



Education Policy Analysis Archives/Archivos  
Analíticos de Políticas Educativas

ISSN: 1068-2341

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Education Policy Analysis Archives/Archivos Analíticos de Políticas Educativas, vol. 13, 2005, pp. 1-21

Arizona State University

Arizona, Estados Unidos

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# EDUCATION POLICY ANALYSIS ARCHIVES

A peer-reviewed scholarly journal

Editor: Sherman Dorn

College of Education

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Volume 13 Number 24

April 4, 2005

ISSN 1068-2341

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## The No Child Left Behind Act and the Legacy of Federal Aid to Education

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Citation: Anderson, L. W. (2005, April 4). The No Child Left Behind Act and the legacy of federal aid to education. *Education Policy Analysis Archives*, 13(24). Retrieved [date] from <http://epaa.asu.edu/epaa/v13n24/>.

**Abstract:** The No Child Left Behind Act of 2001 (NCLB) builds on a tradition of gradually increasing federal involvement in the nation's public school systems. NCLB both resembles and differs from earlier federal education laws. Over the past five decades, conservatives in Congress softened their objections to the principle of federal aid to schools and liberals downplayed fears about the unintended consequences of increased federal involvement. The belief in limited federal involvement in education has been replaced by the presumption by many legislators that past federal investments justify imposing high stakes accountability requirements on schools.

### I. Introduction

It is not difficult to imagine [the Department of Education] establishing national "advisory" standards at some point in the future. Later, the department could require adherence to the compulsory standards, if Federal aid is to be continued. Next, standard tests, developed by the Federal Government, could be mandated to check whether the compulsory standards are being met. Last, State and local

authorities will be coerced into acceptance of a standardized curriculum as the “only possible” guarantee of meeting compulsory standards.

--Senator Harrison H. Schmitt (R-NM) during consideration of a proposal to establish the U.S. Department of Education, *Congressional Record*, 1978, p. 299.

The operation and oversight of public schools in the United States is typically the responsibility of states and local communities. Throughout most of the nation's history, the federal government was not expected to play a major role regulating or directly financing schools. Even though important types of federal support for schools and for the principle of education date to the beginning of the Republic, there is not much agreement as to what educational role, if any, the founders intended the national government to play. Similarly, most politicians and citizens accept federal involvement in schools today, but how extensive that role ought to be is still subject to lively debate. Federal interest in schooling, combined with the rhetorical truism of a limited federal role, injects recurring ideological tension into 20<sup>th</sup> and 21<sup>st</sup> century education proposals before the United States Congress.

At present, the No Child Left Behind Act of 2001 (NCLB) is the most visible incarnation of federal education policy. The polarizing law has attracted attention because of the new requirements it imposes on schools, school districts, and states. Indeed, NCLB is difficult to understand in the context of limited federal involvement in the nation's schools. NCLB extends certain federal aid precedents established by earlier policies. It also departs from these precedents in important ways, thereby setting precedents of its own.

The purpose of this paper is to systematically analyze the No Child Left Behind Act in light of the federal aid traditions it builds on. The new law impels historians and policy analysts to reassess the political and ideological justification for federal involvement in education. Under NCLB, the federal government has placed itself at the center of a high stakes accountability system for all schools.

The paper is divided into four sections. Following this introductory section, an overview of NCLB is presented in the second section. Because NCLB builds on and departs from several federal aid precedents, it is important to understand its basic features. It is also necessary to clearly document the legacy of federal involvement in the decades prior to the new law. This documentation is provided in the third section. The final section is a discussion of the themes that emerge from the author's analysis of NCLB in the context of federal involvement in schools since 1958. NCLB's most significant effect has been to disrupt the traditional ideological balance between the federal government doing too much and doing too little in the nation's schools.

A few other introductory comments are needed. First, this paper focuses on the education-related deliberations of the United States Congress. The sources of information about these deliberations are committee and subcommittee hearings, committee reports, and formal floor debates in the House of Representatives and the U.S. Senate. There are many other perspectives about federal involvement in schools (e.g., state and local education agencies, the courts), but Congress is the most visible arena for this debate, as well as a rich database of education proposals and votes. Because the House and Senate are ostensibly

representative, the concerns of state and local constituents are aired through the testimony of members or committee witnesses. Moreover, proposals before Congress are lightning rods for interest groups' opinions and arguments. In sum, Congressional debates and actions provide an ample record of the federal role in education over time.

Second, the No Child Left Behind Act is a relatively new law. It has attracted a lot of attention, but it is not yet fully implemented. (For information on the early implementation of NCLB, see Sunderman and Kim, 2004 and Center on Education Policy, 2004.) Hence, it is not yet possible to determine whether the new law is a coming to pass of earlier warnings of federal control. Nevertheless, the debate and passage of NCLB is an important chapter in the politics and ideology of federal education policy. NCLB's strong support from conservatives appears to signal the end of the long era when conservatives could be counted on to oppose proposals to expand federal interference in schools.

Third, the terms "liberal" and "conservative" are used in this paper to give more precise meaning to legislators' ideological dispositions. Party affiliation (i.e., Democrat, Republican) does not do as good a job as the ideological terms "liberal" and "conservative" in determining the likelihood of legislators to support or oppose education proposals in Congress. For example, Southern Democrats tended to oppose federal education proposals in the 1950s and '60s even though Democrats from other regions supported these proposals. Of course, the ideological shorthand of "liberal" and "conservative" can be misleading. The labels do not necessarily correspond to all the actions and opinions of liberal and conservative legislators, especially since 2001. Nevertheless, distinction works well as a reference point for describing the range of ideological opinion on federal education policy over time. [Note 1] When there is a division between liberals and conservatives, it is usually because different beliefs, values, and assumptions make up their respective world views.

## **II. Overview Of The No Child Left Behind Act Of 2001**

NCLB was debated and passed by Congress in 2001 and signed by President George W. Bush on January 8, 2002. The law reauthorized (and renamed) the Elementary and Secondary Education Act (ESEA), which was originally enacted in 1965. Although the new law retains ESEA's longstanding emphasis on improving the academic performance of disadvantaged (i.e., poor) students, it adds significant accountability requirements for all schools and school districts that receive federal funds, not just those schools with high concentrations of poor children. When the law is fully implemented, schools, districts, and states will have to meet "adequate yearly progress" criteria for student performance and all teachers will have to be "highly qualified" in the subjects they teach.

As in past reauthorizations of ESEA, Title I is the centerpiece of NCLB. Most of the act's funds and notoriety are focused here. Title I lays out a variety of new requirements aimed at "improving the academic achievement of the disadvantaged." States are required to define standards and develop assessments in math and reading for grades 3-8. Although these requirements are consistent with trends in standards-based assessment that predate NCLB, the new law has turned them into a nationwide high-stakes accountability system. Schools must demonstrate adequate yearly progress (as defined by states) for all elementary

and secondary students and student subgroups, including “economically disadvantaged students,” students from major racial and ethnic groups, students with disabilities, and “students with limited English proficiency” [P.L. 107-110, Sec. 1111(b)(2)(C)(v)]. Using achievement scores from the 2001-02 school year as the baseline, all students are expected to reach proficient levels on state assessments by 2013-14.

Schools that do not make adequate yearly progress in meeting proficiency levels on state assessments are identified as being “in need of school improvement.” School districts and states can also be flagged for improvement based on aggregate scores. The law includes a few due process provisions for schools identified for improvement, but little flexibility on timelines or consequences. For schools that fail to make progress, a sequence of corrective measures must be taken by the school district, including providing the option for students to transfer from the school in need of improvement to another public school within the district [ibid., Sec. 1116(b)(1)(E)(i)]. Consequences for schools that continue to struggle increase over time: supplemental services (e.g., subsidized tutors) for students in identified schools and, later, reorganizing the school (or local educational agency) that remains in need of improvement. Finally, Title I also establishes the Reading First and Early Reading First programs to support early literacy activities.

Title II, “Preparing, Training, and Recruiting High Quality Teachers and Principals,” includes various teacher training and recruitment programs, along with specialized curriculum programs like civics education and “teaching of traditional American history.” Title II also includes teacher liability protection. Title III covers “language instruction for limited English proficient and immigrant students” and Title IV authorizes or reauthorizes several school-level programs such as “safe and drug-free schools and communities,” and “21<sup>st</sup> century community learning centers.” In addition to the school choice provisions of Title I, Title V is focused on “promoting informed parental choice” by means of the charter schools program, magnet schools assistance program, and voluntary public school choice program. Title V also includes more than a dozen “innovative programs” such as character education partnerships; smaller learning communities; community technology centers; and “Educational, Cultural, Apprenticeship, and Exchange Programs for Alaska Natives, Native Hawaiians, and Their Historical Whaling and Trading Partners in Massachusetts.”

Title VI encompasses several programs under the aegis of flexibility and accountability, and establishes new mechanisms for state and local flexibility and “transferability” of certain federal funds. Title VII organizes programs for Indian, Native Hawaiian, and Alaska Native education and Title VIII covers the impact aid program (i.e., funds for school systems impacted by the presence of non-taxpaying federal installations). Several miscellaneous provisions and assurances are made throughout the legislation, including a “prohibition against federal mandates, direction, or control” (ibid., Sec. 6301), “prohibition on [federal] endorsement of curriculum” (Sec. 9527[b]), and “prohibition on federally sponsored testing” (Sec. 9529).

Throughout the congressional deliberation of the NCLB bills, several conservatives argued that past federal investments had not improved school performance and that it was time to hold the public education system to a substantially higher standard. This logic underlies the shift away from the ideology of limited federal involvement made by many

conservatives during this period. Sen. Judd Gregg (R-NH) made the following claim during the Senate floor debate of NCLB.

We have spent \$120 billion in the last 35 years on title I, directed at trying to help low-income kids. The result of those expenditures has been that low-income kids are reading two grade levels below their peers and are graduating from high school at half the rate of their peers. There has been absolutely no academic improvement in those kids over this 35-year period. In the last 10 years, when we spent the most amount of money, the academic improvement also has not increased at all.  
(*Congressional Record*, 2001, p. S6064)

This language was part of Sen. Gregg's larger argument for the bill's ill-fated private school voucher proposal. However, he and other legislators used the same argument to justify NCLB's new accountability requirements.

Many of the provisions of NCLB build on earlier federal laws. Several of these laws—and their connection to NCLB—will be presented in the next section. At the same time, the assessment, accountability, and teacher qualification requirements in Title I and Title II of NCLB are significant new developments in federal policy-making for education. More importantly, the new law departs from the concept of limited federal involvement that was the hallmark of most earlier education policies. By strongly supporting NCLB, conservatives in Congress have either temporarily or permanently abandoned their traditional opposition to the expansion of federal involvement in schools. The ideological meaning of NCLB will be developed in more detail in the remaining sections of this paper.

### **III. Federal Involvement In Schools Before 2001 And What It Meant For The No Child Left Behind Act**

Exclusion of the federal government from either direct activity or any form of control over local educational policy was a principle established quite early in American history. ... The history of government and education in the United States is, in great part, a history of the development of federal stimulatory activities with the simultaneous limitation of the possibilities for federal control.

—Daniel J. Elazar (1962), *The American Partnership*, p. 244

If you think you are seeing something for the first time, you are probably wrong. Historians can usually document precedents, precursors, or exact duplicates of the ideas we think of as “new.” Readers interested in the history of federal education policy must go all the way back to the 18<sup>th</sup> century to capture all of the precedents and traditions for American education policy. In this section of the paper, I present an abbreviated survey of federal education laws starting in the late 1950s. Please be aware, however, that federal interest in education, as well as the principle of limited federal involvement, predates the 1950s by a century or more.

Because NCLB both builds on and departs from the precedents established in the long history of federal support for schools, it is important to clearly understand the law and its post-World War II precursors. Again, the following overview is not exhaustive, but I

believe it will provide sufficient detail to help the reader place NCLB into appropriate historical context. The lessons to take from the federal laws described in this section are as follows:

- In Congress, there is an ideological and political distinction between acceptable and unacceptable education policies.
- Congressional interest in schooling, combined with the widespread belief that the federal role in education ought to be limited, exert opposite ideological pressures.
- The gradual expansion of federal assistance to schools laid the foundation for NCLB, grounding the apparently revolutionary aspects of the law in an evolutionary process.

Several federal education laws stand out as precedents for NCLB and as components of the federal involvement context generally. These laws are the National Defense Education Act of 1958 (NDEA), the Elementary and Secondary Education Act of 1965 (ESEA), the Education for All Handicapped Children Act of 1975 (P.L. 94-142), the 1979 Department of Education Organization Act, and Goals 2000: Educate America Act of 1994. These episodes are important because they expose contrasting ideological and political views about federal involvement in education. In addition, they each provide modern precedents for some of what is seen later in NCLB.

In most of these episodes, supporters of federal aid to education in Congress were typically liberals and Democrats. Opponents to federal aid were usually—but not always—conservatives, Republicans, and Southern Democrats. Liberals frequently defended school aid as a necessary and appropriate role for the federal government. Conservatives (and others) were often concerned about the threat of federal control of schools when they opposed these proposals. In several of the laws and debates that predate NCLB, ideologically and politically acceptable modes of federal involvement were developed through the interaction of conservative and liberal values and beliefs. The constructive tension between supporters and opponents of federal involvement kept the federal government from doing too much or too little in the nation's schools. Hence, federal subsidies for schools serving disadvantaged youth have been acceptable for the past four decades, whereas unrestricted payments to private schools are usually out of bounds.

### **The National Defense Education Act of 1958**

Federal aid to education which, today, shows up on the floor of the House in a space suit will appear tomorrow in a surgeon's gown, next year in a professor's robes, and the year after that in an engineer's tweed suit. There is no end to disguises available and likewise no end to the spending possibilities of this masquerade. The taxpayers are not amused.

—Representative Charles B. Brownson (R-IN) during floor debate on the National Defense Education Act (*Congressional Record*, 1958, p. 16695)

I begin my overview of the recent history of federal aid to education with the National Defense Education Act of 1958 (NDEA). NDEA is best remembered as a math and science program, although it also provided loans to college students, fellowships to graduate students, and funds for foreign language instruction for elementary and secondary school students (Carlson, 1959, pp. 4-18). It capitalized on widely held concerns about the educational and technical superiority of the Soviet Union, and on the growing belief that a relatively restricted program of federal assistance to K-12 schools was legitimate. [Note 2]

NDEA breached the ramparts of strong and effective opposition to increased federal assistance to schools. One of the reasons NDEA succeeded was because its proponents respected the rhetoric and reality of limited federal involvement in schools. The law delivered federal funds to elementary and secondary schools and to institutions of higher education for specified purposes, a type of assistance that has come to be known as “categorical aid.” Bills to authorize unrestricted payments to schools (also known as “general aid”) were successfully opposed, before and after NDEA was enacted.

NDEA is an important part of the context for NCLB because it provided the winning strategy of the first Elementary and Secondary Education Act in 1965. (NCLB is the seventh reauthorization of ESEA.) Another key feature of NDEA was that the debate revealed explicit arguments about the need for federal aid to schools. NDEA proponents exploited Cold War concerns about U.S. competitiveness, communism, Soviet Sputnik launches, and earlier momentum favoring expanded federal aid to schools. These pro-NDEA arguments took into account—and overcame—arguments from those opposed to the principle of federal involvement. Proponents of the legislation prevailed by respecting the concerns of federal aid foes and by advocating incremental expansion of federal involvement. The strategy is noteworthy because it worked. The NDEA bill actually passed, an unusual distinction for education legislation in the 1950s.

Despite the historical significance (and success) of the legislative strategy underlying NDEA, it is important to remember that federal aid opponents were still a potent force in 1958. Their influence would wane over the next four decades, but they voiced their arguments and helped limit the scope of federal assistance by systematically registering their objections to NDEA and later legislative proposals. Federal aid opponents cited the threat of federal control embodied in the NDEA bill, a familiar ideological objection to all forms of federal education aid. Brigham Young University president Ernest Wilkinson, for example, made the following statement to the House of Representatives subcommittees on special education and general education in 1958.

I am afraid of the disintegrating erosion of particular exceptions, and by that I mean that we legislate one day and say “We will do this, but we will have no Federal control. Another day we will do this and we will have no Federal control.” Ultimately, it mounts up so much that there has been so much erosion that we do have Federal control. (U.S. House of Representatives, 1958, p. 449)

To conservatives in the 1950s, the No Child Left Behind Act of 2001 would have looked like a very strong form of federal interference. Indeed, according to the foes of federal aid in the 1950s, ‘60s, and ‘70s, the threat of federal control was insidious because it was being imposed incrementally. What makes NCLB especially interesting vis à vis the



federal control threat is that the expansion of federal involvement embodied in the 2001 law was advocated by a conservative president and strongly supported by conservative legislators. The expansion of federal involvement occurred so gradually that many of those who opposed the principle in earlier debates came to embrace it by 2001.

### **The Elementary and Secondary Education Act of 1965**

When you get this money in successive years and you come down and ask for more, we are going to put strings on it, more and more. We are going to tell you what we think you should do as educators. You are not only going to deal with your State people, you are going to deal with the Federal people. I think you should understand this and have your eyes wide open, too.

--Representative Charles Goodell (R-NY) addressing a panel of Catholic educators during House subcommittee hearings on the Elementary and Secondary Education Act (U.S. House of Representatives, 1965, p. 596)

Building on the precedent of the National Defense Education Act, the Elementary and Secondary Education Act of 1965 (ESEA) dramatically increased federal support for K-12 education. When ESEA was first enacted, it was the cornerstone of federal involvement in elementary and high schools. Congress has since enacted other policies, at least one of which is as visible as ESEA (i.e., the Education for All Handicapped Children Act of 1975--P.L. 94-142, now known as the Individuals with Disabilities Education Act). As indicated in the previous section, NCLB is the current reauthorization of ESEA.

ESEA is best remembered for Title I: "Financial Assistance to Local Educational Agencies for the Education of Children from Low Income Families." The other Titles of the 1965 act included supplementary support for school libraries and instructional materials (Title II), supplementary educational centers and services (Title III), educational research and training (Title IV), grants to strengthen state departments of education (Title V), and general provisions (Title VI). With the exception of final appropriations, the enacted law was essentially the same as what was proposed by the administration. The administration's bill was conceived largely by President Johnson's 1964 Task Force on Education chaired by John W. Gardner. Gardner was later named Johnson's secretary of the Department of Health, Education, and Welfare (Bailey and Mosher, 1968, chapter II; Meranto, 1967; Eidenberg and Morey, 1969. See also "Report of the President's Task Force on Education," 1964).

Unlike NDEA, ESEA was a lineal ancestor of NCLB. The original legislation was an outgrowth of President Lyndon Johnson's domestic "War on Poverty." NCLB retains the ostensive antipoverty focus of ESEA. Yet, several things changed in the 37 years that separated the two statutes. For example, the objections that had to be overcome were different in the two eras. In 1965, the use of education as an antipoverty strategy was a new, untested, and controversial idea. By 2001, no one challenged the antipoverty rationale of NCLB. [Note 3] Instead, the controversial elements of NCLB were accountability, private school choice, and the adequacy of the funds authorized by the act.

In addition to being remarkably durable, the original ESEA is noteworthy because of the extent to which the bill's supporters manipulated potential opponents to federal school aid. The election of 1964, in which President Johnson overwhelmingly defeated Sen. Barry Goldwater (R-AZ), also made the 89<sup>th</sup> Congress a very liberal assembly. Nevertheless, conservative opposition to federal involvement in education was still strong. Remaining opponents could be outvoted only if several key compromises were included in the ESEA bill. ESEA supporters faced what was certainly a smaller cadre of hard-core opponents to the principle of federal aid than existed just a few years earlier. However, potential opponents—those legislators who would oppose any education proposal that did not meet their political needs—were vocal during the interval between NDEA and ESEA. ('Potential opponents' were also present in the 2001 NCLB debate. Many Democrats might have abandoned the bill if President Bush and the bill's Republican managers hadn't retracted the private school voucher proposal.)

What were the issues that would have collectively (or individually) mobilized enough opposition to kill the ESEA bills? The issues were labeled 'the three Rs—race, religion, and reds' by many commentators. The race question was not an explicit part of the 1965 debate, mainly because the 1964 Civil Rights Act addressed nondiscrimination and charged the Department of Justice (not the Department of Health, Education, and Welfare) with enforcing its provisions. "Religion" meant federal dollars for parochial schools, which although more controversial than today, had become politically necessary by 1965. "Reds" meant "federal control," a charge that, in the view of ESEA's authors and managers, was mitigated by defining Title I and the laws other provisions as categorical aid.

Of course, not everyone was convinced by the arguments in favor of ESEA nor by its careful design. This skepticism was especially true with regard to the assurances that the law would not lead to federal control. Of particular relevance today were warnings about the future threat of federal control embodied in the law's provisions. Representative William H. Ayres (R-OH), for example, "deplore[d] the use of such a worthy objective ["helping the educationally deprived child"] as a cloak for their attempt to create the first step for bureaucratic Federal control of the education of our children" (*Congressional Record*, 1965, p. 5748). Rep. Donald D. Clancy (R-OH) claimed the ESEA bill was a manifestation of federal control (as opposed to a federal control threat). "Under this legislation, decision-making with respect to course content, curricula, instructional materials and professional standards for teachers would be centralized in the U.S. Office of Education" (*ibid.*, p. 5980).

A final feature of ESEA helps today's readers understand the meaning of NCLB. It is what I call the "federal control paradox" and it was a component of the arguments made against ESEA in 1965 (and against earlier education proposals). We already know there were widespread claims that federal control would automatically result from any attempt at federal regulation. Sen. Absalom W. Robertson (D-VA) expressed the structural inevitability and paradox of federal control during Senate floor debate: "not only does Federal control follow Federal funds, but it is the constitutional duty of a Congress which appropriates Federal money to supervise its expenditure" (*ibid.*, p. 7523). The situation is paradoxical because federal control (which is abhorred by all) is a logical consequence of the responsibility the national government must assume to ensure that education dollars are used for the purposes intended by Congress. The situation is simultaneously contradictory and inevitable,

according to some legislators, and begins the moment federal funds are spent on schools. At the time, many conservatives believed that this paradox could be avoided only by defeating the ESEA bill. By the time the NCLB debate occurred, conservatives were less squeamish about exerting strong federal influence over schools. Hence, the federal control paradox of earlier debates was replaced by the less paradoxical—but still respectably conservative—assertion: “After spending \$125 billion of Title I money over 25 years, we have virtually nothing to show for it.” [Sen. William Frist (R-TN), quoting Education Secretary Roderick Paige in *Congressional Record*, 2001, p. S3935].

### **The Education for All Handicapped Children Act of 1975**

[The Education for All Handicapped Children Act of 1975] contains a vast array of detailed, complex, and costly administrative requirements which would unnecessarily assert Federal control over traditional State and local government functions. It establishes complex requirements under which tax dollars would be used to support administrative paperwork and not educational programs. Unfortunately, these requirements will remain in effect even though the Congress appropriates far less than the amounts contemplated in S. 6.

—President Gerald R. Ford (1975), signing the Education for All Handicapped Children Act under protest. (A veto by him would have been overridden by Congress.)

The Education for All Handicapped Children Act of 1975 (P.L. 94-142) was a milestone for children with disabilities, civil rights, and the federal regulatory presence in education. The legislation spelled out detailed due process and administrative requirements for educating children with disabilities. The protections provided by the law were overdue, given the number of children with disabilities who received little or no schooling in the mid-1970s. At the same time, the federal government took bold new steps into the nation’s schools and classrooms. The tension between the principle of educational opportunity for students with disabilities, the definition and enforcement of these rights by the federal government, and the cost of providing them has been continuous in the three decades since this law passed.

When P.L. 94-142 passed, it was an anomaly. Like ESEA, it has been reauthorized numerous times since 1975, so some of its novelty has worn off. Unlike ESEA, however, federal protection for the rights of children with disabilities has become more controversial over time. P.L. 94-142 and its four reauthorizations have become the classic educational “unfunded mandate,” thereby fulfilling scattered but prescient concerns in the original debate about who would pay for the high costs of implementing the law. (Other legislators worked to reduce the federal cost so as to increase its chances of passing and surviving President Gerald R. Ford’s threatened veto [Anderson, 1997, pp. 78-79].) From the federal perspective, the special education mandate is a cost effective way to enforce a moral vision.

For my purposes, a second cluster of anomalies stands out: P.L. 94-142's high level of federal prescriptiveness AND the nearly unanimous support it received in both chambers of Congress. Perhaps most anomalous of all, the law's momentous implications for federal interference with state and local school systems were ignored in the original debate.

Several of these unusual features are present in NCLB: widespread belief that it imposes unfunded mandates on states and school systems, especially in connection with testing; a highly prescriptive approach that departs in many ways from past federal practice; and overwhelming support in Congress when the law was first enacted. The lesson from both episodes is that political pressure can and does overturn the ideological status quo of federal education policy. How could a legislator oppose the education of handicapped children in 1975 or leave even one child behind in 2001?

Finally, recall that children with disabilities make up one of the subgroups for which adequate yearly progress must be reported under NCLB. Supporters of the new law have portrayed its subgroup accountability requirements as a continuation of the federal role in protecting the civil rights of children with disabilities, English language learners, and disadvantaged students. P.L. 94-142 and ESEA set the federal civil rights enforcement precedents for NCLB.

### **Establishing the Department of Education in 1979**

To me, the creation of this Department [of Education] provides a potential for a centralization of the control of ideas, a potential which may or may not be realized but one which will be latent for as long as the Department exists. And, as we all know, where there is potential for a thing to be done, there are eventually people who attempt to realize that potential for whatever purposes—good or evil.

--Rep. William S. Moorhead (D-PA), dissenting from the House Committee on Government Operations recommendation to establish the U.S. Department of Education (U.S. House of Representatives, 1979, pp. 1161-1162)

By the late 1970s, the number and total size of federal education programs had grown to such a degree that policy-makers started to argue that these activities should be consolidated in a cabinet-level department of education. It was also a 1976 campaign promise by Jimmy Carter to the National Education Association in exchange for its endorsement. Despite its ostensibly nonideological reorganization rationale, the proposal to create the Department of Education (ED) generated political and ideological controversy. Supporters of certain education programs did not want to alter existing relationships in the bureaucracy. Others feared that the federal government was positioning itself to take control of the schools. The 1970s Department of Education debate turned into a thoroughgoing reexamination of the federal role as it had evolved to that point.

Conservatives and liberals voiced several warnings about the threat of federal control during the ED debate, including detailed descriptions of the mechanism of federal domination. Sen. Harrison H. Schmitt (R-NM), for example, described an alarming sequence of events leading from the Great Society to the creation of ED and to federal control through fiscal dependence.

During the last decade, the Federal Government has become more and more involved in education. What started out as assistance, primarily financial assistance, to State and local authorities, has emerged as de facto control through the threat of withholding funds upon which local systems had become dependent. The creation of a department of education obviously will strengthen this trend toward centralized decisionmaking in the field of education. (*Congressional Record*, 1978, pp. 298-299)

Traditional differences between liberals and conservatives were discernible during the ED debate but they were not as clear cut as they had been during the 1950s and '60s. Numerous liberal Democrats, such as Sen. Daniel Patrick Moynihan (D-NY), opposed the measure, which they saw as a scheme to centralize federal education authority. Many conservatives shared this view. Many liberals also worried that the federal commitment to civil rights would be compromised by locating enforcement programs in an agency controlled by professional educators. (Some conservatives also claimed to have this concern.) Other conservatives, namely Sen. Strom Thurmond (R-SC), were vocal supporters of the reorganization plan (*ibid.*, p. 374).

What does the decision to establish ED tell us about the historical context of NCLB? The relationship between the two episodes is less obvious than between, say, ESEA and NCLB. Nevertheless, the connections are important. First, the NCLB measure received strong, bipartisan support. Indeed, NCLB appears to have generated less ideological and political controversy than the ED decision, making NCLB resemble the strongly supported P.L. 94-142. The relatively unpredictable behavior of Congressional liberals and conservatives with respect to the ED decision signaled the possibility that conservatives could become supporters of certain kinds of federal education policies. NCLB was advanced by a conservative president with strong, bipartisan support. Without the long track record of expanding federal involvement and the softening of traditional ideological positions during the same period, NCLB may not have been possible.

Until recently, ED was an ideological lightning rod. Conservatives—including President Ronald Reagan—immediately attempted to dismantle the new department and they have only recently backed away from this goal. Signaling his intention to become an education activist, presidential candidate George W. Bush had to lobby to remove a plank calling for the elimination of ED from the 2000 Republican platform (Rudalevige, 2003, p. 34). Again, it was a significant development for a bona fide conservative to advocate increased federal involvement in schools.

### **Goals 2000: Educate America Act**

It is really tragic that we have gotten so emotionalized in America that people actually believe Goals 2000 is part of some plot by the federal government to seize control of education. It's hard to fathom how someone could be that illogical.

—Delegate C. Richard Cranwell, Virginia House Democrat, commenting on Republican Governor George F. Allen's decision to decline Goals 2000 funds (Bradley, 1996, p. 14)

Goals 2000, which passed in 1994, is an important precedent for NCLB because it introduced many of the same legislative and educational objectives as the 2001 law. Put forward by liberals and Democrats, the Goals 2000 proposal faced withering criticism from conservatives during the debate and after it passed. In 1996, two years after it was enacted, Congress and the Clinton administration were forced to retreat from several key provisions of the largely symbolic law. Conservatives have embraced NCLB, but it is possible that the same political and ideological controversies that gutted Goals 2000 may also pose problems for the full implementation of NCLB.

The Goals 2000 legislation originated at the bipartisan Governors' Education Summit in Charlottesville, Virginia, in 1989. There, the assembled governors set the six original national education goals. President George H. W. Bush failed to win Congressional approval for America 2000, a standards-based school reform package similar to Goals 2000. Congressional Democrats and the Clinton administration were more closely aligned ideologically, and the legislation fared better. Nevertheless, Goals 2000 generated controversy during and after passage.

Sen. Edward M. Kennedy (D-MA), chair of the Committee on Labor and Human Resources, gave a concise rationale for S. 846, the early Senate version of the legislation that was to become Goals 2000.

By codifying the National Education Goals, this legislation will strengthen our commitment to reach them. By providing for the development and certification of voluntary standards for learning in seven basic sources—math, science, English, history, foreign languages, art, and geography—this legislation will help to end the growing confusion about what students should be learning in their classes. (U.S. Senate, 1993a, p. 1)

The eight national education goals were codified in Title I of the final Goals 2000 law, P.L. 103-227. Title II spelled out duties of the new National Education Standards and Improvement Council (NESIC) and the existing National Education Goals Panel. From the standpoint of states and everyone else, Title III was most prominent because it authorized funds for state and local systemic improvement grants. Title V established the National Skills Standards Board and other workplace programs, and the Office of Educational Research and Improvement was reauthorized in Title IX. NESIC and all of Title III were the most controversial parts of Goals 2000 before and after passage of the act.

Title III's provisions for state and local grants required states to submit formal plans to ED. In conjunction with the goals panel and NESIC, the department would approve these plans if they showed reasonable promise of success and reflected a standards-driven school improvement strategy for all K-12 students. As a condition of receiving Goals 2000 grants, states were directed to either adopt "voluntary national model" curriculum and performance standards and "opportunity-to-learn standards or strategies" or devise their own. The national standards were to be "certified" by NESIC and "approved" by the goals panel. NESIC was also charged with certifying state content standards and performance assessments, if states chose to submit them. Despite assurances of the voluntary nature of some of these certification procedures (and the option for states to decline moneys under Title III), advocates of Goals 2000 were never able to quell objections to the law's requirements for federal approval of state curriculum, performance, and opportunity-to-learn standards.

Some of the same controversies have dogged both Goals 2000 and NCLB. Again, it is too early to tell what effect NCLB's lingering controversies will have on full implementation of the law, but the experience of Goals 2000 may be instructive. For example, resource adequacy issues were contentious during both debates. "Opportunity-to-learn standards or strategies" were controversial under Goals 2000 because they would supposedly be used to determine the adequacy of state and local support for education. During the NCLB debate, many liberals criticized what they believed to be inadequate funding for Title I and other programs such as special education. Liberal (and conservative) criticism of the law's funding levels has persisted since it was enacted.

Although resource issues remained controversial in the interval between Goals 2000 and NCLB, another issue—accountability for results—became somewhat less controversial and actually made it into the final NCLB statute. In 1994, a minority of Goals 2000 supporters wanted federal dollars to be tied to actually meeting state performance standards. Rep. Jack Reed (D-RI) introduced an amendment to the House of Representatives version of the bill (H.R. 1804). He wanted to ensure that standards would be met, not just set:

This provision asks States, if they choose to apply for Federal planning grants under Title III of Goals 2000, to describe in their application what they will do when a school or school system fails to meet the standards. ...

We should not sit idly by during this reform debate and watch Federal resources go into another paper drill which will enrich educational consultants and only coincidentally help students because we do not face the tough question of what actions must be taken to ensure that standards are met. (*Congressional Record*, 1993, p. H7752)

Even though Reed's amendment did not make it into the final version of the Goals 2000 law, it is worth noting that at least some legislators in 1994 were interested in accountability requirements with teeth. It is especially interesting to recall this aspect of the Goals 2000 debate in light of NCLB's adoption of a high-stakes accountability system for schools, districts, and states.

Finally, Goals 2000 demonstrates that federal education legislation can pass with political support but questionable ideological legitimacy. [Note 4] It is possible that NCLB will face the same pressures as it nears full implementation and more of its consequences are realized. Future Congressional action to soften or repeal NCLB notwithstanding, the federal government is setting assessment policy for elementary and high schools for the first time. Some aspects of these new requirements have been seen before, such as the state plans and standards that were part of Goals 2000 (and the 1994 reauthorization of ESEA—the Improve America’s Schools Act). NCLB took some of the voluntary elements in these 1994 laws, expanded them (e.g., by adding student testing requirements), and made them mandatory in 2001-02. Again, the new assessment policies remain controversial and it is possible that certain NCLB provisions will be repealed or softened by later Congresses.

#### **IV. How Radical a Departure is NCLB From Past Federal Education Policies?**

As we have already seen, the No Child Left Behind Act of 2001 both builds on and departs from previous federal education policies and principles. NCLB injected federal regulations into more schools and districts than earlier laws, in addition to setting high expectations for students and teachers. NCLB did this by putting the federal government at the center of the movement for standards-based accountability. Although neither federal involvement in education nor high-stakes accountability are new ideas, they have been combined in NCLB in important new ways.

This concluding section develops two political themes and one ideological theme synthesized from the No Child Left Behind Act and the legacy of federal involvement in schools. The political themes, such as presidential leadership, illuminate some of the political issues underlying NCLB and earlier laws. The ideological theme highlights the deeper significance of NCLB in the evolution of federal education policies. NCLB is a political phenomenon with rich ideological meaning.

##### **Political Theme #1: Presidential backing of federal education laws is neither necessary nor sufficient to pass them, but it can help.**

This is a straightforward lesson from the history of federal education policy-making (and federal policy-making generally). Active presidential backing can motivate Congress to pass important education laws. President Lyndon B. Johnson campaigned on his commitment to increasing federal aid to schools and his administration devised a winning formula for delivering federal dollars to virtually every school district in the country. The Elementary and Secondary Education Act of 1965 also respected the tradition of limited federal involvement by earmarking the bulk of federal dollars to serve schools with high concentrations of poor students. Almost four decades later, George W. Bush campaigned on his commitment to education generally and on the purported gains students had made while he was governor of Texas. Two Texans, one liberal and one conservative, made—and delivered on—education-related campaign promises. ESEA and NCLB were touted for their



potential to remake the landscape of public education. Again, both laws were shaped and aided by their White House backing.

Of course, presidential support is not necessary for key education laws to be passed. President Gerald R. Ford opposed the Education for All Handicapped Children Act of 1975 (P.L. 94-142) and would have vetoed it if it hadn't had almost unanimous support in Congress. Nor does presidential support guarantee success, as was the case with President Ronald W. Reagan's desire to enact a constitutional amendment permitting school prayer in 1984. Both President Jimmy Carter and President Bill Clinton won educational victories in Congress (establishing a cabinet-level Department of Education and passing Goals 2000, respectively), but the resulting laws came under fierce ideological attack. In the case of Goals 2000, the original law was partially overturned by a later Congress.

This paper is not primarily concerned with the dynamics of presidential leadership in education, but the topic deserves further study. NCLB is a strong law that passed with strong support in Congress and the White House. However, it may turn out to be as ideologically or politically controversial as earlier laws once it is more fully implemented. During the 2004 presidential campaign, several Democratic presidential candidates, including most of those candidates who voted in favor of it as legislators, were very critical of NCLB.

**Political Theme #2: Both NCLB and P.L. 94-142 are charged with being unfunded mandates because of the mismatch between funding levels and the costs incurred by their requirements.**

The main point here is that the unfunded mandate charge against NCLB is not unprecedented. When P.L. 94-142 passed in 1975, it was a breathtaking expansion of federal influence over local educators. It also passed along most of its costs to states and school districts, a fact that received little attention when the law was enacted. Since passage, however, the law has become the poster child for unfunded mandates. The federal government has been repeatedly criticized for being unwilling to meet the funding levels originally envisioned in P.L. 94-142. The issue was debated at length during consideration of NCLB in 2001.

Like P.L. 94-142, NCLB critics accused it of spawning many unfunded mandates, especially with regard to the cost of fulfilling the law's testing requirements. More significantly, concerns about inadequate funding for Title I almost derailed the Senate bill, although it later passed that chamber by a huge margin. Hence, the unfunded mandate charge was leveled at NCLB more vocally than at P.L. 94-142 during the original debate. In neither case, however, has inadequate federal financing for the ambitious purposes of the original laws led to reductions in their reach. Over the past 29 years, it has become more acceptable for the implementation costs of federal education policies to be passed down to states and school districts. (This phenomenon contrasts sharply with the entitlement flavor of federal aid beginning in the 1960s. In the context of the federal entitlement environment, it is worth noting that P.L. 94-142 and NCLB were ideological and regulatory anomalies when they were first enacted.)

**Ideological Theme: Over time, there has been a gradual weakening of the traditional ideological divisions between liberals and conservatives in Congress with regard to federal education aid.**

The weakening of these divisions has both obvious and not so obvious implications for NCLB. Consider, for example, the similarities between P.L. 94-142 and NCLB in the previous theme. Both laws passed by huge margins, and with the support of legislators in both parties. A related but subtler fact is that very few conservative legislators opposed either law. That is, both laws represented significant expansions of federal authority for education, yet they were not widely opposed on ideological grounds.

Now consider the bruising debate of President Carter's proposal to establish ED. Several liberal legislators opposed the creation of ED and at least one conservative registered his enthusiastic support for the measure. Taken together, the bipartisan roster of ED foes demonstrate that liberals and conservatives can argue against excessive federal involvement in schools. Similarly, conservatives can support the expansion of federal action, as demonstrated by the votes on P.L. 94-142 and NCLB.

Finally, notice a few things about NCLB. A handful of prominent liberals [e.g., Sen. James Jeffords (I-VT)] opposed NCLB on political grounds. Another handful of conservatives [e.g., Rep. Tom DeLay (R-TX)] opposed the law on ideological grounds. (For the final NCLB vote in the House and Senate, see *Congressional Record*, 2001, p. H10112 and p. S13422, respectively.) Nevertheless, the strong support by conservatives for NCLB is powerful evidence that the rhetorical truism of limited federal involvement in schools has been either temporarily or permanently overturned. A generation earlier, both liberals and conservatives would have been much more likely to emphasize the need for limits to the federal presence in schools. Moreover, conservative support for a law like NCLB would have been inconceivable.

The weakening of traditional ideological positions on federal education questions disrupted the balance between the federal government involving itself too much or too little in the nation's schools. The ideological tension between conservative support for limited federal involvement and liberal support for certain types of federal action in schools was a constructive force. It is likely that the excesses of NCLB are due to the earlier success of liberals in expanding the scope of appropriate federal action in schools AND to the gradual acquiescence of conservatives to this expansion.

Of course, there are still types of federal action that are ideologically "out of bounds." NCLB sponsors, for example, were unable to pass the block grant and private school voucher components of the original bill. (Both vouchers and block grants are very appealing to conservatives.) Likewise, liberals were also unable to obtain federal funds for school construction projects and class size reduction. The long-term viability of the controversial features of NCLB is still being determined, and ED has already loosened certain regulations relating to "highly qualified teachers" in rural areas, testing participation rates for students, and the participation of English Language Learners in mandated testing.

Does conservative support for the expansion of federal influence over schools mean that conservatives have abandoned their principles? Not necessarily. In response to

several decades of steadily increasing federal aid to schools, conservatives have supplemented their earlier warnings of federal control with other principles. In the case of NCLB, these principles included fiscal conservatism generally and ‘not throwing good money after bad.’ Once NDEA and ESEA breached the ramparts of effective opposition to federal aid, conservatives could (and did) invoke the track record of federal spending in later debates. Conservatives and Republicans portrayed the results of the decades of spending under ESEA in an extremely negative light as a justification for adding an unprecedented high-stakes accountability component to NCLB. A newer conservative principle—giving taxpayers at all levels their money’s worth—has overshadowed the nostalgic preference for limited federal involvement.

### **Notes**

Some of the historical research reported in this paper was conducted for my dissertation at the School of Education at Stanford University (Anderson, 1997). I wish to thank Daniel Humphrey of SRI International and Kara S. Finnigan of the University of Rochester for helpful comments on an earlier draft of this article.

[1] “Liberal” and “conservative” labels are best defined in relation to each other. For example, some researchers rely on annually calculated “liberal quotients” from the liberal interest group Americans for Democratic Action to place individual legislators on a continuum running from 0 (most conservative) to 100 (most liberal). For analyses of ADA scores for several of the episodes described in this paper, see Anderson (1997).

[2] Aid to colleges and college students was more widely accepted at the time. Recall the popularity of the Veterans Readjustment Act of 1944 (better known as the “G.I. Bill”).

[3] In the 1965 law, poverty was operationalized as an extremely broad category, thereby distributing Title I funds to every state and congressional district, virtually every county, and the vast majority of the nation’s school districts (Meranto, 1967, p. 5). The broad distribution of Title I funds remains one of the laws most attractive features to legislators and educators alike.

[4] Another example of a short-lived federal education policy was the establishment of a cabinet-level Department of Education in 1867. The proposal passed but concerns about federal control persisted and the department was downgraded the following year to a bureau in the Department of the Interior (Lee, 1949, pp. 21-28; Peskin, 1973).

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