

“The requirements of the law will have to be changed this year either through regulation or through legislation. There is too much dissatisfaction.”

— Jack Jennings, Center on Education Policy

V. Organizing for Change Amid Growing Opposition to NCLB

The *New York Times* recently reported on just how tough it has been to sell NCLB to many Americans. It quoted Russel Sias, a retired engineer and registered Utah Republican whose daughter is a middle school teacher: “I feel like we’re hearing the best vacuum cleaner salesman in the world. They’re going to label every school in the country as failing, and they call it empowerment?” (Dillon, 2004). For NCLB to be remade into a law that will really empower parents, students and teachers to sustain and improve public education, many more citizens must learn enough about NCLB to understand that the reality does not match the rhetoric. Then they must act together to bring about change.

NCLB clearly damages public education. But it offers an opportunity as well. The opportunity is that NCLB will energize those who believe public schools are a pillar of a vibrant democracy and who know that most schools, while they may need improvement, do not deserve labels and sanctions. Those like Mr. Sias, who see NCLB undermining rather than supporting public schools, must come together and demand changes to make the law live up to its title.

For that to happen, groups of parents, educators, civil rights advocates, and other community members must work together to do three things: sharpen and popularize a critique of the law, develop a model for a new version of the law, and build a grassroots campaign to persuade Congress to overhaul NCLB.

This report is one tool for developing a critique that will mobilize citizens from many walks of life who care about improving public education. Chapter VI, on alternatives to NCLB’s punitive approach, is designed as a template for the necessary work of defining what a revised law should include. The challenge ahead is to bring together the various constituencies and help them use the critique and the model to bring about change. To do so also requires understanding the strengths and pitfalls of the emerging opposition to NCLB.

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A. The Emerging Movement

Media attention has focused on criticism and resistance from state legislatures. By mid-March of 2004, at least 21 states had passed or proposed measures to opt out of NCLB or to seek changes in the law (*School Board News*, March 2004). By mid-April, 27 states had seen bills or resolutions calling for changes in the law, full funding, studies of the costs, prohibiting state funding on the law, or for opting out altogether (NEA, 2004).

For example, in March, the Oklahoma House of Representatives unanimously passed a resolution calling for repeal of NCLB. An overwhelming vote to prohibit spending state funds to comply with NCLB mandates by the conservative Utah House of Representatives showed the bipartisan nature of opposition. Maine legislators followed suit, also refusing to spend state funds on NCLB. The Republican-dominated Virginia legislature voted 98 to 1 for a resolution objecting to many aspects of NCLB. In response to a growing chorus of criticism, the National Conference of State Legislatures (2004) has convened a task force to study the consequences of NCLB.

Perhaps the most audible complaints have centered on claims that the federal law is underfunded and overly intrusive. Criticism of massive federal intervention in state and local educational policy takes several forms. It includes resistance to several things: to NCLB's bureaucratic requirements; to having to alter state accountability programs to dovetail with the federal requirements; to expanding use of standardized tests; to the arbitrary Adequate Yearly Progress formula; and to the sanctions imposed for failure to make AYP.

While states have legitimate complaints about underfunding and the law's intrusiveness, it would be a mistake simply to demand that the federal government leave states to their own devices, particularly if that means continued neglect of needy districts and students. Such an approach allows the law's defenders to paint its opponents as either simply against accountability or as defenders of a form of "state's rights" that echoes the anti-desegregation battles of the 1950s, '60s and '70s. To support genuine school reform, advocates must demand adequate and equitable education for all students and not confuse arbitrary intrusiveness with proper concern for equity, civil rights, and educational quality.

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NCLB's harmful impact on teaching and learning has been documented in the media and many reports. But perhaps because NCLB exacerbates rather than creates the problem of standardized test overuse and misuse, this aspect has not been as prominently reported (on state test use, see Neill, 1997). Those closest to classrooms may be very concerned over the narrowing and dumbing down of education. Policymakers and their supporters in the corporate world, however, often focus on accountability by numbers rather than on education itself. In addition, education issues are complex and not readily reduced to sound bites.

In general, the media have grown more skeptical of NCLB. As with legislators, the initial focus was on inadequate funding and federal intrusiveness. It is increasingly common for newspaper editorials to remark that NCLB is a "one size fits all" approach that will not work.

Some examples from among dozens:

- "President Bush's so-called 'No Child Left Behind' Act is proving to be full of snares, contradicting state education goals, confusing and demoralizing teachers and principals, penalizing the neediest and, a new study shows, sabotaging schools with diverse student populations." – *Palm Beach Post* (2004)
- "The obvious conclusion is that a one-size-fits-all set of standards is both unrealistic and unfair. Schools need time and flexibility to bring struggling students up to their potential. They should not be forced to match a timetable set in Washington." – *Honolulu Advertiser* (2004)
- "It's time for New Mexico to leave President Bush's sad excuse for education reform behind. Despite claims to the contrary, the No Child Left Behind Act is a catastrophe in the making." – *Albuquerque Tribune* (2004)
- "It does not seem fair or reasonable to think that all students are the same or that all students can attain the same levels of proficiency. Addressing the needs of the individuals and ensuring that everyone receives a quality education – not scoring 'X' on any one test – should be the focus." – *Lansdale (PA) Reporter* (2004)

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In addition to the most visible criticisms from legislatures or editorial writers (see Appendix 1: What's in a Name?), it is clear that a groundswell of criticism is rising among teachers, principals, and many parents and other community members. When members of Congress visit their districts, many get an earful of harsh words about NCLB. This opposition has influenced organizations such as the American Association of School Administrators and the National Education Association, and is likely to have a large impact on membership groups.

B. Efforts to Fix Some NCLB Problems

Education organizations have suggested many changes to the law, most aimed at repairing specific flaws. These changes do not address the larger structural problems in the law, but if adopted they would lessen the immediate damage. The Department of Education (DOE) has already incorporated a few proposals into its regulations, such as allowing limited English proficient (LEP) students who attain proficiency to be counted in the LEP category for two more years.

The Council of Chief State School Officers (CCSSO, 2004), an organization of state school superintendents, has offered several proposals to change how NCLB identifies schools for improvement. Some have fairly specific objectives, such as classifying schools as “in need of improvement” (INOI) only when the same subgroup of students fails to meet AYP in the same subject for two or more consecutive years. Others are more general, such as permitting state accountability systems to use “multiple measures that can compensate for each other (including AYP data) in making accountability decisions, so long as the state accountability system is shown to pursue the same goal of 100 percent proficiency by 2013-2014.” The compensatory aspects of this proposal may be rendered moot by its explicit acceptance of the unrealistic goal of 100 percent proficiency. But the underlying approach opens the door to broader conceptions of accountability.

The National Education Association (NEA, 2004) has released “Ten Changes Needed to Improve ‘No Child Left Behind.’” The NEA concurs with the CCSSO on identifying schools as INOI only if the same subgroup repeatedly fails to meet AYP. The NEA’s proposals would also allow states to use multiple measures, including such things as attendance, graduation and other state and local assessments, to

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create a progress index. They would also ensure that only students in those groups that fail to make AYP would be eligible for the school transfer and tutoring provisions.

The National School Boards Association (NSBA, 2004) also calls for applying sanctions only when students in a given subgroup fail to make AYP in one subject for two or more years. NSBA would allow states to use “gain scores” rather than consider only the mandated cutoff scores. (Gain scores track and recognize individual student progress toward proficiency rather than only award “credit” when the student reaches that level.)

The National Conference of State Legislatures (NCSL) has endorsed 16 specific suggestions for change (NCSL, 2003). For example, NCSL echoed some other groups that called for allowing different starting points for AYP calculations for schools and subgroups, rather than allow only a uniform state starting point. NCSL has now established a task force to consider more than a dozen elements of the law and make further recommendations for changes (NCSL, 2004). Minnesota Senator Steve Kelley, a task force co-chair, explained that recent changes in regulations have not been sufficient: “But the fundamental problem remains with the language of the law. I hope this task force can come up with recommendations for amending and improving the way No Child Left Behind works so it really supports the school improvement efforts states are already making.”

Many of the groups support allowing states to create alternative assessments for students who are not severely disabled but who are significantly impaired (called “gap kids” in some descriptions), and not to expect those students to reach the same proficiency as their peers.

For the most part, these suggestions do not challenge the test-and-punish structure of the law. But many would make the process of implementation less onerous and reduce the damage caused by extreme rigidities in the law and regulations. Some members of these groups fear ameliorative changes would lessen the push for more substantive changes. However, the Department of Education has resisted everything that exceeds very minor changes, and no legislative proposals are expected to progress during 2004.

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C. Public Opinion

Polls and other measures of public opinion show that once people are exposed to details about NCLB, support for its general principles turns to extreme concern and opposition to many of its particulars.

For example, a national poll sponsored by Results for America found that while parents supported the overall concept of NCLB, their support evaporated when they considered what the law might mean specifically for their child's school. Nearly three out of four parents said they oppose cutting federal funds to their children's school if it were deemed to be failing, and only 13 percent favor linking federal funds to performance. The poll found these responses cut across demographics and party affiliation (Results for America, 2004).

A more recent poll by the Public Education Network and *Education Week* confirmed these findings and showed growing voter opposition to NCLB. While the number of voters who said they had heard of the law grew from 56 percent last year to 75 percent this year, the percentage who say they oppose the law increased by 20 points (Public Education Network, 2004). Celinda Lake, president of Lake Snell Perry & Associates, which conducted the survey, explained, "The more you know about NCLB, the less likely you are to be in favor of it" (*School Board News*, April 2004).

As opposition to NCLB grows, the specifics of alternative proposals matter greatly to those building an assessment reform movement. NCLB earned the support of some civil rights leaders precisely because it appeared to address the U.S. system of educational apartheid, as Secretary Paige has called it. There are real differences among NCLB opponents as to what constitutes an appropriate use of standardized testing in school accountability and what constitutes effective and helpful accountability.

Education, civil rights, and parent groups represent those who are most affected by NCLB and who have the most to gain from changing the law. A reform alliance will have to work to resolve differences by initiating discussions with not just the national leaders of these groups, but with classroom teachers, parents, and community activists. While NCLB will worsen educational apartheid, efforts to overhaul it must

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promote a positive alternative, rather than simply rejecting its bureaucratic intrusiveness, over-reliance on testing, rigid AYP scheme, and underfunding.

D. Educating for Change

A grassroots movement of educators, parents and civil rights groups must collaborate on three fronts. First, such a movement can help articulate the law's harsh effects on classrooms, teachers and students. Second, it can demand that policymakers put the focus on improving teaching and learning rather than on testing and punishing.

Third, it can contribute ideas to the development of systems that hold public schools accountable to parents and students rather than to distant government bureaucrats. In other words, it can help to create a small-d democratic accountability system.

In addition to growing criticism in the media and in public opinion, there are signs of the beginnings of grassroots awareness and mobilization. In one of the first actions taken at a community level, the Nashville School Board unanimously adopted a resolution stating its "serious concerns" about some provisions of the federal "No Child Left Behind" legislation and suggested seven potential changes. Among the things the board objected to was the requirement that "all" children meet the same standard, which the board said "is unrealistic for children who do not speak English and for some special education students." The Nashville board also said the law has "the potential for unintended discrimination against some groups of children," the ones whose test scores mark their school for failure and punitive sanctions (Metropolitan Nashville Public Schools, 2003).

Massachusetts provides several effective models for grassroots action. In Brookline, an affluent yet diverse community bordering Boston, the school committee became alarmed at the details of NCLB and adopted a resolution expressing its concerns. The resolution strongly criticizes NCLB for using standardized test scores to judge students' academic performances. "While student test data and other indices of accomplishment help inform teachers and school administrators," the resolution reads, "the ESEA's system of accountability is disastrous policy that further entrenches the reliance on a single test score and imposes very problematic and costly consequences for school districts" (Brookline School Committee, 2004).

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Brookline School Committee members helped introduce a resolution critical of NCLB at the 2003 delegate assembly of the Massachusetts Association of School Committees (MASC). The resolution passed overwhelmingly. Indeed, one of the few critical comments raised during the debate on the resolution was from a delegate concerned that it was not a strong enough condemnation of the law. The resolution called for “changes in the accountability provisions of the ESEA, including amendments which move away from the annual testing requirements and severe sanctions now included in the law.” It also called on the National School Boards Association to adopt a resolution similar to the one passed by the MASC (Massachusetts Association of School Committees, 2003).

Soon after the school board’s actions, a Brookline parent group that had formed four years earlier to protest the state’s high-stakes high school exit exam held a public forum on NCLB. The Brookline Coalition for Authentic Reform in Education worked with the local teacher’s union and a number of other community groups to plan the forum. Brookline has a long tradition of strong support for and pride in its very successful public schools. The town has small class sizes, high graduation and college attendance rates, and strong test scores. Many residents had been shocked to learn that six of Brookline’s nine schools had failed to make AYP for the previous year. In some cases, this was because of their failure to meet the 95 percent participation target, and in others because limited English proficient students failed to make AYP.

In part fueled by questions and concerns about the district’s NCLB report card, and due to extensive publicity from CARE, the Brookline NCLB forum attracted close to 200 people, including representatives from both U.S. senators’ offices. With Senator John Kerry the presumptive Democratic presidential nominee and Senator Edward Kennedy a key architect of the law, the significance of their attendance was not lost on the participants. Organizers of the event also circulated a petition.

E. Organizing for Change

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To get started, here are some concrete actions that parents, educators and other concerned citizens can take:

1. *Hold a forum with parents and teachers about the law - and invite policymakers to listen, not to lecture you.* Invite a range of community groups to help plan, publicize, fund and facilitate the event: PTOs, parent groups for special education, gifted and bilingual education groups, teachers unions, local education foundations, civil rights organizations, the chamber of commerce, realtors, anyone who has a stake in the health of the local public schools. Invite the press to give advance publicity and cover the event. Videotape the event so it can be played at future meetings or on local cable television (or ask them to tape and broadcast it). Collect names and contact information from attendees who may want to stay involved in the issue and create or join a local education reform organization. Allow time for questions as well as a chance for the audience to express their observations and concerns about the law. Be sure to have sufficient written material for people to take home and to pass on to family, friends and colleagues.
2. *Circulate information about the law and its consequences.* Obtain (and edit if needed) or write materials to be used as widely as possible to educate people about the law and its flaws. See the FairTest website, <http://www.fairtest.org>, for sample material.
3. *Persuade your local school board and the state association of school boards to pass a resolution critical of NCLB; get the resolution endorsed by a variety of other groups.* There is a growing list of such resolutions that have been passed around the country (NEA, 2004) that can be used as models. Or use a petition to guide the crafting of a resolution (see below). Use local networks of public school supporters and activists to organize groups of community members to speak in favor of such resolutions during public comment periods of local government agencies. If your local board has taken such action on its own initiative, make sure they know you appreciate their action and would like to help them take it further.
4. *Circulate an NCLB-reform petition.* Petitions serve several valuable functions: They can be used to educate the public about the issue, they provide a vehicle for organizing parents and others to

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continue pushing for change, and of course they demonstrate to policymakers that momentum is building to overhaul NCLB. If you circulate a petition, if possible, have written material and contact information that petitioners can hand out. FairTest is working with other groups to develop a petition to be circulated nationally. Check the FairTest website for news about the petition (www.fairtest.org/nattest/bushtest.html).

5. *Use NCLB's requirement for parent involvement to challenge the worst aspects of the law.* Under the law, districts must create parent advisory councils to provide for parent involvement in school improvement plans and other aspects of the law. These councils offer the chance for parents to speak out on NCLB's negative consequences and call for change.
6. *Develop capacity and prepare for an extended struggle.* Public forums and petitions can be valuable for educating people. It is vitally important, however, to use multiple vehicles. Parents and teachers need a variety of opportunities to exchange information at formal and informal occasions about the effects of NCLB and other test-based accountability programs. Advocates need to write letters and opinion columns for community newspapers. It is helpful to develop a network of people who can speak effectively with local reporters.

More confrontational actions can also be effective. In some states, parent and student refusal to participate in testing has garnered public and media attention. These boycotts also become an occasion for public education and discussion. The high stakes attached to the tests can make refusal a difficult choice, but a very powerful one, particularly if a coalition of parents and educators publicly support such actions. Rallies, demonstrations, and public picketing have also been used effectively. In a few cases, non-binding ballot resolutions also have been used.

Educating and organizing people around NCLB will create and expand a lasting network or organization devoted to authentic education reform. By marshalling the growing awareness and opposition to NCLB's punitive and destructive approach, there is an opportunity to develop the power to persuade political leaders that now is the time to rewrite the law. Only an informed and energized public can take the many forms of action needed to win fundamental changes.

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Appendix 1: What's in a Name?

At first, it seemed the best thinking that went into the 2001 re-authorization of the Elementary and Secondary Education Act was in devising a title that virtually everyone could endorse. Bush's team took a slogan from the Children's Defense Fund, "Leave No Child Behind," and changed it to the passive voice: "No Child Left Behind." The title implies a determination to rectify our country's long history of inequities to ensure that every child, regardless of economic status, race or disability, would be brought forward by this historic effort at public school reform.

However, as more and more constituencies have concluded that the law is underfunded, unworkable, or both, parodies of the name have proliferated. One measure of the depth and breadth of opposition to NCLB may be in the rapid accumulation of alternate, mocking versions of the title.

Perhaps the most popular and accurate one is "Leave No Child Untested," spoken by Wisconsin Superintendent of Instruction Elizabeth Burmaster in 2001 and repeated many times thereafter by numerous others (Borsuk, 2002)

Her comment appeared to rattle U.S. Education Secretary Rod Paige. Paige replied, "We don't want any child to be left untested. That is a fact." But he said testing was a key to holding schools and teachers accountable and to improving the results for every child, and he said the law contained much more than the testing requirement.

A succinct version is "No Child Left," the title of a web site that describes itself as "a site devoted to a sound approach to school improvement." The site's publisher, Jamie McKenzie, Ed.D., is a former teacher, principal and superintendent deeply troubled by the way test-based "reforms" like NCLB tend to narrow and impoverish children's schooling. The title of the site reflects his strong belief that high-stakes testing and an emphasis on punishment, negative labels and threats can do great damage to schools and children (McKenzie, 2004).

Despite the law's old-fashioned test-and-punish approach, it would be wrong to see this merely as a debate between liberals and conservatives. Opposition to the law (and sendups of the title) come from all

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over the political spectrum. An article from the right-wing Eagle Forum in January 2002 was entitled, “Will New Education Law Leave Every Child Behind?” (*Education Reporter*, 2002).

The article complained that instead of holding school districts accountable to parents, the law would hold them accountable only to the federal government, a point that has not necessarily been acknowledged by NCLB’s liberal supporters.

Former presidential contender Howard Dean, while critiquing the law from a different perspective, used similar language to the Eagle Forum. “I actually call this act the ‘leave every child behind’ act” (CNN, 2002). Dean’s stump speeches often focused on the failings of NCLB, so he developed a collection of alternate monikers for the law: “School boards call it ‘No School Board Left Standing.’ ... Teachers call it ‘No Behind Left’” (Robelen, 2003).

AFL-CIO President John Sweeney said education would be among organized labor’s top issues in 2004. He charged that the president’s proposals to cut taxes show he cares more about taking care of business executives than educating children. “While he is saying No Child Left Behind,” Sweeney said, “it is more like ‘No CEO Left Behind’ with his tax policies” (Dodge, 2003).

Eric Crane, a school committee member in Danvers, Massachusetts, was livid when he learned that remediation programs for the state test had been cut while test mandates were being increased. “I’m starting to think that NCLB stands for ‘No Cash Left Buddy,’” he said (Puffer, 2003).

Joyce McGreevey, writing in Salon, called it, “All Testing All the Time.” She said that proponents “believe that keeping teachers too busy to actually teach will better enable them to prove that they are, as the law now demands, ‘highly qualified teachers.’”

Familiarity with NCLB continues to breed contempt, or at least satire. Here are just a few of the many variations: No School Left Unpunished, No Teacher Left Standing, No Child’s Behind Left, No School Left Unlabeled, No Student Left Unrattled, No Parent Left Unsettled, No Test-Prep Company Left Behind, No Child Left Better, No Child Left with a Mind.

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Perhaps the task before those who seek sound school improvement, as Dr. McKenzie puts it, is to marshal the passion and energy fueling all this political expression and come up with an education reform law worthy of its name.

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