified.” States were less far along in collecting data about the qualifications of paraprofessionals; most states will need to start from scratch to develop data systems about paraprofessionals or will rely on school districts to do it.
- Whether the NCLB teacher and paraprofessional qualification requirements will help to improve instruction depends on both the rigor of states’ teacher certification requirements and the evaluation instruments used to assess the knowledge and skills of current teachers and paraprofessionals.

Chapter 5: Using Scientifically Based Research to Improve Education

Numerous programs in the No Child Left Behind Act require schools to use scientifically based research to inform their classroom practices. States are not as far along in implementing these requirements as they are with other major aspects of the law. This seems to be mostly because several states were waiting on the federal government to provide more definitive guidance, and a few felt they lacked expertise on this issue. State officials interviewed gave the Department low marks for its overall guidance, or lack thereof, on scientifically based research. The Center’s review also reached these findings about the provisions for scientifically based research:





- Many Title I state directors report that the federally funded Reading First program in their states is taking the lead in carrying out requirements to use scientifically based research. Since the Reading First program uses a special definition of scientifically based research that is less rigorous than the general definition that applies to other NCLB programs, it may not be prudent for Title I programs to rely on Reading First materials.
- Some state officials, researchers, and educators are concerned that strict adherence to the law's general definition of scientifically based research will produce few programs or approaches that meet it or could severely limit classroom teaching methods and materials.



Copies of the full report, *From the Capital to the Classroom: State and Federal Efforts to Implement the No Child Left Behind Act*, can be obtained by visiting the Center's website at www.cep-dc.org or by calling the Center on Education Policy at 202-822-8065.