

It's Time to Resist NCLB: A Postreauthorization Strategy

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The time has come for educators, parents and the general public to develop a post NCLB reauthorization strategy. We've essentially lost the fight to modify NCLB in any significant way or get rid of it. It's time for an organized campaign of resistance. We must resist NCLB at every level in every practical way we can to save our students from its terrible effects and to save public education.

Within the next few weeks the House Education Committee will send to the floor of the House its revision of NCLB. Some time thereafter the Senate committee will send its revision to the floor of the Senate. They are likely to face only token opposition and little debate. The press will continue to largely ignore and misrepresent the real threat continuing NCLB poses to public education and American democracy.

What will result, as it now appears, is a slightly softer version of NCLB. It will provide a little more flexibility in how the law impacts English language learners and those with special needs. But it will not change in any fundamental ways. And so far there is no indication that the Department of Education will make other than cosmetic changes in the way it interprets and enforces the law. Just last week, for example, a new review panel rejected the Reading First proposal of Puerto Rico because it didn't conform sufficiently to DOE mandates.

In particular the Reading First section (Title X) will continue to define reading and reading research in such a way that the DOE will continue to impose absurdly narrow methods, materials and tests on states and local school districts. And the contracts illegally imposed on the states according to the Office of Inspector General reports will remain in force. The consultants who the OIG said have made obscene profits from imposing their own materials and tests on states and districts will not only go unpunished but their profits will continue. The astrologists of reading will continue in charge of the reading space program.

There is little reason to suspect that a change in the White House or an increased Democratic majority in Congress will further modify or abandon NCLB. Democrats George Miller and Edward Kennedy have committed themselves too deeply to NCLB to admit that it is a failure. Both have accepted the false and exaggerated claims of Bush and Spellings that NCLB and Reading First are working.

Though there has been a notable demand that NCLB be discontinued and ESEA revert to its pre-NCLB form, and a few members of Congress have agreed, getting rid of the law never got real consideration. Attempts at informing the decision making in Congress to produce the basic changes needed in NCLB to change it from a negative punitive law destructive of public education into a real reform have largely failed. The unions failed to rally their members and the public: AFT was coopted to support NCLB from the

beginning and NEA was too timid in using its potential political strength to make any real difference. Movement conservatives with massive financial and tactical support from the National Business Round Table and rich right wing foundations have successfully kept NCLB out of the presidential campaign as they did in 2004.

For seven more years terrible things will happen to children as young as 5 as a result of NCLB and Reading First. And as every independent study has shown by 2014 virtually every school and school district will be failing. In the meantime huge numbers of students will drop out as the hand writing on the wall is clear that they won't be able to graduate with a diploma from high school. And in a time when a teacher shortage is growing many teachers are leaving the profession and young people are being discouraged from entering. And the campaign will increase its attack on teacher education and higher education in general. Blaming teacher educators for the failures of NCLB.

Legal basis for resistance

There is a strong legal basis for resisting NCLB. The investigations of the Inspector General have laid out in explicit detail the ways in which those given the power in the Department of Education to implement NCLB and Reading First violated the NCLB law itself and the original law establishing the Department of Education. Both clearly prohibited the imposition of curriculum and methodology on states and local education agencies. That means that every state contract under NCLB is null and void. It means that contracts establishing assistance centers to advise the states and LEAs on implementation are void and those centers must be replaced.

And in addition to that the processes were illegal because staff and consultants were and still are involved in blatant conflicts of interest.

Legally, states and LEA's have every reason to refuse to enforce their NCLB and Reading First contracts and have the grounds, if necessary, to sue the DOE and the offending consultants. Parents, individually and collectively, also have the right to sue on behalf of their children to get rid of the onerous and destructive effects of NCLB on their children's lives and education.

There is ample documentation both for the illegality of the implementation of NCLB and for the damage it is doing to children.

Pedagogical Basis for Resistance

From a point of view of scientific pedagogy NCLB is riddled with absurdities:

1. It is punitive. Instead of providing financial and professional support for schools with low achieving students it punishes them. It has already led to transferring authority over schools and school districts from professionals and local authorities to politicians. Already many public schools have been handed over to profit makers.

2. In the name of putting "highly" qualified teachers in classrooms it has undermined state teacher certification programs and made it impossible for rural schools and middle schools to retain experienced teachers and recruit professionally educated teachers.

3. It has perverted science by using the phrases "scientifically based research" and "scientifically based reading research" to describe unproven commercial materials and methods which are absurd in design and unteachable. And it has marginalized a wide range of alternate approaches.

4. It has set absurd goals. Ultimately it requires that **all** students and **all** sub groups be "proficient" in reading math and science by 2014. Because "proficient" is essentially undefined. Both the press and politicians including President Bush and Secretary Spellings have freely equated that with having all children above grade level by 2014. That makes the goal absurd since by definition only half of the pupils in any grade can be above grade level, which is the mean score achieved on a particular test. Even Diane Ravitch, long term supporter of NCLB has called this goal absurd. In the National Assessment of Educational Progress the term proficient is used to name an arbitrary level above basic and below excellent. Only about 20% of those taking NAEP achieve the proficient level currently.

5. NCLB deprofessionalizes teaching. It limits the ability of experienced, professional teachers to make decisions on how best to serve each pupil. In enforcement, a hierarchy is established by NCLB which subjects effective teachers to interference by inexperienced and unqualified staff members empowered to slavishly enforce NCLB.

6. It distorts and narrows the curriculum to reading, math and starting in 2007 science and limiting or eliminating everything else including physical education and recess. It's absurd that our officials are taking fast foods and sugary drinks out of schools but eliminating physical exercise.

7. NCLB diverts kindergarten and even pre-school from their historical purposes to academic pre-first grades. What is more absurd than five year olds being labeled as failing in the first week of kindergarten because of their performance on absurd tests? And what is more absurd than having children repeat kindergarten as academic failures?

8. In the guise of having high expectations for all young people NCTE has required that children with special needs and English language learners to take the same tests and be subjected to the same curricula as all other children. Further, it punishes the whole school or LEA when either of these subgroups inevitably fails to achieve the unachievable,

Moral basis for resistance

Framed as a reform which would eliminate differences between ethnic and economic populations of students in school success, NCLB has imposed an immoral, one-size fits all set of mandates which hurt all students but hurts those it claims to help the most.

It measures success by learners and teachers entirely by scores on tests of questionable validity. That devalues any learning that isn't easily testable by simplistic tests and it narrows the curriculum to what is being tested.

It is robbing children of their childhood imposing tedium and guilt on them and making them personally responsible for the failures of the system. It has made successful learners feel they are failures and taught them that conformity is more important than thoughtful response.

NCLB has turned teachers from committed guides and mentors into automatons powerless to do what they know is best for their students. It has corrupted the moral obligation of teachers to protect their pupils from harm.

It has substituted governmental absolutes for the responsible choices of parents.

Methods of resistance

Educators, their unions and professional associations, educational decision makers, parents, interested citizens and the students themselves all have a range of ways of resisting NCLB.

Only massive resistance can bring it down and get the attention of the politicians.

Teachers and administrators are of course vulnerable. Often taking an overt stand can jeopardize their jobs. On the other hand they are the ones who see most clearly how NCLB is hurting their pupils. Some teachers and administrators will be confident enough to make public acts of resistance. As a profession, educators have tended to self-censor themselves more than is necessary. But as a result of NCLB teachers and administrators will reach a point beyond which their consciences will not let them go. They will refuse to administer certain tests, use certain texts, grade their pupils unfairly. Rather than simply leaving their jobs when they become untenable they will commit acts of resistance and dare their districts to fire them. Groups of teachers in individual schools and districts will of course be more successful if they act together and support each other.

There are ways that teachers and administrators can resist in private ways. Teachers can resist, in the time honored way, by closing their doors and doing what they feel is best for their kids, minimizing the use of absurd tests and materials. And they can keep parents aware of the real progress of their kids and help them to understand why they deviate from mandates. Informed parents are their best defense.

Administrators can protect teachers from some impositions and support their professional decisions for the benefit of their pupils. They can document the effects of aspects of NCLB for parents, school board members and the public. And they can establish a positive atmosphere in their schools that can neutralize some effects of NCLB interventions.

Unions and professional organizations have a responsibility to organize resistance. In Canada, England, Australia and New Zealand teachers unions have had a tradition of including methods and curriculum in their concerns. There are numerous examples of successful campaigns by unions to refuse to administer tests and support their members in their refusal to conform to unprofessional impositions. NEA's California affiliate went beyond NEA's position recently and called for abolition of NCLB. They need to take the next step of organizing their members to resist NCLB and supporting them when they do. The unions and professional organizations need to take the lead in organizing local, state, and national demonstrations against NCLB. They are probably the only ones who could bring a million teachers to Washington to show the politicians the professionals care about what happens to their students.

Administrators' unions and organizations have taken strong positions against NCLB but they haven't been public enough. They need to call for and support resistance to NCLB.

Parents have a wide range of ways to resist NCLB. They should inform themselves by visiting their children's classes and observing what NCLB is doing to them. They can talk about NCLB with school administrators and school board members when they see their children being hurt by NCLB. Parents can use the existing PTA to resist NCLB or they can organize parents within schools and school districts to fight use of absurd tests and materials and decisions by school boards that limit the curriculum or eliminate play time. There are a number of specific actions parents can take:

1. They can boycott the tests by keeping their children home when tests are announced or demanding that their permission be obtained for each test. With absurd tests such as DIBELS parents can insist that their children not be tested and that no results be transmitted beyond the school without parental permission. NCLB requires that 95% of each sub group be tested so a few boycotting parents can have a major effect.
2. They can support acts of resistance by teachers and administrators
3. They can contact news media and school board members documenting how NCLB is hurting their children.
4. They can educate themselves and other parents of the political process for electing school board members and support candidates pledged to resisting NCLB.
5. They sue on behalf of their children to protest illegal implementation of NCLB.

Students of course feel the negative impact of NCLB the most. Even young children can, with the support of their parents, resist NCLB. They can write letters and circulate petitions about tests and school policies. For example they can petition the principal to reinstate recess or write to the school board about absurd materials. Children have rights and parents can help them to know how to assert their rights.

Older students in middle school and high school can organize their resistance to NCLB through letters, petitions and demonstrations. It was demonstrations by high school

students that eventually brought down the apartheid system in South Africa. Students have the right to a voice in how their schools and classrooms will run.

NCLB came about through the clever manipulation of the democratic system to control Congressional decision making. United, educators, students, parents and the informed public can use the democratic system to resist NCLB and bring it down.