

## **Massive Responsibilities and Limited Resources: The State Response to NCLB<sup>1</sup>**

*Gail L. Sunderman & Gary Orfield  
Harvard University*

The No Child Left Behind Act of 2001 (NCLB) places extraordinary responsibilities on state education agencies by requiring them to play crucial roles in implementing the federal mandates and by reversing the traditional relationship between the federal and state agencies from one of federal aid and incentives in grant programs to one of federal requirements for producing unprecedented educational gains under pressure of serious federal sanctions. Since states establish the legal framework for educational requirements and policy, have sweeping authority over public schools, and traditionally have played a central role in administering many federal grant programs, this is not surprising. Because this authority has depended on legal rather than an administrative framework to achieve its aims and the federal resources are modest, the law provides a test of the capacity of state educational agencies to impose dramatic educational changes and administer sweeping sanctions reaching many schools and districts. From a civil rights perspective these issues are especially important since NCLB places responsibility on the states for both sanctioning and reforming the schools where minority students and teachers are concentrated when many states have not historically had a positive relationship with these schools.

NCLB rested on the assumption that state educational agencies would have the capacity to implement all of the requirements called for in the law and the ability to provide the support and technical assistance necessary to help low-performing schools and districts. Supporters of the law argued that federal policy should provide the leverage to change how states allocate their resources and that an outcome based reform strategy would create the professional and political incentives for states to marshal the federal and state resources necessary to respond to the accountability incentives. The law itself provided only modest resources and paid little attention to how the state role would need to change if the ambitious educational goals were to be achieved. One of the interesting aspects of this study was the finding that state administrators did their best to obey the law, at least by implementing the data collection and testing requirements and the market-based sanctions. But when confronted with the much more ambitious goals of ensuring large-scale educational changes and providing support to low-performing schools, the states were much less adept and the resources were few.

The aim of this study was to examine how states are meeting the law's requirements and if they reallocate resources in ways that will meet the law's ambitious educational goals. This research was designed to test the assumption that state capacity was adequate and that reallocation of existing resources would suffice to meet the NCLB requirements. Two types of capacity are critical to understanding states' abilities to

---

<sup>1</sup> Prepared for a roundtable, *NCLB Key Issues: Reforming AYP and Evaluating State Capacity*, co-sponsored by The Civil Rights Project at Harvard University and the Warren Institute, in Washington, D.C., November 16-17, 2006.

implement NCLB: (1) human and financial resources available to the state and local agencies, including expertise in a broad range of areas; and (2) organizational capacity, including the systems necessary to meet the data management and testing requirements and the formal and informal organizational networks between state and local authorities providing technical assistance and support to local districts and schools. We pay particular attention to the knowledge base and existence of suitable interventions for improving performance in low-performing schools that would allow state administrators to do what the law requires since the history of state failures on a much smaller scale make it difficult to understand how the states could meet these challenges and raise concern about the resulting policies and practices for minority schools and districts.

Within this framework, we take into account three types of factors that facilitate or constrain the activities state education agencies took in response to the NCLB requirements. Structural factors are related to how the education system is organized (i.e., through a multi-level governance system) and the limited influence state actors have on schools and districts as a result of this structure. Others are functional and related to state agencies' primary responsibilities, including monitoring for compliance, issuing regulations and guidelines, and operating as a conduit for the distribution of federal and state funds. The third set of factors are political and include the pressures operating on states to undertake some activities rather than others, while being pressed from Washington to comply with federal requirements.

Facing immense challenges, we found that states have tried very hard to implement the more routine parts of the federal mandate and to avoid or limit the consequences of federal sanctions for non-compliance (Sunderman, 2006). State education agencies have kept the machinery running while a political struggle over the future of the program is taking place around them. At the same time, the division of authority over education between governors, chief state school officers, and state legislatures has added complexity to the administrative tasks of state education agencies.

In this paper, we trace the development of the state role in education and how this shaped both the structure of the educational system and the functions that state departments of education perform. This historical development reinforced the monitoring and regulatory functions of state education agencies and increased the need for people with specialized professional knowledge in particular areas. Next we examine state responsibilities under NCLB. We then show how strains on state capacity have resulted in the inability of many states to meet some of the most basic requirements in NCLB. Here, we also examine how states negotiated tensions between limited resources and increased demands. We conclude with recommendations on how NCLB can address the issue of state capacity.

## **STATE CAPACITY IN HISTORICAL PERSPECTIVE**

Although we discuss educational issues on a national level and the local press tends to cover school board conflicts and local leaders, public education in the U.S. is largely controlled by state laws. In important respects, we have 50 independent state

educational systems with 15,700 local variations at the district level that are loosely regulated by the states (U.S. Census Bureau, 2006), p. 155). This variety is related to how different regions of the country developed historically, the demographic makeup of a state's population and their ideas about how to provide for schooling, and the resources available to support public education in each state (Wirt & Kirst, 1982). It is reflected in differences in how state superintendents are selected and in their authority and responsibilities vis-à-vis the other state officials and agencies. Since legal authority for education policymaking is vested with the legislature and governor, the system is highly political. That state education systems took varied institutional forms was affected by their historical experiences. For example, New England states developed highly decentralized systems rooted in their opposition to state-center control that dates to before the revolutionary war whereas southern states developed highly centralized systems following the civil war, which devastated the ability of counties to fund or manage education (Wirt & Kirst, 1982).

Much of state authority over education derives from policies that determine who can teach, what must be included in children's education, and, in most states, what must be learned to graduate and how it will be assessed. Historically, states have sought to standardize education by passing compulsory attendance laws, lengthening the school term, introducing the graded school, and using standardized textbooks to improve the curriculum (Tyack & Hansot, 1982). They have regulated who can teach through state certification requirements and standards for pre-service teacher training programs. These policies strengthened the state's legal authority over education, even when it was not exercised.

While states have played a central role in expanding public education and developing policies to standardize and regulate education, until recently state departments of education have remained relatively small and weak, with little control over most education decisions made at the local level. By the 1950s, local school boards and superintendents, particularly in large districts, held considerable decision making authority and operated relatively autonomously from state or federal control and state education departments were small agencies that performed a limited range of functions administering some federal grant programs, distributing funds, and collecting statistics

This began to change in the 1960s with the Civil Rights Movement and the enactment of the Elementary and Secondary Education Act (ESEA) in 1965. The Civil Rights Movement focused attention on achieving equity through improvements in the schooling opportunities for low-income and minority students. For the first time, the federal government became a significant player in education, largely through increased federal aid to public schools. With the increased federal role, a larger role for state departments of education developed, both as a way to funnel money to local districts and to enforce and monitor the emerging federal requirements. With the passage of ESEA, federal officials relied on states to provide an organizational structure to administer federal funds, monitor implementation of the law's requirements, and divert attention away from criticisms of federal control. The law provided modest but very important resources to expand the professional state agencies, but in order to receive federal funds

under these statutes, states had to develop and implement policies consistent with the requirements of the law.

The reform movements of the latter half of the twentieth century strengthened the state role in funding and regulating education. States responded to the school finance movement of the 1960s and 1970s and the standards movement of the 1980s and 1990s by introducing laws and regulations designed to monitor local compliance with federal and state requirements. By focusing on funding disparities between districts, states moved toward a more comprehensive approach to funding education. Under the reforms of the 1980s and 1990s, when both federal and state legislation embraced standards-based reform, states extended the scope of regulations to include curriculum standards and expanded state testing. These regulations were demanding but left districts with considerable discretion over implementation and instruction. At the federal level, weak enforcement of the Improving America's Schools Act of 1994 (IASA) allowed the federal government to avoid state and local opposition to an expanded federal role in education.

By developing expertise in particular areas that allowed them to enforce the federal requirements, enact the state policies, and act as a conduit for the flow of federal and state money to school districts, state agencies defined their role largely in traditional bureaucratic terms (Elmore & Fuhrman, 1995). The bureaucratic structure of state agencies and the relative weakness of their staffs in the core areas of educational reform meant they focused less on issues concerning the academic content of the curriculum, assessment, school organization, and management, precisely those areas now demanding attention under NCLB (Elmore & Fuhrman, 1995).

NCLB furthers the trend of making states central to implementing school reform efforts and relies on assumptions about the professional capacity of all state departments of education, which vary from extensive professional staffs in the largest states to very modest operations in the smallest and poorest, to achieve unprecedented educational progress and implement sanctions that will require deep interventions in thousands of schools that do not meet the required annual progress standards of the federal law. A fundamental question is whether state agencies have the resources, knowledge, and organizational capacity to intervene at the scale demanded by NCLB.

### **STATE RESPONSIBILITIES UNDER NCLB**

State responsibilities under NCLB are extensive. States are required to develop and administer an accountability system that assess students annually and, on the bases of those assessments, determines whether schools and districts are making adequate yearly progress. States must create and implement curriculum standards and assessments in reading, mathematics, and science in grades 3-8 and in at least one grade level in grades 10-12. These requirements increased the number of tests in the three subject areas (reading/language arts, mathematics, science) from 6 that were required under the 1994 ESEA reauthorization to 17 under NCLB (Government Accountability Office, 2003) (Table 1). In addition to the tests in core subject areas, states must assess students with

disabilities, providing both appropriate assessments and accommodations where necessary, and assess students learning English for English proficiency. Some assessments must be offered in a student’s native language while in other cases such assessments are prohibited. The law established a timeline for when these tests must be in place and determined that all students must score proficient on state tests by 2014.

Table 1: Number of Assessments in Three Subject Areas Required by the 1994 and 2001 ESEA Reauthorizations

<b>Subject</b>	<b>Number of Required Assessments</b>	
	<b>1994 ESEA</b>	<b>2001 ESEA</b>
Reading/Language Arts	3	7
Mathematics	3	7
Science	0	3
<b>TOTAL</b>	<b>6</b>	<b>17</b>

Source: Government Accountability Office (2003).

Because NCLB expanded the data collection and reporting requirements, states now need data collection and information systems that can disaggregate student test scores by race, English language ability, and disability status and that can use this disaggregated data to make adequate yearly progress determinations. States must monitor teacher and paraprofessional qualifications to insure they are all highly qualified by a date specified in the law. The addition of timelines for when states must have all students score proficient on state tests and when all teachers and paraprofessionals must be highly qualified as well as the inclusion of mandated sanctions are new with NCLB.

Three other changes to NCLB from previous legislation significantly alter the state role by placing additional demands and responsibilities on state departments of education. First, requirements that all students, including all subgroups, must reach a state’s proficiency goal by 2014 raises the expectations and goals of Title I by requiring that states bring all schools and all subgroups to the same level of performance within a relatively short period of time. NCLB requires universal high achievement for all students and attaches sanctions that become increasingly severe the longer a school or district does not meet the state’s achievement goals. The law, which relies on outcomes rather than the provision of additional resources to improve student performance, operates on the assumption that state education agencies and boards will re-allocate their state resources in ways that will allow all schools to meet this goal and that it is possible to bring all students to 100% proficiency. It ignores huge resource differences between districts that are closely related to the socio-economic status of the students.

Second, states have a role in helping schools and districts improve under NCLB, a requirement that traditionally has not been a major state function. State agencies developed the expertise and capacity to funnel state and federal funds to local districts and to propagate regulations needed to monitor education. Requiring states to intervene and force change in schools and districts requires a very different sort of capacity and expertise than that required for monitoring or funneling funds to local districts. The law requires states to “. . . establish a statewide system of intensive and sustained support and

improvement for local educational agencies and schools” that have been identified for improvement (NCLB, 2002, Sec. 1117(a)(1)). The law is very specific about what this must include, yet the resources provided for this are limited at best. While the law authorizes a separate program for school improvement, funds have never been appropriated for this program. The other mechanism, a set aside where states can reserve 1% of the Title I funds for administration, is insufficient and reduces the funding that is available for other Title I activities (Center on Education Policy, 2006, February).

Third, the inclusion of timelines for when states must meet the NCLB requirements mean all states must be at the same place regardless of where they start. Under NCLB, states must adhere to federally determined timelines for establishing an accountability system and having assessments in place, identifying failing schools and improving student achievement, establishing adequate yearly progress goals, and ensuring teacher quality. The 1994 ESEA reauthorizations included the possibility of timeline extensions, something not included under NCLB.<sup>2</sup> It also imposes strict timelines for improving the achievement of disadvantaged students and mandates specific sanctions for schools not performing well.

#### **STATE ACTIONS AND LIMITATIONS ON IMPLEMENTING NCLB**

NCLB combines extremely demanding educational goals with extremely limited administrative resources. There is the assumption in the act that drastic change can and should be imposed on the educational system but, at the same time, the law reflects the anti-government, anti-bureaucratic assumptions of the conservative political movement that created it. So state agencies are expected to make unprecedented changes with a tiny fraction of one percent of the money in a school district’s budget for the costs of supervision and intervention.

While NCLB provided additional money, much of this increase came during the first year (FY 2002) when Title I funding increased 18.11% and total appropriations for elementary and secondary education increased 17.43% (Table 2). Since then, increases have been smaller and are negligible when factoring in inflation. Appropriations for Title I actually decreased in FY 2006. The 3% increase in Title I grants to local districts in FY 2005 did not keep pace with the 6% increase in the number of children in poverty (Center for Education Policy, 2005, July). The president’s proposed FY 2007 budget held Title I funding constant while reducing overall appropriations for elementary and secondary education by 4.19%. These reductions came at the same time that the federal demands were increasing and states were required to raise proficiency levels, have assessments in place, and insure all teachers were highly qualified.

---

<sup>2</sup> The law provides for an extension of one year if there is an exceptional or uncontrollable event, such as a natural disaster or unforeseen decline in the financial resources of the state (NCLB, 2002, Sec. 1111,(b)(3)(C)(viii).

Table 2: Title I Grants to Local Education Agencies (LEAs) and Total Elementary and Secondary Education Appropriations (in thousands of dollars), FY 1998 – 2007

<b>Fiscal Year</b>	<b>ESEA Title I Grants to LEAs</b>	<b>% Increase From Prior Year</b>	<b>Total Elem. &amp; Secondary Appropriation</b>	<b>% Increase From Prior Year</b>
1998	\$ 7,375,232	1.09	\$18,164,490	10.28
1999	7,732,397	4.84	20,951,877	15.35
2000	7,941,397	2.70	22,600,399	7.87
2001	8,762,721	10.34	27,316,893	20.87
2002	10,350,000	18.11	32,078,434	17.43
2003	11,688,664	12.93	35,113,253	9.46
2004	12,342,309	5.59	36,942,478	5.21
2005	12,739,571	3.22	37,530,257	1.59
2006	12,713,125	-0.21	37,863,840	0.89
2007*	12,713,125	0	36,276,140	-4.19

Source: U.S. Department of Education, Budget History Table: FY 1980 – present. Retrieved August 15, 2006 from [www.ed.gov/about/overview/budget/history/edhistory.pdf](http://www.ed.gov/about/overview/budget/history/edhistory.pdf)

Note: \*2007 President’s Proposed Budget.

While the law gave states modest funding for administration, it simultaneously imposed major new requirements.<sup>3</sup> At the same time, program changes and the set-aside requirements offset much of the overall increases in funds states received. For the most demanding part of the law—the requirement that states provide additional support for low-performing schools and districts—the amount of funding appropriated under NCLB was insufficient and did not represent additional money but rather a re-allocation of Title I funds.

*State Assessments:* One area where states did receive significant new resources was for state assessments. These allocations helped offset some of the costs covered by the state, at least in the initial years, but state officials were concerned because there is no mechanism in NCLB for maintaining the testing system over time. Because Title VI of NCLB does not have a supplant clause, states were able to replace state funds for assessments with federal funds. For example, Illinois reduced the amount of state funds devoted to state assessments from \$18.3 million in the 2002 fiscal year to \$8.4 million in the 2005 fiscal year. However to achieve these cost savings, the General Assembly amended the state’s testing legislation to eliminate all testing that was not required by NCLB. This included dropping tests in writing and social studies, an action that was widely criticized.

States that did not have a testing system that met the NCLB requirements contributed substantial resources to augment the federal funds. This was the case in Arizona, where the Arizona Board of Education voted in March 2004 to issue a contract

<sup>3</sup> States may reserve 1% of the amount they receive from Parts A, C and D of Title I for administration. There is a ceiling on the amount that can be reserved (NCLB, 2002, Sec. 1004).

to develop and administer a new test, the AIMS-Dual Purpose Assessment (AIMS-DPA), that would replace its previous testing system (Arizona State Board of Education, 2004, March 29). The costs of developing this system were huge, and required the state to contribute over half of the funding needed for test development and administration. In FY05, the state faced a shortfall between the estimated cost of achievement testing and the amount of funds appropriated for testing by the state legislature. In addition to the costs of developing the testing system, Arizona officials were concerned with meeting the costs of achievement testing when the federal funding ends, since the state has growing school age population requiring additional tests in future years.

*System of Support:* A central component of NCLB requires states to provide additional support for low-performing schools and districts. Even though this represents a major challenge for states—the record on state intervention is poor—the amount of funding appropriated under NCLB was insufficient and did not represent additional money but rather a re-allocation of Title I funds. NCLB includes two mechanisms for states to receive funds for school improvement activities, one of which has never received appropriations. Section 1003(g) of the act authorizes a separate program for school improvement where states could receive grants that are awarded to districts for school improvement activities. A portion of these grants (5%), if they were available, could be reserved by the state for administration, evaluation, and technical assistance. Since funds have never been appropriated for this program, school improvement activities have come from the Title I basic grant to states as a set aside.

The set aside requires states to reserve a portion of their Title I funds for school improvement (NCLB, 2002, Sec. 1003(a)). Beginning with the 2005-06 school year, this reservation rose from 2% to 4%. Of this allocation, 95% must go to local educational agencies to support school improvement activities for schools identified for improvement (NCLB, 2002, Sec. 1003(b)). The remaining 5% may be used by the state educational agency “to carry out states responsibilities . . . , including carrying out the State educational agency’s statewide system of technical assistance and support for local educational agencies” (NCLB, 2002, Sec. 1003 (a)). Since this reservation is tied to the overall Title I appropriations, the amount of the set aside is related to overall increases (or decreases) in Title I funding; it does not represent additional funds.

Table 3 shows the amount of school improvement funds available to six states for the 2005 fiscal year. Since the federal legislation sets a ceiling on the amount of funds that can be used for administration, states can convert some of these funds into local assistance in the form of higher grants to districts. This is what the California legislature did, and instead of the \$3.5 million that California could set aside under the Title I guidelines, the state set aside \$1.78 million and sent the remainder to local districts. Prior to FY 2005, the set aside for school improvement was often times less than 4%.

Table 3: Amount of Title I Budget Allocated for School Improvement Activities, FY 2005

State	4% for School Improvement	95% of 4% for Districts	5% of the 4% for State
Arizona	\$ 9,957,899	\$ 9,460,004	\$ 497,895
California	71,061,718	67,508,632	3,553,086
Georgia	16,263,283	15,450,119	813,164
Illinois	21,532,907	20,456,261	1,076,645
New York	49,067,048	46,613,696	2,453,352
Virginia	8,660,702	8,227,667	433,035

Source: U.S. Department of Education. Retrieved from <http://www.ed.gov/about/overview/budget/statetables/index.html> February 24, 2006. Calculations are based on the ESEA Title I Grants to Local Education Agencies for FY 2005.

To put the set aside for state administration of school improvement in perspective, we compared the allocation to the number of schools and districts identified for improvement (Table 4). If each school that was identified for improvement were to receive an equal portion of the school improvement grants, an unlikely event since the grants go to the district, which will likely use some for their own administrative costs, the allocation per school ranged from \$626,490 in Arizona to \$26,713 in Virginia. Dividing the amount that the state can retain by the number of districts in need of improvement gave states \$4,431 per district in Illinois to \$67,764 per district in Georgia. Except for Arizona, these are not large amounts when you consider they barely, if at all, cover the costs of adding just one staff person for every school or district needing improvement.

Table 4: Allocations for School Improvement Grants to Schools and Districts Per Number of Schools or Districts Identified for Improvement, 2004-05

State	Allocation for School Improvement Grants FY05	Schools Identified for Improvement 2004-05	Allocation Per School	State Allocation for School Improvement	Districts Identified for Improvement 2004-05	Allocation Per District
Arizona	\$ 9,460,004	151	626,490	\$ 497,895	78	6,383
California	67,508,632	1600	42,193	3,553,086	150	23,687
Georgia	15,450,119	354	43,644	813,164	12	67,764
Illinois	20,456,261	661	30,947	1,076,645	243	4,431
New York	46,613,696	501	93,041	2,453,352	58	42,299
Virginia	8,227,667	308	26,713	433,035	79	5,481

*Data Reporting:* To meet the NCLB data collection and reporting mandates required states to develop a new student information system that allowed state officials to track students over time as well as collect the student demographic data essential for disaggregating test scores by subgroups. Among the six states, only California had an

existing system that included student level information. Still, California added several data fields to their system in order to collect the data they needed for NCLB.

In addition to developing the state systems, state officials cited data integrity as a major challenge in meeting the NCLB reporting requirement. Since data was self-reported, the quality of data varied considerably between districts. Many districts simply lacked the infrastructure necessary to collect the required data or their systems were not compatible with the state system. To fully implement a student information system often required providing resources to districts that did not have the local resources, technology or staff to develop and implement such a system. For example, Illinois officials estimated that about 25% of the districts in Illinois did not have an electronic way of tracking enrollment, attendance, or demographic information. Georgia spent an estimated \$26 million (out of \$50 million appropriated by the state legislature) to develop the district level infrastructure necessary to establish a student information system.

Although the law focused on outcomes, the limited resources were often absorbed with collecting data on inputs and tests, leaving little time for using data to facilitate educational reform. Consequently, staff devoted their time to collecting, correcting, and analyzing the data for NCLB reporting purposes but did not have the time or resources to analyze data for program effectiveness. For example, to meet the data reporting requirements of NCLB, the policy and evaluation division of the California Department of Education reallocated staff time to complete NCLB tasks and gave up doing research studies using the data they collected, responding to outside studies using California data, or providing analyses to the Superintendent, legislature and news media. Because of the increased amount of data required under NCLB, insuring the integrity of the data and responding to school and district challenges to improvement status consumed staff time.

“We end up crunching 4 ½ or 5 million student records and creating massive reports and with 20% of the schools, the data is wrong. So they go back, correct it . . . and then send it back and we re-crunch it again, and on and on and on. . . . And it’s gotten even worse with the high stakes of NCLB. Districts and schools are going back more and more to make sure all the data are correct. . . . This whole concept of getting good data into the department is loosely coupled and that’s that biggest point of breakdown, which keeps us busy constantly.”  
(Personal Interview, California Department of Education, 2-16-05).

Since the data states collected was used to comply with NCLB, not the separate and preexisting state reforms, it provided statistical data that was often not very useful to state officials or district educators. In Illinois, districts questioned the usefulness of the data since it did not tell them which programs worked or how it would help their schools. For example, the state collects data on the number of students taking advantage of the transfer option, but does not provide information on “what it means in the long run in terms of policy. The data tells us which [supplemental educational services] vendors are chosen more frequently than others, but it doesn’t really speak to the issue of which programs are more effective than others. . . .” (Personal Interview, Illinois State Board of Education, 1-26-05).

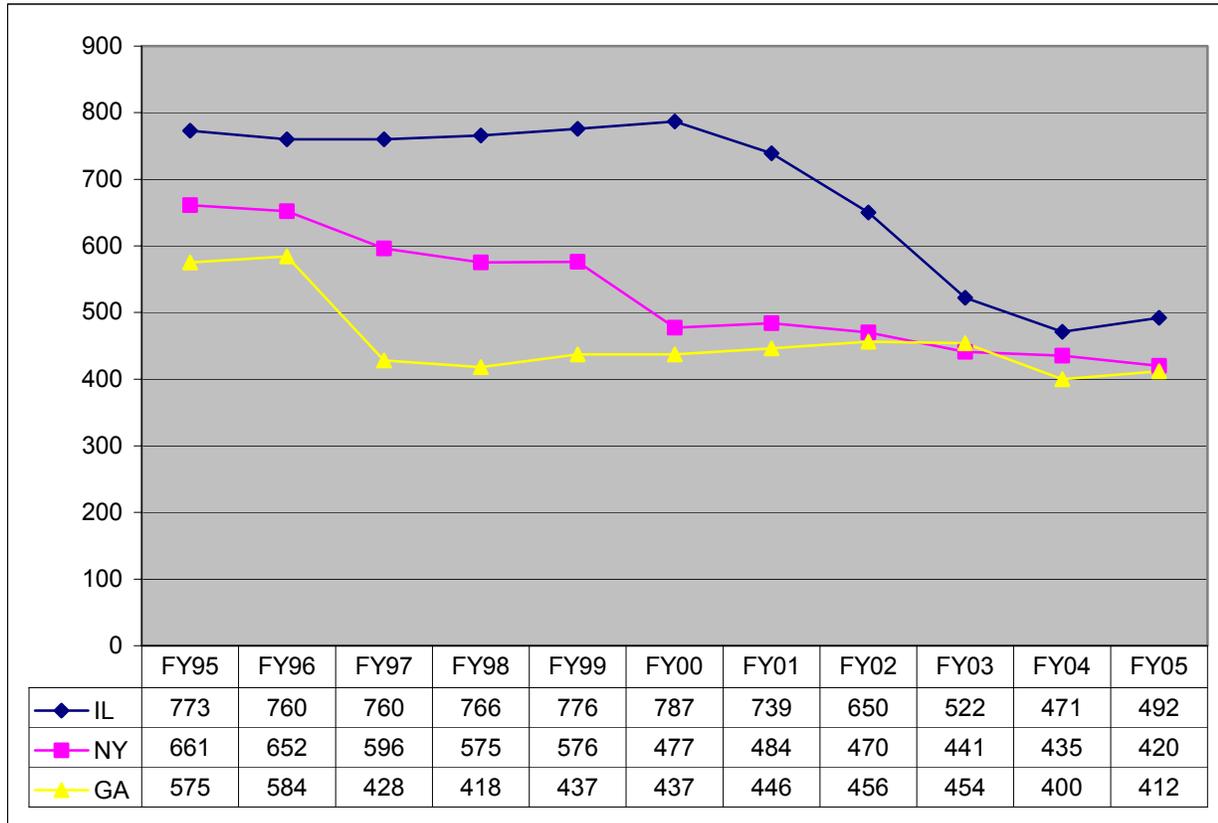
Federal grants to support the development of longitudinal data systems have done little to address the capacity differences between states. To qualify, states had to demonstrate that considerable capacity already existed, including the capacity to support research on student academic growth, to exchange data across institutions within the state, the capacity to provide reports and analysis to stakeholders, and that they had the staff and technical and monetary resources to sustain the system over time (U.S. Department of Education, 2005, April 15). Moreover, the number of grants awarded were limited to 14 states (Kennedy, 2006, February 2).

*Human Resources:* The state experts who are required to mount massive new assessment and data systems and do whatever is needed to achieve huge educational gains are on the one hand given massive responsibilities and on the other, spoken of as if they were a waste of money. The act sets aside a much larger share of the Title I budget for two market-driven reforms that are assumed to have powerful impacts on school reform—supplemental educational services and the transfer option—than it does to support state intervention activities. Neither district administrators, school principals or state administrators were dealt with in a coherent way in the act, although studies of systemic school reform show that strong and consistent leadership is crucial to successful school reform.

Opposition to bureaucracy is also evident at the state level. In some states the anti-bureaucratic assumptions in state politics led to slashes in state professional staff even as the responsibilities for complex educational intervention soared. Since teacher organizations are always one of the dominant forces in state educational policy while state bureaucrats have little political constituency, it is often popular to cut the “bureaucracy” to fund teacher salaries.

It was not unusual for state education agencies to experience a decline in the number of staff in the period prior to the passage of NCLB that continued during the first years of implementation. To illustrate, figure 1 shows historical staffing data from three states—Illinois, New York and Georgia. The number of staff in the Illinois State Board of Education declined from 787 in FY 2000 to 492 in FY 2005, a 37.5% decrease during the time the state was implementing NCLB. The decline in the number of staff in the New York Office of Elementary, Middle, Secondary, and Continuing Education began in FY 1995. Over a ten-year period, the staff declined 36.4% in this office, compared to a 9.4% decline over the same time period in the umbrella agency, the New York State Education Department (New York State Education Department Office of Human Resources Management, 2004). A significant drop in staff in Georgia occurred in FY 1997, when there was a 26.7% decline in one year. These staff reductions were tied to budget reductions and resulting hiring freezes, agency reorganizations where divisions were eliminated, consolidated, or moved to other agencies, staff turnover and retirements, and political factors.

Figure 1: Staffing Count, Illinois State Board of Education, New York Office of Elementary, Middle, Secondary, and Continuing Education, and Georgia Department of Education, FY 1995 to FY 2005



Source: Illinois State Board of Education. (2005), p. 11; New York State Education Department of Human Resources Management (2004); Georgia Department of Education personal communication (September 2005).

### State Capacity to Intervene in Schools and Districts

NCLB incorporates not only requirements for achievement gains and for assessments, but also directives about what to do when districts and schools fail—a litany of state-driven reforms that appear in the law as if they were well documented methods of improving schools and as if the states have the resources and knowledge and leadership to effectively implement them. These range from state takeovers, state advisors, state decisions to convert failing schools to charter schools, mandates to develop a new school level reform plan, and, of course, implementation of supplemental educational services and transfer options for families in the many schools not making “adequate yearly progress” for all subgroups of students. The basic idea was to provide an array of strong tools states could use to force change in failing schools and districts and to demand that state and local officials do something to produce changes.

The idea of drastic action by states was not new in NCLB. As is true in NCLB, there is the assumption that reform is often blocked by recalcitrant local forces and that it

can be imposed more successfully in some cases by a distant force less entangled in local pressures, antiquated institutions, and politics. In fact, 29 states have the authority to take control of a district and simply override local authorities under specified circumstances and about a third of the states also have the authority to cease control of individual schools and impose changes (Education Commission of the States, 2006). The actual record of state interventions is surprisingly long and extensive but also disappointing.

The idea of state takeovers blossomed in the reform era in the late 1980s and became widespread in the following decade. It often began in cases of financial collapse where the state was forced to step in, in court orders, in cases of massive corruption, or, as the standards-based reform movement became more intense, in cases of persistent academic disaster. New Jersey was the first state to takeover a district for poor academic performance but there were major efforts in a number of states, including California, Illinois, Ohio, Maryland, New York, Connecticut, and others. A study by the Education Commission of the States, a compact of state education agencies hardly hostile to or critical of the idea of a vigorous state role in education policy, concluded in a 2004 report that takeovers were “yielding more gains in central office activities than in classroom instructional practices” by helping to straighten out accounts and business practices and upgrading facilities (Education Commission of the States, 2004, March). Little progress was noted on academic gains, certainly nothing like the gains required by NCLB: “...student achievement still oftentimes falls short of expectations.... In most cases, academic results are usually mixed at best, with increases in student performances in some areas...and decreases in student performance in other areas” (Education Commission of the States, 2004, March).

Congress might have thought about spectacular examples such as the U.S. Capital, Washington D.C. where Congress displaced the local school authorities and appointed outsiders to implement their own reforms in the mid-1990s with little visible impact. Or the story of Connecticut, where the state removed the local board, where an attempt to turn the district over to a private contractor failed and where a state-appointed board with extra funds failed to make significant changes. Or the frustrating experiences of New Jersey in taking over several of its major urban districts, of Maryland, in Baltimore, of Illinois in East St. Louis and Chicago, of Ohio in Cleveland, of California in Compton, Richmond and Oakland, New York in the Roosevelt District in Long Island, and a number of others. There is just very little evidence that any state is capable of achieving the vast transformations and rapid progress for all subgroups required by NCLB (Hunter, 1997; Mathews, 2000; Strauss & Loeb, 1998; Weizel, 1997; Wyatt, 2000).

With NCLB, Congress was requiring changes no state had been able to accomplish with its own takeovers, even though they involved far fewer schools and districts that were facing sanctions under NCLB. The assumption that there were practical remedies in the reach of state agencies had very little empirical grounding.

Not surprisingly, when it came to developing a system of support for school improvement, state efforts were limited at best. State efforts to provide support for

school improvement or to intervene directly in schools and districts prior to NCLB were limited and not very effective (Mintrop & Trujillo, 2005; O'Day & Bitter, 2003). Most efforts, apart from federal school improvement monies for comprehensive school reform models, stemmed from state accountability requirements. These programs were typically characterized by voluntary participation of schools and served a limited number of schools. While some included on-site personnel or intervention teams, they were more likely to rely on a school-based improvement planning process and school improvement plans, comprehensive school reform models, or external audits of school performance. For example, a California program that was designed as part of the state accountability system to help a limited number of schools that failed to demonstrate significant growth allowed for voluntary participation. In Georgia, districts could request a School Effectiveness Review for a school, but any recommendations coming from this review were left up to the school or district to implement. In Illinois, state officials assigned an Educator in Residence to a poorly performing school, but did not define their responsibilities and later abandoned this program. Arizona did not provide school intervention services prior to NCLB. The success of state efforts, where they did exist on any scale, was also limited.

The low level of federal investment in state school improvement under NCLB limited what states could do to compliance and monitoring activities and forced states to prioritize which schools or districts would receive support. They could only serve schools already identified for improvement and could do little for schools that were at risk of being identified for improvement. Because of limited federal and state resources, states put the burden for school improvement on districts, relied on regional centers to provide assistance to schools and districts, and made schools central to their own improvement through the school improvement planning process. Officials cited a lack of available strategies to improve the achievement of English language learners and special education students, the two categories that most often caused a school or district to be identified for improvement, and insufficient time for schools to make improvement under the NCLB timelines as constraints on their ability to help schools.

Most often, state officials filled a management function. According to a California official: "I don't think the state can do it alone . . . I think we can help them identify areas that are of need and make them better consumers of the product that is likely to be the next step . . . and then maybe be a broker using our county office partners and other partners" (Personal Interview, California Department of Education, 2-16-05). Since the Illinois State Board of Education (ISBE) did not have the staff to go out and work directly with schools or districts, Regional Educational Service Providers (RESPROS), already under contract with the state, were given primary responsibilities to work with schools and districts. Developing school and district improvement plans was a central component to the improvement process and staff time at the state level was devoted to reading these plans. Georgia developed a regional support team to bring the Regional Education Service Agencies and other entities together to coordinate and collaborate on school improvement efforts. The state played a management role in coordinating the services a school might receive from different entities in order to avoid duplication or conflict between different types of services. State officials recognized that

as districts moved into the corrective action phase of the NCLB sanctions they might have to become more involved, but since they were not there yet, they had not addressed that issue. The very dramatic sanctions in the Act were not yet being used and a law that was highly regulatory was, so far, being administered largely as data collection and technical assistance functions much more compatible with normal state-local relations.

## **CONCLUSIONS AND POLICY RECOMMENDATIONS**

With a modest and temporary infusion of additional federal aid funds, the most conservative government in generations suddenly adopted policies that required levels and kinds of educational gains for every group of students within every school that had never been achieved anywhere. The requirements were set down as non-negotiable and major progress was required under deadlines that did not fit what research had shown to be the preconditions and time required for successful reform. The fact that the law attached very strong sanctions and embarrassing publicity about educational failure for not reaching goals that many schools and districts soon learned they could not meet rapidly deepened the conflict over the law.

Most educational professionals were good soldiers, trying to implement the policies, treating them as possible goals, at least in the early stages, and thinking positively about complying with as many provisions as possible. Most state officials, though they were being asked to play a role that was new and very difficult, perhaps objectively impossible, collected data and released findings of widespread “failure” as defined by NCLB. Some saw the law as a lever to increase their own reach and power in pursuing goals that were congruent with those of NCLB.

This study shows striking good faith at the administrative level but also a striking lack of resources and knowledge to accomplish the extraordinary goals. At least the data collection, testing, and checking on the qualifications of teachers have been initiated and a great deal of attention has been focused on sensitive achievement data that previously was not available.

The study shows that the focus was on the data and procedural parts of the law because they were things administrators could actually do, spheres of action that they could actually control. For the most ambitious goals of large scale drastic educational interventions that produced fast and consistent gains, the law provided few resources, often absurdly small amounts of money and staffing, and the previous experience of the states in dealing with much smaller numbers of schools and districts was usually deeply disappointing. It is not surprising that the administrators put off facing these problems in favor of those they could actually solve. Nor is it surprising that the initiative increasingly passed from professionals to politicians as the implications for the image of local schools, teachers, and communities were put at risk and the educators threatened with sanctions that often seemed disproportionate and counterproductive.

This story is far from over and may well end on the floor of Congress or in a new White House, but the important lessons of the first five years are now apparent. It is clear

that the idea of a relatively closed system of favorable congressional committees and powerful interest groups of local educational agencies and teacher organizations had been displaced by policy makers who were outside this traditional system and believed they could impose radical change rapidly from Washington. They surely won the battle and changed the agenda. By pressing too hard and neglecting to enact specific policies or goals that were feasible, however, they seemed on the path to losing the war, as signaled by the sudden surge of policy modifications and compromises in the second administration of President George W. Bush (Sunderman, 2006). If that were to happen a basic lesson would be to design a policy that recognizes both the realities of policy possibilities as known by professionals and the necessity in a federal system of leading by persuasion and incentives more often than threat and negative sanctions.

States are facing the need to formulate sanctions and interventions for large numbers of schools in spite of negotiated changes, which reduced the number of reported districts and schools failing AYP. Although there is an extensive record of state takeovers and other interventions for more than two decades, no state has ever successfully implemented the kind of large-scale changes the NCLB demands. It is clear from our research that the NCLB has provided the states with very limited resources to undertake such a massive responsibility and that their officials are swamped with other NCLB mandates. We recommend:

1. A serious independent, federally funded analysis of what it takes in administrative and financial resources for states to have a reasonable chance of turning around low-performing schools. This should include considering the role states should play in this effort, the level of resources that are necessary given the number of low-performing schools, the record in states with a history of such interventions, the probability of failure, and the length of time needed for schools to improve and sustain that improvement in those cases that have succeeded.
2. Congressional oversight is needed to determine if the deadlines and standards mandated by NCLB are helping and, if not, to determine what models could provide the help low-performing schools need to improve.
3. If state intervention in schools is to have any chance of succeeding, additional resources for school improvement are needed. One way to meet this is to give state and local officials control of the 20% set aside now targeted for supplemental educational services and transfers, two interventions with little or no research documenting their effectiveness and with obvious implementation problems. (We would, however, support a different kind transfer option, rarely available now, that would give students a real opportunity to transfer to high achieving schools across district boundary lines.).
4. Congress should request a study of the judgment of state and local educators and researchers about an appropriate mix of assessments, sanctions and rewards and an appropriate time frame that would produce greater gains by schools with weak results.

## REFERENCES

- Arizona State Board of Education. (2004, March 29). *Minutes*. Retrieved August 31, 2005, from <http://www.ade.state.az.us/stateboard/minutes/default.asp>
- Center for Education Policy. (2005, July). *Title I funds: Who's gaining and who's losing school year 2005-06 update*. Washington, DC: Author.
- Center on Education Policy. (2006, February). *A shell game: Federal funds to improve schools*. Washington, DC: Author.
- Education Commission of the States. (2004, March). *State takeovers and reconstitutions*. Retrieved March 28, 2006, from <http://ecs.org/clearinghouse/51/67/5167.htm>
- Education Commission of the States. (2006). *Accountability--Sanctions: Takeovers*. Retrieved March 27, 2006, from <http://www.ecs.org/html/issue.asp?issueid=222&subIssueID=158>
- Elmore, R. F., & Fuhrman, S. H. (1995). Opportunity-to-learn standards and the state role in education. *Teachers College Record*, 96(3), 432-457.
- Government Accountability Office. (2003). *Title I: Characteristics of tests will influence expenses; information sharing may help states realize efficiencies*. (No. GAO-03-389). Washington, DC: Author.
- Hunter, R. C. (1997). The mayor versus the school superintendent: Political incursions into metropolitan school politics. *Education and Urban Society*, 29(2), 217-232.
- Kennedy, K. (2006, February 2). Spellings urges states to streamline data on education. *St. Petersburg Times Online*.
- Mathews, J. (2000, September 18). State to end takeover of Compton schools. *Los Angeles Times*.
- Mintrop, H., & Trujillo, T. (2005). Corrective action in low performing schools: Lessons for NCLB implementation from first-generation accountability systems. *Education Policy Analysis Archives*, 13(48).
- New York State Education Department Office of Human Resources Management. (2004). *1999-2004 State Education Department work force study*. Albany, NY: Author.
- O'Day, J., & Bitter, C. (2003). *Evaluation study of the Immediate Intervention/Underperforming Schools Program and the High Achieving/Improving Schools Program of the Public Schools Accountability Act of 1999*. Sacramento, CA: American Institutes of Research.
- Strauss, V., & Loeb, V. (1998, March 27). A general's strategy backfires. *Washington Post*, p. B1.
- Sunderman, G. L. (2006). *The unraveling of No Child Left Behind: How negotiated changes transform the law*. Cambridge, MA: The Civil Rights Project at Harvard University.
- Tyack, D., & Hansot, E. (1982). *Managers of virtue: Public school leadership in America, 1820-1980*. New York: Basic Books, Inc.
- U.S. Census Bureau. (2006). *Statistical abstract of the United States*. Washington D.C.: Author.
- U.S. Department of Education. (2005, April 15). *Statewide longitudinal data system grants*. Retrieved March 28, 2006, from <http://www.ed.gov/programs/slds/applicant.html>

- Weizel, R. (1997, April 16). Hartford Public Schools face state takeover. *Boston Globe*, p. C16.
- Wirt, F. M., & Kirst, M. W. (1982). *The politics of education: Schools in conflict*. Berkeley, CA: McCutchan Publishing Corporation.
- Wyatt, E. (2000, July 13). Little improvement despite an overhaul, L.I. school district is at a crossroads. *New York Times*, p. B1.