

PART ONE

NCLB's Effects on
Classrooms and Schools

1: From “Separate but Equal” to “No Child Left Behind”: The Collision of New Standards and Old Inequalities

LINDA DARLING-HAMMOND

Many civil rights advocates initially hailed the Bush administration’s major education bill, optimistically entitled No Child Left Behind, as a step forward in the long battle to improve education for those children traditionally left behind in American schools—in particular, students of color and students living in poverty, new English learners, and students with disabilities. The broad goal of NCLB is to raise the achievement levels of all students, especially underperforming groups, and to close the achievement gap that parallels race and class distinctions. According to the legislation, too many of the neediest children are being left behind; too many are attending failing or unsafe schools; too many receive poor teaching and are performing well below potential; and too many are leaving school altogether. The bill intends to change this by focusing schools’ attention on improving test scores for all groups of students, providing parents with more educational choices, and ensuring better-qualified teachers.

This noble agenda seems unobjectionable on its face, but the complex 600-page law has affected states, districts, schools, and students in ways never envisioned by its authors.

The proliferating nicknames emerging as this intrusive legislation plays out across the country give a sense of some of the anger, bewilderment, and confusion left in its wake: “No Child Left Untested,” “No School Board Left Standing,” and “No Child’s Behind Left” are just a few of them. Since the start of the 2003–04 school year, at least twenty states and a number of school districts have officially protested the NCLB Act, voting to withdraw from participation, to withhold local funding for implementation, or to resist specific provisions. Members of the Congressional Black Caucus, among other federal legislators, have introduced bills to amend the law by placing a moratorium on high-stakes standardized testing, a key element of NCLB; withholding school sanctions until the bill is fully funded; and requiring progress toward adequate and equitable educational opportunities for students in public schools. The Harvard Civil Rights Project, along with other advocacy groups, has warned that the law threatens to increase the growing dropout and pushout rates for students of color, ultimately reducing access to education for these students, rather than enhancing it.¹ As the evidence of NCLB’s unintended consequences emerges, it seems increasingly clear that, despite its good intentions and admirable goals, NCLB as currently implemented is more likely to harm than to help most of the students who are the targets of its aspirations, and it is more likely to undermine—some would even say destroy—the nation’s public education system than to improve it. These outcomes are likely because the underfunded bill layers onto a grossly unequal—and, in many communities, inadequately funded—school system a set of unmeetable test score targets that disproportionately penalize schools serving the neediest students, while creating strong incentives for schools to keep out or push out those students who are low achieving in order to raise school average test scores.

Furthermore, the act’s regulations have caused a number

of states to abandon their thoughtful diagnostic assessment and accountability systems—replacing instructionally rich, improvement-oriented systems with more rote-oriented punishment-driven approaches—and it has thrown many high-performing and steadily improving schools into chaos rather than helping them remain focused and deliberate in their ongoing efforts to serve students well.

While well intentioned, it has become clear that the NCLB Act will, in the next few years, label most of the nation's public schools "failing," even when they are high performing and improving in achievement. According to one tally, 26,000 of the nation's 93,000 public schools this year "failed to make adequate yearly process." A new study in California found that failing "schools were designated not because tests had shown their overall achievement levels to be faltering, but because a single student group—disabled learners or Asian students, for example—had fallen short of a target. As a result, the chances that a school would be designated as failing increased in proportion to the number of demographic groups served by the school."² And in some high-achieving states that have set very high standards for themselves, large numbers of schools are dubbed 'failing' because they fall below these standards, even though they score well above most other schools in the nation and the world.

Some believe this is a prelude to voucher proposals aimed at privatizing the education system, since the public will have been besieged with annual reports about failing public schools which the law's unmeetable requirements guarantee cannot be remedied. In addition to the perverse consequences for school systems, the law will lead to reductions in federal funding to already underresourced schools and it will sidetrack funds needed for improvement to underwrite transfers for students to other schools (which, if they are available, may offer no higher quality education). If left unchanged, the act

will deflect needed resources for teaching and learning to ever more intensive testing of students, ranking of schools, busing of students, and lawyers' fees for litigating the many unintended consequences of the legislation.

Most unhappily, some of the act's most important and potentially productive components—such as the effort to ensure that all students have highly qualified teachers and successful educational options and supports—are in danger of being extinguished by the shortcomings of a shortsighted, one-way accountability system that holds children and educators to test-based standards they are not enabled to meet, while it does not hold federal or state governments to standards that would ensure equal and adequate educational opportunity.

Inequality in Education: What NCLB Does Not Change

The first problem—one that NCLB does not acknowledge or effectively address—is the enormous inequality in the provision of education offered in the United States. Unlike most countries that fund schools centrally and equally, the wealthiest U.S. public schools spend at least ten times more than the poorest schools—ranging from over \$30,000 per pupil at the wealthy schools to only \$3,000 at the poorest. These disparities contribute to a wider achievement gap in this country than in virtually any other industrialized country in the world. The school disparities documented in Jonathan Kozol's *Savage Inequalities* (1991) have not lessened in recent years. Within states, the spending ratio between high- and low-spending schools is typically at least 3 or 4 to 1.

As documented in federal statistics and a large number of current lawsuits, schools serving large numbers of low-income students and students of color have larger class sizes, fewer teachers and counselors, fewer and lower-quality academic courses, extracurricular activities, books, materials,

supplies, and computers, libraries, and special services.³ Spending is so severely inadequate in the growing number of “apartheid” schools serving more than 90 percent “minority” students that legal action to challenge school funding systems is under way in nearly half the states. These conditions are vividly illustrated in this description of Luther Burbank Middle School, which serves the low-income students of color in San Francisco who are plaintiffs in *Williams v. California*, an equal educational opportunity lawsuit:

At Luther Burbank School, students cannot take textbooks home for homework in any core subject because their teachers have enough textbooks for use in class only. . . . Some math, science, and other core classes do not have even enough textbooks for all the students in a single class to use during the school day, so some students must share the same one book during class time. . . . For homework, students must take home photocopied pages, with no accompanying text for guidance or reference, when and if their teachers have enough paper to use to make homework copies. . . . The social studies textbook Luther Burbank students use is so old that it does not reflect the breakup of the former Soviet Union. Luther Burbank is infested with vermin and roaches and students routinely see mice in their classrooms. One dead rodent has remained, decomposing, in a corner in the gymnasium since the beginning of the school year. The school library is rarely open, has no librarian, and has not recently been updated. Luther Burbank classrooms do not have computers. Computer instruction and research skills are not, therefore, part of Luther Burbank students' regular instruction in their core courses. The school no longer offers any art classes for budgetary reasons. Two of the three bathrooms at Luther Burbank are locked all day, every day. The third bathroom is locked during lunch and other periods during the school day, so there are times during school when no bathroom at all is available for students

to use. Students have urinated or defecated on themselves at school because they could not get into an unlocked bathroom. . . . When the bathrooms are not locked, they often lack toilet paper, soap, and paper towels, and the toilets frequently are clogged and overflowing. . . . Ceiling tiles are missing and cracked in the school gym, and school children are afraid to play basketball and other games in the gym because they worry that more ceiling tiles will fall on them during their games. . . . The school heating system does not work well. In winter, children often wear coats, hats, and gloves during class to keep warm. Eleven of the 35 teachers at Luther Burbank have not yet obtained regular, non-emergency credentials, and 17 of the 35 teachers only began teaching at Luther Burbank this school year. (Williams v. State of California, Superior Court of the State of CA for the County of San Francisco, 2001, Complaint 58–66).

It should be no surprise that the students at Luther Burbank and schools like it achieve at low levels and often fail state-imposed tests, ending their school careers with less opportunity to play a productive role in society than when they began as eager kindergartners.

Under No Child Left Behind, these dreadful school conditions are left largely untouched. Although the act orders schools to ensure that 100 percent of students test at levels identified as “proficient” by the year 2014—and to make mandated progress toward this goal each year—the small per pupil dollar allocation it makes to schools serving low-income students is well under 10 percent of schools’ total spending, far too little to correct these conditions. Most of the federal money has to be spent for purposes other than upgraded facilities, textbooks, or teachers’ salaries. Furthermore, while the law focuses on test scores as indicators of school quality, it largely ignores the important inputs or resources that enable school quality. It does not authorize substantial federal in-

vestments in the underresourced schools where many students are currently struggling to learn, nor does it require that states demonstrate progress toward equitable and adequate funding or greater “opportunities to learn.” Although the law includes another set of requirements to ensure that all students receive “highly qualified teachers,” as discussed in a later section, the lack of adequate federal support for actually making this possible currently appears to make this promise a rather hollow one in many communities.

To Test or to Invest? How NCLB Treats Schools Serving the Nation’s Neediest Students

The biggest problem with the NCLB Act is that it mistakes measuring schools for fixing them. It sets annual test score goals for every school—and for subgroups of students within schools—that are said to constitute “Adequate Yearly Progress.” Schools that do not meet these targets for each subgroup each year are declared in need of improvement and, later, failing. This triggers interventions (notification to parents of the school’s label and a three-month period to write a school improvement plan). Students must be allowed to transfer out of “failing” schools at the school’s expense, schools stand to be reconstituted or closed, and states and districts stand to lose funds based on these designations. Unfortunately, the targets—based on the notion that 100 percent of students will score at the “proficient” level on state tests by the year 2014—were set without an understanding of what this goal would really mean.

First, of course, there is the fundamental problem that it is impossible to attain 100 percent proficiency levels for students on norm-referenced tests (when 50 percent of students by definition must score below the norm and some proportion must by definition score below any cut point selected), which

are the kind of tests that have been adopted by an increasing number of states due to the specific annual testing requirements of NCLB. Criterion-referenced tests also typically use an underlying norm-referenced logic in selecting items and setting cut scores, although in theory, the target could at least remain fixed on these tests. Even if tests were not constructed in this way, the steepness of the standard is unrealistic. Using a definition of proficiency benchmarked to the National Assessment of Educational Progress (NAEP), one analyst has calculated that it would take schools more than one hundred years to reach such a target in all content areas if they continued the fairly brisk rate of progress they were making during the 1990s.⁴

Even more problematic is that the act requires that schools be declared “failing” if they fail to meet these targets for each subgroup of designated students annually. It requires the largest gains from lower-performing schools, ignoring that these schools serve needier students and are generally less well funded than those serving wealthier and higher-scoring students. To complicate things more, those that serve large numbers of new English language learners (what the law calls Limited English Proficient [LEP] students) and some kinds of special needs students (what the law calls “students with disabilities”) are further penalized by the fact that students are assigned to these subgroups *because* they cannot meet the standard, and they are typically removed from the subgroup when they do meet the standard. Thus these schools will not ever be able to meet the annual AYP (adequate yearly progress standard), which demands that schools advance yearly to 100 percent student proficiency.

For example, section 9101(25) of NCLB defines an LEP student as one “(D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—(i) *the ability to meet the State’s proficient*

level of achievement on State assessments described in section 1111(b)(3).” As students gain proficiency in English, they are transferred out of this subgroup; thus, it is impossible for 100 percent of this subgroup ever to reach proficiency. For schools and districts that serve a substantial number of LEP students, this imposes a ceiling on their overall performance as well as the performance of this subgroup. At some point it will be impossible to make the required gains because of how this subgroup is defined under law. Some advocates have suggested that states use a rule that scores of students who are classified as LEP should be counted in the AYP calculations for this subgroup as long as they stay in a school. However, the U.S. Department of Education has not approved this definition.⁵

The same issues pertain to the testing of students with disabilities and to the schools that serve them. Many such students who cannot demonstrate their learning on grade-level tests have individualized education plans that prescribe different assessments for charting their progress, including “instructional level” tests. The Department of Education has ruled that using such tests is permissible only if the results are counted as “nonproficient,” or—for one year only—if they apply to fewer than 1 percent of all test-takers. In addition to appearing to violate special education laws, schools that serve large numbers of special education students will be penalized in their AYP rankings. Because disabilities are correlated with poverty (which is linked to poor prenatal and childhood health care, low birth weight, poor nutrition, lead poisoning, maternal substance abuse, and many other conditions that predict learning problems), this is yet another way in which NCLB punishes schools and districts that serve large numbers of low-income students.

For all of these reasons, two separate teams of researchers have found that, in the early years of NCLB implementation, schools serving poor, minority, and LEP students and those

with a greater number of subgroups for which they are held accountable are disproportionately identified as “needing improvement”—what one group of researchers has called a “diversity penalty.”⁶ As illustrated below, this is true even for schools that show steep test score gains for low-income and minority students.

For example, Novak and Fuller identified two schools in Oakland whose students, on average, performed at equal levels on standardized tests. One, Manzanita Elementary, serves a diverse population, including black, Latino, Asian, low-income and limited-English students. The other school, Golden Gate Elementary, serves primarily black students, some of whom are also in the low-income category, giving the school just two groups under the federal law’s accountability system. As a result of its diverse population, Manzanita had to meet targets in eighteen categories—each of these subgroups on several different content tests. It succeeded in seventeen, but black students narrowly missed their target in math. Golden Gate, because of its more homogeneous student body, needed to meet targets in only six categories, and succeeded. Manzanita was designated as needing improvement, and Golden Gate was not. Among the most diverse districts in California—Fresno, Los Angeles, Oakland, San Francisco, San Jose, and Santa Ana—half or more of all schools failed to meet all of their AYP growth targets in 2003, thus positioning these districts serving the state’s neediest students for large reductions in federal funding within a short period of time.

While these are troubling aspects of the law’s implementation, one could also argue, quite legitimately, that many of the schools identified as “needing improvement” (a designation that changes to “failing” if not corrected after three years) indeed are dismal places where little learning occurs, or are complacent schools that have not attended to the needs of all

of their students—schools that need to be jolted into action to change. It is fair to suggest that students in such schools deserve other choices if they cannot change.

These important arguments are part of the NCLB's theory of action: that low-quality schools will be motivated to change if they are identified and shamed, and that their students will be better served if given other educational options. These outcomes may in fact occur in some cases. The problem is that the law actually works in many other cases to label schools as failing even when they are succeeding with the very students the law wants to help, and it creates incentives that can reduce the quality of education such schools can provide, while providing few real options for their students to go to better schools.

How might the goal of improving schools actually, paradoxically, undermine them? First, there is evidence from states that have used similar accountability provisions that applying labels of failure to low-scoring schools that serve low-income students reduces the schools' ability to attract and keep qualified teachers. For example, in North Carolina, analysts found that the state labeling system made it more difficult for the neediest schools to get access to the higher-quality teachers other state policies were attracting and developing in the state.⁷ Similarly, Florida's use of aggregate test scores, unadjusted for student characteristics, to allocate school rewards and sanctions led to reports that qualified teachers were leaving the schools rated D or F in droves, to be replaced by teachers without experience or training.⁸ As one principal queried, "Is anybody going to want to dedicate their lives to a school that has already been labeled a failure?" NCLB's requirements for parent notification of school "needs improvement" or "failing" label and threats of staff dismissal have already been reported as disincentives for qualified staff

to stay in high-need schools when they have options to teach in better resourced and better regarded schools with more affluent students.

Second, schools that have been identified as not meeting AYP standards stand to lose federal funding, thus having even fewer resources to spend on the students they are serving. Rather than seeking to ensure that students attend adequately funded and well-managed schools that would enable them to learn to higher levels, NCLB seeks to expand students' opportunities by offering them the chance to transfer out to other "non-failing" public schools if their school is declared "failing." This option is to be funded through the resources of the "failing" school, as are funds for supplemental services for such things as tutoring or after-school programs.

While the choice option is a useful idea in theory, such alternatives are likely to reap little overall improvement in the opportunities for most students in poor rural or inner-city schools, because—in addition to the fact that this option for some comes at the expense of school funding for their peers—there are frequently no "non-failing" public schools with open seats available to transfer to nearby. The best schools are already quite full, and these schools have no incentive to admit low-income students with low test scores, poor attendance records, or substantial educational needs who will "bring down" their average and place the school at risk of receiving sanctions. Furthermore, the best-resourced schools are typically not close to the inner city or poor rural neighborhoods where struggling schools are concentrated. Thus, rather than expanding educational opportunities for low-income students and students of color, the law is more likely in many communities to reduce still further the quality of education available in the schools they must attend. A better approach would be to invest in the needed improvements in such schools in the

first place, and to measure their progress on a variety of indicators in ways that give the schools credit for improvements they produce for the students they serve.

“Alice in Wonderland” Accountability

The goals of No Child Left Behind are to improve achievement for all students, to enhance equity, and to ensure more qualified teachers. However, its complex regulations for showing “Adequate Yearly Progress” toward test score targets aimed at “100% proficiency” within ten years have created a bizarre situation in which most of the nation’s public schools will be deemed failing within the next few years—even many that already score high and those that are steadily improving from year to year. Ironically, states that use more ambitious tests and have set higher standards will experience greater failures than those with low standards, and many have abandoned measures of critical thinking and performance, just as the labor market increasingly demands these kinds of skills. Here are a few examples of the strange and curious outcomes of the law thus far:

In San Diego, Marston Middle School, a well-regarded school serving a diverse student population with a large number of low-income, minority, and English-language-learning students, has been showing large gains in achievement for all groups each year as its dedicated principal and teachers have worked intensely on school-wide literacy development.⁹ The school once again saw huge gains in 2003, far exceeding its growth target and showing gains for Latino students and low-income students of more than four times the targeted increases. This caused the school’s achievement gap to shrink substantially. However, under NCLB the school was declared in “need of improvement,” because its white students, who al-

ready score near the top of the state accountability index, did not improve “sufficiently”—largely because they have hit the testing ceiling, and, as a group, have little room for further growth. Marston Middle School is doing what NCLB intended schools to do—increase achievement and reduce the achievement gap—but it will be punished under the law, and its students will lose funds that could have gone to support their education and the ongoing improvement of the school.

Meanwhile, in Minnesota, where, as Garrison Keillor claims, “all of the women are pretty and all of the children are above average,” eighth graders score first in the nation in mathematics and near the top in other subjects as well. However, a recent news report notes that, under the rules of No Child Left Behind, more than 80 percent of Minnesota’s public schools will soon be declared “in need of improvement,” and not long after, if they don’t meet the law’s targets for “Adequate Yearly Progress,” declared as “failing” and in need of reconstitution. This is because, in the baffling world that has become federal policy, schools in states with the highest standards will have the most schools found wanting, even if their students achieve at levels substantially above those of schools in other states.

One of the first perverse consequences of the NCLB Act is that many states formally lowered their standards in order to avoid having most of their schools declared failing. Another perverse consequence is that states that have worked hard to create forward-looking assessment systems during the 1990s have begun to abandon them, since they do not fit the federal mandate for annual testing that allows students and schools to be ranked and compared. In fact, NCLB is undoing some of the most important gains in assessment and accountability made by states since 1990, when the Goals 2000 Act encouraged them to create such systems. In the past decade, virtually all states have created new standards that

reflect what students should know and be able to do, new curriculum frameworks to guide instruction, and new assessments to test students' knowledge. Advocates of these reforms have hoped that setting standards would mobilize resources for student learning, including high-quality curriculum, materials, and assessments tied to the standards; more widely available course offerings that reflect this high-quality curriculum; more intensive teacher preparation guided by related standards for teaching; more equal resources for schools; and more readily available safety nets for educationally needy students.

This comprehensive approach has been followed in some states and districts, including Connecticut, Kentucky, Maine, Maryland, Minnesota, Nebraska, Vermont, and Washington, among others. In these cases, thoughtful assessments have been tied to investments in improved schooling and teaching. These efforts have begun to improve student achievement while enhancing teaching and increasing educational opportunity. Many of these states created sophisticated assessments that measure critical thinking and real performance in areas like writing, mathematical and scientific problem solving, and research. They developed their systems carefully over a sustained period of time and have used them primarily to inform ongoing school improvement—identifying areas of needed curriculum change, professional development, and additional investments—rather than to punish students or schools.

Much of this effort threatens to be undone by NCLB's requirements for annual tests that meet certain federal specifications. NCLB's test requirements and costs have already caused one state, Maryland, to drop its sophisticated performance assessment system and another, Vermont, to threaten to reject the new federal funds in order to maintain its performance assessments. Maine eliminated a number of its assessments in fields like social studies and the arts, as

well as its teacher scoring process which provided strong professional development. Oregon has fought to get the Department of Education to allow it to use its sophisticated computer-based adaptive testing system for the purposes of both diagnosis for instruction and standards-based assessment it was designed to serve. States like Nebraska that previously used only performance assessments to evaluate student learning have been forced to adopt norm-referenced standardized tests to meet the law's requirements.¹⁰ NCLB regulations are pushing states back to the lowest common denominator in testing, undoing progress that has been made to improve the quality of assessments and delaying the move from antiquated norm-referenced, multiple-choice tests to criterion-referenced assessment systems that measure and help develop important kinds of performance and learning.

This not only reduces the chances that schools will be able to focus on helping students acquire critical thinking, research, writing, and production abilities; it will also reduce opportunities for students who learn in different ways and have different talents to show what they have learned. Analysts have raised many concerns about how the law's requirements are leading to a narrower curriculum; to test-based instruction that ignores critical real world skills, especially for lower-income and lower-performing students; and to less useful and engaging education.¹¹ These are all important concerns. Equally important is the strong possibility that these efforts will actually reduce access to education for the most vulnerable students, rather than increasing it.

Higher Scores, Fewer Students

Perhaps the most adverse, unintended consequence of NCLB's accountability strategy is that it undermines safety nets for struggling students rather than expanding them. The ac-

countability provisions of the NCLB Act actually create large incentives for other schools to keep such students out and for all schools to hold back or push out students who are not doing well. As low-scoring students disappear, test scores go up. Table 1 shows how this operates. At “King Middle School,” average scores increased from the 70th to the 72nd percentile between the 2002 and 2003 school year, and the proportion of students in attendance who met the standard (a score of 65) increased from 66 to 80 percent—the kind of performance that test-based accountability systems, including NCLB, celebrate and reward. Looking at subgroup performance, the proportion of Latino students meeting the standard increased from 33 to 50 percent, a steep increase.

However, *not a single student* at King improved his or her score between 2002 and 2003. In fact, the scores of every single student in the school went *down* over the course of the year. How could these steep improvements in the school’s average scores and proficiency rates have occurred? A close look at table 1 shows that the major change between the two years was that the lowest-scoring student, Raul, disappeared. As

TABLE 1: KING MIDDLE SCHOOL: REWARDS OR SANCTIONS?
The Relationship Between Test Score Trends and Student Population

	2002–03	2003–04
Laura	100	90
James	90	80
Felipe	80	70
Kisha	70	65
Jose	60	55
Raul	20	
	Av. Score = 70	Av. Score = 72
	% meeting standard = 66%	% meeting standard = 80%

has occurred in many states with high-stakes testing programs, students who do poorly on the tests—special needs students, new English language learners, those with poor attendance, health, or family problems—are increasingly likely to be excluded by being counseled out, transferred, expelled, or by dropping out.

If this school had been judged using a “value-added” index that looked at the changes in individual students’ scores from one year to the next, it would have been clear that the students’ scores decreased by 8 percentile points on average rather than registering an apparent, but illusory, gain caused by changes in the student population. Recent studies have found that systems that reward or sanction schools based on average student scores (rather than looking at the growth of individual students) create incentives for pushing low-scorers into special education so that their scores won’t count in school reports,¹² retaining students in grade so that their grade-level scores will look better,¹³ excluding low-scoring students from admissions,¹⁴ and encouraging such students to leave schools or drop out.¹⁵ Studies have linked dropout rates in Georgia, Florida, Massachusetts, New York, and North Carolina to the effects of grade retention, student discouragement, and school exclusion policies stimulated by high-stakes tests. According to the National Center for Education Statistics, graduation rates decreased from 63 to 58 percent in New York between 1997 and 2001 and from 57 to 52 percent in Florida as new high-stakes testing policies were introduced.

Recent data from Massachusetts, which began to implement high-stakes testing in the late 1990s, show more grade retention and higher dropout rates, including a 300 percent increase in middle school dropouts between 1997–1998 and 1999–2000, greater proportions of students dropping out in ninth and tenth grades, more of them African American and

Latino, and fewer dropouts returning to school. When the state's exit exam was first enforced in 2003, graduation rates for the group of ninth graders who had entered high school four years earlier decreased for all students, but most sharply for students of color. Whereas state data showed a graduation rate of 71 percent for African American students in the class of 2002, the class of 2003 had only 59.5 percent in line to graduate (still in school and having passed the exams in the spring of 2003). The drop for Latino students went from 54 percent in 2002 to 45 percent in 2003, and for Asian students from 89 percent to 81 percent.¹⁶ Meanwhile many of the steepest increases in test scores have occurred in schools with the highest retention and dropout rates. For example, Wheelock found that, in addition to increasing dropout rates, high schools receiving state awards for gains in tenth-grade pass rates on the MCAS (the Massachusetts test) showed substantial increases in prior year ninth-grade retention rates and in the percentage of "missing" tenth graders.¹⁷

Although the hope is that such carrots and sticks will force schools to improve, this does not necessarily occur. Last year, news reports revealed what researchers had previously observed—that the "Texas Miracle," which was the model for the federal No Child Left Behind Act, boosted test scores in part by keeping many students out of the testing count and making tens of thousands disappear from school altogether.¹⁸ The "disappeared" are mostly students of color. At Sharpstown High School in Houston, a freshman class of 1,000 dwindled to fewer than 300 students by senior year—a pattern seen in most high-minority high schools in Houston, including those rewarded for getting their test scores "up." The miracle is that not one dropout was reported. The whistle-blowing principal from Sharpstown has described how this pattern is widespread and encouraged by the district.¹⁹

In Texas, where tests alone are supposed to drive improve-

ment, large numbers of students of color are taught by under-prepared and inexperienced teachers—which significantly affects passing rates on the state tests.²⁰ Fewer than 70 percent of white students who enter ninth grade graduate from high school four years later, and the proportions for African-American and Latino students are under 50 percent.²¹ Unhappily, the score gains for African-American and Latino students celebrated in Houston appear in part to be a function of high dropout and push out rates for these students. As low-achievers leave school, the group's average score increases. Paradoxically, NCLB's requirement for disaggregating data and tracking progress for each subgroup of students may increase the incentives for eliminating those at the bottom of each subgroup who struggle to learn, especially where schools have little capacity to improve the quality of services such students receive.

Where states have replaced investing with testing, the sad story in too many cities and poor rural communities is that students are forced to attend underresourced schools where they lack the texts, materials, qualified teachers, computers, and other necessities for learning. In lieu of resources, the state offers tests, which are used to hold students back if they do not reach benchmarks (a practice found to increase later dropout rates but not to improve achievement) and to deny them diplomas, which in today's economy is the equivalent of denying access to the economy and to a productive life. In these states, two-way accountability does not exist. The child is accountable to the state for test performance, but the state is not held accountable to the child for a basic level of education. No Child Left Behind exacerbates this problem by adding to the incentives some states have already created for getting rid of the troublesome youth who don't score high and introducing these incentives to other states in the country.

There is no doubt that the current conditions of schooling

for many students of color and low-income students in the United States strongly resemble those that existed before *Brown v. Board of Education* sought to end separate and unequal education. Unfortunately, this law, though rhetorically appearing to address these problems, actually threatens to leave more children behind. The incentives created by an approach that substitutes high-stakes testing for highly effective teaching are pushing more and more of the most educationally vulnerable students out of school earlier and earlier. In a growing number of states, high school completion rates for African-American and Latino students have returned to pre-1954 levels.

The consequences for individual students who are caught in this no-win situation can be tragic, as most cannot go on to further education or even military service if they fail these tests, drop out, or are pushed out to help their schools' scores look better. The consequences for society are also tragic, as more and more students are leaving school earlier and earlier—some with only a seventh- or eighth-grade education—without the skills to be able to join the economy. These students join what is increasingly known as a “school-to-prison pipeline” carrying an increasing number of undereducated youth almost directly into the criminal justice system. Indeed, prison enrollments have tripled since the 1980s and the costs of the criminal justice system have increased by more than 600 percent (while public education spending grew by only 25 percent in real dollars). More than half of inmates are functionally illiterate and 40 percent of adjudicated juveniles have learning disabilities that were not diagnosed or treated in school.²² States end up paying \$30,000 per inmate to keep young men behind bars when they are unwilling to provide even a quarter of this cost to give them good schools. Increasingly, this growing strain on the economy is deflecting resources away from the services that could make people pro-

ductive. California and Massachusetts had the dubious distinction this year of paying as much for prisons as for higher education.

Meanwhile, many are losing touch with the futures that would have enabled them to be contributing members of society. Take, for instance, the case of twenty-year-old Tracey Newhart of Falmouth, Massachusetts, who left school in 2003 without a diploma because she could not pass one part of the MCAS exam on repeated attempts. Although Newhart has Down's syndrome, a chromosome disorder that causes mental retardation, last year she won an award in a cooking competition, beating local caterers. Having worked hard to pass her classes throughout fifteen years of school, she had pinned her hopes on attending culinary school. Her dream dashed, Tracey joined 4,300 other Massachusetts seniors who failed the exam after multiple attempts, 40 percent of whom are special needs students, along with an estimated 11,000 students who had already dropped out of school since ninth grade, discouraged by their inability to pass the single high-stakes test that determines whether they can join the labor market and go on to become productive citizens in life.

Fixing NCLB

If we are to achieve the noble goals of NCLB, the law must be amended so that states have flexibility and encouragement to use thoughtful performance assessments and that tests are used diagnostically for informing curriculum improvements rather than for punishing students or schools. Progress should be evaluated on multiple measures—including such factors as attendance, school progress and continuation, course passage, and classroom performance on tasks beyond multiple choice tests. And gains should be evaluated with “value-added” measures showing how individual stu-

dents improve over time, rather than school averages that are influenced by changes in who is assessed.

Targets should be based on sensible goals for student learning that also ensure appropriate assessment for special education students and English language learners and credit for the gains these students make over time. While progress for subgroups of students should be reported, these reports should include evidence about continuation and success in school, as well as academic achievement for members of each group. Determinations of school progress should be constructed to reflect a better grounded analysis of schools' actual performance and progress rather than a statistical gauntlet that penalizes schools serving the most diverse populations. These reporting changes should be designed to ensure that schools identified as failing are indeed those that are offering poor education, not those merely caught in a mathematical mousetrap. And progress should be gauged against sensible benchmarks for success. As policy analyst Bruce Fuller notes of the law's current 100 percent proficiency standard:

Would government ever require automakers to produce emissions-free cars in the space of a decade, then shut down companies that failed to meet a pie-in-the-sky goal? Of course not! Better to set demanding yet pragmatic standards and require clear signs of progress. Schools should be rewarded for elevating achievement levels by some degree, rather than penalized for not meeting an absolute, unrealistic standard. The ideal level of proficiency for all—just like emissions-free cars—could then be approached gradually, over time.²³

Most important, schools that are struggling should receive intensive help to strengthen their staffs and adopt successful programs. Full funding of NCLB should include support to hire

well-qualified teachers and to provide intensive professional development: learning how to better teach those who struggle to learn. Full federal funding should also be used to leverage state investment, requiring the creation of Opportunity to Learn standards that can support annual reporting about the resources (teacher qualifications, curriculum opportunities, materials and equipment) available to children in all schools and annual progress on these indicators as well as indicators of student learning. Accountability must be two-way: state and federal support for ensuring qualified teachers and well-resourced schools must accompany expectations of students and schools.

Just offering high-stakes tests does not provide what parents and children would call genuine accountability. Obviously, students will not learn at higher levels unless they experience good teaching, a strong curriculum, and adequate resources. Most of the students who are struggling are students who have long experienced suboptimal schooling and students who have special learning needs that require higher levels of expertise from teachers. Because this nation has not yet invested heavily in teachers and their knowledge, the capacity to teach all students to high levels is not widespread. Only by investing in teaching can we improve the instruction of students who are currently struggling to learn; just adding tests and punishments will not do the trick.

Ensuring Qualified Teachers

One of the greatest shortcomings of schools serving our neediest students is that they typically have the least experienced and well-qualified teachers, even though such students need our most skilled teachers if they are to learn what they need to know. While recent studies have found that teacher quality is one of the most important school variables influencing stu-

dent achievement, teachers are the most inequitably distributed school resource. Although states do not allow the hiring of doctors, lawyers, or engineers who have not met licensing standards, about thirty states still allow the hiring of untrained teachers who do not meet their certification standards, most of them are assigned to teach the most disadvantaged students in low-income and high-minority schools, and the most highly educated teachers are typically hired by wealthier schools.²⁴

One of the great ironies of the federal education programs designed to support the education of low-income students and those requiring special education, compensatory education, or bilingual education services is that poor schools have often served these students with unqualified teachers and untrained aides, rather than the highly skilled teachers envisioned by federal laws. The very purpose of the legislation—to ensure greater opportunities for learning for these students—has often been undermined by local inability to provide them with teachers who have the skills to meet their needs.

In states that have lowered standards rather than increasing incentives to teaching, it is not hard to find urban and poor rural schools where one-third or more of the teachers are working without training, certification, or mentoring. In schools with the highest minority enrollments, students have less than a 50 percent chance of getting a mathematics or science teacher with a license and a degree in the field that they teach. Thus, students who are the least likely to have learning supports at home are also least likely to have teachers who understand how children learn and develop, who know how to teach them to read and problem solve, and who know what to do if they are having difficulty.

Thus, one of the most important aspects of No Child Left Behind is that it requires all schools to provide “highly qualified teachers” to all students by 2006. This requirement—that

all teachers be fully certified and show competence in the subject areas they teach—is intended to correct this long-standing problem. And it is a problem that can be solved. What often looks like a teacher shortage is actually mostly a problem of getting teachers from where they are trained to where they are needed and keeping teachers in the profession, especially in central cities and poor rural areas. More than 30 percent of beginners leave teaching within five years, and low-income schools suffering from even higher turnover rates, producing more teachers—especially through fast-track routes that tend to have high attrition—is like spending all our energy filling a leaky bucket rather than fixing it.

We need to understand this problem if we are to solve it. There are actually at least three or four times as many credentialed teachers in the United States as there are jobs, and many states and districts have surpluses. Not surprisingly, teachers are less likely to enter and stay in teaching where salaries are lower and working conditions are poorer. They are also more than twice as likely to leave if they have not had preparation for teaching and if they do not receive mentoring in their early years on the job. These are problems that can be solved. States and districts that have increased and equalized salaries to attract qualified teachers, have created strong preparation programs so that teachers are effective with the students they will teach, and have provided mentors show how we can fill classrooms with well-prepared teachers.

But solving this problem everywhere requires a national agenda. The distributional inequities that lead to the hiring of unqualified teachers are caused not only by disparities in pay and working conditions, but also by interstate barriers to teacher mobility, inadequate recruitment incentives to distribute teachers appropriately, and fiscal conditions that often produce incentives for hiring the least expensive rather than the most qualified teachers. And while the nation actually

produces far more new teachers than it needs, some specific teaching fields experience real shortages. These include teachers for children with disabilities and those with limited English proficiency, as well as teachers of science and mathematics. Boosting supply in the fields where there are real shortfalls requires targeted recruitment and investment in the capacity of preparation institutions to expand their programs to meet national needs in key areas.

Although No Child Left Behind sets an expectation for hiring qualified teachers, it does not yet include the policy support to make this possible. The federal government should play a leadership role in providing an adequate supply of well-qualified teachers just as it has in providing an adequate supply of well-qualified physicians for the nation. When shortages of physicians were a major problem more than forty years ago, Congress passed the 1963 Health Professions Education Assistance Act to support and improve the caliber of medical training, create and strengthen teaching hospitals, provide scholarships and loans to medical students, and implement incentives for physicians to train in shortage specialties and locate in underserved areas. Similar federal initiatives in education were effective during the 1960s and 1970s but were eliminated in the 1980s. We need a federal teacher policy that will (1) *recruit new teachers* who prepare to teach in high-need fields and locations, through scholarships and forgivable loans that allow them to receive high-quality teacher education; (2) *strengthen teachers' preparation* through incentive grants to schools of education to create professional development schools, like teaching hospitals, to train prospective teachers in urban areas and to expand and improve programs to prepare special education teachers, teachers of English language learners, and other areas where our needs exceed our current capacity; and (3) *improve teacher retention and effectiveness* by ensuring they have mentoring

support during the beginning stage when 30 percent of them drop out of teaching.²⁵ For the cost of 1 percent of the Bush administration's 2003 tax cuts or the equivalent of one week's combat costs during the war in Iraq, we could provide top-quality preparation for more than 150,000 new teachers to teach in high-need schools and mentor all of the new teachers who are hired over the next five years. With just a bit of focus, we could ensure that all students in the United States are taught by highly qualified teachers within the next five years. Now that would be *real* accountability.

In addition to incentives for recruiting and retaining high-quality teachers in the places where they are most needed, fixing No Child Left Behind will require a new approach to measuring and supporting school success. This approach should, first, fix the accountability provisions of the law by:

- *Replacing the counterproductive federally mandated AYP formula with less rigid and more instructionally useful state accountability systems designed to 1) support and assess student progress on thoughtful assessments; 2) reduce achievement gaps among groups of students; and 3) increase graduation rates.*
- *Encouraging rather than discouraging the use of diagnostic assessments and high-quality state or local performance assessments as a key part of state accountability systems aimed at improving curriculum and teaching rather than punishing students or schools.*
- *Including multiple measures of learning and progress in assessing school progress and success, not just standardized tests—as well as results of performance assessments, attendance, and student continuation in and progress through school.*

- *Evaluating gains using “value-added” approaches that assess the progress of individual students, not changes in average student scores that penalize schools which serve the neediest students or encourage schools to keep out or push out low-scoring students*
- *Assessing the progress of English language learners and students with disabilities based on professional testing standards and “counting” the gains of these students throughout their entire school careers, rather than counting only for the time they are “classified” in these categories.*

Even more important, the law should improve the quality of education students actually receive by:

- *Fully funding NCLB and developing a major federal initiative to underwrite strong preparation and recruitment incentives for well-qualified teachers who will teach in high-need schools.*
- *Ensuring that states focus attention and expertise on truly failing schools and that federal funding is organized to direct substantial resources toward the core building blocks of school success—the provision of well-qualified teachers, small classes, strong curriculum, and high-quality materials—rather than offering only supplemental services and an unusable transfer option.*
- *Leveraging more adequate and equitable state funding of public schools by requiring states to report and monitor school progress on Opportunity to Learn standards that reveal resources available to children (teacher qualifications, curriculum opportunities, materials and equipment) alongside their publication of achievement data.*

At the heart of these reforms must be a recognition that public education is in many ways the very foundation of our democracy and *the* public institution that defines the people's concept of "public." It is the nation's most valuable public resource for creating common ground in what we as a collective know and believe, for developing a strong citizenry, and for ensuring a prepared workforce. It serves as the center of all types of communities and as the glue that holds us together as a people. Although there is a strong privatization instinct in Washington at the moment, the American people reiterate in poll after poll that they support public education, are willing to invest in it, and expect it to be leavening agent for society—in fact, some might argue, the only one left in America. While there are improvements to be made in schools, schools are a product of the society we have jointly created and will meet the aspirations Americans hold for them only if they are given intelligent guidance and the critical supports they need, while children are assured the health and family supports that allow them to be ready to learn.

Unfortunately, the NCLB law does not provide those supports and, poorly administered, has the potential to undermine successful schools while failing to fix or re-create those that are truly failing. Meanwhile, NCLB could damage the ability of public education to play its critical and vital role in our society. If we really care about Leave No Child Behind, our policies should invest in public schools in all communities; encourage teaching and assessment that supports higher-order thinking and performance; and create "two-way accountability"—accountability to parents and children for the quality of education they receive—as a means for greater learning for all.