

Exacerbating inequality: the failed promise of the No Child Left Behind Act

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The passage of the No Child Left Behind Act (NCLB) marks the largest intervention of the federal government into education in the history of the United States. NCLB received and continues to receive support, in part because it promises to improve student learning and to close the achievement gap between White students and students of color. However, NCLB has failed to live up to its promises and may exacerbate inequality. Furthermore, by focusing on education as the solution to social and economic inequality, it diverts the public's attention away from the issues such as poverty, lack of decent paying jobs and health care, that need to be confronted if inequality is to be reduced.

When No Child Left Behind (NCLB) became law in 2002, it passed the Senate and House with large majorities¹ and has led to the largest intervention by the federal government into education in the history of the United States. NCLB significantly transforms publicly funded education from birth through adulthood. NCLB received political support because it, like the standards, testing and accountability movement on which it builds, ostensibly aims to improve education for all, especially for those students who have been historically disadvantaged, and to close the achievement gap between White students and students of color. However, as I will show, to date NCLB has failed to deliver as promised and, given the specifics of the law, there is no reason to think that it will or can. NCLB, by standardizing curriculum and assessment, undermines the kinds of reforms which have occurred over the last several decades, such as small schools, authentic formative assessments and interdisciplinary curriculum, that have improved students' learning, particularly students in urban schools (see, for example, the urban schools that make up New York's Performance Assessment Consortium, such as The Urban Academy in New York City). Furthermore, because NCLB aims to and focuses on what occurs in schools rather than the

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wider society, it diverts our attention from the issues that must be tackled if we are to improve all students' learning and develop a more equitable society.

Therefore, I will begin by providing a short description of NCLB focusing on the characteristics most pertinent to my argument here: mandatory standardized testing used to evaluate students, teachers and schools, and the consequences schools face if their test scores do not achieve 'adequate yearly progress.' I then turn to the central rationales for passage of NCLB, in particular that standardized testing and accountability will improve student learning for all children and close the achievement gap, and then provide evidence that NCLB may be undermining education and exacerbating inequality.

The promise of No Child Left Behind

NCLB passed as part of the Elementary and Secondary Education Act of 2001 and, as such, will need to be renewed and is likely to be amended by the now Democratically controlled Congress and the President in 2007. NCLB affects almost every aspect of elementary and secondary education, most obviously curriculum and assessment, but also increases the qualifications for teachers and teachers' aides, opens up schools to religious groups and groups, such as the Boy Scouts, that discriminate, and requires that students' names and contact information be given to military recruiters and that schools adopt curriculum that has been 'scientifically tested.' However, I will focus on the testing, accountability and curricular aspects of NCLB. Further, because NCLB leaves it to the states to develop their assessments and states vary in the consequences the tests have for students (for example in New York, Texas and about 10 other states, students must pass one or more standardized tests to graduate from secondary school, and in New York City and Texas students must pass tests for promotion from specific 'benchmark grades'), my evidence for the success or failure of NCLB necessarily relies on state rather than national data.

President Bush promoted NCLB as a means of replicating at the federal level the 'success' previously achieved at the state level, such as in Texas (where he was governor) and New York. NCLB requires that 95% of students in grades 3 through 8 and once in high school be assessed through standardized tests aligned with 'challenging academic standards' in math, reading and (beginning in 2007–08) science (US Department of Education, 2003c, p. 4). Furthermore, states must permit the National Assessment of Educational Progress (NAEP) to administer standardized tests to a sample of students in tested grades so that students can be compared across states. Each state is required to submit to the federal government a plan for student assessment and how they will determine whether schools are making adequate yearly progress. Each year, an increasing percentage of students are to demonstrate 'proficiency' until 2014, at which time for all states and every school, all students (regardless of ability or proficiency, whether they have a disability or recently immigrated to the United States and are English language learners) are expected to be proficient in every subject.

If schools do not make adequate yearly progress for two consecutive years, they must be identified as schools ‘in need of improvement.’ Students in those schools must be given the option of transferring to another public school (US Department of Education, 2003c, p. 9). Additional requirements are imposed for each successive year that a school fails to meet adequate yearly progress goals. These include providing students with: ‘supplemental services in the community such as tutoring, after-school programs, remedial classes or summer school,’ replacing the school staff, implementing a new curriculum, ‘decreasing management authority, appointing an outside expert to advise the school, extending the school day or year, or reorganizing the school internally.’ Schools failing for five consecutive years must either reopen as a charter school, replace all or most of the school staff who are relevant to the failure to make adequate yearly progress, or turn over the operations either to the state or to ‘a private company with a demonstrated record of effectiveness’ (US Department of Education, 2003c, pp. 6–9). Many of the ‘remedies,’ such as tutoring, remedial classes and replacing the administration, provide opportunities for private corporations to profit from public funding.

School districts (the governmental entity overseeing the schools in a community) failing for a fifth year must do one of the following: reduce costs, implement a new curriculum, replace personnel, establish alternative governance arrangements, appoint a receiver or trustee to administer the district in place of the superintendent or school board, or abolish or restructure the school district (US Department of Education, 2003c, pp. 6–7).

This unprecedented interference in public schooling, which has historically been a responsibility of local communities, has been achieved because NCLB promises to increase educational and economic productivity in an increasingly globalized economy, to decrease educational inequality and to increase assessment objectivity. Bush’s first Secretary of Education, Rodney Paige, links increasing education efficiency with increasing the nation’s international economic competitiveness and with decreasing educational inequality. Paige, in response to an Organisation for Economic Co-operation and Development report, stated:

This report documents how little we receive in return for our national investment. This report also reminds us that we are battling two achievement gaps. One is between those being served well by our system and those being left behind. The other is between the US and many of our higher achieving friends around the world. By closing the first gap, we will close the second. (US Department of Education, 2003b)

More recently, Bush, while visiting a charter school, cited these achievements of NCLB:

NCLB is an important way to make sure America remains competitive in the 21st century. We’re living in a global world. See, the education system must compete with education systems in China and India. If we fail to give our students the skills necessary to compete in the world in the 21st century, the jobs will go elsewhere. That’s just a fact of life. It’s the reality of the world we live in. And therefore, now is the time for the United States of America to give our children the skills so that the jobs will stay here. (US Department of Education, 2006b, p. 2)

NCLB, Paige argued, will improve education for all children, especially African-Americans.

We have an educational emergency in the United States of America. Nationally, blacks score lower on reading and math tests than their white peers. But it doesn't have to be that way. We need to collectively focus our attention on the problem...We have to make sure that every single child gets our best attention. We also need to help African-American parents understand how this historic new education law can specifically help them and their children. (US Department of Education, 2003b)

Secretary Paige asserted that NCLB builds on goals of the Civil Rights movement of the 1950s and 60s:

The [education] achievement gap is the civil rights issue of our time. The law creates the conditions of equitable access to education for all children. It brings us a step closer to the promise of our Constitution. It fulfills the mandate in *Brown v. Board of Education* for equal educational opportunity. It honors the trust parents place in our schools and teachers, with a quality education for all children, every single one. (Paige & Jackson, 2004)

Like other proponents of standards and testing, NCLB presumes a particular view of knowledge and research, presumes that the standards have been objectively determined and that standardized tests provide a valid and reliable means of assessing student learning. NCLB also explicitly presumes that teachers cannot be trusted to assess student learning. The *Parents' Guide to NCLB* (US Department of Education, 2003c) states that standardized tests 'will give them [parents and communities] objective data' (p. 12). Bush recently observed that NCLB prevents 'children from being shuffled through our schools without understanding whether or not they can read and write and add and subtract...That's unfair to the children' (US Department of Education, 2006c, p. 3).

Moreover, the *Parents' Guide* (US Department of Education, 2003c) repeatedly ridicules teachers and teacher educators, asserting that teachers often mislead parents into believing that their child is learning when they are not, and teachers fall prey to 'education fads,' 'bad ideas' and 'untested curricula' (p. 19). Instead of 'untested curricula,' NCLB requires that schools receiving federal funds choose curriculum approved by the Federal Department of Education.

The failure of NCLB

However, NCLB promises more than it delivers. First, adequate yearly progress indicators provides little information on whether schools are making progress but, instead, serve to unfairly punish urban schools, the schools mostly likely to serve students of color and students living in poverty. Second, the standardized tests tend to be an unreliable and invalid means of assessing student learning and have had other negative, perhaps unintended, but predictable consequences for student learning. Third, NCLB has narrowed the curriculum, which has made (and is making) it more difficult for teachers to connect classroom activities to students' own lives, interests and culture.

As described above, schools failing to make ‘adequate yearly progress’ (hereafter AYP) face increasingly drastic penalties with each successful year of failure. Therefore, it is crucial to understand what AYP specifically indicates. Contrary to a commonsense interpretation of AYP, schools are *not* evaluated on whether their test scores are improving but on whether the aggregated and disaggregated test scores exceed the threshold, *even if their scores fall*. Similarly, schools that begin with initially low scores *may be considered failing even if they significantly improve their test scores*, as long as those scores remain below the threshold. Therefore, achieving AYP may have little to do with whether a school’s test scores rise or fall; achieving AYP depends only on exceeding the minimum threshold.

Because test scores strongly correlate with a student’s family income, a school’s score is more likely to reflect its students’ average family income rather than teaching or the curriculum. Consequently, the largest percentage of failing schools in New York State is found in poor urban school districts. In NCLB’s first year, almost all (83%) of the failing schools are located in the big five urban districts: New York City, Buffalo, Rochester, Syracuse and Yonkers (New York State School Boards Association, 2002). Most of the remaining failing schools are in smaller urban districts. The failure rate of schools in urban districts is high, particularly at the middle school level where the state standardized tests seem to be particularly difficult. In Rochester, for example, all the middle schools failed, leading the superintendent to reorganize the schools into middle schools/high schools, thus restarting the clock regarding penalties but requiring significant amounts of unnecessary and unproductive work for the teachers and administrators.

Under NCLB, each state develops its own tests, and depending on the competency and intentions of the state’s educational bureaucracy, the tests vary in their quality. Again, to pick New York as an example, the tests have not resulted in more objective assessments. Almost every recent standardized exam given in New York has been criticized for having poorly constructed, misleading and erroneous questions, or for using a grading scale that either overstates or understates students’ learning. Critics argue that an exam’s degree of difficulty has varied depending on whether the State Education Department (SED) wants to increase the graduation rate and therefore makes the exam easier or wants to appear rigorous and tough and therefore makes the exam more difficult. The passing rate for the exam can be increased or decreased simply by adjusting the cut score, turning a low percentage of correct answers into a pass and a high percentage of correct answers into a failure. On exams that students are likely to take as part of their graduation requirement, SED makes it easier for students to pass by lowering the cut score. This occurred, for example, on a recent ‘Living Environments’ exam, where students only needed to answer 39% of the questions correctly to earn a passing grade of 55%. Conversely, the exams for the advanced, non-required courses, such as physics and chemistry, have been made more difficult. Thirty-nine percent of students failed a recent physics exam, in order, critics charge, to make Regents testing (New York’s secondary school standardized exams) appear more rigorous. However, because primarily academically successful, middle-class students take physics, the students and their parents were able to politically pressurize SED to change the scoring (Winerip, 2003a).

Furthermore, sometimes an unusually low or high failure rate may not be intentional but the result of incompetence. The June 2003 Regents Math A exam (also, the test students are most likely to take to meet the Regents math requirement) was so poorly constructed that only 37% of the students passed state-wide (Arenson, 2003). At Rochester's Wilson Magnet High School, a city school ranked 49th in the nation by *Newsweek* because of its International Baccalaureate program, all 300 students who took the exam failed (Rivera, 2003). The test results were discarded not because of the results at Wilson High School, I have never heard them cited by anyone other than myself, but because the low passing rate caused academic problems for a significant percentage of White and middle-class students.

The SED has also been criticized for how it constructs the test questions. For example, a recent English exam received national censure for removing from literary passages references 'to race, religion, ethnicity, sex, nudity, alcohol, even the mildest profanity and just about anything that might offend someone for some reason' (Kleinfield, 2002, p. A1). Examples of changes included deleting all references to Judaism in an excerpt from a work by Issac Singer, and the racial references in Anne Dillard's description of the insights she gained when, as a child, she visited a library in the Black section of town.

Many of the authors whose passages were changed were outraged that such changes occurred without their permission and substantially changed the meaning of the texts. Others pointed out the absurdity of having students answer questions that often referred to deleted portions of the text and objected to how confused a student might become if they were already familiar with the passage and were now confronted with a passage in which the meaning was changed.

Moreover, education inequality has increased as a result of the reforms. Quantitative evidence from New York suggests that high-stakes testing has harmed education achievement. First, fewer students, especially students of color and students with disabilities, are completing high school. From 1998 to 2000, the number of students dropping out increased by 17%. A recent report for the Harvard Center for Civil Rights concluded that New York now has the lowest graduation rate of any state for African-American (35%) and Latino/a (31%) students (Orfield *et al.*, 2004). In New York City only 38% of *all* students graduate on time, fifth worst of the 100 largest cities in the nation (Winter, 2004). According to another recent study, New York's graduation rate ranks 45th in the nation (Haney, 2003). The tests have also negatively affected English language learners, from being the highest diploma-earning minority in 1996 to the highest dropout minority in 2002 (Monk *et al.*, 2001). Lastly, dropouts among students with disabilities have increased from 7200 in 1996 to 9200 in 2001.

In New York, therefore, we have evidence that the standardized testing required under NCLB, which was to be more objective than teacher assessments, is highly politicized, poorly written and yields suspect results. Further, the percentage of students graduating from secondary school may be declining rather than improving, and the tests, by narrowing the curriculum through teaching to the test, may result in students learning less rather than more.

Texas, like New York, is another state that implemented the requirement of passing one or more standardized tests in order to graduate from high school and, as state where President Bush was previously governor, served as one of the models for NCLB.

In 1984 the Texas legislature mandated changes in the state-wide testing program, including, for the first time, making graduation contingent on students passing exams in English and math. In 1990, regulations were passed making high school graduation contingent on passing more difficult 'criterion-referenced' tests in math, reading and writing. Reading and math assessments were also added for grades 3 through 8. Moreover, the test scores and, for secondary schools, the percentage of students graduating, are used to hold schools and school districts accountable for students' learning, with schools rated for their performance. Schools that receive high ratings are eligible for cash awards and those that receive low ratings face sanctions, including possible closure (Haney, 2000). These exams, the Texas Assessment of Academic Skills (TAAS), were first fully implemented in 1994 under the administration of then governor George W. Bush.

McNeil (2000), in her study of several Houston schools that successfully educated low-income students of color, reveals how the emphasis on tests and test scores undermined exemplary schools and teachers. McNeil had originally aimed to understand what made the schools successful but during her research the Texas standardized testing requirements (TAAS) were implemented and, as a result, she documented how previously successful schools began to expect less of their students as they prepared them to pass the more basic skills required on the tests. Rather than, for example, teaching students to write well, teachers taught students to write the five-paragraph essay, with five sentences in each paragraph, that would earn students passing grades on the standardized tests. Because culturally advantaged middle-class and upper-class students are likely to rely on their cultural capital to pass the exams, it is disadvantaged students who receive the additional drilling. Unfortunately, learning to write five-sentence, five-paragraph essays does not transfer well to literacy required beyond the test and outside of school. By expecting less of disadvantaged students, they fall further behind.

But lowered expectations are not the only problem. Schools emphasizing test preparation are likely to devote most of their curriculum budget to test-prep materials rather than the enriched resources students need. Further, schools, in focusing on test preparation, are likely to reduce or eliminate subjects that are not being tested, including the arts and sciences. In Texas, because science is not tested in the early grades, it is rarely taught.

Lastly, rather than ensuring that more students do well, the pressure to raise test scores encourages schools to force weak students out of school before they take the required exam. In Texas, urban students are more likely to be retained in school, especially in ninth grade, the year before the required TAAS exam is first given. Students who are repeatedly retained are likely to give up and drop out of school. Haney (2000), in his study of the Texas education reforms, concludes that for the year 1996–97, 17.8% of students were being retained in ninth grade (24.2% of

African-American and 25.9% of Hispanic students) and that only 57.57% of African-American and 52.11% of Hispanic ninth-grade students were in twelfth grade four years later (Haney, 2000, Part 5, pp. 8–9).

Moreover, schools in Texas face a double-edge sword: They need to raise test scores but face possible sanctions for high dropout rates. Rodney Paige, as superintendent of the Houston Independent School District (and later chosen to be President Bush's first Secretary of Education), resolved this dilemma by ordering principals to not list a student as dropping out but as having left for another school or some reason other than dropping out. Such creative book-keeping resulted in the district claiming a greatly reduced dropout rate of 1.5% in 2001–02 and winning a national award for excellence (Schemo, 2003; Winerip, 2003b).

Eventually critics claimed that the dropout rate was covered up and research has revealed the rate to be much higher. Robert Kimball, assistant principal at one of the Houston high schools, raised questions when his school amazingly reported no dropouts even though their freshman class of 1000 dwindled to 300 by the senior year. A subsequent state investigation into 16 high schools revealed that of 5000 students who left school, 2999 students should have been reported as dropouts and were not (Winerip, 2003b). Significantly, Kimball adds, 'Almost all of the students that were being pushed out were at-risk students and minorities' (Capello, 2004).

States other than Texas have also responded to the pressure to raise test scores by pushing students out of school. In New York City, students are being pushed out of schools to raise test scores and, then, rather than being counted as dropouts, they are listed as having transferred to an alternative school or working on a Graduate Equivalency Diploma (Lewin & Medina, 2003, p. A1), a diploma achieved not by attending school but by passing an exam. Other analysts have described how 'school officials are encouraging students to leave regular high school programs even though they are of school age or have a right to receive appropriate literacy, support, and educational services through the public schools' (Gotbaum, 2002, p. A1).

Given what the above research tells us about the processes of schooling when systems of testing and accountability are created—the curriculum is narrowed and simplified, students who score low on tests are abandoned, poorly constructed tests lead to mass failures and students are pushed out of schools—it should not be surprising that the achievement gap is growing larger rather than smaller.

The quantitative evidence from Texas is contradictory and contested. The state reports that the mean student test scores and percentage passing the TAAS exam have increased, the differences between the mean test scores for White, African-American and Hispanic students have decreased and school dropout rates have declined. Consequently, proponents assert that testing and accountability has increased education achievement.

However, Haney (2000) investigated the Texas data and revealed how the higher test scores were achieved. First, while students who are in special education must take the TAAS, their scores are not included in those reported by the school. Therefore, if students whose scores might negatively affect the school's overall score can be excluded by placing the student into special education, we might expect, after TAAS

was implemented, the percentage of students in special education to increase. Haney shows that for the first four years in which TAAS was implemented, the percentage of special education students increased from 4.5 to 7.1%.

A second way to increase test scores is to retain students in grades previous to tenth grade, the grade in which students first take the TAAS, providing students another year to prepare for the test. Haney's data reveal that the retention rate for previous grades has increased significantly, particularly for ninth grade. In 1996–97 25.9% of Hispanic, 24.2% of African-American and 17.8% of White students were retained in ninth grade. Of course, grade retention also increases the likelihood that a student will drop out of school.

Rather than relying on the dropout rate reported by schools and school districts, Haney compared the percentage of students in ninth grade with the number of students in twelfth grade four years later. His data reveal, not surprisingly given what we now know about how the Houston Independent School District dropout rate was covered up, that there has been a significant increase in the dropout rate in Texas.

Therefore, Haney (2000) concludes, the Texas 'miracle' was really the Texas 'mirage.' Test scores have increased because students are increasingly likely to be retained in previous grades or have become so discouraged that they quit school altogether. Further, other students have been placed in special education so that their lower scores would not be included in the reported scores. In Texas, schools have raised test scores by retaining students or removing them from the pool of test takers. Rather than increasing education achievement, fewer students have the opportunity to receive an education.

Even as schools have manipulated the scores by limiting who takes the exams, the higher average score may only mean that the students are performing better on the tests, not that they are learning more. While students' scores on the TAAS exam have been increasing, their scores on nationally administered tests, such as university admissions exams, have been decreasing. Researchers investigating explained:

The discrepancy in performance has a lot to do with the differences in the tests. TAAS was designed to make sure that students learned at least the basics of the state curriculum. The [university admissions tests], on the other hand, assess students on advanced academic skills needed for college. (Markley, 2004)

Kozol (2005), in his visits to urban schools around the United States, depicts how students of color and those living in poverty receive an education that few middle-class and upper-class families would allow their children to receive. One of the outcomes of NCLB is the focus by 'failing' school districts to increase students' test scores by any means necessary. Kozol describes the implementation of 'the ordering regime' (p. 63) in which students are subjected to behaviorist approaches to teaching and learning, approaches 'commonly employed in penal institutions and drug-rehabilitation programs, as a way of altering the attitudes and learning styles of Black and Hispanic children' (p. 65).

In one primary school:

silent lunches had been instituted in the cafeteria and, on days when children misbehaved, silent recess had been introduced as well. On those days, the students were obliged to stay indoors and sit in rows and maintain silence in a small room. (p. 65)

The same school instituted ‘Success For All,’ a highly regimented program in which students are tightly controlled, cannot initiate but only respond to teachers’ questions, have little opportunity for creativity or laughter and have as their sole aim achieving proficiency on the state standardized tests, to become a Level 3 or 4. Kozol (2005) describes a school assembly in which the principal acknowledged students’ achievements. Kozol states:

‘Level Fours, please raise your hands,’ the principal requested...In front of nearly all their schoolmates, those very few who were described as ‘Level Fours’ lifted their arms and were accorded dutiful applause. ‘Level Threes, please raise your hands...’ the principal went on, and they too were rewarded with applause. ‘Level twos...’ she asked, and they were given some applause as well. What lesser portion of applause, one had to wonder, would be given to the Level Ones, who were the children reading at rock bottom? The Level Ones, as it turned out, received no applause at all. (p. 73)

Most grown-ups can remember moments...when a principal might draw attention to the students who had received good grades.... Few principals, however, would have shamed the children who had managed to come up with only C’s and D’s—nor, in my memory at least, did principals address us by our letter-grades or numbers. (p. 74)

Kozol’s (2005) description mirrors my own experiences visiting classrooms for students of color in urban schools. Educators assume that students must be tightly controlled, given no choices and must only do what they are told. Often, respect for students’ intelligence, creativity and human individuality completely disappears. The same kind of pedagogy would not only not be tolerated in middle-class and upper-class schools, it would not be contemplated. ‘We have,’ writes Kozol, ‘an educational apartheid system with one method of instruction for poor kids and another for middle-class kids’ (p. 87). Poor students get drill and kill; other students (within the limits of the federal testing regime) more challenging curriculum. Kozol concludes: ‘The rich get richer, and the poor get *SFA* [Success For All]’ (p. 86).

As NCLB comes up for reauthorization, supporters assert that it is achieving its goal of improving student learning and closing the achievement gap. However, as I have shown above based on evidence from New York and Texas, those improved achievement claims for NCLB seem untenable. Still, the Department of Education claims that NCLB has been successful. In April 2006, the current Secretary of Education, Margaret Spellings, stated: ‘This law is helping us learn what works in our schools. And clearly, high standards and accountability are working. Over the last five years, our 9-year-olds have made more progress in reading than in the previous 28 combined’ (US Department of Education, 2006a). Spellings cites NAEP (the nationally administered standardized tests given to samples of students in every state) test scores showing a 7% gain from the period of 1999–2004 to support her claim. In response, critics such as Bracey (2006) point out that no NAEP data were gathered

in the first two years of NCLB and that NCLB was in effect for a little more than a year before the 2004 testing, hardly enough time to take credit for all of the increase in the reading test scores for nine-year-olds in that time span. Further, if the 2004 scores are compared to 1980, the increase is only 4%. Spellings also chose to compare the 2004 test scores to a previous low point (1999). Furthermore, she only refers to the gains in test scores for nine-year-olds, omitting that in the same period there was no gain for 12-year-olds and a decline of three points for 17-year-olds (Bracey, 2006, pp. 151–152).

NCLB not only has failed to deliver on its claim that standardized tests, accountability, privatized tutoring services (tutoring was previously provided by public schools) and privatizing education would increase students' test scores at a faster rate than previous to NCLB, but it has also failed to deliver on its second stated goal: closing the achievement gap between White and African-American and Hispanic students. A recent study by the Harvard Civil Rights Project examined reading and math results by race on the NAEP before and after the implementation of NCLB (Lee, 2006). In the Foreword to the study, Orfield (2006) summarizes the study as concluding that under NCLB:

neither a significant rise in achievement, nor closure of the racial achievement gaps is being achieved. Small early gains in math have reverted to the preexisting pattern. If that is true, all the pressure and sanctions have, so far, been in vain or even counterproductive.... On the issue of closing the gap for minority and poor children, a central goal of NCLB, there are also no significant changes since NCLB was enacted. (pp. 5–6)

Shifting the blame

As I have described above, NCLB has been implemented and continues to receive support even though ample evidence exists to suggest that it is a failed policy. NCLB survives in part because it is presented as necessary within an increasingly globalized and competitive economy, as providing the assessments and accountability required to improve schools, and as improving students' education and closing the achievement gap. I have questioned elsewhere the linkage between educational reform and global economic competition (see Hursh, 2004, 2005) and have shown above how it fails to provide the promised improvements in assessments and learning.

In considering the implications NCLB has for educational equality, we should also include the way in which neoliberal solutions like NCLB, with its emphasis on efficiency and individualism, divert attention away from the social issues that need to be solved if we are to really improve education outcomes and close the achievement gap. Neoliberal governments, such as in the United States, desire to reduce public funding for education and other social services and, where possible, privatize social services and submit them to market pressures. However, in order to retain their legitimacy governments do not want to appear unresponsive to social needs. Therefore, policies like NCLB assist neoliberal governments in achieving two aims.

First, by focusing on schools and blaming teachers for students' failures, as the Bush administration has, NCLB diverts citizens' attention away from other problems

that they rightly desire the government to fix: lack of decent paying jobs, housing, public transportation and health care. NCLB shifts the blame for increasing economic inequality away from the decisions made by corporations and politicians and on to the education system, what Apple (2001) calls ‘exporting the blame’ (p. 39). Second, because these policies have framed schools as the root of the problem, they appear, by proposing reforms, to be doing something about social problems. To cite Apple (1996) again, ‘governments must be seen as doing something.... Reforming education is not only widely acceptable and relatively unthreatening, but just as crucially, its success or failure will not be obvious in the short term’ (p. 88).

NCLB, therefore, both directly and indirectly exacerbates racial, ethnic and economic inequality in society. Directly, as I have shown, NCLB has failed to produce increased student learning and to close the achievement gap. Moreover, because urban school curriculum is increasingly likely to focus on test preparation and basic skills, marginalizing the students’ culture and interests, and students may be retained in grade or forced out of school in order to increase the percentage of students passing the standardized exams, students are less rather than more likely to graduate from secondary school. NCLB indirectly exacerbates inequality as it diverts attention from solving the real problems we must solve if we are to improve student learning: poverty, lack of decent paying jobs, housing and health care. As Anyon (2005) writes:

low achieving urban schools are not primarily a consequence of failed education policy, as mainstream analysts and public policies typically imply. Failing public schools in cities are, rather, a logical consequence of the US macroeconomy—and the federal and regional policies and practices that support it. (p. 2)

NCLB not only fails to live up to its promises, but also diverts our attention from creating schools capable of educating students who do not come from a middle-class background. Instead of focusing on how to create schools that engage students and assess them on multiple dimensions, teachers are increasingly pressured to teach toward the test, tests that are often poorly constructed and demand little critical thinking from students. Furthermore, by shifting the blame for social inequities onto schooling and, therefore, diverting attention away from issues of jobs, housing and health care, NCLB may be serving its real and not stated aim of undermining our ability to fulfill the promise of a democratic and equal society.

Note

1. NCLB passed in the house 381–41 and in the Senate 87–10.

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