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The No Child Left Behind Act of 2001: An overview of resources

Mildred Arencibia

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Professor T. Gilman

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The benefits of a sound education are plenty. At their simplest, well-educated Americans are said to earn more in wages, vote more frequently, experience better health, and contribute more to our nation's global competitiveness. However, for years Americans have learned that the quality of our public education lags woefully behind that of many other nations. In order to address this problem the federal government has commissioned studies, ordered reports, and at times implemented specific legislation.

On January 8, 2002 President George W. Bush signed the No Child Left Behind Act of 2001 (NCLB), thus creating Public Law 107-110 (West, 1992). The law reaffirms the Elementary and Secondary Education Act of 1965 (ESEA) and aims to improve the performance of United States primary and secondary schools by establishing measurement goals and increasing accountability standards at all levels (i.e. state, school district, and school). NCLB does not assert a national achievement standard because this would be in direct conflict with the Tenth Amendment to the United States (U. S.) Constitution which specifies that powers not granted to the federal government nor forbidden to state governments are reserved powers of the individual states. Accordingly, NCLB requires states to develop their own skills assessments and administer them to students if those states are to receive federal funding for schools.

Government literature abounds with information about NCLB. The easiest way to quickly become acquainted with it and its legislative history is to consult THOMAS, the Library of Congress free online research service. As the source for federal legislative information it contains public laws, bills, and resolutions, congressional activity and calendars, treaties, voting records, presidential nominations and links to many other government information resources. The coverage for many of these features spans from the 93<sup>rd</sup> Congress (1973) through the current

Congress. Information for the current Congress is posted within one legislative day of taking place. The most effective way of conducting a search for NCLB is to input “P.L. 107-100” in the public laws search box after selecting Congress 107. Doing so takes the user to the legislative history of the act. Alternatively, a search by keywords such as “no child left behind act of 2001” is less helpful as it yields more than 1000 results. Sifting through this list can be compared to looking for a needle in a haystack. THOMAS legislative history on the act is thorough and very informative containing all the stages of the bill from introduction to implementation. Here the researcher is able to read in detail the entire text of the legislation and amendments as well as all the Congressional actions pertaining to the act’s passage through both houses including committee actions, reports, debates, and voting. The legislative history reveals that this piece of legislation was introduced in the House of Representatives by John A. Boehner on March 22, 2001 as bill H.R. 1 with title To Close the Achievement Gap with Accountability, Flexibility, and Choice, so that no Child is Left Behind. After clearing both houses the bill was finally presented to the President on January 4, 2002 (H.R. 1, 1992).

Although THOMAS is a great resource offering valuable information it requires a bit of sleuthing to locate and analyze the different amendments associated with this act. A person would have to read through the full text of each action to discern what exactly is being changed or corrected. If time constraints exist, the researcher is better served by using a different resource such as GovTrack which is a non-partisan and non-affiliated website with the lofty goal of providing comprehensive legislative tracking for citizens in an easy to follow format (GovTrack, 2008). The information found here is entirely derived and summarized primarily from THOMAS and the Congressional Research Service, albeit in a much more user friendly format. For

example, the overview page for NCLB offers a visual snapshot of the bill's status, main congressional actions, and voting records for each stage of the process. The summary page lists the full text of the law, and the amendments page lists and summarizes all 28 amendments associated with NCLB. Although not a resource that is officially endorsed by the U.S. government, it is entirely based on published federal government information and thus has been included in the governmental resources section of this paper.

NCLB had no lack of spirited congressional action. Both supporters and detractors skipped giving impassioned angry arguments in favor of engaging in intelligent reasoning and debating about the current state of the nation's education as well as all the possible ramifications and consequences of implementing NCLB. The Congressional Record (CR) in the Government Printing Office's (GPO) website offers the transcriptions of the floor speeches and voting surrounding the passing of NCLB in both houses. Sifting through them requires a bit of patience and plenty of time but researchers will come away with valuable information such as being able to determine the standing and voting of their own representatives on the issue at hand.

This particular bill enjoyed bipartisan support from the majority of representatives and senators. The House of Representative's literature available in CR has a great collection of lively debates. Representative Dale Kildee of Michigan said "(...) in a time when we are in an increasingly competitive world, we can no longer tolerate low-performing schools that place the education of our children at risk. Very simply, this means providing additional resources and intervention to help students in those low-performing schools reach high standards. If schools are still failing after substantive intervention, then consequences must indeed exist" (Congressional Record [CR], 2001) where he alluded to and expressed support for the federal funding conditions

embedded in the bill. Notwithstanding the overwhelming support for the legislation, the bill had some detractors as well. For example Representative Ron Kind of Wisconsin also expressed his concerns of the bill not being a perfect one as he pointed out that the bill did not provide enough resources for school districts to develop and implement standardized tests and remediation for students, as well as Congress' failure to fully fund special education (CR, 2001).

Overall, the majority of congressional action experienced by this bill occurred at the House of Representatives. When it was first received in the Senate, as both THOMAS and the Congressional Record reveal, NCLB was quickly read, reported and voted on (Yea 91-Nay 8), amended, and sent back to the House for approval all in the course of one month. The amendment mainly pertained to extending programs and activities under ESEA. The House did not agree with the amendment sparking several months of reporting and conferencing between the two houses. Finally, on December 18, 2001 the bill was cleared for the White House.

On January 8, 2002 President George W. Bush signed the bill into law. He did so during a public address at Hamilton High School in Hamilton, Ohio. In speaking about the value of NCLB he said “(...) first principle is accountability. (...) If we want to make sure no child is left behind, every child must learn to read. And every child must learn to add and subtract. So in return for federal dollars, we are asking states to design accountability systems to show parents and teachers whether or not children can read and write and add and subtract in grades three through eight” (Bush, 2002, ¶ 16). He also remarked “(...) the fundamental principle of this bill is that every child can learn, we expect every child to learn, and you must show us whether or not every child is learning” (Bush, 2002, ¶ 17). After the bill signing ceremony, on January 28, 2002, the Office of the Federal Register from the National Archives and Records Administration

prepared the corresponding slip law with explanatory details and assigned it number 115 Stat. 1425 for publication in the Statutes at Large, the permanent collection of all laws enacted during each session of Congress (Office of the Federal Register, 2002). The United States Code available online from the GPO website only contains laws enacted from 1994 forward so in order to locate a copy of the NCLB slip law, the researcher must resort to other methods such as performing a search in a browser. In this particular case the slip law as printed can be found in the web site for the State of Montana's Office of Public Instruction (2002).

The U.S. Department of Education's web page on NCLB seems to cover it extensively if judging by the sheer volume of links and sections available. In spite of this, it does not cover any of the controversy surrounding NCLB. Instead, the information is limited to rehashing the content found in THOMAS and GPO. It offers, in other words, NCLB's officially approved information and language albeit in a more organized manner. It also contains helpful sections on frequently asked questions and resources in Spanish language (U.S. Department of Education, 2007).

Government resources serve to give the researcher a good basic understanding of what NCLB is about. However, for deeper comprehension of the origins, debate, and consequences of its passage one must turn to non-government sources of information as well. Whether consulting printed resources, fee-based databases or Internet search engines such as Google, the researcher is bound to come across a large and comprehensive amount of information on NCLB. It is important to mention that users can gain free access to a large number of fee-based databases through their local libraries.

Searching the local library's holdings for resources on NCLB's origins yields at least 30 books resources. One of them in particular by Spring (1998) provides a thorough overview of how this law came to be. NCLB represented the culmination of a history of federal government involvement in the betterment of the nation's education. The context for this involvement was set in 1965 when Congress passed the ESEA legislation at the urge of President Lyndon B. Johnson who wanted to make education a top priority of his administration in the belief that nothing mattered more to the future and international success of the country than the education of its citizens. For the first time large amounts of federal money went to public schools with emphasis on funding programs for minorities and the economically deprived. Despite its good intentions ESEA did not make a significant improvement, as evidenced with SAT scores consistently declining from 1963 to 1980 (National Center for Education Statistics, 2007). In 1983, President Reagan's National Commission on Excellence in Education released *A Nation at risk: The imperative for educational reform*, a publication widely considered a landmark event in the nation's educational history (National Commission on Excellence in Education, 1983). The purpose of the commission was to discover the major flaws and provide solutions to these problems in American education. The report found poor academic performance at nearly every level and warned that the education system was "being eroded by a rising tide of mediocrity" (Toppo, 2008, ¶ 2). This report single-handedly jump started decades of congressional action and reforms that culminated with the passage of NCLB.

To understand the debate around NCLB, it is useful to consult peer reviewed publications and reports authored, preferably, by organizations with no political affiliations. For example, a search for the terms "no child left behind" in Academic Search Premier/EBSCO Host, a fee-

based database, yielded upwards of 2000 magazine and peer reviewed articles on the subject. These add quite a bit of color to the controversies surrounding the bill. One of the first organizations to take a stab at dissecting the current policy was the University of California at Los Angeles's (UCLA) National Center for Research on Evaluation, Standards, and Student Testing (CRESST). In a policy brief entitled *Fixing the NCLB Accountability System* (Linn, R., 2005) it asserted that the "most serious problem is that the NCLB expectations for student achievement have been set unrealistically high, requiring that by the year 2014, 100% of students must reach the proficient level or above in math and reading. Based on current improvement levels and without major changes in the definition of adequate yearly progress (AYP), almost all schools will fail to meet NCLB requirements within the next few years" (Linn, R., 2005, p. 2). It further concluded that first and foremost the Act should focus on setting realistic performance targets (Linn, R., 2005, p. 8).

Another article by Lee (2006) for the Civil Rights Project at Harvard University entitled *Tracking achievement gaps and assessing the impact of NCLB on the gaps: An in-depth look into national and State reading and math outcome trends* said that since its inception NCLB had not had a discernible impact on improving reading and math achievement across the nation and, more tellingly, had not narrowed the achievement gap whatsoever. Shortly after, the Center on Education Policy (CEP), a national, independent research organization, and advocate for public education and for more effective public schools, published a report in October of 2006. It represented the culmination of 4 years of in depth research on government reports, sample school surveys, and general NCLB implementation. The report was titled *Ten big effects of the No Child Left Behind Act on public schools* and written by Jennings & Stark Rentner (2006). It praised

NCLB for increasing testing and accountability, for aiming to pay attention to low-performing schools, and for scrutinizing teacher qualifications more closely. However, it also concluded that certain provisions of the Act needed to be rewritten or eliminated. For instance, testing for students with disabilities or those learning English had to be reworked if they were expected to accurately measure learning for these kind of students. Also, it contended, offering a different choice of school for students with learning disabilities simply shuffled the problem to another district with little evidence of raising students' achievement. Further than just offer their own interpretation of the NCLB, the CEP had based their report on hard evidence obtained from school surveys and government reports such as a note from the DOE evidencing the enormous administrative burden of NCLB where states and schools were expected to spend 6 million hours and \$135.9 million to comply with the paperwork requirements of NCLB in just 2007 (Jennings & Stark Rentner, 2006); this compiled from a notice published by the U.S. Department of Education in the Federal Register on October 19, 2006. This report proved instrumental in giving the public concrete feedback on the effects of law up until that point and helped push for a Congress overhaul of NCLB.

Newspaper articles can also offer interesting insights into the NCLB. A search for related news in the Proquest database yielded some interesting ones. One by U.S. News & World Report profiles educator Kati Haycock, director of the Washington-based Education Trust and the key architect of the NCLB Act. The article explores Haycock's Latino roots and upbringing in a Hispanic neighborhood of Los Angeles where she reveals that "(...) many teachers didn't expect much academically from Latino students. The only class I had in common with other Latinos was physical education." According to Haycock this stemmed in part by the school officials'

preconceived notions of race and heritage based on her physical appearance which took after her German mother's green eyes and blond hair and after her Hispanic father's dark complexion. This fact of nature, she says, influenced her placement in advanced classes with mostly Anglo Saxon kids while other Latino students were grouped in classes that did not receive a quality education like hers (Boser, 2003). Jane Gordon from The New York Times reports in an article that 3 different towns in Connecticut reacted to the law's passage by turning down a total of \$133,000 in federal aid in return for not enforcing the NCLB mandates. David Cressy, superintendent of the town of Cheshire was quoted by Gordon (2003, p. 1) as saying during their interview "No Child Left Behind requires that we test, test, test in every grade from 2 to 10. 'If you don't improve they hit you over the head, they take away money, they reconstitute the school. It's kind of like the doctor who takes your temperature more often as a way to cure the problem, rather than help you get healthier. NCLB is a bureaucratic nightmare."

Citizens and advocacy groups were not the only ones aware of the controversy. On January 6, 2006, Jody Feder, a legislative attorney for the Congressional research Service (CRS), submitted a report to Congress entitled *Military recruitment provisions under the No Child Left Behind Act: A legal analysis*. It explored the connotations of amending the bill's provisions that required high schools receiving federal funds under NCLB to provide student contact information to military recruiters upon request and to allow recruiters to have the same access to students as employers and colleges. At least one bill had been introduced in Congress at the time that threatened to cancel this provision. This single clause in the law had sparked such a strong response that a flurry of websites were created overnight urging parents to opt their children names out of the contact lists given to military recruiters.

In 2007 NCLB was up for reauthorization. Disapproval from both political parties made its future uncertain. That year saw an increase on the debate about the bill. The *Joint organizational statement on No Child Left Behind (NCLB) Act* is a proposal by more than 144 national civil rights, education, disability advocacy, civic, labor and religious groups that signed on to a statement calling for major changes to the federal education law (National Center for Fair and Open Testing, 2008). The statement proposes several reforms to progress measurements, assessments, building capacity, sanctions, and funding.

It seems apparent that NCLB, though ambitious and conceived in good faith, must be considerably reworked if it is to affect public education in the positive manner it was intended to. Current developments can be found by doing a search in Google by using Boolean search terms “no child left behind” AND “recent developments.” The most valuable resources point to interest groups and their advocacy efforts concerning the legislation. Take for example, the California Teachers Association (CTA), who asserts that both ESEA and NCLB are severely under-funded by Congress contending that this translates into an inability to hire qualified teachers that can bring the schools’ educational level to the standards mandated by the government which creates a self-fulfilling prophecy of failure, lack of compliance, and further funding cuts. The CTA’s webpage also contains well presented arguments, and direct testimony from California teachers attesting to the problems they have encountered when trying to implement the tenets of the law (California Teachers Association, 2007).

The National Education Association’s (NEA) website offers a veritable collection of resources on the legislation complete with points of view, congressional actions, school and teachers’ feedback, public opinion, and the NEA’s activism on the subject. In January 8, 2007

the NEA published a report entitled *NCLB/ESEA It's time for a change! Voices from America's classrooms* which offered first-person accounts by educators about how NCLB was not effective in promoting teaching and learning and concluding it was time for an overhaul of the law. Among the major issues were the contentions that teachers were spending more time doing paperwork to comply with the law and less time helping students learn, Congress' funding for NCLB had been shortchanged \$50B since the law's enactment, and the law setting unrealistic expectations for closing the achievement gap. The NEA is an excellent starting point to finding all kind of resources about the NCLB legislation. Although a lot of it seems to be biased towards their particular interests of overhauling the law, the links contained herein are nonetheless highly qualitative opinion pieces, reports, facts, and debates. Unlike the Department of Education's website, the NEA's has a wealth of information that is constantly being updated.

Prominently featured in the NEA website, but strangely hard to find in CR, there is an official letter signed by several members of Congress. Its subject: a complete overhauling of NCLB. On February 15, 2007, 10 U.S. Senators led by Russ Feingold, the Democratic Senator for Wisconsin, declared their support for significantly overhauling NCLB's testing mandates in an open letter to the Senate Health, Education, Labor, and Pensions (HELP) Committee chaired by Sen. Ted Kennedy. In the letter they stated "(...) while we all agree that states and districts should be held accountable for academic outcomes and continue working toward closing the achievement gap among their students, federal education law should not take the form of a one-size-fits-all, cookie-cutter approach" (NEA, 2007, ¶ 6). The senators also expressed a slew of other concerns ranging from the cuts in federal funding for education, to instituting proper and effective accountability models, to tailoring of the programs according to school districts' size

and composition, and offering supportive intervention for struggling schools. Today reauthorization of NCLB is stalled in Congress, most likely awaiting for the results of the November 2008 elections.

The research for this paper yielded an enormous amount of literature on the NCLB and the topic of federal government involvement in our educational history. Some of what it published is biased but a bit of digging through all the information yields valuable information as well. There are several neutral nuggets of information on NCLB designed mainly to provide historical background on NCLB or relay facts about the implications of the act. A survey of all the literature available on NCLB pointed to a significant finding. Most of the information published in official government sources supports NCLB whereas the majority of information available elsewhere, including advocacy groups, the press, organizations, citizens, and school staff, mostly opposes it. What these conflicting points of view suggest is a fundamental disconnect between the government and the public which definitely colors the information that available. The lesson learned is that when researching controversial legislation one should consult both types of resources in order to get a complete and accurate picture.

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