

In: Christopher T. Cross. 2004.
Political Education: National Policy
Comes of Age. NY: Teachers College Press

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Leaving No Child Behind

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CANDIDATE GEORGE W. BUSH made education a top priority during the 2000 presidential campaign. On the stump, Bush frequently promised that his education reforms would leave no child behind and would defeat what he called the soft bigotry of low expectations. Those two campaign themes illustrated how concerns over racial and educational equality, which animated the first ESEA of 1965, would continue to influence the education debates of 2001.

PRESIDENT-ELECT BUSH AND THE TRANSITION

President-elect Bush hoped to emerge from his transition and present an education reform plan almost immediately after taking office. To lay the groundwork for that effort, Bush and his transition team courted three key constituencies between November 2000 and January 2001.

First were members of Congress. Bush outlined his education vision with Republicans and Democrats at a transition meeting in the Texas governor's mansion. At the urging of Republican representative John Boehner of Ohio, chair of the Education and the Workforce Committee and Bush's key lieutenant on education in the House, the president included at this meeting the ranking Democrat of Boehner's committee, Representative George Miller of California. That olive branch proved valuable for the

president because Miller found Bush sincere and persuasive. The Texas meeting did include Republican senator James Jeffords of Vermont, chair of the Health, Education, Labor, and Pensions (HELP) Committee, but it omitted Democratic Senator Edward Kennedy of Massachusetts, the committee's ranking Democrat. Bush did, however, invite Kennedy to the White House to discuss education the day before Bush announced his plan (Gorman, 2001b; Oppel & Schemo, 2000).

Recognizing that the success of his vision depended significantly on implementation efforts beyond Washington, Bush also courted state officials during the transition. Shortly after New Year's Day, the president-elect convened 19 Republican governors at his Texas ranch. At that meeting, Bush articulated his view that annual testing was required of any reform plan that promised to leave no child behind. Bush promised states greater flexibility with federal dollars, which he believed would ameliorate concerns that he was taking a top-down approach to reforming the ESEA. The new president held a similar meeting with Republican and Democratic governors shortly after taking office (Gorman, 2001a; Salzer, 2001).

The business community was the final group that Bush consulted between November and January. The president-elect's meetings included several members of the Business Roundtable, a group of chief executive officers from some of the largest companies in the United States. Encouraged by the president's attention to education, corporate leaders at Intel and Texas Instruments sought advice from Milton Goldberg, executive vice president of the National Alliance of Business and former executive director of the commission that produced *A Nation at Risk*. Those initial conversations with Goldberg spawned the Business Coalition for Excellence in Education, an ad hoc organization formed explicitly to influence the shape of the next ESEA, but not simply to cheerlead for Bush's (or anyone's) particular approach.

PRESIDENT BUSH ANNOUNCES HIS PLAN

Bush named his plan to reauthorize the ESEA the No Child Left Behind Act, a title that observers noted mirrored the slogan of the Children's Defense Fund. He presented it at a press conference on January 23, three days after his inauguration, and offered some of the traditional rationales that had justified past federal efforts in education. An argument for educational equity played prominently. "We must confront the scandal of illiteracy in America, seen most clearly in high-poverty schools, where nearly 70 percent of fourth-graders are unable to read at a basic level," he said (Federal News Service, 2001, p. A14).

Bush simultaneously stressed the need for all students, no matter what their backgrounds or racial heritage, to achieve at high levels. Educational excellence in math and science, "the very subjects most likely to affect our future competitiveness," required reforms to "focus the spending of federal tax dollars on things that work" (Federal News Service, 2001, p. A14).

In his relatively short speech, Bush also mapped out some important political ground. He stressed the need for bipartisanship, and in a line that no doubt made some conservatives flinch, the president noted that "change will not come by disdaining or dismantling the federal role in education" (Federal News Service, 2001, p. A14).

Substantively, the plan that Bush and incoming Secretary of Education Rod Paige, former Houston superintendent of schools, presented was a 30-page blueprint that embraced four main principles centered on testing, flexibility, assisting failing schools, and choice. The first principle required annual testing in reading and math for students in grades 3 through 8. This would become the only nonnegotiable part of the plan. Two days later, the president called annual testing "the cornerstone of reform" (Blum, 2001). In February, Bush's key White House education advisor, Sandy Kress, a fellow Texan and a member of the centrist New Democrats, stated that testing is "central to the President's thinking. . . . His interest in, and support for, all the other initiatives depends on this particular reform being approved" (Gorman, 2001b, p. 549).

The second principle—providing greater flexibility to state and local leaders to innovate—meant shifting authority and accountability to the local level so that schools could not blame their failings on distant educational bureaucracies. If federal money came with fewer strings attached, the plan argued, then the people closest to children and classrooms would have a better chance to improve learning.

The third and fourth principles concerned failing schools. Bush recognized that some schools faced difficult circumstances, and therefore needed additional help (principle three). He promised to provide that assistance, but not as a blank check, and he noted that children should not remain trapped in schools that do not work. To provide an out, Bush proposed that parents whose children attended schools that did not improve should be able to choose their children's schools through vouchers, which would provide greater public and private school choice (principle four).

NAVIGATING THE THICKET OF THE LEGISLATIVE PROCESS

During his first week as president, Bush maintained that bipartisan education reform would be "the cornerstone of my administration" (Fletcher,

2001a, p. A21). Still, it was not a foregone conclusion that Congress would pass a bill by session's end that the president would sign. The legislative process that eventually produced the No Child Left Behind Act of 2001 was characterized by four distinct themes that emerged nearly every step of the way.

Theme 1: Bush and Boehner Tame the GOP's Right Flank

President Bush and his congressional lieutenants faced terrific challenges from Republican conservatives, who were wary of a greater federal role in education. Conservatives remained committed to key goals, such as expanded federal block grants and greater school choice options for parents. From the beginning of the 107th Congress, it was clear that conservative legislators would not accept the president's plan blindly, or with too much compromise. This opposition created headaches for President Bush because of his willingness to give on school vouchers and block grants in exchange for securing the testing and accountability provisions that he favored strongly.

On vouchers, Bush made it clear that he supported them but would also consider other ideas, especially if it meant preserving a bipartisan coalition for his overall plan. In his first weekly radio address, Bush conceded that "there are some honest differences of opinion in Congress about what form these [parental school choice] option[s] should take. I have my own plan which would help children in persistently failing schools to go to another public, private, or charter school. Others suggest different approaches, and I am willing to listen."

Despite the president's general support for choice, conservatives, including several groups representing religious educators, felt betrayed when the House education committee voted to remove vouchers from the bill. (To avoid this scenario in the Senate, HELP Committee Chair Jeffords and Kennedy agreed to put off debate of the most controversial provisions in the bill for the Senate floor.) Republican representative Bob Schaffer of Colorado argued that "without the ability to exercise real accountability, real choice, this testing is nonsense" (Alvarez, 2001a, p. A21), while Republican Representative Peter Hoekstra of Michigan concluded glibly: "This is no longer a George Bush education bill. This is a Ted Kennedy education bill" (Alvarez, 2001b, p. A15).

Voucher supporters fared no better on the floors of each chamber. On May 23 in the House, Texas Republican and Majority Leader Dick Armey's amendment to provide private school choice for students who attend low-performing public schools failed 155 to 273. When Republican senator Judd Gregg of New Hampshire offered an amendment in the Senate on

June 12 to create a low-income school voucher demonstration program, it failed 41 to 58.

Both the Senate and House bills and the conference report that eventually became law did, however, contain a provision that allowed parents whose children attended persistently failing schools to use a portion of their school's Title I money to buy tutoring or other services from public, private, or nonprofit providers. For conservatives who favored greater parental choice, however, that was a hollow victory at best.

A similar trajectory of debate and eventual conservative compromise emerged regarding the Straight A's proposal for block grants. Republican representative Jim DeMint of South Carolina, who twice voted against the education bill (once in the House education committee, and once on the House floor) before finally voting for the conference report, personified this process. During 2001, DeMint was strongly committed to the Straight A's approach, which would have converted to block grants much of federal education aid. He pressed the issue in committee but lost the debate to moderates and Bush's Republican allies.

When DeMint threatened to refight this battle on the House floor, Chair Boehner and President Bush personally intervened to avert a political melee that they feared would have rocked the bipartisan spirit that still prevailed as of late spring. Not wanting to cross his president, DeMint relented, and was satisfied with Bush's promise to fight for other issues, such as tuition tax credits. In the end, DeMint and his allies were pleased that the conference report did contain a version of Straight A's, albeit in a much more stripped-down form than he and other conservatives had proposed.

Even though some Republicans loathed growing federal involvement in the nation's schools, these critics could not complain about the political success on education that Bush had helped the Republicans achieve. In May 2001, for example, Senator Mitch McConnell reminded his fellow Republicans that Bush "has taken us for [*sic*] a 20-point deficit on education to a point in which we lead on education" (Alvarez, 2001b, p. A15).

In the end, 188 House Republicans voted for the No Child Left Behind conference report, while only 33, including Republican majority whip Tom DeLay of Texas, opposed it. The Senate had only three Republican defectors: Robert Bennett of Utah, Chuck Hagel of Nebraska, and George Voinovich of Ohio.

Theme 2: Centrist Democrats Play Key Roles

On the other side of the aisle, a cadre of New Democrats, a centrist group within the Democratic Party, played important roles in the legislative process. Even though the education plan that Senators Joseph Lieberman

(Democrat of Connecticut) and Evan Bayh (Democrat of Indiana), leaders of the New Democrat coalition in the Senate, had proposed the previous year received only 13 votes on the Senate floor, these men saw two main reasons why 2001 would be different.

First, the Senate's 50-50 split, which in May became 50-49-1 and produced Democratic control after Senator Jeffords, chair of the HELP committee, left the Republican Party, meant that every vote would be crucial. As Lieberman reflected at the end of 2001: "Having 13 votes in an evenly divided Senate meant that we would be taken seriously" (Broder, 2001b, p. A1). And they were. Both Lieberman and Bayh landed seats on the ESEA conference committee, a rare occurrence given that neither sat on the education committee in the Senate.

Second, President Bush's education reform plan extended many of the provisions of the previous ESEA that President Clinton, himself a New Democrat, had championed. Additionally, the Bush plan borrowed liberally from the Lieberman and Bayh proposal, known as Three R's.

Still, it was an open question whether the New Democrats would be able to warm their party to the Three R's framework. Some traditionally liberal Democrats feared that the plan's consolidation proposals were essentially block grants by another name and would eviscerate important programs. That concern provoked some Democrats, civil rights groups, and others to oppose Lieberman and Bayh's ideas.

Democratic Senator Paul Wellstone of Minnesota, then a member of the Senate education committee, articulated some of these concerns early in the legislative process. In an editorial in which he urged his fellow Democrats to remember their party's core beliefs on education, Wellstone outlined his views on key elements that any education reform bill should embrace. In particular, he questioned the wisdom of more government-mandated exams and tying funding to their results. Wellstone feared that without adequate resources the poorest children would simply be set up to fail (Wellstone, 2001).

Senator Wellstone's challenge resonated with subsequent calls from the NEA, which passed a resolution against mandatory testing at its annual meeting in early July. The NEA's measure directed its lobbyists to challenge federal testing requirements and to support state-level groups that advocated giving parents the ability to remove their children from state testing programs ("Teachers Vote," 2001).

Worrying that senators such as Wellstone and Kennedy (who was then ranking Democrat on the HELP committee) would throw the bill off course, and lacking trust in Chair Jeffords to produce a bill to President Bush's liking, beginning in February 2001 the White House, New Democrats, and key Republicans teamed up in the Senate.

The result, confirmed in personal interviews and the accounts of Gorman (2001a, p. 2231) and Broder (2001a), was a two-track process of negotiations. During the day, this rump group of senators would meet with other members and staff of the HELP committee, and at night among themselves. That pattern persisted from late February to early April, and ended when a confluence of factors led the White House and Senate Republicans to overplay their hand.

Startled to learn that these back-channel negotiations were proceeding without his input, Kennedy approached the White House during the Senate committee markup of the bill and expressed a greater willingness to compromise, even on Republican proposals that would allow parents to use Title I funds to pay for supplemental tutoring services for their children. That inspired Republicans to up the ante, and they used Kennedy's overtures to try to push the New Democrats further along toward supporting full-blown vouchers. Lieberman and Bayh said no, and that ended the evening discussions.

Despite their internal disagreements, both New and traditional Democrats remained united in important areas. From the start, they opposed private school vouchers and demanded greater funding for the neediest schools—both third-rail issues for their party. The funding question became especially important as fall arrived and state revenues began to shrink from the weakening national economy and the post-September 11 slowdown.

On student testing, Democrats were actually much more united than Senator Wellstone's comments from February implied. One House education committee staffer, who worked closely with George Miller, said in a personal interview that the substance of No Child Left Behind was very "traditional," and that "progressive liberals are finally able to hold schools accountable about kids actually learning. That hasn't been done before."

Finally, fears that consolidation would eliminate programs and reduce funding never materialized. Constituent politics and members who championed individual programs sustained the lingering programmatic approach of the now standards-driven ESEA. The Senate's bill actually increased the number of ESEA programs from 55 to 89, and the House bill contained 47 programs.

Theme 3: Crafting Federal Law with the States in Mind

The third theme of the legislative process concerned the relationship between the ESEA and the states. Officials on the Hill and in the White House encountered great challenges as they attempted to write a law that held

states more accountable for student achievement while recognizing that not all states were equally prepared to meet this challenge.

Shortly before the House-Senate conference began its work in the early fall, Sandy Kress, Bush's point man in the ESEA negotiations, characterized the difficulty of crafting federal law with the states in mind: "What makes this tough is designing something that will work in 50 very different states, and then figuring out how you can leverage change when you're only paying 7 percent of the bill" (Broder, 2001b, p. B7). Two areas were especially difficult: testing and measuring adequate yearly progress.

On testing, Bush insisted that states should test students in math and reading every year in grades 3 through 8, and that those test results should guide reform efforts. This was the approach that Bush had inherited and continued while governor of Texas. Opinions regarding this approach varied across the states, and in part depended on the partisan stripes of the particular state official. While state leaders quietly fretted over Bush's new testing proposals, many muted their criticisms and endorsed Bush's plan.

Top among these state-level supporters were members of the Education Leaders Council (ELC), a group of reform-minded governors and state school chiefs that formed in the mid-1990s. Even though the ELC is technically nonpartisan, its members identify primarily with the Republican Party.

In a letter to Chair Boehner shortly after his committee completed its work in May, the ELC expressed its support for No Child Left Behind, and for Boehner especially, who the ELC said had stood up "to the inside-the-beltway interest groups and their allies in Congress who are attempting to block some of the key provisions of the Bush plan" (House Committee on Education and the Workforce, 2001). That enthusiasm continued into the fall when the ELC's chief executive officer, Lisa Graham Keegan, a Republican and former Arizona superintendent of public instruction, joined forces with other supporters to urge the House-Senate conference not to let organizations opposing what they characterized as real reform distract legislators from their task (Bennett, Keegan, Finn, & Kafer, 2001).

Other state groups, such as the Council of Chief State School Officers (CCSSO), which represents the top state education officials across the political spectrum in nearly all 50 states (and partially overlaps with the ELC in membership and some activities), argued that annual testing in grades 3 through 8 was unnecessary and possibly counterproductive. In early May, Gordon Ambach, executive director of the CCSSO, agreed that holding states accountable for their use of federal funds was a good idea. However, he also noted that Texas was the only state with annual testing that scored in the top 10 in math or reading on the 1996 and 1998 National Assessment of Education Progress (NAEP) tests (Olson, 2001).

As the House-Senate conference commenced in mid-July, many state leaders remained uneasy that a requirement of testing for grades 3 through 8 would undermine their ongoing reform work. Attempting to deflect this criticism, Sandy Kress responded that the federal requirement would not usurp state power, but actually buttress state efforts and ultimately raise achievement of low-income and other at-risk children (Wilgoren, 2001).

In some respects, both Kress and the critics were right. Although nearly all states had made significant progress in developing standards and assessments during the 1990s—some with a great deal of assistance from Goals 2000—the political battles and policy development that remained continued to dog even the most reform-minded states.

As of 2001, for example, 49 states had established content standards and were linking them to testing in key subjects, sometimes even tying results to high-stakes decisions regarding promotion and graduation. Other consequences included increasing state intervention in schools that were persistently failing (Fletcher, 2001b). Those accomplishments notwithstanding, much political and policy work remained. Even though nearly all states had content standards and testing regimes in place, in most cases these elements were not aligned, meaning that each state's tests did not necessarily reflect the content present in its standards (Citizens' Commission on Civil Rights, 2001).

A second major challenge that federal policymakers faced was how to measure student achievement gains to guarantee that schools were making measurable and steady progress. Devising this formula for Adequate Yearly Progress (AYP) was one of the perpetual snags in the legislative process during 2001. It was characterized by numerous false starts and some confusion by the time the conference committee completed its work.

The nub of the problem centered on an admirable goal, which was consistent with concerns about educational and racial equality that had motivated past ESEA reauthorizations: Whatever formula emerged for AYP, the law should require states to show that all student groups—the disadvantaged, minorities, limited English proficient, and others—were making progress. Legislators considered a formula that would define a school as failing if it did not meet AYP targets for all student groups, with the end goal that all students would be achieving at proficient levels after a specified number of years. In practice, crafting this plan illustrated some of the challenges that federal officials face in developing and applying policy across the country.

The trouble began in April, after work on the Senate side revealed a stunning flaw in the AYP formula that the White House and legislators had worked out. (The House's bill essentially put off the AYP debate for

the conference stage of the legislative process.) Mark Powden, staff director for Chair Jeffords of the HELP committee, applied the tentative formula retroactively to test it on three states (Connecticut, North Carolina, and Texas) that nearly all observers agreed had made significant progress in narrowing achievement gaps between student groups. The exercise revealed that the formula would label almost all schools in these states as failures.

The AYP problem delayed the Senate bill for weeks, and eventually produced a new AYP formula. To some state groups, the revised approach appeared worse than the original plan. David Griffith, director of governmental and public affairs at the National Association of State Boards of Education, said this about the AYP fix in mid-May: "It's been explained to me, and I still don't understand the formula" (Gorman, 2001c, p. 1418). Bush education advisor Sandy Kress later called the results of this recovery effort "Rube Goldbergesque" (Toch, 2001).

On testing, AYP, and other issues, representatives from the states continued to lobby the conference committee members as their work dragged into the fall and winter. In early October, the NGA sent a lukewarm letter to the conference leaders—Boehner, Miller, Kennedy, and Gregg—pledging its commitment "to providing the best possible education for children." However, the NGA also reminded the conferees that "without conference negotiations yielding results that are workable and effective for states, successful education reform is not achievable" (National Governors' Association, 2001).

In separate September and October letters addressed to the No Child Left Behind conference members and to Senate and House appropriators who were working concurrently on the education budget for fiscal year 2002, the CCSSO advocated for flexibility on AYP and any federal requirements regarding teacher qualifications (Council of Chief State School Officers, 2001a, 2001b, 2001c). It also wanted the conference to preserve the Harkin-Hagel amendment, passed on the Senate floor, which required the federal government to fully fund its commitment to special education.

Although the governors and state chiefs did not pull their support for the bill—and the members of the ELC continued to endorse the original Bush proposals enthusiastically—by October another major state group reversed its initial favorable position (National Conference of State Legislatures, 2001b). In a letter to conference committee leaders dated September 26, the National Conference of State Legislatures (NCSL) criticized the developing conference report on nearly all levels (National Conference of State Legislatures, 2001a). In its own rebuke of the legislation, which appeared during the first week of November, the American Association of School Administrators raised similar arguments (Hunter, 2001). The na-

tion's governors, Republicans and Democrats alike, also had concerns about the bill's requirements, but remained on the fence, refusing to endorse or oppose the bill even into the mid-fall (Mollison, 2001).

Theme 4: Savvy Leadership of the "Big Four"

Because President Bush and his advisors decided to present No Child Left Behind as a 30-page blueprint, not a formal bill, much of the legislative drafting and leadership burden fell on what became known as the Big Four: Representatives Boehner and Miller and Senators Kennedy and Gregg, who worked closely with their key staffers, Sally Lovejoy, Charles Barone, Danica Petroschius, and Denzel McGuire, respectively.

By early summer, the House and Senate had passed their own versions of the No Child Left Behind Act. The bill cleared the House on a 384-to-45 vote on May 23, and the Senate passed its version on June 14, 91 to 8. In July, as each chamber named its conferees, the *Washington Post's* David Broder (2001b, p. B7) offered a sampling of the challenges that the Big Four confronted:

From the National Education Association, which passed a resolution saying all these tests should be made voluntary, to the state and local officials who argue against national norms, to the Heritage Foundation and other pro-voucher conservatives who complain that Bush already has allowed the standards to go limp, to the idealists who argue that if you just demand more of teachers and students, they will perform—all these conflicting views and agendas remain to be resolved.

As if those challenges were not enough, the conference's task became even more difficult after the attacks of September 11, 2001. After the devastation at the World Trade Center, at the Pentagon, and in rural Pennsylvania, and the anthrax attacks that temporarily shut down many facilities on the Hill, several observers wondered whether the Congress would pass any domestic legislation by December other than measures to increase homeland defense. With President Bush curtailing, but by no means eliminating, his education efforts to focus more closely on national security, the Big Four began carrying even more of the legislative burden.

On the House side, Boehner and Miller were unusual allies, to say the least. In December 2001, Miller reflected on how far they had come by saying that in previous Congresses, he and his Republican colleague "spent most of our careers throwing rocks at one another" (Clymer & Alvarez, 2001). While it became clear throughout 2001 that Boehner and Miller did not always fit hand in glove, it would be difficult to imagine a

better collaboration among two legislators with such opposing views in the past.

Boehner provided keen political insight, admonishing President-elect Bush to include Miller at the above-mentioned December 2000 meeting of congressional leaders. If Bush wanted a bipartisan bill, Boehner recognized that he and the president would need Miller's help. More often than not, President Bush concurred with Boehner's judgment on issues such as Straight A's and vouchers to preserve the alliance with Miller.

Unlike in the House, the committee leadership scenario in the Senate involved much more intrigue. When President Bush offered his education plan in January, nobody could have predicted that Senators Kennedy and Gregg would guide the bill in conference. The 107th Congress began with Kennedy as ranking Democrat on the Senate HELP committee, Gregg simply a committee member, and Senator Jeffords the chair.

The early work on the bill from January through mid-May proceeded with Jeffords and Kennedy at the helm of their respective committee caucuses. During the spring, Jeffords continued to press the president to devote much more of the federal government's (apparent) budget surplus to special education, rather than greater tax cuts. Roughly one month into the Senate's floor debate on the bill, it became clear to Jeffords that the White House would not budge on that issue. Largely because of President Bush's position on special education funding, on May 24, Jeffords took the gigantic step of leaving the Republican Party and his HELP committee chair, and in the process, reordering the Senate (Jeffords, 2001, chapters 2 and 3).

When Democrats took control, Kennedy became chair of HELP and Gregg became the ranking Republican on the committee. That reshuffling made Gregg one of the few Republican senators who personally benefited from the chamber's switch. More broadly, it may have enabled the No Child Left Behind bill ultimately to pass.

One interview respondent involved in the legislative process on the Hill reflected that the Congress may not have been able to complete and pass a bill at all had Jeffords remained chair. With Gregg guiding the Republican side in the Senate, the Bush team had a member they could count on to fight for its priorities. Gregg had also been the key intermediary in the Senate who helped coordinate the back-channel discussions between the Bush White House and the Senate New Democrats in the early spring.

Even though Bush had excluded Kennedy from his transition meeting in Austin, he was pleasantly surprised with the results when the Massachusetts senator took the committee's helm. Kennedy's agreement to a scaled-back version of Straight A's led some Democrats to do a double take. On other key issues, however, he remained true to traditional Democratic constituencies and programs. From start to finish, he and other Democrats,

including Miller, pushed the Bush White House to produce an education budget to match the promises for greater support for state efforts to leave no child behind.

In the end, without Miller and Kennedy making a strong case to key Democratic groups both on and off the Hill, it is likely that the bipartisan coalition that eventually passed the bill would have collapsed. Their efforts on the Democratic side were as significant as those of Boehner, Gregg, and President Bush, who tamed the GOP's right flank. If it was true, as some interview respondents remarked, that only a Republican president could usher in an era of mandated federal testing in grades 3 through 8 (much as Richard Nixon could open relations with communist China), then an ESEA with portable Title I benefits and a Straight A's demonstration program would have been unthinkable without the endorsements of Kennedy and Miller.

H.R. 1 BECOMES THE NO CHILD LEFT BEHIND ACT OF 2001

With staffers working essentially around the clock, and the first session's end rapidly approaching, the Big Four finally steered the conference committee ship into port. Despite the anthrax scares that shut down several congressional offices for much of the fall, the conference reported out the bill on December 11, and the full House passed it 2 days later, 381 to 41. The Senate followed suit on December 18, 87 to 10.

Given the grueling legislative process and perhaps wanting to rationalize their efforts, members of Congress, the administration, and other observers hailed the bill's passage as historic, as had leaders during past ESEA reauthorizations (Kafer, 2001; Robelen, 2002). President Bush proclaimed the beginning of "a new era, a new time in public education in our country," at the January 8, 2002, ceremony in Boehner's district, where he signed the bill into law. "As of this hour," the president said, "America's schools will be on a new path of reform, and a new path of results" (White House Office of the Press Secretary, 2002).

The No Child Left Behind Act of 2001, summarized in Riddle (2002a, 2002b), contains nine titles and 45 separate authorizations that extend from fiscal year 2002 to 2007. It runs more than 1,000 pages and includes major provisions regarding testing, AYP, teachers, and funding and flexibility, which further deepened federal involvement in the nation's schools.

Testing

The law's testing components mirror the original proposal that President Bush offered in January 2001. By the 2005–6 school year, it requires all

states to develop and administer aligned annual tests in math and reading in grades 3 through 8. (States have additional time to develop tests in science.) The law includes a provision that allows states to delay administration (but not development) of their tests if federal funds fall short of the amount promised for test development.

All states are also required to participate, at federal expense, in the NAEP fourth-grade reading test and eighth-grade math test. Previously, state participation in NAEP had been optional. Although the law does not link direct consequences to NAEP scores, all observers recognize that those results will serve as a *de facto* validity check on state tests. States that report high levels of achievement on their own tests but do poorly on the federal NAEP will certainly be challenged to explain the discrepancy.

An adjustment to the law's testing framework emerged during the important regulation-writing process shortly after January 2002. After soliciting input and convening groups for a process called negotiated rulemaking, the Department of Education decided to allow states to use a mix of state and local tests, and off-the-shelf commercial exams, to fulfill the grade 3 through 8 testing requirement. States could exercise those options provided they could show that the tests they chose were aligned with their state curriculum standards.

That flexibility pleased state officials who generally loathed the challenges of developing new state tests in six grades. Others, especially congressional Democrats, fretted that using a combination of tests would significantly weaken the law's accountability provisions (Olson, 2002a, 2002c). Assistant Secretary of Education Susan Neuman tried to allay those fears. She argued that showing alignment with state standards, a prerequisite for including local and off-the-shelf tests, would not be easy and therefore not compromise the law's potency (Olson, 2002c).

Adequate Yearly Progress

Student test results are directly connected to Adequate Yearly Progress. The broad goal of the AYP provision is to guarantee that all students will be performing at proficient levels or better (as defined by individual states) within 12 years. During that 12-year period, schools, school districts, and states will have to show that students across different groups—the economically disadvantaged and members of different racial and ethnic groups, for example—are progressing toward that goal.

Disaggregating scores aims to highlight and eventually decrease the achievement gaps between these students and their more advantaged (typically White and higher income) peers. The law also recognizes that requiring annual positive movement in scores across all of these groups is essen-

tially a statistical impossibility, as some studies had shown during the legislative debate of 2001. That means that the Y in AYP does not necessarily imply a yearly calculation of scores. States can show progress if rolling averages, calculated over 2- to 3-year periods, are steadily increasing. Still, that approach remains an imperfect fix to some of the statistical anomalies that studies of AYP uncovered in 2001.

Even though members of Congress wrestled with the AYP formula for almost a year, the final result remains technically complex. That is in part because of the different options that states can use to establish their baseline levels of achievement (from which they would be expected to improve), and the safe-harbor provisions that allow schools to comply with AYP rules even if achievement for all pupil groups does not increase on schedule. These exceptions are potentially important because if a school repeatedly does not meet AYP goals, then the law allows parents to choose to send their children to another public school.

Teachers

Although testing and AYP stole the spotlight during 2001, equally important, and perhaps even more challenging to achieve, are requirements concerning teacher qualifications, some of which took effect in September 2002 when all new Title I teachers were required to be "highly qualified," a concept that Stedman (2002) describes in detail. Among other things, that meant that new teachers hired with Title I funds must have completed at least 2 years of college. Within 4 years, all Title I teachers, past and present, are required to be highly qualified.

The law also stipulates that all regular classroom teachers in core subjects must meet a more rigorous standard no later than the start of the 2005-6 school year. For new teachers that means having full state certification or being enrolled in an approved alternative certification program, which would disallow emergency or provisional waivers of certain requirements. Also, the law requires new teachers to have at least a bachelor's degree and to prove their competence in the subject areas they teach, either by passing a test or having a college major in the relevant subjects. Veteran teachers will have to demonstrate subject matter competence based on standards that each state will determine.

Funding and Flexibility

If the grade 3 through 8 testing plan, AYP formula, and teacher provisions created new federal mandates, how was it that members of Congress and the Bush administration hailed the new ESEA's flexibility? That claim grew

primarily out of provisions that allow school districts to transfer into Title I up to 50% of their funds from four separate programs—(a) Teachers, (b) Technology, (c) Safe and Drug Free Schools, and (d) the Innovative Programs Block Grant.

The Straight A's pilot program provided additional flexibility for specific states and school districts. Under its provisions, called the State and Local Flexibility Demonstration Act, the federal government will select up to seven states to combine all their state administration and state activity funds from eight separate ESEA programs. Participating states may use these program funds for any purpose, and possess this authority for 5 years, provided that they continue to meet the law's AYP requirements. This demonstration program also allows a limited number of school districts in these seven states to combine funds from four specific programs and use them for any purpose.

Other important funding provisions in the new ESEA include changes in Title I allocation formulas that increase targeting of funds to the neediest schools and districts, especially those in large cities. The education appropriation bill for fiscal year 2002 also increased Title I spending by 20%, which in dollar terms meant a boost from \$18.8 billion to \$22.6 billion. Democrats had held out for these significant increases that were roughly \$3 billion above what President Bush preferred (Clymer & Alvarez, 2001).

REACTIONS TO THE LAW AND QUESTIONS ABOUT THE FUTURE

During the period after the conference committee reported out the bill but before President Bush signed it into law, various groups offered their assessments of the finished product.

After interviewing officials in 45 states, *Education Week* concluded that most generally supported the law and believed that it "mirrors the push in many states for greater accountability and results in education" (Olson, 2002b, p. 1). These state officials also enjoyed the promises for new funding, especially to support reading in the early grades. Still, state leaders doubted they could meet the requirements for hiring high-quality teachers, and they worried "about how much they will have to change their testing and accountability systems, and whether the federal money set aside for that purpose will be enough" (Olson, 2002b, p. 1).

Two major nonstate groups that lobbied during 2001 differed in their overall judgments of the conference report. The NEA disliked the final product. Union president Bob Chase called it "a tremendous disappointment." Even though the bill's goals were commendable, he said, "it fails to deliver the support required to help children achieve higher standards. We

will not oppose the bill, but we cannot in good conscience support it" (National Education Association, 2001).

Conversely, members of the nation's business community were enthusiastic. For example, Edward B. Rust, Jr., chair of the Business Roundtable's education task force and chair and CEO of State Farm Insurance Companies, concluded that "passage of this legislation will show that, at long last, America has gotten serious about providing a quality education for all of its students" (Business Roundtable, 2001). On the day that President Bush signed the conference report into law, Rust pledged that "the BRT will continue to work with the states to ensure that these reforms yield real benefits for America's students" (Business Roundtable, 2002).

Implicitly, Rust's comments identified two related questions central to the eventual fate of the No Child Left Behind Act: Will the states implement it well? And if not, will the federal government enforce the law's specific provisions?

Even though states had made significant progress in developing their standards and testing systems with previous federal help, many still had not yet aligned these systems as the 1994 ESEA had required. That was no small matter, given that the No Child Left Behind Act depends on this alignment in order to work.

On the teacher-quality provisions, some state leaders bluntly concluded that it would be impossible for them to meet the law's timetable. Colorado Commissioner of Education William J. Moloney, while again supporting the overall law, was quite direct in describing his state's situation: "Will we have a qualified teacher in every classroom by 2005? No, of course not. There are [complex] reasons, and those reasons will not be waved away" (Olson, 2002b, p. 1).

The prospect of states failing to meet the requirements of the No Child Left Behind Act raises the issue of whether the federal government will actually force them to comply. The long-term and recent track record of the Department of Education during President Clinton's two terms leaves many observers skeptical (Taylor & Piche, 2002).

Lax enforcement, critics claim, is one reason why states had failed to comply with the testing and standards provisions contained in the 1994 ESEA. In response, others argue this was not because of shirking, but because of the difficult realities that many states faced. Constructing curriculum standards and aligned tests in multiple grades is complicated work. And given the distance that some states still had to travel, federal education officials during the 1990s were reluctant to sanction a state that was making progress, but was not quite up to speed.

The political ramifications of enforcement are also a reality that President Bush and his team will have to confront. In mid-December 2001,

just before the Senate passed the conference report, former Clinton deputy secretary of education Marshall Smith identified a general rule that he believed would govern future enforcement decisions: "It's not in the best political interests of the president to come down hard on governors of the same party—or even of the other party. That's not going to be any different for the Bush administration" (Chaddock, 2001).

Bush officials have challenged this view. Shortly after the No Child Left Behind Act became law, Bush's secretary of education, Rod Paige, met with several state chief school officers at George Washington's home at Mount Vernon. At that event, Paige said that the administration would work with states but it would also demand compliance. State officials should not assume that waivers would be forthcoming if they did not meet the law's expectations.

Even assuming that federal officials possess the political will to enforce the law, it remains debatable whether strict enforcement will produce the desired effects. In large part that is because federal officials rely heavily on lower levels of government to make federal initiatives work. Based on the long history chronicled in previous chapters, creative cajoling of the states rather than employing strong-arm tactics may be the most likely and realistic path for federal officials to take as the No Child Left Behind Act moves deeper into the implementation phase.

3. In an interview, Alan Ginsberg, a senior career official who worked with Bell to create the chart, recalls that Bell wanted to make governors uneasy about how their states were doing and not allow them to sit back.

4. The 2001 law, No Child Left Behind, does require that all states participate and provides federal money to assist the states.

CHAPTER 6

1. Although there came to be eight goals, goals 4 (teacher education) and 8 (parental participation) were added when Congress wrote the goals into law in 1994.

CHAPTER 7

This chapter is based on research from my University of Wisconsin-Madison Ph.D. dissertation, "Federalism, Agenda Setting, and the Development of Federal Education Policy, 1965–2001." The chapter draws on more than 60 elite interviews conducted between April 2001 and May 2002 with current and past members of the education policy community in Washington, DC.—P.F.M.

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