

The Civil Rights Project



Proyecto Derechos Civiles

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New Study by UCLA's Civil Rights Project: NCLB Ignores What We Know about School Change and Is Motivated by Politics

A new report from the Civil Rights Project at UCLA, a non-partisan research center which has been systematically studying the implementation of the federal No Child Left Behind Act (NCLB) since its inception, finds that some of the basic assumptions of the law are not working and may well be mistaken. In this study, *Why High Stakes Accountability Sounds Good but Doesn't Work-- And Why We Keep on Doing It Anyway*, commissioned by the Civil Rights Project, Researchers Gail Sunderman and Heinrich Mintrop evaluate whether the accountability system endorsed by NCLB is likely to succeed or fail, and whether it is compatible with what researchers across the country have learned about the conditions needed for lasting school reforms.

The report finds that NCLB is failing on three fronts. First, there is little evidence that high stakes accountability under NCLB works. It has not improved student achievement and the sanctions have had limited effects in producing real improvement. The law also results in high numbers of schools being mislabeled as "failing" and far outstrips the ability of states to intervene effectively in the schools it sanctions. Third, the law has failed to connect in a meaningful way to the educators who must implement it -- they do not see the accountability goals as realistic and consider the sanctions to be misguided and counterproductive for improving schools.

The most important finding is the damage the NCLB is doing to our educational system. Under NCLB, the system "works" when education systems operate within only a basic skills framework and with low test rigor. The cost to our nation is revealed in an educational system stuck in low-level intellectual work.

Civil Rights Project Co-Director, Gary Orfield, concludes, "The new administration has a unique opportunity to address the serious structural problems of NCLB and to forge a

more constructive and effective federal role. To persist in sound-bite educational politics that sound tough but have failed for a generation would be a tragic mistake. To claim that it would further the civil rights of children increasingly segregated in schools that have been officially branded and sanctioned as failures -- but not provided help that makes a real difference -- would be a blunder.”

Even though the law is failing in some critical respects, the authors argue that we may maintain NCLB anyway because many derive secondary benefits from the system, specifically those who are politically and ideologically committed to NCLB and those deriving economic or political benefits from the law.

The authors contend that after fifteen years of state and federal sanctions-driven accountability that has yielded relatively little, it is time to try a new approach. A system based on mandates and legal administrative enforcement should be replaced with one that emphasizes respect for the professionalism of educators and active involvement of communities in developing the capacity to implement lasting changes.

The full report can be found at <http://www.civilrightsproject.ucla.edu/>

A copy of the Executive Summary and Foreword can be found at the end of this advisory. Copies of CRP’s previously released NCLB reports may also be found on our web site above. Funding for this research was generously provided by a grant from The Charles Stewart Mott Foundation.

About the Authors:

Heinrich Mintrop, Ph.D. taught middle school and high school for over a decade in both the United States and Germany. He received a Ph.D. in education from Stanford University in 1996. He is currently an associate professor of education at the University of California, Berkeley. As a researcher, he explores issues of school improvement and accountability in both their academic and civic dimensions. He has recently published the book *Schools on Probation. How Accountability Works (and Doesn’t Work)* at Teachers College Press. At UC Berkeley, he is involved in programs that prepare strong leaders for high-need urban schools.

Gail Sunderman, Ph.D. is a Senior Research Scientist at the George Washington University Center on Equity and Excellence in Education where she directs the Mid Atlantic Equity Center (MAEC). Prior to that, she directed a five-year study examining the implementation of the No Child Left Behind Act of 2001 for the CRP. She is co-author of the book, *NCLB Meets School Realities: Lessons from the Field* (with James S. Kim and Gary Orfield, 2005) and editor of *Holding NCLB Accountable: Achieving Accountability, Equity, and School Reform*, published in 2008. She is a former Fulbright Scholar to Afghanistan and received her Ph.D. in political science from the University of Chicago.

Executive Summary

The federal accountability system, made universal through the No Child Left Behind Act of 2002, is at its heart a quota and sanctions system. This system stipulates the progression of underperforming schools through a set of increasingly severe sanctions based on meeting performance quotas for specific demographic groups. While it includes standards, assessments, and performance targets, sanctions are the means by which the higher levels of the system put pressure on lower-levels of the system to take accountability seriously. Even though the law formulates the sanctions in the language of improvement, support, and radical renewal, the punitive core for districts and schools is apparent: when improvement efforts fail, loss of control and threat of organizational survival is at stake.

But whether this system is up to the job of achieving its goal of improving the performance of persistently underperforming schools is an open question. Using findings from the best available research, this report examines whether an accountability system based on the imposition of sanctions is likely to succeed or fail and, if it does persist, what the consequences may be for sustaining an educationally rigorous system. The report asks three questions: (1) does the system work, that is, does it produce the intended results, (2) is it practical, that is, can it be implemented, and (3) is it legitimate, or is it valued among those who must implement it. We conclude with a discussion of the costs of maintaining the current sanctions system.

Does the System Work? There are two aspects to this question: does the system as a whole produce the expected outcomes; and do the actual sanctions result in school improvement.

Does the system produce the expected outcomes? There is little evidence that high stakes accountability under NCLB improves student achievement. Although state accountability systems appear to be a success since test scores continue to rise in most systems, the picture looks far less positive when one looks at the National Assessment of Educational Progress (NAEP). When NAEP scores are used, gains appear to be much lower, there is substantial variation among states, and few states have narrowed the achievement gap among racial and socioeconomic subgroups while improving overall performance at the same time. Given the large discrepancies between NAEP and state assessments results, it is not quite clear what the state tests measure. By all indication, state accountability systems with their own pressures and sanctions are successful at focusing schools' and districts' attention on state assessments.

Do the sanctions work? There is also a lack of evidence that the sanctions themselves have been successful as an effective and universal treatment for low-performing schools. Neither the transfer option nor the supplemental educational service provisions have been widely embraced by parents or districts. Whether or not the transfer option produces improvements in school performance is a moot point since the percentage of students taking advantage of this option (about 1% of eligible students) is

so low. The response to supplemental educational services has also been low (14% of eligible students); and third party evaluations of these services are finding small, if any statistically significant effects of the program on improving student achievement. The corrective action and restructuring options, such as reconstitution, charter school conversion or take-over by education management organizations (EMOs), may work in some limited situations but are not effective across the board. Among the variety of corrective action and restructuring strategies that have been tried, none stick out as universally effective or robust enough to overcome the power of local context.

Is the Sanctions System Practical? If the NCLB system was practical, it would identify schools in need of improvement and restructuring with high accuracy; appropriately direct schools to pay attention to students most in need of help; produce an intervention burden for states and districts commensurate with capacities to provide new impetus, ideas, resources, and personnel; and lastly, through the imposition of sanctions, create momentum for deliberate and a well articulated improvement processes for schools and districts stuck in low performance. NCLB fails those practical criteria.

In state systems with at least moderately high performance demands, NCLB has led to high numbers of failing schools that by far outstrip district and state capacity to intervene. But it is not even clear if the bulk of these schools are in fact correctly classified. Most notably, the system has no practical answers to address the full spectrum of student performance and learning needs, particularly for students far-below proficient, special needs students, and marginally performing students; moreover, it does not speak to the predicament of low-capacity schools and districts. While it may appear that the sanctions system has succeeded in fermenting a climate of reform, such ferment, in many instances, is more likely to result in unproductive turbulence than sustained school improvement.

Is the Sanctions System Legitimate? Despite an almost twenty year period in some states, accountability systems, and particularly NCLB, continue to encounter serious legitimacy and acceptability problems among the groups that they are designed to target—teachers, principals, and administrators in low performing schools and districts. In general, while standards, assessments of performance, and consequences for low performance are widely accepted ideas *in general*, research suggests that attitudes about high stakes accountability systems are more negative. This is because accountability systems designed around sanctions violate core professional norms of educators and produce widespread frustration and de-moralization among those charged with carrying out school improvement efforts. Accountability goals are often not seen as realistic, and the sanctions are considered to be misguided and not very useful for improving schools. In efforts to improve test scores, teachers widely report that they must compromise standards of good teaching in order to meet accountability goals.

What are the Costs of Maintaining a Sanctions System? The combination of uncertain effects, loose connections to the broader educational values and norms of educators, and the difficulties or impossibilities of carrying out the system day-to-day makes the sanctions system a prime candidate for declaring it a failing system. But there

is a way to maintain the system, although this way produces high educational costs. As long as states maintain low-rigor systems that concentrate on basic skills, and the more lenient options for school improvement or restructuring are chosen, the system can persist with relative ease. NCLB “works” when systems place low demands on the cognitive complexity of learning tasks and, subsequently, on teacher capacity building. State accountability systems that operate within a basic skills framework and with low test rigor tend to produce lower numbers of failing schools. Because such systems tackle school improvement goals that are fairly light, affordable, and manageable, they are more practical within the NCLB framework. Systems that are more ambitious produce an intervention burden that makes them unworkable.

Improvement strategies that may be sufficient to reach lower level goals are not sufficient to reach higher order goals. And once educators have operated within the confines of a system oriented around test-driven basic skills remediation, strategies for teaching and school improvement cannot simply be switched to higher level skills, with the result that whole state systems get stuck in low level intellectual work.

A redesign of the federal accountability system should start from four principles:

- The system should reflect the complexity of the task by allowing multiple measures, more flexibility and local options.
- Ambitious goals require ambitious capacity building within schools and districts; and in all likelihood beyond.
- More comprehensive investments in student welfare that link education with health, job development, and community building as well as redistributive investments to attract and keep top-flight professionals in poorly performing schools are needed.
- Overreliance on sanctions can be reduced when policies aim to develop a partnership between government, the teaching profession, and empowered low-income parents and to motivate changes by linking to the professional values and standards of educators.

The report contends that after fifteen years of state and federal sanctions driven accountability that has yielded relatively little, it is time to try a new approach that replaces a system based on mandates and legal administrative enforcement with one that emphasizes the professionalism of educators and the active involvement of communities.

FOREWORD

We have bet the future of federal education policy on a theory of accountability that does not work. It has been the dominant educational reform theory for decades and the No Child Left Behind Act (NCLB) is its extreme expression. It turns out, after studying research results from across the country, it does not make much sense either as a managerial or an educational strategy. It has very good intentions but often sanctions those institutions where progress is most difficult and most urgently needed rather than

offer the kind of help that could really make a difference. This report, by researchers Heinrich Mintrop and Gail Sunderman, dissects the logic of high-stakes accountability policies, explores why they have failed, and concludes that the failure was not one of implementation (though that made things worse) but of the basic structure of the policy.

The Civil Rights Project has been studying the results of NCLB in six states since it was passed and has previously issued 12 reports, as well as two books and a number of articles, on its implementation and the results. Gail Sunderman has led this research. Professor Mintrop is a leading expert on the impacts of sanctions-based policies at the state as well as national level. Years ago, we showed that the standards were inconsistent and sometimes meaningless, the goals were incorrectly set and unfairly punished integrated schools and those serving English language learners and other minority groups. Our work showed that the law's assumptions about teachers and sanctions were wrong and that the sanction process was undermining the good goal of keeping experienced teachers where they were most needed. We showed early on that neither the transfer option nor the supplemental educational services provisions were working. Work we commissioned demonstrated that the dropout provisions had been gutted and that the requirements placed on the states went far beyond the limited capacities of state agencies to fulfill. We have recognized all along that the goals of more equal outcomes, good statistics on outcomes by subgroups, and a number of other provisions in the Act could be part of a good policy. The Civil Rights Project has joined many other researchers in recommending the replacement of the very narrow and arbitrary goals of test scores in two subjects with a much richer accountability scheme. When we originally raised a number of these issues we were attacked by the law's defenders, but, increasingly, the issues we raised have become part of much more broadly shared views of the NCLB experience. We believe that applying the lessons of the past eight years could produce a much more effective federal policy.

Now, as the country thinks about what to do next, it is important to focus on some fundamental design problems with the NCLB that undermine its very important goal of increasing the equity and success of American schools. The first is that it was not designed around real educational experience, nor does it utilize what research has shown about the sources of educational inequality or the possibilities and conditions necessary for reform to work. Instead, NCLB is based on the dual assumptions that children are falling behind very largely because educators don't care enough and that deadlines and strong sanctions imposed by the federal government can cure the problem so that all subgroups of children will become proficient by 2014. The second problem is that it often punishes schools that are making a positive difference for students, discouraging the staff and undermining future prospects for the school. The third is that it has a very narrow definition of education that not only diverts attention from other vital goals but also produces a strong focus on tactics that create a semblance rather than reality of success in those limited areas. The fourth is that all schools are being required to attain goals that are impossible to attain on any broad level given what we know about both the impact of schools relative to other forces in children's lives and the distribution of talent and achievement that appears in all human populations. Finally, while the law obviously hopes schools will experience deep reform, the deadlines and yearly goals do not connect

with what is actually known about the time and capacity-building required to actually turn around a school. I believe that there are good ways to correct each of these problems.

This study, commissioned by the Civil Rights Project, finds that some fundamental assumptions of the law are in error and, if continuously pursued, are very likely to do more harm than good. Since state and local educational institutions have the primary responsibility for public education—paying nine-tenths of the bills and setting most of the rules—the first requirement for federal policy should be that it does no additional harm to the public school systems. This report shows that, in that respect, NCLB falls short—not only in operation but even in its design and basic assumptions. A reasonable standard would be that a policy not weaken key institutions, not undermine support for public schools, and not try to impose impossible requirements. Historically the role of the federal government has been to encourage new initiatives, to commission research, to disseminate information and statistics, and to provide resources to the schools. The sudden decision by NCLB to define the most important subject matter, to mandate the grades that are tested, to control teacher requirements, to set detailed requirements for yearly educational gains, and to order what can be very drastic sanctions represent truly radical interventions on state and local authority. A reasonable standard for such interventions is that: 1) they are based on a solid understanding of schools and school reform; 2) they make sense to and win cooperation from the teachers, local administrators and state officials who must try to make them work; and 3) they provide the resources needed to meet the additional demands. As it now stands, NCLB does not meet any of those standards.

As a political scientist who has closely followed this law, it is obvious to me that the logic of NCLB is much more political than educational. Educators and those who spend their careers studying school reform were almost wholly excluded from the framing of NCLB and were often the target of attacks by some of its advocates. NCLB is about the politics of looking tough on educational reform. Since the 1983 Reagan Administration's *A Nation at Risk* report, the dominant style in education policy has been to *look* strong by demanding accountability, putting more focus on tests, criticizing teacher organizations, and either implicitly or explicitly blaming teachers, schools and school districts serving large numbers of poor children for inequality in educational results. One theme has been that some other means of running schools, such as charter schools, would be better because it was less public. At the same time, the law raises the pressure for schools, *by themselves*, to produce equal outcomes while other social policies bearing on the lives of poor children have been cut back. The dominant rhetoric has ignored the reality—reflected in countless studies over the past four decades—that poverty, low parent education, poor health, and inferior segregated schools all contribute powerfully to unequal outcomes, and that those conditions can only partially be addressed inside the schools. The vast majority of a child's life is spent outside of school; students come to kindergarten with hugely unequal preparation. Ignoring the rest of children's lives and communities and expecting the schools to produce perfect equality is to expect something that is impossible and has not been achieved in any nation under any educational system.

The NCLB's strategy makes sense in political terms. Policy makers look strong by being critical, demanding and tough. They blame teachers and school districts for the striking inequalities that exist between middle class suburban, largely white schools and those serving poor and minority children. There is a tendency toward escalating demands and criticisms as the latter schools fall behind. Blaming schools and their teachers takes the pressure off political leaders (and privileged communities) to play a serious role in solving the problems of children in a society that tolerates a level of child poverty higher than any other nation of similar stature.

After the massive failure of policies adopted by the first President Bush and then President Clinton and reflected in *Goals 2000* (which were supposed to produce equal schooling outcomes in the decade leading up to 2000), the second Bush Administration and Congress adopted a much more demanding set of requirements, backed with even stronger sanctions in No Child Left Behind in 2001. It was particularly striking that this was done without the slightest evidence that it was likely to work. As was widely predicted at the time by researchers who had seriously studied school reform, that policy is a failure, substantiated by the ever-growing numbers of schools and communities officially branded as failures and sanctioned. There isn't the slightest probability that the law's goals will be met, in spite of intense pressure and widespread sanctions directed against many of the nation's most troubled schools and communities. Instead of inspiring hope and drawing our strong educators and administrators to the schools that need them the most, it gives them an incentive to leave faster so that they are not branded as part of a failed institution.

This study shows that unfounded and unattainable requirements backed by strict sanctions produce counterproductive reactions, produce massive failure, and leave states with problems they cannot solve. Needless to say, this undermines the attractiveness of teaching in the sanctioned schools and the interest of student and teachers in what often becomes a narrow drill-based curriculum.

Often the alternatives are posed as a choice between accountability NCLB-style and no accountability. This is like saying that there is no alternative between bleeding a patient and letting him die. There are, of course, better alternatives. Medicine would not dream of accepting directives from Congress that it should only pay attention to two indicators of health and that Congress could prescribe the rate of mandatory patient recovery without any reference to what the best medical research indicated was possible. This is what has happened in education. The real choice is between narrow accountability with arbitrary standards and broader accountability linked to research on what are actually attainable goals within a prescribed period of time. Many civil rights groups and experts have signed statements advocating multiple measures which we strongly support.

Our survey of teachers in two highly impoverished school districts actually showed that teachers supported accountability but they wanted reasonable standards, materials that effectively addressed the learning challenges of students, time to work together to back the school's educational operations, and a good professional leader in their building. Federal law should foster these goals. What we need are richer forms of accountability

measuring: school completion; acquisition of key skills needed for college; encouragement of a full education rather than endless drills on just two subjects; promotion of the kind of imagination and activities that attract students to learning; preparation of our students to become capable citizens in a democracy, and rewards for teachers and principals who make a clear difference in the level of success for their students.

As we go into the next round of debate it would be very valuable to go back to first principles and consider how the federal investment in education could be refocused in a more positive way. It is very clear that there were tremendous inequalities in our schools before NCLB that still exist and still need to be addressed. I think that a strong and positive federal role is an important part of the solution, but that it must be developed in collaboration with those who truly understand schools and work in them, that it must provide resources to build capacity, that it should support building more knowledge in a field where there are too few proven remedies, and that it should provide recognition and support for those schools, administrators, and teachers whose work makes a real difference for children. This study by two leading scholars in the field is a solid contribution to that effort.

Gary Orfield

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